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FIRST NATIONS STRATEGIC POLICY COUNSEL

Canada's Colonial Web Entraps Wet'suwet'en Nation

Wet'suwet'en Hereditary Chiefs celebrate signing of MOU with government's of Canada and B.C., May 14, 2020. (Photo courtesy of Dinize Ste ohn tsiy (Rob) Twitter Account)

By Russ Diabo

The headlines in the media have heralded big changes to come. "*Wet'suwet'en agreement outlines steps for transferring control of territory to traditional leadership*," reads the CBC. "*For the Wet'suwet'en nation, formal land rights may be on the horizon*," says Macleans.

Coming on the heels of cross-country protests and blockades against the Coastal GasLink pipeline, which would pass through Wet'suwet'en territory, the deal negotiated between the federal and B.C. governments and the Wet'suwet'en hereditary chiefs is being billed by many as a landmark in recognizing Aboriginal rights and title.

But the memorandum of agreement signed on May 14, 2020, shows that it is anything but.

It is undoubtedly true that negotiations would not have happened were it not for the political and economic pressure that came from Indigenous and non-Indigenous supporters taking actions alongside the Wet'suwet'en to "*shut down Canada*" during the month of February 2020. I also really admire the sovereignty and courage exercised by the Wet'suwet'en Hereditary Chiefs and Clans, who are opposed to any pipeline going through their territory.

But we must be honest about what a close reading of the signed Mem-

Special points of interest:

- **Wet'suwet'en Hereditary Chiefs sign MOU on Title & Rights with Canada and BC**
- **Text of Wet'euwet'en -Canada-BC MOU contains conditions**
- **Canada uses pandemic to continue secret negotiations with Band Councils**
- **Alberta Court Case on Oilsands rejects project for lack of Consultation**

Inside this issue:

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orandum of Understanding shows: the federal government's colonial web of policies has entrapped the Wet'suwet'en Nation.

Wet'suwet'en Memorandum of Understanding

After three days of negotiations on March 1, 2020, the federal and provincial Ministers responsible for Indigenous issues emerged with Wet'suwet'en Hereditary Chief Woos to announce a tentative agreement had been reached. The three representatives confirmed that the agreement did not include the CGL pipeline or the RCMP presence in Wet'suwet'en territory.

"looking at the Wet'suwet'en MOU it seems to me that the federal and B.C. governments have not allowed the Wet'suwet'en Nation to escape he same racist, colonial policy framework that other First Nations across Canada are facing"

The details of this agreement were to be kept confidential until the Hereditary Chiefs had time to consult with their Clans about whether to accept the agreement or not.

Unfortunately for the Wet'suwet'en Hereditary Chiefs, the COVID-19 pandemic hit B.C. and Canada cutting the internal discussions about the agreement short as gatherings of more than 50 people were prohibited by B.C. health authorities and social isolation at home was imposed by the federal and provincial governments.

I had hopes that, because the Wet'suwet'en are a traditional government recognized by the Supreme Court of Canada in their 1997 **Delgamuukw-Gisdayway** decision, their legal situation might push the federal and B.C. governments beyond their one sided, unfair land claims and self-government policies.

However, looking at the Wet'suwet'en MOU it seems to me that the federal and B.C. governments have not allowed the Wet'suwet'en Nation to escape he same racist, colonial policy framework that other First Nations across Canada are facing.

Daniel Watson, Deputy Minister, Crown-Indigenous Relations.

In early May, a top bureaucrat of the Canadian government indicated as much. During a Parliamentary Committee session, **Conservative M.P. Jamie Schmale** asked **Deputy Minister Daniel Watson** from the Crown-Indigenous Relations Department if the federal government was moving forward with the MOU in the face of concerns from **Indian Act** Chiefs who said that because of the pandemic there hasn't been "*full and informed engagement on the document*" within the Wet'suwet'en Nation.

Mr. Watson responded that:

> "*The process of engaging [Indigenous groups] is one that we have been involved with in many other negotiations across the country. It will be very similar. The standards that have been set by the courts*

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> *and the expectations for everybody around the durability of those agreements rely exactly on what you're pointing out. I can assure you that will happen over time and that the implementation and conversations about any substantive issues will very much require the full consent of the nation.*"

The "*other negotiations across the country*" Mr. Watson is referring to are the federal negotiations to define Aboriginal and Treaty rights occurring at various Comprehensive Land Claims, Self-Government and "*Recognition*" Tables. The newest category of these tables are what the Trudeau government calls "*Recognition and Self-Determination*" tables.

As of January, there are more than 80 ongoing negotiations involving some 390 First Nations, Métis and Inuit communities with a total population of more than 760,000 people.

The signal the federal Deputy Minister of Crown-Indigenous Relations sent to the Parliamentary Committee was that the Wet'suwet'en MOU will be subject to the same policy framework for negotiations, as all other Indigenous (First Nations, Metis Inuit) groups are facing across the country.

The federal policy framework mainly consists of the **10 Principles for Indigenous Relations**, **the so-called 'Inherent Right' policy**, **the Comprehensive Land Claims policy**, which in B.C. is implemented through the **B.C. Treaty Negotiations policy**, the federal version of the **UN Declaration on the Rights of Indigenous Peoples** and the **B.C. Bill 41 UNDRIP Implementation Law**. When First Nations accept the outcome of that policy framework, they will end up as ethnic municipalities, with their reserve lands converted into private property and their rights to the overwhelming bulk of their traditional territories extinguished in perpetuity.

So while in the MOU, Canada and BC recognize that "*Wet'suwet'en rights and title are held by Wet'suwet'en houses under their system of governance…throughout the Yintah*" and "*Canada and BC recognize Wet'suwet'en commit to the negotiations…[and] BC commits to engage in those negotiations consistent with the* ***Declaration on the Rights of Indigenous Peoples Act***."

The language of the MOU shows that while the Crown governments (Canada & B.C.) on the one hand commit to negotiations for "*Legal recognition that the Wet'suwet'en Houses are the indigenous governing body holding the Wet'suwet'en aboriginal rights and title in accordance with our Innc Nuaden*" and "*Legal recognition of Wet'suwet'en title as a legal interest in land by Canada and BC*".

On the other hand the MOU provides that "*There will be no impact on existing rights and interests pertaining to land until jurisdiction is transferred to*

Joe Wild, ADM & Minister Carolyn Bennett, Crown-Indigenous Relations

"The signal the federal Deputy Minister of Crown -Indigenous Relations sent to the Parliamentary Committee was that the Wet'suwet'en MOU will be subject to the same policy framework for negotiations, as all other Indigenous (First Nations, Metis Inuit) groups are facing across the country"

10 Federal Principles for Re-Colonization of Indigenous Relations

RCMP Invasion of Wet'suwet'en Territory 2019.

'Colonial Web' continued from page 3

the Wet'suwet'en".

This is where the other limiting conditions in the MOU kick in:

> *Jurisdiction that flows from Wet'suwet'en aboriginal rights and title will be transferred to Wet'suwet'en over time based on an agreed upon timetable*
>
> *In some cases the jurisdiction that is transferred to the Wet'suwet'en will be exclusive and in some cases it will be shared with Canada or BC*
>
> *Title will be implemented and jurisdiction (exclusive or shared) will be transferred once specifics on how aboriginal and crown ti tles interface have been addressed – this includes the following*
>
> *I. transparency, accountability, and administrative fairness mechanisms including clear process and remedies to address grievances of any person, pertaining to all areas of shared and exclusive jurisdiction*
>
> *II. clarity on the Wet'suwet'en governance structures, systems, and laws that will be ratified by the Wet'suwet'en and will be used to implement their title to the extended required to understand the interface between the Crown and the Wet'suwet'en jurisdiction.*

"the use of the term "will be transferred to Wet'suwet'en" in the MOU is an indicator that the Crown governments will take a narrow legal position in the negotiations. They will stake out the position that the Wet'suwet'en still haven't proved they have Aboriginal Title according to Canadian law"

The MOU ends by stating "*This agreement is to [be] ratified by Canada, BC and the Wet'suwet'en under their respective systems of governance*."

It seems to me that the text of the MOU indicates that the federal and B.C. governments are interpreting the **Delgamuukw-Gisdayway** and **Tsilhqot'in** decisions vis-à-vis the Wet'suwet'en Nation as only possessing "*potential*" not "*established*" Aboriginal title, since the use of the term "*will be transferred to Wet'suwet'en*" in the MOU is an indicator that the Crown governments will take a narrow legal position in the negotiations. They will stake out the position that the Wet'suwet'en still haven't proved they have Aboriginal Title according to Canadian law and the federal and B.C. governments will decide in the negotiations what Wet'suwet'en title and rights will be "*recognized*" in any final agreement.

CIRNAC Minister Carolyn Bennett in Media Scrum (Photo by CP/ Sean Kilpatrick)

Negotiating what is "*exclusive*" versus what is "*shared*" in the list of MOU subject matters will likely be difficult, not to mention "*specifics on how aboriginal and crown titles interface*".

'Colonial Web' conclusion from page 4

The only "*recognition*" of Aboriginal title in Canada is the grant of Aboriginal title by the Supreme Court of Canada in the 2014 **Tsilhqot'in** decision and that was only for part of the Tsilhqot'in Nation Territory. Even then some of the more dangerous aspects of the **Tsilhqot'in** decision are:

Jacque Cartier's ship, the Grand Hermine, 1534.

> *The SCC ruled that based upon the assertion of European sover eignty the Crown has "Radical or underlying title", thus keeping the racist Doctrine of Discovery alive in Canada;*
>
> *"The claimant group bears the onus of establishing Aboriginal title";*
>
> *"Governments can infringe Aboriginal rights conferred by Aborigin al title";*
>
> *"As a general proposition, provincial governments have the power to regulate land use within the province. This applies to all lands, whether held by the Crown, by private owners, **or by the holders of Aboriginal title**." (emphasis added)*
>
> *"Provincial regulation of general application will apply to exercise es of Aboriginal rights, **including Aboriginal title land**, subject to the s. 35 infringement and justification framework." (emphasis add ed)*

In addition to the threatening aspects of the **Tsilhqot'in** decision noted above, there is nothing in the SCC decision that addresses the jurisdiction or laws of the Tsilhqot'in, which means the pre-existing sovereignty or self -government of the Tsilhqot'in wasn't addressed in the case. In other words, the court did not rule on whether or not the federal government's Aboriginal self-government policy is constitutional or not.

"It will likely take a broad political movement across Canada, even bigger than we have seen so far, to change the racist, colonial policy and legislative system in Canada"

Despite all of this, I wish the Wet'suwet'en Hereditary Chiefs and Clans success in getting consensus and building unity within their Nation, because in light of the racist, colonial policy and law they are still facing, their struggle for justice remains an elusive target!

In the end, the federal and B.C. governments each hold an effective veto in the negotiation process, right up to the requirement for ratification in Canada's Parliament and B.C.'s Legislature.

It will likely take a broad political movement across Canada, even bigger than we have seen so far, to change the racist, colonial policy and legislative system in Canada. But so far the trend seems to be for the majority of band councils accepting, not resisting, to enter into Canada's Federation at the bottom as 4th level ethnic governments. **[NOTE: An earlier version of this article was published by Indian Country Today]**

Memorandum of Understanding between Canada, British Columbia and Wet'suwet'en As agreed on February 29, 2020.

Wet'suwet'en signing day, May 14, 2020.

Immediate

a) Canada and BC recognize that Wet'suwet'en rights and title are held by Wet'suwet'en houses under their system of governance

b) Canada and BC recognize Wet'suwet'en aboriginal rights and title throughout the Yintah

c) Canada, BC, and the Wet'suwet'en commit to the negotiations described below (commencing immediately)

d) BC commits to engage in these negotiations consistent with the Declaration on the Rights of Indigenous Peoples Act

e) Canada and BC will provide the necessary resources to Wet'suwet'en for these negotiations

f) The parties agree these negotiations are to be intensively mediated by an agreed upon mediator

"There will be no impact on existing rights and interests pertaining to land until jurisdiction is transferred to the Wet'suwet'en"

Agreement to be Negotiated Over the Next Three Months

1. Legal recognition that the Wet'suwet'en Houses are the indigenous governing body holding the Wet'suwet'en aboriginal rights and title in accordance with our lnuk Nuatden.

2. Legal recognition of Wet'suwet'en title as a legal interest in land by Canada and BC

a) There will be no impact on existing rights and interests pertaining to land until jurisdiction is transferred to the Wet'suwet'en

b) Jurisdiction that flows from Wet'suwet'en aboriginal rights and title will be transferred to Wet'suwet'en over time based on an agreed upon timetable (with the objective for transition within of some areas within 6 months and a schedule for the remaining areas of jurisdiction thereafter)

c) In some cases the jurisdiction that is transferred to the Wet'suwet'en will be exclusive and in some cases it will be shared with Canada or BC

3. The areas of jurisdiction that will need to be addressed include the following (without limitation):

a) Child and Family Wellness (6 month timeline)

b) Water (6 month timeline)

c) Wet'suwet'en Nation Reunification Strategy (6 month timeline)

d) Wildlife

e) Fish

f) Land Use Planning

g) Lands and Resources

h) Revenue Sharing, Fair and Just Compensation, and Economic Component of Aboriginal Title

i) Informed Decision Making

j) Such other areas as the Wet'suwet'en propose.

4. Title will be implemented and jurisdiction (exclusive or shared) will be transferred once specifics on how aboriginal and crown titles interface have been addressed -this includes the following:

a) Transparency, accountability, and administrative fairness mechanisms including clear process and remedies to address grievances of any person, pertaining to all areas of shared and exclusive jurisdiction

'MOU Wet'suwet'en' continued from page 6

b) Clarity on the Wet'suwet'en governance structures, systems, and laws, that will be ratified by the Wet'suwet'en and will be used to implement their title to the extent required to understand the interface between the Crown and Wet'suwet'en jurisdiction.

5. This agreement is to be ratified by Canada, BC and Wet'suwet'en under their respective systems of governance

6. The agreement will be binding on Canada, BC, and the Wet'suwet'en and all of their agencies, departments and officials as they conduct their business together as governments

Agreement to be Negotiated Over the Next Twelve Months

1. The specifics of how aboriginal and crown titles interface

2. The agreement recognizing Wet'suwet'en rights and title will be protected by Section 35 of the Constitution, 1982

Signed on the 14th day of May 2020.

SIGNED ON BEHALF OF THE

WET'SUWET'EN NATION by the

Wet'suwet'en Hereditary Chiefs

SIGNED ON BEHALF OF HER MAJESTY THE QUEEN

IN RIGHT OF CANADA

by the Minister of

CROWN-INDIGENOUS RELATIONS

SIGNED ON BEHALF OF HER MAJESTY THE QUEEN

IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA

by the Minister of

INDIGENOUS RELATIONS AND RECONCILIATION

Wet'suwet'en Representatives at the United Nations Permanent Forum on Indigenous Issues, May 2019.

"This agreement is to be ratified by Canada, BC and Wet'suwet'en under their respective systems of governance"

Amidst Pandemic, Trudeau's Zombie-like Policies Threaten Indigenous Rights

Wet'suwet'en Support Protest, Toronto Train Tracks, Feb. 19, 2020 (Photo by CP/Jason Franson)

By Russ Diabo

When measures to combat coronavirus went into full effect in Canada, it was on the heels of cross-country protests in support of the Wet'suwet'en hereditary chiefs blocking a gas pipeline.

With economic activity grinding to a halt, one might have thought Indigenous peoples would be getting a breather.

Instead, the federal and provincial governments deemed resource extraction "essential," meaning construction of several fiercely contested projects is moving ahead, including the Site-C dam, the Trans-Mountain expansion, and the Coastal Gas Link pipeline that provoked blockades through February.

Away from the public spotlight, another menace to First Nations is also being resurrected.

The Liberal government has quietly directed the federal bureaucracy to continue its negotiations with band councils – through Zoom online calls – over matters of lands and self-government.

There's one main reason the Trudeau government wants to proceed with less scrutiny of these negotiations: the aim is to entrench resource companies' access to our lands and resources on a permanent basis, while denying First Nations any meaningful say.

"There's one main reason the Trudeau government wants to proceed with less scrutiny of these negotiations: the aim is to entrench resource companies' access to our lands and resources on a permanent basis, while denying First Nations any meaningful say"

The Liberal government calls them "recognition and self-determination tables." As of January 2020, there are more than 80 ongoing negotiations, involving some 390 First Nations, Metis and Inuit communities with a total population of more than 760,000 people. The Trudeau government boasts that the process is "jointly designed," but in fact government negotiators have a veto over what gets forwarded to the federal and provincial cabinets for approval.

If First Nations accept the one-size-fits-all outcome, they will end up as ethnic municipalities, with their reserve lands converted into private property, and their rights to the overwhelming bulk of their traditional territories extinguished in perpetuity. To date, nearly 30 preliminary-type agreements have already been signed. Considering the impact of these negotiations, they'd more accurately be called "termination tables."

'Zombie Policies' continued from page 8

In early 2018, the Liberal government tried a similar maneuver, not through negotiations but in one fell swoop through legislation. Justin Trudeau made a splash with his plans for reconciliation, promising to break with an ugly history of mistreatment and to finally honour Aboriginal rights. But while the Liberals talked a big game in public, they kept details about the key aspects of the policies and legislation tightly under wraps.

That summer, I launched a campaign to be elected the National Chief of the Assembly of First Nations. But my main aim was to help drag this policy and legislative agenda into the harsh light of scrutiny.

As details dribbled out, it became clear the fine-sounding rhetoric disguised how this agenda would package our rights into a small legal box. The Liberals "inherent right to self-government policy," which recognizes our rights in an abstract sense, actually contained pre-conditions that would convert First Nations into municipal, fourth-order governments without any significant powers. And using the 'Comprehensive Claims Policy," the government would continue to require First Nations to extinguish their Aboriginal Title, despite it being recognized by the Supreme Court of Canada in decisions like Delgamuukw and Tsilhqot'in. Trudeau had promised we'd be freed of the shackles of the Indian Act, but this was more like transferring from a decrepit old jail to a new modernized prison, with the jailor holding onto our lands and resources.

Faced with a groundswell of opposition from First Nation leaders and activists through 2018, Crown-Indigenous Relations Carolyn Bennett promised to back off this agenda.

But instead the federal government went underground with its plans, carrying them forward at various secret negotiating tables, and now, under the cover of the pandemic, pushing them in one-on-one talks with First Nations. The federal government has poured more than $100 million into the negotiations, to sweeten the bitter outcome.

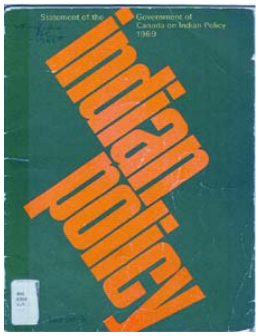
This is an old story, and I should know: I was a Liberal insider once, serving as vice-president of policy on the party's Aboriginal Commission in the early 1990s. I saw how Aboriginal rights was embraced rhetorically by Jean Chretien, and then, systematically betrayed, while the federal bureaucracy maintained an agenda bent on denial and dispossession.

That agenda was a continuation of the 1969 White Paper of Pierre Elliott Trudeau, which adopted the equality language of the civil rights movement but was intended to strip us of our treaties, nullify our legal and political status as collective rights holders, and assimilate us into Canadian society. Then too, Indigenous resistance defeated it, only for the bureaucracy to set out to implement it piece-meal, quietly, over the long-term of the past fifty years. Today, Justin Trudeau is pushing a White Paper 2.0, which has too many of the markings of his father's.

Every generation of Indigenous activist is confronted by this Liberal approach: unwanted policies are clothed in the new rhetoric of the day, then defeated, then rise yet again, like colonial zombies that will not die.

Russ Diabo as a 2018 candidate for position of AFN National Chief.

"the federal government went underground with its plans, carrying them forward at various secret negotiating tables, and now, under the cover of the pandemic, pushing them in one-on-one talks with First Nations. The federal government has poured more than $100 million into the negotiations, to sweeten the bitter outcome"



Cover of 1969 White Paper on Indian Policy.

'Zombie Policies' conclusion from page 9

When the country was swept by Indigenous protests this February, with thousands of young non-Indigenous people lending their voices and bodies in solidarity, Trudeau could have finally chosen another way. But when he allowed provincial police to violently shut down the protests, it was clear he was offering us only one option: surrender to government dictates and compromise our rights through his termination negotiating tables, ensuring that reckless resource extraction could proceed unhindered.

Indeed, for all clamour about the tentative deal the federal Liberal and provincial BC NDP governments offered the Wet'suwet'en hereditary chiefs, all signs indicate that the model corresponds with what they are pushing on all other First Nations.

The alternative has long been understood. Documented by reports like the Royal Commission on Aboriginal Peoples, it is for a new deal for Indigenous peoples: the recognition of Aboriginal rights and title; the restoration of a land base, with restitution where lands cannot be returned; and genuine nation to nation relations. It would offer First Nations justice, and sane environmental policies for the rest of the country.

The zombie-like policies of the federal government will otherwise continue plaguing us, until a real agenda of Indigenous self-determination kills them off for good. **[Reprinted from The Tyee.ca, May 5, 2020]**

Industry, Government Pushed to Abolish Aboriginal Title at issue in Wet'suwet'en Stand-Off, Docs Reveal

Documents obtained by The Narwhal reveal representatives of resource industries and government sought the 'surrender' of Indigenous land rights in the wake of the precedent-setting Delgamuukw decision, which affirmed Aboriginal title on unceded territory

Supreme Court of Canada Building sits on stolen Algonquin Territory in Ottawa.

By Martin Lukacs and Shiri Pasternak

The B.C. government and corporate lobbyists representing major resource industries sought the "surrender" of First Nations land rights immediately following the Delgamuukw decision, a precedent-setting legal ruling that established Aboriginal title to unceded land, according to Freedom of Information (FOI) documents obtained by The Narwhal.

The records, from B.C.'s Ministry of Aboriginal Affairs, provide a glimpse for the first time of a corporate lobbying effort urging government to push First Nations to surrender their newly recognized title rights through modern treaties to achieve "certainty" for commercial interests.

Internal emails, memos and confidential briefing notes also show that, immediately after the Delgamuukw decision came down from the Supreme Court of Canada on Dec. 11, 1997, B.C. government officials discussed tactics to fight land rights with legal challenges, to curb direct action or litigation by First Nations and to use federal money intended for the healing of residential school survivors to make treaty negotiations more attractive.

"Internal emails, memos and confidential briefing notes also show that, immediately after the Delgamuukw decision came down from the Supreme Court of Canada on Dec. 11, 1997, B.C. government officials discussed tactics to fight land rights with legal challenges, to curb direct action or litigation by First Nations"

The push for "certainty" for industry operating in B.C. remains a strong focus for government to this day.

The Delgamuukw decision — prompted by a case launched in the 1980s by Wet'suwet'en hereditary chiefs and the neighbouring Gitxsan Nation — cuts to the heart of the Wet'suwet'en nation's on-going opposition to Coastal GasLink's plan to build a 670-kilometre fracked gas pipeline through the nation's traditional territory to LNG export facilities in Kitimat.

In the decision, Supreme Court justices declared that nations like the Wet'suwet'en, who had never signed treaties, may still hold unceded rights to their lands.

The threat of Aboriginal title

In early January Wet'suwet'en hereditary chiefs issued an eviction notice to Coastal GasLink after the B.C. Supreme court extended an injunction against members of the Wet'suwet'en and their supporters who are preventing the company from accessing contested work sites along the pipeline corridor near Houston, B.C. A year earlier, in January 2019, the RCMP

L to R: Tsake'ze How-ihkat (Freda Huson) & Na'moks (John Ridsdale) at a UN Side Event in NYC, 2019.

'Industry & Government' continued from page 11

enforced the injunction and arrested 14 people in a controversial move that drew international attention

Days after the eviction notice was served, Wet'suwet'en hereditary chiefs met with the B.C. RCMP's commanding officer, deputy commissioner Jennifer Strachan.

Hoping to avert a repeat of last year's much-criticized police action, Chief Hagwilnegh (Ron Mitchell) of the Wet'suwet'en's Small Frog clan offered the deputy commissioner a piece of advice: consult the Delgamuukw decision.

"Read that, before you give out your orders," he recalled telling her.

Although the Delgamuukw ruling happened almost 25 years ago it is still considered one of the most important rulings on Indigenous land rights in Canadian history.

"The Delgamuukw ruling found Aboriginal title is a unique, collectively held interest in the land that, once recognized through litigation or treaty, could grant Indigenous peoples exclusive occupation and the right to require consent prior to resource development or other activities that could affect their territory"

For 150 years prior to the ruling, all levels of government insisted Aboriginal title had been extinguished and thus had no impact on decision-making.

The Delgamuukw ruling found Aboriginal title is a unique, collectively held interest in the land that, once recognized through litigation or treaty, could grant Indigenous peoples exclusive occupation and the right to require consent prior to resource development or other activities that could affect their territory.

The ruling sent shockwaves through the country, promising a transformation in Indigenous peoples' rights to govern their ancestral territories.

Hagwilnegh, who worked as a translator for Elders testifying in court in their Wet'suwet'en language, remembered being hopeful that Aboriginal title would be reconciled with Crown title, as the Supreme Court judges had directed.

Doug Caul, Deputy Minister of BC Ministry of Indigenous Relations & Reconciliation

"If the government had taken the approach of co-existence advocated by the court, we wouldn't be dealing with what we're dealing with today," he told The Narwhal.

But the government and resource companies had other ideas.

In a committee formed by the B.C. NDP government of Glen Clark — to allow oil and gas, forestry, cattle, real estate and mining associations to offer advice about treaty negotiations — various lobbyists pushed the government to limit the consequences of the Supreme Court decision, according to the FOI documents.

According to one memo, detailing a meeting that took place one day after the Delgamuukw ruling, Marlie Beets, then vice-president of the BC Council of Forest Industries, remarked that she had spent the previous hour "trying to calm" the CEOs she represented.

'Industry & Government' continued from page 12

"[Delgamuukw] has only created more uncertainty and we are very concerned by how governments will react to the court's findings," Beets said. "The decision makes the need for certainty through surrender all the more clear. We see no other alternative."

Mike Hunter, then the president of the Fisheries Council of B.C., urged the government to "downplay the expectations that Aboriginal leaders have."

Mary MacGregor, then director of the B.C. Cattlemen's Association, promised that "we will be putting great pressure on the provincial government to commit to a cede, release and surrender approach."

Several days later, a new Delgamuukw strategy team formed by the ministry noted in a memo that "the oil and gas industry in particular has expressed concern about their ability to continue to do business in the province absent a clear direction from the government on how it will address the implications of the Delgamuukw decision."

The following spring, John Watson, then-regional B.C. director of the federal Ministry of Indian Affairs wrote in a letter that both provincial and federal governments "are under tremendous pressure to ensure that we achieve the level of certainty required to assure business and other third parties."

Indigenous-led opposition to unwanted natural resource projects and infrastructure has been bolstered by decisions such as Delgamuukw, Haida Nation and Taku River Tlingit.

In B.C. the vast proportion of land has never been subject to treaty. Although often referred to as public or Crown land, most of these areas are the unceded homelands of Indigenous nations.

These communities are increasingly laying legal claim to their territory through the courts. A 2014 decision, for instance, granted the Tsilhqot'in nation Aboriginal title to a portion of its 438,000-hectare traditional territory. It took the Tsilhqot'in 25 years to win its legal challenge in the Supreme Court of Canada. The B.C. and federal government fought the title claim from start to finish.

Following the Delgamuukw decision, the Supreme Court indicated the Wet'suwet'en could make a similar legal claim to its 22,000 square kilometre territory. Notably, the judges urged the government to seek to reconcile Aboriginal title with Crown title through negotiations, in the spirit of what it called "the honour and good faith of the Crown."

But the FOI documents show the priority for both B.C. and federal governments was to try to resolve the economic and legal uncertainty for resource industries seeking access to land and natural resources.

In a "certainty working group" meeting arranged by the B.C. Treaty Negotiations advisory committee, lawyer Chris Harvey warned that, post-Delgamuukw, "there is now uncertainty over whether the entire province is burdened by Aboriginal title."

What should be sought through the treaty process, Harvey said, is "an end of Aboriginal rights and title."

B.C. government officials, for their part, promised to accomplish this through the existing B.C. modern treaty process.

'Industry & Government' continued from page 13

The treaty process, created in 1992, offered a way for the provincial government to forge agreements with First Nations that had never signed historic treaties.

The process drove a hard bargain for First Nations: they could relinquish rights to close to 95 per cent of their traditional territories — giving resource companies "certainty," or uncontested access — in exchange for financial compensation and small parcels of land.

Nations like the Wet'suwet'en, which refused to enter the B.C. treaty process, were stone-walled, Hagwilnegh told The Narwhal.

"If we sat down to talk, it didn't go anywhere. Meanwhile, government continued to hand out licences for all sorts of things — mining, clear-cut logging and, as we see today, pipelines."

"Following Delgamuukw's recognition of Aboriginal title, many Indigenous advocates and lawyers argued Canada should stop requiring First Nations to extinguish their rights and instead seek out shared jurisdiction that would allow Indigenous nations to develop sustainable economies"

Following Delgamuukw's recognition of Aboriginal title, many Indigenous advocates and lawyers argued Canada should stop requiring First Nations to extinguish their rights and instead seek out shared jurisdiction that would allow Indigenous nations to develop sustainable economies.

Indeed, the FOI documents show that in the wake of the ruling, officials at the B.C. Ministry of Aboriginal Affairs expressed fear that the "credibility of the treaty process is in question."

But rather than shift its approach, the ministry deliberated how to accelerate negotiations and "[revamp] the treaty process to create faster certainty in the areas of lands and resources."

The FOI documents include draft speaking notes prepared for then-B.C. Minister of Aboriginal Affairs John Cashore in advance of a public forum with First Nations in late 1998.

The notes show Cashore's prepared lines, which state, "there is no doubt that Delgamuukw also signals a need for a change in the way we do business."

"The decision confirmed we are on the right track by negotiating instead of litigating," the bullet-point speaking notes state. "We still believe that treaties offer the only long-term solution to gaining certainty around Aboriginal title and Aboriginal rights."

But in private, government bureaucrats discussed several hardball tactics, including litigation, the FOI documents reveal.

The bureaucrats proposed the idea of signing "interim agreements" with First Nations that would have them "agree to support economic stability in British Columbia by refraining from direct action or litigation," without which negotiations would not proceed.

"Make sure we take advantage of potential litigation and maybe even ini-

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tiate where we feel it could help us,” Doug Caul, then-director of Aboriginal affairs at the B.C. Ministry of Forests, suggested as a possible tactic in an email exchange with colleagues from different provincial ministries.

Caul also noted the province could strike back with a court challenge: “This will be controversial, but it seems likely that Delgamuukw will spawn more litigation,” he said. “Future litigation could help [d]efine the scope of title.”

“I am not suggesting we pick a fight,” Caul wrote on Dec. 17, 1997, less than one week after the Delgamuukw decision, “but that we make sure we take advantage of potential litigation and may be (sic) even initiate where we feel it it (sic) could help us, instead of waiting and reacting.”

Today, Caul is the deputy minister of B.C.’s Ministry of Indigenous Relations and Reconciliation, responsible for overseeing Bill 41, B.C.’s new legislation contending with the United Nations Declaration on the Rights of Indigenous Peoples.

Escalating government tactics to ‘sweeten the deal’

In a memo to the B.C. Ministry of Aboriginal Affairs, provincial treaty negotiators suggested using federal funds intended for the healing of residential school survivors to advance treaty negotiations.

As part of the federal response to the Royal Commission on Aboriginal Peoples, the Liberal government of Jean Chretien had established the Aboriginal Healing Foundation with a $350 million dollar grant in 1998.

In order to “sweeten the deal” offered by the B.C. treaty process, B.C. negotiators suggested asking the federal government to prioritize healing money for First Nations who engaged in treaty negotiations.

“Were the federal government to be strategic in how this money were spent in British Columbia, then they would prioritize those First Nations with which they are having treaty negotiations as the major beneficiaries of this program,” the treaty negotiators wrote. “In addition, the money could be made available as a ‘down payment’ on an eventual treaty and given credit accordingly.”

It is unclear whether the federal government ever acted or received a request to act on this idea.

The documents also show the provincial government monitored the activities of First Nations in B.C.’s interior who were critical of the treaty process. When the Union of B.C. Indian Chiefs marched in downtown Vancouver on the first year anniversary of Delgamuukw, officials prepared media lines to highlight how they had “moved forward on a number of fronts.”

The ‘surrender approach’ continues

UBC Indigenous legal scholar Gordon Christie called the FOI documents “illuminating.”

“It confirms what has been common knowledge in Indigenous circles — that the approach that emerged out of these discussions has been pursued by both provincial and federal governments for decades,” Christie said.

RCMP assault Wet'suwet'en Territory with automatic weapons in January 2019, prepared to shoot land defenders!

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Mohawk policy analyst Russell Diabo, who was working with interior B.C. First Nations when the Delgamuukw decision came down, said the "continuities are clear" over the decades.

"The governments have shown their main aim remains keeping powerful business interests happy and containing the power of Aboriginal rights and title, rather than moving toward a respectful relationship."

United Nations bodies have repeatedly criticized the Canadian government for trying to dress up old policies that have been rejected by First Nations.

The UN Committee on Economic, Social and Cultural Rights noted in 2006 it "remains concerned that the new approaches, namely the 'modified rights model' and the 'non-assertion model,' do not differ much from the extinguishment and surrender approach."

"Though the B.C. and federal government never tires of varnishing their approach to convince us that it's brand sparkling new, their end-game remains to extract surrender of Aboriginal title to Crown sovereignty"

Despite the enormous effort by the B.C. government, treaty negotiations have resulted in only eight modern treaties that "modify" or "surrender" their Aboriginal title.

The Trudeau and Horgan governments have introduced an array of new policy mechanisms and "reconciliation" agreements, but Hagwilnegh said they promote essentially the same end result and remain unacceptable to the Wet'suwet'en.

"The government never likes it when we bring up Delgamuukw," he said. "They clam up. And on those occasions when we have been able to educate government officials, the next day, poof, we get new officials sent to us."

When contacted by The Narwhal, instead of answering questions the Ministry of Indigenous Relations and Reconciliation referred to a press release stating it is "basing negotiations on the recognition and continuation of rights without those rights being modified, surrendered or extinguished when a treaty is signed."

RCMP armed assault on Wet'suwet'en Checkpoint in January 2019.

"The new policy will enable flexible, innovative and collaborative approaches that improve how treaties are reached in B.C.," the release said.

Diabo said the modern approach bears an uncomfortable resemblance to older methods. "Though the B.C. and federal government never tires of varnishing their approach to convince us that it's brand sparkling new, their end-game remains to extract surrender of Aboriginal title to Crown sovereignty," he told The Narwhal.

In the years since Delgamuukw, some First Nations have chosen further litigation or direct action to uphold the rights recognized in the ruling.

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Diabo noted the response from the government has often been criminalization, pointing to the arrest of Wet'suwet'en land defenders in January 2019 as the latest in a line of policing actions taken against Indigenous peoples across Canada.

"The police lay down the law — or what they think the law is," said Hagwilnegh, who has educated Wet'suwet'en youth about the meaning of the Delgamuukw court decision and worked with community members to map creeks, forests and hills across the nation's traditional territory.

"But Delgamuukw was brought down by the Supreme Court, the highest court of Canada."

Over the past several weeks, Hagwilnegh, acting as the police liaison for the hereditary chiefs, said he has continued to speak on the phone with RCMP deputy commissioner Strachan, whom the B.C. RCMP declined to make available for comment.

Hagwilnegh said Strachan took his advice and read up on Delgamuukw and he thinks she has listened more than the former commissioner, who oversaw the raid on Wet'suwet'en territory last year.

"But after our Elders told the world who we are and how we look after the land, as caretakers of the territory, is that the best the government can do?" Hagwilnegh asked. "It is long past time they respect their own laws."

Update Monday, Feb. 10 at 10:16 a.m. PST. This article was updated to add the phrase "once recognized through litigation or treaty" to this sentence: "The Delgamuukw ruling found Aboriginal title is a unique, collectively held interest in the land that, once recognized through litigation or treaty, could grant Indigenous peoples exclusive occupation and the right to require consent prior to resource development or other activities that could affect their territory." The sentence previously read: "The Delgamuukw ruling found Aboriginal title is a unique, collectively held interest in the land that could grant Indigenous peoples exclusive occupation and require consent prior to resource development or other activities that could affect their territory." This update also removed two references to 'federal' when referring to the Supreme Court of Canada.

Update Saturday, March 7 at 12:54 p.m. PST. This article was updated to reflect the fact that the vast majority of land in B.C. is not subject to treaty, but this does not apply to Quebec, Yukon and the Northwest Territories as previously stated. A separate update was made to clarify that the Tsilhqot'in First Nation won title to a portion of the nation's 438,000-hectare traditional territory.

[Reprinted from The Narwhal, February 7, 2020]

Open letter: Canada Does Not Deserve a Seat on the UN Security Council

Canadian Foreign Policy Institute

May 21, 2020

This petition will be delivered to United Nations member states prior to the vote for the Security Council seat in June, during the 74th session of the UN General Assembly.

Despite its peaceful reputation, Canada is not acting as a benevolent player on the international stage.

Rather, Canada ranks among the 12 largest arms exporters and its weapons have fueled conflicts across the globe, including the devastating war in Yemen.

In a disappointing move, Canada refused to join 122 countries represented at the 2017 UN Conference to Negotiate a Legally Binding Instrument to Prohibit Nuclear Weapons, Leading Towards their Total Elimination.

Ottawa has also been an aggressive proponent of the nuclear-armed NATO alliance, and currently leads coalition missions in Latvia and Iraq.

Echoing Trump's foreign policy, Canada has backed reactionary forces in the Americas. The Trudeau government has led efforts to unseat Venezuela's UN-recognized government, while propping up repressive, corrupt and illegitimate governments in Haiti and Honduras. Canada also lent its support to the economic elites and Christian extremists who recently overthrew the democratically elected Indigenous president of Bolivia.

In the Middle East, Canada has sided with Israel on almost every issue of importance. Since coming to power the Trudeau government has voted against more than 50 UN resolutions upholding Palestinian rights backed by the overwhelming majority of member states. The Canadian government has refused to abide by 2016 UN Security Council Resolution 2334, calling on member states to "distinguish, in their relevant dealings, between the territory of the State of Israel and the territories occupied in 1967." On the contrary, Ottawa extends economic and trade assistance to Israel's illegal settlement enterprise. Should it win a seat on the UNSC, Ottawa has stated that it will act as an "asset for Israel" on the council.

Canadian mining companies are responsible for countless ecological and human rights abuses around the globe. Still, Ottawa defends the most controversial mining firms and refuses to restrict public support for companies responsible for abuses. The chair of the UN Working Group on Business and Human Rights criticized the Trudeau government for refusing to rein in mining abuses while the UN Special Rapporteur on human rights and hazardous substances and wastes has decried the "double standard" applied to Canadian mining practices domestically versus internationally.

Falling short of its responsibilities as a global citizen, Canada continues to oppose the Basel Ban Amendment on the export of waste from rich to poor countries, which became binding in late 2019 after ratification by 97 countries. Ottawa also failed to ratify the United Nations' Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment

‘UN Security Council Seat’ conclusion from page 18

or Punishment. Ottawa has refused to ratify more than 50 International Labour Organization conventions. In November 2019, Canada once again refused to back a widely supported UN resolution on "Combating glorification of Nazism, neo-Nazism and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance."

Violating the UN Declaration on the Rights of Indigenous Peoples, the Trudeau government sent militarized police into unceded Wet'suwet'en Nation territory to push through a pipeline. The UN Human Rights Committee recently documented various ways Canada is failing to live up to its obligations towards Indigenous people under the International Covenant on Civil and Political Rights.

Ignoring front-line victims, Ottawa refuses to keep Canada's dirty oil in the ground. Canada is on pace to emit significantly more greenhouse gases than it agreed to in the 2015 Paris Agreement and previous climate accords. Already among the world's highest per capita emitters, the Canadian government is subsidizing further growth of heavy emitting tar sands at the expense of impoverished nations who've contributed little to the climate crisis but bear the brunt of its impacts.

The international community should not reward bad behaviour. Please vote against Canada's bid for a seat on the UN Security Council.

Signatories Include Many Individuals and Organizations

On September 21, 2017, Prime Minister Justin Trudeau spoke at the United Nations General Assembly to sugar coat his White Paper 2.0 Indigenous Termination Framework internationally.

Why an Alberta court decision to quash an oilsands project affects Treaty Rights cases in B.C.

A recent ruling by three Appeal Court justices has transformed the nature of Treaty 8 First Nations' legal battles against the Site C dam and oil and gas development, finding the Crown must consider the cumulative impacts of industrial projects

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Ben Parfitt May 28, 2020

When Woodland Cree Chiefs met with commissioners of the Crown at Lesser Slave Lake in June 1899 to sign Treaty 8, it's likely no one completely understood the full scale of industrial development that lay ahead.

Alberta was a half-century away from the major oil strike that would set Canada on the path to becoming the world's fifth-largest oil producer. Back then dams in British Columbia were built by beavers, not BC Hydro, and the Peace River flowed freely from the Rockies all the way to the Athabasca delta.

The document, subsequently signed by Dunneza and Chipewyan Chiefs, would govern relations between Indigenous peoples and the Crown over the largest tract of land in Canada covered by a single treaty — a landmass larger than France.

One hundred and twenty years later, oilsands pits, sprawling tailings ponds, clearcuts slicing through the boreal forest, fracked oil and natural gas wells, pipelines, seismic lines, dams and a massive hydro-electric reservoir filled with mercury-contaminated fish have turned much of that landscape into one giant industrial sacrifice zone.

The "cumulative effects" of such disturbances lie at the heart of a recent important judgment handed down by the highest court in Alberta. It's a decision that lawyers representing First Nations in proceedings before the courts in British Columbia say may have positive implications for their clients as they fight the ongoing loss of their rights on treaty lands.

The Alberta Court of Appeal's decision in late April marks a major victory for Fort McKay First Nation, which had tried for decades to protect the Moose Lake area north of Fort McMurray.

In 2015, Chief Jim Boucher and other members of the nation were promised by former Alberta premier Jim Prentice that the government would help them develop an access management plan for the critical area that would limit industrial activity near the lake and within traditional harvesting areas.

"When Chief Boucher asked for our support to protect the small parcel of land near Moose Lake for his community, I didn't hesitate to say yes," Prentice said in a government press release at the time.

But the promised management plan never materialized. In 2018, the Alberta Energy Regulator approved an application by Prosper Petroleum Ltd. for a 10,000-barrel-a-day oilsands project adjacent to Moose Lake, propelling the nation into the courts.

The three Appeal Court justices concluded the regulator failed to properly consider the public interest and "that there was no basis" for the regulator "to decline to consider" the promised planning process.

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"Due to the extensive industrial and resource development surrounding Fort McKay, [the Fort McKay First Nation] is concerned that the ability of its members to pursue their traditional way of life in the Moose Lake Area has been severely and adversely affected by the cumulative effect of oilsands development … 70 per cent of [the Fort McKay First Nation's] traditional territory is leased for oilsands purposes," the justices noted in their judgement.

The justices quashed the regulator's approval of the project and ordered it to "reconsider" whether the project was in the broader public interest and the project's impacts on Indigenous peoples.

In a concurring judgement, Justice Sheila Greckol took the added step of telling the provincial regulator what was required to uphold the honour of the Crown. Greckol noted the Alberta government knew the nation objected to "consultation" on a project-by-project basis because doing so meant the "cumulative effects of development" were never addressed.

"The honour of the Crown may not mandate that the parties agree to any one particular settlement, but it does require that the Crown keep promises made during negotiations to protect Treaty Rights," Justice Greckol wrote, adding "the honour of the Crown has as its ultimate purpose the reconciliation of Aboriginal interests with Crown sovereignty" and seeks to prevent Aboriginal Rights from turning into an "empty shell."

"It certainly demands more than allowing the Crown to placate [the Fort McKay First Nation] while its Treaty Rights careen into obliteration," the justice wrote. "That is not honourable. And it is not reconciliation."

Maegen Giltrow, a Vancouver-based lawyer representing the Blueberry River First Nation in a case in which the nation seeks to stop the British Columbia government from approving industrial development that "unjustifiably infringes their Treaty Rights," said the judgement is highly relevant to the Blueberry case.

"The last paragraph of the judgement is actually so telling," Giltrow told The Narwhal. "The obligation to implement the treaty is far more than an obligation just to consult. It's not just sort of talking pleasantly while you continue to approve."

Giltrow added the finding is "obviously true across all provinces" where Treaty 8 applies.

In the Blueberry River First Nation's case, three quarters of the nation's traditional lands now lie within 250 metres of an industrial disturbance, and opportunities for the nation's members to carry out their Treaty Rights to hunt, fish and trap have plummeted.

Only a few witnesses remain before lawyers representing both sides give their closing arguments, which are expected to last a month. A decision by the court may be a year or more away.

Tim Thielman, a lawyer representing the West Moberly First Nations in another matter before the B.C. Supreme Court involving the provincial government and cumulative impacts, also said the Alberta Court of Appeal decision may apply in B.C.

Thielman said the Alberta case "could be a positive sign for other First Nations that are seeking remedies for … multiple Crown projects in their territories."

The most significant industrial project underway in West Moberly First Nation territory right now is the Site C dam. The project will flood more than 120 kilometres of the Peace River valley

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and tributary valleys, on top of the extensive flooding caused by the W.A.C. Bennett and Peace Canyon dams upstream of Site C.

The impact that just one dam would have on treaty lands was probably never considered at the time Treaty 8 was signed, let alone the potential impact of three dams on the Peace River.

"That cumulative effect was never contemplated by the parties that entered the treaty," Thielman told The Narwhal.

"At the time, they had in mind some small-scale mining and logging, and guys working with pickaxes — not entire ecosystems being radically transformed and irreversibly submerged."

Jack Woodward, who along with Joseph Arvay represented the Fort McKay First Nation before Alberta's highest court, also represented the Treaty 8 Tribal Association before the Supreme Court of Canada in 2005's landmark Mikisew Cree case.

The case involved a winter road the federal government first intended to run right through a Mikisew Cree First Nation reserve. The federal government later rerouted the proposed road to skirt around the edge of the reserve. The nation wasn't consulted in either case.

Central to that case was the tension inherent in the two main provisions of the treaty: the right of the First Nations to hunt, fish and trap, and the right of the Crown to "take up" land for settlements and other purposes.

What the court decided in that case, Woodward said, was that there must be "meaningful" opportunities to hunt, fish and trap.

"It took until 2005 for Canadian law to work out what those two conflicting objectives of the treaty are," Woodward told The Narwhal. "Obviously there's a point where those two things clash. If you take up every square inch of the land, then there's no more right to hunt, fish and trap."

"It becomes an ecological question," Woodward continued.

"The ecological question is how much habitat must be preserved in order to provide a meaningful opportunity to hunt, fish and trap. And … a meaningful right to hunt, fish and trap must mean that there is a perpetual, harvestable surplus of a necessary species in sufficient abundance to satisfy the need. So if you're talking about moose, how big does the herd of moose have to be in order to support an annual harvest necessary to create a meaningful hunt for that First Nation?"

Increasingly, members of the Fort McKay, Mikisew Cree, West Moberly and Blueberry River First Nations appear to have the same answer to that question: "A heck of a lot more than we've got right now." **[Reprinted from The Narwhal, May 28, 2020]**

Peter d'Errico: Chief George Manuel broke new ground with 1974 book

Reissue of George Manuel's The Fourth World Aids Indigenous Scholars and Activists

Book Review by Peter d'Errico

Secwépemc Shuswap George Manuel's The Fourth World: An Indian Reality burst onto the international stage in 1974. The book tells the story of Manuel's years-long leadership and activism among Indigenous communities worldwide. Thanks to the University of Minnesota Press, it is once again in print.

As a measure of the wealth of Manuel's experiences, consider that one year after publishing The Fourth World he founded the World Council of Indigenous Peoples (WCIP), the first worldwide Indigenous rights organization. WCIP quickly achieved NGO-status in the United Nations Economic and Social Council. In 1982, WCIP efforts brought about the first-ever meeting of the United Nations Working Group on Indigenous Populations, leading ultimately to the 2007 UN Declaration on the Rights of Indigenous Peoples. Meanwhile, Manuel remained active in the Union of British Columbia Indian Chiefs, serving as its president from 1979-1981, and in 1979 co-founding with Cowlitz Rudolph C. Ryser the Center for World Indigenous Studies (CWIS), an independent non-profit organization of activist scholars.

The Fourth World stands as evidence that George Manuel's knowledge, perspectives, persistence, and organizing abilities helped create the global stage for Indigenous discourse that continues today. Manuel's efforts are what Anishinaabe White Earth Ojibwe Gerald Vizenor calls acts of Indigenous survivance—survival and resistance. Yellowknives Dene Professor Glen Coulthard, in his introduction to the new edition, describes The Fourth World as a "crucial Indigenous intervention" into the discourses of decolonization and self-determination.

The Fourth World makes lively reading. It emerged from a series of recorded conversations between Manuel and Canadian journalist and researcher Michael Posluns. The narrative is by turns personal and political, with reminiscences about struggles, planned next steps, calls to action, and so on. The book richly deserves its status as a foundational work.

The Fourth World was initially received as a harbinger of world-wide change in Indigenous peoples' politics. At the time, conversations about Indigenous resistance intertwined with Third World decolonization movements. International associations and local actions alike pointed toward a resurgence of Indigenous nationhood in opposition to nation-state assimilation and termination programs. Much of this initial promise disappeared relatively quickly in the face of Third World retreat from confrontation with former colonizers. Indigenous resistance turned toward an independent stance.

Manuel sometimes uses the language of "recognition" to frame demands that Indigenous concerns be treated with respect and urgency. He recounts innumerable meetings with Canadian officials where he brings his considerable skills to educate bureaucrats and politicians about Indigenous realities. Occasional significant results buoyed his approach:

For example, the National Indian Brotherhood successfully opposed Canada's assimilationist 1969 Indian Policy statement. In 1982, Section 35 was inserted in Canada's constitution to protect "existing aboriginal and treaty rights." Some court decisions were helpful, such as the 1973 Canadian Supreme Court Calder decision reassessing legal concepts of aboriginal title.

But instances of success in Manuel's time did not culminate in secure international status for Indigenous peoples. These are ongoing struggles. Recognition has morphed into "reconciliation," with an agenda similar to claims commissions in Canada, the US, and elsewhere—namely, pay some money to make Native demands go away. Courts have limited aboriginal recognition to "cultural" rights under nation-state claims of sovereignty. Even the UN Declaration has been treated as an "aspirational" document rather than a set of recognized rights of Indigenous self-determination. Notwithstanding these historical disappointments, George Manuel's story bears reading today.

BULLETIN OF THE FIRST NATIONS STRATEGIC POLICY COUNSEL

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A prime example of the continuing relevance of The Fourth World is Manuel's discussion of the pitfalls of Indigenous participation in settler-state elections and political offices. He says Native members of the Canadian parliament have an inherent conflict between representing their own people and their non-Native constituents and the political party itself. He differentiates the example of Maori members of the New Zealand parliament who are elected from Maori districts. He criticizes the common assumption that the presence of Native people in electoral politics is an unequivocal good. His statement that Indigenous peoples cannot "be brushed off with the multicultural broom" is a forerunner of Kahnawake Mohawk Audra Simpson's differentiation between "a people with a governmental system" and "a minority within an ethnocultural mosaic."

The electoral recognition game captures Indigenous energy and talent that would be better deployed to achieve self-determination. Simpson's dismissal of "mosaic" rhetoric implies a clash with Manuel's suggestion that the goal of the National Indian Brotherhood was "to participate in the Canadian mosaic." But Manuel's book is no less radical than Simpson's. He discusses "the difficulty of developing a new language" to speak the truth of Indigenous realities and aims. He repeatedly calls for something more profound than "cultural rights"—namely, "land title" as the "mainspring and material base" of Indigenous existence.

In short, The Fourth World is a vibrant historical record of Indigenous mobilization and a touchstone for contemporary thinking and organizing. Its reissuance is a boon to Indigenous Studies and Indigenous activism.

Peter d'Errico graduated from Yale Law School in 1968. He was Staff attorney in Dinébe'iiná Náhiiłna be Agha'diit'ahii Navajo Legal Services, 1968-1970, in Shiprock. He taught Legal Studies at the University of Massachusetts, Amherst, 1970-2002. He is a consulting attorney on Indigenous issues.