

**POSTDEVELOPMENTAL PROPERTIES
IN THE AGE OF THE EXCEPTION:
THE POLITICAL AND AFFECTIVE LIVES OF THE
TRADITIONAL ENVIRONMENTAL KNOWLEDGE OF
PLATEAU PEOPLES IN BRITISH COLUMBIA**

by

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ABSTRACT

I explore the politics surrounding the protection of Native traditional environmental knowledge (TEK) in the southern interior of British Columbia through qualitative research with 35 traditional land users. I attempt to gather a sense of their values as part of a democratic process of circulating alternative politico-legal principles (“postdevelopment”). The conditions of the colonial present and the gap between western and Native knowledges become the basis for an alliance between me, the reader and the community members toward decolonizing rights and the law. Here, to “decolonize” is to draw geography (externalities) back into the law. I argue that Native practices of TEK produce a counter-governmentality which implants the collective on the normative political horizon. It disavows fewer of the indices of human life: the “outside” which holds the individual. The protection of TEK therefore rests not only upon new western legal instruments and the defence of the land whereupon it is performed, but more fundamentally upon the elaboration of these values and practices in law and the everyday. I explore politics as a matter of sovereign power, for example in the use of rights, civil disobedience and the struggle over land, and as a matter of disciplinary power, for example in the re-signification of rights and where identity is performed both inside and outside (via affect) the spatio-discursive legacy. I follow the circulation of Native governmentality through three case studies. The first is a geography of abandonment and witnessing concerned with struggles against the declaration of extinction by the Canadian government on the Sinixt people. The second is a geography of rights concerning the presentation of a “friend of the court” brief to the World Trade Organization on the matter of the Native property interest in timber in the Canada-US *Softwood Lumber* case by the Interior Alliance of Native Nations. The third is a geography of affect concerning the protection of traditional territory against international resort development by the Secwepemc peoples at Sun Peaks, BC.

Keywords: governmentality; customary law; rights; affect; Indigenous people; traditional environmental knowledge

EXECUTIVE SUMMARY

I. The problem: I inquire into the means of protecting Indigenous traditional environmental knowledge (TEK)—the know-how and protocols for hunting, gathering and fishing which form the cultural and material basis for Indigenous societies—in the political and legal contexts of British Columbia and the information age. Will securing Indigenous title or treaty help to protect TEK by virtue of providing a land base? Will the development of legislation prevent its appropriation as genetic inputs for food or pharmaceuticals? My main premise is that TEK is more broadly threatened by the hegemonic economic paradigm and political rationality which fail to countenance the collective and the environment. Where the securing of land rights and new laws does not go far enough to protect TEK, what representational and nonrepresentational interventions can be made against the hegemonic rationality? And what are the implications for making Canada a fairer society?

II. Review of related literature: Nonwestern knowledges have been revalorized in the social sciences and humanities. From a position of inferiority, they are now seen as valid systems for understanding the *networks* which produce things (Latour, 1993). Where inferiority legitimated colonial atrocities, Indigenous peoples have been recast as having their own science (Agrawal, 1996), knowledge (M. Brown, 2003; Escobar, 2008), political ordering (Tully, 1995; Chakrabarty, 2008), law (Borrows, 2002; Santos, 2006), and ontology (Blaser, 2010). From a governmentality perspective, my contribution is to interrogate the “heretical” practice of TEK as a form of “counter-governmentality” (Foucault, 2007) critical to resisting biopolitical governmental rationality (W. Brown, 2003).

III. Methodology: I explore the politics surrounding the protection of TEK in the southern interior of British Columbia through research with 30 traditional land users (interviews and focus groups held c. 2005-2010), historical and newspaper archives, on-line media, and legal pleadings. Since I learned less about the specifics of community knowledge-protection protocols than the principles underpinning their enactment and Indigenous law, the project was pushed from its initial concern with Indigenous law as the logical starting point for protecting TEK toward its governmentality orientation.

However, much Indigenous knowledge on underlying principles remains unknowable to me as it belongs to another culture and contains spiritual aspects. I nevertheless attempt to gather a sense of these values as part of a democratic process of circulating alternative governmental paradigms (Nash, 2001; Chakrabarty, 2009). I trust the veracity of these stories and the accuracy of their distillation owing to their saturation in my data and the circulation of the project back to the communities involved.

Where my methodology thereby “fails” in respect of presenting an over-arching and transparent rendering of both TEK and its rationalities, it more truthfully sets out the terms for anticolonial coalitions. *The gap* between western and Indigenous knowledges in the colonial present becomes the basis for an alliance between me and the community members toward decolonizing governmental rationalities, rights and the law (Haraway, 1991; G. Rose, 1997). The dissertation traces its main theme of Indigenous counter-governmentality through three case studies. In the tradition of the humanities, each seeks to solicit awe, anger and action in the reader through necessarily partial and political tellings as opposed to pretensions to universality, transparency and objectivity.

IV. Findings and conclusions: I argue that Indigenous representations and practices of TEK are produced by and reproduce a counter-governmentality which implants the Indigenous political community (the land, things on the land, the next seven generations, ancestors, spirits...or “geography”) on the normative political horizon. Insofar as I map a definition of the “good life” which actually includes (biological) life, I illustrate a governmentality which disavows fewer of the indices of human life and undergirds the networks which materially *hold* the individual (cf. Butler, 2004).

Here, for a legal geographer concerned with how space informs law, “to decolonize” is to draw the Indigenous political community back into the considerations of hegemonic governmentality and law. These may be renovated as a matter of the re-signification of discourses and rights and practical interventions in subjectivity. In the former, I describe the broadcasting of Indigenous principles through political claims and legal pleadings. Taking up the latter, I explore the source of this resistive identity and knowledge as flowing from a spatial politics of affect. Where the performance of identity responds not only to the hegemonic spatio-discursive legacy, but also to the “push” from “all” the nonrepresentational “relations” found on the land (Thrift, 2004), prediscursive and more collective political investments press the subject toward new rationalities and to struggle to reform the law (Gibson-Graham, 2006). The protection of TEK therefore rests fundamentally upon the elaboration of its practices and values, a set of properties

enacted in the everyday and which may find their eventual expression in law (including sometimes as “property”).

Case Study 1: ***Declarations of our death have been greatly exaggerated:***

Witnessing the embodied geographies of the “extinction” of the Sinixt peoples

Geography of abandonment and witnessing: I analyze the contemporary struggles against the declaration of extinction of the Arrow Lakes Band (1956)—the legal conclusion of colonialism and Social Darwinism—by the Canadian government (Pryce, 1999). Inasmuch as the Sinixt mobilize counter-visions of their moral obligations to the land, they challenge the state narratives which allow the law to operate (Gregory, 2006). This research therefore presents the rare opportunity *to witness* legal “exceptionality” (Agamben, 1998)—normally, a denial of rights and life in a distant place (Parks, 2001)—and resistance to it. It further elicits alliances between the reader and Indigenous people.

Theoretical innovation: The liberal state is founded upon the consolidation of norms and the exclusion of networks. I therefore add specificity to Agamben’s reformulation of biopolitical governmentality (1998) as the “abandonment” of “biological life” by locating it in the context of TEK and colonialism. Most importantly, I also propose the resistive role of the witness as a reconstructive and critical counter to exceptionality.

Case Study 2: **Taking care of business: Indigenous property and the right to bear bare life in the WTO *Softwood Lumber* dispute**

Geography of rights: I investigate the presentation of a “friend of the court” brief to the World Trade Organization on the matter of the Indigenous property interest in timber in the *Canada-US Softwood Lumber* case by the Interior Alliance of Indigenous Nations (Secwepemc, Okanagan, St’át’imc, Nlaka’pamux, and Southern Carrier Nations) (c. 2002-2004) (Manuel & Schabus, 2005). I explain the application of four geographical arguments to rights discourse—e.g. the demand that property rights be burdened with obligations to the environment (C. Rose, 2005)—as attempts to hold liberalism up to its ideals of social justice, here with the insertion of the “biological” (or bare) life central to Indigenous identity.

Theoretical innovation: At the international level, I reframe the “verticality” of scalar politics as also having a horizontal direction inasmuch as competing norms and laws exist on any one scale and afford the opportunity to cross-pollinate the law-making centre (here, the WTO) with equity-oriented norms (such as the environmental ones found in the *Convention on Biological Diversity* and Indigenous laws) (Helfer, 2004).

Case Study 3: “Thinking of the land ‘in that way’”:

The body, the spiral and the politics of vulnerability in the fight to protect Skwelkwek’welt

Geography of affect: I learn about the protection of traditional territory against international resort development by the Secwepemc people at Sun Peaks Ski Resort, BC (c. 1990-2007) as an example of civil disobedience and the rejuvenation of the cultural practice of TEK (Drapeau, 2008). I further interrogate the embodied aspects of TEK as a politics of affect (Thrift, 2004) productive of an “autonomous” Indigenous identity and law (cf. Alfred and Corntassel, 2005). Indigenous spaces are marked by a “fullness” which suggests the ontological extensiveness of the self (Sennett, 1990). Based on what my informants tell me about the “full” experience of TEK practice, I theorize that it attunes the self to the collective and therefore is central to the decolonization of governmentality and state law.

Theoretical contribution: I explain how Butler’s theory of precariousness is amenable to an ontology of human and nonhuman actants. Affect theory is considered in a nonwestern context: the networks which come to inform performativity consist of the profoundly “full” Indigenous political community.

V. Statement of significance: In order to protect TEK, an Indigenous governmentality must be enacted through representations and practices—counter-visions of political struggles and values; resignifications of rights; and enactments of a spatial politics of affect—which foster a responsiveness to networks and “life.”

In order for Canada to return to its constitutive partnership with Indigenous peoples and finally eschew a colonial mindset fixed on the metropole (on the Métis society, see: Saul, 2008; cf. Harris, 2002), it must accept Indigenous control over not only Aboriginal affairs, but also Canadian affairs at the level of first principles (Borrows, 2002) and governmental rationality. In other words, Indigenous control (and reconciliation) requires a paradigm shift from privileging the freedom of the individual toward countenancing networks as the basis for individual freedom.

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GENERAL INTRODUCTION - IMAGINING THE OUTSIDE AND THE POLITICS OF VULNERABILITY IN TRADITIONAL ENVIRONMENTAL KNOWLEDGE

by

Sean Robertson

in collaboration with grassroots people from the
Secwepemc, Okanagan, Sinixt, St'át'imc, and Nlaka'pamux nations

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[W]e must respect the smallest, weakest persons for what they can contribute.

“How Food was Given,” Okanagan Legend, Okanagan Tribal Council, 2004

A rat civilisation would probably never have built skyscrapers, since rats prefer to live underground. But think of the endless subways-below-subways-below-subways they would have had.

Robert C. O'Brien, 1971

[T]he Republic has never been proclaimed by virtue of a legal vote according to constitutional rules. It was established through the will of the people who rose up against the existing laws.

Léon Blum, 1924

1: A CRISIS OF IMAGINATION AS A POLITICAL TACTIC: A FAILURE TO SEE AND IMAGINE THE OUTSIDE

Even before the 2008 financial crisis and the trillion-dollar public bailouts of Wall Street and Detroit, it was difficult to take seriously the claim that there is such a thing as a free market. As the history of the automobile industry in the United States has shown, corporations, like individuals, are not islands unto themselves who merely compete through hard work and smarts toward their just deserts, but are instead buoyed to a considerable degree by a host of linkages to the collective (e.g. state subsidization of the Interstate system, provision of municipal infrastructure, policies for cheap oil, etc.). For quite a long time, the free market economic system has also been the subject of critique for failing to take into account a host of externalities which enable it to claim economic efficiency. If social and environmental externalities were to be included on the balance sheet—environmental services, state-supported education and health

care, women's reproductive labour, basic research in universities, the use of Native¹ land, traditional environmental knowledge (TEK), and human genetic code—then the economy would return less spectacular bottom lines (Debord, 1994). I am not suggesting that capitalism has not been responsible for a dramatic rise in opulence in the developing world over the past twenty years (Wolf, 2005), but rather that its definition of opulence and its efficiency rationality can only be properly evaluated through a consideration of externalities. I am also suggesting that its role in fostering an egalitarian society is questionable given the extensive subsidization of the opportunities of certain actors and classes in the economy. Finally, I would not be the first to observe that as compared to the profusion of ideas coming from the right between the 1970s and late-90s—the neoliberal reforms—its boosters have been unable to convincingly argue for how it can be saved in light of the challenges of late modern regimes of accumulation. In other words, proposals for assaults on state services in the context of an increasing gap between the rich and poor in the North do not engender the confidence once widely held in the system. By contrast, they bode for either a pushback against the upper class gains of the past 30 years or the mobilization of conservative social norms to galvanize the system (Harvey, 2005).

My argument is not “economic,” at least in the sense that the term is currently construed, but more geographic and political insofar as I try to think through the tenacious hold of neoliberal thinking despite its having lost legitimacy on manifold fronts. My sense is that it rests upon the ability to deliver the goods—growth, albeit in rather destructive fits and starts—while keeping any alternatives and questions of externalities off the table through the strategic deployment of a crisis of vision. On the one hand, this vision insists that capitalism is a complete economic system and is not, in fact, underpinned by a range of formally noncapitalist economic transactions. It

¹ I generally use the term “Native” to describe the original occupants of Turtle Island/North America. Though surprising to many settlers, the term does not appear to hold the negative connotations of backwardness to Native ears. I also use the term “Indigenous” by which I mean a Native group which maintains traditional practices on the land. Although an exclusionary sub-categorization, it is an important distinction when it comes to figuring out exactly who the actors are in the politics of TEK and in the promulgation of a Native counter-governmentality. The only perfect term to describe Natives would be the name they give to themselves, and so I use the proper names of Native groups from my case studies whenever possible. Unless speaking in reference to federal and provincial laws and policies which variously name Natives as “Indians,” “Aboriginals” or “First Nations,” I refrain from this nomenclature to respect the will of the majority of my interviewees who refuse the state and the vocabulary underlying its colonial bureaucracy. Where I use the term Native *peoples*, with the “s,” I avail myself international legal language to politically signal Native populations as treaty-making entities deserving of self-government and, where and how they choose, sovereignty. I also capitalize terms like *Native* and *Indigenous* contrary to modern conventions of style to follow a convention of respect for Natives by recognizing their constitutional position, akin that of English Canadians and Québécois (the original “real” whites of yesteryear who founded a society based upon treaty relations with Natives from multiple nations), but distinct from, say, the lesbian, gay, bisexual, and transgendered communities or immigrant community which are recognized as part of pluricultural society but who do not command constitutional status.

follows that any alternative is required to arrive with a similar completeness; but this is impossible, as capital's own "solidity" reveals. On the other, socialism is held in reserve as a terroristic sort of signifier. It remains solidly consigned to the dustbin of history on account of a narrative which insists that the failures and violence of communist Russia are synonymous with any opposition to capitalist economic space. This crisis has affected our ability to think of alternatives—imagination as the mind's eye—and fully perceive the consequences of unfolding actions (vision *per se*). For proof of the arrest of our imagination, one need only look to our unrelenting faith in the market which has breathlessly carried us from the jubilation of the end of history (as a matter of ideological struggle, see: Fukuyama, 1992) to what looks increasingly like the end of the ability of the planet to provide environmental services for the economy. For example, surrounding an increasingly warm Turtle Island one can point to Arctic ice in recession, floating plastic garbage patches (Figure 0.1)² and, to the south, a Black Sea where there once was a Mexican Gulf.

It has been argued that the way around capitalism must entail not a future revolutionary moment led by the Party, but the immediate experimentation with local economic spaces and alternative political subjectivities (Gibson-Graham, 1996; 2006). I contribute to this discussion of denaturalization and possibilities in this dissertation. However, instead of a focus on economies, I focus more broadly on alternative, place-based political rationalities which underpin new economic spaces and political stories. I take up Native TEK—its practices, laws, ontology, and ethics—as a governmental regime helpful in fostering political communities and economies inclined to include "the outside." Inasmuch as TEK comes to inform the values of the settler state and, in the case of Canada, restore the role of Native knowledge in its constitutional order, the material spaces and opportunities to practice TEK will be better protected and the state will move into a postcolonial present. Reflecting on Robert O'Brian's words at the beginning of this chapter, I hope to open the imaginary both to the contingency of the present and "thinking otherwise" (the multiple) and, in a Deleuzian move, thinking and enacting alternatives which eschew transcendence for multiplicity, engagements and becomings with the networks underpinning the self, and the pluriverse of Native life on the land.

Society is not simply guilty of abandoning our responsibility to the environment upon which human life depends and which, from a Native perspective, constitutes the human. It is also guilty of abandoning our human cognitive capacity to imagine. For Natives, what sets the human

² <http://www.independent.co.uk/environment/the-worlds-rubbish-dump-a-garbage-tip-that-stretches-from-hawaii-to-japan-778016.html>

apart from all other animals—even though the human in fact comes from the other animals (Okanagan Tribal Council, 2004)—is the power of the dream (or the vision of the imagination). Jeannette Armstrong, an Okanagan traditional knowledge keeper, described the dream as a profoundly human ability to think through the consequences of actions in a way unavailable to animals. Its power and our responsibility for it are most dramatically evident in a faculty unavailable to other creatures: the profoundly human capacity to commit suicide.³ The ability to speculate on consequences and envisage alternatives is surely absent where settler society remains tethered to a rationale which has led to a rather long list of “inconvenient truths” and feedback loops. For those who maintain the human power of the dream, this abdication is unfathomably mindboggling. It has thus come to pass that Natives can only express exasperation at the white man and the capitalist who have lost the ability to dream, perhaps even below that minimal capacity of the animals, as evidenced by the fact that few other animals defecate in their own home.

The objective of my research into the protection of Native worldviews, TEK and land in the following pages is both a documentation of the injustices accruing to Natives as well as a provocation not only to recognize our complicity with these processes but also to dream otherwise in the interests of Natives and everybody/thing else. I hold up the political and ethical values surrounding TEK as a “counter-plot” (June Nash’s words) helpful in thinking and acting differently. My three research questions are:

1. What are the politics of land and the body surrounding the protection of TEK on the Columbian Plateau?
2. What are the outlines of Native governmentality?
3. How have they pushed back against neo-liberal biopolitical governmentality?

In response to the critical question for activist scholarship—how is this research going to help Native peoples?—I rehearse Native testimony to first implicate the reader as a matter of proximity within the machinations of the colonial present. Next, I represent the legal and political struggles of Native governmentality through three analytics: a geography of abandonment and witnessing; a geography of rights; and, a spatial politics of affect. The intention is that the content and means of representation (theoretical innovation across the three analytics) will publicize and mobilize counter-representations of Native society. I hold up the fugitive but nevertheless powerful rekindling of Native society in conflicts across British Columbia as part of a catalogue

³ Interview with Jeannette Armstrong, Okanagan traditional knowledge keeper, 10 July, 2007.

of viable cultural possibilities, one which has a considerably longer history than of industrial modernism (Davis, 2009; Gibson-Graham, 2005). I am not encouraging the reader to become an Indian or a shaman, à la New Ageism, but rather a devotee to the human of the outside: the landscape and the dreamscape. The objective is to interpellate a “desiring-machine” (Deleuze and Guattari’s word) which countenances a gregarious set of “relations” across space and time and an audacious commitment to imagining. Such an assemblage produces the fuel of critical thought whose conspicuous absence from the present has led us to adopt a dangerous sort of “eyeless vision” of the world, according to Paul Virilio, a vision which assumes god-like comprehensiveness.

In what follows, I insist less that Natives have all the answers, but more that they offer intimations of credible alternatives in their principles and practices. At the level of the overall governmental trajectory of society and the particular political ordering of Canada, there are many reasons for listening to Native peoples. They are deserving of a hearing because, as a founding peoples, their values have not meaningfully been incorporated into Canada’s constitutional ordering (Tully, 1995; Borrows, 2002; Saul, 2008). In the remainder of this introduction, I will set out the parameters of the Native ordering of the world as I have come to know it from Natives telling me about the rationales and practice of their TEK. I argue that the Native worldview is based on a rationality of cooperation and reciprocity between humans and the spiritual and natural worlds that provides an alternative way forward for globalized, industrial society. It amounts not simply to an alternative worldview, but also a governmentality mobilized and produced through local centres of knowledge production and the bodily practice of TEK. As opposed to the hegemonic rationality which focuses on the individual and applies unregulated market relations increasingly into all aspects of life (Brown, 2003), it considers the collective as the normative dimension of the political horizon. It confronts the hegemonic regime precisely on the basis of the latter’s refusal to think networks (Latour, 1993), the pluriverse (Escobar, 2008; Blaser, 2010), “the outside,” the public or the future. Native governmentality is composed of qualities or “properties” critical to postdevelopmental alternative futures characterized by a certain disowning of the self. I follow June Nash to insist that Indigenous peoples will be the chief protagonists in the development of alternatives to globalization because of their 500-year history of resistance, their logic of guardianship for the land in which they still maintain linkages and their demand that power have a moral validation (Nash, 2001, 24-26).

In post-structural terms, I set about representing a Native “governmentality”—a logic of the “conduct of the conduct” of individuals and populations situated in the milieu of the

pluriverse—as an “heretical” line of force which was nearly snuffed out by colonialism and biopolitics’ concern for the economy. Today, it squares off with neoliberal governmentality not just in community-state or individual-court relations, but throughout the cultural field of relations in which power is produced outside of institutions and across state boundaries (Foucault, 1990; 2003; 2007). Where the neoliberalism reigns through the dearth of imagination and vision, a Native governmental rationality restores “the outside” to the mind and thereby frees the body.

In keeping with my interpellation of the imagination, I not only return to the theme of the “outside” throughout the dissertation, but have written in a deterritorialized or networked style, as a series of case studies which partially participate with one another. As opposed to forcing one of these events into a single narrative as the basis for the dissertation, my intention is to present three ethnographic and theoretical becomings which also gesture toward something in excess of the text—the poetic world of Native oral tradition, perhaps—and thereby form the basis for future research, politics and openings. While I am not claiming that a series of essays is necessarily any more radical than a single narrative, where I write three very full stories—each with its own empirical and theoretical contributions—there is also some “stuffing” going on (Deleuze’s adjective for the baroque) and stuffing always points to difference and to the outside. Finally, it would be disingenuous to argue for that which remains in the shadows through both a discourse and means of representation which re-instantiates hegemonic, bounded categories and narrative patterns. The reader may therefore read the chapters in any order they like: if a spatial politics of affect is not their cup of tea and they want something less concrete, then why not try a geography of rights or a geography of abandonment and witnessing? In any case, she will arrive someplace in the middle.

2: TRADITIONAL ENVIRONMENTAL KNOWLEDGE AND THE POLITICS OF VULNERABILITY

2.1 TEK and its values

Martha Johnson, an anthropologist, defines TEK as: “a body of knowledge built up by a group of people through generations living in close contact with nature. It includes a system of classification, a set of empirical observations about the local environment, and a system of self-management that governs resource use” (Johnson, 1992, 4). She cautions that it is difficult to

make generalizations across and even within Indigenous groups about the generation, expression and transmission of TEK. Based on her literature survey, there are three important characteristics about TEK that, for our purposes, mark its distinctiveness from Western knowledge:

- TEK is learned through observation and hands-on experience; Western science is taught and learned in a situation usually abstracted from the applied context;
- TEK is based on the understanding that the elements of matter (earth, air, fire, and water), which are classified as inanimate, also have a life force. All parts of the natural world — plant, animal, and inanimate elements — are therefore infused with spirit; and,
- TEK does not view human life as superior to other animate and inanimate elements: all life-forms have kinship and are interdependent. Unlike Western science, humans are not given the inherent right to control and exploit nature for their own interests at the expense of other life-forms (Johnson, 1992, 4).

In practice, TEK represents the customary law of Natives, a field so broad that it quickly evades the practice of categorization, as the attempts to express it in western legal terms have shown (Gudeman, 1996; Dutfield, 2001; Paterson and Karjala, 2003). Where the practice and ideas underpinning TEK are held to be definitive of the Red Road or the means of being Native, TEK also stands for Native identity, as one Secwepemc Native youth told me: “TK is not what I would call it—it is more, like being Secwepemc.”⁴ By extension, TEK may be scaled up to stand for Native national identity. The strong connection between politico-cultural grouping and place is evident in the names of many Native nations in BC:

The Secwepemc are the people of the land where the water flows from highest mountains down to the rivers on its way to the ocean. Because all the different names of Indigenous peoples that I know of in BC, the name of the people in their language usually means “the people” but it is always put into a context of the people of the land—where they come from.⁵

Where Natives intervene in the land through TEK ceremonies and practices, such as controlled burning of forests, the landscape is thereby culturally modified and arguably also becomes emblematic of TEK. Finally, as I will explain, the values contained in customary law also form the governmental rationality of Native society.

⁴ Interviewee #4, Secwepemc youth (woman), 23 July, 2007.

⁵ Interviewee #10, Secwepemc traditional land user (woman), 7 June, 2007.

TEK values are interweaved in stories of connections to the divine. For the purposes of my argument, I hold claims of the divine—the spirit of inanimate objects and enchanted spaces—to the side owing to the limits of social science evidentiary methods. At the same time, I do not eject these accounts from the story because of their potential to say something about the human experience (a sort of strategic humanism, albeit within different cultural paradigms), the limits of western knowledge and the reader’s implication in Native struggles for justice (See Chapter 1). The comments of a Native youth and traditional land user indicate the intersections of collective values in enchanted spaces:

And it is traditional knowledge, that can’t come even from the teachings of someone, from one person to the next, it comes from your spirit, it is ancestral knowledge: it reawakens when you go out onto the land. No one can teach it to you, it just lights: it is a tiny little flame, when you go out there and you start learning what it means to be there and you start having that sacred connection with those berries, those roots, those deer, moose, fish...it lights that up and it is your spirit, it is who you are as a Secwepemc people/person...⁶

The extraction of political principles contained within TEK provides the opportunity to hold them up to democratic contestation against hegemonic liberal values (Chakrabarty, 2008).⁷

As distinct from the acts of purification which form the basis for western claims of “being modern”—self from other; law from custom; culture from nature; us from them (Latour, 1993)—Native governmental logics hold that the self is not only supported by the collective but fundamentally constituted by one’s relations with all things on the landscape, as well as obligations to the Creator, spirits, ancestors, and the next seven generations.⁸ Ontologically speaking, rather than an self-regarding Cartesian actor, the self is enfolded into a network with a

⁶ Interviewee #4, Secwepemc youth (woman), 23 July, 2007.

⁷ See also Arturo Escobar on democracy as the practice of deliberation over difference in not simply the liberal sense of diversity, but also the lives embedded in meshworks and networks; and, peace as the setting out of common ground across areas of difference (Escobar, 2008). On democracy in pluricultural societies and the right to autonomy/coexistence, see Nash, 2001, 253-4.

⁸ For ease of argumentation, I reify “the West” as an analytical category to describe a counterpoint to the Native nations which I explore with greater specificity. Clearly, given their historical dynamism, internal heterogeneity and history of exchange with other cultures, empirically the West and Indigenous nations do not form two solitudes. Constructed around modernist ontology, neo-liberal governmental rationality, Cartesian spatiality, industrialization, and the state, my reification of the West is a strategic essentialism meant to map the hegemonic characteristics of the West and the points of conflict and political stakes vis-à-vis indigenous societies. None of this should be taken as claiming that these characteristics have not been challenged by Indigenous thought or that they have not been adopted by some Indigenous societies, as their 500 years of contact would suggest. Taking up western epistemology, the availability of a theoretical language, albeit a fugitive one, to finally describe and re-valorize TEK in this dissertation belies any pretensions to monolithic ways of knowing without points of contact with Native ontologies. Where I speak of relationality and networks, I abandon these reifications not only as an empirical point, but to also illustrate the foundation for greater reconciliation.

gregarious set of others; thus, as a matter of geography, the figure and ground and nature and culture collapse into one another (Latour, 1993; Blaser, 2010). The humanistic and presentist self is replaced by a multiplicity: the performance of identity responds to other humans and nonhumans, past and future generations, divine forces and, as we shall explore in the chapter on affective politics, enchanted geographies. Furthermore, networks produce not simply hybrid forms of subjectivity, but ones which respond to other actants which themselves are performative and nonteleological. The subject and space are therefore based upon a relational, processual and contingent ontology. Scholarship which takes networks, multiplicities, meshworks, plateaus, and pluriverses seriously attempts to grapple with the deficits of western knowledge (of both presentist and social constructivist varieties) (Thrift, 1996). Insofar as this scholarship points up Native knowledge not as a condition of backwardly mixing subject and object, but a science which refuses (what have been revealed as dangerous) practices of purification, it forges an “symmetrical anthropology” which no longer prioritizes western over non-western knowledge (Blaser, 18, 2010). In respect of ethics and agency, the self is decentred from a position of control over the land, to one of being held by the land; and her actions thereby become burdened with obligations to these others upon whom identity is founded. Jeannette Armstrong draws out the spatiality of the intimate relations which underpin the Native self:

[Y]ou hear Indian people say ‘all my relations’, that is one way of being clear that this deer is related to me. It is related to me not just because I eat it, but also because it is alive on this planet with me, we live together, we are part of, it is part of us; and the fact that we eat it is just nature: that is a natural process that we were given. And we understand why we eat deer, just the same as we understand why we have to eat a plant or a fish: because we have to live, we are commanded to live.⁹

TEK informs protocols for the interface between humans and the land. Most importantly, rather than the enactment of difference for its own sake (cf. Deleuze and Guattari, 1987), TEK is backed up by principles and knowledge concerned with maintaining balance with the land.

2.2 How Food Was Given: vulnerability in Native life

The Okanagan creation legend, How Food Was Given, which is also shared by those living in south-western Secwepemculecw, illustrates the origins of reciprocity (as opposed to hierarchy), the collective as the normative dimension of Native society, in situ practices of caring for the land, and the spiritual basis of the world. This complex story suggests that the self is tied

⁹ Interview with Jeannette Armstrong, Okanagan traditional knowledge keeper, 10 July, 2007.

to the land (involvements) and draws her identity from that tie. However, to the extent that she is constituted by these relations, her identity is not something “possessed” since she is affected by the collective (involutions: on such “unnatural participations,” see Deleuze and Guattari, 1987, 240).¹⁰ She does not “have” a relationship with the land, rather the land has her. This was put in plain words when I asked a Secwepemc/Okanagan traditional land user, Dorothy Christian, about her opinion of Locke’s concept that one is entitled to property after labouring on the land:

You don’t own the land, the land owns you—that is where our songs come from, that is where our designs come from, that is where we come from. Our spirit is integral to the land, it is a reciprocal relationship...¹¹

The main value I draw from the legend is the basis for the collective as the horizon of the political community which I argue hinges on the vulnerable position of the human body on the landscape.

The legend begins with a conversation by the Four Food Chiefs—Black Bear (skemxíst), the chief for all creatures on the land, Spring Salmon (ntytyíx), the chief for all creatures in the water, Bitterroot (sp’ílem), the chief for all things under the ground, and Saskatoon Berry (síya?), the chief for all things growing on the land—over the placement of the People-to-Be (st’elsqílxw or humans) on the land by the Creator (Okanagan Tribal Council, 2004). It is a meditation on the vulnerability of the human, how other creatures respond to this vulnerability, and how the human must reciprocate with gratitude and respect expressed through ceremonies and practices.¹²

Richard Armstrong, an Okanagan traditional knowledge keeper, gave me his version of the story:

The Creator looked at the creation of the – all the four-leggeds, everything that has four legs. He looked at the creation of everything that can fly. He looked at the creation of everything that swims, everything that grows on top of and underneath the ground. And those four systems before we were here was such a perfect system, they are all interdependent. They depended on each other for

¹⁰ Western thought severs an atomistic individual from the collective, to posit a volitional human subject at the centre of the world. Deleuze and Guattari reverse this by pointing out the subject’s production through networks, with the result being that the individual is the contingent result of human, nonhuman and spatial forces ostensibly “outside” of the individual. Whereas western thought traces the individual as part of a natural world composed of Newtonian objects, Deleuze and Guattari map the self as the composite of promiscuous bits which “unnaturally” (at least from a modernist perspective) gather, but only for the time being. In this flat ontology, spatial arrangements (e.g. individuation of Foucault’s modern institutions verses the spaces of the 16th century where “bodies made a display of themselves”) and material practices in space (de Certeau’s notions about viewing the city by walking its streets verses from a tower) have been revisited as also critical to the construction of a resistive subjectivity through a “politics of affect” (on the “push” form the world, see: Thrift, 2004).

¹¹ Dorothy Christian, Okanagan/Secwepemc traditional land user, 24 September, 2007.

¹² In keeping with the oral tradition and its provisions for the protection of knowledge, each telling is particular to the listener’s readiness and trustworthiness. My re-telling in no way exhausts the knowledge contained in this story.

survival, and it worked so harmoniously and perfectly and it was always in perfect balance. So the creator said, if that's such a great, great system, if I took a part of every one of those and made one being, I'd have the ultimate, that one being from the—because it's such a perfect system, if I put it all together, I'll have the perfect creation, the perfect being....So when they put that together, they put it all together in this thing called, in our language, closest translation is a thing called People-to-Be...And here's some of the conversations from the legends. The Four Legged [Chief Black Bear (skemxíst)] says, this creature called the Person-to-Be is supposed to be the ultimate creature, but from my point of view he's the worst example of a being I ever seen. He's got no hoofs. He doesn't eat grass. You know, he suffered from the whole system. How is he going to survive? What's he—what's he going to live on? What's he going to—you know, he's just totally out of place. He doesn't even have any fur. First winter he's going to freeze to death...If he walks on the land, he's going to cut his feet all up and he'll lose both legs and they'll be good for nothing...Because it's my child, because it's part of me, I have to make sure this creature called Person or People-to-Be has to survive. So what I'm going to do is all of the Four Leggeds all over the world, all over the [Turtle] island [North America], everywhere, any Four Legged is food for us. We are going to be eating Four Leggeds. Four-Legged Chief says, I speak for all of Four Leggeds, People-to-Be will have—as long as they follow certain protocols and rituals, there'll always be Four Leggeds for them to eat...¹³

Rather than beginning with the concept of property as a directive for the establishment of boundaries around the self against a threatening collective, as the founders of the US Constitution did in their own creation legend (Nedelsky, 1990), The Four Chiefs began by redressing the insufficiencies of the People-to-Be and how they could be harmoniously interleaved into the world. Subsequently, each of the other three chiefs contributed themselves as a source of food and other implements for the People-to-Be. As the People-to-Be exist by virtue of the Four Chiefs, they are not set above the Chiefs and instead have an obligation to give thanks in song, ceremony, and practice so as to maintain the balance in the environment:

[T]hey promised us, Four Food Chiefs promised us that as long as we gathered the berries, dried the meat, got the fish, went out into the mountains and went to—dug the roots, they'll always be there for us and they'll always be in good health for us. But we have an obligation to them by doing these certain rituals and by doing certain prayers that makes the plant healthy...And as long as we do this there, their best health gets back to me. And I have to make sure that the—that I, you know, do these things because, well, one of the rituals is the first fish you catch, you open it up and you put the little egg sack back in [the water], you know. And the Fish [Chief] told us that if you do that, there'll always be fish come back for you, because you're the one there saying these, you're the one there collecting the fish, we'll be there for you, but you've got to do this, you've

¹³ Interview with Richard Armstrong, Okanagan traditional knowledge keeper, 25 May, 2005.

got to make sure the waterways are [clear], you've got to make all of these things...¹⁴

As this important legend reveals, TEK is thus not simply knowledge about the efficient collection of food, medicines and other resources, but also about maintaining a covenant with the divine and the land, which includes both spiritual and practical activities essential to the health of the land and, by extension, the people. The story continues and goes on to explain that skemxíst, in an act of mystery, generously sacrificed himself in order to finally bring about the giving of the food to the People-to-Be. This was very saddening for the other Chiefs, as a Secwepemc Elder, in a beautiful and measured voice, almost sang:

They prayed, sang songs and prepared themselves: “we cannot let our chief go, our greatest chief our Four-Leggeds because he is so much a part of our whole: he is part of us.” They sang their songs—the Tree People, the Water People, the Salmon People: they sang their songs. The Four-Leggeds sang their songs. Nothing helped. Within the fourth day, the tiniest insect, the Mosquito, came with their family and their children and they sang their most beautiful song to bring their Chief back...“We need him to be whole again.” The Great Sprit had heard the tiniest insect begging to bring their Chief [back]. And so the Great Bear Chief came back and gave thanks. And that is why today we still have the Tree People, from where we get our berries, the Underground Peoples...from where we get our medicines, the Salmon, that gives us life, and the Four-Leggeds, the deer and the buffalo, still today we have those.¹⁵

Again, the legend revolves around the precariousness of life not only in its message of the ties (Judith Butler’s terms: see below) supporting and defining the People-To-Be but in respecting the potentially powerful contributions of the smallest and weakest members of a society (as the quote from this legend at the beginning of this chapter asserts: Okanagan Tribal Council, 2004). It is not just that the Mosquito brought the Bear Chief back to life, but that his resurrection was dependent upon the network of life, with Mosquito, the smallest and apparently inconsequential of animals, standing as the symbol for interdependence. The story depicts a governmental logic and an ethics in which spiritual, environmental and political solidarity are forged through the recognition of the vulnerability at the core of human identity. It is implicitly illustrated in the humble but ultimately powerful actions of xexmáct (the Mosquito).

The important “workable truth” (Chakrabarty, 2008) for my argument is how the legend considers the vulnerability of the human as the starting point for human life and identity, and

¹⁴ Interview with Richard Armstrong, Okanagan traditional knowledge keeper, 25 May, 2005.

¹⁵ Interviewee #2, Secwepemc Elder, 1 August, 2007.

ultimately suggests the collective as the normative political dimension for society. As an evidentiary matter, I do not need to evaluate the verity of this story in order to draw out the larger clues as to how to differently conceptualize human life, security and conduct on the land.

2.3 Vulnerability in relation to the land and violence as a political technology

In her essay, *Violence, Mourning and Politics*, Judith Butler analyses the basis for political community across a heterogeneous world. What she has to say about the involvements and involutions of the self with the collective—a dispossessory relationship with humans and nonhumans—parallels the lessons from *How Food Was Given*. In both, a politics of vulnerability comes to light where, through the touch of the body to the land (TEK) or violence, the self recognizes that her “human” constitution exceeds the limits of the body and thereby demands a reorientation of her political investments toward alliances with the Other(s). Despite claiming to countenance human lives and bodies, the self-regarding aspects of liberal personhood and the emphasis on civil and political (“negative”) rights excludes this excess and the means of self-reproduction from political calculation and thereby renders life precarious (Nedelsky, 1990; Bakan, 1997). The subject is therefore disciplined along the narrow lines of individuality in exchange for citizenship and a voice.

In liberal societies, the self enters subjecthood and citizenship through a disciplining and domesticating process of enacting the social norms reproduced by the human sciences and the state in the form of constitutional rights (Foucault, 1990). The “excess” (or “the flesh”) refers to those aspects of the self (the collective material and discursive aspects of humanity) which exceed this juridico-discursive regime and yet which constitute the majority of one’s identity (Pratt, 2005; on biological life, zoe, and politically-qualified life, bios: Agamben, 1998). The flesh is that which is cut out from cultural citizenship (Ong, 1996).¹⁶ Importantly, even if courts enforce full citizenship rights, to the extent that the self is constituted by aspects not under legal protection or included within discourse, that excessive part of the self remains “abandoned” to a

¹⁶ The subject for Butler is postfoundational and nonpresentist in terms of both discourse and materiality. According to performativity theory, the subject enacts only those aspects of personhood which are culturally intelligible. Subjectivity is disciplining inasmuch as the majority of what constitutes the self—the flesh—falls outside the limits of the cultural; and it is this cutting which underpins the status quo. In terms of materiality, Butler has recently turned to the body per se to argue that it is inherently vulnerable to the touch of the other and, in this sense, not only has its freedom supported by the collective but is composed by (what Bruno Latour would call) a gathering of human forces (Butler, 2004). The “flesh” is used to signal the deterritorialized and dis-organized outside to culturally-qualified bodies—an outside which fundamentally sustains them.

“state of exception” (Agamben, 1998). In contrast to universal categories which ignore material inequalities, are differentially provided across social groups, and which abandon so much of our identity from protection, Butler proposes a new normative dimension for politics based upon vulnerability of the body to the other. Through the recognition of profound vulnerability at the core of human identity, politics is necessarily re-oriented toward security through alliance building and care for the other as opposed to being waged as a matter of self-regarding action on the part of individuals and states.

She argues that all of our identities are produced relationally within community—that relationality is the core of human life. The body, for example, is impressed with meanings and practices not of our own choosing and produced across time and in-common. It follows that security thus must be focused on the collective as opposed to the individual. But she goes further to state that any claim to autonomy, such as found in the rights-bearing liberal subject, denies that the collective does not simply support but is also constitutive of the individual. Returning to the body, she illustrates its common vulnerability through the “enthraling” processes of passion and grief. When someone dies, for example, one is unable to provide an accurate accounting of what they meant because part of one’s own identity was produced in relation with the deceased; mourning becomes a profound experience of personal transformation: “The disorientation of grief—‘Who have I become? or, indeed, ‘What is left of me?’ ‘What is it in the Other that I have lost?’—posits the ‘I’ in the mode of unknowingness” (Butler, 2004, 30). When confronted by the ineffable experience of loss, it is then erroneous for the subject to consider herself a bounded individual, an “I”, because what has been lost is something on the order of the “We”, something greater than “I” and “You”, something on the order of “the tie” itself, the gregarious, full, and deterritorialized common that primarily enables the narrow identity recognized by discourse and rights. Ecstasy, violence and mourning reveal identity as not only relational, but also dispossessory: “Let’s face it. We’re undone by each other. And if we’re not, we’re missing something” (Butler, 2004, 23).

While the body differs across and within cultures—my gender, sexuality, and family might look nothing like yours—what humans share is this embodied vulnerability flowing from a being-in-common and the tie. In discussing the importance of supporting TEK on the land as a means to enhance biodiversity, Jeannette Armstrong set out a similar normative dimension of Indigenous community but in decidedly more spatial terms:

That whole shift for me has to do with the idea of our relationship to the land and in situ conservation and the principles that are involved in our Indigenous mindset. So it is not just about the food or surviving: it has a lot to do with our

worldview and cultural knowledge, our healthy living and our healthy attitude toward each other, and toward the land and all the things and give us life. Like somebody said, it is an attitude of love: love for each other and our home. That isn't there when that connection is missing.¹⁷

Where Butler seeks a resource for politics in the thrall for the other through which the self lives, Armstrong cultivates such a resource in the thrall for the world and the pluriverse.

Where Natives struggle to find the terms to explain to a settler researcher what the land means, where amongst themselves it is simply known and felt, it is perhaps not a problem of the translation of an opaque or enchanted geography but instead an effect of how all of us are constituted so broadly and ineffably by excessive relations. I would argue that just as we stutter and are nearly reduced to speechlessness when asked what a lover means or meant to us, we can more accurately capture something of the so-called “special relationship” Natives have with the land without digressing into the mysticism and pathos often applied by Western writers. As Armstrong further suggested, although this relationship is deeply spiritual, it is above all grounded in knowledge of the position of the human body in the order of the universe:

The rituals that we have and the conduction of ceremonies that we have, if you uncover them, they are really based on knowledge and wisdom. So for instance, we have a ceremony for the hunters [to] use—right, in the hunt they have a ceremony—with every deer killed, that ceremony is performed. It is not because emotionally they are sad that they killed the deer: the ceremony is for the human mind and the human conduct on the land. The ceremony is, for them, to be able to acknowledge that they are a part of the deer and the deer is a part of them and they are a part of this land and that that moment of acknowledgement is ever-clear to the hunter, never to sidestep that moment and that understanding. That ceremony is always performed—and always performed with knowledge—it is not performed because it is a mystery or good luck or whatever. And we all know that it is based on the moment of acknowledgement that we are part of everything, that the flesh of the deer is our flesh, and that the flesh of the land is both the deer and ourselves—that we can clearly say.¹⁸

At the moment of the kill, where something is removed from the life of the hunter and the land (as part of the cycle sustaining them both), a ceremony affirms the vulnerabilities that they share and attempts to account for what is being lost.

A further enactment of TEK which expresses this normative dimension may be cited from (western) Secwepemc cultural practices of mourning. In a society attuned to vulnerability and the tie with the land, it comes as no surprise that the practice of mourning, of being so

¹⁷ Interview with Jeannette Armstrong, Okanagan traditional knowledge keeper, 25 May, 2005.

¹⁸ Interview with Jeannette Armstrong, Okanagan traditional knowledge keeper, 10 July, 2007.

violently undone, is also regulated. For example, during a period of mourning, women are forbidden from practicing TEK on the land out of concern that one's grief will transfer to the plants and animals and affect their health and productivity:

[T]here are laws: for example, women didn't go picking when they were on their moon time, or when they are in their grieving time—a year mourning time: you don't go out because I think the plants and animals can feel your grief and you will pass that on to them. So those were the unwritten laws, or whatever you call them.¹⁹

Here, the individual must retire from the world in order to work through the loss. Another way of saying this is that Native culture insists that the transformative process of grief cannot be side-stepped, similar to Butler's explanation of mourning as an occasion for the recognition of how we live in thrall of the other and therefore must affirm the collective dimension of the political horizon. Especially important for traditional people who live off of the land, the community must also step in to provide them with the resources that they no longer can collect for themselves. Therefore, the technique of mourning further enunciates vulnerability as the source of security: a hiatus from the land recognizes the intrications of humans and nonhumans and, in turn, accentuates the individual's precariousness; and, with the community's responsiveness, there is a re-affirmation of the ties that bind the individual and the community together. Both at enchanted and material levels, Secwepemc mourning practices iterate the collective as the fundament of TEK, the self, and community.

Similar to the politics of mourning, this dissertation explores how TEK and customary law—as I have begun to explore in reference to *How Food was Given* and specific TEK practices—not only are a means to gather food or express Native culture, but also respond to the political condition of vulnerability and use it as a resource to inform the normative dimension of the political community. By contrast, the achievement of Western governmental logics is the ongoing and increasingly dangerous separation of the individual from the collective. Beginning the age of the Enlightenment, this meant freeing the self from the tyranny of the collective, the social equivalent of splitting the atom (Davis, 2009). As feudal constraints fell away and liberal industrialism took hold, biopolitics (Foucault, 1990) took the health of an exploding population as its object. Power was effected through bodies by means of the production of norms (via knowledge, rights and institutions) at the scale of individual and the population. Despite innovations in industry, sciences and the arts which have greatly improved human well-being,

¹⁹ Interview with Janice Billy, Secwepemc, Skwel'kwel'welt Protection Centre Spokesperson, 23 May, 2007.

liberal biopolitical governmentality has come at a cost. Insofar as it discursively constructs subjectivity, it cuts out the collective and the flesh (on discipline and performativity, see: Butler, 1993). At the scale of maintaining the “health” of the population, i.e. its median rates of reproduction, illness, crime, violence, etc., it operates through statistics and the provision of state services. However, where these micro and macro- “positive” regimes fall short and a threat to the population arises, biopolitics continues to use the law as a “tactic” and deploys the old right of the sovereign in the form of incarceration, death, denationalization of minorities, etc. (Foucault, 2007; Butler, 2004). Furthermore, since the biopolitical state is dedicated to “life,” the only way that it can legitimately expose its citizens to death, e.g. through warfare or the differential distribution of wealth, is by drawing lines between groups on the basis of the need to defend the health of one population over another (“racism”). Even more, where this murderous modality turns upon the citizens of the state, its (paradoxical) suicidal modality also comes into view (Foucault, 2003; on the state of exception and legal abandonment, see: Agamben, 1998).²⁰

Under contemporary neoliberal biopolitical governmentality, “life” has been further marginalized to the extent that market logics have removed a host of extra-economic concerns from cultural intelligibility, such as notions of social and environmental equity which had been countenanced in a minimal way by Enlightenment liberalism. In respect of the subject, any form of public equalization for social disparity has been retrenched as life outcomes are now fully responsabilized in her “democratic” ability to make life decisions. In respect of the population, not only have social services have been retrenched (on cost-benefit analysis, see: Brown, 2003), but also the gaping social inequality produced by free markets has necessitated an increasingly authoritarian state (Harvey, 2005). Thus, both the cultural and material practice of freedom has been undermined. Where the common and the public are disqualified from thought by neo-liberal governmentality, I explore the enunciations of TEK across three case studies as instances of the mobilization of Native counter-governmentality of the outside.

Before moving on, it is necessary to make the case both for using governmentality as a concept and doing so in a non-western context. After situating my discussion of Native governmentality as part of the decolonization of scholarly political analysis, I justify its use in

²⁰ While Gregory makes out Foucault and Agamben’s shared concern with the “vanishing points” of sovereign and bio-power, he importantly reminds us that Foucault’s philosophical project is ultimately one concerned with *containing* “the outside” (the criminal, the mad, the ill) through knowledge and institutions whereas Agamben’s is concerned with the withdrawal of the law by sovereign power to *include* “the outside” (Gregory, 2007, 206-207). Following Carl Schmitt, it would also appear that the suspension of the legal protection which allows for the constitution and extension of sovereign power, can never fully include the “outside” (*zoe*) in the law and thus, through what Agamben calls the inclusive-exclusion, produces bare life.

regard to its historico-cultural transferability by arguing that it is not beholden to the rationality or practices of any particular paradigm notably that of the west. Indigenous peoples have been recast as having their own science (Agrawal, 1995), knowledge (M. Brown, 2003; Escobar, 2008), political ordering (Tully, 1995; Chakrabarty, 2008), law (Borrows, 2002; Santos, 2006), ontology (Blaser, 2010), and it is my contention that they further have their own governmentality. It is a rationality that “thinks the outside”: the gregariousness of humans and nonhumans or the networks which produce things (Latour, 1993). These are placed at the centre of calculation and thereby inform the conduct of the individual and Native society. This rationality and its practices (such as those conducted under the auspices of TEK) stand as an alternative to the political organization of the west.

All of these recasting of things Native clearly involve western categories and, as I was reminded by my informants, a classificatory system foreign to Salish ways of understanding which may therefore re-domesticate and -colonize. However, I contend that despite the preoccupation of governmentality scholarship with the critique of liberal rationalities and practices of control (discipline and security of the population), there is no reason why it cannot interrogate such phenomenon across history and in other cultures. In making the case for the historical transferability of governmentality, it is helpful to recall Foucault’s own genealogy of biopolitical governmentality as a tracing back through the Christian pastoral. It is precisely this archaeology of the “conduct of conduct” in centres of knowledge-power outside the state which lends governmentality both its analytical force—to the extent that it may account for the production of extra-state knowledge-power—and flexibility as a tool of inquiry—to the extent that it does not conceptually rely upon the state, liberalism, military-disciplinary technique, or biopower but looks more generally for centres of knowledge and the material-discursive production of bodies. In other words, as opposed to an inquiry into the “étatization of society” (whereby “life” came under official scrutiny through taxation, statistics and the like in the 16th century), governmentality explores “the ‘governmentalization’ of the state”: centres of power-knowledge which operate partially outside the state (Foucault, 2007, 109). It therefore accommodates the analysis of the relationship between nonmodern European and Native ratios with the state as easily as neoliberal ones.

Aside from drawing attention to Native cultural production and agency as a living alternative, governmentality is important for recasting the terms of the study of TEK in colonial architectures. More than the discursive denigration of TEK justifying colonial intervention, recent scholarship on western governmentality reminds us of the lingering and essential role of violence

in its reproduction (Butler, 1993; Butler, 2004; Agamben, 1998; Gregory, 2006). Far from buying into the recent vogue (Bourdieu, 1975) surrounding “geographies of abandonment” in the social sciences and law, I insist that the longstanding (if largely ignored, at least until recently) emphasis on this aspect of governmentality (Foucault, 1990) is central to its analytical structure. In the following case studies, cultural and legal exceptionality work to deem Native society as unworthy through the establishment of the Indian reserves and residential schools aimed at squashing TEK, the construal of property rights which fail to countenance the socio-environmental responsibilities which underpin the land, and, in the declaration of extinction of the Arrow Lakes band by the Canadian government, a sort of concluding act of Social Darwinism which removed a political platform for Sinixt people vis-à-vis the state. This latter is a textbook example of the biopolitical prerogative to abandon certain segments of the population to the extent that hydroelectric resources from Sinixt territory were used in the construction of the Manhattan Project, thus illuminating the murderous and suicidal modalities of biopolitics (Foucault, 2003). A second reason for my reliance on governmentality is therefore owing to its strength as an analytic that captures and draws the material violence and silences of the spatio-discursive legacy into ethical reflection. Finally, I contribute to governmentality scholarship by insisting on the importance of the “politics of witnessing” of catastrophic events which otherwise tend to have their “truth” narrated by the powerful. To this end, feminist epistemologies mobilize counter-representations of Native counter-governmentalities which avoids their domestication and instead invites alliance and action on the part of the reader.

3: THE CASE STUDIES ON THE POLITICO-LEGAL AND AFFECTIVE LIVES OF THE TEK OF THE PLATEAU PEOPLES

In Chapter One, “‘Doing something’ about ‘their politics’: a feminist approach to TEK on the landscape of knowledge,” a series of methodological issues are addressed. These include ontological concerns for representation and postdevelopment, epistemological concerns about research and responsibility for limiting knowledge claims in the human sciences, methodological concerns for approaching geopolitical and legal phenomena from the perspective of political practices and discourse at multiple geographical scales, and humanistic concerns which attend to writing about loss and agency. The objective of this chapter is to inform the reader of my methods and methodology, both of which are discussed in terms of ethically taking responsibility for the

production of knowledge about the Other. I first explain how my collaborations with Native communities involved scrutinizing my truth claims both in the formulation of the questions and the final arguments. I then discuss how “Indigenous geographies,” as opposed to an orthodox political geography, makes representational room for Native political values, practices, communities and definitions of the citizen. Postdevelopment allows me to consider the role of geography in alternative political formations and to reopen constitutional debates of obvious importance in Canada owing to the state’s abrogation of these discussions. It also allows for Native counter-governmentality to be mapped in a field of power relations which pays little heed to state territoriality and manifests itself across scales. In this instance, in addition to postdevelopmental properties referring to the characteristics of Native governmental ratios, the geography of postdevelopment has a property-like form. In the spatial reconfiguration of authority to local enclosures and transnational lawmaking sites, the homology between the sovereign and the territory of the state is replaced by a heterogeneous set of (sometimes overlapping) authorities formally similar to the spatial arrangement of property (leases, use rights, rights of way: see Sidaway, 2007).

In terms of the work of the interpretation of Native testimony, I follow feminist geographers to situate knowledge not only through a practice of partiality, but by placing my “home” language on a metaphorical landscape marked by Native knowledge and its opacities. Rather than excising the divine and nontranslatable, I insist that they are essential in drawing out the limits of Western epistemology. In the context of the crises of late modernity and the witnessing of the inequitable treatment of Natives, illustrating such a fractured landscape is intended to occasion political alliances on the part of the reader. Given the protection of TEK requires activism across multiple scales, I turn to feminist geopolitics to democratize the production of legal protection of TEK (currently done at the international scale) and render it as part of the everyday.

A final way I strive to be responsible for this knowledge is by critiquing the narrative tradition of loss in the context of scholarship on the disenfranchised. I then insist that my case studies, including the mini-case study in this chapter on the claims of “sovereignty” in the Indigenous food movement, illustrate resistive acts that thereby counter the re-marginalizing effects of loss narratives.

Chapter Two, “Declarations of our death have been greatly exaggerated: witnessing the embodied geographies of the ‘extinction’ of the Sinixt (or Arrow Lakes) peoples,” explores the political battles of the Sinixt people in the west Kootenay region and geographically illustrates the

state of legal abandonment in liberal biopolitical governmentality (Figures 0.2 – 0.4). The Arrow Lakes band, established in 1902, was the only form of recognition ever made available to the Sinixt nation in Canada. By the middle of the century, the reserve had been unoccupied for quite some time and the government was unaware of any surviving members. The declaration of their extinction in 1956 was the logical conclusion of the reserves, a sovereign and disciplinary technology essential to colonial settlement and the “health” of a settler population founded on liberal values. As “Indian” members of a band, the Sinixt were given a legibility by the state (albeit as abject), but by virtue of losing this discursive-spatial position, they came to be even more silenced. This abandonment most fully became apparent when they returned to the political scene in the 1980s in response to the disinterring of their ancestor’s remains on their traditional territories. Examining the declaration of extinction and its effects in the colonial present provides a rare opportunity to bear witness to a legal geography of abandonment as well as push back against it. Where the declaration and its geographical representations omnisciently represent the Sinixt as “backward” and “extinct,” I engage in a more partial and proximate “politics of witnessing” of their campaigns for the return of ancestral remains, establishment of a permanent presence on traditional territories, and launching of a land claim against the government. As opposed to a disembodied and “eyeless” view which derealizes the Sinixt, these accounts afford a “counter-vision” of the dynamism of their traditional environmental knowledge and their very much alive status and politics. Through enactments of a moral worldview and customary law implicated in the land and the collective (“TEK”), the Sinixt are determined that their return include a space for “life” dangerously absent from existing governmental rationalities. The reader is disposed to respond to the Sinixt not only because of the extent to which their denigration takes away from our collective humanity, but also because biopolitical governmental rationalities, unlike Sinixt rationalities, ignores environmental externalities and disciplines the flesh from subjectivity (Foucault, 1990).

I then shift locations on the Plateau as well as geographical scale to interrogate the international campaigns of the Interior Alliance of Native Nations.²¹ Where the Sinixt, ostensibly a voiceless group, enact their worldview through direct action and the taking of spaces of representation, the Interior Alliance is enfranchised enough to speak at the heart of economic

²¹ The Interior Alliance comprises five Indigenous nations, the Secwepemc Nation (or “Shuswap”), the Okanagan Nation (the Syilx people), the St’át’imc Nation (or “Lillooet”), the Nlaka’pamux Nation (or “Thompson”), and the Southern Carrier Nation, all of which maintain that they are sovereign nations and none of which are part of the treaty process with British Columbia. Their combined territories are home to 20,000 Native peoples and comprise 25,749, 600 hectares, roughly stretching from northern Washington state to the lower third of the province of British Columbia, and from the border shared by BC and Alberta to the Coastal mountains (Interior Alliance, 2002) (see Figures 2 & 3).

globalization where they mobilize their worldview by piggy-backing a moral economy onto a property right. Its political force is based upon its circulation within the circuits of international legal rhetoric where other groups who share a commitment to social and environmental externalities may adopt it in future struggles. In this case study of a property right per se enacting a postdevelopmental present, property also presents itself in the two other senses we have followed: as a synonym for the values underpinning Native governmentality and as a descriptor for the fragmented spatiality of postdevelopmental enclosures.

In Chapter 3, “Taking care of business: Indigenous property and the right to bear bare life in the WTO *Softwood Lumber* dispute,” I trace how an alliance of Indigenous peoples has deployed identity politics and renovated forms of rights as the means to re-define citizenship and their place in Canada. As an analytical concept, I use citizenship to describe the traditional relationship between the individual and the state and their reciprocal rights and obligations. This may at first appear bizarre from the perspective that my research concerns nontreaty Natives, but less so if one recognizes that the state and citizenship are liable to the legal and cultural influence of its citizens. Although the future relationship between these Natives and Canada is certainly not fully fleshed out in the testimony of my informants, they are if not reconciled to the demographic reality of foreigners on their territory then insist that Native knowledge must be more generally disseminated both on and off their land in the interests of its protection. In either case, given that Canada looms on the horizon for the foreseeable future, one consequence of Native reconfigurations and reversals of liberal rights would appear to be the elaboration of Native control and influence over nonNative affairs (Borrows, 2002). The state to which I refer is thus not the monolithic, liberal state, but one informed by a more diverse set of constitutional “sources” (notably those informed by Native values) (Saul, 2008) which increasingly support a Native-informed citizenship.²² Finally, taking a normative perspective on citizenship, the counter-representations of Native notions of justice (environmental stewardship) serves to point up the disparity between neoliberal entitlements and Native ones. They thereby add to the democratic debate on the lineaments of citizenship and may foster demands for a richer citizenship. Rather than domesticating Native politics under the sign of the sovereign (“capital” under biopolitics), my use of the term citizenship works to highlight Native politics as tactical, cultural interventions into citizenship with implications for nonNative constituencies.

²² If one further considers citizenship as resting upon the socio-cultural recognition of the individual across everyday spaces (Painter and Philo, 1995; on cultural citizenship, Ong, 1995; and governmentality, see Pratt, 2005), the broadcasting of Native governmental rationalities through both juridical and everyday meaning-making may be seen to further foster the provision of their rights and recognition.

Since liberal rights shield their holder from the claims of the community and even collective rights claims eschew spatial context, the result is antithetical to the protection of traditional environmental knowledge which requires support for the community base as a first principle. Where the Sinixt had no rights as Native subjects, one may also find the space of exception even in the lives of Natives recognized by the state. Native law reverses the normative logic of liberalism. I follow its percolation into rights-based politics which therefore seeks to orient the paradigm of citizenship toward defending the spatial context.

In their amicus curiae submission to the WTO in the *Softwood Lumber* (2002) case, the Interior Alliance adopted four geographical arguments which repoliticized rights. They first shifted from the human rights terrain to the more powerful discourse and space of property found at the WTO. In scale jumping to the international law “regime complex,” they cited counter-regime norms in Native, Canadian and international fora to carve out a space of advocacy. Rather than citing well-established rights from international law, the basis of the claim was a set of emerging soft law norms. Owing to considerable state and NGO investments in these fora, these “rights” claims nevertheless have acquired a modicum of legal acceptance, a “sticky” capacity according to regime theory scholars (Helfer, 2004). Where the Interior Alliance argued for a right burdened by responsibility to social and environmental externalities based upon the normative investments of Native geographies (via the norm of sustainability), they expanded efficiency-oriented property from a particularistic to a “viscous” right, a term used by Carol Rose (2005) to describe the (nonmarket) redistributive obligations and capacities of property.

Finally, the brief enacts the geographical imagination of the Fourth World to analyze the disenfranchisement of Natives and to constructively argue for the role of TEK values in reconciling Native and Western spaces and for a more engaged democracy. As a postdevelopmental strategy, inasmuch as “Indigenous property” responds to the sacred properties of personhood which fall outside of liberalism it may be said to contribute to the reconfiguration of citizenship norms through the pluralism of international law and Native custom.

In Chapter 4, I return to direct action by exploring the Secwepemc people’s struggle to defend their land against the development of an international ski resort in the BC interior (Figure 0.5). In both of the preceding chapters, the efforts to protect TEK and Native custom were waged mostly through legal and political means—they were representational stories about the enunciation of a Native counter-governmentality in the field of power relations. But given the gregarious collective that this worldview takes as its object, these manoeuvres oddly narrow the political to the human world. Inasmuch as such a politics is saturated with settler neoliberal

governmentality, this is also a strategic error. Returning to the vulnerability of the body to the touch of the other, I explore the embodied and affective spaces of politics—the strange country of the “half-second delay”—as both seminal to the Native worldview and to a nonrepresentational politics to the extent that it affords practices with the nonhuman world. Through participations which are only partly available to cognitive thought, the thinking body enables as a new means of being on the land which are not always-already enrolled in the discursive legacy.

In “Thinking of the land ‘in that way’: the body, the spiral and the politics of vulnerability in the fight to protect Skwelkwew’welt” I follow the civil disobedience of grassroots Secwepemc deployed over the past ten years to slow the development of the Sun Peaks ski resort on their traditional territory. Scholars have argued that they sought to protect Aboriginal title and culture and affirm grassroots democratic systems. Natives claim that the activism was more profoundly concerned with the defence of the environment and the practice of traditional environmental knowledge (TEK). I map these two threads to illuminate how the activism expresses a practical constituent power immanent to the post-human networks in which Natives find themselves. I therefore more carefully interrogate assumptions about the subversive strength of Natives’ deep connections to the land by exploring this civil resistance as a product of affective power. By inquiring into what Natives say about how TEK informs their relationship to the land and about their embodied intra-relations with all the things on the land, I show how TEK is both a representational and nonrepresentational technology of recognition of the excess of identity (fullness); which resituates the human along a normative orientation of politics to the collective (tragedy); and encourages a differential performative comportment toward the openness to the world (becoming). I explore this politics of vulnerability through a nonrepresentational enquiry into TEK comprised by four geographies of bodily capacity: as a way of knowing and being; the experience of returning home to native territory; the distinction between being on- and off-reserve; and the campaign of civil resistance at Sun Peaks. Given that the defence of Native society depends upon such a post-disciplinary subjectivity, I argue that reconciliation with Canada requires the elaboration of representational and nonrepresentational techniques of recognition which enable nonNatives to develop a deeper attunement to both the fullness of the world and its multiple constitutionalities. By tracing the politics of TEK and Native governmentalities, the dissertation attempts the resistive act of opening the imagination as a matter of both “queering” the field of constitutional options in the here-and-now (Gibson-Graham, 1996) and illustrating the attunement to the pluriverse across different enactments of the politics of vulnerability.

4: FIGURES

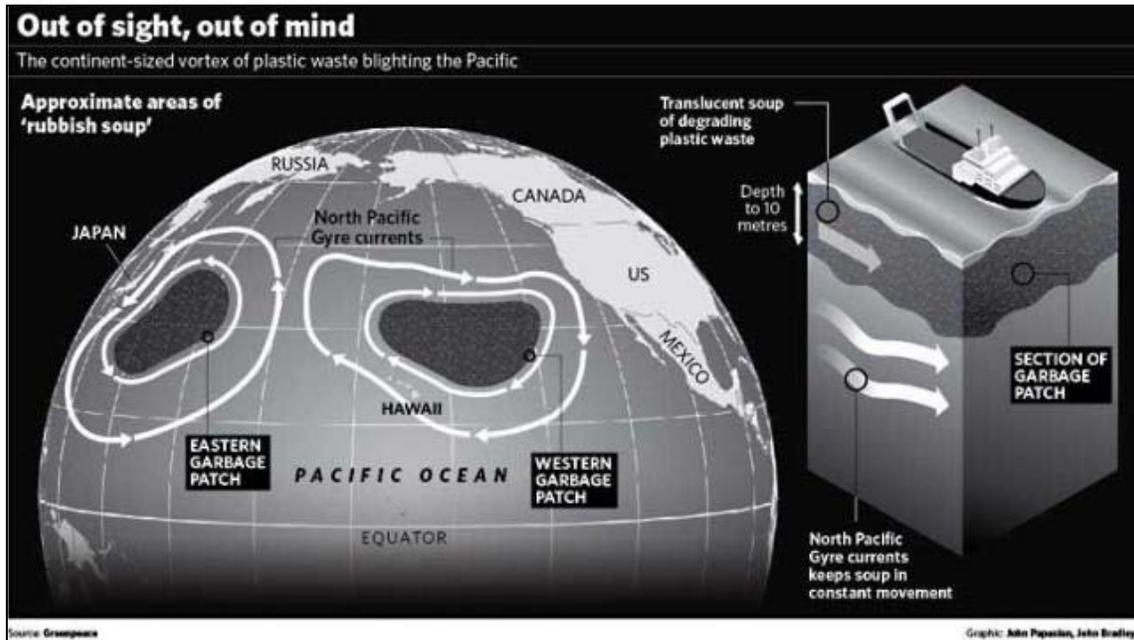


Figure 1: Plastic garbage patches (Source: Greenpeace. © Independent Graphic: Papanian & Bradley. With permission: The Independent, 2008 <<http://www.independent.co.uk/environment/green-living/the-worlds-rubbish-dump-a-tip-that-stretches-from-hawaii-to-japan-778016.html?action=Popup>> Accessed 26 May 2010).

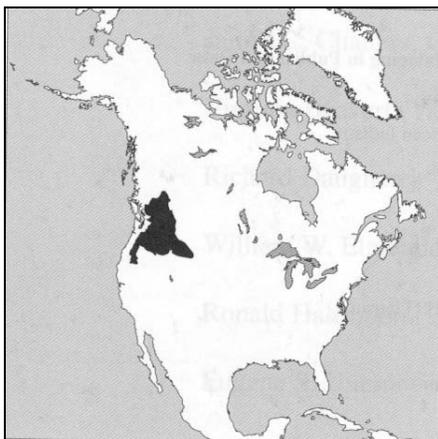


Figure 2: The Columbian Plateau (Sturtevant, 1998. © The Smithsonian, public domain).

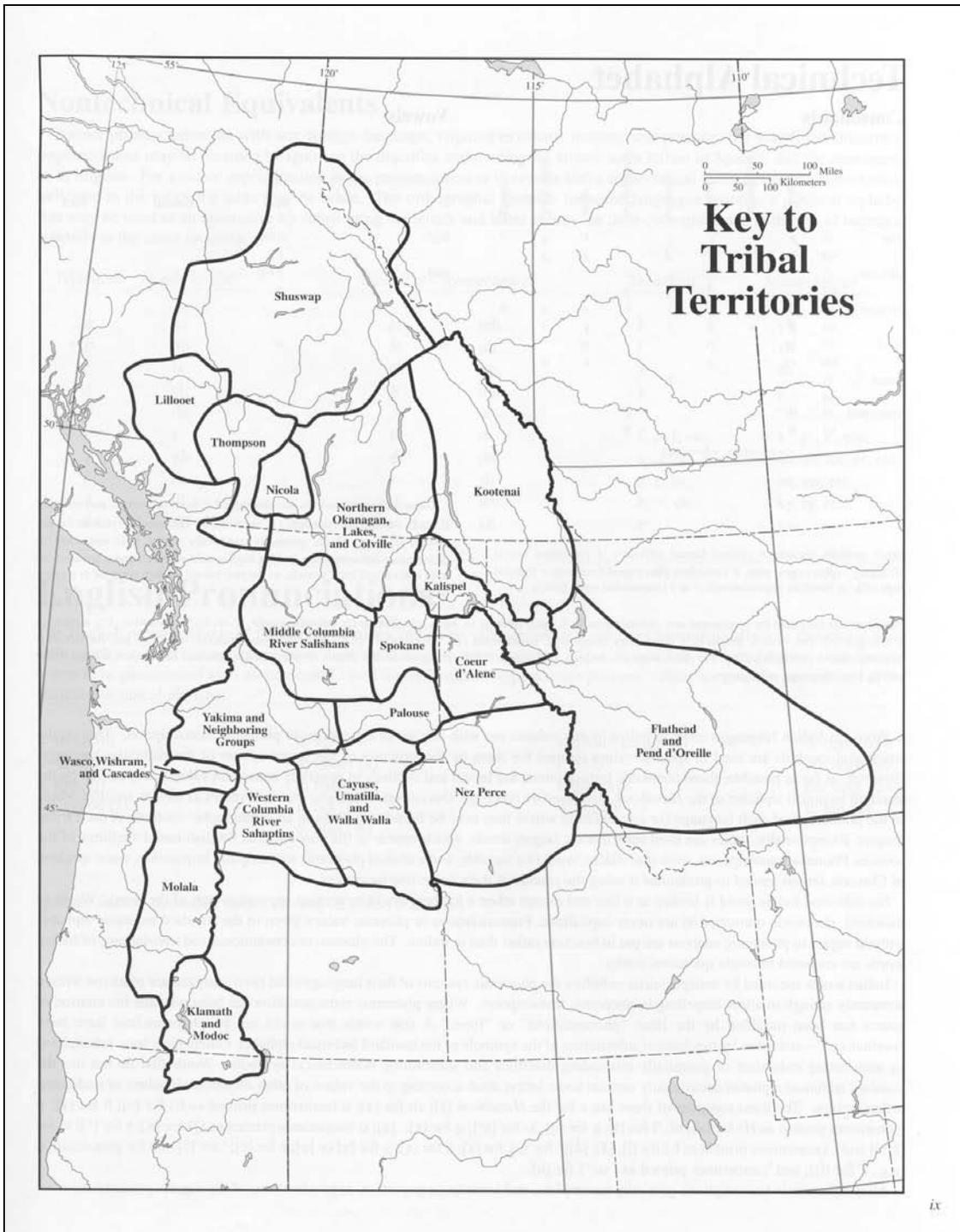


Figure 3: Native nations on the Columbian Plateau (Sturtevant, 1998, ix. © The Smithsonian, public domain).

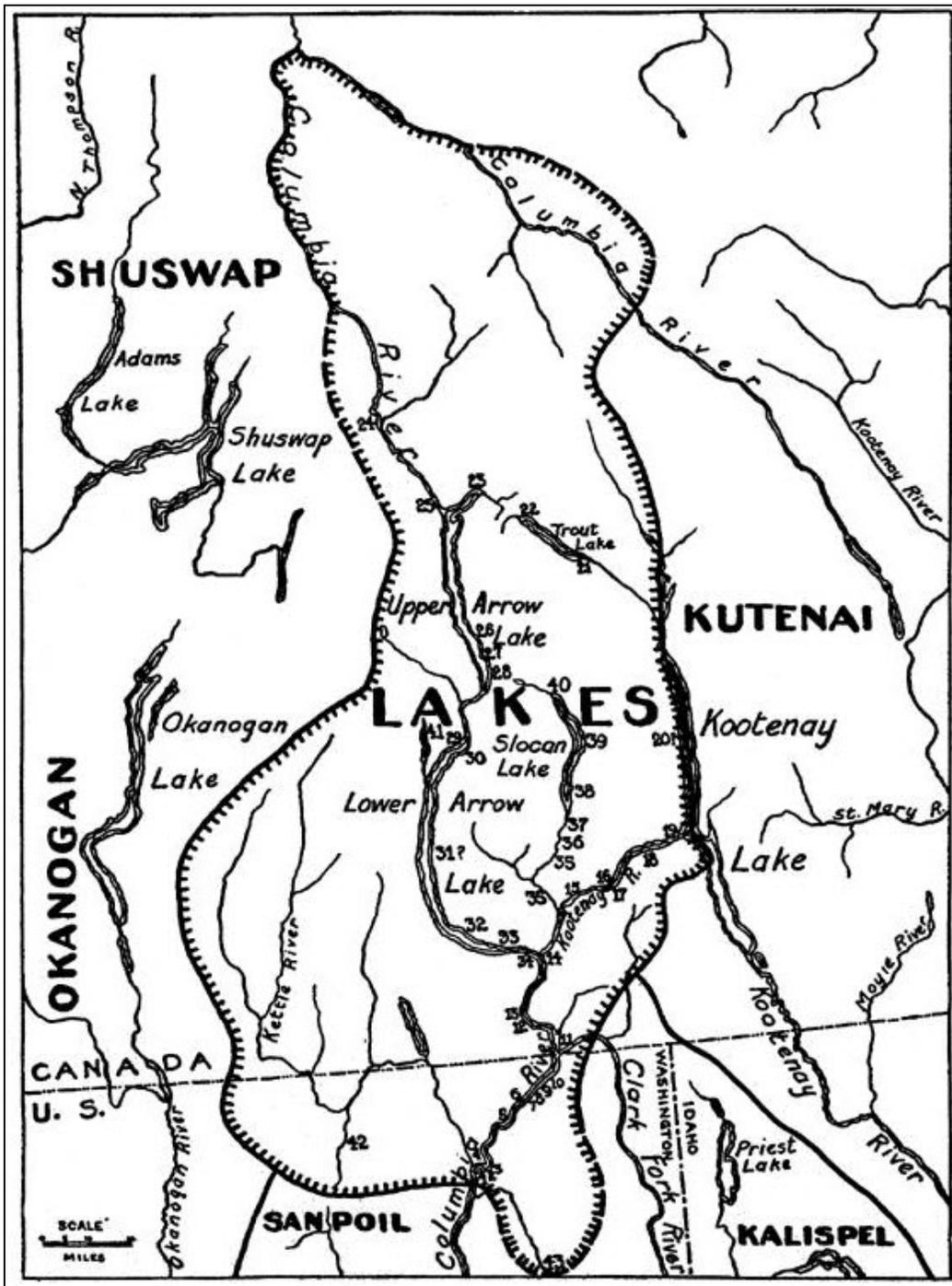


Figure 4: Sinixt/Arrow Lakes Traditional Territory. “Lakes territory and villages” from Vern Ray, 1936, Figure 2, page 114 (© Pacific Northwest Quarterly, with permission).

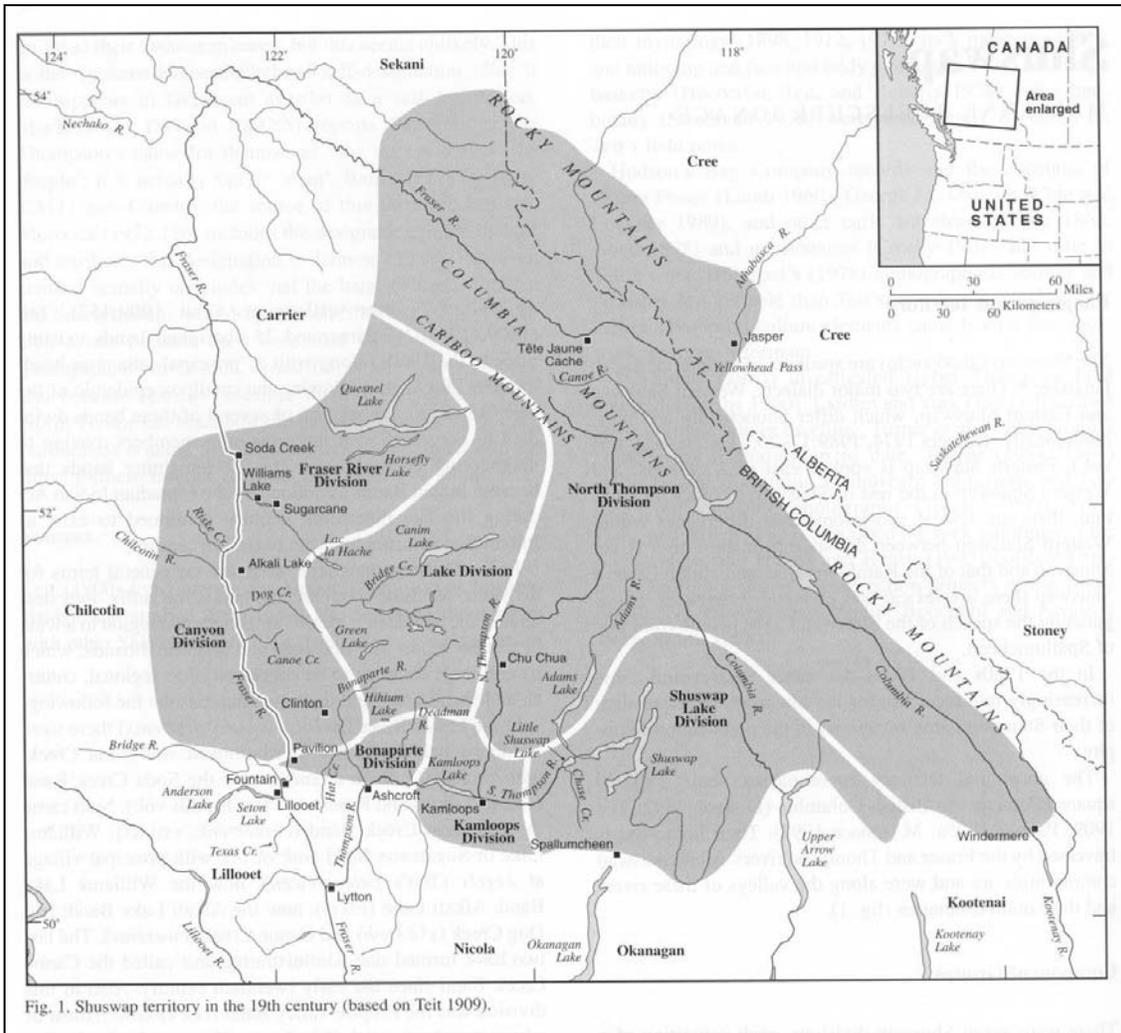


Fig. 1. Shuswap territory in the 19th century (based on Teit 1909).

Figure 5: Secwepemc traditional territory (Sturtevant, 1998, 204. By Boelscher Ignace, based on Teit. © The Smithsonian, public domain.

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CHAPTER ONE - “DOING SOMETHING” ABOUT “THEIR POLITICS”: A FEMINIST METHODOLOGICAL APPROACH TO TRADITIONAL ENVIRONMENTAL KNOWLEDGE

by

Sean Robertson

in collaboration with grassroots people from the Secwepemc, Okanagan, Sinixt, St'át'imc, and Nlaka'pamux nations

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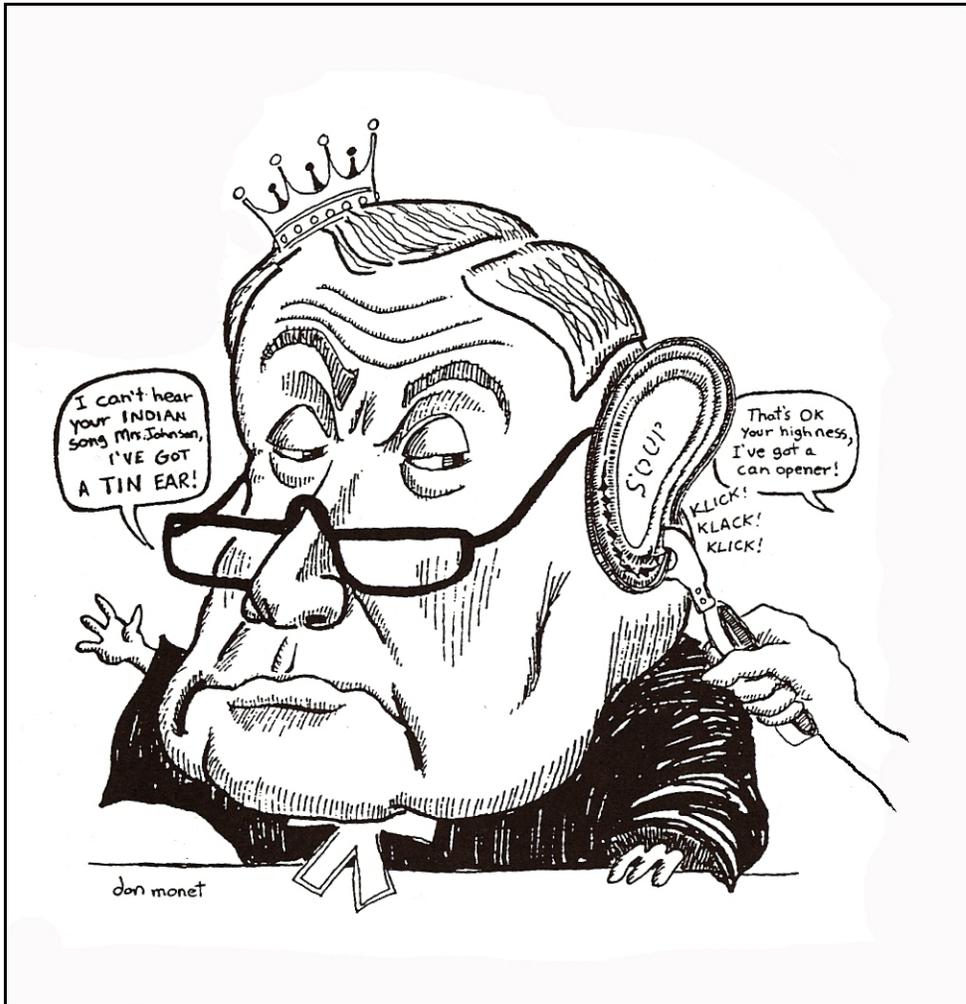


Figure 6 "Colonialism On Trial," 1992, © D.H. Monet, with permission.

1: INTRODUCTION

Traditional environmental knowledge—Native spiritual, cultural and subsistence practices enacted in the everyday on the land—is an ideational resource arguably in need of immaterial boundaries in the form of state-backed legislative protections. Whether in the fields of genetic research, pharmaceuticals, new seed varieties, commercial entertainment (songs, stories), museum holdings, sports team mascots, children's toys, or the very land of settler states, Native TEK directly or indirectly (in the form of the historical stewardship of the land and

everything on it) has made and has the potential to make contributions to innovation and creativity. But even if legal instruments could be devised so as to support Native values and not simply market demands (Gudeman, 1996; Dutfield, 2001), since TEK must be enacted on the land, it also requires material boundaries or territory. However, like many indigenous peoples, Natives in British Columbia are neither afforded strong legal protection or material support for their TEK and are in protracted debates on the rights to their traditional territories.¹

Most importantly, TEK contains a political rationality for the conduct of life upon the landscape.² Flowing from their longstanding relationship with the land, Native governmentality is concerned with how the outside—nonhumans and inanimate things on the land, ancestors, spirits, the human community—support human life and identity. Thus, even if the Native right to territory is supported and TEK-related intellectual property laws are enacted, it is apparent that neo-liberal governmentality would pose a threat to the survival of TEK and Native geographical difference. This is because it is both culturally hegemonic and, more specifically, reaches into Native communities through settler resource development proposals and the education system. Since the protection of TEK also requires support for Native counter-governmentality, an analytical framework that seriously considers non-state (Chakrabarty, 2008), cultural (Escobar, 2008) and post-capitalist political economic alternatives (Gibson-Graham, 1996), such as those found in postdevelopment, offers a means to represent the discursive and embodied politics central to this project.³

In this dissertation, I investigate the multi-scalar political and practical resistance by traditional⁴ Natives in British Columbia to defend their land and customary lives against the state and other biopolitical forces. I trace themes such as the culturo-legal exceptionality of the colonial present, the production of Native counter-governmentality and political subjectivity

¹ In contrast to the rest of Canada, the colonial and present government of British Columbia have failed to secure treaties with Natives (Tennant, 1990). Aside from provincial heritage legislation, specific protection for Native cultural heritage is sorely lacking in Canada. By comparison, the United States provides protection for Native grave sites under the *Native American Graves Protection and Repatriation Act* (NAGPRA), Pub. L. 101-601, 25 U.S.C. 3001 et seq., 104 Stat. 3048. Although a signatory to the UN *Convention on Biological Diversity* (1992), which calls for state support for the lifestyles which support TEK, Canada has taken no concrete steps toward this obligation.

² See my Introduction on the politics of vulnerability and TEK. On the moral claims of “indigenous counter-plots”: see Nash, 2001.

³ Where scholars of indigenism have contributed to shifting the focus from state-community relations to the interface between the new international human rights positions available to Natives and the local (Niezen, 2003), a postdevelopmental-governmentality approach tracks the competition of worldviews across scales.

⁴ I use “traditional” along with “grassroots” and “Indigenous” to speak of Natives who practice TEK, adhere to it as a belief system critical to providing alternative futures for late capitalist society, and prefer to follow hereditary governance protocols as opposed to those mandated by the federal band system.

animated by the outside to liberalism (an “Indigenous geography”), and the constitutional outlines for a post-colonial state across three case studies. The dissertation is therefore written by chapter in order to more closely explore three distinct events and conceptual analytics. I trace the heretical enactment of a Native governmentality through the lenses legal abandonment and a “politics of witnessing” of counter-representations, the international circulation of a property right reformulated by geographical strategies, and the affective geographies of TEK and custom. Before doing so, I first sketch out my methods and elaborate upon methodology-related issues which presented themselves in the project. These include ontological concerns about representation and postdevelopment, epistemological concerns about research and responsibility for limiting knowledge claims in the human sciences, methodological concerns about approaching geopolitical and legal phenomena from the perspective of political practices and discourse at multiple geographical scales,⁵ and humanistic concerns which attend to writing about loss and agency. By way of summary, I track “Indigenous geographies” and their alternative political values in order to provoke democratic reconsideration of the state and liberal subjectivity, a debate which is desperately needed in light of the multiple challenges of industrial globalization: environmental catastrophe, dwindling resources, and the demise of local communities. Although I excise the divine⁶ from Native testimony to advocate for Indigenous geographies, I leave these opacities in the research for the possibilities they open up both to render “their politics” irreducible to my own investments as a settler (Ong, 1995) and for the reader to “do something” owing to the gaps they highlight in Western knowledge and, thus, the imperative to share knowledge across political projects given the injustices of the colonial present (Haraway, 1991). Where feminist geopolitics suggests how the everyday is not only shaped by

⁵ I refer to scale throughout to describe not pre-given and discrete spaces of action which contain certain processes—i.e. the local scale, the international scale—but as socially-constructed divisions that have material effects such as making certain processes appear intractable and obfuscating how processes necessarily spill over or are dependent upon activity on other “scales” (Hyndman, 2004). Given this proviso, I use scale as a heuristic device which roughly describes an aerial distribution of political spheres. Scalar thinking is central to structuring political action (Staeheli, 1994), including extending the structure of opportunities at one scale or “jumping scales” (Smith, 1996) to pursue political and legal traction where possibilities have been exhausted at a more familiar scale, both of which are evident in my research collaborations with Natives from BC.

⁶ Eschewing Christian associations with the “divine,” I follow Chakrabarty’s usage in the Indian context (2008), where he describes spiritual beliefs which are not immediately knowable by social science methodologies and yet accompany alternative political formations. Where European conceptions of the divine suggest hierarchy, it is also important to make clear that whatever intersections with Christianity or Native hierarchies appear in the Native governmentality I explore, it largely adheres to a rather flat ontology organized around the care of the land. Elsewhere, I use “sacred,” a term used by Natives in policy and political discussions. However, as my critique focuses on the West, I follow Agamben’s usage to indicate things both divine and accursed; the latter position occupied by subjects who are so lacking in ontological status that they are fully open to violence (1998).

state-based political and legal forces but also recursively produces these phenomena, I highlight the opportunity for intervention at the local scale. Finally, I consider how writing about loss dangerously reconstructs the other as being in a position of lack and marginalization, and therefore suggest the importance of writing about their agency—Native TEK as a sovereignty and governmentality enacted in the everyday—such as undertaken by my case studies which at bottom are about Natives making space.

2: METHODS

This research was conducted over the period 2005-2010. It was approved by a committee of traditional peoples, The Lakes Secwepemc (Chase, BC: Secwepemc, anglicized as “Shuswap”). I was subsequently put in contact with other traditional peoples’ organizations, Indian Bands and provincial representatives: the En’owkin Centre (Penticton, BC: Okanagan Nation), Tk’emlúps Indian Band (Kamloops, BC: Secwepemc Nation), Neskonlith Indian Band (Chase, BC: Secwepemc Nation), Sinixt Nation (Arrow Lakes, BC), Sécwe’elw’as - Cayoose Creek Indian Band (Lillooet, BC: St’át’imc Nation), Lytton Indian Band (Lytton, BC: Nlaka’pamux Nation, anglicized as “Thompson”), as well as the Union of BC Indian Chiefs, (Vancouver, BC: Musqueam territory). My methodology consisted of 32 in-depth interviews with 24 practitioners of traditional environmental knowledge (9 men; 15 women), including 6 Elders and 2 youth, across the southern interior of BC. I also collected data on two other informants via a radio interview and activist video posted on an Indigenous activist web site and YouTube, respectively. Anthropologically, these Interior Salish peoples are known as Plateau peoples owing to their geographic position on the Columbian plateau. In the initial interviews, I followed a script of 30 questions about identity, place, property, TEK and the politics of its protection. The questions (Appendices A and B) were developed in collaboration with two community consultants who represented The Lakes Secwepemc. For those informants who were interviewed more than once, the later interviews followed an open-ended format. Most of the interviews took two hours. Over the main research period in the summer of 2007 and thereafter, I met informally on several occasions with my community consultants to discuss the project, follow up on new interview contacts and improve my understanding of the issues being raised in the communities. This relationship continued throughout the project by telephone, snail mail and email. Reflecting a cultural tradition of being public with one’s opinions, 13 interviewees refused the veil of

anonymity normally provided by social science research ethics. Simultaneous with soliciting my doctoral committee for editorial feedback, the chapters were also sent to interested research participants for their approval and further collaboration.⁷

The research also included a day-long, 10-person focus group of 2 men and 8 women (8 of whom had not been included in the individual interviews) held in February 2008 at the Neskonlith Indian reserve. The group was comprised of elected and administrative officials and staff from Kamloops and Neskonlith Indian Bands who practice TEK. A representative from the Secwepemc Cultural and Educational Society was also present. This method is often more helpful in generating community perspectives on the local protection of TEK as opposed interviews which tend to generate personal opinions (Cameron, 2005). Again, the questions for the focus group were developed in collaboration with the participants beforehand. However, the questions were more open-ended than in the interview questionnaire (Appendix C). The meeting had a research activist aspect in that it was conducted as a means to bring community leaders together who had been working on policies for the protection of TEK and yet had not recently come together to share their experiences. Given the preliminary nature of the meeting for these stakeholders, only general observations as opposed to direct quotes from the meeting made their way into this dissertation. The data from this meeting was used to refine my understanding of a number of background issues which came up in the previously-completed interviews.

I was a participant observer at three weekend-long Native conferences concerning the in situ conservation of TEK (2005), Indigenous Food Sovereignty (2006) (both at the En'owkin Centre, Penticton) and an Indigenous learning exchange on traditional food with North American and South African Native peoples (2010, at Neskonlith, near Chase, BC). In the case of the latter two conferences, I assisted with the taking of notes and preparation of summaries of workshop sessions. I was also an observant participant of the enactment of TEK on the occasion of two classes on food and medicine collection (one in an alpine area, another in a riparian zone) conducted by Dr. Marianne Ignace of Simon Fraser University, Kamloops. These participatory experiences formed a background for my research project. Where I participated in the protest at Sun Peaks ski resort in March, 2007, that observant participation made its way into Chapter 4.

The interviews were transcribed and then, using nVivo qualitative data software, analyzed into forty-four codes. Nine major nodes crystallized from this data (Appendix D). I

⁷ The final review process of my draft with the community contacts and interviewees involved the provision of electronic copies of their statements and relevant chapter(s) (early June, 2010), email or telephone follow-up, as well as an offer to meet with them on their territory (in late July 2010).

expected to hear explicit stories about threats to TEK, along the lines of the infamous takings of the neem plant in India or the hoodia plant from southern Africa (on such stories about the Secwepemc, see Bannister, 2000; 2004). I also expected to hear more about customary law for the protection of TEK within and without the community. I got some of this, but the sort of ethnographic research necessary to portray a cultural portrait of customary TEK protocols would require a more extensive relationship with the community. Instead, I learned about concerns over the death of Elders and the knowledge that would die with them, a history of theft by academics who have stolen knowledge from the locals (and been subsequently employed as expert witnesses against the Secwepemc in legal proceedings), the uses of plants and animals on the land, the spiritual and sustainable practices required by such uses, the underlying reasoning/principles for such patterns of use, the importance of language for the survival of TEK, and the pride associated with the cultural rejuvenation of TEK practices. Thus, coding allowed me to see that much of the rich cultural knowledge between practice and values is unavailable to me at this time. The research became about practice, the body and identity and governmental rationalities as they pertained to TEK. I then re-told larger political stories, arrived at through nodes, about the Sinixt reclaiming their ancestral remains, the Interior Alliance at the WTO, and the Secwepemc at Sun Peaks through these lenses.

I also made some use of primary documents. In Chapter 2, for my historical analysis of the establishment of the Oatscott Reserve and the declaration of extinction of the Sinixt, I relied upon archival materials from Indian and Northern Affairs and the Lands Branch of the Province of British Columbia. I further relied upon scholarly sources which have not seen their way into publication outside of government and corporate reports. In Chapter 3, for my discourse analysis of the U.S.-Canada *Softwood Lumber* dispute, I drew upon interviews and the primary legal documents available from the World Trade Organization and NAFTA. Additionally, I paid detailed attention to the amicus curiae submissions and supporting documentation prepared by the Interior Alliance of Native Nations and the Indigenous Network for Economies and Trade (INET) for *Softwood Lumber* as well as appeals to other international bodies.

A number of factors led to the modest sample size for this project while other factors militate against a negative inference as to its scientificity. As my collaborators informed me, the percentage of Natives who maintain TEK as a part of their identity is a small minority. While the limited size of the community might have indicated the possibility of comprehensively canvassing all its members, the nature of working collaboratively with Natives as an outsider entailed data collection being limited to the informants selected by my community consultants

and the willingness of the informants themselves. However, in keeping with the norm of many collective societies, this meant those with whom I had contact were informed and knowledgeable about the protection of TEK. My informants included Elders, spokespersons, youth activists, and Chiefs and band administrators. The sample was also narrowed by the decision of the informants themselves as to whether I (the researcher) was responsible enough to be trusted, on its own right an example of the protection of TEK common to many Indigenous cultures. One Secwepemc Elder impressed upon me the role of intuition in the protection of Native knowledge:

Well, I think that there is something that exists, and I don't know quite how to describe it, but, for people outside the community, if there is a certain...how would I describe it...if you didn't possess a certain quality and sincerity, about what you are doing, then I wouldn't be talking to you. But I have no way of knowing that about you—other than my intuition that tells me that you are a sincere, honest and trustworthy person. So, it isn't anything other than a feeling that I have chosen to trust. And lots of times, people will come in to speak to people from our community and automatically, a wall goes up: that doesn't mean that they won't answer the questions or that they won't discuss things with you—they just will do it on a superficial level, where you never get to the meat and guts of whatever it is, or you will never understand, they won't just open up. Things are shared on a superficial level, and people will report on that, and later on you read it, and you say that really is not true! But I sense in meeting you that you are a good person, so I am talking to you. So it isn't everyone that can come in and talk to people, the individual also has to carry something.⁸

However, in many other cases, my identity as a white, male researcher was enough to end the conversation before it got started despite my best efforts to convince the potential interviewee of my sincerity. To provide some contemporary context for the reader beyond a history of colonialism, as a result of the intransigence of the federal and provincial governments to come to terms with claims for unceded traditional Native territory as well as incidents of appropriation of cultural property on the part of academics, the opportunity to do research with Natives in BC is not only a privileged one, but a rarity in the early 21st century. These conditions are probably most pronounced in the Native nations I visited, as they are fiercely dedicated to Native self-determination and none of them were part of the treaty process with the provincial government. Furthermore, many of my informants informed me that their communities have “been researched to death” for several generations and have reached the saturation point.

Thus, owing to the limited number of traditional land users, the marshalling of interviewees by my community consultants, the understandable reluctance of this community to

⁸ Interview #9, Secwepemc Elder, 4 July, 2007. It was an honour for me to be acknowledged publically at Neskonlith in July 2010 for my respectful approach to researching Native issues.

engage with yet another settler researcher, controls on the sharing of knowledge with outsiders performed by the individual, as well as the time involved in meaningful in-person collaboration and feedback on findings, the conclusions of this project can claim only limited representational strength, and more stand as an in-depth illustration and interpretation of Indigenous geographies concerning a small but important and influential network of traditional Natives from southern BC. I trust the veracity of these stories and the accuracy of their distillation owing to their saturation in my data and the circulation of the project back to the community. Operating more in the tradition of the humanities than imperialistic forms of social science (Chakrabarty, 2008), I offer embodied and partial narratives which are intended to solicit wonderment at Native alternatives and anger over the colonial present as opposed to presentist retellings which replicate problematic universal categories (liberal rights-holder) under the guise of comprehensive vision and objectivity (Hyndman, 2010).

3: INDIGENOUS GEOGRAPHIES: AN APPROACH TO A POST-DEVELOPMENTAL GOVERNMENTALITY

Drawing upon attempts at transcending liberalism found in poststructuralism, feminism, and the late work of Marx, Dipesh Chakrabarty deploys a postcolonial project of subaltern history to call the generalizability of the state/citizen formation of the West into question as the only viable means of political community (Chakrabarty, 2008, 42). He shows how European and Indian nationalist histories both partake in an historical practice in which the secular European state is held up as the model (historicism) and, in an anthropologizing practice, in which worlds inhabited by gods and nonhumans are framed as anachronistic. Indian history is told, even by Indians, as a transition story from peasantry to bourgeoisie, from colonized people to a citizenry deserving of independence, from tradition and myth to reason. Such a narrative denies community-based enactments of alternative worldviews such as those characterized by a lack of the private self; patriarchy and clan-based ideologies; oppositions and friendships in relations between husbands and wives, etc. (38). By upholding Western secularity and universalisms, History is a dominant colonial narrative which ignores nonstate forms of social solidarity embedded in place (“subaltern history”).

The same could be said of orthodox political geography where its emphasis on geopolitical boundaries, atomistic states and citizens, and representation ignores “Indigenous

geography.” Indigenous geography looks to Native territorialities which extend across international boundaries. As well, the subject takes on a gregarious stance to the world owing to a political ordering aimed at supporting those relations with the collective which fundamentally sustain the self (see Introduction). Indigenous geographies—such as the reburials of ancestors at Vallican, the Indigenous property illustrated in the amicus curiae brief at the WTO, and the affective spaces inherent to the protection of Skwelkwek’welt—express post-colonial⁹ projects as developmental alternatives which are not simply place-based and particular, but also ontologically informed by networks rather than separation (Latour, 1993; Blaser, 2010). In terms of their governmental ratio, they derive their political ordering from all the animate actants on the land as well as, in a more divine sense, the inanimate things with souls on the land, the landscape itself, as well as ancestors and the next seven generations. Indigenous geographies therefore rest upon a worldview partly produced through representations of connections to a deontologized pluriverse and the affective experiences of that “strange” country. The importance of geographical context in the Secwepemc worldview was expressed in the comments of Chief Judy Wilson (Neskonlith):

SR-What is the relationship between TEK and identity and you?

JW-Traditional environmental knowledge and wisdom is one of the threads in our knowledge transmission, and that is what makes up Secwepemc people: that knowledge. Our ancestors have named all of the places in our area, so we know them by our place names, and we know about the elements that sustain us in each of these places: whether it is a fisheries area, a harvesting areas or whether it is a hunting area—our ancestors and our TEK would provide us with that knowledge. So it is a continued knowledge from each generation...and some of the stories that evolved...are really an intricate part of that process. And that is how we are attached to the land. Our spirit is in the...we recognize the spirit in the plants and the trees: in all the elements and our responsibility to care for them.¹⁰

As a tool of state power, History and Geography (another colonial discourse), deem wide swathes of social experience as pre-political and out of step with modernity and state formation. They marginalize as “irrational” place-based social formations, including those where the spatial blurring of the figure and ground produce political formations which extended beyond the human body to countenance all of space as part of “humanity.” These Indigenous spaces are important not simply for thinking through liberalism or Empire, but for coming up with ways to reintegrate the environment into politics.

⁹ I use this term in Spivak’s sense to indicate the end of formal colonial occupation while acknowledging the continuation and intensification of oppression and regulation under neoliberal globalization.

¹⁰ Interview with Chief Judy Wilson (Neskonlith), 25 June, 2007.

“Doing Europe,” as in aspiring to its ontological norms, culture and politics, is therefore an unsatisfactory historical and geographical methodological practice insofar as it promotes the state (or bourgeois) order which truncates the heterogeneity of local communities, undercuts geographies of difference and destroys the quality of place. I map Indigenous geographies throughout my case studies as a means of representing alternative political communities and possibilities for the subject beyond liberalism. The urgency of such a revalorization of the local further rests upon the extent to which “doing Europe” would amount to a vitalization of its underlying biopolitical rationalities. As demonstrated in the Introduction, power is effected through bodies by means of the production of norms (via knowledge and institutions) at the scale of individual and the population. But inasmuch as it discursively constructs subjectivity in the name of “life,” biopolitics cuts out the collective/flesh (on discipline and performativity, see: Butler, 1993).¹¹ Under contemporary neoliberal biopolitical governmentality, “life” has been further marginalized to the extent that market logics have removed a host of extra-economic concerns from cultural intelligibility, such as notions of social and environmental equity countenanced in a minimal way by Enlightenment liberalism (Brown, 2003). One telling illustration may be cited in the availability of patents on seeds in the absence of a corresponding duty to support the biodiversity which produced the genetic building blocks underpinning the “new” seed itself. In respect of the subject, any form of public equalization for social disparity has been retrenched as life outcomes are now fully responsibilized in the subject and her “democratic” ability to make life decisions. In respect of the population, not only have social services have been retrenched (on cost-benefit analysis, see: Brown, 2003), but also the gaping social inequality produced by free markets has necessitated an increasingly authoritarian state (Harvey, 2005). This is to say that Indigenous geographies, inasmuch as they materialize the collective as the normative dimension of political community, not only offer up a diversity of human-historical experience and affirm the contingency of the present, but also express and mobilize a heretical counter-governmentality in a field of relations with neoliberal biopolitics (on governmental biopolitics and the European traditional medicine and heresy, see: Foucault, 2003

¹¹ In liberal societies, the self enters subjecthood and citizenship through a disciplining and domesticating process of enacting the social norms reproduced by the human sciences and the state (in the form of constitutional rights) (Foucault, 1990). The “excess” and “the flesh” refers to those aspects of the self (the collective material and discursive aspects of humanity) which exceed this juridico-discursive regime and yet which constitute the majority of one’s identity (Pratt, 2005; on biological life, *zoe*, and politically-qualified life, *bios*: Agamben, 1998). The flesh is that which is cut out from cultural citizenship (Ong, 1996), i.e. “the outside” of the culturally intelligible identity produced by the combination of rights and discourse. Importantly, even if courts enforce full citizenship rights, to the extent that the self is constituted by aspects not under legal protection or included within discourse, that excessive part of the self remains “abandoned” to a “state of exception” and violence (Agamben, 1998).

& 2007; cf. the political economic approach of Chakrabarty, 2008; cf. the mixed biopolitical and political economic approach of Li, 2007).

By excising the opaque spaces of the divine from the local, Chakrabarty extracts a “workable truth” (Chakrabarty, 2008, 75) from subaltern alternatives according to the evidentiary demands of the scientist. He proposes a post-developmental project of “provincializing Europe” whereby subaltern values suggest the contingency of the state and its teleology, and thereby pry open discussions on governmental rationalities long buried by state mythology. Subaltern values may then contribute to a renewed democratic debate on the appropriate lineaments of the political community. In his own research on the role of gods and spirits in labour, Chakrabarty recognizes the difficulties with the facticity of the divine while insisting that their democratic importance lies instead in the contributing to the heterogeneity of politics in the present:

To stay with the heterogeneity of the moment when the historian meets with the peasant is, then, to stay with the difference between these two gestures. One is that of historicizing the Santal in the interest of a history of social justice and democracy; and the other, that of refusing to historicize and of seeing the Santal as a figure illuminating a life possibility for the present. Taken together, the two gestures put us in touch with the plural ways of being that make up our own present. The archives thus help bring to view the disjointed nature of any particular now one may inhabit; that is the function of subaltern pasts (Chakrabarty, 2008, 108).

Similarly, in the Indigenous geographical present, the dynamism and collective normative investments of TEK present an alternative governmental rationality to the individualism found in Western culture. The West may come to rethink its refusals to see innovation, social equity, and vitality in Native “races” where Indigenous geographies re-illustrate the conditions of their political paradigms as being unconcerned with the harnessing nature, progress and narrow political rights, and instead invested in maintaining balance with the landscape (Davis, 2009). In the next section on feminist epistemologies, I less expurgate the divine than set out its importance in maintaining the heterogeneity of the present alongside any workable or domesticable truth. Where the divine remains on a shared landscape of knowledge, the opacity of Indigenous knowledge points up the limitations of settler knowledge and allows Natives to enunciate political struggles partly on their own terms. As I will show, in place of a transparent and comfortable knowledge, an Indigenous (and translucent) geography is one which can motivate “us” to form alliances based on the limits thereby enunciated by Indigenous knowledge and (potentially) do something about “their politics” without making dangerous assumptions about our ontological similarities.

In the post-war period, development may be defined as a set of theories and practices mobilized in the service of national projects of becoming in the former colonies of European powers. Under the banner of modernization and progress, the reference points of development include science, urbanization, industrialization, and, until the recent rise of China, the provision of liberal democratic values. In the 1980s, cultural critics, including many operating from a Foucauldian perspective, argued that development is a regime of truth about poor nations which posits the state as the objective of nation-building and Western economic, political and cultural categories as the norms to which the formerly “primitive,” colonized and now underdeveloped must aspire (Escobar, 1995). This is to say that while the formal trappings of colonialism were evaporating, a new episteme which affirmed the unequal relations between the rich and poor nations was inserted alongside well-meaning attempts to raise the standards of living in the global south. Given its economic, gender equality and environmental shortcomings, development was further called into question by academics who became known as postdevelopmental scholars. Furthermore, given the differential development within Western states, the premise that modernization spreads homogenously was also called into question (Sidaway, 2007 citing Jones, 2000), inspiring an alternative geographical appreciation of the developmental topography of the state. Although development has improved the material livelihoods of many in poor countries, it has not only operated as an epistemology, but also a technique of rule which benefits the West (its industries, its financial institutions and all manner of development professionals) at the expense of promoting alternatives to both socialist and liberal-capitalist state-centred development.

As a consequence of the rise of civil society in the global south, scholars of the subaltern and activists have contributed to postdevelopmental thinking by revalorizing local political, cultural, ontological, and economic formations (on in the 1980s, see: Watts, 2000). As I will discuss below, the process of decolonization has come to only make sense if there is room for practices and truth regimes partially outside the liberal-capitalist governmental paradigm. Through its provincializing impulse, a postdevelopmental perspective provides a framework to analyze a counter-governmentality which does not posit “Europe” and the liberal subject as the natural teleology and Native society as deviant, irrational and passive. In sum, rather than a new program for development, postdevelopment is concerned both with critique and with illuminating and experimenting with alternative economies, political arrangements and subjectivities (on surplus possibilities, see: Gibson-Graham, 2005, 6). Nevertheless, it is important to note that postdevelopment has been critiqued for ignoring a long history of criticism of development (including that untouched by poststructural approaches to knowledge), its many positive

outcomes and widespread experimentation with alternatives by those in the south (Escobar, 2008, 171; Sidaway, 2007).

The spaces of postdevelopment are marked by fragmentation and overlapping economic, political and cultural sovereignties. Transnational capital, local and customary laws, everyday forms of regulation, and alternative governmental rationalities contribute to a heterogeneous topography both within and between states (Sidaway, 2007). In the present study, the state is displaced on account of the re-emergence of Native nations and their exploration of the viability of local economic, political and cultural alternatives which have a much longer history than industrial society, an experiment of only some 300 years (Davis, 2009). Post-development marks a shift to an autonomous, de-centralized, self-organizing civil society “of grassroots movements, of subaltern knowledges, of cultural economics, of hybrid ‘indigenous’ politics, of the defense of the local, of cybercultural post-humanism” (Watts, 2003, 10; Escobar, 1995). From a governmental perspective, it allows for the mapping of the materialization of a counter-sovereignty in Native enclosures (local spaces of authority) and, as I show in Chapter 3, its broadcasting in the transnational spaces of rights. The scalar realignments of economic sovereignty and politico-cultural sovereignty reconfigure the territory of the state into a patchwork of boundaries, inclusions, exclusions, and regulation, not entirely unlike the world that preceded “national development”: the epoch of imperial “cantons, entrepôts, plantations, enclaves” (on Empire, see: Sidaway, 2007, 356; cf. Hardt and Negri, 2000).

I therefore ally my analysis of Indigenous geographies with the work of postdevelopment scholars who take up similar “fragile” lines in the present—indigenous politics (Escobar, 1995 & 2008), alternative economies (Gibson-Graham, 1996), subaltern histories (Chakrabarty, 2008,) as well as scholars researching TEK in the global south (Escobar, 2008; Blaser, 2010)—to tentatively and provisionally present and revalorize different truths and “emergences” already happening in the here and now (Santos, 2006). Given both the differential rates of development in Canada—it is consistently ranked in the top five states according to the UN’s Human Development Index while its Natives find themselves around the 63rd spot (Manuel, 2001)—and that my research participants reject Canadian sovereignty in law and for its underlying governmental logics, the post-state aspects of post-development thereby provide an appropriately provincializing framework for analyzing Native agency and struggles for self-determination. Also, the instant dissertation takes up a postdevelopmental perspective for the room it makes for Native ontological investments—difference, networks, or Indigenous geographies which collapse figure and ground. The openness of postdevelopment not only to alternatives “from below,” but

also “from outside” Western ontologies are critical to avoiding the re-disciplining and domesticating which befalls the best-intentioned critiques of development (Blaser, 2010).

In their poststructural extension of historical materialism, Gibson-Graham (2006) assert that the economic subject and the community must uncover both their already-existing difference from hegemonic capitalist identities and consequently their already-existing capacity for alternative economic subjectivities and political spaces. Through participatory action research in economically deprived regions, they have encouraged individuals to re-present their larger personal range of skills and nonwage or alternative pay types of labor; and they have encouraged communities to develop a similar sense of their alternative capitalist or noncapitalist economic activities. The result has been to reveal existing economic activities, as well as emergent economic capacities, which empower local places and people, partially shielding them from surplus appropriation and the regulatory and wage race to the bottom inculcated by competition for capitalist investment. As in the case of Indigenous geographies and political sovereignty, local economies provincialize and render capital as only part of “the Economy.” These “economic pluralisms” further parallel and dovetail with the subversion of History and Geography I have rehearsed in regard to their immediacy to the subject (“here and now”) and their mobilization though counter-hegemonic meanings and practices open to the outside and its “surplus possibilities.”

There are two interpretations of the shift from development to postdevelopment that have implications for understanding whether scholarship about grassroots civil society supports an equitable political organization of society or the rise of relativism and anarchy. Arguing for the importance of recognizing the ontology-building role of scholarship, Gibson-Graham contrast investigations of alternative economic spaces outside of capital with that of scholars across the ideological spectrum operating under realist epistemological assumptions about the Economy (1996; 2006). The latter assume a transparency to the world and resist acknowledging the politics of representation: by casting a universalizing gaze at the Economy and recognizing it as capitalist and universalizing, Gibson-Graham argue that these scholars reinforce the status quo through political thinking which admits no space for alternatives except as “dispiritingly local, particular and, ultimately, chimerical” (Gibson-Graham, 2003, 37). For the realist, since economy, society and history must have a knowable, “underlying structure” which gives them form—for example the state as the optimal outcome of history—the political imaginary of emancipation logically grounds itself in Reason or universal values that may be claimed against the state (Gibson-Graham, 2003, 36). Postdevelopment’s unsettling of this truth structure by insisting on the

viability of alternative economic spaces, indigenous legal geographies or subaltern histories—the “death of the ground” for Laclau—can only be seen as the rejection of “politics for particularisms” (Gibson-Graham, 2003, 36; Escobar, 1995, Chakrabarty, 2008). Moreover, Gibson-Graham insist that scholars, such as Watts (2003), must consider a third option: that the revaluing of alternative economic and political spaces and subaltern histories is, like all scholarship, ontological, and where it represents alternatives, it effects a fundamental act of re-grounding insofar as new “concrete contents” are articulated in reference to universal emancipatory ideals. Postdevelopment is powerful insofar as it immediately starts to experiment with “that-which-is”; it effects more careful ontologies which do not insist on their ultimate necessity, all the while evaluating these alternatives through a necessary commitment to social justice (of the kind insisted upon by Chakrabarty’s unearthing of “workable truths” for democratic debate). By contrast, the modernist project of the social sciences involves “recognizing, identifying and knowing the truth” of the State, Capital and Property, a methodology which claims transparency and solidity without recognizing how all narratives are partial, relative and construct the world they purport only to describe. It therefore misrecognizes the viability of alternative political, economic and ownership formations inasmuch as they lack the apparent fullness of these dominant narratives. The result is a politically debilitating story devoid of “concrete spaces of freedom” (Gibson-Graham, 2003, 37).

4: IV. FEMINIST GEOGRAPHY AND SITUATED KNOWLEDGE

Drawing upon feminist geography, this dissertation attempts to be responsible for the knowledge produced by acknowledging the limits to the truth claims generated by the particularity and partiality of the researcher’s perspective and the opacities inherent to testimony about “that-which-is.” The research only aspires to produce a landscape, full of gaps, where multiple knowledge systems may coexist and form alliances without domesticating one another. This is done in the hopes for a shift from ignorance to wonderment, complacency to anger, and paralysis to action. Here, action takes the form of alliance-building over the sharing of knowledge and inciting dialogue about democratic alternatives to society’s values and the subject.

Feminist methodologies hold that any claim to objectivity and universal applicability disguises the assumptions of a particular, often hegemonic, social position: knowledge is socially constructed and reinforces power relations (Haraway, 1991). Feminists have therefore argued for

reflexivity in knowledge production, such as drawing attention to the ways that knowledge claims are necessarily limited in their authority by the situatedness of a white, male, middle-class, and urban-dwelling researcher, as in the project at hand. It may be argued, and I agree, that social background has had a great deal of influence in the selection of the research topic, devising of the research questions, and imposition of the interpretative modes, such that the content is the form and thus the knowledge produced is, at best, partial and particular. Even where I have followed Native research protocols and collaboratively worked in consultation with community members (Tuhiwai Smith, 1999, 127), the “researcher, researched and research make each other” (G. Rose, 1997, 316): since the research process is saturated with power and interpellates certain performances, the knowledge produced cannot be a “pure” claim to truth, but is instead a messy and contested discursive artifact which calls out for triangulation by other research. In my practice of “transparent reflexivity”—setting out my difference from my research collaborators—I can claim no objective position from which universal truths about Natives are produced.

Moreover, as Gillian Rose explains, this “distributional model” of power in the relationship between the researcher and the researched does not provide for partial knowledge at all, but instead returns the scholar to a position of objectivity. This model rightly begins with the very different material and institutional positions between the researcher and the researched and concludes that a connection with the researched must be denied on ethical grounds. However, its practice of theorizing difference is only possible through a distancing move, with the end result being the restoration of the “view from nowhere” and, therefore, the authority of the researcher: despite an attempt to subvert the “god-trick” of universal knowledge, feminists inadvertently arrive at a “goddess-trick” (G. Rose, 1997, 312). Rose further refuses the notion of a transparently knowable self-researcher, given both how identity is constructed across multiple social axes and relies not on a set of self-referential characteristics but instead derives its sense of being through its distinction from others.

Rose returns to the founding premise of situated knowledge—the production of “nongeneralizing knowledges that can learn from other kinds of knowledges” (318)—to speculate on other ways of situating knowledge as partial which do not lead to the “failure” of the distributional model. In place of self-conscious positioning and assumptions of the transparency of academic language, she argues instead for the ushering in of “foreign” languages, opaque and incomplete translations which deny the authority of academic language and open a hybrid space of research (cf. Smith, 1996). Situated knowledge thus becomes a site of negotiation, differences and tensions, where “gaps” in interpretation are opportunities to appreciate the limits of academic

knowledge and for sharing knowledge across political projects (Haraway, 1991). Most importantly, it follows that other political voices and languages be included both in the pursuit of knowledge and political struggles now recognized as being marked by shared beliefs and the recognition of differences. Thus, where I followed Chakrabarty to hold the divine aside for evidentiary reasons so as to tease out Native political values, I now want to affirm that this does not mean the erasure of enchanted geographies but that they, alongside Native values, contribute to an expanded field for democratic deliberation. In other words, just as the derivation of a politics of vulnerability and a governmentality from TEK (see Introduction) works to provincialize the settler state and draw out postdevelopmental prospects, here, the divine remains in the text in all its translucence both to show the limits of Western knowledge and foster a humanist connection to Natives for the reader, of awe, anger and action—a politics which remains entirely unpredictable and even dangerous but which stands a far greater chance of occurring where Native culture and TEK remain undomesticated (Chakrabarty, 2008, 17 on translucent history). When presented with a translucent geography as opposed to a transparent one, although the reader is dissuaded from an easy, and potentially unethical, identification with the Other, she nevertheless is afforded a platform for empathy with disenfranchised and underrepresented constituencies. For example, where I described Secwepemc mourning practices (see Introduction), the reader may not fully grasp the basis for the protocol of withdrawal from the land and thus the Secwepemc cannot be “owned” by the reader; yet the reader can come to an appreciation of the normative investments behind this practice, even when they are so apparently different from those in settler society.

Indigenous geographies, only ever partially known through translucent knowledge, are an important intervention into the social sciences more generally given the realist critique of postdevelopment and other forms of cultural inquiry as the abandoning of “politics for particularism.” As I have suggested, attention to everyday and cultural mobilization of power both revalorizes practices tied to place and opens up space for new political stories. At the same time, despite such precautions, it remains to be seen whether the crisis of representation can be overcome. In the shift to the cultural and everyday, what guarantees are there that scholarly representations, despite a relative and anti-realist approach to knowledge, merely replace one “ground” with another? As Ortner explains:

When Edward Said says in effect that the discourse of Orientalism renders it virtually impossible to know anything real about the Orient (1978); when Gayatri Spivak tells us that ‘the subaltern cannot speak’; when James Clifford informs us that all ethnographies are ‘fictions’; and when of course in some sense all of these things are true—then the effect is a powerful inhibition on the practice of

ethnography broadly defined: the effort-ful practice, despite all that, of seeking to understand other peoples in other times and places, especially those people who are not in dominant positions (Ortner, 1995, 188).

Nevertheless, the ethnographic stance holds out the possibility of, well, doing ethnography, because people resist both political and textual domination. In order to avoid an “ethnographic blackhole” (190), “the interpretative refusal” (188) must be forced to face the fact that peoples’ politics are not so confined to texts written by (Western) academics about them. To the contrary, it must be acknowledged that Western texts are themselves, profoundly influenced by the points of view being written about both as a matter of being the discursive artifacts (see above) of the research performance and, more explicitly, through collaborative projects dependent upon community input. Ortner’s argument would appear to support the production of Indigenous geographies and their positioning within a fractured landscape of limited, translucent knowledges.

5: REALISM AND THE REPRESENTATION OF “THEIR POLITICS”

Feminist geographers have argued that despite the importance of taking responsibility for the production of knowledge, attempts to be reflexive have been fraught with “failure” (Rose, 1997, 312-313). Even the most thorough attempts at reflexivity—the interrogation and recognition of the biases inherent to self-embodiment and the limitations of partial knowledge—cannot result in fully situated knowledge because all knowledge is partial. As opposed to reflexivity attempting the impossible task of self-conscious transparency, it becomes a matter of revealing the gaps in the dominant epistemology, and thereby providing space for conversations with other knowledges and the recognition of similarities and differences (Rose, 1997, 315, citing Smith, 1996, 163). Given the limits of any one knowledge, Donna Haraway has further argued that the resultant landscape of knowledge (and its gaps and fissures) occasions opportunities for political alliances.

But as Geraldine Pratt cautions us (2004), the evidentiary preference for the individual’s testimony and the exigencies of the research text leads to scholarship which unwittingly falls into a realist modality and thereby flattens out heterogeneous landscapes and shines a very bright light through translucent spaces. Realism, a mode of representation central the visual and literary arts in Europe and North America in the nineteenth century, privileges a visual and disembodied description of phenomenon which, as in the case of science, claims objectivity (on realism as a

philosophy of science, see: Gregory, 2000). Where qualitative research affords an opportunity to re-present marginalized voices, its conjunctures with scientific authority make it a powerful political tool. For example, in the present investigation, the justification for my collaborators to work with me was less that I would provide research directly useful to the Native community and more that I would reproduce—precisely through the authoritative voice of science and whiteness—their politics and stories to educate settler society about the importance of the protection of TEK, traditional Native lifestyles and the land.¹²

The difficulty is that realism, even when framed by anti-imperialist theory, does not fully respond to Aiwa Ong's insight that when speaking for others, the prime consideration is to avoid betraying their politics (Ong, 1995, 354 as cited by Pratt, 2004, 173). Despite providing an important opportunity to represent the "voice of the oppressed", the realist narrative style of social science works to "tame" subjects, "transforming them from the unknown '(and potentially anxiety-producing other) into the 'known' (the reassuringly familiar)'" (Phelan, 1993, page 94, cited by Pratt, 2004, 183). Realism restores to the reader a stable, knowable and transparent humanist figure with whom she may identify, and thereby come to master and "own"; it does not go far enough to unsettle the audience with partial identifications and gaps in the "home" language which may incline her toward political awareness.

Pratt argues that feminist and critical geographers must pay attention to the depoliticizing effects of realism which often manifest themselves through practical determinations of the relevance of data. Her initial response to the stereotype-laden theatre of immigrant Filipina live-in care givers was to dismiss it as unrelated to their political struggles. Ultimately, she came to see this erasure as a "research performance," a "failure" to make evidentiary sense of data that sought to will away its gaps and fissures. If the objective is to produce a more aware reader, both the types of evidence and its textual representation offer opportunities to present a more fractured landscape of partial identifications and dis-identifications, the sort of heterogeneous landscape Rose insisted is critical to writing the politics of the other into existence (Pratt, 2004, 189-191). Pratt reappraises the performances of the stereotyping of middle-class Canadian employers by Filipinas in their community theatre, a practice which she initially dismissed as incredible evidence partly because they did not fit the realist rubric (i.e. a rational argument for Filipina rights). She argues that such performances may be seen as empirically substantive as they not

¹² Indeed, the insider researcher is often put at a disadvantage because she lacks this positionality, to say nothing of the insider who attempts to represent Native knowledge and does so at least partially on Native terms, refusing the invocations to universality and translatability. But these are also not my stories; these less partial and more truth-full stories about Natives are for Natives to tell.

only represent creative explorations and re-workings of identity categories (a vocation normally reserved for the powerful), but also confront the Canadian audience with astute but uncomfortable insights about Canadian society which may challenge assumptions about the credentials held and rights owing to those in the Live-in Caregiver Program. While they remain partially translucent to analysis, such research performances are precisely the type of evidence which interrupts the “home” line of reasoning on the right to citizenship through the expression of other legitimating rationales and potentially may make the audience recognize the failings of current liberal categories.

Across my case studies of Plateau cultures invested in the oral tradition, where their testimony includes accounts of the divine, I treat it precisely as such a probative performance so as to resist its domestication. While my focus is the value of Native worldviews, the presentation of cognate geographies of enchantment and the divine add descriptive and emotional weight to what is at stake in Native claims. A Secwepemc woman who works the land made these remarks on rights which demonstrate a performance both of translatable Native political values, as well as their entwinement with the divine:

In terms of the policies, when we think about rights in that sense then what we are doing is saying that the Crown or the government is giving us our rights, so we need to be careful to remember that our rights are divine. They are not rights that a nation-state can grant us: we already know that these rights are there, directly from the Creator. So if anything it is a responsibility to know that we are still keeping those spiritual relationships alive...this connection to the plants and animals. That is more important, I think. Although, it is never either/or: if you think holistically, you can never cut one side of the story out; and the reality is that those policies are impacting our divine responsibilities to be able to do this.¹³

Although the testimony remains partly obscured by cultural translucency inasmuch as it “performs” an appeal to the Creator and relations to plants and animals, it advocates for Native knowledge through a political argument that draws its strengths from a sincerely held set of beliefs. The testimony is not domesticated, but speaks clearly enough to impugn the role of the state in assaulting the profane and sacred aspects of Secwepemc lives. In Chapter 2, I explore the testimony of the Sinixt on the continuation of their custom and TEK not as a matter of the pleasurable gaze, but through pointed and angry testimony and a theoretical framing which indicts the biopolitical settler state. I aim to produce an unpleasurable, noisy and forced experience of looking for the reader so that my scholarship avoids betraying their politics (cf. Parks, 2001).

¹³ Interviewee #10, Secwepemc traditional land user (woman), 7 June, 2007.

If I were to eschew means of representation which are more unruly, such as Native orality, and forms of knowledge which are not easily translatable, such as Native narratives which interleave the historical, political and spiritual,¹⁴ I would risk producing knowledge through the universalist, disembodied gaze which undergirds the colonial present.¹⁵ In order to produce a knowledge that denaturalizes the comprehensiveness of the dominant language and thereby interpellates political solidarity, the reader must be confronted with subjects who are not readily knowable and knowledge which is not readily translatable. This scholarly aversion to presenting the gaps and fissures in Western knowledge and its hegemonic consequences was made deftly clear in my interviews where Natives (i.e. holders of non-Western forms of knowledge), including those who understandably refused to sit for an interview, were emphatic that my authorial power would be used to misrepresent their lives and their knowledge, which they further cautioned could not be fully represented by Western means of understanding. The following comment, although made by a Secwepemc/Okanagan, Dorothy Christian, with academic expertise in Native and nonNative knowledge reflects the sentiment shared by other interviewees:

In my undergraduate work, and I got a double major in political science and religious studies and for five years I compared Western thought and Indigenous thought and what I came to was that the two ways of thinking are diametrically opposed and therefore have diametrically opposed values. Even trying to respond to your questions—for me, when I am thinking from my Indigenous perspective, everything is whole and integral, and it feels like you are wanting me to separate parts of myself into little boxes. Right? And it is not possible. As a person who understands and speaks English and is working in a scholarly way, I understand the need to be put into those boxes, but internally it causes some...wavering.¹⁶

In the wake of comments such as these, I realized that the temerity of my collaborators was perhaps less due to the potential for me to claim ownership on the TEK or stories which they might share with me but rather my coming “to own” in the sense of my authoritative authoring of Native experience. Toward alleviating possessory representations, feminist and postdevelopmental epistemologies are helpful in making room for Native testimony which remains translucent. That they thereby occasion partial or uncomfortable identifications on the

¹⁴ Oral traditions are unruly since they are both produced on the land in response to ongoing changes in the environment and resist the fixity and finality of written prose (Davis, 2009).

¹⁵ In addition to the opacities of Indigenous geographies, the oral tradition presents challenges to realist standards where it resists inscription and instead circulates within the community, a process of the evidentiary confirmation of truth. It is precisely due to the prioritization of textuality and Western forms of verification that Native scholars have critiqued the academy as colonialist.

¹⁶ Dorothy Christian, Okanagan/Secwepemc traditional land user, 24 September, 2007.

part of the reader and suggest the need for forming alliances across political projects are both means toward not betraying their politics and supporting the protection of TEK.

The present Indigenous geographies illustrate Native stewardship traditions as “workable truths,” as means of interrogating tentative and contingent possibilities for political community and living with the land. In a way that does not historicize or anthropologize, the aim is to use Native geographies to ask: “Is that way of being a possibility for our own lives and what we define as our present?” (Chakrabarty, 2008, 108). While I follow Chakrabarty in holding the divine to one side in the distillation of Native values, I follow Rose, Pratt and Ong to insist on the placement of these translucent geographies within a heterogeneous landscape where they both inform the limits of Western knowledge and narrate their political struggle partially on their own terms. Taking a cue from Ortner, I further argue that the tradition of testimony is not entirely bankrupt and that feminist geography also calls us to witness the politics of the human and the emotional as much as the angry and polemical through a partial identification with the other. In the real spaces of interpretation, the research is rendered outside of the control of the researcher and testimony may bend the ear of the most recalcitrant witness in unforeseen ways (see McEachern cartoon).¹⁷

6: FEMINIST GEOPOLITICS AND PROPERTY

By revalorizing local political and cultural formations, Indigenous geographies suggest the protection of TEK as playing out not just at the legislative level but also in the everyday through the enactment of traditional values and rationalities about life on earth.¹⁸ In turn, these enactments both locally materialize and reproduce the protection of TEK as well as broadcast its underlying normative conditions to the wider mainstream society. They may furthermore be

¹⁷ *R. v. Delgamuukw* (1991) dealt with the existence of Gitksan and Witsuwit'en Aboriginal title in British Columbia. At the trial level, in response to the opening lines of a traditional song being presented as evidence of territorial rights, Chief Judge McEachern refused to hear rest of the song due to principles of courtroom decorum. Where he further justified his refusal on the limits of his own body, he refused the embodied position of the witness preferring instead the “view from nowhere.” He also refused the sort of courtroom performance which, however translucent to him, might have admitted a consideration of the limits of one’s own knowledge and the potential veracity of the other’s. See Figure 6.

¹⁸ If one understands the limits of the sort of property instruments required to protect TEK at the international and national scales and begins to see how the cultural and social have a role, “the properties of postdevelopment” takes on a second meaning in the sense of the values underlying TEK and the need for their elaboration.

understood to operate through a plurality of legal orders, Native and Canadian.¹⁹ From a law and society approach, customary law intersects with, collaborates and confronts colonial law both formally and culturally in everyday life (Merry, 1988; Sarat and Kearns, 1993). Importantly, the everydayness of the latter opens an immanent horizon for resisting Colonial law. While I avail myself of legal pluralism throughout my case studies, given the legislation of property at the international level through TRIPS,²⁰ the strength of the global indigenous movement and the potential for the development of international instruments for the protection of TEK, I specifically want to explore property as a geopolitical phenomenon. While similar in approach to legal pluralism, I avail myself of feminist geopolitics not only for its multi-scalar playing out of geopolitical phenomena, but also for its emphasis on the embodied nature of geopolitical inquiry and its re-constructive and activist aspect, similar to the feminist geographies I have rehearsed (Hyndman, 2004).

Feminist geopolitics is thereby distinct from the dominant realist traditions of geopolitics and international relations which frame international security, peace, violence, war, trade, and, I would argue, the protection of Indigenous TEK as matters pertaining only to the territorial state which are fully apparent through a disembodied epistemology which claims universality. This realism naturalizes differences as opposed to commonalities, and effaces fragmentation and differential development across international boundaries in a globalized world (Agnew and Corbridge, 1995). Geopolitics renders intractable power relations that operate transnationally, and obscures how geopolitical phenomena are processes which take place relationally across scales (Hyndman, 2004; Coleman, 2004). Kofman points to this shortcoming in geopolitical literature and argues for a feminist global political geographic imagination:

The most successful incorporation of feminist insights and gender issues into geopolitics would dismantle and democratize geopolitics such that it no longer involved the personnel of statecraft located with the most repressive echelons of the state. Real groups would then begin to figure in the landscapes and maps of the global economy and power relations. Geopolitics would open out into a broader context which we would call global political geography, in which comparative analyses and the local, however that is defined, would also be included (Kofman, 1996, 218, cited by Hyndman, 2004, 313).

¹⁹ It is worthwhile to note that calling custom “law” involves bringing a western category to bear on practices, beliefs and normative orderings which are much closer to everyday existence than the western juridical apparatus. It is arguable that legal pluralism is therefore an appropriate analytical framework owing to its anthropological concern for regulation outside of formal law.

²⁰ World Trade Organization, *Agreement on Trade-Related Aspects of Intellectual Property Rights* [TRIPS], Apr. 15, 1994, *Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, Legal Instruments – Results of the Uruguay Round* Vol. 31.

For example, Hyndman explains (313) how the re-visioning of security, a core concept of geopolitics, as human security provides for a more rigorous and empowering scholarship where it becomes a matter of contentious and embodied struggle across a multi-scalar field of power relations as opposed to an abstract matter of the integrity of state boundaries. Considering issues as diverse as the differential protection of Native groups within states and the variations in mobility across gender, Hyndman transposes the politics of security to “the scale of the (civilian) body” (Hyndman, 2004, 309).

As I will show in Chapter 3 on the property right advocated for by the Interior Alliance in the WTO U.S.-Canada *Softwood Lumber* dispute, property is investigated not only as an abstract legal principle or legislative instrument. It is also interrogated as a disciplinary technology which produces and is produced by power relations negotiated, resisted and inscribed at the level of the body. Liberal subjectivity is marked by a bounded quality (separation of self and other) which, according to Jennifer Nedelsky (1990), was transposed as a model from property. Native bodies, moreover, are deeply invested in the connections to the outside. This creates a normative perspective on the type of social relations any legal device such as property must support (on the fluidity of rights and interests in Native notions of property, see: Carpenter, Katyal & Riley, 2009). Where property and intellectual property rights become burdened with environmental and redistributive obligations, one can trace the shift from an individualistic culture of property rights which must stave off demands from the collective by law and force, to a more collective one which recognizes the accommodation of these claims as central to the security of the population.

While critical geopolitics (Ó Tuathail, 1996a) partakes in this rescaling of the categories of analysis and deconstruction of dominant geopolitical narratives, feminist geopolitics further insists that scholarship must have a reconstructive ambit and it returns to epistemology to address this objective. Although deploy methods such as ethnography to subvert realist boundary-making narratives and encourage political alliances, feminist geography draws our attention to the how the embodied quality of ethnography fosters knowledge production which inserts the knower into context. Such situated knowledge holds the researcher and the audience responsible in the sense that the limits of their “home” knowledge are set against a foreign one which may further encourage the unpleasant witnessing of injustice and inspire an angry response. Where feminist methodologies advocate for the representation of opacities and performances, feminist geopolitics puts forward that accountability may come in the form of reportage which establishes a “moral proximity” with the informants by virtue of the role of the researcher on the ground (Hyndman,

2004, 317-316 cites the “anti-geopolitical eye” from Ó Tuathail, 1996b, 173; cf. Parks, 2001 on counter-visions informed by interrogating authority and embodied knowing). In either the case of the strategic humanism of Hyndman²¹ or Pratt’s advocacy for the inclusion of the opacities and performances of research for the opportunity to galvanize activism, the point of feminist (geo)politics is that the reader is mobilized to “do something” (Hyndman, 2004, 318 citing Routledge, 1996). From this perspective, this postdevelopmental study is feminist in its insistence on embodiment not only in knowledge production and alternative normative commitments which flow from being open to the touch of the other (see Introduction)²², but also to the degree that the international protection of TEK depends upon its everyday enactment and alliances across borders. This is owing to the facts, respectively, that TEK is not merely an ideational resource amenable to legislative preservation but also a material one dependent upon its embodiment and spatialization, and that Native peoples’ territories are rarely contiguous with those of states and they therefore engage in alliances which transcend international boundaries. Feminist geopolitics helps us to see how the protection of traditional knowledge is not simply a matter for inquiry by traditional International Relations at the meetings of the WTO or other fora in IP globalization but is something that has a grounded, political reality across scales. Finally, in terms of the founding substantive goal of feminist inquiry, this investigation of the struggle to protect TEK is very much a women’s story to the extent that women hold most of the world’s TEK and comprised 75% of my informants.²³ Scholars suggests that spatial extension of traditional female roles led Indigenous women to develop an extensive knowledge of plants closer to home, a setting whose myriad responsibilities for the reproduction of the family demanded a vast number of applications for plant knowledge. As for the role of women in the preservation of TEK in the modern era, with the gendered division of labour under industrial capital as well as the particular pressures on Native men in the workforce in masculinist settler societies, the concentration of cultural knowledge in the hands of women has only been accentuated.²⁴

²¹ But see also Hyndman’s lament for the re-insertion of universal, humanistic categories of the political in the deconstructive work of critical geopolitics (2010).

²² Following Butler, the material vulnerability of the human body to the other (2004), itself a type of “humanistic” category, becomes the basis for a reconsideration of *the political* not as a matter inscribing borders around an atomistic subject but of securing diverse relations which sustain differentially and precariously placed postfoundational—and profoundly human—subjects. This formulation of the political follows a de-essentialist feminist trajectory.

²³ On women and TEK, see: Momsen, 2007; Howard, 2003. For the central role of women in struggles against globalization, see Nash, 2001.

²⁴ Interview with Marilyn James, Sinixt Nation Spokesperson, 27 & 28 June 2007.

7: LOSS AND AGENCY

Research about loss partakes in the most compelling theme in literature and indeed the human condition. The loss of traditional environmental knowledge as a consequence of the usurpation and destruction of the land (Kirsch, 2001) as well the interruption of the cultural transmission of its teachings and protocols as a result of Residential Schools, disease, epistemicide, and racism forms one of its most dramatic examples. Later on in my interview with Richard Armstrong, he used the story of How Food was Given (a narrative containing TEK and spiritual teachings at multiple levels of complexity, as explored in the Introduction) to explicate how Natives have been frustrated in maintaining their obligations to the land on account of colonialization:

We've never kept our part of the deal. Our part of the deal has nose dived because of the Black Robes [i.e. the Catholic Church], because of the boarding schools, because of public schools, because of a generation gap that says that it was even against the law to speak our language. It was against the law to speak our language. It was against the law for my elders to get together in a group. They – and they couldn't speak their language, and they knew that the language was what talks about what I just finished telling you about, the Four Food Chiefs. So that part of our life is missing because of the treatment we've got from the Black Robes, from Sema, from everything. And to me this is the kind of things that I talk about in my class here and I tell the kids why we do that, why we do that, because we have an obligation.²⁵

The practice of TEK is threatened not only by linguistic marginalization, but also by the discursive practices of Western science which many Natives themselves reproduce as a result of their enrolment in the settler system.²⁶ A further assault on the immaterial aspects of TEK includes local incidents of biopiracy, “the unauthorized commercial use of biological resources and/or associated traditional knowledge, or the patenting of spurious inventions based on such knowledge without compensation” (Mgbeoji, 2006, 13), by natural health remedies corporations and universities (Bannister, 2000; 2004).²⁷ Physical access to traditional territories has been compromised as a result of federal parks and private property boundaries.²⁸ The demands of wage labour in the modern economy severely inhibit the availability of the extensive periods of time required for community activities (hunting, fishing, berry picking, root digging) so important to

²⁵ Interview with Richard Armstrong, Okanagan knowledge keeper, 25 May, 2005. Sema is a derogatory term for Caucasian persons, and Mr. Armstrong apologized elsewhere in this interview for his use of this term.

²⁶ Interviewee #10, Secwepemc traditional land user (woman), 7 June, 2007.

²⁷ Interview with Lester Williams, Elder, Secwepemc, 23 July, 2007.

²⁸ Interview with Irene Billy, Secwepemc Elder, 7 June, 2007.

the cultural reproduction and transmission of TEK.²⁹ The most pressing threats to the protection of TEK, however, involve those to the landscape itself, from the over-grazing of cattle herds which compacts the land so as to render root digging nearly impossible, to industrialized resource exploitation (mining, forestry, commercial berry harvesting),³⁰ and the increased pollution and water use associated with resort development.³¹ A final critical threat to the land base is posed by global climate change. The health of British Columbia's environment, a "biodiversity ark" containing more than 70% of North America's plant and animal species,³² has already reached a critical point (O'Riordan, 2008, 4) as exemplified by the pine beetle infestation as well as the vulnerability of particular salmon runs in the southern interior. In addition to its spiritual, cultural, and economic contributions to Native communities, the loss of a diet informed by TEK is also increasingly being recognized as playing a role in the increased incidence of diabetes in Natives (Wortman et al, 2006; Working Group on Indigenous Food Sovereignty, 2008).

But loss is a problematic thing to write about if one works toward a feminist and post-colonial perspective. In addition to any authoring being necessarily partial and limited by the social position of the researcher, their "home" epistemology and access to community, producing a truth about loss is further complicated by a tendency in the human sciences to only allow the marginalized to speak from a position of victimization. Thus, in addition to situating knowledge, speaking about loss requires an added layer of responsibility for the researcher as the theme itself opens the door again to Orientalist imaginary geographies (Said, 1978). To the vanishing and backward savage, one may unintentionally reproduce Natives as the passive targets of appropriation and violence. bell hooks recounts how the loss narrative is a placeholder of abjection where the researcher urges her subjects to "tell me your story. Only do not speak in a voice of resistance. Only speak from that space in the margin that is a sign of deprivation, a wound, an unfulfilled longing. Only speak your pain" (hooks, 1990, 152, as cited by Pratt, 2004, 183). In arguing for a reconstructive feminist epistemological lens, loss needs to be approached carefully and recognized as yet another potential site of failure for the researcher to support the politics of the researched, here by representing the victim as lacking agency.

²⁹ Interviewee #10, Secwepemc traditional land user (woman), 7 June, 2007.

³⁰ Interview with Jeannette Armstrong, Okanagan traditional knowledge keeper, 25 May, 2005.

³¹ Interview with Janice Billy, Secwepemc, Skwel'kwel'welt Protection Centre Spokesperson, 15 May, 2007.

³² Most research on TEK is done in the global south and justifies this focus based upon the importance of its biodiversity and the political struggles in highly unequal societies. This has led to a blind spot in the literature as the biodiversity in the north is obviously important and Natives live under dire social conditions.

In order not to re-victimize my informants, I draw upon two points at the outset to explain how Natives must be seen as the subjects and not the objects of the struggle to protect of TEK. First, in tension with the comments of Richard Armstrong,³³ many of my informants instead affirmed the presence of a Native world behind the public face of protests, court decisions and meetings with state officials, one barely touched by colonialism, protected as it has been by key families and Elders dedicated to its transmission.³⁴ In response to this contradiction, I pressed my informants as to whether they have been so “untouched” by colonialism as a matter of identity or knowledge. While most were willing to concede that no position of exteriority exists—and that adaptation, even to settler society, is in fact part of TEK—no one would accept that underlying Native values had changed. Chief Judy Wilson, for example, phrased it like this:

SR-Do you see your identity changed or influenced because of colonialism?

JW-There have been impacts to Secwepemc, but those are external factors. People say we have lost the language, but obviously we didn’t lose the language because people still speak the language, are still fluent in it. There are children becoming fluent in it now. But it is because of the dedication of those people that are ensuring that the language is...because the language is very integral to who we are...

SR-Interesting that you consider the impacts as external factors.

JW-Hmm hmm, that is how I view them because the principles and values have continued and survived and the language has survived...and as long as those elements survive then we can continue. And, yes, there has been colonization, Residential School, disease. There were 80 000 people in this region, and then through the disease, we dropped to 3 000—so they are very resilient people to have come back as strong as we have with our language and our understandings still intact. What the issue I see is the capacity to transmit that knowledge. We rely on those knowledge keepers and language keepers to be able to move that forward: it is a slow process. But you know we have a few schools in the area operating and we have some very dedicated elders that continue that and take that role on, that is why we need to build our institutions to support that.³⁵

³³ Interview with Richard Armstrong, Okanagan knowledge keeper, 25 May, 2005.

³⁴ TEK Focus Group, Neskonlith, Chase, BC, 22 February, 2008; Interview with Marilyn James, Sinixt nation spokesperson, 27 & 28 June, 2007.

³⁵ Interview with Chief Judy Wilson, Neskonlith, 25 June, 2007.

The second way that Native are the subjects of their own history can be made clearer through an interrogation of the style of representation of particular political problems. Given the threats to TEK, it may at first appear that Natives have limited opportunities for resistance. In reference to feminist geopolitics and legal pluralism, I have instead argued for the politically enabling tasks of re-visioning a community's range of political, nonlegislative legal, and nonmarket economic activities as evidence of the push for "cognitive justice" for Native truths (Santos, 2006). On this view, it becomes untenable to view Natives simply as victims considering the panoply of tactics underway: protests, collaborations with researchers, alliances with ranchers, formal legal proceedings against recalcitrant governments,³⁶ appeals to the UN Special Rapporteur on Racism and the International Olympic Committee (Sutikalh and Skwelkwek'welt, 2002, 2002b), participation in the UN Permanent Forum on Indigenous Peoples and the CBD (Indigenous Network on Economies and Trade, 2004; Manuel, 2001),³⁷ submitting amicus curiae briefs and other submissions to the U.S. Trade Representative, NAFTA and the WTO (Indigenous Network on Economies and Trade, 2002, 2003; Interior Alliance Indigenous Nations, 2002),³⁸ re-occupations of traditional territories (e.g. Vallican; Sun Peaks and Sutikalh),³⁹ not to mention adamantly maintaining language and cultural traditions through Native-controlled schools and community organizations.

Indigenous food sovereignty, a relatively new political stage, further exemplifies a multiplicity of political activities at the scale of the body in the everyday. As a movement, indigenous food sovereignty operates through civil society organizations, such as Food Secure Canada, BC Food Systems Network⁴⁰ and its Working Group for Indigenous Food Sovereignty (Working Group on Indigenous Food Sovereignty, 2008), and grassroots organizations such as the Interior of BC Indigenous Food Sovereignty Conference Planning Committee (IFSC) (IFSC, 2006).⁴¹ Importantly, indigenous food security also articulates the already intimate relationship

³⁶ The so-called "Harper Lake" cases: *British Columbia (Minister of Forests) v. Okanagan Indian Band*, 2008 BCCA 107 – 2008/03/14 Court of Appeal (Leave to appeal to SCC denied 4 December, 2008: #32638); *British Columbia (Minister of Forests) v. Okanagan Indian Band*, [2003] 3 S.C.R. 371, 2003 SCC 71; *British Columbia (Minister of Forests) v. Jules*, 2001 BCCA 647; *B.C. (Min. of Forests) v. Chief Ron M. Derrickson et al* 2000 BCSC 0541; *British Columbia (Minister of Forests) v. Chief Dan Wilson et al*, No. 23911.

³⁷ Both on file with author. Interview with Irene Billy, Elder, Secwepemc, 25 June, 2007; Interview with Arthur Manuel, Secwepemc, Spokesperson, Indigenous Network on Economies and Trade (INET), 30 October, 2007.

³⁸ See Chapter 3.

³⁹ See Chapters 2 and 4.

⁴⁰ <<http://www.fooddemocracy.org/links.php>> Accessed 19 May, 2009.

⁴¹ <http://www.fooddemocracy.org/docs/IFS_Conf06_Report.pdf> Accessed 19 May, 2009.

with food further through its democratic enactment in the everyday practice of TEK on the land. Food sovereignty was founded upon a dissatisfaction with the way that “the right to food” had been expressed in food security circles, notably at the World Food Summit, 1996 (FAO, 1996),⁴² which required only the provision of safe and sufficient food, paying no regard to the economic, social and environmental conditions involved in its production.⁴³ The constituency addressed by the indigenous food sovereignty movement—which coalesces around *Vía Campesina* (*Vía Campesina*, 1996),⁴⁴ the world’s largest member-based social movement of peasants and landless peoples from across Africa, Asia, Europe and the Americas—supports the ability of local peasants and landless peoples to have access to land and water in order to produce local, GMO-free food in a sustainable manner, protected by agricultural and trade policies which maintain prices and protect local production from low-priced imports; it is also noteworthy for drawing attention to the role of women in developing countries in the production of food (*La Vía Campesina*, 2003).⁴⁵

As an international movement, food sovereignty is marked by the absence of an institution to uphold these rights and it also lacks an explicit political programme. In contrast to negative liberal rights, Patel argues that this “vagueness” is its strength: food sovereignty throws open the matter of the control of a safe, sustainable and culturally-appropriate practice of food production to radical democratic contestation (Patel et al, 2007, citing Laclau and Mouffe, 1985). Most importantly, its politicization of the right to food is further transgressive to the degree that it encompasses a positive right, the type of right most resisted by the west as part of its liberal-capitalist trajectory (Bakan, 1997). In BC, Indigenous participation in the food sovereignty network is distinguishable from other Canadian food constituencies (e.g. ranchers, organic farmers) to the extent that they are highly critical of the role of industrial food production as part of food “sustainability” due to the impacts it has had on Native territories and traditional food practices. So critical in fact that the demand for local control which circulates through the food sovereignty movement in general enfold itself into claims for protected zones for traditional hunting of deer and bear, fishing for salmon, berry, fungi and lichen gathering, and bitterroot

⁴² <<http://www.fao.org/docrep/003/w3613e/w3613e00.HTM>> Accessed 19 May, 2009.

⁴³ <<http://foodsecurecanada.org/en/about-fsc-sac>> Accessed 19 May, 2009.

⁴⁴ <<http://www.virtualsask.com/via/lavia.deceng.html>> Accessed 19 May, 2009.

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<http://www.viacampesina.org/main_en/index.php?option=com_content&task=view&id=47&Itemid=27> Accessed 19 May, 2009. According to FAO, “Women produce between 60 and 80 per cent of the food in most developing countries and are responsible for half of the world’s food production, yet...Not even 2% of land is owned by women, while the proportion of women heads of household continues to grow”: <<http://www.fao.org/sd/fsdirect/fbdirect/FSP001.htm>> Accessed 19 May, 2009 (FAO, 2006b).

digging (Working Group on Indigenous Food Sovereignty, 2008)—and ultimately, if one follows the logic, to claims for Native sovereignty over their traditional territories.

Many of my respondents shared in the belief that the everyday practice of TEK is both a form of sovereignty and the enactment of Native law. This belief further resonates with a legally pluralist approach to anti-colonialism inasmuch as the enactment of TEK involves the cultural broadcasting of Native norms into mainstream legal interpretative frameworks. Thus, what appears as a quaint and traditional practice under the rubric of “local control” connects up with a more powerful claim for a right of continuity of Native rationalities—a right to recognition and power-sharing with the hegemonic constitutional order (Tully, 1995). Along more formal legal channels, the *Delgamuukw* (1997) decision goes some distance to recognizing TEK in law for the purposes of establishing Native rights and title. In affirming that aboriginal title and rights were not extinguished in BC, it further set out the evidentiary requirements for establishing these: e.g. oral histories and GIS maps of “traditional use.” In the aftermath of that decision, grassroots activism of sovereignty in the everyday took on the added meaning beyond the fulfillment of Native law to potentially become the grounds for a common law right or title. The performance of TEK as a tripartite enactment of Native sovereignty and law on the land, a cultural politics that can be enacted in the here and now, and, finally, recognition in Canadian law, is expressed by Janice Billy, Skwelkwek'welt Protection Centre Spokesperson and TEK educator:

SR- Do you see any role for the actual practice of TEK as a means to achieve political objectives?

JB- Yes, because with us and our students, we go out on the land and we actually do those things because we can say that courts will ask you, “Do you have proof that you are using the land, like present day use and occupation is a big thing for us that we can prove in courts if we have to. In fact, in the *Delgamuukw* decision talks about continued practice, right? And we can say, yes, we are still going out there hunting, picking berries, and using the land like we always have: we have never ever given up that practice. So that is a really important political and legal objective; social, cultural all of that.⁴⁶

The comments by Informant #10, a Secwepemc, further re-conceptualizes sovereignty as a variegated process that can be operationalized in the everyday rather than only in a future, revolutionary event:

the strongest message I have got from the traditional people I have been involved with...in the discussions I have been organizing around this topic, all of them

⁴⁶ Interview with Janice Billy, Secwepemc, Skwelkwek'welt Protection Centre Spokesperson, 23 May, 2007.

have said that the basis of indigenous food sovereignty comes from our day-to-day practice of being out there and maintaining those practices...harvesting, upholding our responsibility to take care of our relationship to our foods, because we've lost that, it has been interrupted for a lot of different reasons, not necessarily all our doings. If we want to hold on to that we have to be practicing it, we have to be doing it. And that is actually more important than the policy stuff I am involved with—I am not saying that the policy discussions aren't important, because we know that we are being affected by many of those big neocolonial policies that are taking full control of our land and food.⁴⁷

Where the practice of TEK in the case of indigenous food sovereignty begins to shift to control over territory as well policy input on the environmental practices in neighboring territories (industrial farming, forestry, farmed salmon, small riparian hydroelectric projects), it strategically capitalizes on the vagueness of food sovereignty in ways that can result in tensions with others in the movement who have yet to extend their critique of industrial food production to advanced industrial society, such as settlers who farm organically, raise cattle, etc.⁴⁸

The Native Warrior is the avatar for sweet zoe (biological life) who pushes back against the age of the exception and, the avatar of bare life, homo sacer (sacred man). She dispels any notion of only speaking from a place of pain and loss. Taking her name from the Native Warrior movement—the Natives of Turtle Island who “stands up for the land”—she is less an individual than a cipher for Natives making space. I insert this figure into the counter-vision as a spirit who is present in Indian country, who to my mind approximates a Native, de-colonized figure or metaphor of resistance. In the comments of a Secwepemc-Okanagan traditional land user, the imperative for the self to enact change in discourse and space on Native terms (as Campbell and James insisted) exemplifies this spirit:

I have consciously dismantled myself as a victim, I chose not to be a victim in the colonization process...I get really annoyed, there is this discourse,...people just regurgitate, colonialism, post-colonialism, ...Empire, it feels like all it is doing is re-entrenching the power dynamic. At what point do I get to walk out of that...to be an autonomous sovereign human being in that relationship?...I have assumed my position as an autonomous sovereign being, I do not want to be slotted back into a victim position in the colonial relationship...Within every move, within every word, within every thought: I chose to be an autonomous sovereign human being and honour my dignity as a human being. So it is frustrating within academe where the colonial relationship is consistently regurgitated, because the expectation or the assumption is that I will fall into place and assume my victim role, so I am not willing to wait for you guys to

⁴⁷ Interviewee #10, Secwepemc, 7 June, 2007.

⁴⁸ Interviewee #10, Secwepemc, 7 June, 2007.

indigenize [as a long-term means of redressing the colonial situation], although I know that is important, I am involved in that work.⁴⁹

In Chapter 2, the voice of the Native warrior pushes her way back from the cultural unintelligibility of a declaration of extinction through counter-visions of Sinixt people on the land and the dynamism of their TEK. In Chapter 3, the voice of the Native warrior gives Indigenous property its split personality: it speaks through an instrument which ties the self to the settler state (rights), while at the same time is particularistic and evocative of the collective; it thereby smuggles in a counter-governmentality. Finally, in Chapter 4, the generation of the oppositional stance of the Native Warrior is explored. Rather than the product of words and language alone, both what is said about the implication of the self in the collective and the gregarious, nonrepresentational experience of the practice of TEK are taken as constitutive of a very contemporary subjectivity, one importantly marked by alternative ethical investments and political possibilities.

8: CONCLUSION

The objective of this chapter was to inform the reader of my methods and methodology, both of which were discussed in terms of ethically taking responsibility for the production of knowledge of the other. I first explained how my community collaborations, both in the formulation of the questions and the final arguments, held my truth claims up to wider scrutiny. I then discussed how Indigenous geographies, as opposed to geopolitics, make room for Native political values, communities and definitions of the citizen. Postdevelopment allows me to consider the role of geography in alternative political formations and to reopen constitutional debates of obvious importance in Canada. It also allows for Native counter-governmentality to be mapped in a field of relations which pays little heed to state territoriality and manifests itself across scale. In terms of the work of the interpretation of Native testimony, I followed feminist geographers to situate knowledge not only through a practice of partiality, but by situating Native knowledge and its opacities within a landscape of knowledge also occupied by my “home” language. Where Chakrabarty held the divine and nontranslatable aside, I insisted that they are essential in drawing out the limits of Western epistemology, and for occasioning political

⁴⁹ Interview with Dorothy Christian, Okanagan/Secwepemc traditional land user (woman), 24 September, 2007.

activism on the part of the reader either by virtue of humanistic proximity or a presentation of the inequitable treatment of Natives, partially made on their terms. Given the protection of TEK requires activism across multiple scales, I turned to feminist geopolitics to democratize the international legal protection of TEK and render it as part of the everyday. A final way I sought to be responsible for this knowledge was by critiquing the narrative tradition of loss in the context of subaltern groups. I then insisted that my case studies, including the mini-case study in this chapter on the pretenses to sovereignty in the indigenous food movement, illustrate a panoply of resistive acts that counters marginalizing loss narratives. I now turn to describe the age of the exception in my case study of the Sinixt in the next chapter not as a matter of state rights not fully countenancing the gregarious relations which underpin the self, but more profoundly as the legal removal of a name through which to make any claim as Native. My goal is to both inform and encourage a response-ability so that the reader does something about their and our politics.

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CHAPTER TWO - DECLARATIONS OF OUR DEATH HAVE BEEN GREATLY EXAGGERATED: WITNESSING THE EMBODIED GEOGRAPHIES OF THE “EXTINCTION” OF THE SINIXT PEOPLES

by
Sean Robertson
in collaboration with grassroots people from the
Sinixt nation

Abstract: The Arrow Lakes band, established in 1902, was the only form of recognition ever made available to the Sinixt nation in Canada. The declaration of their extinction in 1956 was the logical conclusion of the reserves, a sovereign and disciplinary technology essential to colonial settlement and the “health” of a settler population founded on liberal values. As “Indian” members of a band, the Sinixt were at least occasioned by the name of the abject, but by virtue of losing this discursive-spatial position, they came to be even more silenced. This abandonment most fully became apparent when they returned to the political scene in the 1980s. The folding of the effects of the declaration of extinction into the colonial present provides a rare opportunity to bear witness to a legal geography of abandonment as well as to push back against it. Where the declaration and its geographical imaginations omnisciently represent the Sinixt as “backward” and “extinct,” I engage in a more partial and proximate “politics of witnessing” of their campaigns for the return of ancestral remains, the establishment of a permanent presence on traditional territories, a land claim against the government, a right to consultation in respect of hydroelectric projects, and the protection of culturally significant areas. As opposed to a disembodied and “objective” view which silences the Sinixt, these accounts afford a “counter-vision” of the dynamism of their traditional environmental knowledge and their political activism. Through enactments of a moral worldview and customary law implicated in the land and the collective, the Sinixt are determined that their return include a space for “life” dangerously absent from existing governmental rationalities. The reader is disposed to respond to the Sinixt because of a proximity to their plight and because the endgame of biopolitical rationalities are revealed as more than the construction of “races,” but also the suppression of the life of the human species.

“politics of witnessing”—biopolitics—colonialism—Sinixt/Arrow Lakes Nation—custom

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The oral histories and stories quoted herein remain respectively the property of the Sinixt nation.

It is not down in any map; true places never are.

Herman Melville, *Moby Dick* (2003, 71)

The process of extinction was naturally slow, and eventually there was only one female member left, and she did not reside on the Reserve for some years prior to her death.

Jules D' Astous, Chief, Economic Development Division, Indian Affairs Branch, 22 August, 1962 [982/30-7]

The one way we don't want to go about it is by asking the government to recognize us; to us it is wrong because we are a sovereign people and a sovereign people don't go up and ask somebody to recognize them. If they are sovereign they're sovereign and that it all there is to it. It's not...our mistake – we didn't write paper and law...saying our people are extinct—it's not our mistake, it's the government's mistake.

Robert Watt, Appointed Caretaker of Sinixt burial ground and village at Vallican¹

1: INTRODUCTION

In 1902, an Indian reserve was set aside for the people of the Arrow Lakes (Bouchard and Kennedy, 2000, 95), one of the last to be established in British Columbia where colonization had only begun in earnest fifty years earlier (Tennant, 1990) (Figures 7-8). The reserve was soon found abandoned and the federal government declared the band extinct in 1956. The historical record shows that Canada either did not understand the Arrow Lakes to be a distinct ethnicity at the reserve—believing them to be members of the Secwepemc or Kootenai nations—or understood them to be more properly part of the Washington state-based Colville Reservation, a composite of Native nations. What Canada did know was that the last remaining member of the band had passed away and, with the reserve abandoned, the land was to revert to the province of British Columbia. Without a land base to call their own in Canada, the Sinixt continued to exist

¹ Interview of Robert Watt, Nelson Co-op Radio: <http://sinixt.kics.bc.ca/sinixt.mp3> (Watt Interview).

within other Canadian bands, in mainstream Canadian society and in the US. They also continued to seasonally visit their traditional territory north of the international boundary (Figures 9-10). The erasure of the Arrow Lakes from the band registry spelled the political death of the Sinixt: in respect of the state, each member lost her positionality as “Indian” and any entitlement both to state services under the Indian Act as well as future legal claims for traditional lands and tangible and intangible cultural heritage.

According to the Social Darwinian and humanist discourses circulating across the British Empire at the end of the 19th century (Harris, 2002), reserves are either a holding zone for people unsuited to civilization and who are awaiting their extinction, or for people in need of education and who await their enfranchisement as citizens, respectively. The declaration was therefore merely the legal conclusion of a biopolitical strategy of prioritizing the liberal, European settler population while discouraging the Native population and its “backward” traditions. It finalised the clearing of the land and confirmed the triumph of liberal governmental rationality under which the normative horizon of the political community was reoriented toward a rationality of the individual as opposed to a customary concern for the collective. At the level of state constitutionalism, the shift to Western values enunciated by legal texts like the declaration contributed to the overturning of a 250 year-old cooperative and conciliatory relationship between Native and European political principles (on the monolithic state and colonial mindset, see: Saul, 2008).

While Sinixt customs clearly continued—they maintained their traditional practices within other Native nations and on their own traditional territory (often, in the case of Colville-based Sinixt, in the shadows of international boundaries)—it was not until they responded politically to the disinterring of their ancestors in the late 1980s that they felt the full effect of the declaration. When it came to stopping the building of a highway on their burial sites and the eventual return of ancestral remains, they discovered that they had no voice as “Indians” because they were not included on the register of bands at the federal Department of Indian Affairs. And their silencing was further consummated inasmuch as other Canadian Natives (initially) refused to assist them with the patriation of their remains in the interests of their own land claims in the west Kootenays. Even where the Sinixt in Canada potentially had political representation, as American Indian members of the Colville tribe,² they were marginalised for either being a minority from that reservation or foreign nationals. Given that silencing is the objective and

² The Colvilles are entitled to federal protection of their ancestors’ remains, as least in the US, see: *Native American Graves Protection and Repatriation Act* (1990) 25 USC 3001 et seq. No such legislation exists in Canada.

consequence of violence (Scarry, 1995), the Sinixt were and continue to be turned over to violence—and sovereign power—both culturally and legally (Butler, 2004; Gregory, 2006). Where the reserve system worked to erase a cultural worldview deemed unintelligible to mainstream society, Canada and neighbouring Native nations refused their legal personhood. Thus, the Sinixt found themselves in a zone of cultural and legal abandonment or exception (Agamben, 1998; zone of abjection, see: Butler, 1993).

The peculiarity of the suspension of cultural recognition and legal rights—the turning of bodies over the violence—is that it is often difficult to witness such “biopolitical catastrophes” (Agamben’s words). For example, the dropping of an atomic bomb, the denationalization of minorities, the enforcement of no-fly zones, and declarations of extinction are often represented *ex post facto*, with little context, and/or in the abstract and objectified terms of state intelligence (Maclear, 1999). Since it is difficult to acquire on-the-ground knowledge, the justificatory representations of the state often prove highly resistant to scrutiny. Analogous to satellite or sky-based visualities which privilege “omniscient,” neutral, and abstract ways of seeing, the declaration is presented through an historicist justification (traditional environmental knowledge (“TEK”) and customary law as static and outside of modern narratives of progress, see: Chakrabarty, 2008, 6-16) and geographical representations of the vanishing Indian give short shrift to context; and the abstract technology of drawing boundaries around the reserve and the state obfuscate the real-life experience of Natives. This big truth can maintain that a Native band has vanished because it misses a pluriverse of micro-truths.

I refuse the circulation of this popular historical geographical knowledge and its confirmation of Social Darwinism by engaging in a more partial but truer, more personal politics of witnessing. Importantly, as the Sinixt are experiencing this state of exception in the present, their predicament affords the opportunity to bear witness to their exclusion in the here and now through proximate and partial knowledges (Parks, 2001) which redress the contextual “amnesia” and technological “antiseptics” of state vision and produce “counter-visions” of their political campaigns. A politics of witnessing questions the state’s legitimating rationales not through another transparent knowledge, but by re-drawing the landscape of knowledge as marked by the gaps and fissures which necessarily inhere in any epistemology involving the Other. Rather than further frustrating the pursuit of justice for the Sinixt, these limitations present a more honest truth and occasion the formation of alliances across subaltern groups (Haraway, 1991) under the exigencies of the colonial present (Gregory, 2004). The translucencies of an Indigenous geography replace statist Hollywood Realism not with a proximate and possessory relationship

with Natives, but a more piecemeal truth, which nevertheless makes room for wonder for things Native, solicits anger in the reader in response to their treatment and inspires action across political constituencies.

I present a narrative of both their “return” from extinction as well as the continuity of their worldview, traditional environmental knowledge and customary law. In sum, their worldview privileges the collective relations—the land, everything on the land, ancestors, the next seven generations, the spirits—which sustain the environment and Sinixt identity. They thereby ascribe to a rationality concerned with “life” from the broad perspective of networks and the pluriverse (Latour, 1993; Blaser 2010). Furthermore, I explore the enactment of their worldview as a form of resistance to their cultural and legal abandonment. Because sovereign power is founded not only in the past, but is also constitutive of and by a cultural economy of the everyday (Gregory, 2006), Native customary law (Sarat and Kearns, 1993) may be illustrated as both collaborating and confronting state law through cultural and material registers. Moreover, I will suggest that the reader is potentially disposed to respond to the Sinixt not only because of a politics of witnessing, proximity to their plight or even the extent to which their denigration takes away from our collective humanity, but also inasmuch she is also living a “precarious life” at two scales. First, in contrast to the Sinixt worldview, I show how biopolitical governmentality dangerously denies the extent to which the subject is held by the collective. With the culturally recognized subject reduced to the minimum, biopolitical governmentality is not required to provide for social equity outside of negative liberal rights. In the interests of protecting “the health” of the population, it thereby protects society by defending the holders of wealth from the redistribution schemes which would ostensibly frustrate the efficient operation of the market. Biopolitics also protects society at the scale of the population where it encourages the health of certain populations while withdrawing its support for others. Where groups are denationalised so as to promote the life of (what is left of) society, for example, the violence of its disciplinary axis takes on a more blatantly murderous and suicidal form. In reference to the development of the Manhattan Project and the environmental destruction on Sinixt territory, I illustrate that governmental rationalities countenance not simply the construction of “race” and the production of “lives not worth living,” but also exposing the life of the human species to death (Foucault, 2003).³

³ In my partial depiction of the Sinixt worldview, it is incumbent upon me to note James’ opposition to Foucault’s perspective on consensual sexual relations between adults and minors as having no place in that worldview, see also: Alcoff, 1996.

I map the struggles of the Sinixt through a series of embodied geographies centred on their moral worldview, response to the disinterring of their ancestors by a highways project in the 1980s, subsequent campaign of securing the return of the remains, establishment of a permanent presence on their traditional territories (Figures 11-12), the establishment of a permanent presence on traditional territories, a land claim against the government, a right to consultation in respect of hydroelectric projects, and the protection of culturally significant areas at Perry's Ridge. Despite their abject position, the Sinixt have had remarkable success in rewriting the effects of the sovereign decision through the dynamic enactment of their customary law and TEK. Although the legal abandonment of the Sinixt produced a type of "living dead"—a voiceless people interpellated back to life, the land and custom by the dead—they have paradoxically begun to insinuate "life" (i.e. the Sinixt worldview) back into politics (cf. Pryce, 1999, 84). This is important both for the emancipation of the Sinixt and, to the extent that it takes on their collective orientation to constitutional and political ordering, Canada may be directed toward a post-colonial and post-biopolitical modality.

1.1 Method and Scholarly Context

My contribution is to reframe the declaration and the colonialization of Sinixt territory as an example of biopolitical abandonment, suggest the political potentialities of epistemology in the case of the Other, and outline how the counter-geographies of Sinixt materially refuse settler law and, as result of the persuasive argument for a Sinixt governmental rationality, lay the ground for its fuller renovation at the level of its philosophical investments. I rely on the extensive archival and ethnographic research conducted by Bouchard and Kennedy over the 1970s and 1980s on the Sinixt (Bouchard and Kennedy, 1985; Bouchard and Kennedy, 2000), as well as archival documents on the establishment of the reserve at Oatscott and the declaration of extinction. Bouchard and Kennedy's scholarship is rich and exacting, but owing (I suspect) to their patronage by the BC Heritage Conservation Branch and the Columbia Power Corporation, makes little attempt interpret the events within social structures. Aside from a handful of sources from before the mid-1970s, the most significant published scholarship on the Sinixt is by the anthropologist Paula Pryce whose ethnography documents the mobilization of Sinixt nationhood in Canada in response to the disinterring of their ancestors (Pryce, 1999). While drawing from legal and administrative archival documentation as well as interviews and observation, Pryce's extensive analysis is concerned with competing worldviews. However, she does not bring to bear an analytic which specifically theorizes abandonment from the political community nor does she pay specific attention to the cultural economy of the declaration and opportunities for renovating

settler law and governmentality through counter-visions and alliances. From a biopolitical perspective of the making of Native space in colonial BC, I address the absence of the Sinixt from the geographical record—the Sinixt go unmentioned from Cole Harris’ (2002) historical geography of colonialism in BC—and more directly interrogate the intersection of sovereign power and membership in the political community. The ontological lines of such a perspective set out what is at stake in the colonial present: the violent derealizing of Natives and their worldview and a governmentality which negates life in the interests of the “health” of the population. Its ethical lines implicate the reader insofar as she remains invested in a rationality which exposes both Natives and ultimately herself to violence. I then more directly take up a constructive approach (or critical, see: Blomley, 2007, 57-58) where I draw upon interviews—with Marilyn James (Spokesperson), Vance Robert Campbell (Headman), and Robert Watt (appointed caretaker of Vallican traditional site)—and on-line video accounts of a protest involving Lola Campbell (Sinixt activist) as a means to witness of Natives making space as both a “counter-visioning” of abandonment and an example of what a better world “ought” to look like (Blomley, 2007, 61). This move from analysis to “emergence” (Santos, 2006) and the responsabilization of the subject for abandonment is essential to challenging state intelligence with Native governmental rationalities so that “life” may be imagined differently and not be so easily legislated against.

2: PART I: RESERVE VISUALITY, STATE INTELLIGENCE AND SOVEREIGN POWER

2.1 The “invisible” Sinixt and their diaspora

The Sinixt (“Snaytskstx” according to the Bouchard practical orthography, see: Bouchard and Kennedy, 2000), the bull trout or ikst people, speak an Okanagan-Colville dialect (nsilxstín or “people’s language”). “Sinixt” was anglicized as the Arrow Lakes Indians or “the Lakes” on account of their geographical location by the first fur traders to visit the west Kootenay region of BC. David Thompson visited the Sinixt in 1811 (although he did not identify them) and Alexander Ross in 1821 (who did identify them) (Map by Ross c.1821, Figure 13, note the written description as “Sin-natch-eggs”). Their territory extends from Revelstoke, south through the Arrow Lakes and Slocan Lake, across the US border, all the way to Kettle Falls, WA (Bouchard and Kennedy, 2000). Unlike their neighbours on the Columbian plateau, who live in

semi-arid valleys and mountainous terrain, the Canadian portion of Sinixt territory at the eastern edge of the plateau near the Continental Divide is heavily forested and marked by narrow lakes, steep mountains and snowy peaks; on the US side, the terrain of their territory is more arable.⁴ The Sinixt lived on the Arrow Lakes, the Columbia River, parts of Kootenay Lake and in the Slocan Valley. George Simpson, Hudson's Bay Governor, recognized the "Sinachicks" on the Arrow Lakes as part of the Kettle Falls Tribe, as did Father Jean de Smit, a Jesuit missionary in 1846 (Bouchard and Kennedy, 2000, 49), the same year that the international boundary between the US and British North America split Sinixt territory in half.

When it finally came to declaring their extinction in 1956, an historical ignorance of the identity and presence of the Sinixt in Canada arguably greased the sword of the sovereign. If the Sinixt had been better known, then this knowledge would have perhaps given pause to the declaration of extinction as only the denationalization of a band—and not an entire Native nation—does appear to have been the intention of the state. Had the state understood the Sinixt as a people whose territory extended into the US, then erasing the reserve would have raised the specter of off-reserve Sinixt in both states potentially requiring land. Uncertainty surrounding the Sinixt flows in the first instance from their geography: the arduous terrain in the Slocan Valley, a significant site for traditional activities, deterred Europeans until the Palliser Expedition in 1859. The valley itself was absent from Department of Indian Affairs maps until 1872, the year after BC became of province of Canada (Pryce, 1999, 40).

In the fog of colonial settlement, the state seemed to never quite know with whom they were dealing. The Sinixt were often mistaken for Kutenai peoples in official circles, such as in the 1881 census which recorded the "Colvilles" (i.e. American Indians) found at the mouth of the Kootenay River as "Kootenays" (who also have territory in the US) and not a separate nation (Bouchard and Kennedy, 2000, 55; 1985, 134). More often, the Arrow Lakes Indians were seen as a "hodgepodge" of Secwepemc and Kutenai squatters (Pryce, 1999, 60). The BC government attempted to establish a reserve at the confluence of the Columbia and the Kootenay Rivers in 1861 to settle the Lakes and Kutenai Natives who were quite active in preventing non-Natives (especially gold miners) from entering their territories. The reserve at kp'ítl'els was ultimately labeled as a Kutenai reserve by W.G. Cox, gold commissioner and magistrate for BC, although it

⁴ As of 2000, the Okanagan Nation Alliance, Secwepemc Tribal Council, the Ktunaxa (Kootenay)/Kinbasket Tribal Council (KKTC), and possibly the Kalispel tribe from the US all made claims or shared claims deep into Sinixt territory, notably the confluence of the Columbia and Kootenay Rivers (Bouchard and Kennedy, 2000, 17-18). The Colville tribe in Washington state, which consists of some US-based Sinixt people also claims the Canadian side of the Sinixt territory, a site also claimed by Canadian-based Sinixt (Mehler Paperny, 2008).

was never established (Bouchard and Kennedy, 1985, 112; Harris, 2002, Appendix). Bouchard and Kennedy assert that the Kutenai did not traditionally use and occupy this area but instead were attempting to acquire it for strategic advantage over the Sinixt (Bouchard and Kennedy, 1985, 114).

Another factor which frustrated the appearance of the Sinixt on maps was changes to their pattern of seasonal rounds. The Sinixt traditionally summered in the southern portion of their territory and wintered in the north on the hunting grounds around the Arrow Lakes. However, around the mid-1800s, they began to spend more of their time in the US, so much so that by 1870 their primary settlements and subsistence activities were near Kettle Falls and government officials on both sides of the border recognized them as being a US-based tribe (Bouchard and Kennedy, 2000, 27 & 57). The reasons for this demographic transition are complex and open to several likely hypotheses (Pryce, 1999, 37; cf. Bouchard and Kennedy, 2000). One explanation is that due to the rapid decline in their population due to the small pox, influenza, tuberculosis, and yellow fever epidemics over the course of 1770-1862, the Sinixt economy became more dependent on the efficiencies and products available in the fur trade as opposed to their labour-intensive customary economy (Pryce, 1999, 43). By the end of the 19th century, it is estimated that the population fell by 80 percent of its pre-Contact numbers, estimated to have been between 500-2000 (Pryce, 1999, 41, citing Scott, 1928, 44). By way of census data, which leaves open the considerable possibility of inaccuracy due to nonsedentary Native lifestyles, there were 325 Lakes Indians (Sinixt) at the Colville reservation in 1882 and 21 in BC in 1881 (Bouchard and Kennedy, 1985, 72).

Fort Colville was established in 1825 and became the most important Hudson's Bay Company trading post west of the Continental Divide, with the Sinixt as the dominant suppliers of pelts. Their southern territory continued to be used subsequent to the closure of the fort in the 1870s, as they took up farming along the Columbia River between Kettle Falls and the border upon the urging of US government officials (Bouchard and Kennedy, 1985, 18). The lure of personal allotments of land and farming equipment and the pressure from European settlers led the Sinixt to settle along with other Native nations onto the Colville reservation after its establishment in 1872 (Bouchard and Kennedy, 1985, 19). Again, owing to their reduced numbers, the decline in both the fur trade and the Kettle Falls fishery, and the arrival of settlers into the area, agriculture became essential for survival (Pryce, 1999, 52-53).⁵ Nevertheless, it

⁵ In 1891, the US government continued its policy of clearing the way for EuroAmerican settlers when it reduced the area of the Colville reservation by one half (Pryce, 1999, 53-54).

cannot be said that there was no Sinixt presence in the north or that they abandoned traditional hunting and gathering practices subsequent to their demographic transition southwards. Their activities in discouraging non-Native settlement, gold miners, and Kutenai use of their territory is documented throughout the 19th and into early 20th centuries (Bouchard and Kennedy, 1985, 20-21; 2000, 59 & 68). Also, their seasonal travels across the border raised suspicion about their duplicitous allegiance to both King George and the US government. They came to be named by Canadians as the “Dangerous Colvilles” who impinged upon the land rights of “legitimate” white settlers based upon “imaginary rights” (Bouchard and Kennedy, 2000, 59 cite *The Kootenay Mail*).

Confusion as to their identity and presence in their northern territory was also fomented in academic circles. James Teit, the well-respected ethnographer and advocate of Native rights, first misnamed the Sinixt as Secwepemc (or “Shuswap”) in his well-circulated monograph, *The Shuswap* (1909). He later recanted this claim in several published and unpublished sources subsequent to finally visiting the Sinixt himself (Bouchard and Kennedy, 2000, 50-51). Unfortunately, the Sinixt were the victims of the popularity of *The Shuswap* and, no doubt, the robust Secwepemc campaign for treaty and other rights from the provincial and governments as part of the Interior Tribes (Tennant, 1990).

When the US Army moved in to clear land for pioneers after the signing of the Oregon Treaty in 1846, (Pryce, 1999, 48), the west Kootenays remained something of a refuge for the Sinixt, especially those fleeing the Indian Wars in the US. This was curtailed when the silver mining boom began in the 1880s. In keeping with a type of colonialism which began under the British whereby the colony was to be self-supporting and not reliant upon British taxpayers, it was the settlers as opposed to the state who displaced the Natives (Pryce, 1999, 58-19). The region’s non-Native population (British, but also French-Canadian, Doukhobor, Chinese and Japanese) also swelled on account of the arrival of the transcontinental railway and the establishment of smelters and sawmills. With no land base, one may speak of a “Lakes diaspora” beginning in the latter half of the 19th century (Pryce, 1999, 36 & 59-60) in which even more Sinixt gave up on residing in their northern territory either for surrounding Native nations or the Colville reservation (Pryce, 1999, 68, cites Teit, 1930, 212). Marilyn James describes the fate of the Sinixt in BC, “Some of us went to Washington, but many went to the Okanagan, some went to the Fraser Valley, some even went up north. We were taken in by everyone” (Hamilton, 1992).

2.2 Into visibility: a reserve at Oatscott for an industrious people

Although the majority of BC's reserves had been established by the time Arthur Wellesley Vowell became the Indian Reserve Commissioner (1898-1911), he was responsible for establishing 59 reserves over the course of his career (Harris, 2002, 220). He characterized them as a combination of having been "overlooked for so many years past" and located "in the most inaccessible and out of the way places" (Harris, 2002, 220 citing Vowell). This certainly describes the invisibility surrounding the Sinixt and the establishment of a reserve near Burton, BC for the Arrow Lakes Band in 1902 deep within the west Kootenays. Given that the turn of the 20th century was marked by intense resistance from the provincial and federal governments to the further granting of lands for Natives (Harris, 2002, 219-224), it is somewhat remarkable that a reserve was finally established for one of the most overlooked Native peoples in the Canada.

In a report dated June 8th, 1901, Indian Agent R.L.T. Galbraith reported to Ottawa that he:

[v]isited a little Band of Indians at the Arrow Lakes...for the first time. They have lived there for many years....They have their homes near Burton City, a little mining town....They appear to make a good living....They are squatted on public Crown lands, and have near little gardens around their home. They are anxious that a portion of the land should be reserved for them and their families" (Bouchard and Kennedy, 2000, 92-93).

In his letter of April 30th, 1902, Galbraith reported to Vowell that: "the Indians living on the land have built themselves houses and fenced in some ground for gardens and planted a few fruit trees, and I think as a matter of justice that they should be protected...The number of Indians, men, women and children who claim Arrow Lakes as their home, is about thirty" (Bouchard and Kennedy, 2000, 93). Vowell surveyed the ground and conducted interviews with the Natives at Oatscott, BC between October 9th and 16th, 1902 (Bouchard and Kennedy, 2000, 94). He prepared a "Minute of Decision" on October 10, 1902 which formally brought the reserve of 255 acres and the Arrow Lakes Band into existence (Bouchard and Kennedy, 2000, 94). The Province approved the Arrow Lake Indian Reserve on 18 November, 1902 (Vowell, 1902a). The reserve was located on the west side of the Lower Arrow Lake, 12 kilometers south and west of Burton City (Bouchard and Kennedy, 1985, 94). Although Galbraith, and thus the Canadian government, understood the band to consist of Secwepemc and Kootenay people, in May 1909 Teit, "the superior ethnographic source," instead identifies them as Sinixt and directly related to the Sinixt

who lived at the mouth of the Kootenay River (150 miles south of Burton), known as kp'ítl'els by the Sinixt (Bouchard and Kennedy, 2000, 96-97).

There was also a bungled attempt between 1901 and 1908 to establish a reserve at the mouth of the Kootenay (kp'ítl'els or “Brilliant”) for the extended Christie family who lived there. Indian Agent Galbraith claimed before the Royal Commission on Aboriginal Affairs in 1914 that none of his predecessors in the Indian Affairs Department were aware of “any Indians in that locality,” a stunning comment given that W.G. Cox in 1861, and four years later, Edward Dewdney, had posted the area as a reserve (Bouchard and Kennedy, 1985, 134). In his testimony at the Royal Commission on Indian Affairs, the Christie patriarch, Alexander Christie, stated that they were Lakes or “S-nai-tcekstet” people and that they had used this particular site since “time immemorial” (Pryce, 1999, 64, cites Christie’s Royal Commission testimony).

Although the Oatscott reserve was used until at least 1919 (Bouchard and Kennedy, 1985), it was so small that it was eventually abandoned and the members went either to the Colville reservation where they were recognized by the US government or to reside with other Native nations (Pryce, 1999, 63-68). Pryce theorizes that Oatscott was ultimately abandoned because it lacked the “density of meaning” (69) contained at other sites, such as kp'ítl'els. One further consideration is that the Sinixt were perhaps not heavily invested in the liberal values observed at Oatscott by Galbraith—Lockean logics of labour leading to a right to land. Extending Pryce’s insight, it could perhaps be said that the Sinixt less became civilized and thereafter abandoned Oatscott for life in mainstream society, and more rejected the narrow moral geography of property at Oatscott for other spaces in which they could enact their moral worldview and traditional ways.

2.3 On their own terms: the intimate relations with the collective in the Sinixt worldview

When Marilyn James explained the grounding of her identity in everyday practice, she made clear that it is immediately oriented outwards, in the sense of the care for the human community:

...and my identity right now is highly steeped in practice...I really hold those teachings and practices as sacrosanct to my identity. And in addition to that, making those practices part of the bigger whole: part of gathering for ceremonies...me and my family gather for three different winter dances and support them that way. We gather and if people ask, we are willing to give our cultural foods to funerals. And the different events that we are involved with, we try to give people a bit of our culture by sharing: and that is a big thing, because

if you are a gatherer at all, that takes a lot of work...to gather roots and berries...it is a commitment for that sharing of a taste of culture in a small miniscule way. It is sharing and in that sharing there is always a prayer because when you have reverence for whatever it is that you are gathering, part of the reverence is not only making an offering and gathering, part of the reverence is sharing that with the people...so that is fulfilling that responsibility for gathering and having reverence. It is a very complex...piece of the identity that is culture in practice.⁶

The collective also comes to include the land, as James' words about reverence attest. A set of intimate relations with the land and people informs the normative horizon of Sinixt political community. Instead of identity being a matter of an individualistic and entrepreneurial sort of self-care in neo-liberal governmentality (where moral behaviour comes to be defined by economic rationality: Lemke, 2001; Brown, 2003), here it is turned to the outside of the self.

In a different context, the ceremonial use of the phrase "all my relatives" to refer to the web of connections or kinship between the individual and everything else on the landscape by Sioux author Lame Deer seems apt (Lame Deer, 1972 cited by Shaw, Herman and Dobbs, 2006). More than the collective simply being important to the individual, however, the Sinixt self is also held, entwined with and constituted by the outside, networks, and the pluriverse. Vance Robert Campbell made clear that although the normative dimension of Native politics rests immanently in the hands of the individual, the objective of practice is to support the relations which fundamentally sustain the self:

Every day of our lives, it depends on the individual, before we do the root digging, we have to do the roots, we do the root feed, give an honour to this thing—you are praying about them all the time, giving thanks for what you have, giving thanks for the life you really do have. Because this life here, there is a lot of beauty left in this world, you can create happiness...you can take a negative thing and create a laughing matter of it: then, you are a magician...⁷

In the Sinixt geo-graphy,⁸ inasmuch as the self is underpinned by gregarious relations, not only do European spatial distinctions between self-other, human-nonhuman and figure-ground collapse, but also the agency of the Cartesian subject comes to be burdened by an ethics of responsibility and humility (cf. Cajete, 2000; Alfred and Corntassel, 2005). James makes this point:

⁶ Interview with Marilyn James, Official Sinixt Spokesperson, 27-28 June, 2007 (James Interview).

⁷ Interview with Vance Robert Campbell, Sinixt Head Man at Vallican, 26 June, 2007 (Campbell Interview). Later, we will see how this same responsabilization of the individual can come about through a politics of witnessing.

⁸ The etymological root of "geography" is "world writing," a term synonymous with "worldview."

The reason that Native culture has always worked and will always work is that we realize that our place in our own social structure...and the context of the whole of being, we are probably the low-man on the totem pole. When you go out and do vision quest, you realize what a small little ant on the globe you are: you are just an itty-bitty, in the scheme of that cosmological construct. In the social fabric of cultural identity, that social fabric is based upon no hierarchy....[P]robably where there was hierarchy...in the olden days, the Chief was the grunt,...when someone came through and asked for assistance and no one else would give it, that leader by virtue of being asked, has to do it...When people were going hungry, it was the Chief who fed them,...the other people who could afford to give gave. And all of those people who didn't have were as important to the social fabric as those who had plenty. Because when it is not about you...it really is about you.⁹

James also illustrated the distinctiveness of Sinixt subjectivity—reverence, reciprocity, responsibility and the ethical decentring of the human—through an example of the incredulousness it produces in settlers and non-traditional Natives. From the latter's individualistic perspective, the Sinixt normative horizon is derealized and moral positioning is essentially perceived as a lifestyle choice within a marketplace as opposed to a time-tested way of being:

When you have Indians saying it and people in the [settler] community going, "Those damn Colvilles, why can't they just play nice?" When...somebody said to me: "Shouldn't we just get over it?" And I said: "Are there still heavy metals in Lake Roosevelt?" ...And until then, I think we should all share in the responsibility and doing what we have to do to create solutions.¹⁰

As James and Campbell attest, above, certain truths are impassable and must be iterated by the individual not as a matter of personal self-fashioning, but for their implication in the relations which sustain the self and the land in an environmentally sustainable and moral way.

The reserves, as I will discuss in the next section, were not just a holding zone for the re-education of Natives, but more profoundly a geographical strategy of domesticating Natives from their traditional semi-nomadism—their relations with "the wild"—and disciplining them into a sedentary lifestyle, a process which involved replacing a worldview concerned with the collective/landscape with one of individualistic competition. James summed up the colonial

⁹ James Interview. James explained the expression of Native normative values in customary law this way: "Indian people had a collective will around their laws that were intricate to the fabric of their being, where white society has no laws they feel anything like that about: it is just law, it is regulation, that is all it is." In Chapter 4, the blurring of customary law, the practice of TEK in the everyday, and identity returns in the politics to defend Secwepemc territory.

¹⁰ James Interview.

strategy of removing Natives from the land as also a type of cutting away at the “wholeness approach” of Sinixt subjectivity:

A lot of that deals again, with the pinnacle point of landscape, of existence, of reconnecting with that fabric. A lot of social policy and practice really was geared toward disenfranchising Indian people from their places of being because places of being represented this very deep seated root of culture...and cultural states of being. ...They, social policy, practice, law, government, the colonial powers that be; they understood that very well and understand it very well today and those practices aren't diminished in any way in terms of their colonial oppressiveness and purpose of disenfranchisement.¹¹

More than mere displacement, removing Natives from their geographies meant removing them from the spaces which held and were the stage for their TEK and their collective-oriented political rationality. They were physically cut from the land and, to the extent that Native worldviews were rendered unintelligible in Western spaces, cut also from a subjectivity which responded to the relations underpinning the self. In place of the spaciousness and gregariousness of Native traditional sites, the reserve afforded a form of individualizing disciplinary control which excluded the excess of the liberal self—what James would call the “cultural place of being” (Pratt, 2005, 1069-1071). Through discourses and rights which connect the subject to the state and grant her intelligibility, the reserves cut the subject off from the outside—from the human, in the sense known to the Sinixt—in exchange for a radically narrow form of cultural citizenship (Ong, 1996).

2.4 Reserves, constitutionalism and the abandonment of the excessive aspects of the self

While the provincial government was establishing reserves for other Natives in the latter half of the 19th century—and successively reducing their size—a combination of cartographic and ethnographic errors, a semi-nomadic lifestyle, the inscription of an international boundary, a population reduced by disease, the attraction to commodities, the drive toward agrarianism, and government negligence conspired to deny a reserve for the Sinixt, as outlined above. When a small reserve was finally established, it was ill-used owing to the preference of many of its inhabitants to live in nearby towns, its limited agricultural potential, opportunities at other Canadian reserves, the limited cultural possibilities of the site, the pull of seasonal rounds, and the

¹¹ James Interview. James added that decontextualization also had a gendered component where the *Indian Act* usurped Native matrilineal traditions.

critical mass of Sinixt at the Colville reservation,. In this section, I set out the politics of the reserve and its entwinement in the establishment of the Canadian state; I show it to be a tool for the extinction or assimilation of Natives in order to clear the land for settlers and enfold natives into an agrarian lifestyle. The geographies of the reserve and the state worked together to bring about the administrative extinction of the Sinixt. With the dissolution of the band in 1956, the Sinixt were removed from the map of the Department of Indian Affairs and had gone from rumoured to exist, to band, to “extinct” in less than 100 years. The incompleteness of the colonial project leaves Canada’s monolithic constitutionalism (Saul, 2008) at odds with its de facto multiplicity. This presents the opportunity to move toward post-colonialism by recognizing Natives on their own terms (the continuity of their practices and worldviews) and, through conciliation with their truths about the world, toward a post-biopolitical era by closing off the space of exception for “life,” the gregarious relations of the self with networks.

Prior to Confederation, Canada had established treaties with the majority of the Native peoples in its provinces in exchange for payments to them and their relocation to reserves. When BC joined Canada, although it had settled most of its Natives to reserves, very few treaties had been signed (Tennant, 1990, 43-44). The reserves in the rest of Canada were designed to grant an acreage sizeable enough for an agricultural model of settlement, whereas the lands granted in BC were penurious and were soon to force (mostly adult male) Natives off-reserve in search of an income in the resource sector (Harris, 2002). Therefore, most Natives in BC both have little reason to be satisfied with their reserves or to give up on their entitlement to traditional territories. The reserves were intended to clear the land for white settlement and to operate as a holding zone for Natives as they made their way from a “savage” state or traditional lifestyle to participation in white civilization. Irrespective of whether a Social Darwinist or humanist lens informed the theory behind the reserves, in both the vision for the settlement of the colony is culturally assimilationist and precludes all political formations outside of that of the liberal state (Harris, 2002, 3-16). This geographical strategy of erasing a distinct people was eventually formalized in the Indian Act.

The Indian Act (1876) was established by the Federal government subsequent to Confederation to govern Indians and Indian lands. In a patronizing fashion, it constructed Natives as wards of the state in need of protection from unscrupulous pioneers: on the one hand, they were not required to pay tax for on-reserve income or property; on the other, they did not have the right to vote in Canadian institutions, both the on-reserve political structure (elected Chief and Council) and movements by Natives off-reserve were scrutinized by the Crown’s Indian Agents,

and Native children were compelled¹² to attend educational institutions run by religious orders from the 1880s to the 1960s. The Act was “designed to protect Indians until they acquired the trappings of white civilization” (Titley, 1986, 13) whereupon they “were supposed to abandon their reserves and their special status and disappear into the general population” (Titley, 1986, 13). Natives could elect to give up their Indian status and become “enfranchised” British subjects.¹³

By setting out who was considered “Indian” or “registered Indian” and therefore entitled to live and be buried on a reserve, the Act worked to divide Native communities. For example, while non-native women could “marry-in” to Indian status, Native women were no longer considered Indian if they married a non-native (Titley, 1986, 11); the result often meant a loss of proximity to community as off-reserve housing often meant relocating to distant white settlements. Given the matrilineal traditions of many BC Native nations, this practice was particularly disruptive. At the scale of the tribe (Native nation), the erection of the reserves also worked to geographically disrupt Native society as spatial links through traditional territories were severed by European settlement and the authority of the Crown.

A band “was defined as a body of Indians holding lands or a reserve in common or for whom funds were held in trust by the federal government” (Titley, 1986, 11). As opposed to the geographical unit of administration being the Native nation, the band not only replaced traditional hereditary political orderings with a municipal-type of administration, but also it encouraged Natives to see themselves as part of a discrete political unit and its entitlements and characteristics, as opposed to their national heritage (treaty rights and traditional political orderings) (Tennant, 1990, 46).

Since the 19th century, the exercise of power across space shifted from the control of land through the force of the sovereign to its more diffuse operation through individual bodies who produce and reproduce the spatio-discursive legacy. The rise of disciplinary power has been effected through spatial strategies of individuation (see Introduction on the power/knowledge of institutions and the state)(Foucault, 2007). Importantly, as knowledge and practice, disciplinary power is more embedded in the social structure and thus less open to argumentation than the ideological operation of sovereign power. Although the law tends to be replaced by discipline, it reappears as “a tactic” to operate on the population in the aggregate (Foucault, 2007)—as a

¹² *Indian Act*, 1920, c. 50, s. 10, as cited by Titley, 1986, 91.

¹³ *Indian Act*, 1880, ss. 99ff.

complement to the “cut” in life expressed by disciplinary regimes.¹⁴ The Indian Act and the reserves exemplify such a tactical return of the law, expressed biopolitically not only as a disciplinary norm but a governmental imperative to defend one population at the expense of another through the coercive force of the state.

There is widespread uncertainty as to whether Natives ever fully understood what being allotted reserve lands meant—the abandoning of traditional territories and the foundation of their “cultural place of being” if not “life”—and whether they would ever have agreed to such a concentration. However, with the enclosure of British Columbia by private property in the latter half of the 19th century and the literal fencing-in of Natives from the landscapes of their customary rounds, they began to protest against the reserve system and demand treaties. Today, it has been acknowledged by the Supreme Court of Canada that Native title and rights have not been extinguished in British Columbia.¹⁵ The province has been engaged in a protracted and expensive process of treaty negotiations. Few treaties have been completed and many Native nations have not taken part in the process as they refuse to countenance the extinguishment of their rights and title by treaty, preferring instead an arrangement for self-government that maintains something of the international relationship they insist has always existed with Canada. Based on constitutional principles and the facts of colonialization in BC, Tully has argued convincingly for the legitimacy of Native demands for recognition, the continuity of their traditions and the requirement for consent in respect of state control over Native affairs (Tully, 1995).

As “Indians,” the Sinixt had a placeholder from which to make claims for recognized rights (and theoretically, treaty rights) albeit under an injurious name (as the vanishing and backward Indian). The loss of band status meant that the Sinixt were denied the basis both for land and to secure funding and other entitlements under the Indian Act. The dissolution of the reserve thereby marked the final act in their passage from invisibility, to visibility (Pryce, 1999,

¹⁴ Biopower is traditionally conceived as a field of power relations as opposed to the zero-sum game of orthodox politics, the confrontation between sovereigns. I use language such as “hegemonic” and “counter” from the latter tradition, as did Foucault himself who spoke of “counter-society” and “counter-conduct” in respect of traditional medicine in Europe, not to confuse these analytics of power but to find vocabulary to describe the concentrations of power within a biopolitical framework. As Foucault has shown, all of these are both necessary and “bad” (Foucault, 2007, 199-201). As mentioned in the Introduction, while both Foucault and Agamben were concerned with sovereign and bio-power, it is important to distinguish Foucault’s philosophical project as one ultimately concerned with *containing* “the outside” (the criminal, the mad, the ill) through knowledge and institutions from Agamben’s as one is concerned with the withdrawal of the law by sovereign power to *include* “the outside” (Gregory, 2007, 206-207).

¹⁵ *R. v. Delgamuukw*, [1997] 3 S.C.R. 1010.

84) (paradoxically through a discourse of the “vanishing Indian”), to ultimately disappearing into Canadian society, not as a matter of enfranchisement but, owing to their continued Native identity, a silencing or falling out of discourse as a people. Aside from suffering vagaries of the state’s failures to support their Indian rights, as Indians the Sinixt would have suffered a further reduced form of citizenship inasmuch as the relations which fundamentally underwrite their identity—such as a collective political horizon and a connection to territory—were only partially supported. In other words, even if the state had fully supported the entitlements of the Indian Act or enfranchised Sinixt individuals into full Canadian citizenship, since Sinixt identity locates autonomy in the protection of a gregarious set of “relations” (zoe) as opposed to the protection of the atomistic individual as countenanced by liberal rights (politically-qualified life), they would have inevitably suffered the exclusion of their personhood from the political and been rendered as bare life (Agamben’s term).

To the extent that this exclusion takes the form of a derealisation of these (considerable) aspects of a subject’s personhood, aspects that in fact define the human, the subject is open to sovereign power since violence can occur with impunity against a culturally impossible subject (Butler, 2004). With the loss of Indian status and the reserve, the Sinixt thereby suffered not merely a disentanglement from the limited provisions of the Indian Act, but a fuller displacement to a no-man’s-land of sovereign force and a complete suspension of protection for traditional life, now realised in law. To the extent that they seek to live as Natives—and not just Canadians—the Sinixt are in a state of legal abandonment (Agamben, 1998). Where they claim a Sinixt identity, as they do today, they seek an identity as a potential “aboriginal person of Canada” who must prove their rights.¹⁶ The violence in this scenario is a matter of political death: The declaration of extinction concluded a particular thread of colonial thinking that assimilated Native bodies and derealized their political investments.

After a brief period of humanitarianism and education, by the mid-19th century British colonialism reverted to force mobilized through racial categories, a policy orientation more in keeping with the actually existing operations of colonial administrations in places like BC where the thought of Native rights was unthinkable until recently (Harris, 2002, 10-11). As Saul

¹⁶ This was the case in *Watt v. Liebelt* (C.A.), (1998), [1999] 2 F.C. 455, where Robert Watt, a Sinixt and member of the Colville reservation claimed a right to remain in Canada on the basis of his Sinixt ancestry. Since the Sinixt are not recognized as a band as a result of the extinction of the Arrow Lakes in 1956, Watt was not able register as band member and thereby acquire Indian status (*Indian Act*, s. 11). He nevertheless argued that he was entitled to remain in Canada on the basis of the aboriginal rights to free passage and to remain which were protected in the Constitution not only for “Indians,” but generally for any “Aboriginal person of Canada,” which includes someone without Canadian citizenship and who is not registered as an Indian: see <<http://reports.fja-cmf.gc.ca/eng/1998/1999fc23793.html/1999fc23793.html.html>>.

explains, this turn to empire across Canada marks an interruption of a “Métis” tradition of nation-building based upon consensus between English and French newcomers and the local Native peoples (Saul, 2008). Extending a similar thesis made about BC by Harris about “this place that has not quite caught up with itself” (Harris, 2002, xxi), the failure to “fix” the “Indian land problem” may therefore be seen as symptomatic of an arrest in nation-building caused by a failure to grasp the Métis meaning of this place called Canada. Under ideologies of assimilation and evolutionary racism, Native difference was targeted as being incommensurable with political community, notably one which as soon as it found it could dominate Natives wilfully forgot a 250 year-old tradition of nation-building based upon the local, Canadian complexities of negotiation, balance and reconciliation.¹⁷ A monolithic national story was imported, grounded in unilinear notions of progress and the particular role of European peoples and property. But as Saul points out, it is also characterised by the self-loathing, fear and humiliation which attaches to the colonial mindset. More than a matter of reneging on treaties and witnessing the end of the Indian race: “Colonialism is a denial of the reality of self in favour of an imaginary special position inside the mythology of someone else’s empire [i.e. Great Britain]. That special position can never exist because empires have their own purpose” (Saul, 2008, 19; referring to Amartya Sen, 2006, 89: “the colonized mind is parasitically obsessed with the extraneous relations with colonial powers”). Therefore, the colonial present is not simply the violent suspension of rights for Natives, but also a disavowal of place in the sense of the settler’s biography which remains fixated on the home country.

¹⁷ Tully calls for modern constitutionalism to be replaced by the ancient constitutionalism of multiplicity (Tully, 1995). Similarly, Saul calls for monolithic constitutionalism to be replaced with a constitutionalism Natives describe as characterized by expandable and inclusive circles of people. Tully interrogates the rich and local stories of the political order in the “aspectival” accounts of the crew of Bill Reid’s masterpiece, *The Spirit of Haida Gwaii, the Black Canoe* (see Chapter 4). Its hybrid and processual qualities stand as metaphors for ancient constitutionalism wherein the recognition and continuity of multiple customs no longer appear “strange” and instead somehow cohere. Just as Tully assails modern constitutionalism for its amnesia and abstraction, I similarly assail the declaration of extinction for willing away Native traditional off-reserve practices through its geographic lenses and seek out “counter-visions” to get at “truths” which may compel resistance to this law. In each, we explore the mythic events of law to counter what the sovereign does with that spectacular power.

As opposed to falling into moral relativism, Tully notes that the positioning of the crew indicates a principle of equity comes to prevail over the equality of liberalism: each individual is located in a particular place according to their contribution at a particular moment. Thus, the trade-offs in Saul’s formulation also have a precedent in Native thought. For a Sinixt example, James stated: “[W]hen you have equals you treat them equally, when you have unequals, you treat them unequally: that could be for the state of existence for Indian people or for a resource. So you wouldn’t go out and hunt caribou the same way you would hunt deer because they are not equal: we are trying to save one on the landscape even though, traditionally we certainly would have [killed them] and they would have been a big part of our diet” (James Interview).

From a biopolitical perspective, the insistence on a rationality which refuses the sort of normative horizon shared by the locals also points up the necessity of a Métis constitutionalism inasmuch as monolithic liberal constitutionalism threatens to suppress all of life. The production of bare life through the spaces of the reserve and declarations of extinction, then, comes to inhibit the potentiality of a post-biopolitical Canadian identity intimately tied and response-able to the geographies and peoples of this place. The story of the Sinixt is therefore important not only as an instance in the recovery of Canada's constitutional relationship with Natives, but also as part of the humanization of the biopolitical state: extending the scope of relations which qualify as part of the political community.

2.5 The declaration of extinction of the Arrow Lakes Indians: the (in)visibilities of the reserve and state

When Vowell established Oatscott reserve, he counted a population of 22 persons (Vowell, 1902b) and noted that the Natives had formerly lived independent of one another at Revelstoke, Trail, Lower Kootenay and Arrow Lakes (Vowell, 1902b). However, this reserve was never home to many people from 1908 onwards. An investigation in 1948 by Kootenay Indian Agent J.S. Dunn found that no one had permanently resided on the Oatscott Reserve since 1916, and by 1932 even the seasonal living at the reserve seems to have ceased (Dunn, 1948; Bouchard and Kennedy, 1985, 155). In the mid-1930's, the government had come to call the Arrow Lake Band the "Burton Band" in its publications since several of its members lived in Burton City (Bouchard and Kennedy, 1985, 156). In his letter of December 29th, 1936 to Kootenay Indian Agent Andrew Irwin, Okanagan Indian Agent James Coleman reported that Annie Joseph, an Arrow Lakes Indian residing in Vernon, "has no knowledge of any survivor of the Reserve except herself" (Bouchard and Kennedy, 2000, 99). A series of correspondences between then and 1952 were concerned with how her death would trigger the reversionary interest of the province in the reserve land and the means of securing income for Natives from the timber thereon before this would occur (Bouchard and Kennedy, 2000, 100).

In 1871, BC ceased to be a colony and joined Canada. Although the Constitution dictated that land was a provincial concern, the Indian Act vested control over Indians and their reserve lands in Ottawa. However, BC only handed over responsibility for Natives to Ottawa, maintaining control over Indian lands. This caused much tension until the province finally handed over control of its reserves to the federal government subsequent to the McKenna-McBride Agreement struck in September 24, 1912. The agreement provided that:

...in the event of any Indian tribe or band in British Columbia at some future time becoming extinct, then any lands within the territorial boundaries of the Province which have been conveyed to the Dominion as aforesaid for such tribes or band, and not sold or disposed of as hereinbefore mentioned, or any unexpected funds being the proceeds of any Indian Reserve in the Province of British Columbia, shall be conveyed to the Province (British Columbia, 1916: II:10-11).

BC formally transferred its Indian reserves to Ottawa in 1938 with this proviso in the Provincial Order In Council No. 1036 on July 29th, 1938 (British Columbia, 1938).

In a final effort to preserve capital for the Natives, R.H.S. Sampson, Superintendent of the Okanagan Indian Agency wrote to B.C. Indian Commissioner W.S. Arneil to suggest that:

...it has occurred to me that it would be wise to amalgamate the Arrow Lake Band with the Okanagan Band, thereby preserving the Arrow Lake Reserve with its timber resources for the Indians. This could be accomplished under subsection 17 of the (Indian) Act which states that the Minister of Indian Affairs, whenever he considers it desirable, may amalgamate bands that, by a vote of a majority of their electors, request to be amalgamated. It is considered that Mrs. Joseph...would be willing to give her consent to such an amalgamation. This proposition has also been previously discussed with the Okanagan Band Council, and they are prepared to recommend it (Bouchard and Kennedy, 1985, 157).

By October 1953, it became clear that Ottawa would not support this scheme (Bouchard and Kennedy, 2000, 100). Coincidentally, Joseph died on October 1st, 1953.

On July 22, 1955, in a memorandum for the Minister of Citizenship and Immigration, L.A. Couture, Legal Advisor declared: "The Arrow Lake Band of Indians became extinct a short time ago through the death of the last surviving member of the Band an old Indian lady" (Couture, 1955). He then described the location of this "old reserve"—a rather odd characterization since it was one of the last to be established in Canada, perhaps referring to the tenure of its Sinixt inhabitants—and cited the reversionary clause to conclude: "...the reserve itself shall be conveyed to the Province" (Couture, 1955). On January 5th, 1956, the Privy Council passed Order In Council No. 1956-3 (Canada, 1956). The Order first cited the BC Order-In-Council 1036 which provided for the return of land to the province in the event of the extinction of a Native band or tribe. It referenced a report from the Minister of Citizenship and Immigration stating: "that the Arrow Lake Band of Indians for whose use and benefit the said Reserve was set aside has become extinct the last member, Mrs. Annie Joseph, having died on October 1st, 1953." W.S. Arneil, Indian Commissioner for BC, sent a letter to the BC Department of Lands and Forests on January 20, 1956 in which he communicated that "We are satisfied that

this Band has become extinct” and, supported by two copies of Order In Council 1956-3, he informed the province that it was now the owner of the entire territory of the reserve save an easement for a power line granted to the BC Power Commission.

What is notable in this historical record of what is essentially the concluding geographical event of colonialism is how the removal of Indian status and a rhetorical platform for treaty claims for the Sinixt occurred not through an absence of law but in partnership with the law and supporting state optics set within a settler cultural economy. The silencing of the Sinixt was the result not of violence waged in a state of nature (Agamben, 1998), but of the entwinement of violence with the law and the cultural (Gregory, 2006, 410). Colonial violence, from its most spectacular forms (colonial wars) to the domination of colonial subjects through racial difference, is effected through law. Furthermore, the law relies upon imaginative geographies in order to create a cultural economy of the Other which legitimizes and renders invisible the most inhuman of actions. The legal geography of abandonment therefore operates with the cultural; assertions of a civilized “us” works to produce the dangerous and inhuman “them,” a spatial representation critical to the denial of recognition requisite of colonial atrocities.

The passage out of political community is a bureaucratic phenomenon enacted by petty sovereigns who, from the constitution of the reserve to its dissolution, cannot be taken as intentionally infringing on anyone’s rights not just because the Sinixt were nowhere to be found but because the bureaucrats were following the law in which the operation of violence had become buried and naturalized. Therefore, one may say that the abandonment of the Arrow Lakes is the result of the declaration and the geographic representations which form the terrain for its “formulation, interpretation and application” (Gregory, 2006, 420, citing Reid, 2005). However, the colonial situation also presents a legally plural setting for confronting sovereign power through Native customary law and the counter-work of alternative representations and practices (Merry, 1988; Sarat and Kearns, 1993). Thus, cultural and legal interventions are potential avenues to assail sovereign exceptionality.

Against Agamben’s debilitating formulation of sovereignty as an empty space, the culturally and legally plural location of sovereign power opens a space for resistance and recovery of the abject; for both bureaucrats and subjects, a terrain is carved out for the recognition of the abject either in the performance of the law or in the performative resignification of the cultural narratives underpinning identity (Butler, 1997). In this section, I will examine how the cultural economy of colonialism (buoyed by Social Darwinism and liberal humanism) was accelerated by its coincidence with similarly narrow governmental perspectives

on Native geographies—the reserve and the state—to bring about the legal silencing of the Sinixt. Inasmuch as these perspectives did not countenance traditional life and potential rights claims by off-reserve Natives, they inadvertently erased the position of legibility for the Sinixt, as “Arrow Lakes Indians” before the state, to produce an “extinction” apparently without legal recourse. Then, in the second part of this chapter, I will inquire into the means of contesting this entwinement of violence, law, culture and ignorance, the unjustness of which is exponentially more pronounced today than at the moment of the declaration. Against the objectivity and finality of the declaration, I will uncover counter-visions of the Sinixt that draw the reader into moral proximity with them so as to encourage the refutation of the declaration’s legitimizing narratives.

2.5.1 Visibility of the reserve:

While the Sinixt were “invisible” for most of the 19th century owing to the lack of understanding in official circles as to their distinct ethnic identity, the establishment of the reserve at Oatscott partly brought them into legal legibility under the rubric of the Arrow Lakes band. Proper documentary evidence for the recognition of the Sinixt had to wait for the work of ethnographers, by the courts and government officials in the late 20th century. In his identification of the Natives at Oatscott in 1901, Kootenay Indian Agent R.L.T. Galbraith thought the Sinixt were originally a Secwepemc band, but had become an amalgam of Lower Kootenays, Okanagans and Secwepemcs (Bouchard and Kennedy, 1985, 139). In its Annual Report of 1904, the Department of Indian Affairs held a different view: “These Indians are Shuswaps and have lived and hunted for years along the Columbia. They formerly made Fort Shepherd their camping-ground. They speak Shuswap and Okanagan languages” (Bouchard and Kennedy, 1985, 140). In contrast, the historical and ethnographic records set out that most of these people are Sinixt (Bouchard and Kennedy, 1985, 140). Bouchard and Kennedy remain perplexed by the governmental ignorance of the Lakes at the turn of the century. In addition to Galbraith’s unawareness of any Native settlement at kp’ítl’els, discussed above, no one in the Indian Affairs department took note of the Canadian government’s 1881 census that found 21 “Colville” Indians living among the Kutenais (Bouchard and Kennedy, 1985, 134).¹⁸ Even as late as the early 1990s, according to the Department of Indian Affairs:

¹⁸ On account of unreadable historical documents, any determination as to whether these Colvilles were Sinixt or whether they lived in Sinixt territory has proved difficult according to Bouchard and Kennedy.

We have no record of these people [the Sinixt]...The band itself has been extinct for a long time...We have never heard of the band. . . . We have absolutely no records on that band or that area at all (Hamilton, 1992).

Recently, the government has belatedly come to accept the existence of the Sinixt, although because the Arrow Lakes band is extinct, the Sinixt have no position from which to access the entitlements provided for all other status Indians under the Indian Act. In 1995, Ron Irwin, Minister of Indian Affairs, said that while they had "ceased to exist as a band for the purpose of the Indian Act ... It does not, of course, mean that the Sinixt ceased to exist as a tribal group."¹⁹ The Sinixt remain in a state of legal abandonment, a silencing which renders them open to further violence at the hands of other Natives, as James attested:

the treaty process is making other Indians claim our territory, so we have Indians playing with the government...signing off on hydro dam projects and mining when this isn't even their territory, the bastards! And they don't know, they don't have a clue what is important here. And many of them don't have a clue of what is important in their own home [Native] country...²⁰

Kirsch says that "property is knowledge" (2001), by which he means that to whatever extent culture may be an idea or kept in the heart, it has an impassable material aspect because TEK relies upon a specific geography, similar to James' point about "cultural place of being," above. As James further points out, where neighbouring nations claim their territory, these nations are claiming the right to land in which Sinixt TEK is embedded. Therefore, not only does the treaty system lead to Natives surrendering sovereignty, but also it also supports the ethnocide against TEK insofar as other Natives claim the land as their own.

As the orderly clearing of the land of its "backwards" people in the interest of "civilization" had been naturalised as the objective of the reserves, it was already accepted that Native land would be returned to the Crown. On this view, any injustice stemming from the declaration could only come about in the instance of a group being forcibly deposed of their reserve. However, as the analysis of the biopolitics of the reserve suggests, the lines of reserve inscribed a category of Indian subjecthood which already precluded natural life from state visibility. It follows that an empty reserve may indicate more the preference by the Sinixt for

¹⁹ Letter from Ron Irwin, PC, Minister of Indian Affairs and Northern Development, to Jacqueline Heywood, The Coalition of Supporters of the Sinixt/Arrow Lakes Nation, 9 August, 1995 (on file with author); <http://www.sinixt.org/images/Irwin_letter.pdf>. The letter deals with the matter of refusing test case funding for *Watt v. Liebelt* (above), in which Robert Watt, a Sinixt from the US, sought to remain in Canada based upon his aboriginal right to do so. The "recognition" of the Sinixt appears hollow.

²⁰ James Interview.

other geographies and less evidence of “extinction.” The amnesia and antiseptic abstraction of the optic of the reserve barred any inquiry into the geography of the tribe and its customs and made the process of denationalization (the production of bare life) appear “victimless”—from its first staking out by Vowell to the declaration. Had the government deployed a broader optic and been aware of the existence of Arrow Lakes residing off-reserve, let alone the Sinixt as a specific ethnicity for which the reserve was their only legal link to the state, it is doubtless that the erasure of a geographic placeholder (the umbrella of “Arrow Lakes” from Oatscott) would have connected the declaration more directly to a process of unjust disentanglement from land and/or Indian status. Instead, state visibility of the reserve allowed Annie Joseph’s death to be taken as the genealogical conclusion of the band²¹ even though countless, unnamed Arrow Lakes-Sinixt were pursuing their traditional life on their traditional territories.

2.5.2 Visibility of the state:

A second geographic lens which also contributed to the production of the “extinction” of the Sinixt by again truncating the spaciousness of Native custom was the international boundary bisecting the Sinixt nation along the Columbian plateau. I have outlined how the confusion over the existence of the Arrow Lakes as a distinct peoples and the myopia of reserve demography lead to the declaration of extinction based upon a geographical as opposed to phenotypical category: since the government was unaware of any Arrow Lakes remaining on or off-reserve, a band was declared extinct with little heed to the “life” outside the state’s gaze. The lines of the state, the international boundary, were similarly deployed to enframe a platform of intelligibility for Indians without which the declaration would not have appeared just. The declaration of extinction for the Sinixt people by the Canadian government is astonishing given that on the other side of the international boundary, over 257 Lakes people were listed on the census of the Colville reservation around the same time (Bouchard and Kennedy, 1985, 158). Given the existence of an Arrow Lakes-Colville population whose transborder travels were a de facto, and

²¹ Campbell and James would counter that owing to the numerous government maps and census that confirmed the Sinixt presence since the last half of the 19th century, the government must have known that by declaring the Arrow Lakes extinct that they were taking aim not simply at a geographical category (“band”) but a tribal one liable to claim treaty rights to the Columbia river basin. For them, the evidence suggests less misunderstanding on the part of the government than an intentional decision to deny their legal subjectivity in the interests of removing any barriers to the hydroelectric energy agreements between Canada and the US (*Columbia River Treaty*, 1964)(generally, see: Loo, 2004). The majority of the data, however, supports the hypothesis that since the government understood Oatscott as having a composite Shuswap-Kootenay population and no specific Arrow Lakes-Sinixt people that the declaration was not made with such intentionality. However, to the degree that contemporary governments ignore Sinixt claims, we can more affirmatively impute such intentions in the colonial present.

possibly de jure, Native right over Canadian sovereignty, state territoriality was absolutely central to enabling the government to declare the Arrow Lakes extinct whether as a band or a people.

From a geopolitical perspective, the difficulty of declaring Arrow Lakes-Sinixt extinct as a band is not that any Canadian Indians lost their status, but that Arrow Lakes- Colvilles lost a critical territorial foothold in Canada. Just as declaring the band extinct through the lens of the reserve territoriality marginalized off-reserve Sinixt, the lens of state territoriality marginalized US-based Sinixt. By denationalizing the band, international rights of passage, the right to remain, and ability to convene the community in the north were not extinguished but the most propitious means of asserting them, through band membership, was removed.²² If the Arrow Lakes-Sinixt were in fact extinct in Canada as suggested by a reserve visuality which eschewed custom, this in no way would have justified truncating the spaciousness (Fanon's words) of the Colville-Sinixt world, that part of their identity which seasonally called them to the Arrow Lakes. In a similar operation to how the reserve visuality admitted no discussion of traditional territory, state territoriality also suffered from amnesia and abstraction about Native wanderings. The border which previously had been fettered by Native life was hardened, at least along legal lines. For the Colville-Sinixt, one can see a sovereign acting extra-territorially to suspend life. In the next part of this chapter I look upon counter-visions of the Sinixt worldview and custom which draw the reader into closer proximity with these people and afford an opportunity to assail sovereign power. Where the colonial imaginations of vanishing, extinction, assimilation were "anchored" through the decontextualized and abstract visuality of reserve and state territoriality, I now point to partial and particular stories of the fulsome lives of the Sinixt to interrupt state visuality and governmentality.

²² Often misnamed as *Jay Treaty* rights, Canada and the US both continue to recognize the cross-boundary rights of Natives according to distinct criteria (a fettering of sovereign power). In Canada, the Sinixt or any band would have to establish these rights based upon an extensive range of criteria (see *R. v. Delgamuukw*, 1997, p. 1107-1108; *R. v. Liebelt*, 1998; Nickels, 2001). Whereas in the US, this right was historically a matter of blood quantum, in Canada, it was a matter of membership in a band.

3: PART II: COUNTER-VISIONS OF NATIVE KNOWLEDGE, REOCCUPATION OF LAND AND PROTESTS TO PROTECT SACRED SITES

3.1 Openings to the excessive aspects of the self

I think that a lot of people are very, shy or lack enough confidence to pursue what it is that they want to pursue and maybe they limit themselves: Other people don't. And I think that if they are called to do it, they do it. If they are called to do it and they allow social policy, law, property, to disenfranchise their directives, then it is not really traditional practice then, is it? Because you have to do it, you are directed, that is what traditional is: You follow tradition. And you practice: that is what traditional knowledge, traditional use, that is what it is about.²³

Rather than sovereign power operating in an empty space, the law and a cultural economy underwrite its violence and thereby open sovereign power to strategic interventions through counter-visions of Native tales and customary law. In the remainder of this chapter, I present a series of transparent (or partial and particular) knowledges of the Sinixt practicing their TEK, reclaiming the remains of the ancestors, forging a community space at Valhalla, launching a land claim, and defending sacred sites which betray the silencing, forgetting and objectivity of the declaration of extinction and point to the state's contemporary unwillingness to recognize them as even more abandoning than the original declaration. By drawing the reader into proximity with the Sinixt and their customs, I hope to encourage a re-visioning of the cultural economy underpinning the declaration in the interests of replacing a biopolitical gaze which impinges on the Sinixt as well as life in general.

Clearly, the renovation of the cultural economy and assailing of biopolitical truths will not simply occur because I have written about it. Many have heard eloquent tales of the Sinixt's plight and yet they remain officially extinct. By publicizing their story from a particular political geographic lens, the space of exception, my contribution is to more explicitly frame their dire circumstances. Through a politics of witnessing of what people are saying and feeling on the ground, I humanize a story of biopolitical dehumanization and encourage the renovation of the cultural economy by positing not just an obligation to the Sinixt,²⁴ but a self-regarding one to the degree that the suppression of life by biopolitics threatens everybody. My responsibility as a

²³ James Interview.

²⁴ Current estimates of the Sinixt population range from the 1000 located on the Colville reservation (Mehler Paperny, 2008) to a total of 6800 as estimated by James (CBC, 2005).

researcher who was given responsibility for knowledge of the Sinixt was put to me by Campbell and I hold it as applying to the reader as well:

BC- Eventually, the world will ask the Canadian government why they are doing that [denying Indian status] to those Indians?...Somebody will finally ask them...And everybody knows about it in the whole valley but they won't do anything about it. I keep telling them: Why do you want to do this to us? And they say, We are not doing nothing. Yes, you are! Because you are not doing nothing about it then.

SR- But not doing nothing is not the same as not coming to ask and learn about the situation?

BC- That is the same thing...if you are not part of the solution, you are part of the problem...nobody gets off the hook here...that is all there is to it. Stop right there...Then you will walk away, "I hear what the man said, but I am not part of it." And that is why we are like we are. Cause everybody has the same feeling when they walk away: "That's not right. But what can I do? Nothing." And away they go..."²⁵

I hope to meet Campbell's incisive critique of scholarship (its authors and readers), the space between their ethics and deeds, by showing the acute political stakes involved in abandonment and by explaining how it is less an event of the past for which settlers have no responsibility, but is something in which they all are fully implicated today as both its subjects and objects.

3.2 "Politics of witnessing"

From the boardroom in Victoria's Belmont Hotel (site of the McKenna-McBride Commission on reserves, 1912-16) or the Indian Affairs Department in Ottawa, colonial battlestars regulated the meaning of Native "life" and, through a partial and selective knowledge, justified policies of dispossession. The plotting of the reserve and issuance of the Declaration of extinction represent the passing through of a colonial gaze intent on mapping a world which can support its governmental objectives, the truths that matter to it, as opposed to "local and densely textured modes of understanding" (Harris, 2002, 233). Colonial geo-visibility refuses intelligibility to complex life projects and presents instead decontextualized, antiseptic, detached and remote images of the world. According to Lisa Parks, it is precisely when the viewer is presented with imagery of a crisis that she must refuse the position of spectator and become a witness; in place of an "automated gaze that makes it all too easy to be complicit with the atrocities in view," she must demand embodied, partial knowledge and interpretation which opens

²⁵ Campbell Interview.

the image to the truths outside of colonialism's "eyeless vision" (Virilio's words, cited by Parks, 2001, 600). In the interests of transparency, atrocities are "anchored" through "objective" Orientalist discourse which eschew the full context and rendered antiseptically because they are known only at a distance. Parks calls not for Hollywood realism, but for a piecemeal approach to truth, one characterized by the querying of authority and the stitching situated—and often opaque—knowledge from allied constituencies together. A translucent geography comes into view which importantly allows for the particularity of their politics (Ong, 1995, 354 as cited by Pratt, 2004, 173; Hyndman, 2010). Across the resultant landscape of epistemological gaps and fissures, political alliances come to be formed owing to the exigencies of the colonial present (Haraway, 1991; Rose, 1997).²⁶

The Declaration operates as the state's official perspective but its remoteness must be used to implicate the state in what has been effaced (Parks, 2001, 602). Given the distancing of colonial activities from life in the centre and that its atrocities are often in the past or so traumatic as to be unrepresentable (how can you witness an extinction?), one strategy is to adopt "counter-visions" which "lend human context to depictions that have tended to disembody, and, hence, dehistoricize the effects" of colonialism, through art or, as in the instant chapter, testimony (Parks, 2001, 600, citing Maclear, 1998, 5). Armed with this personal, direct and angry knowledge and self-representation, stereotypes of savages, extinction and subjection are unsettled by this counter-vision. By representing on-the-ground testimony of a still-unfolding trauma, I aim to insert partial truths to unsettle the cultural economy of extinction used to legitimate the abandonment of the Sinixt. I present not a competing hyper-reality but a swarm of competing tales that draw the reader out of orbit and into proximity with the local excess, what colonial technologies of inscription have left on the cutting-room floor.

3.2.1 Continued and dynamic enactments of TEK and Sinixt rationality

In 1981, a road was being planned in the west Kootenays which would run through a Sinixt burial ground. Ignoring the suggestion of anthropologist Gordon Mohs to contact the

²⁶ What Parks calls a "practice of witnessing" (2001, 601) has its origins in feminist critiques of Western science and epistemology (Harding, 1986; Haraway, 1991), critical geopolitics (Ó Tuathail, 1996; Routledge, 2002), feminist critiques of geopolitics (Dowler and Sharpe, 2001; Hyndman, 2004), and cultural geographies of colonialism (Said, 1978; Gregory, 2004; 2006). From critical media studies, I apply the visual literacy tactic of switching from spectator to witness to the case of the legal geographic imaginations and state visibility of the reserve and the declaration of extinction. As explored in Chapter 1, Pratt (2004) advocated for the inclusion of the performances and opacities of research, the stuff the researcher may not at first consider "evidence," for the opportunity to galvanize activism through setting up the contrast between the inadequacy of the category of the citizen and the requirements of human identity.

Colvilles, the BC Heritage Trust sought to avoid cross-border jurisdictional matters and instead sought permission from the Kootenais at Creston and St. Mary's (Pryce, 1999, 101). The burial practice which so clearly identified the remains as Sinixt was ignored by the BC Heritage Trust and the Kootenais, as James describes:

[S]itting in a flexed upright foetus-position, buried in cedar burial baskets, facing east are Sinixt—that is our burial practice, we are the only ones who did that. There is no question.²⁷

Eva Adolph Or, a Sinixt elder born around 1910 who was based at the Colville Reservation, sent her son Vance Robert Campbell and Manny MacDougall to check on another Sinixt site on the Arrow Lakes reputed to have been used by a different Native nation in 1987 (Pryce, 1999, 108 and 111). As a result of this visit, the Sinixt learned of the exhumation of their ancestor's graves for the purposes of the road. They first sought legal action against BC Heritage Trust, the owner of the Vallican site, to stop the construction of the road and, when these avenues were exhausted in 1989, they established a blockade. Campbell, chosen as the Headman by his elders, told me about why he led the campaign to protect the remains:

SR-Why did you return to the land?

BC-Because of my mom and the love I have for my mom and because the love that my people had for me and the trust they had in me. So much that they think that I could actually do it [seek the protection of burial remains], so they came to me and asked me because I was the strongest thing that they knew. They said if anybody could do it, I could do it and I would not stop: because that is the way I am. And so they sicked me on it and that is why I did it, because it is important that people don't dig up my graveyards and fill in a road with their bones and everything...as if they didn't matter. Because the government says we are extinct, then these bones don't matter so there is no body to protect them. Well, my mom, she told me you are my eldest son, then are your people...you [were] raised by the spiritual people, you have a job to do and you must go and do that. She knew that because my grandfather raised me in a spiritual realm and with the knowledge of the universe so that we would never have to be afraid: fear life or death...you can enjoy life sitting on the sidelines or you can be right in and be...depends on what you want to do.²⁸

Implicit in Campbell's actions and comments is the extent to which the fulfillment of his customary spiritual and legal obligations to his people also represented a sovereign act for the Sinixt as the protection and control over one's dead is an important rudiment of both identity and self-determination (Pryce, 1999, 102). Also, where he acted in response to his spiritual teachings

²⁷ James Interview.

²⁸ Campbell Interview.

and his connection with his mother, Campbell may also be seen as enacting those aspects of Native personhood which fall outside liberal individualism.

Sinixt sovereignty remains a *de jure* fact. As James explains, the Sinixt did not declare themselves extinct and their laws remain the ultimate authority over the Sinixt. Furthermore, given the fragmented and differentiated form of sovereignty in the contemporary era of globalization (Agnew and Corbridge, 1995; Whitaker, 1995?), while Canada certainly maintains authority over a vast number of issues in the everyday lives of Sinixt, there is a vaster area of Native personhood which has no truck with this sovereign. Sinixt territory today is marked by overlapping sets of authorities and laws, as opposed to being a fixed unit of territorial space controlled by Canada. James explicated the challenges which surround performing the aspects of Native identity under the strain of being outside the political community:

Someone would say to me...“They say you are extinct, but you are not! You are still existing!” Yes, but I am also compromised: my actual ability to exist as who I am, what I am, be entitled to what everybody can be entitled to who hasn’t been declared extinct: I am limited...Sure we can practice, I can still breathe and my heart is still beating and I am not going to fall over by a declaration of extinction. The same way that Indian spirituality and TEK isn’t going to fall over from yet another white appropriation: we can’t stop anybody from doing what they are going to do. We can however inform people that it is not right.²⁹

Her choice of words suggests the separation between retaining the minimal indicia of human life—breathing and a heart beat as the “bio”-political existence of the individual rights-holder—and the broader “entitlements” of other Indians and the fullness of her life as a Sinixt person. Conversely, where she affirms the limits of the tangible effects of discourse and the potentiality for its reinscription by virtue of the continuation of Sinixt bodies tied to alternative political horizons, custom, and law, James allows us to see the heterogeneity of space by presenting an Indigenous geography pushing back (see Chapter 1). Her comments elucidate the basis for the resistance that Sinixt individuals like Campbell took up, as well as something of the opposition to the Native self by a world with no words or space for the Sinixt. Campbell made a similar observation of what pushes back on being Native at the scale of the community:

²⁹ James Interview.

SR- Marilyn tells me that there are at least 6800 Sinixt people:³⁰ do you think they are practicing customary law?

BC-Very few of them. The rest are all—it is too hard to be Native and do those things. There are no Natives left, they don't believe it no more, they have been defeated to a point where they are totally domesticated. It is like I said, they don't know their language, they are full-blooded Indians who don't know their language, they don't care about it. They don't care about nothing anymore.

SR-Do you think that it is just a handful of people who engage in traditional hunting and gathering?

BC-The main thing, I am not that way: I know that everybody has to overcome certain things. Some people—that is what we came here [back to Sinixt northern territory in Canada] for—to overcome certain things that we feel we have to overcome. It is hard to formulate ourselves so we can live our beliefs.³¹

The road finally went through in March 1989, damaging a terrace of Sinixt pit houses at Vallican (Pryce, 1999, 101). Beginning in 1989, the Sinixt began trying to acquire the remains that had been taken from Vallican. These and remains from other Sinixt burial sites had been distributed to various museums and universities across the world, including my own university. The Sinixt faced many obstacles in securing the return of the remains: since they were not recognised in Canada, the institutions such as the Royal BC Museum would only deal with them through the Colville reservation administration; and since their reappearance threatened the land claims of Canadian bands, much of the support they eventually secured was conditioned to not include any entitlement to land (e.g. the Kootenay Area Indian Council). Eventually, they secured the repatriation of remains and, in November 1998, fifty-five bodies were ceremonially reburied (Pryce, 1999, 98-102). Even though many of the remains had not originally been disinterred at Vallican, they were nevertheless reburied there on account of the destruction of their original place of rest by the inundation associated with the many hydroelectric projects in the area.

By reburying their ancestors, the Sinixt followed their law and assisted their ancestors in following the cultural law and continuing their journey.³² The act of reburial is a way to connect individuals to the land and their ancestors, the “wholeness” at the core of the Sinixt worldview.

³⁰ As of 2010, there are 250 blood members who officially are members of the Sinixt Nation Society. The other Sinixt came to be affiliated with nearby bands; women were cut off from their Sinixt identity under the old *Indian Act* which removed their Indian status upon marriage to nonNative men; and, Native infants were regularly placed in white foster homes. Interview with Marilyn James, 19 November, 2010 (James Interview, 2010).

³¹ Campbell Interview.

³² James Interview, 2010.

The ceremony offered an opportunity to build social cohesion as Sinixt from near and far reunited, stood vigil through the night and held feasts (Pryce, 1999, 103). Sinixt culture is further actualized by re-enacting a reburial performance already performed by their ancestors, allowing present day Sinixt not simply an ideational but also an embodied and “personal” connection with their ancestors through a “collapse of time and anonymity” (Pryce, 1999, 115-116).

Yet rather than replicating the past, the approximation of the original reburial ceremony demonstrates the vitality of contemporary customary law and TEK. In contrast to the colonial imagination which wants to “fix” Natives in the past and insist on their exclusion from a version of history which includes progress, Sinixt tradition and culture is not reliant upon a slavish imitation of the past for its authenticity but instead works its way through contemporary problems based on the principles derived in its worldview. Pryce observes that while the Sinixt may not agree on the nature of their shared identity (98), their cultural memory carried through oral accounts of law, burial technique, and geography of the west Kootenays (107) is marked by certain constants. To the moral code of reciprocity between humans, the land, future generations and ancestors advocated by James and Campbell, also involves egalitarianism and freedom from Native and non-native bureaucracy (Pryce, 1999, 9).

The “Lakes’ way” (Pryce, 1999, 130 cites Elder Eva Orr) manifests itself in Sinixt laws and TEK. It is expressed in layers of legal regulation. The law of land—whiplacken or “general law”—holistically guides the Sinixt by setting out their general responsibility to the land, community and future generations. Important to a matriarchal culture, the Sinixt also have a specifically women’s law—smum-im or “belongs to the women”—which, among other things, sets out women’s leading role in control of property (land and movables). Other specific laws include those surrounding the Salmon Chief, which set out the responsibility of limiting the harvesting of salmon so that there is enough of it for the communities and animals upstream.³³

The annual Winter Dance expresses Sinixt law and TEK and centres on the self’s responsibility for self-control and to act with honour. Held over four days at Vallican, it involves the gathering of traditional foods, family and spirits (the community). On Day 1, a pole is erected and the spirits and individuals are called in. Day 2 is given over to the individual’s evaluation of the past year: what did and did not get accomplished, as well as what good and bad things happened. This day is important for evaluating one’s identity in respect of underlying principles. On Day 3, the individual begins to look forward and hope for the health of the land and the people over the next year. Finally, on Day 4, the individual returns to the present and prays for

³³ James Interview, 2010.

herself and her community. The dance per se is thereby not simply a physical act but the embodiment of these ruminations, prayers, laws and principles: a further, albeit ephemeral, spatialization of the “Lakes’ way” on the landscape.³⁴

The enfolding of the material results of TEK (culturally important foods) and an assessment of activities from the previous year in the Winter Dance is given further resolution in the comments of Robert Watt, the appointed caretaker at Vallican:

When we have our ceremonies, a lot of the foods we eat will be traditional foods but to make that happen through the year we will have to like start in the springtime going out gathering the roots and... gathering the berries and at the same time there will be guys out and they will be getting the fish, deer, elk... And through that it keeps us in touch with our foods and medicines and plants and animals because we have to gather that for the ceremony but also part of the ceremony is giving thanks for all the foods and medicines and the plants—things we got from the year before.³⁵

The consumption of traditional foods collected throughout the year both affirms the Sinixt principle of reverence and assists in the recollection and evaluation of a year of one’s life. However, the “Lakes way” involves more than a closeness to nature and gratitude for its bounty, but also practices and an underlying rationality about conduct on the land which consider a host of externalities ill-recognized by the cost-benefit ratio of mainstream society:

A really important thing to our people is the way they approach foods or medicines. Before they gather it they talk to that plant or that medicine and they tell it what they are going to be doing with it... they might even ask it for its help. And you give thanks for it when you gather it [service berries, huckleberries, bitterroots, camus, wild potatoes]... Like if somebody was sick and that plant could help ‘em you would talk to that plant and tell it why you are gathering it.³⁶

While there are clearly spiritual aspects of TEK outside the knowledge base of the nonSinixt audience, one can gather a sense of their ethical worldview: Coupled with the underlying principles of reverence and gratitude, the negotiation with the plants decentres the individual and places the collective on the normative horizon of the political community (especially so in the

³⁴ James Interview, 2010. Another aspect of their worldview is an adherence to Prophet Dance notions of destruction and resurrection, and a sense that the world has lost its moral compass and that Sinixt values are important for protecting the world and act as a salve against this apocalypse (Pryce, 1999, 98 and 131). These values converge in the Sinixt perception of the immorality of the unearthing of their ancestor’s remains as well as their acts of reburial and activism, seen as essential to putting at least part of the world back in order (Pryce, 1999, 9-10).

³⁵ Watt Interview.

³⁶ Watt Interview.

debilitating example of illness). The underlying Sinixt rationality is further fleshed out in an inversion of the Garrett Hardin's tragedy of the commons thesis, where Watt critiques property for its anti-commons effects³⁷ or how it undercuts the relations which sustain the self:

And you do not...gather more than you need. And you recognize, too, that you will be taking a piece of that plant or you will be taking a whole plant and by recognizing it as another being. It keeps it from over- harvesting or abusing that at all. The big thing instead of any kind of monetary or value like that...in the Indian way of thinking would be you would see that person get well... and that would make it so it would always be there for everybody else to use, too. By putting a monetary value on it, then they [nonNatives] over-gather stuff and try to sell stuff, they gather more than they need because you have to...That is where things get all out of whack and out of balance.³⁸

The historicist reading of Native culture denied it a place in the history of progress by assigning to its TEK and customary law a “confused” mixing of subject and object (Latour, 1993) and a “static” and unchanging quality (Chakrabarty, 2008, 6-16). Here, Watt's description of reciprocity and kinship with the natural world instead reveals a nimble application of the Sinixt worldview to the contemporary challenge of environmental sustainability or stewardship.³⁹

Although it clearly has a set of foundational values, the practice of TEK and Native law have always been dynamic in its response to present circumstances and constraints. But in the colonial present, its continuity has been severely impacted by the erasure of knowledge through the depopulation brought about by the arrival of Europeans and small pox, the ethnocide waged by the residential schools, the disinterring of ancestors, and the displacement from and destruction of the geographies in which it is reproduced, such as the damming of the Columbia River. The requirement of having to rebury and repatriate Sinixt ancestors—a situation most likely not anticipated in the annals of Sinixt TEK, akin to the damming of the Columbia River which has done away with the original role of the Salmon Chief—is but another example of the unprecedented sort of conditions of contemporary times. Nevertheless, the absence of an extant historical cultural practice does not imply that the contemporary practice is any less traditional to

³⁷ Where Michael Heller (1998) critiques property for the over-privatization of the common inputs essential for further innovation, Watt proposes a related anticommens effect of property rights whereby their natural intrication in an economic regime of growth (for the sake of growth) pays no heed to their reliance on the collective for on-going prosperity.

³⁸ Watt Interview.

³⁹ I side with Russell Barsh, an Indigenous peoples scholar, who points out that *traditional* refers not to the antiquity of TEK but to its means of transmission and use: “Much of this knowledge is actually quite new, but it has a social meaning, and legal character, entirely unlike the knowledge indigenous people acquire from settlers and industrialized societies” (Barsh, 1999, 74-75).

the extent that it remains animated by the Sinixt worldview.⁴⁰ For example, the reburial ceremony included an acknowledgment that the bodies would be returned to the earth according to the custom that the Sinixt knew to be appropriate to their ancestors (e.g. the positioning of the body) and, where the situation exceeded existing TEK, they kept the practice as simple as possible in keeping with the Sinixt principle that when you do not know, it is inappropriate to pretend that you do. This example of TEK has occurred over the course of the twelve burial ceremonies which have returned 61 ancestors from far-flung institutions to their resting place on Sinixt territory.⁴¹

James' comments on the campaigns for repatriation explain the shift from philosophical values to action as a matter of responding to Sinixt law: "We have a cultural law. From the earth we come up, and we must go back. When archaeologists dig us up, they are keeping us from going back and following a law" (Hamilton, 1992). The disjuncture between their values and events compelled action underpinned by Sinixt ethical and legal obligations. In reclaiming their identity through mortuary practices, Sinixt culture is expressed differentially, a quality that James told me is constitutive of Sinixt TEK:

As we went about it, we didn't try to make something up or pretend that we knew: we said that we cannot reconstruct that ceremony and we are not going to pretend and as Indian people we are just going to do what we have to do. We are going to put them back our way, with an apology to them and not try to recreate. Well, that is very traditional. Indian people never ever tried to pretend to know something they didn't know or pretend to recreate or do something out of the context of being an Indian. And in that state, that is completely traditional: that is completely the Indian way of being...that was my ancestors' way of being 5000 years ago...To me, again, that is a traditional response. Have there been changes? Definitely there have.⁴²

Because the continuity of TEK was never merely about repetition, where the Sinixt apply the undergirding principles of TEK to contemporary activities—even under unprecedented conditions—it is perhaps better understood as yet another iteration of TEK rather than a break with the past.

⁴⁰ James Interview, 2010.

⁴¹ James Interview, 2010.

⁴² James reasons that if Natives ever pretended to know in the practice of TEK—in the case of hunting, for example—the consequences from nature would prove severe (James Interview). On the multiplicity and the "spiral" as the symbol of Okanagan TEK, see the interview of Jeannette Armstrong, Okanagan knowledge keeper, in Chapter 4. Armstrong uses the metaphor of weaving to explain how just as a conical basket gets larger as it follows the form of a spiral, the application of TEK takes on new circumstances; and just as the basket remains faithful to the original circular form, TEK returns to time-tested knowledge. This is not to say that specific concrete practices and knowledge have not been lost.

Aside from the elaboration of customary law, the reburials also exemplify a type of hard confrontation with settler law. In contemplating the achievement of repatriating the remains as a component of the longer term goal of self-determination, James stressed that the success or failure of either would in no way diminish the continuity of Sinixt law:

MJ-Whether we did/didn't get the remains back would not have measured the success or failure of whether customary law existed. Our desire to fulfill our responsibility under customary law to our ancestors and the cultural law that says we have to go back: the fact that we are limited in fulfilling our laws doesn't mean our laws aren't there: they are still there. The fact that we went and got remains that nobody else wanted and that the government didn't want us to have—and we just said, “Turn those remains over or we are going to make you look like shit.” And their motivation was, “give them the remains before they call the press.” And we are still extinct, and we brought all those remains back to our occupation camp site, we reburied them there, that campsite still belongs to BC Heritage Trust; they have no inclination to turn that back over to us even though we peacefully occupied that land for twenty years. We took care of it, [BC] Heritage Trust has dick to do with it: if Heritage Trust was making progress, that [the land] would have been turned over to us.

SR-Maybe in settler law there hasn't been progress, but in fact there has been 20 years of Sinixt occupation.

MJ-Exactly: just because we are declared extinct doesn't make that a reality. Just because we are defined a certain way doesn't mean—and it might impact of how that reality hits the road—it indeed doesn't control the reality.⁴³

Even though James is adamant about the self-sufficiency of Sinixt law, the return of the remains evidences customary law confronting settler law which, in the end, is forced to bend to Sinixt demands and recognize something of the continuity of their practices, an acknowledgement, however subtle, of the sovereign right of a people. The Sinixt were the first Native peoples in Canada to secure the return of their remains from the state. Today, in keeping with their historical role as a “Mother Tribe” which dispensed legal advice and settled disputes among Native nations, they are consulted by other Native nations who are interested in crafting their own traditional protocols for reburial.⁴⁴

3.2.2 Permanent presence on the land

The restoration of Sinixt culture through a relationship with the land has taken the form of a settlement at Vallican since 1989 (officially held by BC Heritage Trust), which contains the

⁴³ James Interview.

⁴⁴ James Interview, 2010.

burial site where their ancestors were first disinterred.⁴⁵ Located 40 kilometres north of Nelson, it also contains a historical Sinixt winter village and an inland midden site. The appointed caretaker, Robert Watt, maintains traditional practices at this site and welcomes foreign guests (such as delegations of Tibetan monks, Hawaiian Natives, and other allies: Pryce, 1999) on what remains the longest peaceful retaking of Crown land in Canada. Even though this land is considered sacred, the local community is also welcomed for annual gatherings and elementary school fieldtrips. Vallican may be seen as a permanent expression of “keeping the Lakes way” in the conditioned or differential sense illustrated by the repatriation: it not only is the site of the Winter Dance and several sweat lodges, but it also aims to establish an autonomous community and permanent homes for Sinixt people.

James states that it is a “pivot point or place” for Sinixt culture in the sense that the landscape holds and gives rise to knowledge specific to it. As in the case of extant knowledge about the duties of the Salmon Chief for rivers which have long lost their salmon stocks, TEK on the now extinct freshwater mussels continues to be carried by the Sinixt. Even though knowledge on when and how to prepare the mussels cannot be fully performed, the knowledge remains and its underlying principles are now applied to new circumstances. Similar to the differential quality of the reburial, Sinixt fishing practice has switched from salmon and mussels to other fish. Owing to its more permanent spatialization of Sinixt culture, the continued presence at Vallican materializes a counter-geography and counter-vision of the Sinixt are relayed through their events and interactions with Natives and nonNatives. It is now another link in a network of places where the Sinixt go to across their territory to affirm their identity (on “root feasts” at Kelly Hill, WA, see: Bouchard and Kennedy, 1985, 5).

3.2.3 Land claim and right of consultation

In July 2008, the Sinixt Nation Society, an organization based in BC, filed a writ against the government for aboriginal title, nearly identical to one filed by the Arrow Lakes Tribe from

⁴⁵ Known as Archaeological Site DJQJ1. Vallican also contains a second archaeological site, Lemon Creek, in which the Sinixt are also consultants. The research on these sites was conducted by the University of Montana and Hamilton College, respectively. The Sinixt also maintain a presence at the Big House property, Figure 5-6, where I conducted my interview with Robert Campbell in 2007. Originally, this land was owned by the Colvilles. Some other examples of their presence on the land includes a memorial at Selkirk College (Castlegar) for the Christie family, information panels on the Millennium Walks in Nelson and Castlegar, and educational outreach to elementary schools.

the Colville reservation in 2003 (Mehler Paperny, 2008)(Figure 8).⁴⁶ Campbell was one of the primary plaintiffs in the most recent claim. The territory runs from south-north from the US border to Revelstoke, BC, and west-east from the Monashee to the Purcell Mountains. Both suits are made on behalf of the Sinixt as “an Aboriginal people within the meaning of the Constitution Act.”⁴⁷ They seek recognition of the Sinixt peoples’ claim over their traditional territory and compensation for the government’s appropriation of their land and deterioration of its resources; neither seeks to have the government reverse its declaration of extinction and the restoration of band status, presumably because they prefer the resume nation-to-nation treaty negotiation as opposed to sliding into the paternalism of the Indian Act and an abdication of their worldview to biopolitical modernity. Additionally, although they are not part of the land claims process being conducted by the BC Treaty Commission, the Sinixt have been vocal participants in public hearings on these matters in the west Kootenays.⁴⁸

As we have seen, the Sinixt returned to political life in BC in the late 80s on account of an affront to their cultural values as opposed to a desire to establish a land claim based upon TEK. At that time, while aboriginal rights had been affirmed by the Constitution and aboriginal title as a sui generis right by the courts (*R. v. Guerin*),⁴⁹ the legal test for proof of title was not devised until the *Delgamuukw* decision in 1997.⁵⁰ While the fate of the writ remains undecided, the provincial government has nevertheless acted according to the law by affording the Sinixt, as potential claimants of traditional territories, with legal recognition (in the form of the duty to consult) in two separate matters. In 2009, BC Hydro, a crown corporation, purchased an interest in the privately-operated Waneta Dam. The Sinixt made a claim to the BC Utilities Commission (BCUC) that BC Hydro thereby inherited the history of past injustices caused by this project (the inundation of culturally significant areas) and that the purchase provided the “opportunity to discharge the honour of the Crown by consulting, accommodating and reconciling with the Sinixt

⁴⁶ Figure 2 approximates the land claim currently being made by the Sinixt (James Interview, 2010). The writ of summons may be found at the end of the following document:

http://www.bcuc.com/Documents/Arguments/2009/DOC_23970_12-17_Sinixt_Final-Submission.pdf

⁴⁷ Section 35 of: *The Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11. Cf. *Watt v. Liebelt*, supra. Personal communication with David Erin, lawyer for the Sinixt, 27 August, 2010.

⁴⁸ Personal communication with Brian Mitchell, Communications Manager, BC Treaty Commission, 5 May, 2010. For the BC Treaty Commission, see: <<http://www.bctreaty.net/>>. No information was forthcoming from the federal Ministry of Indian and Northern Affairs.

⁴⁹ *Guerin v. The Queen* [1984] 2 S.C.R. 335.

⁵⁰ *Delgamuukw v. British Columbia* [1997] 3 S.C.R. 1010.

with respect to that legacy.”⁵¹ This is to say that the Sinixt argued that the purchase by BC Hydro perpetuated the injustice against the Sinixt and therefore requires consultation in respect of the past and continuing injustices; and, even if there is no added harm, that the honour of the Crown requires that they be consulted. Although they were consulted in tandem with the Okanagan Nation Alliance and the Ktunaxa Nation Council who also claimed a right to consultation over this sale, the BCUC allowed the sale to go ahead irrespective of aboriginal rights and claims.⁵²

In late October 2010, the Sinixt established a blockade near Passmore, BC against further logging on Perry’s Ridge (Figure 15). It is the site of a number of important TEK practices, including a huckleberry patch where Sinixt women historically conducted ceremonial practices.⁵³ They further launched an injunction against the sale of the license to Sunshine Logging by BC Timber Sales (a Crown agency), claiming that it impacts their aboriginal rights and title. On November 15, the court issued an injunction to stop the logging pending the outcome of a five-day hearing about the Sinixt challenge to the sale.⁵⁴ The Sinixt removed their blockade. As in the case of the BCUC, the court granted the Sinixt a right of consultation as a potential holder of aboriginal title.

Both of these examples illustrate a degree of success of inclusion in the polity for an Aboriginal people unrecognized by the Indian Act. However, their precarious position continues to play out on the ground where we may observe a discursive tug-of-war over their recognition. In an exchange with representatives from Sunshine Logging earlier on in the dispute, the representatives attempt to deny the Sinixt representative a voice by playing on her “extinct” status before accepting her right to be heard but only through official government channels, as opposed to the discreditable act (in their opinion) of blockading private business:

Lola: Do we all agree I exist?

Representative 1: I see you there in the flesh!

Representative 2: Can I see your status card?

⁵¹ At para. 75: http://www.bcuc.com/Documents/Arguments/2009/DOC_23970_12-17_Sinixt_Final-Submission.pdf

⁵² http://www.bcuc.com/Documents/Decisions/2010/DOC_24487_G-12-10_BCH_Waneta-Decision.pdf. The appeal of the original decision by the Sinixt was denied in August 2010: <http://news.inthekoots.com/2010/08/23/sinixt-denied-appeal-of-waneta-sale-by-bcuc/>

⁵³ James Interview, 2010.

⁵⁴ <http://slocan.inthekoots.com/blockade-removed-as-injunction-suspends-perry-ridge-logging/>

Lola: Can you see my status card? [She tells them who she is in the Sinixt language]: But you can call me Lola. That's the language of this land, if you don't understand it, then I guess you're not from here.

Representative 2: I asked you just a simple question, I asked you for your status card.

Lola: There it was, it is all in the language. This is the language of the land, if you don't understand it, then you're not from here.

Representative 2: Well, if you speak in riddles then take it up with the government 'cause it's got nothing to do with me.⁵⁵

Where Lola's speech is threatened with marginalization from the public sphere and the market (as an "extinct" voice of cultural unintelligibility or "riddles"), she, in turn, refuses Representative #2's denial of any responsibility for the colonial present by insisting on the Sinixt language—a language drawn from a "cultural sense of place"—as evidence of Sinixt land rights and TEK. She further refuses his denial by implicating Sunshine Logging's activities in the continued frustration of traditional practices:

Well, because this here happens to be a sacred place to me and...it holds a lot of cultural significance that you don't understand and won't even be discovered if this takes place...Sunshine Logging doesn't seem to understand...about cultural significance...⁵⁶

In response to Lola's direct action, the representatives retreat to the courts to seek an injunction. Her explanation of cultural significance evidences a continuing reverence for a historical sacred space—a reverence which is a TEK practice in and of itself—the existence of which, like use of the language, stands against any entitlement to timber or disowning of responsibility. But her argument also points up gaps in her own knowledge and an aspiration to relearn the women's TEK contained in the land. Like the reburial, the dynamism of TEK is demonstrated: as in the case of the reburials and the fishing of other species, the performance of the blockade is unprecedented and yet an act profoundly grounded in tradition. The differential quality of TEK is expressed irrespective of the absence of complete knowledge of women's practices and a precedent of blockades. Put differently, James queries whether one is any less spiritually engaged

⁵⁵ http://www.youtube.com/watch?v=B8ILDGtksV4&feature=player_embedded

⁵⁶ http://www.youtube.com/watch?v=B8ILDGtksV4&feature=player_embedded (my emphasis).

when enacting one's culture (revering and protecting the land) under these circumstances in contrast to circumstances where TEK practices have survived more intact.⁵⁷

The truth of the declaration is unsettled in respect of, on the one hand, its underlying narrative about Sinixt culture (cultural stasis and vanishing phenotype, as shared with the reserves) and, on the other, its decontextualized and antiseptic empiricism about their extinction. I have explored the campaign to repatriate Sinixt remains as a source for a counter-vision of a contemporary practice of TEK, customary law, and acts of sovereignty. In place of a geographic imagination which casts Natives as the passive subjects of history as a justification for their abandonment, evidence of the differential continuity of Sinixt TEK and law suggests not a culture mired on a past stage of development, but one which arguably exceeds the innovation of hegemonic settler rationality inasmuch as it countenances a wider array of materialities in the enactment of its worldview. Although the declaration still stands, the de facto occupation at Vallican attests not only to the continued existence of Sinixt peoples, but also to the contestation and erosion of settler law and settler space. The Sinixt have "taken place" in the form of the reburials and root collecting which afford an ideational and practico-embodied connection to contemporary traditional knowledge and law.⁵⁸ Through these counter-visions, Vallican has materialized from a space of exception into a space of representation both for the community and the outside world, strengthening the Sinixt's faith in their oral histories which heretofore were spatially and discursively unreal and unactualized (Pryce, 1999, 112 citing James).

Still, both James and Campbell impressed upon me that irrespective of the return of the Sinixt to politics and spaces of representation, overall the Sinixt remain unjustly treated by a world which they see as in a dire moral and environmental situation. James shares with Campbell in a refusal to give a story—a counter-vision—that stops short of the acute realities for their people and the Native world per se. In James' words:

I am not going to give you some warm fuzzy lie. The reality is the reality. And if someone has the balls to step up to the plate and face that reality, maybe we can actually get some traction in the right direction instead of shooting backwards at 90 miles an hour...⁵⁹

After discussing the range of fora where the Sinixt have been active in presenting their case—provincial courts, civil society in the west Kootenays, the Special Rapporteur for the United

⁵⁷ James Interview, 2010.

⁵⁸ I discuss the affective practice of TEK as the base for a Native constituent power in Chapter 4 in the Secwepemc context.

⁵⁹ James Interview.

Nations Study on Treaties and Agreements with Indigenous Peoples—James put it this way when I questioned her on other political sites and the prospects for traction, if any, for the Sinixt:

I don't think anywhere. I mean other than the fact that we are not being used for live target practice anymore and other than the fact that they are not ripping our children off,⁶⁰ I don't think a whole lot has changed. I don't think there is a lot of traction anywhere. And that is a very sad statement about our state of being as a society. I think when you can still have people who exist [who are] declared extinct...when I think you can have 500 Indian women murdered, raped and thrown off the side of the road and there is no big investigation and nobody gives a shit,⁶¹ and not just the marginalization and disenfranchisement of us as indigenous people, socially there is no value around women and children and landscape. Where is the traction? Other than somebody wanting more toys, more this, more that, eat up the earth, poison the water, poison the air: Did you smell it out there today [a smelter is located nearby]? Where the fuck is the traction? I don't know.⁶²

By definition, this counter-vision is partial, being the product of discussions with only two (however influential) Sinixt, recorded interviews and on-line media concerning two others. It is also particular, as my own subject position as a Western white scholar precludes a full understanding of the gregarious relations underpinning the self of concern to practitioners of TEK. What one can take from a politics of witnessing is a sense of a renovated and dynamic practice of TEK—underpinned by the Sinixt worldview and law—which has nevertheless managed to actualize and realize Sinixt life in space against a settler law which still insists on their extinction. But this epistemology is similar to landscape of gaps and fissures: we have only a limited proximity to the Sinixt and for that reason cannot assume “to know” them. This state of not knowing, then, is not an opportunity to pretend that we know, but to continue to forge alliances with them. At the same time that these counter-visions intervene in the cultural economy and push upon sovereign power, they carry a warning about the state of affairs which refuses to return the reader or researcher to spectatorship but leaves them in the unpleasurable position of the witness charged with the potential “to do something.”

The politics of witnessing illuminates how the Sinixt were rendered extinct and silent in Canada even when they continued to exist. Yet the cruelest irony comes from the fact that the clearing of their lands was not done in the interests of the “life” of the settler state, but of its

⁶⁰ For placement in residential schools (beginning in the late-19th century) or EuroCanadian foster homes (beginning in the mid-20th century), see: Tennant, 1995.

⁶¹ According to the Native Women's Association of Canada, the total number of unexplained deaths and disappearances of aboriginal women and girls is 580 (NWAC, 2010), see: < http://www.nwac-hq.org/sites/default/files/imce/2010_NWAC_SIS_Report_EN_Lite_0.pdf>.

⁶² James Interview.

suppression, a move that recalls Foucault's claim that with biopolitics, the biology of the species is put into question (1990). The clearing of the Sinixt territory made not only settlement easier for a colonial agrarian society, but for the highest of high modern projects: for hydroelectric development which went to power the nuclear facilities at Hanford, WA, site of the development of the A-bomb. In this, one can finally see the illustration of the end-game of biopolitical neo-liberal governmentality: it not only manages "life" through the exclusion of the relations which fundamentally sustain the self (and for this reason, is incompatible with Native society), a cutting practice which attaches to entire groups in the population, but finds no obstacle in ultimately following this logic to the disqualification of all life. I am not claiming that the "extinction" of the Sinixt was intentionally aimed at the building of nuclear weapons, but merely remarking on the coincidence of the full spectrum of biopolitics on Sinixt territory—the archaic sovereign right of the state over the life of its citizens and the conduct of the "life" of the population—as a further, unpleasant counter-vision. On Sinixt territory, the "field of life" managed and cultivated by biopolitics becomes "absolutely coextensive with the sovereign right to kill anyone, meaning not only other people" but the settler population as well (Foucault, 2003, 260). Where Hitler combined the de-nationalization of entire populations and ultimately ordered the destruction of the industrial heart of the German state (Foucault, 2003, 260), it is doubtless that similar processes of population purification, different only by degree, are present in the biopolitical catastrophes of the Pacific Northwest.

The building of the Grand Coulee Dam in Washington state led to the loss of 1,140 miles of spawning grounds for Pacific Salmon found north of Kettle Falls, WA, an area of historical importance to Sinixt and Okanagan peoples and where geographer David Thompson caught a salmon weighing nearly 50 pounds (Bullard, 1968, 99; Mourning Dove, 1990) (Figure 14). Further upstream in Canada, 15 dams were built on Sinixt territory, including the Keenlayside Dam on Arrow Lake which flooded 140 archaeological sites (Weyler, 2008). But more than the encouraging of the "life" of the settler state through a violent cutting out of traditional life and nature from the political community, the establishment of the Grand Coulee dam also illustrates the "monstrous" side of biopolitics (Foucault's word) insofar as it provided the electricity required for plutonium production for the nuclear bombs used on Hiroshima and Nagasaki.⁶³ Participation in the atomic age thereby enrolled an entire population into a death machine. As Campbell described, the declaration of extinction (the culmination of discipline and regulation)

⁶³ Tragically, more embedding of abandonment in Sinixt territory comes from the location of the internment camp for Japanese-Canadians at New Denver, BC during the Second World War.

and the Manhattan Project together evidence the suicidal impulse of a European society dangerously wedded to a singular rationality:

When they lost Kettle Falls, and they made Grand Coolie Dam and they made all these dams on the Columbia River. Well, that screwed up the whole fisheries system: the whole ecosystem, everything...For what? Electricity to build a bomb! To build an atomic bomb! Did you know that the only reason that was put in there was to build the atomic bomb at Hanford, in Washington state, right below Grand Coolie Dam? All the electricity went to build that atomic bomb...to destroy the world. For that, our way of life was nothing. All the salmon that used to come from through there, and all the ecosystem was nothing.

All these minds could think of was: Blow these motherfuckers up, kill as many people as you can! Kill! Kill! Destroy! Kill! Kill! Nothing else do they truly understand. Nothing. They are programmed. Useless human beings to a Sca'luukw [Indian]. Them: they can run off the buffalo jump...You know what would happen then if they were all gone? This whole world would change.⁶⁴

I have argued that the politics of witnessing in the case of the “abandoning present” of the Sinixt offers the unusual opportunity to refuse complicity and become accountable as the event unfolds. But this double example of the biopolitical catastrophe in Sinixt territory allows us to see not only how a failure to respond indirectly undermines our own human-ness (the murderous quality of biopolitics degrades us all), but also how we are witness to our own abjection to the extent that we misrecognize the suicidal function of a biopolitics which does not actually “defend society,” but rather a rationality antithetical to life. We are thus witness to the “limit” and “paradox” of biopower where an industrialized society dedicated to guaranteeing the life of some since the 19th century, arrives at the “paroxysmal” point where it exposes the entire population—“man-as-species”—to the suppression of life, to suicide through nuclear weaponry (cf. Foucault, 2003, 253-60) or as we see with climate change, environmental collapse.

4: CONCLUSION: AN END TO THE AGE OF THE EXCEPTION?

The declaration of extinction was less the source of the suspension of the rights of the Sinixt, but more the conclusion of a colonial tactic initiated in the reserves of removing one population and customs from their land in the interests of the health of another through a legitimating geographical imagination of the savage. This occlusion of spaciousness (and

⁶⁴ Campbell Interview.

humanness) was furthered where the declaration's abstract optics of the reserve and the state adopted an even greater "eyeless vision" of Native lifeworlds. As I have shown, its effects more fully took hold in the colonial present when the Sinixt returned to defend the remains of their dead. A biopolitical perspective on the legal conclusion of Social Darwinism is critical as a matter of analysis and action because closing off the space of exception for the Sinixt involves more than the presentation of data on their nonextinction and entitlement to status under the Indian Act. Sinixt bodies and practices have been and, inasmuch as the government continues to not recognize them, are being abandoned. Because they are spatially and discursively rendered as "unreal," their recovery cannot avail itself of a ready-made forms of representation and so it requires the unpleasant task of an embodied practice of witnessing of partial truths. The viewer must be drawn into proximity to the Sinixt and challenged with accountability for narratives implicated in the abjection of Natives. Set against background testimony about the Sinixt worldview, I illuminated the actualization of Sinixt culture through in the second part of the chapter. Rather than sovereign power existing in a vacuum and being unassailable, the argument was that owing to the law's support from a cultural economy—the law's operation on the everyday which has its own ordering, and which includes Native customary law and TEK—it nevertheless bears the marks of the confrontations and collaborations which occur in its spatialization. I argued that the "counter-vision" and situated knowledge about both the continuation of Sinixt traditional life and custom and its continuity destabilized both the law (the declaration of exception as an evidence-based final act) and its underpinning cultural economy (Native custom is recovered from historicism). Tangible evidence of this "pushing back" on the disciplinary and regulatory operation of biopolitical governmentality include the return of the remains, the establishment of a permanent presence on traditional territories, a land claim against the government, a right to consultation in respect of hydroelectric projects, and the hearing held in respect of the protection of culturally significant areas at Perry's Ridge.

The closing of the space of exception therefore rests upon a reappraisal of state intelligence/truth against alternative knowledges both of the event and the worldview it felt justified in sidelining. The reader is disposed to respond to the Sinixt not only because of a proximity to their plight or the extent to which their denigration takes away from our collective humanity, but also because this same biopolitics places us all in a zone of abjection. As Campbell and James' paralleling of the treatment of the excessive, collective aspects of the Sinixt self with environmental destruction and nuclear weapons attest, the governmental "eyeless seeing" of either high modernism or neo-liberal governmentality not only have implications for Natives—or those who care about their treatment—but everybody owing to their teleology of the suppression

of life in the name of its defence. From the personal to the institutional scale, it is doubtless that a return to Métis constitutionalism is required both due to the injustice waged against Natives and their custom and because the monolithic ordering of biopolitical society defends no society.

In this chapter, I framed the legal and political struggle for the Sinixt within biopolitical modernity and explored the challenges to actualize their culture when it is legally and culturally denied a voice and spatial position. Through direct action and the confrontation with their customary law, TEK and practice with the law in the everyday, the Sinixt have both taken place and broadcast their worldview. Their witnesses are privy to a “dangerous” and heretical Native counter-governmentality concerned with the collective relations that fundamentally sustain the self. Although it is unpleasant to be a “declaration witness” and incredibly complicated to live as a Native today, as opposed to awaiting the legislative moment of the Métis society, we are all challenged to question the cultural economy and to respond to the gregarious collective through a more responsible performance of the discursive-spatial legacy.

In Chapter 3, I move on to the second of three investigations into contemporary Native politics on the plateau with the example of the amicus curiae brief submitted by the Interior Alliance of Native Nations to the WTO in the U.S.-Canada *Softwood Lumber* case. As I shift from a mountainous to a semi-arid geography, I also shift from a peoples with no voice involved in direct action to a peoples who strategically enlarge their platform by gaining a hearing at the legislative heart of global capital: In terms of resistance, from the everyday life of law to its more institutionalized format in international legal regimes. Irrespective of the differential level of enfranchisement across the groups, both sought to implant the collective as the normative dimension of the political community (Native governmentality). Where the Sinixt were silenced and fully abandoned, I find the Interior Alliance making a claim as “Indigenous” peoples through the powerful language of property rights. In view of the biopolitical defense of “life” by making cuts through context, the outside and life, where the Sinixt re-inserted their worldview about the collective by materially reclaiming space, the Interior Alliance recast property from being a narrow bundle of rights, to a bundle of relationships with social and environmental externalities. An “Indigenous property” bears obligations for the sustainable stewardship of nature, for example, and is therefore a right which countenances the outside not as something which impinges upon the individual (or the market) but which fundamentally supports her.

5: FIGURES

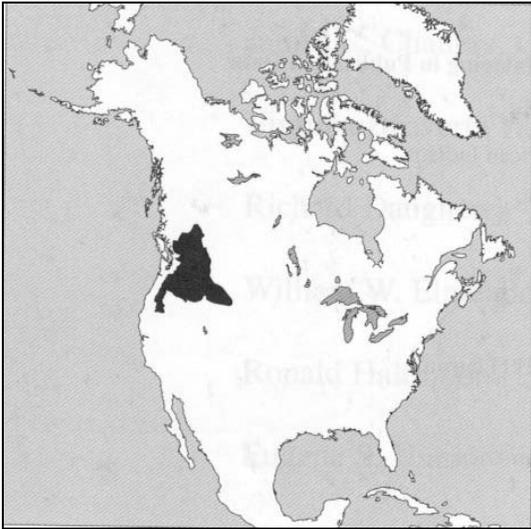


Figure 7 The Columbian Plateau (Sturtevant, 1998. © The Smithsonian, public domain).

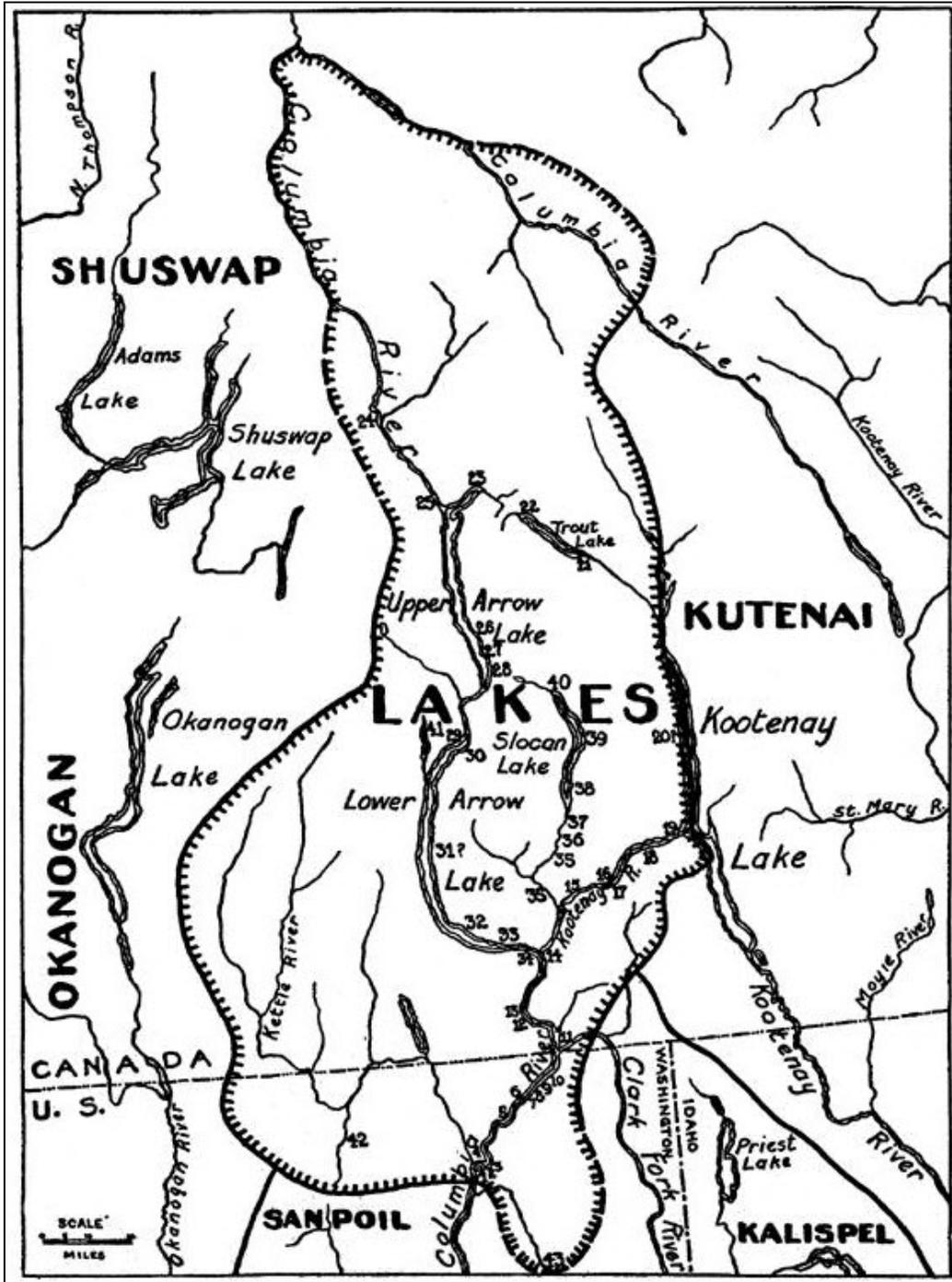


Figure 8 "Lakes territory and villages" from Vern Ray, 1936, Figure 2, page 114 (© Pacific Northwest Quarterly, with permission:).

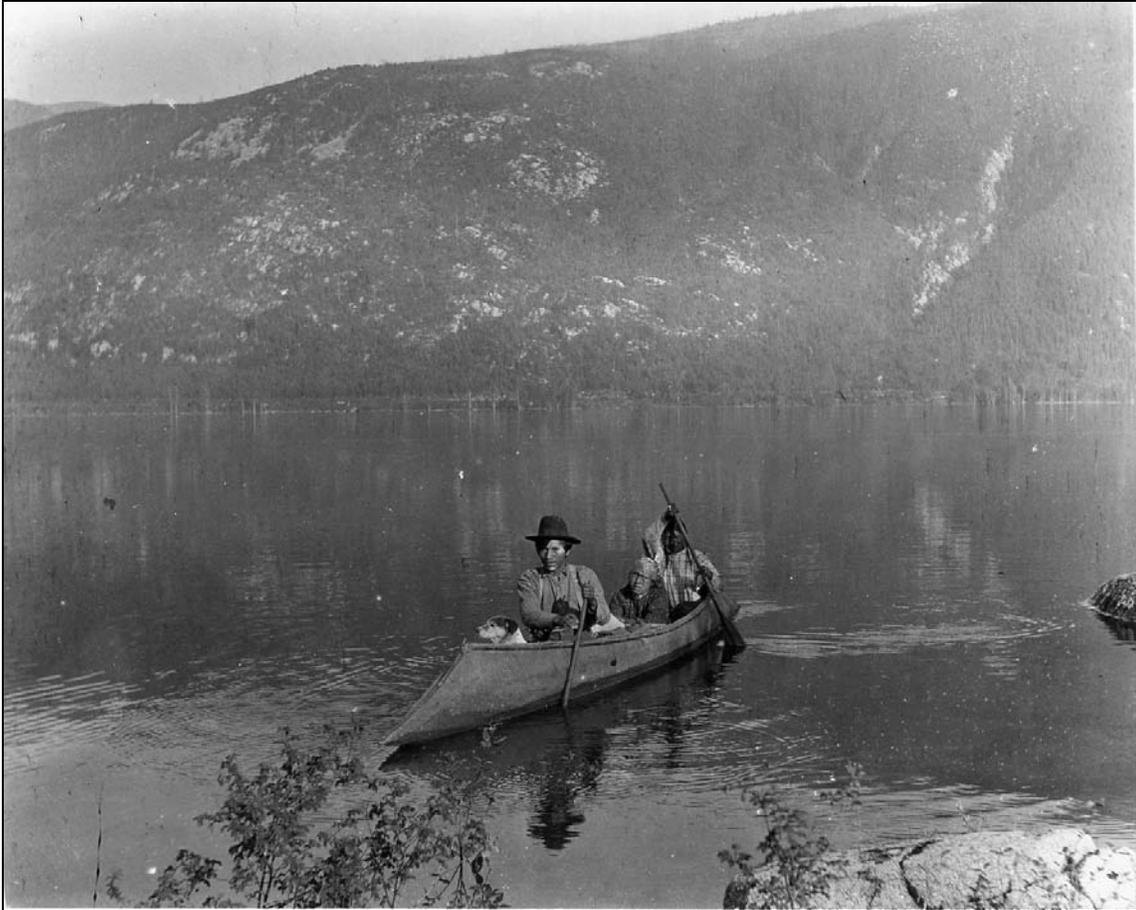


Figure 9 “Sinixt Indians in Sturgeon nose canoe” (© Touchstones Nelson: Museum of Art and History, 68.31.1a, with permission).



Figure 10 The Southern Arrow Lake, 2007 (author's photo).



Figure 11 Frog Mountain, from Sinixt Big House at Vallican, Sinixt Territory, 2007 (author's photo).



Figure 12 Sinixt Big House at Vallican, tepees in field, 2007 (author's photo).



Figure 13 Alexander Ross, c. 1821, map of Sinixt Territory (Wheat, 1957, 106 ff. © Martino Publishing, with permission).

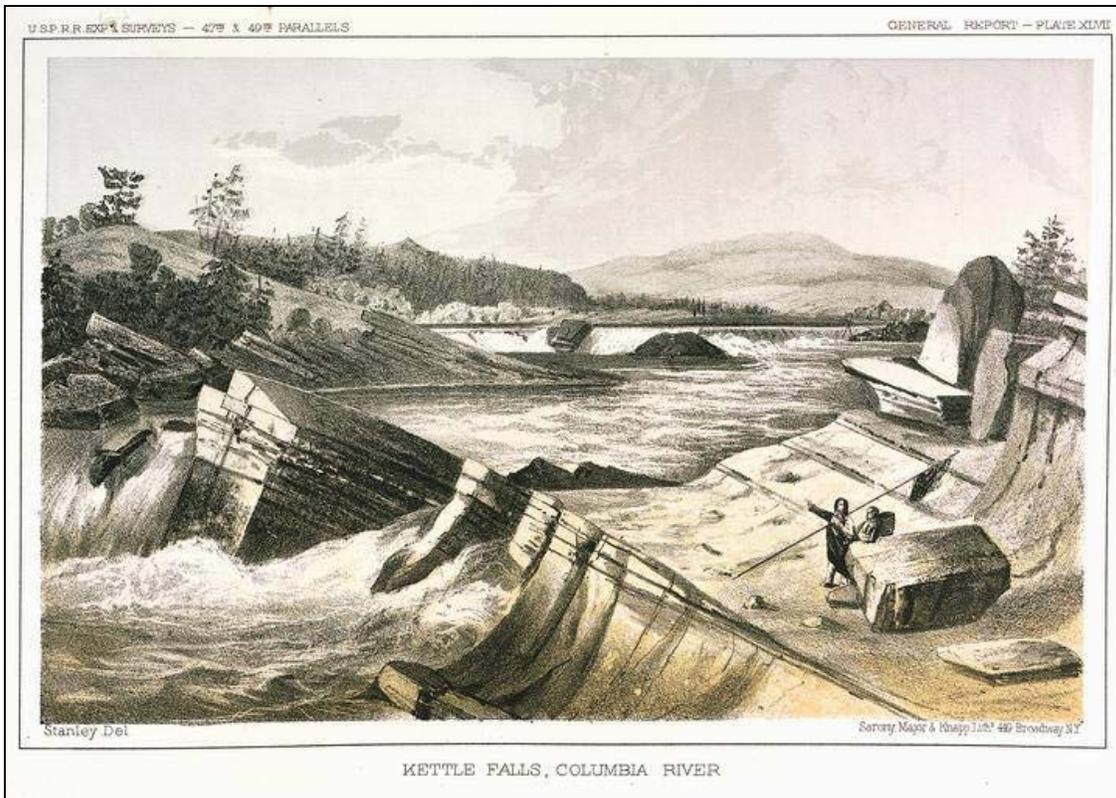


Figure 14 “Colville man & woman with fish net & basket at Kettle Falls, Washington,” in engraving c. 1853. From: from U.S. War Dept.'s Reports of explorations and surveys to ascertain the most practicable and economical route for a railroad from the Mississippi River to the Pacific Ocean, 1860, v. 12, pt.1, pl.47 (© University of Washington Libraries, Special Collections, NA 4172, with permission). Note that this illustration may not be of Sinixt members of the Colville Reservation.



Figure 15 Sinixt Protest Camp on Perry Ridge, 31 October, 2010 (© Soniko, with permission. Source: News in the Koots: <http://news.inthekoots.com/2010/11/07/injunction-against-sinixt-blockade-fails/>), Accessed 30 March, 2011).

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CHAPTER THREE - TAKING CARE OF BUSINESS: INDIGENOUS PROPERTY AND THE RIGHT TO BEAR BARE LIFE IN THE WTO *SOFTWOOD LUMBER* DISPUTE

by

Sean Robertson

in collaboration with grassroots people from the
Secwepemc, Okanagan and St'át'imc nations

Abstract: Indigenous peoples have deployed rights and identity politics as a means to self-define their place in the citizenship regimes of settler states. However, liberal rights shield their holder from the claims of the community. Even collective rights claims eschew spatial context. The result is a depoliticizing individualism. This outcome is antithetical to the protection of traditional environmental knowledge which requires support for the community base as a first principle. Native law reverses the normative logic of liberalism to insist that the self is integrated in and supported by the collective. In this chapter, I map a rights-based politics which therefore seeks to orient the paradigm of citizenship toward defending the collective. In their amicus curiae submission to the WTO in the *Softwood Lumber* case, the Interior Alliance adopted four geographical arguments which repoliticized rights. They first shifted from the human rights terrain to the more powerful discourse and space of property. In scale jumping to the regime complex of international law, they cited counter-regime norms in Native, Canadian and international fora to carve out a space of advocacy rendered “sticky” by the obdurate quality of these fora. Where they argued for a right burdened by responsibility to social and environmental externalities based upon the normative investments of Native geographies (via the norm of sustainability), they stretched efficiency-oriented property from a particularistic to a “viscous” right which tends to slow the economy. Finally, the brief enacts the geographical imagination of the Fourth World to analyze the disenfranchisement of Natives and to constructively argue for the role of TEK values in reconciling Native and Western spaces and for a more engaged democracy. As a postdevelopmental strategy, “Indigenous property” responds to the sacred properties of personhood which fall outside of liberalism. It may be said to contribute to the reconfiguration of citizenship norms through the pluralism of international and customary law.

Interior Alliance of Native Nations—property rights—bare life—World Trade Organization:
Softwood Lumber dispute—postdevelopmental citizenship—legal pluralism

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The oral histories and stories quoted herein remain respectively the property of the Secwepemc, Okanagan and St'át'imc nations.

“Who does it belong to?”...He pointed vaguely into the shadows at some far-off and unknown place...His voice had taken on a quality of almost religious fear and awe, as if he had been talking about some inaccessible tabernacle in which was hidden a gluttoned and crouching god to whom they had all given their flesh but whom they had never seen.

Germinal, Emile Zola (1970, [1885], 12 (my emphasis)).

1: AN INDIGENOUS PROPERTY AND ITS CITIZENS: PROTECTING TEK THROUGH RIGHTS WHICH COUNTENANCE EXCESSIVE ASPECTS OF THE SELF

On April 26, 2002, the Interior Alliance,¹ a group of Natives² from the southern interior of British Columbia, submitted an amicus curiae brief to the World Trade Organization (WTO) in the US-Canada *Softwood Lumber* dispute³ as part of a strategy toward the realization of the Aboriginal title and rights which successive Canadian governments have been intransigent in

¹ The Interior Alliance comprises five Indigenous nations, the Secwepemc Nation (or “Shuswap”), the Okanagan Nation (the Syilx people), the St’át’imc Nation (or “Lillooet”), the Nlaka’pamux Nation (or “Thompson”), and the Southern Carrier Nation, all of which maintain that they are sovereign nations and none of which are part of the treaty process with British Columbia. Their combined territories are home to 20,000 Native peoples and comprise 25,749, 600 hectares, roughly stretching from northern Washington state to the lower third of the province of British Columbia, and from the border shared by BC and Alberta to the Coastal mountains (Interior Alliance, 2002) (see Figures 1-2).

² I use the term “Native” and “Indigenous” to reflect the preference of most of my interviewees from Interior Alliance nations not to be categorized by colonialist terms, such as “First Nations” or “Indians.” Although also a statist term, “Aboriginal” is used in the texts of the Interior Alliance and I also use it in that context. Where possible, the term preferred by my interviewees is naturally the name they give themselves, their specific national identity (see above).

³ The struggles for alternative forms of globalization are often recounted as a series of important touchstones; e.g. the Zapatista Uprising (1994), the Battles of Seattle (1999) and Genoa (2001), etc. (e.g. Hardt and Negri, 2004). With the weakening of the unions coincident with neoliberalism, Indigenous peoples have taken a central role devising alternatives to capital through transnational advocacy circuits (Nash, 2001). Therefore, the acceptance of the brief from Indigenous peoples in one of the main international economic institutions deserves inclusion in this list as part of the struggle toward democratization in globalization.

implementing (Interior Alliance, 2002) (Figures 16-17).⁴ They argued that insofar as they were not remunerated for their potential proprietary interest in lumber, Canada provided a subsidy to industry and should be penalized with a countervailing duty. Although the brief was not determinative to the decision, its acceptance is significant both in terms of Indigenous people securing a modicum of representation at the WTO and as a platform for the international politics of shame.

Besides these “liberal” achievements, the brief has a greater significance owing to its re-visioning of Native struggles as a matter of property rights which are oriented toward the establishment of post-developmental citizenship. By addressing Indigenous property interests and the suspension of Native constitutional and economic rights, the brief concerns legislative shortcomings in support of Native rights. In addition to these justiceable economic matters, it further deals with the differential levels of citizenship in Canada produced by the Western cultural conception of the lineaments of the subject (or governmental rationalities): The state further suspends Native citizenship inasmuch as liberal rights, notably property (Nedelsky, 1990), draw a boundary around the citizen against the claims of and obligations to the collective. The resulting depoliticizing individualism fails to countenance context both in the sense of the socio-environmental conditions which underpin autonomy and, from a nonpresentist perspective of the subject, how Native identity is entwined in the community base (Gudeman, 1996; Corntassel, 2008; Butler, 2004). By arguing for a proprietary interest based not only upon the unresolved land issue in BC, but also environmental sustainability norms based upon traditional environmental knowledge (or “TEK”; Figures 18-19), the brief illustrates how not providing Natives with remuneration for timber is more than a commercial wrong but is also an abandonment of the excessive aspects of traditional Native lives (life outside of political qualification: biological life, *zoë*, excess or the flesh: Agamben, 1998; Hardt and Negri, 2004; Butler, 2004). The Secwepemctsin term *yecwiminte r tmicw*, “taking care of the land,” expresses the reciprocal and sustainable relationship between Natives and the earth implicit in TEK. Where the claimed right supports the Native-defined norm of sustainability, it proposes a normative ordering which

⁴ The Interior Alliance’s *amicus curiae* (or “friend of the court”) brief was accepted by the WTO as part of its 2002 *Softwood Lumber* Panel decision. At the appellate level, a second brief was filed (WTO, 2002; 2004), but instead under the auspices of the Indigenous Network for Economies and Trade (INET), which claimed a broader representative voice for Indigenous peoples across Canada as it included the views of the Grand Council of Treaty 3 and the Nishnawbe Aski Nation (A. Manuel, 2003, 335; INET, 2003). Since no participant or third party adopted the 2003 brief (INET, 2003), it was not taken into account (WTO, 2004, 5). Both were spearheaded by Arthur Manuel (then Chief of the Neskonalith band) and Nicole Schabus (a Native ally and international legal advisor) and underwritten by grassroots support from Interior Alliance nations. As the briefs are substantively similar, I speak of them collectively as “the brief” except where a point particular merits making a distinction.

questions the merits of liberal citizenship oriented toward autonomy from the collective. Later, I will investigate the details of this normative dimension of the political community and its expression in the everyday and percolation into international circuits. As an introduction to Native governmentality, the comments of two traditional land users help delineate its worldview on the intermingling of figure and ground, nature and culture from the acts of purification undertaken in the West (Latour, 1993). First, the words of John Jules set out the distinction between an individualistic society and one embedded in the landscape, networks, meshworks, the pluriverse, and multiplicity (Deleuze and Guattari, 1987; Escobar, 2008):

What I am talking about here is about the importance of being a social being rather than being just an individual. When you view yourself as being primarily individualistic then you are looking at self-gratification, but when you are looking the embodiment of being a social being, then you look at yourself as being part of society and how you feed into it. That becomes a far different process that when you are looking primarily at meritocracy and viewing yourself as a good Protestant work ethic: “if I work hard, then I am going to merit everything that the world has to offer me”. But when you are looking...at the different perspective from First Nation or Indian views, if I am a part of the society and this is how I feed into it, then my society becomes good, my community becomes great.⁵

And in her comments, one Secwepemc youth traditional land user drew the collective horizon even broader:

People want to separate that there is land, then animals, then plants and whatever you want to categorize, but really it is all one thing, and we are that thing. We are the land—how could you, the land without this tree or those deer, that won’t be the land, it all has to have, we are all it. Even what we put on it, these cars, gas stations, plastic; that is why you have to be careful. It is easy to say it is all connected—but that is not really it—it is just that we are all one, we all have the Creator in everything...⁶

As opposed to a political community ordered around one monolithic constituency (transcendence) or several bounded groups (multiple), one of multiplicity is ordered around the tension of distinct constituencies which paradoxically rely upon one another for the aspects of their identity by virtue of sharing the land and/or being an expression of the Creator (Tully, 1995). Multiplicity therefore suggests a constitution of wholeness and context as opposed to transcendence and separatism, and it follows that identity is therefore performative and processual (Deleuze and Guattari, 1987). I explore the re-politicization of property rights not as a strategic use of identity-

⁵ Interview with John Jules, Secwepemc traditional land user, 3 July, 2007.

⁶ Interviewee #4, Secwepemc youth (woman), 23 July, 2007.

based, human rights or economic claims which reproduces state authority and its efficiency-based properties, but as an Indigenous property which challenges property rights, as a tool for the distribution of wealth, to bear something of a moral economy. In this case, property is asked to take on social and environmental norms found in the nonbinding normative circuits, or soft law, of international law and Native customary law. Where property opens itself to excess, ceremony, past and future generations, geographical context, and social relations (cf. Singer, 2000), it acquires a viscosity (C. Rose, 2005) which tends to slow the market down (Mattei, 2003) and potentially interrupt the cost-benefit calculus applied by biopolitical governmentality to biological life (Brown, 2003).⁷

Alongside the production of knowledge in the human sciences, the law draws boundaries to shape social life (Foucault, 1990). Rights thereby operate in neoliberal biopolitical governmentality to both discipline and normalize subjects in the everyday (Pratt, 2004) on the basis of individuality and “efficiency” (Brown, 2003), a rationality which replaces political decision-making with cost-benefit analysis and has such disdain for context that it cuts it out from social life. At the same time, the law does not act monarchically upon life; it bumps into the everyday which both consumes and reproduces it from the registers of its procedures to its underlying philosophical commitments: the law’s reception is unexpected and its re-enactments may reinforce, transform, reinvent, or resist it (de Certeau, 1984; Yngvesson, 1989; Fitzpatrick, 1984; Blomley, 2005). State law thus acts upon custom (everyday social life; Tribal law; the flesh; politics) but since the reaction can never be fully controlled, the result is a complex of “confrontations and collaborations” (Sarat and Kerns, 1995, 9) or legal pluralism (Merry, 1988).

Native law—custom per se⁸—is explored for its role in global legal pluralism (Berman, 2005)⁹ as part of international soft law on property (a type of nonstate, or nontreaty law) in *Softwood Lumber*. Native customary law already has experience with global legal pluralism in

⁷ As we saw in Chapter 1, as a set of projects which work against the naturalizations of the state, capitalist economy and liberal subject, post-developmentalism points toward alternative ethics and futures already being enacted through Indigenous politics (Escobar, 1995), subaltern histories/memories (Chakrabarty, 2008), alternative economic spaces (Gibson-Graham, 1996), and, here, with Indigenous properties (a postdevelopmental property per se). The geography of this politics is no longer simply that of the state, but the fragmented jurisdictions of Native and international law: the heterogeneous spatiality of Empire (Sidaway, 2007) and emergences.

⁸ Native law is carried and reproduced in everyday practices, TEK, oral history, and stories (Borrows, 2002). Herein I discuss an Indigenous property, which involves the legally pluralist grafting of Native law—told to me through interviews about the everyday practice of TEK and responsibility to the land—onto an efficiency-oriented right.

⁹ Where the regime complex is explored as a site for legal resistance and where I further deepen the analysis through a geography of rights to attend to power, meaning, subjectivity, and the production of different laws in different contexts, I work toward a *spatial* global legal pluralism (Merry, 2008).

intellectual property globalization,¹⁰ the locus of a significant crisis over the boundaries of property and life (or “equity”) brought on by the Trade-Related Aspects of Intellectual Property Agreement (WTO-TRIPS, 1994) (Helfer, 2004b). Because of the newly acquired reach of intellectual property law into nontrade areas—such as biodiversity, health, education, culture, human rights, and development—developing states and Indigenous peoples have shifted from the core legal sites of the World Intellectual Property Organization (WIPO) and the WTO to a “regime complex” of international fora (CBD, WHO, UCHR, FAO, etc.) to develop counter-regime norms suited to nontrade objectives left unaddressed (or worsened) by efficiency-oriented property rights. As part of a strategy of “regime shifting,” they have begun to develop nonbinding principles and soft law norms to reconcile competing treaty compliance requirements. They then attempt to insert these counter-hegemonic norms into the core with the effect of reconfiguring efficiency-oriented rights, political economic relations and subjectivity (cf. Chon, 2006). To date, the most successful example has been the provision of generic HIV/AIDS medications to developing states (WTO, 2002b; Sell and Prakash, 2004). While no such crisis exists in international trade law,¹¹ property rights are nevertheless performative here as well. In *Softwood Lumber*, property is consumed and reproduced and my argument is that Native custom relays a similar, though less institutional, “unsettling” of property (Blomley, 2004). However marginalized this performance may be in the decision, it nevertheless stands as an important confrontation and itself may inform future reconfigurations of property and its philosophical underpinnings either in international trade law or even IP globalization. In distinction from historical enunciations of Native law across scales (rehearsed below), the brief specifically foists a moral economy upon an economic right as opposed to a constitutional, treaty or human right, and it does so in the somewhat more formalized world of soft law, as opposed to appeals to the discretion of the state (cf. Niezen, 2003).

The opening of liberal rights to politics, responsibility and context allows not only for debate over how efficiency and freedom flow from social and environmental equity as opposed to buccaneering individualism (Mattei, 2003), but also over the reorientation of the normative

¹⁰ Intellectual property (IP) lawmaking which refers: “both to the negotiation or amendment of binding international agreements *and to the drafting of declarations, resolutions, interpretative statements, guidelines, and other process by which nonbinding legal norms are created*” (Helfer, 2004b, n. 19 (my emphasis)). Chon’s term, “IP globalization” (2006, 2824) describes the same phenomenon of binding agreements and soft law.

¹¹ The point of contention in respect of efficiency and equity instead centres on subsidies. INET ignores this boundary-making in its brief even though it takes its “business as usual” rationality as an object in need of care.

horizon of politics (the cultivation of a counter-governmentality).¹² Repoliticized rights recognize that the self is intimately produced by the ties she has with collective (Butler, 2004); there is not just a relationship between the self, others and the land, but according to a Native governmental ratio, since it is difficult to think of the self outside these relations, the self is held or “dispossessed” by the collective (Butler, 2004) (see Introduction). Since Western biopolitical society defines subjectivity through the negation of both of these (the relational and differential aspects undergirding the self), one means for Native society to be free from its space of exception is to draw connective responsibilities for all of our selves into political deliberation (e.g. through rights encumbered by responsibilities). A politics open to rudiments of life must come to replace atomism, abstraction, separatism, and abandonment as the normative basis of political community. *In political philosophical terms, the protection of TEK is a question of how to protect something—the sacred, nature, life—whose negation and omission is the basis of Western society’s self-definition. As a question of enacting post-developmental citizenship (Gibson-Graham, 2005), we need types of properties which also foster the intimate and gregarious aspects of identity in order to fully protect TEK.*

The present analysis of the brief therefore looks to the remaking of liberal rights toward these social justice ends through a series of geographical arguments evident in the deployment of property by the Interior Alliance. As shorthand, I identify a viscous and sticky property right: it draws a boundary around Native society (“efficiency-oriented or particularistic property”); gains its legitimacy from legal norms partly outside the WTO (“sticky”:¹³ see Helfer, 2004b); and, inasmuch as it adds socio-environmental obligations to efficiency-oriented property, it supports the moral economy so that rights work better and tend to slow down the market (“viscous”: see C. Rose, 2005).¹⁴ In contrast to the deployment of Indian, Aboriginal, and Indigenous bodies,

¹² Biopower is traditionally conceived as a field of power relations as opposed to the zero-sum game of orthodox politics, the confrontation between sovereigns. I use language such as “hegemonic” and “counter” from the latter tradition, as did Foucault himself who spoke of “counter-society” and “counter-conduct” in respect of traditional medicine in Europe, not to confuse these analytics of power but to find vocabulary to describe the concentrations of power within a biopolitical framework. As Foucault has shown, all of these are both necessary and “bad” (Foucault, 2007, 199-201).

¹³ As I will set out, this refers to a norm that has not been enshrined as international law but nevertheless has value as a precedent owing to its development in international lawmaking fora in which states have invested funds and expertise.

¹⁴ The velocity of the late modern era and the resultant compression of space through technological advances is a significant concern in the history of capital (Harvey, 1989). Efficiency-oriented rights seem symptomatic of this terrain. Other means to slow down the speed of the society of the spectacle might include things such as Tobin taxes on global financial transactions or regional regulatory controls in places like the European Union. Like viscous rights, these could work to recalibrate capital along more Rhine-ish or socialist lines: Albert, 1993; Mattei, 2003.

important rights-bearing figures deployed over the past 40 years, this politicization of property allows for the excessive aspects of personhood to seep in, illuminating the fleshy matter of life which these identitarian figurations were often forced to submerge or even abandon. As a viscous and sticky property right more readily bears externalities, the outlines of the postdevelopmental subject come into view: the Native Warrior,¹⁵ a deterritorialized figure of the outside of life, who by defending the sacred builds a passageway across the space of exception to the Fourth World.¹⁶ The post-developmental insistence on the inclusion of the excessive aspects of personhood clears a space for a change in citizenship by representing what gets omitted by neoliberal governmentality. While I do not conclude that a regime change in citizenship has been obtained, the voice of the Native Warrior indicates both that neoliberal subjectivity is not as comprehensive as it seems and that the difficult and naturally incremental struggle to restage discourse and space is underway. The co-optation of this space by hegemonic discourses remains a persistent threat (Chon, 2006; Corntassel, 2007; 2008).¹⁷ However, these “little” resignifications cannot be dismissed out of hand, lest one run the risk of re-inscribing the hegemony of capital and the defeatist pessimism of the Left (on representation, see Chapter 1). As opposed to a politics of the “then and there,” this is a politics of the “here and now” (Gibson-Graham, 2006; 1996).

1.1 WTO Dispute Settlement as a forum for intellectual property?

The protection of TEK is a mixed matter of the strengthening intellectual property (IP) law, restoring territorial rights and the orientation of the normative dimension of the political community towards the collective. As a field of enquiry “the politics of TEK” stretches beyond a legal doctrinal concern for ideational resources to such unexpected political sites as the implications for citizenship in a case study of the *Softwood Lumber* decision. The provision of national IP laws for the protection of TEK in Western states remains underdeveloped and, owing

¹⁵ Native youth concerned for maintaining traditional culture and language, territory and the environment on Turtle Island (North America) redeploy and adopt the historical figure of the Native Warrior in contemporary struggles. As I insist that rights driven by Native law inform new forms of subjectivity, I less signify the Native Warrior than adopt her as a placeholder for these emerging subjects.

¹⁶ Rather than a geographical space, the space of exception is a metaphorical space used to describe the condition in which the collective and differential aspects underpinning the self are not countenanced by a colonial law (“state of exception”). The Fourth World is an actually-existing space of decolonized law, where the outside mounts an insurrection against biopolitics and its cultural citizenship.

¹⁷ From the perspective of political economy, Chon has been critical of advocates of regime shifting because however it may espouse counter-regime norms, its effects will always fall short and be reappropriated by capital in the absence of a critique of the Market in which they operate (Chon, 2006; cf. McAfee, 1999). She proposes such a critique in her promotion of a substantive equity norm as a first principle of IP globalization which imports politics back into the deliberations on property rights.

to its liberal disavowal of the collective, potentially regressive (Dutfield, 2001; Patterson and Karjala, 2003; Dove, 2006). Also, as opposed to other ideational resources, the fact that TEK has a particularistic requirement for a geographic base counts as another quality which limits the ambit of a formalistic IP solution. There is now a growing body of scholarship on the broader politics of TEK in the Americas (Escobar, 1998; Perreault, 2003; Jung, 2003; Coombe, 2005; Blaser, 2010). Even increasing the protection owed to Native territories may not be enough to protect TEK if it is accompanied by legal structures and market rationalities which deepen the neo-liberal ontological commitments. John Borrows, for example, asserts the importance of Native law being practiced in local communities (Borrows, 2002, 27; Corntassel, 2008) and of Native values being substantively brought to bear both through the increased Aboriginal control of Canadian affairs and their informal recognition and adoption by nonNative Canadians. Therefore, in addition to requiring land, the protection of TEK also requires that Natives not be cut off from the intimate relations which inform their identity through the disciplinary effects of efficiency-oriented rights. Given that TEK is embedded in Native territoriality (on land and knowing, see: Kirsch, 2001), it should perhaps come as no surprise to find the politics of TEK palpable in a trade decision about lumber as a matter of both location (property as knowing) and rights (and their moral economy).

Against charges that such international advocacy is liable to “channel” energies better spent in the community (on the U.N. system, see: Corntassel, 2008, 113-114) (Figure 20), the protagonists in this story would counter that although not all international institutions provide traction (Corntassel, 2007), in a globalized world of entrepreneurial states, politics has gravitated toward spaces both more local and international. Also, as will become clear, this WTO activism was completely inspired by a struggle on the ground over timber, housing and, most importantly, yecwiminte r tmicw, as opposed to being a ready-made avenue for professionalised Indigenous activists (Corntassel, 2007, 161). I put the matters of co-optation and channelling to Arthur Manuel, the spokesperson for the Interior Alliance and INET and former Neskonalith Chief:

SR-Do you worry that actions such as this could lead to charges that the group has lost its indigenous voice since it is using the white man’s law or WTO law?

AM- No, no it hasn’t because any kind of activity on traditional land is the enactment of indigenous laws... A lot of indigenous people really don’t understand that either, that through that practice, that is their legal basis for being there and courts take that into consideration. Common law will adopt that as being the expression of indigenous law on the land. That is something indigenous people don’t understand. They sort of think that laws have to be statutes...like the Revised Statutes of Canada, no it doesn’t have to be that: ...the fundamental

is the activities that have been accepted by indigenous people over a period of time. Like fishing, rocks and those areas along the river...what family belongs where, what territory belongs to who: all of that is part of the traditional basis of law. And all of the indigenous communities in BC have various measures of exercising those rights on the land. They need to keep that up. If they fall back on or if one generation loses its activities they really hurt themselves in terms of their responsibilities first of all and secondly their value and culture and these things, there are a lot of things lost here.¹⁸

While international expressions of Native law remain important, Manuel asserts the paramount need to maintain traditional practice and law in the community explicitly for local cultural, political and legal reasons. This affirmation of the local further resists cooptation insofar as it gives clear Native outlines to any larger international politics. Jeff Corntassel argues that rights-based politics are limited: if sustainability is the goal, then the political energy spent pursuing rights would be better spent on a responsibility-based politics which he locates in a local praxis of renewing native livelihoods, community governance, food security, relationships to the natural world, ceremonial life, and the transmission of knowledge (Corntassel, 2008). But the iteration of a property right burdened with externalities through international circuits will demonstrate, indigenous-rights discourses are already-attuned to the Native voice and are restaging the law.¹⁹

¹⁸ Interview with Arthur Manuel, Secwepemc, Spokesperson, INET, 30 October, 2007.

¹⁹ Law and Society scholars have debated the limits to which the law outside the courts and legislature—the law of the everyday—can meaningfully count as a regulatory object of study (Merry, 2008). Native law has similarly been problematic, at least for nonNative scholars, for its coincidence with life, TEK, custom, and simply “being” Indigenous: “Traditional knowledge is not what I would call it—it is more, like *being Secwepemc*” Interviewee #4, Secwepemc youth (woman), 23 July, 2007. Just as Borrows (2002) and Chakrabarty (2008) work to tease out underling principles about the ordering of society from complex interpretative frameworks contained in oral history, ceremony and sacred stories, I effect the same operation on the brief, a Native legal text. Importantly, the brief was written for a trade dispute panel, under the time constraints and lack of format associated with being the first Indigenous submission to gain acceptance by the WTO. To be sure, it is not a constitutional code of Native law. Like any legal text, it is dangerous to read it on its own without regard to context. Hence, as opposed to “reading in” a moral economy unintended by its advocates, I arrive at its central ordering principles by reading the brief against everyday accounts of Native law: interviews with the primary advocates and grassroots community members, and related documents. I then propose an analytical framework to better understand what it has to say about renovating Canadian society through rights. Although “sticky and viscous rights” and (potentially) my discussion of a relational and differential normative political horizon might ring bizarre to the advocates, they seem workable analytical and empirical abstractions of Native law and its trajectory across legal scales.

2: THE INTERIOR ALLIANCE AT THE WTO: OPENINGS FOR “OUTSIDE” ASPECTS OF THE HUMAN THROUGH A GEOGRAPHY OF RIGHTS

2.1 Unsettling rights through the spatial strategies of indigenous property

Through reconfigurations of sovereignty, Native legal principles come to influence both Native and non-native legal spaces (Borrows, 2002; Whitaker, 1995). While far from ideal, treaties are a privileged means for Natives to insert the excessive aspects of citizenship not countenanced by liberalism into the care of the state. Carole Blackburn has described how the competencies of self-government in the Nisga’a Treaty present the opportunity for the particularities of Native citizenship, understood by the Nisga’a as the exercise of their inherent Native rights, to intervene in the terms of belonging (or citizenship) in the state (2009). The treaty thereby affords the opportunity to resist “cultural citizenship” (Ong, 1996), a disciplinary process marked, in this case, by the replacement of relationships based upon kin and custom by those based upon autonomy, individualism, and modern legal forms contract (Coombe 1998).

Geraldine Pratt argues that rights similarly hold out the possibility of holding liberalism up “to its promises of freedom, justice and equality” in a way that does not culturally discipline and domesticate (Pratt, 2004, 95). She suggests analyzing deployments of rights through a series of “spatial arguments” which draw their manifold contexts into view and draw the illusion of autonomy into question. A “geography of rights” (Pratt, 2004, 106) allows us to build “passageways” (C. Rose, 2005) through liberalism’s walls (Walzer, 1984), allay its depoliticizing individualism and unearth the politics of rights (both the conditions which produce social differentiation and the social and environmental relations underpinning the self). Absent a treaty or the support of the state toward their own geography of difference (Nash, 2001; Castree, 2004; Escobar, 2008), the Interior Alliance attempts to insert the particularities of Native cultural citizenship into the law by way of claims for property rights at the international level which are burdened with collective externalities and find their authority in Native and other legal authorities. As such rights reverberate through international regime complexes, we may observe not simply increased Aboriginal control over Canadian affairs (Borrows, 2002), but also arguably of international affairs.

In this chapter, I explore four such spatial arguments relevant to the brief²⁰ which open rights to postdevelopmental politics: the possibilities for alternative deployments of rights discourses in different spaces which allow for the leveraging of positionality; the opportunities for a politics of shame and for carving out a space for rights across normative regimes (sticky rights via geographical scale and “regime complexes”); the prospects for alternative normative paradigms of rights based upon their philosophical germination in different spatial contexts (efficiency-based rights versus viscous rights); and, an imaginary of the relations between spaces which posits TEK values as the basis for the reconciliation, mobilizes political action and opens up the public sphere to deliberation (the geographic imagination of the Fourth World). I thereby explore not how politics at the edges of liberalism may be used within the terms of the citizenship regime: collective rights, increased self-governance and new borders within Canada. Instead, I explore Native law confronting international economic law in a global legal pluralism: the broadcasting of a legitimate, sticky right from the enfranchised position of property-holder in a viscous language of the community base which works towards reconfiguring the deliberative and normative dimensions of the political community.

2.2 Background to Interior Alliance international advocacy

In the *Delgamuukw*²¹ decision, the Supreme Court of Canada affirmed both that Aboriginal rights and title have not been extinguished in most areas of British Columbia and they remain protected along with treaty rights under Section 35 of the Constitution. This unanimous decision was important for the members of the Interior Alliance, who like most Native nations in BC, had never signed a treaty with England or Canada and thus maintain a legal claim to the land based upon their “inherent rights” which flow from their respective Native laws (Interior Alliance, 2002; A. Manuel, 2003). These nations refuse to enter into land claims negotiation as they want to maintain their sui generis Aboriginal title and rights and secure increased self-governance over their territories. In 1999, five interior bands (Adams Lake, Neskonalith, and Splotsin Band from the Secwepemc Nation and the Okanagan Indian Band and Westbank First Nation of the Okanagan Nation) went logging outside their federally-mandated reserves onto their much larger traditional territories in order to procure wood for the purposes of on-reserve housing. They hoped to put the ratio of *Delgamuukw* to the test: they either would be allowed to take the wood without a provincial permit or would force the resolution of their Aboriginal title

²⁰ I take up three of Pratt’s spatial arguments—extending the second and third—and add a fourth of my own.

²¹ *R. v. Delgamuukw* [1997] 3 S.C.R. 1010 [hereinafter, *Delgamuukw*].

and rights into the courts. The province issued a stop-work order against the logging and secured a court order against the sale of the logs. While the so-called Harper Lake cases began their slow march through the legal system,²² resource extraction and development continued with the most minimal of consultation of affected bands despite the findings in *Delgamuukw* (A. Manuel, 2003, 320).

It was upon these grounds that the Interior Alliance began a new chapter in transnational advocacy when Manuel announced that the Secwepemc would again be “going international” to secure native rights as they had done before under the leadership of his father, Chief George Manuel (discussed below) (A. Manuel, 2001, 97). A full-page advertisement taken out in the *Vancouver Sun* (16 September, 1999) by the Interior Alliance explained the failure of the state to live up to the obligations in *Delgamuukw* and the launch of an international boycott of BC wood products as a means to stop the appropriation of Native lands (Pemberton, 1999). The day after the advertisement, Arthur Manuel received a call from the Natural Resource Defence Council (NRDC), the largest environmental organization in the US, to inquire into his interest in joining the James Bay Cree in participating in the NRDC submission to the US Department of Commerce on the *Softwood Lumber* dispute. Under the auspices of the Interior Alliance and INET, a broad range of international political activities were subsequently undertaken: appeals to the UN Special Rapporteur on Racism and the International Olympic Committee (Sutikalh and Skwelkwek’welt, 2002, 2002b); participation in the UN Working Group on Indigenous Populations (A. Manuel, 2001, 98) and the CBD (INET 2004; A. Manuel, 2002);²³ as well as the submission of amicus curiae briefs and other documents to the U.S. Trade Representative (2000) and Department of

²² The so-called “Harper Lake” or “Jules-Wilson” cases: *British Columbia (Minister of Forests) v. Okanagan Indian Band*, 2008 BCCA 107 – 2008/03/14 Court of Appeal (Leave to appeal to SCC denied 4 December, 2008: #32638); *British Columbia (Minister of Forests) v. Okanagan Indian Band*, [2003] 3 S.C.R. 371, 2003 SCC 71; *British Columbia (Minister of Forests) v. Jules*, 2001 BCCA 647; *B.C. (Min. of Forests) v. Chief Ron M. Derrickson et al* 2000 BCSC 0541; *British Columbia (Minister of Forests) v. Chief Dan Wilson et al*, No. 23911. When the Supreme Court of Canada directed the Province to pay the legal costs for the bands in 2003, it appeared that a meaningful opportunity had arisen to defend aboriginal title in court for the first time since *Delgamuukw*. However, the province argued that it would be more expeditious and less expensive to deal with the right to harvest timber for domestic purposes, leaving aside the question of title. The Court of Appeal agreed with the province in a 2-1 decision, reasoning that the matter could be decided more narrowly since sufficient consultation had taken place. The Supreme Court of Canada subsequently declined to hear the appeal by the Natives. See press release by UBCIC (17 March, 2008): <http://www.ubcic.bc.ca/News_Releases/UBCICNews03170801.htm> Accessed 10 June, 2008.

²³ Interview with Arthur Manuel, Secwepemc, Spokesperson, INET, 30 October, 2007.

Commerce,²⁴ NAFTA (INET, 2002), the WTO (Interior Alliance, 2002; INET, 2003), and the OECD.²⁵

2.3 The Interior Alliance and INET's Amicus Curiae Briefs in *Softwood Lumber*

Softwood Lumber has been an ongoing trade dispute between Canada and the US since the 1980s. Unlike in the US where the forests are mostly privately owned, in BC 93% of the forests are located on public (Crown) lands and more than 90% of logging on Crown land involves territory over which aboriginal title is claimed (Interior Alliance, 2002). British Columbia's economy is heavily reliant upon the commodity sector as 30% of the province's GDP is generated from the exploitation of Crown lands (timber, non-timber forest products, and minerals). Most of Canada's *Softwood Lumber*, which creates 10 billion dollars annually in trade with the US, is produced from Crown lands located in the BC interior, precisely those lands which form the traditional territories of Interior Alliance Nations. The US has always contended that the non-competitive allocation of fees ("stumpage") to harvest trees from public lands to private industry in Canada produces below-market rates and therefore causes material damage to US industry and are countervailable (A. Manuel and Schabus, 2005). While the US had been unsuccessful in convincing successive binational trade panels of their argument, a quota system was agreed upon in 1996 to end the dispute, limiting the quantity of Canadian lumber entering the US market. At the beginning of 2000 and coincident with the struggles over Aboriginal title in the BC interior, the matter again rose to prominence as the agreement was set to expire. After a negative determination by the US Department of Commerce against Canada in which the Interior Alliance participated, the matter was appealed to both NAFTA and the WTO. Importantly, the Interior Alliance was able to seek independent standing.

Although not the first independently-submitted, non-member amicus curiae brief accepted by a WTO Dispute Settlement Panel (Umbricht, 2001; Mavroidis, 2001),²⁶ the Interior

²⁴ *Ibid.*; see also: US Department of Commerce (2001) Memorandum Re: New Subsidy Allegations: Certain *Softwood Lumber* Products from Canada, C-122-839, International Trade Administration, Washington, DC (Cited by Interior Alliance, 2002, 10).

²⁵ The participation of INET at the OECD is noted at: <<http://www.international.gc.ca/trade-agreements-accords-commerciaux/goods-produits/participants.aspx?lang=en>> Accessed 9 June, 2009.

Alliance brief was the first to be accepted and circulated from an Indigenous group (Interior Alliance, 2002). As in the case of the brief submitted subsequently by INET (2003), the argument sides with the US to claim that the noncompetitive allocation of stumpage in Canada amounts to a countervailable subsidy to industry and is in contravention of the principles of free trade. The Natives ultimately diverge from the US submission, to make their main argument that any calculation of the difference between fair market value and the subsidized rate would necessarily have to also include Native proprietary interests and an accounting of environmental externalities.

Two main legal arguments, the Native right to standing and right to property, are woven throughout the narrative in the Interior Alliance brief. Its acceptance and circulation amount to a procedural precedent that indigenous civil society actors should be granted standing where they present new factual and legal arguments unaddressed by the other parties in the time period of the first panel hearing at the WTO (A. Manuel and Schabus, 2005, 249). It is doubtless that the right to standing would not have been established was it not for the brief deploying the strong commercial language of property. In terms of its substantive effect, the brief was merely acknowledged in the WTO Panel decision (WTO, 2002, paragraph 7.2) and by the submissions of the US Department of Commerce (WTO, 2002, paragraph 4.252-4.297). However, as Manuel and Schabus suggest, the procedural precedent had a substantive effect on the WTO system inasmuch as: “the WTO has taken a step in opening the dialogue between nations and Indigenous peoples, forcing countries who are parties to a WTO action to acknowledge and respond to the Indigenous position” (A. Manuel and Schabus, 2005, 249). Where Native groups are forced to plead their case before international institutions as a result of intransigence at the national scale and where the WTO and economic globalization have been assailed for the lack of democratic representation, the acceptance of the brief potentially opens WTO disputes to a new class of persons.

The briefs promote a geographically-informed rejection of efficiency-oriented rights as the basis for social welfare. Nevertheless, they adhere to a neo-classical economic argument

²⁶ Based upon very broad readings of Art. 13 of the *Dispute Settlement Understanding* (WTO, 1994) by the Appellate body, *amici* have been accepted since 1998 (Umbricht, 2001, n. 9). While the law surrounding their use at the WTO remains unsettled, especially in the case of independent NGOs and Native organizations, one justification for their acceptance is the provision of facts not raised by the parties. This has not only fostered the WTO mandate to make informed decisions, but also had the important effect of improving WTO transparency, connecting its decision-makers to the real world, and providing the WTO “a momentary...new lease on life” subsequent to the post-Seattle criticism of its undemocratic quality (Mavroidis, 2001, 16). A full legal discussion of the evolving WTO law on the acceptance of *amici*, as well as the incorporation of human rights and Aboriginal rights and customary norms into international trade law is beyond the ambit of this chapter, but see: Umbricht, 2001; Mavroidis, 2001; Marceau, 2002; Gastle, 2002.

which closes down politics by insisting that Canadian stumpage, unaccounted environmental externalities, and non-remuneration for Aboriginal title frustrate the efficient workings of the free market. While insisting that politics must be brought to bear on property, the briefs simultaneously asserts that in the face of a subsidy, the protection of the free market and the objective working of supply and demand justify a countervailing duty. This contradiction is most evident where the Interior Alliance demands: "...that the WTO panel maintain the present trade remedies necessary to restore fair competition and ensure that fundamental conditions for fair trade such as environmental protection and recognition of indigenous rights, especially Aboriginal Title, be respected and met by the Canadian government and Canadian forest companies in the future" (2002, 28: my emphasis). The difficulty here (and elsewhere) is the reinsertion of the assumption that competitive markets ultimately are the source of wealth as well as fairness, and that if only Natives were remunerated and the environment better protected, an even and equitable playing field—and not the depoliticized "business as usual"²⁷ terrain which abandons Native lifeworlds—would be restored. The contention that a truly free market is desirable may only be accepted if one ignores the fact that the neoliberal brands of economy and property are parasitic and depend on social and environmental externalities to underwrite their "efficiencies," externalities which are properly the focus of political debate as opposed to market logic (Pahuja, 2000).

Even though the use of free market rhetoric was obviously important to gaining credibility in an institution dedicated to removing barriers to global trade, the economic credentials of the brief were impressive enough that free market economics could have also been assailed without compromising the Native position. As I argue below, this limitation does not close down the postdevelopmental opening-up of rights. However, since indigenous peoples are some of those most excluded from the so-called benefits of neo-liberal markets, a further scrutinizing of the neoliberal subsidy talk in respect of the provision of social welfare or a re-orientation of the philosophical underpinnings of the debate by inserting local geographic context

²⁷ Manuel and Schabus (2005, 243) use this term to describe the behavior of the BC government where in response to caselaw affirming the possibility for Native title, it has set up a rather ineffectual treaty process and continued apace in facilitating private sector development of Native territories. I elaborate on its meaning to also stand for the rationality of neoliberal governmentality (following Wendy Brown on its indifference to democracy in *Bush's America*: 2003, 40)—a legal world of rights devoid of politics. Conversely, from a Latinist perspective, the politicization of rights and the law may be called the re-legalization of the law, as "society" is supposed to be within the consideration of the law and the judiciary (Mattei, 2003), somewhat similar to liberalism before the 1970s (Brown, 2003). By re-legalizing such a right, a grassroots politics oriented to "taking care of the land" attempts to "take *care* of business" through an Indigenous property.

to expose the economic as thoroughly political (as was done with property) would have enlarged the rhetorical space for postdevelopmental “regime change.”²⁸

While I agree with Manuel and Schabus on the matter of standing and its potential for providing a rhetorical platform for Native issues, my main task is to go beyond this legalistic analysis to explain how rights are rearticulated in the briefs through a series of spatial arguments that allow “the subaltern to speak” (Spivak, 1988) less as a practical matter of standing and more as a matter of getting Native rationalities onto the table with some measure of intelligibility. Although the briefs do not self-consciously propose that the rights claimed have been “politicized” in a way legible only through specifically geographical lenses, a geography of rights as opposed to a neoliberal legal interpretative framework allows us to illuminate the fuller sense of Indigenous property without hiving off its social and environmental externalities. It thus measures the success of the briefs according to the extent to which they usher in a new ethical paradigm and stand as a precedent for similar transnational Indigenous struggles.

2.4 A Geography of property rights

2.4.1 Alternative discourses and subject positions in different spaces

One geographic strategy toward restoring the promise of rights is to empirically attend to the range of rights discourses and subject positions available in the experience of social actors in different spaces. Pratt suggests that rather than dismissing rights out of hand for their depoliticizing individualism and for being a disciplining tool of biopower, researchers and activists should investigate more empirically into “what a multiplicity of spaces can mean for a politics of rights” (107). She pushes us to explore the historically contingent and geographically contextual meanings of rights: “...we do not live within a single discourse, and the multiplicity of spaces in which we live likely modifies some of the depoliticizing effects attributed to rights discourse” (Pratt, 2004, 108; Brown, 1995).

As an example of this multiplicity and its geographic prospects, she cites the discourses available to foreign-born nannies in Vancouver. Pratt explains how Filipinas who come to Canada under the Live-in Caregiver programme (LCP) are afforded a differential type of citizenship which potentially exposes them to exploitation and abuse by their employers and the state. The

²⁸ In my focus on Indigenous property and post-development, I argue that you cannot dismantle the master’s house with his tools, contra: Ladner and Dick (2008, 89).

risks of mobilizing rights from this subject position include the separative effects of identity politics and a rights model of injury which continually reproduces the Filipinas as unskilled and dependent subjects. But by virtue of the LCP requirement for two years of post-secondary education and the fact that many of the candidates actually hold a nursing degree, the PWC has developed an alternative discourse which allows the use of rights from a more enfranchised position. Coupled with evidence of their continued pursuit of political alliances with other marginalized groups, they use rights in a way that responds to the underlying social conditions of differentiation and works toward social justice.

Although global trade has led to the increased appropriation of Indigenous land and resources, it has also opened up new rights discourses and spaces for Natives to test the emancipatory potential of liberalism. From civil and political rights, to social, cultural and environmental rights, human rights have been one of the most important political avenues for redress since the end of World War II (Anaya, 2004; Al Attar et al, 2009). However, where Canada continues to ignore the recommendations of international human rights bodies, the discourse of human rights only re-produces Natives in a positionality of injury in a largely rhetorical space. Furthermore, human rights discourse remains contested at the WTO (Marceau, 2002), where its exclusion from the process of trade legalization means that such concerns are shunted to policy debates in the political arena. Moreover, with the increase in forms of property and neoliberal refocusing on property as the means toward social wealth, the positionality of the liberal rights holder has become more significance since the 70s. In the WTO Dispute Settlement Body, the Interior Alliance found a gap in the legal discourse by conceptualizing their claims precisely in these terms as property. INET frames its case as a matter of the expropriation of resources from lands over which Crown ownership has never been established (A. Manuel and Schabus, 2005):

[W]e...looked at the WTO...because once you latched on to the concept of subsidies...What we mean is that there is a very underlying property [interest] in all of this land in British Columbia...Everything emanates out of that. I don't care if it's a tree or a mineral or a blade of grass, an ounce of water, [or] income because they are selling coffee here—it's still based on the land. The buildings aren't floating in the sky, they are on the ground, there's revenue being generated. So every piece of revenue has some essential basic Aboriginal proprietary linkage... and because that isn't being recognized and because there is no powers with regard to access and benefits with regard to that, there's some form of subsidy being given to the people who are benefitting from that revenue. They're getting away, scot free, without contributing to one of the primary people who should be benefitting from that which is Indigenous people. And that's wrong. That's a total flagrant, blatant repudiation of the fundamental principles of economics...economic values that people place on economic

business... We needed to prove that this non-recognition was a cash subsidy according to the WTO's provisions regarding subsidies. So, that's what we did...²⁹

As opposed to being a purely conciliatory gesture towards Indigenous peoples, evidence of the importance of the property aspects of the claim can be found in Manuel's description of his meeting with a WTO representative:

...I was invited to a NAFTA based-forum by a civil group that deals with governments...invited me to Mexico City. And one of the people from WTO stood up and said, "We know you have social, we know you have cultural problems within your country, but we never knew you had any property rights! When the Commission accepted your submission, it totally floored us staffers"...They handed it up to the bosses and the bosses...³⁰

When the claim for Native rights is made as a human right in a national or international forum, it may be dismissed for being overly broad, irrational or simply "political." From the Left, it may be further critiqued for reproducing a voice that can only speak from a position of injury, for buying into neoliberal rationality, and for being made in the absence of meaningful institutional enforcement. Yet when made in an economic forum as a property right, Native rights may be recuperated as a logical and legally enforceable right and potentially attached to a dollar figure. Contrary to other commentators who contend that the submission is concerned with human rights (and oddly do not mention property, see: Davis, 2003; 2005; Ladner and Dick, 2008),³¹ I argue that the briefs do not ask the WTO to consider an identity of injury and model of state reparations. By contrast, the Interior Alliance and INET speak from a position of entitlement as a property holder, a matter of prime concern to the WTO. In contrast to the negative assessments found in purely theoretical critiques of rights, both the multinational composition of the Interior Alliance (and their alliance with the James Bay Cree) ³² and the lived experience of contesting rights across fora illustrate both that rights claims need not always foster separatism and how

²⁹ Interview with Arthur Manuel, Secwepemc, Spokesperson, INET, 30 October, 2007.

³⁰ *Ibid.*

³¹ Property is of course a human right, but it is not presented as such in either of the briefs, and the actual term "human rights" only shows up once but is not developed (Interior Alliance, 2002, 26). Davis argues that WTO is an important alternative forum in which to link trade issues with human rights (2003) but denies that the shift from intangible notions of loss (i.e. human rights claims over loss of language and culture) to quantifiable property claims is significant in international indigenous human rights advocacy (2005).

³² Interview with Arthur Manuel, Secwepemc, Spokesperson, INET, 30 October, 2007. The alliance with the Cree ended when the Cree signed a treaty with the province of Québec.

property rights claims make available alternative political discourses and powerful new subject positions from which to pursue liberalism's promise of social justice.

2.4.2 “Going international” at the WTO: Scale, new counter-hegemonic norms and stickiness in rights

Indigenous people need to take a lesson from the eagle. The eagle flies high into the air to see the bigger picture and into the depths of the water. Like the eagle, we need to fly high in order to see the full dimension of who we are as Peoples.

—Arthur Manuel, 2003, 322

In British Columbia, the *longue durée* of the colonial present has led Natives who are not part of the treaty process to seek political traction at other political scales. In the year before the *Softwood Lumber* agreement was to expire, the Interior Alliance increased its advocacy by responding to a call for public input on the matter (U.S. Trade Representative, 2000) and by presenting their argument as an appendix to the submission of the NRDC.³³ They also began lobbying the U.S. House of Representatives over the period 2001-2004 and succeeded in having a sign-on letter circulated by the Human Rights Caucus detailing the infringements of Native rights by Canadian logging practices. As noted above, the Interior Alliance was briefly allied with the James Bay Cree who were themselves involved with the NRDC's campaign related to *Softwood Lumber* (Whitaker, 1999, 90-91; Jenson and Papillon, 2000) and this was the first opportunity to enunciate the recognition of Aboriginal title and rights subsequent to *Delgamuukw* on the international stage (Interior Alliance, 2003, 2; NRDC et al, 2001a, 2001b cited by Interior Alliance, 2003, 15).

Although the Department of Commerce was interested in the argument that Canadian lumber was further subsidized to the extent that externalities were not included in the stumpage fees—i.e. the proprietary interests of Natives—it declined to provide an opinion on these in their

³³ I rely upon Manuel and Schabus (2005, 238-245) and my interview with Manuel for the timeline of Interior Alliance submissions and activities concerning *Softwood Lumber*.

final determination (Department of Commerce, 2001a).³⁴ Reflecting the “business as usual” approach subsequent to *Delgamuukw*, Canada refused the participation of Indigenous people throughout this process, insisting that their proprietary interests are properly a matter for Canadian courts. With the imposition of the countervailing duty in April 2002, Canada pursued parallel litigation of the dispute in panels at NAFTA and the WTO to which the Interior Alliance submitted amici independently of the Cree and the NRDC.

While the politics of scale (Marston, 2000; Brenner, 2001; Marston and Smith, 2001) was an already familiar tactic for BC Natives, what is remarkable in this case is the transfer of both political discourse as well as legal norms and their contribution to the production of international soft law. In the first instance, the Interior Alliance adopted the Cree argument that the sale of timber to the US was subsidized to the extent that they were not remunerated for their property interest and environmental costs were not accounted for (Grand Council of the Crees, 2001; Gastle, 2002). In the second instance, the Interior Alliance borrowed legal norms from national and international law-making fora to make a case for rights to standing and property thereby opening up a rights platform for themselves within the WTO. After presenting a history and the strategies of “jumping scale” in Native politics, I extend the concept of geographic scale to include this more agential process of working rights within regime complexes to carve out new spaces for political claims aimed at both the state as well as international law. I recast the international scale not as a smooth space for capital, but a composite of multiple legal fora (and associated social and environmental equity norms) over which a sovereign (which Hardt and Negri, 2004, consider to be capital) struggles to control. The international scale is thus marked by a competition amongst sovereignties, a perspective unacknowledged in scholarship on scale. Aside from the brief’s objective of garnering an increase in domestic political pressure, I further assert that the tactic of borrowing norms from across regimes shows an opening-up of rights whereby counter-hegemonic norms are reproduced in soft law international circuits. Aside from a new rights platform, a second outcome from the development of “sticky” rights is therefore the extent to which these norms may come to bear or reconfigure international sovereignty, an authority more structurally attuned to custom than the state. A third outcome is how these norms may be taken up in the development of other counter-hegemonic rights in other fora by other

³⁴ “We also note the allegations that the Government of Canada and the provinces of British Columbia and Quebec are violating treaties and land rights with the First Nations are also questions more properly addressed in Canada. However, to the extent that Canadian lumber companies are being provided with stumpage from provincial governments, we are measuring that financial contribution in our preliminary determination based upon market rate for stumpage” (US Department of Commerce, 2001a, cited by Interior Alliance, 2002, 10); see also US Department of Commerce, 2001b, 2002.

groups (a type of underground existence for unrecognized rights kept alive owing to the political promise of their stickiness).

(a) Native history of geographical scale

As legal scholar Douglas Sanders has argued, colonialism led to an increase in international relationships both between Natives and settler society as well as other Native nations, where alliances became crucial in order to provide the semblance of a political bloc against colonial power (Sanders, 1980). This is important to keep in mind as recent scholarship on transnational indigenous activism tends to focus on the recent availability of “indigenoussness” as a new transnational subject position cultivated as a result of the withdrawal of welfare state and the strategic shift to collective cultural rights (N. Harvey, 2001; Nash, 2001; Jung, 2003; Perreault, 2003; Niezen, 2003; Radcliffe, Laurie and Andolina, 2005). Historically, this most recent round of globalization indeed has provided rhetorics and technologies which effect more long distance political collaborations and mobilizations for both Natives and nonNatives, such as those organized around indigenism, HIV/AIDS, and opposition to the Iraq War, through inexpensive telephone and the internet communication. Yet Interior Alliance nations, such as the Secwepemc, have been involved in a politics of scale aimed at the protection of their rights for well over one hundred years. They have always insisted that their interactions with the British and, now, Canadian governments have been nation-to-nation, as evidenced by their continued refusal to cede their territorial rights and identity as peoples. As I have explained, the Alliance itself is a nation-to-nation arrangement as it is composed of culturally similar yet politically distinct Native peoples.

BC Natives have a lengthy history of forming territory-based tribes or nations as political units who engage in international relations (Tennant, 1990, 72). They mobilized around the matters of title, treaty and self-government beginning in the middle of the 19th century when it became clear that the provincial government sought to place Natives on reserves without any treaty right to their traditional territories (Tennant, 1990, 82-83). Working through interpreters, in the midst of devastating pandemics on their populations, Natives quickly developed and put forward a consistent political position on sharing the land with settlers and the continuation of traditional Native lifestyles (a politics of “Indianness,” see: Tenant, 1990, 69). As an example of the doctrine of mutual recognition, the intent to forge arrangements for the sharing of territory through treaty evidenced not acquiescence to English sovereignty but a tradition of constitutionalism practiced by Natives across North America. Through the doctrine of consent, Natives would allow settlers to use certain areas while, through the doctrine of continuity, retain

control over other lands and matters of self-government central to Indianness (on “treaty constitutionalism” between 1630s-1832 see: Tully, 1995, 116-122). As opposed to forming a united province-wide Native front, the resistance to the colonial government itself took the form of international alliances among Native tribes or nations along the coast and in the southern interior—e.g. the Salish in 1874 and the Nisga’a Nation and Tsmishian Nation in 1887 (Tennant, 1990, 84). Native political mobilizations also included direct meetings with successive Canadian prime ministers, both in Ottawa as well as in BC. In 1909 the Secwepemc, Okanagan and Nlaka’pamux formed an association called the Interior Tribes of BC (Tennant, 1995, 72-73). In 1910, they produced their first international legal text in the form of a letter detailing their refusal of reserve allocations and an affirmation of Native rights. The Memorial to Sir Wilfred Laurier (25 August, 1910) was presented on the occasion of Prime Minister Laurier’s tour of British Columbia at Kamloops (on these petitions, see: Harris, 2002, 226; Saul, 2008).

Internationally, BC Natives met with King Edward in London in 1906 and appealed to the Judicial Committee of the Privy Council in the 20s. Natives formed representative bodies in the 70s which sought direct negotiations with the state, such as the Union of BC Indian Chiefs (UBCIC). Although the UBCIC was instrumental in securing the inclusion of Section 35 in the Canadian Charter of Rights and Freedoms³⁵ through advocacy in Ottawa, London and at the United Nations (Sanders, 1980; Tennant, 1990, 203) and its president, George Manuel, was one of the most recognized Native leaders in Canada, the tribal quality nevertheless remained present in the legal battles over territory (Tennant, 1990, 180-181).³⁶ When the Department of Indian Affairs established the Office of Native Claims to allow Natives to negotiate directly with the federal government as to the possible continuation of title and terms of treaty over the land throughout the 1970-80s, claims were overwhelmingly made by tribes as only 7 out of 199 bands chose to make claims on their own (Tennant, 1990, 204). Many Natives in BC insist that the proper way to categorize their relationship with Canada today is through an international framework because they have not surrendered their land to the state by treaty or war.

The Secwepemc chief, George Manuel Sr., Neskonlith,³⁷ elaborated upon this strategy of geographic scale in his roles as Chairman of the National Indian Advisory Council, President of the National Indian Brotherhood of Canada (NIB) and President of the North American Indian Brotherhood between the 1960s-80s. On the national scene, George Manuel was a key leader in

³⁵ Upon its patriation in 1982, see: *Constitution Act*, 1982, being Schedule B to the *Canada Act, 1982* (U.K.), 1982, c. 11.

³⁶ *Calder v. Attorney-General of BC*, 34 *Dominion Law Reports* (3d) [1973], Supreme Court of Canada

³⁷ Arthur Manuel has followed his father’s lead in pursuing Native rights at the international scale.

securing Native rights in the Canadian Constitution (A. Manuel, 2003). This activism culminated in the establishment of the World Council of Indigenous Peoples at Port Alberni, BC in 1975, an important precursor to the Permanent Forum on Indigenous Peoples (Saunders, 1980).

(b) *Two strategies in Native scalar politics*

Arthur Manuel explained how international advocacy allows for overcoming the lack of political opportunities at the national scale where the state refuses to enact Native rights:

Canada would really like to have exclusive power and jurisdiction over indigenous people. And one of the things is that they could get away with that if you did not bring these issues forward to these large international committees with evidence and you were able to prove that Canada did not have the capacity to recognize some of your fundamental rights ...and every time they become more and more internationally recognized, you become more and more sovereign... Every one of those [international] committees that come out and challenge Canadian policy and direction—you need to draw that into your domestic arguments and you need to embarrass Canadians to change their fundamental positions. There is a connection, but it is not a connection that you are gonna see that results in bread and butter in the hands of your kids today... See, Canada is in a position as a country...to address these issues if you can hammer out the political will and the spiritual strength—I think you can do in this country. It's got the capacity: the constitutional framework, the judicial framework, the de jure aspect of a relationship is there. They're really trying to hammer out the de facto relationship...³⁸

The logic behind scale jumping has been described as a “boomerang effect” whereby the state is forced to react to political or legal gains made in the international arena (Keck and Sikkink, 1998, 12). “Jumping scales” (Smith, 1996) is therefore one mechanism for redressing the legal exceptionality under which Natives suffer by bringing pressure—the politics of shame or, more positively, the politics of “will” through the formation of new international norms—from global civil society upon a Canada reluctant to respond to its own de jure reality.

Merry points out that the politics of shame are more successful against weaker countries and/or in cases where added political or economic pressure can be rallied to make the shame take hold (Merry, 2008, 155). The era of Canadian nation-building subsequent to the adoption of the Charter has provided fresh political grounds for the politics of shame. The particularly Canadian culture of rights—expressed through the provision of bilingualism, the protection of minorities, aboriginal rights, and tri-legalism—has a recursive relationship with the definition of the state itself (Blomley and Pratt, 2001). Given the elaboration of Canada’s self-image through rights

³⁸ Interview with Arthur Manuel, Secwepemc, Spokesperson, INET, 30 October, 2007. A third strategy of scalar politics would include Manuel’s assertion that acting on the international scale as Native peoples is a form of sovereignty.

culture, rights claims by marginalized groups may prove powerful where their denial can be shown.

Besides bringing international political pressure into a national sphere sensitive to rights, a second source of legitimacy for claims made through scalar politics is the economic pressure gained from Natives being recognized as property holders. Had the WTO more seriously considered the proprietary interest of Natives, the resulting uncertainty to “business as usual” and international investment would have also strengthened the politics of shame by speaking in the language most audible to neoliberal governmentality. While one cannot point to the state responding to the activities at the WTO, one may look to more recent INET activities, such as consultations with Wall Street investment houses concerning the province’s contingent liabilities in the form of Native title, as evidence of on-going mobilizations to further rally economic pressure.³⁹

The history of the scalar politics of shame and claims of political sovereignty by Natives in Canada suggests that they not be discounted (cf. Cornassel, 2008). As Sanders describes in reference to Canada (1985), the Indian lobby made significant advances at the UN and in the UK, two fora lacking in international enforcement capabilities, through a combination of theatre and politicking that led eventually to a stronger domestic position for Indians. An institution with enforcement mechanisms like the WTO presents the prospect of even greater political pressure for Native claims. However, my focus is a second use of scale as part of the recuperation of rights which I explored in the introductory discussion of the brief as informing legal norms across the legal regimes, a process of global legal pluralism.

(c) Counter-regime norms in the briefs: standing, property and viscous rights

In my first geographic argument, I rehearsed how Natives went from a political positionality of injury to one of an enfranchised liberal rights holder as a result of bridging the gap between discourses and material experiences. Where these gaps occur at other scales, as in the instant case, these two geographic arguments (multiple discourses in multiple spaces; scalar politics) tend to collapse into one another. However, this does not exhaust the scalar politics in the briefs if the transnational scale is also understood as being formed by a horizontal “regime complex” (Helfer, 2004b, 16-17). On this view, the opening of rights through geographic scale involves not simply the uncovering of powerful new subject positions (property owner with a right to standing) but also the reproduction of counter-hegemonic norms. Less elegant than the

³⁹ *Ibid.*

vertical boomeranging of political and economic pressure back to the local, it also entails the more institutionalized—and potentially more transgressive—soft law practice of relaying a sticky property right horizontally across international regimes and potentially into the core law-making fora (such as the WTO).

In my introductory comments on the globalization of IP, I discussed how regime shifting allows for the development and eventual reinsertion of equity norms into a core legal site and argued that the political valence of the brief rests on it similarly consuming and reproducing transnational law. Soft law norms created for environmental, plant genetic resources, and human rights agreements by nontrade lawyers and government officials, NGOs, and Native peoples come to play an important role in the interpretation of areas of uncertainty within and between treaties as well as in trade disputes. Because regimes and their norms represent sunk costs and because of the time required to build new institutions, they acquire a degree of “stickiness” (Helfer, 2004b) which in international relations language means that they “function as ‘intervening variables’ that independently influence state bargaining patterns and their resulting policy outcomes” (Helfer, 2004a, 125 citing Krasner, 1983, 1). In addition to showing how states cooperate outside of formal rules, regimes theory also explains how weaker states and other actors such as Natives use regimes to strategic advantage (Helfer, 2004a, 125). The WTO has affirmed that soft law is a source of international law that must be taken into consideration in the construing of its agreements. Therefore, the property norms produced through regime shifting in IP globalization are not merely rhetorical expressions in need of political and economic force for their realization but are instead legitimate in their own right owing to their germination in a regime complex. Similarly, the soft law norms carved out by the Interior Alliance are not only political claims to which a state may or may not respond, but also are part of a transnational regulatory process. As “sticky” rights, they will circulate as a form of law for other weak parties to develop further or eventually insinuate into a core international legal site. In the age of Empire (i.e. transnational economic decision making and regimes), scalar politics affords a more institutionalized means for custom to confront the law (and sovereignty) than found at the domestic scale (cf. Sarat and Kearns, 1993).

An example of a uniquely Native law being broadcast across the IP regime complex may be found in the development of best practices and guidelines, such as those developed by WIPO’s Committee of Intellectual Property and Genetic Resources, TK and Folklore. Ladner and Dick point out how the Pauktuuit Inuit Women’s Association of Canada were successful in contributing to the normative outlines of a “cultural property mark” that would better allow

indigenous people to control their intellectual property rights (Ladner and Dick, 2008). While the resulting guidelines are not enforceable, they reproduce a form of (viscous) property predicated on preserving Native culture (an equity norm) through its transformation into a commodity.

The implications of regimes include that Natives actively give shape to rights (they are not just ready-made): where they find themselves in a regime complex, custom is taken as a more legitimate norm (such as in its iterations in negotiations over the Convention on Biological Diversity (CBD)) which further collaborates with other fora to confront the core law (such as TRIPS), an instantiation of transnational or nonstate sovereignty. Owing to greater freedom of design for rights within international fora, they are potentially more resistive than those found in regular scalar politics. The state may not recognize a sticky right any more than a regular rhetorical claim based upon international obligations, as in this instance. In both cases, the politics of shame are forced to await the impulse of political and economic force to enliven them. Yet the question of whether or not it is recognized by the state no longer ends the story of scalar politics. As the law-making process of soft law is targeted at international law, it allows for the right to continue on within regimes either to inform other rights by other groups or eventually be picked up by hegemonic law. The conclusion is not that Canada ignored the right crafted by the Natives because the WTO-Dispute Settlement Body did not recognize it, but that Natives contributed to the growing chorus of groups and regimes which are formulating rights to standing and property but also which go beyond efficiency to viscous norms rights before a transnational sovereign somewhat more attuned to custom and politics than found at the national scale. In the arguments for standing and property rights, Natives were able to make their claims for this more enfranchised positionality because of their careful reconfigurations of norms based upon a pluralism of legalities at the international scale. By enabling not simply the position of property holder but (see next section) rights underpinned by equity-based norms, geographic scale offers the opportunity for resistance that threatens the market paradigm.

i. Standing:

Despite the clear connection between the Native property claims and the rationalities of the WTO, getting the views of the Interior Alliance onto the table was nevertheless an uphill battle as the WTO remains first and foremost a club for states, not nations or corporations. The lack of established protocols for submissions by friends of the court (including Indigenous groups) meant they often had to rely on surreptitious tip-offs from staffers of European Union

states.⁴⁰ Furthermore, the only developing country on the panel, India, aligned itself with Canada against amicus curiae briefs owing to the added financial expense of having to contend with them as well as a fear that wealthy corporations could use them against developing states (A. Manuel and Schabus, 2005, 249).⁴¹ All of this is in marked contrast to the strong representation Indigenous peoples enjoy in human rights, environmental and international indigenous fora.

As I have shown, the briefs mark a procedural precedent for the acceptance and circulation of new legal and factual information from Indigenous parties who are not privy to a trade dispute at the panel level. The law on the use of unsolicited arguments from nonstate parties remains unsettled at the WTO and this uncertainty allowed an opening for the Interior Alliance. The Native argument for standing rested on the WTO's law on amicus briefs, commercial law, Native and Canadian law, as well as international norms surrounding the rights of Indigenous peoples. The Interior Alliance brief makes its most convincing claim for standing where it calls upon the principles underlying amici to insist that it is providing the panel with a perspective both unaligned with either party and one containing information vital to unravelling the question of subsidies in the Canadian lumber industry (INET, 2003, 2-3, 7). The further provision of information which cuts to the most significant matter in economic relations, property, undoubtedly is a second ground for standing (Interior Alliance, 2002, 8). INET's brief asserts a third ground for standing based upon the existence of Native governments which pre-date those found in settler societies. Irrespective of their lack of formal membership in the WTO (INET, 2003, 1), the argument is that Native nations qua nations are owed standing on issues that touch on their concerns. Given that the Interior Alliance nations believe that their title flows from Native law and the Creator, it is important to appreciate how this argument for standing calls upon not just the principles of international law but Native law as well. INET's brief (2003) cites related international law surrounding the role of Indigenous peoples in international forums. It further refers to the participation of Indigenous peoples alongside state representatives in the UN Permanent Forum and the CBD as evidence of a norm for nonstate Indigenous parties to have a position in state-based organizations. They further analogize between these institutions and the increased role of the WTO in such "new" areas as TEK (via TRIPS) and Native territory (via *Softwood Lumber*)—areas of Native concern where international trade agreements unwittingly find themselves operating—to argue that cognate legal norms must be taken into account. INET implicitly argues that due to this sort of "venturing" in the activities of the WTO (INET, 2003, 1,

⁴⁰ Interview with Arthur Manuel, Secwepemc, Spokesperson, INET, 30 October, 2007.

⁴¹ *Ibid.*

4), it must respond to the standing and property norms in local TEK and state-level land regimes since it runs the risk of undermining “treaty rights to land and resources”, “constitutional guarantees” (4) and “international commercial law” (12). Thus, in the absence of a right to have a right, the briefs cite IP-related trade law and commercial law on property, as well as counter-regime norms of Native, Canadian, and international Indigenous rights law legitimizing bases for standing in *Softwood Lumber*: a sticky right to standing produced through institutional investment and specialization supports a space within the core law for an otherwise weak or voiceless party.

ii. Property: a particularistic and viscous claim:

The argument for standing proceeds through familiar terrain of indigenous identity work available at different scales and the regime shifting strategy of importing sticky normative obligations for property rights-holders and Indigenous peoples into the WTO regime. On their own, this geography of rights provides a representational possibility for Native interests, albeit firmly within the liberal rights paradigm. Upon closer inspection of the arguments made for an interest in property, one may observe the development not only of a sticky and particularistic right but also a viscous one in the reconfiguration of property’s universal logic from efficiency to norms of prior informed consent (PIC) and social and environmental externalities. Through norm-borrowing, the property rights argument claimed by Natives expands from one of a sticky entitlement to a right for efficient behaviour to a viscous right for responsiveness to equity issues: ownership, geographical context and the aspects of identity which exceed the categories of liberal cultural citizenship (the objective of postdevelopmental citizenship). Together sticky and viscous rights place weaker parties in a legal space where they can confront the law and reconfigure rights toward a counter-hegemonic governmentality.

Regime shifting is strategic response by weaker states to secure some control over the design of their property rights so that it matches their level of development (Drahos, 2005). I could also say that different developmental contexts give rise to different normative commitments and instruments to secure that horizon. It is the case that the West did not develop and innovate by using the sort of maximalist rights which predominate in contemporary global economic circuits (Boyle, 2004). In the context of classical liberalism and favourable North-South relations, it rather pirated and reversed engineered its way to development. As this example shows and as Rose reminds us, historically property was itself a more flexible instrument, whether in the case of real property exceptions for nuisance or the extraordinarily wide copyright exceptions for fair use. But today Blackstone would barely recognize what we call property (Rose, 2005, 1006 and 994). Since wealth generation and innovation require social welfare *ab initio*, an argument is

made that it is unrealistic if not exploitative to expect developing states—i.e. those with a deficiency in social welfare and other public goods—to adopt property rights which frustrate access to the knowledge products required to build up the social base and so other outlines of property need to be worked out (Drahos, 2005; Chon, 2006). Rose argues that it is important not to dispense with rights or their exclusionary aspects because they not only bring with them the weighty “shadow of the law” (Rose, 2005, 1002),⁴² but also because they can be put to new uses: “What we need to do...is to consider what kind of fences we want, and what should get fenced in and what fenced out—and perhaps where some passageways should go” (Rose, 2005, 1006-1007).

Property rights claims present the prospects for new bases for autonomy (new fences around “differential geographies” see, Castree, 2004) and the potential to replenish the common base through a host of obligations to social and environmental constituencies (new passageways to alliances and the defence of biological life). Where IP rights touch on social welfare concerns, Chon thus advocates for a property rule of “viscosity”, adopting Rose’s thesis that exclusivity of use must be balanced by social welfare concerns in order to maximize property’s wealth-generating abilities (Chon, 2006, 2909, citing Rose, 2005, 1004). Through regime shifting, developing states seek to carve out a place for property rights which accommodate a widening of fair use for copyright in educational materials or compulsory licenses for medicines. In the instant example, my contribution is to document Native activities in the design of property rights through their more limited opportunities for intervention in these same circuits . From the normative horizon of protecting the land and TEK, Natives design a right legitimized by practices of sustainability found across various sites of norm production which thereby broadly calls into question the ownership of the property at issue in Canadian stumpage.

At the national scale, Borrows points to the dearth of environmental protection at common law (52) and uses the example of land-use planning practice and law in Canada as one area where Native law could contribute to the betterment of society and decision making in respect of land. In a sense, he explains how new fences and passageways could be drawn into the common law on the basis of their position within the governmental ratio and the substance of Native law. Where Canadian citizens have become disengaged from politics as a consequence of

⁴² Rose critiques Michael F. Brown for dismissing rights and property so easily and for not understanding their potential for more than the provision of exclusivity of use. She further directs the reader to how “rights talk” may be debilitating for conservatives and empowering for Critical Race Scholars and feminists. Similarly, against Corntassel’s compelling critique of rights in Native struggles, viscous rights challenge the contention that rights are always inimical to responsibility-based politics which he insists reside only in community sites (Corntassel, 2008).

representative democracy, he argues that the formal inclusion of Natives as a constituency with legal principles pertaining to the environment is one means to reinvigorate democracy in Canada; and, the generational and nonhuman considerations of Native law would bring additional layers of democratization of society (45). Beside the procedural aspects of democracy, Borrows argues that Native interpretive considerations of environmental stewardship must also be brought to bear on environmental standards so that the substantive aspects of democracy are also enhanced (45-46). In order to bring about a more democratic, hybrid North American legal culture that better reconciles the human and natural environments, he argues for the state to support the institutional reform of federalist structures and the infusion of Indigenous legal norms (46). In my case study of the international level, although such formalization of legal pluralism is unavailable, international legal regimes nevertheless provide a means for Native principles developed formally and informally in local settings to “jump scale” and enhance the democratic and substantive direction of international law. Moreover, INET’s project goes beyond democratizing the law, to more profoundly affect its normative horizon and governmental ratio (two unstated implications of Borrows’ argument about Canada).

iii. Prior informed consent:

The Native right to property forms the most important claim in the briefs because it adds even greater weight to the US claim that the Canadian *Softwood Lumber* industry is subsidized. As the brief proclaims, “The Interior Alliance has never ceded or surrendered its rights to their traditional territories...”; “A fair market price would have to take into account the economic value of indigenous proprietary interests” (Interior Alliance, 2002, 13). As in the case of standing, the claim for a Native right to property borrows norms from cognate legal orders. As I have rehearsed, the briefs presented the occasion to call Native and Canadian law on the proprietary interest of Natives into international trade law: “Aboriginal Title is a collective proprietary interest of Aboriginal nations and is based on Aboriginal laws and exercised by community members, land users and youth according to the direction of elders” (INET, 2003, 6):

The Canadian...government has a constitutional obligation to protect Aboriginal Title lands. Its continued policy of non-recognition of indigenous land rights violates the Constitution and confers a direct benefit upon the companies operating in Aboriginal Title lands without having to pay for the full property interest. Indigenous interests are forfeited in the international marketplace, where Canadian producers liquidate the competitive advantage (Interior Alliance, 2002, 17).

The recent decisions of the Canadian courts also strengthened the Native argument for property to one burdened with economic equity obligations. In the *Haida*⁴³ decision on logging, it was held that even where Aboriginal title remains uncertain, the province and third parties (e.g. the resource sector) owe a duty of accommodation and consultation to Natives. As a result, the INET brief countered the claims by Canada both that Aboriginal title is beyond the jurisdiction of trade panels and that since Natives have no clear right to a property interest, then they may not argue that non-remuneration amounts to a subsidy at international law (Canada, 2001; 2002). With the *Haida* decision, Natives could not only claim a proprietary interest as per *Delgamuukw*, but even in the absence of certainty of Aboriginal title, they could also claim a right to consultation and accommodation until such time as title could be determined (A. Manuel and Schabus, 2005, 7). The uncertainty of Native title may not warrant an investigation into the proportionate role of Native interests in any subsidy. Still, the brief maintains that the lack of evidence of PIC in the context of uncertainty of title requires any responsible body, such as the WTO, to import the protective approach of Canadian law and factor in the aboriginal interest in the determination of a subsidy. The Interior Alliance brief goes to great care to spell out that they are not looking for a resolution of the Native land question but instead are looking for recognition of the potential role of Aboriginal interests in the calculation of the subsidy provided by Canada:

We are not asking this international tribunal to resolve land disputes, but to take into account indigenous arguments when it comes to the interpretation and application of the SCM [*Softwood Lumber*] agreement. Indigenous interests have to be taken account by international trade tribunals because of our special status as rights holders on the national and international level in as far as the violation of indigenous rights potentially leads to a violation of international trade law (Interior Alliance, 2002, 9).

In other words, in the face of doubt over title around the use of Native lands, the norm of consultation and accommodation in Canadian law forces any determination of a subsidy to allocate a nominal value for the potential aboriginal interest as a matter of international commercial law and not as a question of venturing into Canadian jurisdiction (Interior Alliance, 2002, 17; INET, 2003, 12). It follows that the WTO should have further adopted the reasoning of the brief and factored-in the potential economic value of Indigenous proprietary interests in any

⁴³ *Haida Nation v. BC and Weyerhaeuser*, 2002 BCCA 223, Docket CA 027999. Subsequent to the brief, *Haida* was appealed to the Supreme Court (*Haida Nation v. British Columbia (Minister of Forests)*, [2004] 3 S.C.R. 511, 2004 SCC 73). Importantly, while the appeal of BC was denied, Weyerhaeuser was successful and consequently no third party duty to consult currently exists.

countervailing duty.⁴⁴ If this had occurred, the uncertainty of tenure in BC would have increased political leverage insofar as it would cause investor uncertainty—anathema to “business as usual.” In the context of a resource-oriented economy, the spectre of a contingent liability (cf. Blackburn, 2005) to Natives would have more forcefully encouraged the state to seek reconciliation in the interests of restoring certainty in international trade, a trenchant example of the “boomerang effect” of the politics of scale (Keck and Sikkink, 1998). In addition to the importation of Canadian, Native, and international commercial law to the WTO, INET further argues that the principle of prior informed consent at international environmental law in the CBD⁴⁵ is analogous to the ratio in *Haida* (INET, 2003, 5). In making their case for a right to property, the briefs cite a series of law-making fora concerning PIC to fashion a particularistic right albeit one which projects a decidedly viscous obligation onto third parties.

iv. Social and environmental externalities:

On top of the noncompetitive pricing of stumpage rates, both briefs argue that the Canadian stumpage system amounts to a three-fold subsidy to industry in terms of suspended Native property rights, environmental externalities and acceleration of resource extraction. They express incredulity at the claims for ownership and environmental stewardship over the land in question by Canada and its scientist experts because Canada makes no mention of Aboriginal interests, the role of TEK in maintaining biological diversity and criticism from independent environmental bodies which impugn the mismanagement of Canada’s forests (Interior Alliance, 2002, 3; INET, 2003, 3-4, 7). The Interior Alliance claims not only that the lands are denuded without consent or financial consideration, but also that they are the recipients of the environmental externality of unsustainable forest practices (Interior Alliance, 2002, 16; INET, 2003, 3):

The Interior Alliance endorses the argument...that the nonenforcement of environmental provisions and the nonrecognition and implementation of Aboriginal and treaty rights are additional subsidies under international trade law (Interior Alliance, 2003, 9).

Even worse, owing to the subsidization created by the “business as usual” approach of the government and its high-velocity, neoliberal property right, “[t]heir lands are being destroyed at

⁴⁴ According to the briefs, this would have been easy enough to calculate given that the fair market value used by the Department of Commerce is based on the US softwood market which already includes monies paid to Indigenous people in Washington State for their logs (Interior Alliance, 2002; INET, 2003, 14).

⁴⁵ COP-6 Decision VI/10 on Article 8(j) and related provision, Annex II, para.16. Where this provision calls for equitable sharing of the benefits produced by holders of TEK, the development of guidelines for access and benefit sharing in respect of forests came to include the principle of PIC.

an increasing rate due to the selling of resources extracted from their traditional territories under market value in international markets” (Interior Alliance, 2002, 17: my emphasis).

The clearest expression of the Natives taking aim at social and environmental matters which exceed any particularistic claim for PIC comes in the mixed property and environmental right in the title of the lead section of the brief: “The role of indigenous peoples as owners and stewards of the forests” (Interior Alliance, 2002, 2). While property is in part claimed as a matter of Aboriginal right, it is also claimed based on Native law which insists on maintaining balance with nature by way of Natives enacting TEK in the forests as a means of supporting biodiversity: “indigenous peoples are bound by the courts and their own indigenous laws not to use the land in an irreconcilably destructive way” (Interior Alliance, 2002, 21). Native law is held by the people themselves and, as Janice Billy as Secwepemc traditional land user commented, distinctions between law, natural law, responsibilities, and—what I would call law or custom in the everyday—TEK are somewhat artificial:

Traditionally, it was not considered laws—maybe more natural law, but instead governed by nature, right: if you took too much, then you didn’t have enough; if you didn’t look after an area, then you didn’t have it next year. It was more unwritten, if you want to call it laws—more responsibilities of what we had to do: we knew we had to protect the berries and medicines or we wouldn’t have that. And it was done in a spiritual way, by giving thanks. If you didn’t do that, then there was a natural—or supernatural consequences from the creator.⁴⁶

It is therefore instructive to briefly return to the human and nonhuman normative dimension of the political community presented in the introduction and flesh out its expression through Native law/TEK in order to fill-in the background of the claims in the brief. An Okanagan Knowledge Keeper, Richard Armstrong, explained to me one basic way that the practice of TEK contributes to the health of the land, in the example of the collection of berries, one of the most important foods to the Okanagan (Figure 21, En’owkin Centre Door, carving detail of the Bear and Salmon, two other main Food Chiefs):

[T]o me, that use—our use of it, our picking it, our going around the bush and picking the—the berries had made that tree healthy because we picked the berries, because we picked all of the berries that were supposed to be picked. When they're not picked or whenever they—the tree just doesn't produce the good—good berries. And so me, that's...in situ conservation. That's

⁴⁶ Interview with Janice Billy, Secwepemc traditional land user, 23 May, 2007.

conservation method in a way that says that if it doesn't get used the way that it's supposed to be used, it goes bad.⁴⁷

Underlying this practical intervention with nature is the importance of ceremony and the sacred in acquiring the food. In respect of ensuring that the medicinal properties in food work correctly, a Secwepemc Elder from Kamloops emphasized:

But you can study our medicines all to hell!—pardon me—and modernize it, but I told them it is how you pick that special plant, how you ask that from the time that you walk up to the mountain on the purpose that you go up there. How you have respect for that plant; what you do to it. To us it is a living thing, we know that...all plants, animals, trees are all living relatives of ours. How we respect it, and the ceremonies we have on picking the medicines and the songs that we have for our different medicines can only work for that person.

She later continued by explaining the role of gratitude, respect and conservation for future generations:

When I go and pick berries there is a ceremony, a way of life that has been passed on. We take our handful of our berries, and we give thanks: we go to the oldest [berry] tree, we give thanks with whoever is with us, we each pick a handful...: Accept this back so it may be replenished and grow up to be, to assist us once again, we put it back on the ground. That is the cycle: we put it back. The First Fish that we catch: ceremony goes with it: we put it back in the water and give thanks: return to the waters, bring back many children so that our people will live, we put it back in the water, always. And that is how we were able to always have what we have today as First Nations, that is why we still have it today. Again, with what is happening in our First Nations [territory] with all the pollution and everything else that is happening: we still practice, I still practice the different ceremonies that go with whatever it is that I do.⁴⁸

By way of blunt summary of the legal relationship to the land as contained within TEK and associated ceremonies, Natives maintain a practical stewardship of the land whereby humans intervene just enough to support its health and food production, while avoiding over-exploitation. A collective normative orderings is apparent where TEK and Native law outline a capacious responsibility toward the land and its inhabitants, the Creator, ancestors, and future generations.

⁴⁷ Interview with Richard Armstrong, Okanagan knowledge keeper, 25 May, 2005. Scholars have inquired into more dramatic practices of stewardship on the Plateau, such as controlled burning, which controlled wildfires and dramatically increased the fertility of the soil (Turner and Peacock, 2000). Whether or not human intervention was a significant force in increasing biodiversity is beside the point inasmuch as I am concerned more with the implications of their political principles for sustainability.

⁴⁸ Interviewee #2, Secwepemc Elder, 1 August, 2007.

On top of the values of gratitude and respect, TEK is marked by humility to the extent that an ethic of care aimed at the collective forms the basis for autonomy (as distinct from individual-care and competition implicit in Western property). The land underwrites the individual, both as a support and as something integral to the self (see Introduction on involvements and involutions). Where the Interior Alliance claims the forests are “the basis of our way of life, spirituality, culture and current and traditional use” (3), this is therefore not simply a Lockean argument of ownership as a result of labour applied to Nature, but rather an entitlement flowing from a conceptualization of a networked co-mingling across the self and nature (Latour, 1993). Dorothy Christian, a Secwepemc/Okanagan traditional land user, stressed this point:

Well, Western notions of property, John Locke, who talks about ownership...Which is from a Native perspective, it is totally abhorrent. You don't own the land, the land owns you—that is where our songs come from, that is where our designs come from, that is where we come from. Our spirit is integral to the land, it is a reciprocal relationship...Christian people [and beliefs in] the right to dominate everything, whereas in Indigenous thought it is not about that—you are interrelated, you are related to everything—you know when indigenous people say, “All my relations”? It is not taken lightly, you are related to everything in the universe: the trees, the birds, the four-leggeds, the little crawly things, the water: you are related. It is like you take care of them, they will take care of you.⁴⁹

Interviewee #7, a St'at'imc traditional land user, expressed a similar opinion in a discussion on the contemporary applicability of TEK to economic development:

It is connectedness: a whole web of connectedness, like the identity from our ancestors right down to our legends and to today. In regards to looking at any activity that is going to occur, we need to actually have a clear understanding to the connectedness. So basically it is, in a sense, a bundle of knowledge; including identity. What I see: if we are going to do something today or in the future that is going to compromise our connectedness to the land, future and our ancestors...we are going to be denying our ancestors and our future generations. What we have...in regards to our resources and management of it...is mutual respect. By looking after land and resources properly, in turn they will look after us, a mutual connectedness.⁵⁰

My informants no doubt share in Blackstone's bafflement at the contemporary Western conception of property. Native law clearly is engaged in an aggressive mobilization of resignifying and spatially restaging liberal “property”—making it seem strange as a response to the community's normative, practical and spiritual interests. Indeed, despite the hegemony of

⁴⁹ Dorothy Christian, Okanagan/Secwepemc traditional land user, 24 September, 2007.

⁵⁰ Interviewee #7, St'at'imc traditional land user (man), 17 July, 2007.

property-speak, when discussing the land or Native title, my informants preferred an alternative term, often something like “stewardship.” From Jeannette Armstrong, an Okanagan Knowledge Keeper:

Those are...some of the ownership issues. I don't like to call them ownership issues. But I just described to you some of the issues that our people are faced with in terms of being care-takers, or stewards or ...guardians, it is a word we like to use.⁵¹

In turning from the universalist logic of property as freedom from the collective to an accountability for environmental and social costs as the basis of autonomy, a post-developmental moment arrives both in the sense of political space outside of the state and alternative cultural citizenship. Here, a Native governmental rationality is materialised and mobilized through a viscous sort of property right which opens toward context: “This case presents a unique opportunity for the WTO Appellate Body to create precedent furthering the rightful integration of environmental and indigenous people [stewardship] dimensions in the interpretation and implementation of international trade law” (INET, 2003, 3: my emphasis and parenthesis).

As in the case of PIC, the briefs avail themselves of counter-regime norms developed in other legal fora (stickiness) in making their argument for the internalization of equity concerns (viscosity). While observing in the argument of the NRDC to the Trade Policy Staff Committee that the failure to implement environmental standards amounts to a countervailable subsidy (Interior Alliance, 2002, 26 and 28), the Interior Alliance further insists that the destructive use of the land runs counter to “indigenous law” (21). The latter is expressed through TEK and related practices—the product of living “in a close relationship with the environment and ensuring its sustainability over generations” (26)—which, as the basis for the sustainable forestry (3; INET, 2003, 4), would inform any Native property right. At the international scale, the brief sites the principle of “polluter pays” as enunciated in the Guiding Principles on the Environment (OECD, 1972) and Principle 16 of the Rio Declaration (UN-DSD, 1992) as authorities for a right which “supports the principle of the internalization of environmental cost, as the only way of ensuring sustainability and fair trade in free markets” (26). TEK is further elicited as an element essential to the protection of biodiversity where the brief again invokes the CBD. Article 8(j) calls for government to support those traditional lifestyles and knowledges which foster biological diversity (Interior Alliance, 2002, 4; INET, 2003, 9). This provision is deployed as authority for the proposition that since Canada has this international obligation for in situ protection, its

⁵¹ Interview with Jeannette Armstrong, Okanagan knowledge keeper, 25 May, 2005.

stumpage system is a subsidy where the Native environmental role is unacknowledged. The portion of the stumpage subsidy owing to Natives consists of both a property right and a specifically international Indigenous entitlement to environmental conservation. INET's brief reaches its post-developmental apex where it goes beyond advocating for the internalization of environmental costs to describe what the implementation of international environmental and Native law would mean for efficiency-oriented property:

If Aboriginal people had a say in land and forest management, logging would have to be conducted in a more sustainable way with better protection of ecosystem values...This would limit supply and therefore raise prices in an open market. It would also produce a more equitable sharing of benefits and ensure remuneration for indigenous property interests...we would support culturally and environmentally beneficial green-light subsidies, that could also be used to support indigenous communities who are the poorest on their own land in maintaining their land and cultural heritage (INET, 2003, 6).

Further to politicizing property and its context, the market—as an environmentally sustainable thing—comes to be described as necessarily not a product of supposedly neutral laws of supply and demand but instead the result of administrative intervention through subsidies.⁵²

As a result of the subversive citation of sticky legal norms across geographic scale, the discourse around property is reworked to provide a space for a Native, postdevelopmental entitlement. On the one hand, this right is particularistic: it remains exclusive to Natives even though it projects a viscosity upon property in general at international law as a result of the obligation of PIC. On other hand, Indigenous property is a “conditioned” particularism: where Native and international environmental law interleave social and environmental externalities into this right, I have tried to make out the presence of a “cutting edge” (Deleuze and Guattari, 1987) of passageways which insinuate politics and equity concerns and thereby slow down property to buttress the community base. It is to this fuller sense of viscous rights that we now return.

2.4.3 The philosophical reorientation of rights in different geographies: TEK, viscosity in rights and the politics of bare life

A third geographical argument, the philosophical orientation of rights, holds that different places and perspectives on space give rise to different normative political commitments which shape rights (Pratt, 2004, 110). A spectrum across the capitalist and communist states of the late 20th century may be set out according to Cartesian space, from where rights seek to secure individual autonomy by abstracting and shielding the individual from collective claims in one

⁵² This is of course contradicted where the briefs elsewhere retreat to neo-classical economics discourse.

setting to where the security of the individual is procured by first defending the collective in another. And yet from a postNewtonian or Native perspective where the distinction between subject-object and figure-ground collapses (Latour, 1993; Blaser, 2010), we may set out an even more profound ontological indistinction between the individual and the collective and expect rights to take on a gregariousness responsiveness to the nonhuman world. The argument here picks up on the adoption of viscous obligations to further discern between those property rights that simply buttress a particularistic interest and reproduce an individualistic worldview and those which support the protection of other constituencies, such as environmental and social externalities, and which thereby pull an alternative normative ordering into the open. Where the latter property right takes on externalities, one can look behind its support for the community base to the constitutive influence of an Indigenous geography, a point of view which does not allow the sort of omissions which enable abstract and atomistic rights.

The contribution of Indigenous spaces to the opening of rights to context is part of an emancipatory project at the present historical juncture. Between states with different normative political commitments, such as the West and Soviet-bloc in the post-war era, international human rights were a site of much debate owing to the emphasis given in these different geopolitical spaces to the individual and the collective, respectively (Pratt, 2004, 110, citing Cossman, 1991). Similarly, in the wake of the neo-liberal triumphalism of the last forty years, Indigenous properties provide an important space in civil society for the democratic contestation of the content of rights and rationality of society (Nash, 2001). One normative lesson to be taken from the TEK and Native law underpinning Indigenous property is related to the ethical implications of a nonCartesian, nonNewtonian geographical imagination (Mitchell, 1991). Based on this perspective of space (multiplicity), the human is decentred and individual freedom and welfare generation are cast as a matter of supporting the collective, defined by Natives as “all their relations”: temporally, ancestors and the next seven generations, and geographically the land and everything on the land (animals, plants, water, rocks) (Deloria, 1994, 148-149; Alfred and Corntassel, 2004, 609). As this perspective recommends, Native law situates externalities in a higher regard than even advanced industrial socialist societies insofar as the self is “held” differentially by the collective: a change in the latter affects the constitution of the former. Therefore, as opposed to the individual and the collective being construed according to abstract values in the liberal and socialist traditions—a rather a-spatial legal geography—through Native law and TEK, the relationship is “grounded” as it flows from the geography per se and is fully complicit in Nature’s “hold” on the vulnerable self.

In place of an aspatial and depoliticized individual who disavows the collective as part of her constitution, Indigenous property rights support a gregarious self oriented toward those relations that fundamentally sustain identity (Butler, 2004). Inasmuch as viscous rights address the collective, one may also say that these open, excessive qualities of personhood are countenanced as opposed to being abandoned. Thus, the briefs exemplify an Indigenous property which presses upon liberal rights and ultimately reaffirms the political importance of the collective as the fabric connecting all of society. Understanding the insertion of the philosophy of TEK, Indigenous geographies and Indigenous properties in the cultural and political work surrounding a viscous property right allows us to observe not the mobilization of a separative identity that gains some traction and rhetorical force on liberalism's terms, but an excessive identity which works at its edges to build passageways through the borders of politically-qualified life.

2.4.4 The geographic imagination of the Fourth World: opening the normative horizon, opening the public sphere of late modernity from the “in-between”

Aboriginal peoples around the world constitute a Fourth World, with special rights and standing but also still being subjected to economic exploitation. In the case of Canada, Aboriginal peoples live in Fourth World conditions in a so-called first world country. Canada is ranked amongst the top three countries with the best living standard in the world according to the UN Human Development Index. When Canada's own Department of Indian and Northern Affairs applied the same test to Indian reserves, we were ranked 48th, well behind Mexico and many developing countries. Aboriginal peoples from Canada can therefore bring the concerns of the poorer nations in the world and the Fourth World before international trade tribunals and proceedings that would otherwise be limited to developing countries.

--INET, Amicus curiae brief, 2003, p. 4.

I have mapped a series of spatial arguments which have attuned an otherwise barren sort of rights to context (the outside, environmental and social norms) at progressively more fundamental levels: new discursive spaces; the careful cultivation of sticky norms across multiple fora for reverse-discourses (standing, property, PIC) and the integration of viscous norms and counter-conducts (equity issues), all produced from different geographies and ethical perspectives. From these discursive and normative levels, I now conclude with the spatial argument of the geographical imagination. As I explained, the philosophical reorientation of

rights already relied upon a geographical imagination: Indigenous property was erected upon a perspective of the constitutional multiplicity in space which dictated the “conduct of life on earth” (Gregory, 2000). Now, I now use the geographical imagination in another sense: for its other capacity to also instantiate “habit[s] of mind...” which “enables...individual[s]...to relate to the spaces [they] see around [them]” (Gregory, 2000, citing D. Harvey, 1973). Specifically, I look to the capacity of the geographical imagination less as a moral ordering and more as a political technique in the colonial context of reconciling competing spatial imaginaries. While, as an imagination, it necessarily remains the most abstract of the spatial arguments in this chapter, its originary signification by a Chief from Secwepemculewc, its citation in the brief and the circulation of its ideas in the political perspectives of Arthur Manuel suggest its import to the resistive politics of viscous rights. Despite the minimal use of this concept, at least in the brief, I gather evidence of Fourth World constitutional principles which circulate around the brief (from interviews and documentary sources) and re-present them as part of its politico-spatial imagination. I less speculate on what the “Native imagination” is but rather connect up the fragments of an extant imagination which, as George Manuel argues, is vital to developing Natives’ anti-colonial “capacity to imagine ways in which they can govern themselves” (G. Manuel, 1974, 60), as evidenced here through the insertion of the post-developmental heterodoxies of TEK into international circuits.⁵³

As a “habit of mind” for relating to space, the Fourth World has both an analytical pillar of abandonment and a critical, reconstructive pillar of the community base and public citizenship which navigate between Native and Western spaces (Manuel, 1974). The first pillar is demands an understanding of the exceptional conditions under which Indigenous peoples live in both rich and poor countries where their rights are suspended and regimes of truth render Native knowledge, grassroots subjectivities and practices unintelligible.

The second pillar, while only implicitly referenced in the brief (quoted above) as “concerns,” is embedded in the construal of Indigenous property. It involves how the space of exception for Natives and the environment will only ever be closed if nonNatives adopt an openness to the excessive relations which fundamentally sustain the self. This requires that all peoples not only pry open the public sphere to deliberation on the philosophical foundations of society, but also do so toward differentiation as a matter of process and content. In terms of

⁵³ Not only is this imagination conspicuous by its absence, but in its adoption in the wider world, it is often deployed for its particularistic and distinct vision of “being indigenous” (Alfred and Cornthassel, 2005), leaving unacknowledged its deft handling of difference, multiplicity and the project of “becoming-Indigenous”.

process, in the negotiation of Western and Native spatial imaginaries—i.e. the necessary drawing in of TEK to the spatial habits of mind which surround all citizens—the Fourth World frames space as the ever-unfinished product of the integration of the two worlds. It demands political deliberation and action, and is itself differential as a matter of process. Sovereignty is not given over to the state but instead remains an on-going public achievement (cf. Pratt, 2004, 76-77 on liberalism as “infantile citizenship”). In terms of the content, where the Fourth World insists that TEK values must guide the sustainable use of technology, it posits the collective and difference on its normative political horizon (networks and multiplicity). As in its public deliberation, the content of the Fourth World also refuses finality: where it rejects assimilation or apartheid between groups, its political content is neither essentialist nor involves abstract, transcendent definitions of the citizen, but the same open and processual aspects of the self grounded in contexts which are at the heart of TEK.⁵⁴ In sum, the analytical and reconstructive (process and content) prospects of the Fourth World form the conditions of possibility for both Indigenous property and the forging of a space for postdevelopmental citizenship in global civil society.

(a) Geographical imagination of other worlds

In the 1950s, French social scientists came to categorize a group of nations which were non-aligned with either the West (the First World) or the communist East (the Second World) in the Cold War as the Third World (Lee, 2000). The term was at first used as a liberatory geographical imagination which represented nations engaged in both violent anti-colonial struggles as well as alternative and local models of development. Subsequently, other mobilizations of the Third World came to be marked by Orientalism where they posited Western modernization as the natural model of development—therefore rendering competing models deviant and backward—and explained the lack of development on internal problems to developing states as opposed to the impacts of colonialism or the exploitative economic geography of capital (Escobar, 1995). In order to resist and recuperate this geographical imagination from its deterministic incarnations, Lee suggests it is therefore necessary to recover a sense of the historical and geographical particularities which animated the original deployments of the term. To this end, scholarship on local definitions of political community, subaltern histories, alternative economic spaces, and Indigenous properties—a “sociology of absences” (Santos, 2006)—assists to situate these as viable alternatives to the state, the market and liberal

⁵⁴ Where I argue for difference as a political objective over transcendence, I argue for the difference that occurs in nature (the involvements and involutions of TEK with the body and land, as we saw in the Introduction) or what in the context of TEK involves differential responses to cycles (the symbol of the spiral in Salish culture-types: see Chapter 4). I am not calling for teleology of difference evacuated of political content: the equitable and environmentally-balanced arrangement of the collective is the content.

rights and the humanist subject (Chakrabarty, 2008; Gibson-Graham, 2005; Escobar, 1995). The expression of Indigenous property in the brief recuperates a counter-hegemonic rationality for life on earth to the geographic imagination—an example of “cognitive justice” for alternative epistemologies (Santos, 2006). I now trace the movement of conditioned particularity in Indigenous property back to its roots in the geographic imaginary of the Fourth World.

(i)..The Fourth World: making space for the politics of the outside

An example of a deconstructive and creative reworking of the “worlds” as a habit of mind may be found in the political activism and scholarship of Chief George Manuel. Aside from his prescient understanding of the politics of scale as critical to native politics, Chief Manuel popularized the geographically imaginative term of the Fourth World in his book, *The Fourth World: an Indian reality*, to describe the condition of “indigenous peoples descended from a country's aboriginal population and who today are completely or partly deprived of the right to their own territories and its riches” (G. Manuel, 1974, 40). As distinct from the state-centric approach of the Third World where the matter is the ousting of the colonial or local elite from power, the Fourth World strategically collectivizes and essentializes the experience of indigenous peoples situated within nations of the First, Second or Third Worlds against the assault by technology and accumulation on the local. It is a transnational umbrella term for those who hold TEK as well as tribal rights and/or state-guaranteed rights which are not supported by state governments. The Fourth World is therefore very much of the post-colonial (e.g. India) and colonial presents (e.g. Turtle Island/Canada & US, Aotearoa/New Zealand).

In respect of Western society, Manuel was exceedingly clear that it would have to adapt Native rationalities in order to bring about social justice for Indigenous peoples, an objective that was only attainable with the co-founding of the Fourth World:

We know that we cannot move very far in that direction unless you also choose to move. Do you know how far you can move without us? The Fourth world is no less open to others than it is to us....We cannot become equal members in your society. We can become a member of a new society in which everyone chooses to share. But that cannot happen until you begin to reconsider and reformulate your understanding, and your view of the world, as we have begun to reformulate ours (G. Manuel, 1974, 261).

With this, the Fourth World slides from being an Indigenous critique of the abandonment of Indigenous peoples to being a hopeful proposal for a new space which recomposes Western and Indigenous spaces: “Indian people have never completely left our Old World, the Aboriginal World which I have tried to describe. European North Americans are already beginning to work

their way out of a value system based on conquest and competition, and into a system that may be at least compatible with ours” (G. Manuel, 1974, 266).

Blackburn argues that reconciliation with the liberal state has expressed itself as a denial of Aboriginality: Native rights are simply “modernized” so that they “fit” with Canada (Blackburn, 2007). Along with other scholars, she advocates for meaningful reconciliation as a matter of loosening the yoke of Canadian sovereignty such that Natives may be subject to their own laws and institutions. As a postdevelopmental way of thinking, the Fourth World similarly shifts the developmental logic away from decolonization, modernization, the rights-bearing individual, and the state, toward “traditional Indian values and culture” (G. Manuel, 1974, 220, 234, and 245). Manuel found his greatest inspiration of Fourth Worldism in the Tanzania of Julius Nyerere as a matter of nomenclature, geography and democratic governance. Indeed, he first heard the term when the first secretary of the Tanzanian High Commission, Mbutu Milando told him: “When Native peoples come into their own, on the basis of their own cultures and traditions, that will be the Fourth World” (G. Manuel, 1974, 5). He also looked to Tanzania as a real-world example of the Fourth World where he saw the social benefits of using technology according to the values of TEK.

To the degree that the Fourth World is guided by TEK values, the parameters of the political open to collective relations. In terms of the application of TEK values to this mediation between worlds, the Fourth World re-politicizes the public sphere through an insistence on vigorous public participation and its teleology as an in-between space. To take the latter, Manuel uses a legal document and metaphor to explain how the Fourth World will come to be based upon a political form of “neither apartheid nor assimilation.” He calls our attention to the two-row wampum given to the first settlers by the Sioux. It sets out the terms of the relationship between the parties by depicting two canoes sailing together in a stream. Their parallel course suggests that the best means to avoid conflict is for neither boat/culture to interfere with the other. Manuel further outlines a second option as found in the European approach to Indians, which is based instead upon evolutionary racism: the relationship requires not sharing, involvement and reciprocal change, but the assimilation of Indians into “advanced” European culture. Manuel then revisions the two-row wampum according to an alternative Native legal argument which insists on a processual combination of the two according to TEK.

He sees a Native canoe laden with traditional practices tied to place which gives Natives a sense of identity and a European canoe laden with modern technology but unhinged from a connection to place. Anticipating Deleuze’s figure of the surfer, he imagines himself with one

foot in the Native canoe and the other in the European one (8) attempting to bring the two territorializations together. The implication is that where the Fourth World is a passage between societies mediated by TEK connected to the land, as opposed to a transcendental imposed from without (individuated bodies, evolution, progress, the modern industrial state) (238, 267), its differential composition mirrors that of TEK. In other words, the application of TEK in the “reconciling” of two geographies is similar in form to the form (and, thus, content) of TEK itself. The “in-between” of the Fourth World less describes a political program than an intense space open to the sweetness of biological life (the flesh) to which viscous rights as we have come to know them, with all their passageways, respond “right up the middle” (Deleuze and Guattari’s words).

Manuel’s imaginative understanding of how these two spaces could relate was given an operational component where he insisted on a practice of everyday political deliberation as central to the reality of the Fourth World. Where decolonization heralded the end of colonial sovereignty for the Third World, Manuel followed Nyerere’s thinking on the Fourth World to consider it only as the beginning of Indigenous sovereignty:

...the utilization of technology and its life-enhancing potential within the framework of the values of the peoples of the Aboriginal World—not a single messianic moment after which there will never be another raging storm, but the free use of power by natural human groupings, immediate communities...Neither apartheid nor assimilation can be allowed to discolour the community of man in the Fourth World....The Fourth World is a vision of the future history of North America and of the Indian peoples. The two histories are inseparable (G. Manuel, 1974, 11-12).

In order to bring about the multiplicity of the Fourth World, a sovereignty which negotiates Western technology and TEK requires not in the flash of decolonization, but an everyday, local negotiation and enactment. Thus, at its heart, the Fourth World unites Native peoples and interpellates everyone into political action and deliberation on the relationship among development, technology and defending the vulnerability at the centre of life.

(b) Contemporary circulation of Fourth Worldism

The implicit presence of Fourth World thinking is also present in the political thought of Arthur Manuel. Concerns over the sustainable use of the land according to TEK are at hand in Manuel’s approach to economic development as part of the shift to Native self-government. Citing what he calls a “company disease” in Canada marked by an “over-harvesting [of] the ability of the planet to supply resources”, Manuel set out the interface of TEK values with the hard realities of economic development:

Meanwhile, indigenous people have not really figured out how economically you counterbalance interests related to TK and values and activities vis-à-vis competing interests in the same territories where the companies are defining certain economic interests that they want. There is this battle going on there and there really isn't enough data for indigenous people to be able sustain a...debate on this issue. But in fairness to indigenous people, there is not legislative framework requiring industry to work with indigenous people to come up with a planning process which will include industrial development plus some form of recognition protection to either sacred areas or environmentally sensitive areas, maybe because of medicine plants...⁵⁵

This chapter's introductory quote illustrates the intent of (some of) Canada's Native peoples to represent the economic "concerns" of the disenfranchised peoples of the Fourth World. By aligning Manuel's comment on TEK alongside INET's advocacy for a viscous right, one can also make out the intent to also represent environmental concerns and to set out the means for the enrolment of all peoples into the Fourth World, affirming the terms of what George Manuel insisted was its necessary "future history."

In respect of Canada's refusal to sign the Universal Declaration of the Rights of Indigenous Peoples in 2007, Arthur Manuel returned to the constitutional relationship between Canadians and Natives and further spelled out some of the tangible trade-offs required to bring about their reconciliation over space:

What are the underlying causes for that decision vis-à-vis their policy for assimilation and extinguishment and ours for recognition and coexistence? And we need to figure out, how do you force government to...lose power...and transfer some of its powers out of its portfolios, because that is what recognition of existing aboriginal treaty rights really means, there has to be some transfer of power in terms of forestry from the Ministry of Forests of Section 35(1)⁵⁶; same thing with Fisheries, from the Fisheries Act over to 35(1)...And the only ones who can really request that there can be some underlying self-government changes in the Constitution are Canadian people as well as Indigenous people, but Canadian people, too...but those would require tremendous amounts of shifts, in bureaucracies and governments are totally geared upon not losing one ounce of power, collecting all the money they can...⁵⁷

In keeping with the political form of the Fourth World, neither assimilation or separation appear to be the goal where Manuel suggests opportunities for the sharing of economic benefits and the continued use of the state—critically, alongside new institutions for Native self government. His

⁵⁵ Interview with Arthur Manuel, Secwepemc, Spokesperson, INET, 30 October, 2007.

⁵⁶ Section 35 of the *Constitution* guarantees the Aboriginal rights and treaties established before its signing in 1982.

⁵⁷ *Ibid.*

thinking gestures toward what would clearly be a piecemeal (or differential) process of developing an architecture in-between the state and multiple Native governments. Further in respect of the politicization of the public sphere, where Manuel recognizes the need to restore a type of constituent power of the people as a bloc against the fusion of interests between the government and the private sector another similarity with the political form of the Fourth World is expressed.

3: “THE OUTSIDE” PASSAGE OUT OF “BUSINESS AS USUAL”

The argument of the Interior Alliance represents an astute reading of the philosophical, political and practical shortcomings of neoliberal Empire. They strategically attempt to assail property rights and the trajectory of imperial law on the terms of the Fourth World. Although the brief did not factor much in the final determination of the panel, its acceptance nevertheless marks a procedural precedent of standing for Indigenous peoples who increasingly experience the fall-out from international trade agreements. As Manuel and Schabus have argued, a right to standing potentially marks an opening for the WTO to better address global civil society. “Going international” also continues an important Native tradition of the politics of shaming through the politics of scale and develops the innovative approach of economic pressure. In the regime complex, I mapped the exploitation of stickiness in the formation of a right to standing and a right to property burdened with the equitable obligations of PIC. But I went further than these liberal arguments to emphasize that the briefs’ greatest significance comes from their defence of excessive aspects of Native identity through the iteration of viscous property rights obligated to social and environmental norms and the insertion of heretical counter-conducts circulating in Indigenous properties.

I speculated on the “second life” of Indigenous property within soft law—the prospects for its obligations to be taken up by other groups or become a norm that will penetrate the core law. The institutional setting of the briefs means that they cannot be dismissed as peripheral to debates over trade and (material or immaterial) property. They may contribute to postdevelopmentalism across multiple regimes to the extent that they broadcast a property which mirrors and amplifies the substantive arguments and the moral content found elsewhere in international normative fora. Besides defending Native territory and knowledge, I argued that inasmuch as a property right bears social and environmental externalities, it keeps the collective

and excessive aspects of life on the agenda. This sort of right re-orientes the normative dimension of the political community away from biopolitical liberalism which relies upon property law and the police to protect the individual and towards a postdevelopmental politics in which the integrative and differential relations with the collective are defended as fundamental to life.

Where biopolitical liberalism forges separative identities and thereby sets about abandoning the intimate and excessive qualities of the self, postdevelopmental rights are based upon the collective dimension of political community which flows from the “grounded” experience of the Native networked ontology. While not ejecting any strategy of recalibrating the terms of liberal citizenship for greater rights for Natives, Indigenous properties recognize their ultimate abandoning of the fleshy features of Native life, such as TEK, and therefore pursue a paradigm shift in which “citizens” are defended through rights which countenance the collective and differential wholeness of space. To the extent that postdevelopmental properties support precisely the excluded terrain of Native identity, they defamiliarize property and interpellate the shadowy figure of the Native Warrior and the people of the Fourth World.

Where I have mapped the expression of Native counter-conduct in a legal document and activism as an intervention in the spatio-discursive legacy of property, it is important to consider the matter of agency given that a biopolitical perspective insists that there is no pure space of opposition in a field of power relations. It is often assumed that the intactness of Native communities and their proximity to the land suggest something of a line of determination in a space which otherwise derealizes their lifeworlds as culturally impossible. This assumption too easily underestimates the colonial architecture of power/knowledge and, in turn, the resistant forces in Native communities, not in the form of indomitable individuals but as “humans” (or Native Warriors)—bodies pressed upon by geography not only as a basis of philosophical principles concerning ethical conduct on the land, but also as a material force that intervenes in the constitution of the subject below the level of discourse. Most troublesome is how this assumption constructs a “dead geography” (Thrift and Dewsbury, 2000) around Native ethnographies which, owing to the extension of the Native self into space, produces a sort of dehumanizing science even where it has the best intentions.

In Chapter 4, I “cut off the king’s head” by shifting from a story of representational politics (law and discourse) to a story of nonrepresentational politics in which everyday customary enactments on the land form the basis for a republican constituent power. To the extent that yecwiminte r tmicw, “taking care of the land,” governs the relationship of Native bodies to

the land, it is explored as a practical self-technique that affects the constitution of subjects and the circulation of power (on the care of the self, see: Foucault, 1997).

4: FIGURES

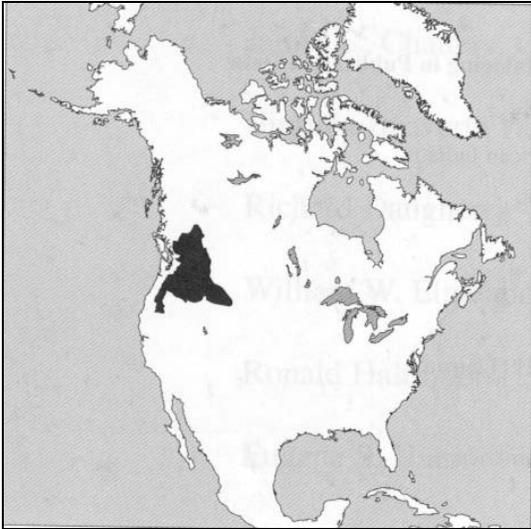


Figure 16 Columbia Plateau on Turtle Island (Sturtevant, 1998. © The Smithsonian, public domain).

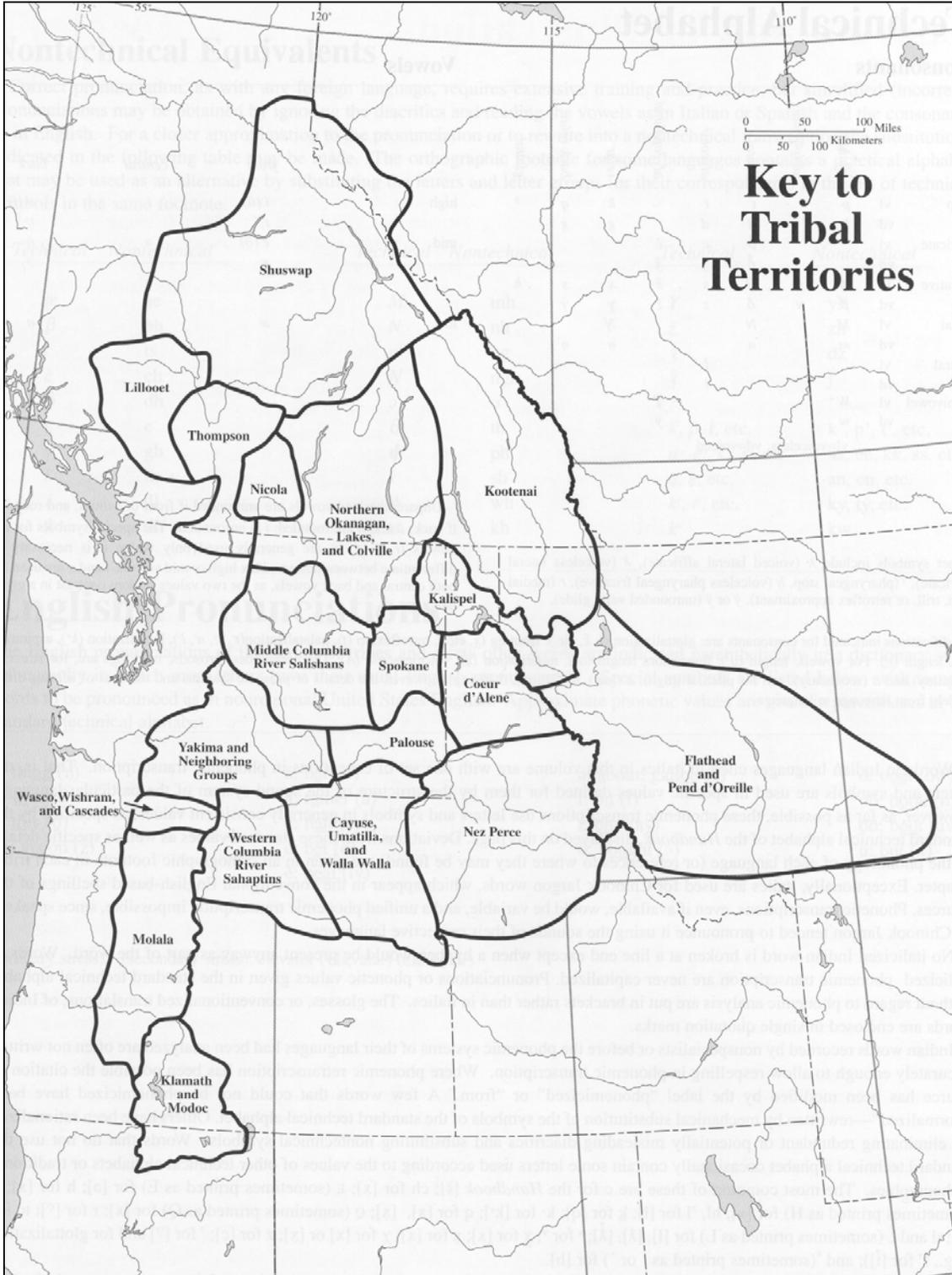


Figure 17 Plateau Indian Territories (Sturtevant, 1998, ix. © The Smithsonian, public domain).



Figure 18 Traditional environmental knowledge and practice, near Kamloops, June 2007 (author' photo).



Figure 19 Collecting berries, lichen and wild onions, near Kamloops, 2007 (author's photos).



Figure 20 Neskonlith Band Hall, 2010 (author's photo).



Figure 21: Carved Door, En'owkin Centre, Penticton, 2005 (author' photo).

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CHAPTER FOUR - “THINKING OF THE LAND ‘IN THAT WAY’”: THE BODY, THE SPIRAL AND THE POLITICS OF VULNERABILITY IN THE FIGHT TO PROTECT SKWELKWEK’WELT

by

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in collaboration with grassroots people from the
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ABSTRACT: Grassroots Secwepemc have struggled to slow the development of the Sun Peaks ski resort on their traditional territory in BC. Scholars have argued that they sought to protect Aboriginal title and culture and affirm grassroots democratic systems. Natives claim that the activism was more profoundly concerned with the defence of the environment and the practice of traditional environmental knowledge (TEK). I map these two threads to illuminate how the activism expresses a practical constituent power immanent to the post-human networks in which Natives find themselves. I therefore more carefully interrogate assumptions about the subversive strength of Natives’ deep connections to the land by exploring this civil resistance as a product of affective power. By inquiring into what Natives say about TEK and how it informs their relationship to the land and about their embodied intra-relations with all the things on the land, I show how TEK is both a representational and nonrepresentational technology of recognition of the excess of identity (fullness). It resituates the human along a normative orientation of politics to the collective (tragedy) and encourages a differential performative comportment toward the openness to the world (becoming). I explore this politics of vulnerability through a nonrepresentational enquiry into TEK comprised by four geographies of bodily capacity: as a way of knowing and being; the experience of returning home to Native territory; the distinction between being on- and off-reserve; and the campaign of civil resistance at Sun Peaks. Given that the defence of Native society depends upon such a post-disciplinary subjectivity, I argue that reconciliation with Canada requires the elaboration of techniques of recognition which enable nonNatives to develop a deeper attunement to both the fullness of the world and its constitutional multiplicity.

Secwepemc—affective politics—TEK—constitutionalism—body—Sun Peaks

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“[W]hen you hear Indian people say “all my relations,” that is one way of being clear that this deer is related to me. It is related to me not just because I eat it, but also because it is alive on this planet with me, we live together, we are part of it, it is part of us; and the fact that we eat it is just nature ...It is an extremely spiritual act to be responsible to that, to God and the creation that we see. So yes [TEK] is religious in the highest sense, but religion based upon knowledge of the natural world. It isn’t belief—we don’t believe it—it is knowledge.”

—Jeannette Armstrong, Syilx Traditional Knowledge Keeper and Executive Director of the En’owkin Centre, 2007

We say that our eyes are not just windows to the soul, they are, we are spiritually-driven, and by encompassing all these things we are not only mind, but we are heart and spirit...

—John Jules, Director Secwepemc Cultural Education Society, 2007

1: THE POLITICS OF VULNERABILITY ON THE PLATEAU:¹ FULL, TRAGIC AND BECOMING BODIES OF TRADITIONAL ENVIRONMENTAL KNOWLEDGE

“Thinking of the land ‘in that way’”: An Okanagan Elder used this phrase to describe the cultural and spiritual content of the land as expressed by traditional environmental knowledge (TEK) in excess of its value as property and a source of resources.² “[W]e are part of it, it is part of us”: An Okanagan knowledge keeper, Jeannette Armstrong, presents an oral map which undoes Western scopic distinctions between figure and ground, self and other and ultimately the

¹ The Columbian Plateau lends its name to an anthropological term of art to describe Salish peoples living in this region of North America/Turtle Island: Plateau peoples. As a western philosophical term of art, plateau people would be those who live less as stratified or even hybrid subjects, but more as a multiplicity: as a permanent state of performing differentially in response to both representational and nonrepresentational forces produced across networks of human and nonhuman actants (Deleuze and Guattari, 1987). The differential relationship with nature prescribed by the practice of TEK by traditional Secwepemc land users—similar to the concept of the spiral discussed by Syilx-Okanagan knowledge keeper Jeannette Armstrong, below—thus also exemplifies this second meaning of the term Plateau people.

² Interviewee #9, Secwepemc Elder (woman), 4 July, 2007.

centrality and atomism of the human.³ This “thinking” of the land thereby shifts from being ideational and spiritual to also involving the body and practice, thinking in that way. In my investigation into the foundational role of TEK in the struggle to protect traditional Native territories from development into a global ski resort, a prominent Native Youth Movement activist explained:

[T]he land comes and embraces and hugs you and heals you and gives you everything you need...it is your mother...And that healing, especially when you go out there and collect your food—but even just going out there to appreciate the land, and if you appreciate it...it takes your breath away and it gives you butterflies in your stomach—that is a prayer and it goes up there.⁴

After holding the spiritual aspects of this enchanted geography to the side (Chakrabarty, 2008; Thrift, 2004), we arrive at not a Cartesian terrain upon which the body is freely mobile, but a Native “human” geography that touches the self. Here, the land overwhelms the subject. To the extent that it pushes on her body and steals the very air she breathes away, a life lived in thrall of the land (Butler, 2004) and the outside of the individual comes into view.

This is a case study of the defence of land not only as a (quite necessary) geographical context for the practice of traditional environmental knowledge, but also for its extensivity with the self—because it is experienced “in that way.” Conceptually, the land is dear to humans and, materially, it is as an actant which affects thinking through the body. Through the innumerable points of contact, the land fosters a certain embodied comportment toward the world that turns around an ontology of multiplicity (Deleuze and Guattari, 1987, 8; Connolly, 2002; on “hybrid geographies,” see: Whatmore, 1999; 2002). As I will show, this comportment includes a recognition of the disaggregated constitution of the social and the gregarious relations which fundamentally sustain the self. Recognition on the bodily layer of thinking awakens one to these multiplicities and thereby reorients one’s relation to the political community and self. Everyone is open to the affective “push” from the world which can either send one hurtling toward a body and subjectivity partly outside of discourse or incline one to reterritorialize one’s present formation. Since the latter tends to predominate—calcified figurations which produce and reproduce liberal subjectivity—experimentation with practice and space is required to open the self more readily to unexpected becomings and reorient the self to an ethical approach to the world. Through this ability to be affected, the self may perform (and affect the other) through embodied alliances partly below the level of intentionality and outside the spatio-discursive legacy.

³ Interview with Jeannette Armstrong, Okanagan knowledge keeper, 10 July, 2007.

⁴ Interviewee #4, Secwepemc youth (woman), 23 July, 2007, my emphasis.

Near the Secwepemc Education and Cultural Society Museum on the Tk'emlups Reserve in Secwepemculecw and set against the scrub brush hillside on the plateau, the Victorian edifice of the Kamloops Residential School (opened in 1893 and closed in 1985; Figures 22-23) stands as an aide memoire of the century-long practice of spatially concentrating Native children within the disciplinary technologies of Christian education away from their entanglements with parents, the land, spirits, custom, and language (Tully, 1995). In the centre of the museum's main gallery sits another geographical tool of this institutional project of deracinating thinking of the land "in that way": the child's school desk and, attached to it with a steel arm, a wooden chair. One is first taken by its diminutive scale, sized for elementary school children, and then, noticing the information panels detailing the history of injustices committed through these institutions, the lonely, traumatic, individualized moments that must have been experienced by thousands of Native children sitting at desks such as these under the panoptic monocle of the brothers and sisters. But what overwhelmingly underwrites the injustice of the schoolhouse desk is its position at the interstice of a representational and practical campaign of instantiating a liberal culture of individual autonomy (Foucault, 2003) which denies how, in a both a deeply human and Native sense, security and identity rest upon a collective and gregarious set of relationships beyond the self (Butler, 2004). Aside from the illness, death and dispossession caused by colonialization, the turning away from Native family, language and practice represents less the substitution one culture for another ("assimilation") than the abandonment of "life" from qualification in the political community. Under the disciplinary weight of the reserve, the residential and mainstream school systems, and the expanding wage economy in the resource sector (Tully, 1995), the explicit aim was to "enfranchise," in the words of the Indian Act (1876), Natives into Canadian citizenship: a self-regarding subjectivity situated in a sedentary life as a farmer or wage worker based in the nuclear family. It is understandable why the "interruption"⁵ committed by the West on traditional environmental knowledge (TEK)⁶—a set of practices for the stewardship of the

⁵ Interviewee #9, Secwepemc Elder (woman), 4 July, 2007.

⁶ Colonialism and law are analyzed anthropologically as the interaction between imperial and customary laws, a legal pluralist lens (Merry, 1988; Tully, 2005). I side with my interviewees who refuse a hard line between Native law, TEK and identity ("custom"), such that the everyday ("custom") is part of the collaborations and confrontations with colonial legal orderings (Sarat and Kearns, 1995). Janice Billy's comment to my questioning about "law" solicited this telling response: "Traditionally, it was not considered *laws*—maybe more *natural law*, but instead governed by nature, right?: if you took too much, then you didn't have enough; if you didn't look after an area, then you didn't have it next year. It was more unwritten, if you want to call it "laws"—more *responsibilities* of what we had to do: we knew we had to protect the berries and medicines or we wouldn't have that. And it was done in a spiritual way, by giving thanks. If you didn't do that, then there was a natural—or supernatural consequences from the creator" (Interview with Janice Billy, Secwepemc traditional land user, 23 May, 2007).

land and subsistence which attune the subject to her constitutive “relations” with the family, land, plants, animals, rivers, fish, and stones—is often referred to as a genocide (Tully, 1995; Stannard, 1992).

Taking up the Latin term for natural life, it is important to consider it also as a *zoe*-cide as a matter of analysis which can more closely connect up its history with our complicity and resistance to it in the colonial present. Insofar as this biopolitical project involves the interpellation of subjects through bodily disciplines which cut *zoe* out of politically-qualified life (*bios*), I more profoundly explore assumptions about the resistive role of Native communities and the continued proximity of Natives to the land. Although his inquiry into tribalism is conducted through the prism of the presentist subject which at first gives little suggestion as to the source for Native resistance, Paul Tennant nevertheless hints at something of the importance of an excess to the self, here in an embodied connection to place:

In the Indian view, contemporary communities and tribal groups have the same essential connection with the land as did those same communities and tribal groups at contact. In most cases, indeed, present-day Indians do retain powerful emotional attachment to ancestral community, tribal group, and territory. This attachment, which is itself regarded by Indians as fundamental to their identity, is largely invisible to non-Indians, whose immigrant-derived society and culture are based upon exodus from established communities and upon individual rather than collective values (Tennant, 1990: 14, my emphasis).

In all, Tennant proposes that a continuing physical and emotional connection to the land informs an uncolonized or uncolonizable aspect of Native subjectivity. Rather than just assuming a resistive positionality, I delve deeper into its “invisibility” not as a matter of something of little import to mainstream Canadians but as something which is nonrepresentational. I set the Native “politics of survival” (Tennant, 1990, 69) and the heresy of Indianness into their spatio-disciplinary context by investigating the body on the land as a spatial politics of affect.

The revitalization of TEK by Elders and youth, which I will argue is the linchpin around which civil resistance to the expansion of Sun Peaks rotated, is a micro-political technology which by reinscribing the boundaries of the Native body attempts to stitch life and the land (the sweetness of biological life or *zoe*) back into the normative horizon of society. As an Indigenous geography as opposed to state geography of abstract, individualist rights, I explore the struggle to slow the expansion of Sun Peaks resort as more than a territorial, legal or ideological debate but

I also side with Foucault who located the operation of the juridical in modernity particularly in the body and the production of disciplinary sovereignty.

one concerned with the conditions of possibility for the subject insofar as the expansion frustrated the literal enactment of Native flesh in place.⁷

The colonial stratification, individuation, domestication, and disciplinization of Secwepemc bodies never fully took hold, despite what the materiality of the Indian Reserve and Residential School, the assimilation of Native culture and the Eurocentric “monolithic” constitutionality (Saul, 2008) of the settler state might suggest. Scholars have begun to inquire into the fabric of resistance from the time of contact with Europeans: a distinct “Indianness” was supported by the proximity of reserves to traditional territories and the relatively recent event of contact (Tennant, 1990, 70; Harris, 2002); and agency has taken diverse forms such as practicing Indian Doctors appearing on censuses conducted by the Catholic church, to insinuations of Native spirituality in versions of the Lord’s Prayer recited in the Secwepemctsin language,⁸ to the summers spent with grandparents on traditional territories where the old connections, languages and practices were kept alive, and to the innumerable micro-resistances by Native children against the Black Robes. As Irene Billy, a Secwepemc Elder and residential school survivor recounted: “The priest and the nuns called it ‘savage ways,’ real Indian ways. They didn’t believe in that kind of stuff, but we believed it. To me, whatever your spiritual feeling are towards the lord: it is your way...”⁹ In this chapter, I continue the elaboration of these unofficial and subaltern geographies of Indianness or tribalism by illustrating the contemporary resurgence in the practice of traditional environmental knowledge and its connections to the resistance to the development of the Sun Peaks ski resort (Figures 24-25).

Natives have a long history of resistance to the usurpation of their land and other rights in BC. The efforts at negotiating treaty, title and self-government by BC Natives which coincided with the establishment of the colony in the last half of the 19th century are remarkable for the consistency of the message and for the tribal cadence of the claims (Tennant, 1990, 82-83). As

⁷ See Chapter 1 on Indigenous geography as political community attached to place with the collective and the divine (Chakrabarty’s term) as its normative horizon. Its subjects are therefore interpellated not by state rights and cost-benefit rationality but by an openness to space and excess; for example, see the obligations to environmental sustainability found in the *amicus curiae* brief (see: Chapter 3). But the politics of the flesh concerns the political qualification of excess through both representational and nonrepresentational means. Rather being instigated only by representations which encourage a response-able performativity to these hitherto abandoned aspects of life, here the politics of the flesh is instigated by the material touching coincident with TEK which exposes the self to excess at the preconscious level. I speak of a politics of “the flesh” as opposed to “the body,” to deterritorialize both the body (i.e. the *organized* space of the body within social structure) and the “outside” to which it responds: “all” the relations—the land, networks, physical matter, and sweet biological life. Politics (and space), here, is a “gathering” in the sense used by Nigel Thrift.

⁸ See the scholarship of Marianne Ignace and Ron Ignace.

⁹ Interview with Irene Billy, Secwepemc Elder, 7 June, 2007 [my emphasis].

opposed to the more assimilative policies pursued by many Natives within the US, BC Natives have continually sought aboriginal title and rights in the furtherance of their communities and their distinct traditions. Efforts at negotiation did occur through a band-based organization in the 1970s, the Union of BC Indian Chiefs (UBCIC), but the tribal political identity has subsequently re-asserted its primacy (Tennant, 1990, 180-181).

Weary of the intransigence of the state and band system in upholding their rights and title, emerging from the interruptions caused by colonialism, and cognizant of the passing of Elders and their knowledge from the earth, grassroots groups began to relearn and teach their youth about language and TEK on the land with renewed vigour in the 90s across BC.¹⁰ In the Okanagan Nation, Richard Armstrong described the formation of a Native educational and cultural institution, the En'owkin Centre as an exponent of this revival:¹¹

And it's only been since the En'owkin Centre has been established that...you have the right to tell exactly what it is where our people came from. Once our people had started learning that and started hearing that, most of them knew it already but never placed it exactly like that. A lot of them have changed their lives completely because they no longer feel that they're – the way that they were feeling before, they're not *sema* [European] and they're not Indian. But now when they know that, they know exactly where they belong and who they are and what their—what the land means to them.¹²

In 1997, Secwepemc grassroots community members and Elders enacted their own contemporary opposition where they called upon Nippon Cable Inc. to desist from its plan to expand Sun Peaks ski resort into a four-season resort destination, located on their traditional territory at Skwelkwek'welt and site of traditional practice and teaching (pronounced Skwel-kwek-welt and translated as “high alpine area”: St. Pierre, n.d.). A campaign unfolded involving protests and blockades, the erection and dismantling of several more or less temporary “protection centres” (information wicket and meeting shelter: 4. 5), sweat lodges, a cordwood home, as well as the arrests of tens of protestors. While the Secwepemc have not been successful at stopping consecutive expansions, they have made significant strides in expanding their networks of transnational political alliances (Drapeau, 2008) and they have succeeded in a powerful re-ignition of the grassroots community as a source of democratic politics over the elected chiefs (Harrison, 2002).

¹⁰ Interview with Don Bain, Executive Director of Union of BC Indian Chiefs, 20 January and 1 May, 2009.

¹¹ As a non-band affiliated entity, the En'owkin operates as a node of grassroots knowledge and practice critical to Native counter-governmentality.

¹² Interview with Richard Armstrong, Okanagan knowledge keeper, 25 May, 2005.

Absent from scholarly analysis is an assessment of how this activism has been as much about Aboriginal title and rights as the protection of the environment and the practice of traditional environmental knowledge. Along these lines, what is missing is the extent to which the enactment of TEK, as the protocol governing the relationship between Native bodies and the world, resists the disciplinary work of colonial architectures and evidences a constituent power and a counter-governmentality immanent to its practice. To the degree that the Sun Peaks development further frustrates the enactment of TEK by shrinking the worldly experience for Natives, I will argue that it dovetails with disciplinary schemes and contributes to the imperial project.

This chapter proceeds by situating the history of the Sun Peaks dispute between two theoretical reflections which draw out a political geography about a lot more—or a lot less, given my concern for gatherings of “little things”—than a struggle over territory. The first sets out the revolutionary aspect of social movements based upon counter-rationalities, such as TEK, as constituent powers which assail bio-political governmentality. Next, I tell the story of Sun Peaks and document this constituent power through published sources and original interviews on the role of TEK. In the last section, I will try to convince the reader of the more profound revolutionary aspects of these events. In the second theory section, I illustrate what the politics of affect offers over the realist and the deconstructivist schools by exploring the materiality of subjectivity. From the perspective of bio-political governmentality and its embedding of subjectivity within disciplinary regimes, it is unsatisfactory to suggest that constituent power of the sort impelling the Sun Peaks dispute simply arose as a matter of a resistive sensibility, such as those attributed to the germination of Indigenous cultures close to the land. Given the role of colonial discipline, it is also Eurocentric to suggest that this politics does not implicate an ontology of the subject, a politics of the flesh (Hardt and Negri, 2004). I more carefully interrogate such political and ontological assumptions by exploring Native civil resistance as a product of a politics of affect.¹³ Where Natives discuss the practice of TEK as involving networks with the divine and other bodies, affect theory allows me to at least consider the latter and thereby draw out its significance to this political economic struggle: bodies which pre-discursively

¹³ I make no claim to an exhaustive study of the body, practice and TEK. My objective is to set out the theory and present ethnographic information on practice as a means to draw Western scholarship to a place where it might not necessarily recognize the divine, but the push of social and posthuman forces on the self and TEK as a self-technique critical to revisioning the politics in the West. Put differently, as a means to stake out an intercultural interface, I access a fugitive line of Western philosophy which holds that geographic arrangements and practices—such as found in TEK or the experience of the body in the city (Thrift, 2004)—are a political resource for resubjectification and encourage an ethical reframing, partly through interventions below the cognitive register.

recognize the full and nonhuman aspects of the world subtending the self, bodies which are decentred and take humility as their point of departure, and bodies which locate power in the immanence of being held “by the land.”¹⁴ Within a constituent power made up of networks, nonhuman actants press upon and fundamentally sustain the body. Through discursive and embodied means, the self is decentred and comes to recognize the normative horizon of the political community as the collective. Taking humility as its point of departure in this full world, the body enacts resistive performances immanent to its alliances with the world.

Aside from documenting a politics of the flesh, to the extent that TEK is a technology of recognition of the human and nonhuman networks constitutive of the social, then the responsiveness in performativity extends from the discursive legacy of language and social structures to also include immanent becomings with the material world: from spatio-discursive restagings, performativity takes a revolutionary line of flight by responding to the landscape for its impressions on the embodied layer of thinking and materializing all manner of “unnatural participation[s]” (Deleuze and Guattari, 1987, 240; see Introduction on “involvements and involutions” as constitutive of identity). I weave this argument through what my informants had to say about the normative implications of TEK for Native political community and embodied practice of TEK and how it disposed their thinking and actions towards a similar normative horizon. I conclude that the results of the struggle over Sun Peaks are complex and mutually reinforcing. Following from the practice of TEK in the disputed area, the community became re-committed to increasing its participation in tradition. Importantly, the enactment of TEK is more than a paysan pastime: since it is based upon a command from the Creator, it is the fulfillment of Native law and sovereignty. Because Canadian courts recognize such practices as evidence of a right to land, TEK seems a means to secure title. More fundamentally, it also guards against the domestication of the self: the subject falls under a sovereignty of the everyday in response to cues and performances on the land. TEK is a post-state sovereignty, a nonrepresentational technique of a counter-governmentality, undergirded by immanent connections to the networks of the multitude.

A politics of vulnerability attunes the self to the collective relations which sustain identity. It reconfigures autonomy and the normative dimension of the political community (see

¹⁴ Secwepemc individuals gain their power through a process of being sent onto the land for several days on a quest for a spiritual helper and name (Mourning Dove, 1990). I leave the divine for others to describe and the reader to ponder, and instead I focus on the materiality of the body, the humours in space and what they tell us about alternative political formations (Chakrabarty, 2008) and the powers available for resubjectivation and revolution (on power as the ability to affect and be affected, see: Deleuze and Guattari, 1987)).

generally, Introduction). The practice of TEK is comprised by a recognition of and responsiveness to a collective horizon for the political community which turns performativity over to a revolutionary practice of self-technique (for practical interventions on the self, see: Foucault, 1997). By inquiring into what Natives say about how TEK informs their relationship to the land and about their embodied intra-relations with all the things on the land, I show how TEK is both a representational and nonrepresentational technology of recognition of the excess of identity (fullness) and the limits of the self (what humanists would call “tragedy”). It is a type of feeling that displaces and disposes the self in regard to its intra-relations with humans and nonhumans. An awareness of the body’s excessive and posthuman composition invites alliance-building in order to know a more extensive world, one that was previously omitted and disavowed (Butler, 1993). Seeing and feeling complexity and difference further disposes the now-open subject toward experimentation with self-techniques (Foucault, 1997; Thrift, 1996; Connolly, 2002) of being with the world (becoming). The subject is both involved with the other and, to the extent that she responds to and comes to express aspects of the other (as indistinguishable from herself) she involutes with them (Deleuze and Guattari, 1987, 238). Rather than mere resignifications and restagings of the discursive legacy, the subject performs a revolutionary type of subjectivity.

I illustrate nonrepresentational recognition, response and revolution through four geographies of bodily capacity: the role of the body as a way of knowing in TEK; the experience of returning home to Native territory; the distinction between being on- and off-reserve; and the role of TEK in the campaign of civil resistance at Sun Peaks. The Sun Peaks dispute illustrates a politics of affect that ushers “the land,” as constitutive of the social, onto the political horizon. By advocating for greater empirical rigour centred on the body and practice—how it receives a “push” from the material world (Thrift, 2000, 216)—I open up a field of power relations unacknowledged in other scholarship: by opening performativity to restagings less entwined in discourse and open to the practical “wildness” of the world (Thrift, 1996 on Merleau-Ponty), the Native body is at a distance from disciplinary sovereignty. TEK is an intervention in “micro-biopolitics” inasmuch as it gives rise to insurrections in the flesh.

However, in addition to renovating the normative dimension of political community as a step along the long path through Empire (Hardt and Negri, 2000), my interests also involve the immediate matter of reconciliation between Natives and the Canadian state. In the middle of the 19th century, Canada abandoned a 300-year old partnership of treaty constitutionalism with Natives and instead a monolithic constitutionalism was overlain on what is at root a Métis society

(Saul, 2008; on the Gus Wen Tah and the “Belt of Peace” given to the British at Niagra, 1764, see: Borrows, 2002, 150): the political community was thereafter shaped near-exclusively along Western models and modern constitutionalism thereby denied the constitutional principle of continuity owing to Natives (Tully, 1995). While none of my informants proposed either a nativism which would eschew modernity or a secessionist pathway for Native political community (on the latter, see: Corntassel, 2008), they all insisted upon recognition of Native title and continuity of Native practices. Jeannette Armstrong explained it in terms of the need for “aboriginal access” to:

hunt, fish there...That has been denied, continuously in BC, not in the other provinces, but continuously in BC...so that is why there is this Treaty Process in place which basically is more difficult, expensive and isn't a treaty process, really it is basically an expropriation process: we are going to take it and we will pay you as we want. And we are saying, 'No that is not what we want, we want to make sure we have continued use and continued access because we have a responsibility to it'...Those are...some of the ownership issues. I don't like to call them ownership issues. But I just described to you some of the issues that our people are faced with in terms of being caretakers or stewards orguardians it is a word we like to use.¹⁵

In terms of a constitutional relationship, the middle ground would appear to involve increased access and control over large swathes of land where highly circumscribed forms of industrialisation would be permitted to occur in such a way as not to impinge upon Native stewardship practices.

Marked by a flouting of the doctrines of recognition, continuity and consent, this “expropriation process” at root evidences a colonial mindset. As John Ralston Saul explains, the colonial mind is oriented not toward building a society based on the conditions within the colony, but based on the ideas of the imperial metropolis. Where Canada eschews its historical constitutional relationship with Natives for ideas about modern industrialization from Europe and, recently, the United States, the expropriation from Natives may continue unchecked. However, its development as a political community will remain arrested to the extent that it is living someone else's empire (Saul, 2008 citing Amartya Sen, 2006). Canada therefore remains a place which hasn't quite caught up with its Métis self. If Canada is to move beyond the colonial present, it must not only reconcile its political economic relationship with one of its founding peoples (Harris, 2002; Saul, 2008), but it must further come to settle into this place through the adoption of the Native position of stewardship and humility toward the fullness of the world (or

¹⁵ Interview with Jeannette Armstrong, Okanagan knowledge keeper, 25 May, 2005.

governmentality; cf. Borrows, 2002). One way that this can happen is through the promotion of political practice which sensitizes the self to the collective and to geography. Okanagan Knowledge Keeper Jeannette Armstrong's explanation of TEK and the Native relationship to the place is decidedly anti-colonial:

Part of what we see ourselves in our—say in the classical period of balance with the natural world—was that we had total knowledge of our place, of our systems, and we read it like an encyclopaedia...It was knowledge that everybody had and it was practiced. So the relationship to place is the only relationship...[laughs]...you can't have that knowledge without that relationship. The knowledge is the relationship—to put it in one phrase.¹⁶

In order to decolonise its relationship with Natives, Canada must work on two axes: on the legislative axis, it must recognize Native customs as part of the plurality of a just constitution (Tully, 1995); and on the normative axis, Canadians must recognize their coextensivity (or multiplicity) with the world such that their “strange”—and even larger than previously thought—country finally comes into view (Thrift, 1996).

1.1 Defining TEK and its politics

Traditional environmental knowledge is the store of knowledge about the land, plants and animals based upon observations built up over the millennia by Natives. It establishes the relation between the human and the world: “TEK is basically how we fit in within the landscape, how we allow ourselves to take part with the ebb and flow within biospheres and ecosystems; and how we interact with that.”¹⁷ As we have heard from Jeannette Armstrong, its practices are considered a form of stewardship as opposed to exploitation and take up a range of objectives: maintaining the ecosystem, improving its output of resources, and, in some cases, increasing its biodiversity (Turner and Peacock, 2000). It has provided the material, political and cultural basis of Native society for millennia (Figure 26-28).

The Secwepemctsin term *yecwiminte r tnicw*, “taking care of the land,” expresses the reciprocal and sustainable relationship between Natives and the earth implicit in TEK. Aside from practical matters of hunting, the gathering of plants and roots, and fishing, TEK also is extremely

¹⁶ Interview with Jeannette Armstrong, Okanagan knowledge keeper, 10 July, 2007. While the protection of Skwel'kwet'welt entirely concerns lands integral to the Secwepemc nation, I avail myself of interview data from Okanagan authorities such as Jeannette Armstrong and Richard Armstrong on TEK owing not only to the historical alliance between these two peoples, but to the present alliance at the grassroots level, including many of the Secwepemc involved in resisting Sun Peaks. These informants insisted that Jeannette and Richard Armstrong's perspectives on these matters were illustrative of Secwepemc values.

¹⁷ Interview with John Jules, Secwepemc traditional land user, 3 July, 2007.

spiritual. But as Armstrong's introductory quote establishes, this aspect may be placed to one side owing to its status as knowledge. It is based on observation which continues to this day as Native practitioners continue to live closest to the land. It remains critical to the diets of many of Canada's Aboriginal peoples both owing to their specific nutritional requirements and economic marginalization. To the extent that *yecwiminte r tmicw* governs the relationship of Native bodies to the land, it is a practical self-technique that affects the constitution of subjects (on the care of the self, see: Foucault, 1997).

It would be difficult to underestimate the politics of TEK: it has recently become legible to legal discourse as evidence for Aboriginal title in the form of oral histories and GIS maps of "traditional use" (*R. v. Delgamuukw*, 1997) and for demanding state support of "traditional lifestyles" which maintain biodiversity (Convention on Biological Diversity). TEK has also become the grounds for transnational advocacy on the basis of human, environmental and cultural rights (Escobar, 1998; Coombe, 2005), as I already illustrate in the story of the *amicus curiae* brief in Chapter 3. TEK is not only an ethical resource for the drawing in of life as a matter of the responsible enactment of the discursive legacy. It is also a political self-technique which, by availing itself of the myriad ways the land touches the body, allows a subjectivizing process that is open to life. From this perspective, struggles to either resignify language and social structures or engage in direct action are not simply a result of a frustration with the failings of governmental regimes from a subject position within its terms, but also from a subjectivity grounded in the world.

Again in this chapter, I will examine the deployment of TEK as an environmental rhetoric for defending Native traditional territory against transnational amenity capital, but my main focus will be instead at the scale of the "little things" (Thrift, 2000) related to TEK, such as the embodied aspects of knowing about the land and people, returning home, and picking berries, which press upon the body. As a form of bio-diversity politics, the politics mobilized by TEK call not just for the protection of life in the form of the *indicia* of an ecosystem recognized by the neo-liberal market (politically-qualified life or bios), or even the more aggressive protection of a holistic system (McAfee, 1999), but "life" in the sense of the constitutive outside, all the relations which subtend and, therefore, "hold" the human. Native biodiversity politics calls for the return of the land, the restoration of the ecosystem, and paradoxically the humanization of politics through the dispossession of the (atomistic) self.

1.2 Provincializing Europe, Man & the Body

In my exploration of political community and Indigenous geography and property in the Introduction and Chapter 3, I attempted to denaturalize the state and ownership by pushing the divine to the side, drawing out Native principles and rendering them to democratic debate (on provincializing Europe, see: Chakrabarty, 2008; and the common law, see: Borrows, 2002, 45-46). In the present analysis of the Sun Peaks dispute, I extend this decolonizing move by turning the ontology of “man” away from discourse and toward geography to explore not only (again) a wide parliament of actants but also the form of the political subject through a set of facts about practice and the push of the world. While I again excise the divine, rather than sliding over these accounts of the “humours” in space, I have tried to read them carefully from the perspective of an ethnographer in a cross-cultural situation. I use affect theory to take these facts seriously both as part as the geographical record and in an attempt to reveal an epistemological alliance between a fugitive line of Western thinking and Native philosophy. As concerns the admirable targets of subaltern history, instead of simply unsettling the teleology of the state or property so as to incite discursive resignification, I also critique the production of a humanist figure in a geography divested of mystery. In terms of agency, state geography locates liberatory energies narrowly in human bodies and this impoverishes politics. In Chapter 1, I considered the production of a translucent geography—a landscape which featured Indigenous TEK as an opacity—as part of a responsibility for knowledge insofar as it drew out the limits of Western knowledge, did not domesticating the other and incited alliances based upon overcoming epistemological gaps. Here, I attend more closely to that responsibility by scrutinizing its nonrepresentational aspects, a process that in no way exhausts Native space of enchantment. As the body—and not just the state and discourse —has been the shore that politics has crashed against for far too long, the implications for resistance based upon its materialities present not a political sameness but a strategic proximity between Natives and settlers by virtue of being held by the land.

2: AGAINST EMPIRE: THE THIRD ROME ON THE THOMPSON RIVER

One role of the federally mandated band system is to provide democratic representation for Native band members on reserves. This system displaced hereditary forms of governance and, given its direct relationship with federal sources of funding and a reward system formulated by

industrial society, struggles to maintain and adopt Native principles throughout all of its areas of operation. Over the course of the Sun Peaks dispute, it has been observed that grassroots people turned from a dependency relationship with the centralized state power of the band and began to make political decisions on their own (Harrison, 2002). Janice Billy, a spokesperson for the Skwelkwek'welt Protection Centre, explained the carving out of a space for constituent power in the colonial present:¹⁸

And our own Chief and Council, meeting with them and telling them that it has to be more than just them because we [TEK practitioners] are the ones going out there on the land. We see what is going on there; we are using the land and everything on it. And all of this is to support our traditional lifestyle and protection of those things. And I guess that all involves self-government—well not in the terms they use—but more like traditional governance...Which means our own economy, our own education, our own health. Restoring all of those things, rather than just “doing” the colonized system of governance.¹⁹

An interpretation of the Sun Peaks dispute is thus a lot more than the penetration of transnational amenity capital into the local, the responsabilization and complicity of Indigenous actors in neoliberal regimes and the relaying of Native political economic opposition through newly established transnational economic and political circuits (Drapeau, 2008). In my argument, I set out how the dispute was a product of the desire to defend TEK and, as opposed to being a means to circumvent the treaty process (cf. R. v. Manuel, 2008), it expresses a constitutional argument both for increased Native control within Canada and a new rationality within Empire.

From a presentist perspective, Machiavelli analyzed the “revolutionary humanism of the Renaissance” as the deconstitution of Monarchical power into “a whole series of powers that regulate themselves and arrange themselves in networks” (the second Rome is on the Potomac; Hardt and Negri, 2000, 163). “Constituent power” therefore has an “internal and immanent social dynamic” which gives rise to a conflictual type of sovereignty but also one that no longer subordinates “the creative movement of the multitude” (cf. Tully, 1995). From a social constructivist perspective, Hardt and Negri adopt constituent power from republican Rome for their analysis of resistance to Empire, a term used to describe the global topography of post-Fordist capitalist relations of production in which cost-benefit rationality permeates the logic of the social structure (cf. Brown, 2003). On this view, efficacious republicanism is more challenging since the subject is implicated in Empire less through the law and more insofar she

¹⁸ Harper Lake Research and Development Guidelines (on file).

¹⁹ Interview with Janice Billy, Secwepemc, Skwelkwek'welt Protection Centre Spokesperson, 23 May, 2007.

iterates the hegemonic discursive and practico-spatial legacy as a prerequisite for registering in its regimes of truth (“being is produced and reproduced”). Nevertheless, concrete alternatives whose “ontological basis...resides in the creative and productive practices of the multitude” express a “constructive and ethico-political” approach for the undoing of Empire: “What appears here is not a new rationality but a new scenario of different rational acts—a horizon of activities, resistances, wills, and desires that refuse the hegemonic order, propose lines of flight, and alternative constitutive itineraries” (Hardt and Negri, 2000, 47-48). As I will explain, the Third Rome is a composite of not only immanent and networked political forces which diversify the constitution of government, but also the performance of identity through immanent alliances across networks which diversifies the rationality of governmentality.

TEK is a constituent power or, in the words of my grassroots informants, a “sovereignty in the everyday.”²⁰ It exemplifies the two-fold immanent and networked projects of the Third Rome: “Aboriginal law and Aboriginal title rest upon keeping Aboriginal practices alive on a daily basis. Not only is this the traditional basis of Native law, but it is also an enactment of sovereignty.”²¹ TEK is thus a source for tangible constitutional goods, such as law and title, but also as its processual and practical aspects reveal it is a site for the sort of continual resubjectification (immanence) in accord with TEK protocols (the ethics of networks) necessary for undoing Empire and implanting “alternative constitutive itineraries.” Taiaiake Alfred and Jeff Corntassel similarly insist on the self as the site of cultural regeneration and decolonization, and call for a renewal of networks as the core of Indigenous identity. One of the mantras they offer for Native emancipation states: “Land is Life—our people must reconnect with the terrain and geography of their indigenous heritage if they are to comprehend the teachings and values of the ancestors, and if they are to draw strength and sustenance that is independent of colonial power, and which is regenerative of an authentic, autonomous, Indigenous existence” (Alfred and Corntassel, 2005, 613; my emphasis). My contribution is to explore the role of a spatial politics of affect in the struggle against the severing of connections “crucial to living a meaningful life for any human being” (599) by “post-modern imperialism” (601). Ultimately, these political stakes are well-understood by grassroots Natives:

The knowledge that we don’t have in front of us is where the human is going, because obviously we cant live in the jungle: you cant go back, we cant go back, to live in that state we are talking about; that state is past...We are the critical

²⁰ Interviewee #10, Secwepemc traditional land user (woman), 7 June, 2007. On the importance of Native law being practiced in Indian country: see Borrows, 2002, 27.

²¹ Interview with Arthur Manuel, Secwepemc, Spokesperson, INET, 30 October, 2007 [my emphasis].

link in terms of what is actually going to happen next: we can either dissolve into the natural system and take a long time re-surfacing again, or we can get in terms of understanding the natural systems—get back in sync with that—but then evolve to that human-transformational probability or possibility. My understanding, of indigeneity, is that it is an essential part of the track of knowledge that will keep us on track as a human species. If we fall off that track of being indigenous and being in sync with the natural world, then we fall off that track and many other things fall off that track with us, which is happening right now.²²

If there is a Rome of transcendental power and a republican Rome of a conflictual set of orders which originates in and returns power to the multitude (Hardt and Negri, 2000, 161-162), the dispute over Skwelkwek'welt evidences a Third Rome, the building blocks of the world after Empire. In respect of legislative sovereignty, it concerns the rise of a constituent power grounded in intercultural identities and the insertion of plurality into monolithic constitutionalism and opening the terms of rule to renewed debate (Tully, 1995). In respect of disciplinary sovereignty, it concerns a constituent power grounded in a performativity open to the material world and multiplicity.²³ From these two perspectives, immanence may be understood both as everyday control in a multi-centric constitutionalism and as the performativity of the subject through networks which fundamentally hold her. She is no longer the mere composite of the multiple horizons of particularistic cultures (Tully, 1995), but a multiplicity (a desiring-machine, a becoming-Native, a rhizome) thrown into alliance with the human and nonhuman actants with whom she transgresses the discursive and practico-spatial legacy through acts which are intentional as well as partly unavailable to the conscious layer of thinking.

Tully's analysis of the "strange multiplicity" in Native constitutionalism resonates with Hardt and Negri's account of networks and immanent power as part of a Second Rome and is helpful in further setting out the postfoundational argument I am making. As war gripped Bosnia, Tully responded against the eruption of calls for nationhood by making an argument for multiplicity over monolithic modern constitutionalism based upon the Native sculpture, *The Spirit of Haida Gwaii* (Bill Reid, Haida, 1991: Canadian Embassy, Washington, D.C.: Figure 29) (Tully, 1995). In place of the claimed universality of modern constitutionalism—nationalism, the rights of individuals, minorities and majorities—he insists on an expanded terrain of self-rule which also makes room for orderings based upon other cultures; a "contemporary" constitutionalism of recognition and continuity. He suggests that just as art can express freedom

²² Interview with Jeannette Armstrong, Okanagan knowledge keeper, 10 July, 2007.

²³ Not as diversity or the multiple, but as a becoming, difference and multiplicity, Deleuze and Guattari, 1987.

and connection within a whole—two fundamental human goods—human political organizations may adapt their form to similarly accommodate “multiplicity” as opposed to either implanting a singular ordering or deliquescing into unworkable fragments.

In terms of content, *The Black Canoe* depicts a canoe ferrying figures important to the Haida, passengers which may appear as a sort of fixed pantheon. But it simultaneously betrays these coherencies where one may observe great debate and drama amongst the crew and that it is steered by the figure of transformation, Raven. Furthermore, most of the crew are in transition between different animal identities, such as the dogfish, mousewoman and wolf with human forepaws (Figure 30). The passengers therefore suggest a contemporary or post-imperial constitutionalism to the extent that they refuse a flattening out by the monarchical language of the “canoe” or “species” both by democratically arguing with one another and by doing so in voices which are culturally distinct yet interdependent.

The Black Canoe is a technology of recognition of multiplicity where it pushes thought toward pluralism and conciliation and thereby unsettles our previously accepted notions of the imperative of wholeness and stratification. To the extent that the crew’s interactions and involutions with one another are as much the story as the overarching coherencies of the canoe or its icons, the content of the sculpture conspires to express the tension between the pluralism, changeability and order at the heart of the ancient constitutionalism Tully proposes as a means toward peace.

I find a more gregarious spirit of multiplicity to that found by Tully in *The Black Canoe* and in Salish constitutional principles of human and nonhuman relationality for what they have to say about the nonrepresentational involutions of beings practicing in space. The recalibration of the optic of constitutional recognition must focus not simply upon a cacophony of “monsters” with inter-cultural or –species voices, but also upon the fullness of the world which holds or enables the temporary distinctness of each. It is not just that “unnatural” and hybrid subjects inform modern constitutionalism, but that they are affected by forces outside the discursive terrain. Thus, while the dogfish woman has a certain cultural intelligibility owing to her genealogy (“dogfish” and “woman”), she also exceeds the disciplinary limitations of each inasmuch as her identity is informed by nonrepresentational forces on the landscape. The spirit is a plateau: an intensity of territorialisation, deterritorialization and reterritorialization mobilized by the push of the world. In addition to the tension between order and pluralism, the even stranger multiplicity at issue concerns the openness of the passengers to the touch of the world. The

“spirit” of Haida Gwaii is therefore multiplicity in both a presentist and a nonrepresentational sense.

3: HISTORY OF NATIVE POLITICS SURROUNDING THE EXPANSION OF SUN PEAKS

The Secwepemc peoples (pronounced sec-WEP-mek and anglicized as Shuswap), members of the Salish language group, occupy 180 000 square kilometres of the Columbian Plateau. As is the case with most indigenous nations, their name indicates a connection to place: “the Secwepemc are the people of the land where the water flows from highest mountains down to the rivers on its way to the ocean.”²⁴ Sun Peaks ski resort occupies three of these mountains, approximately 15 square kilometres of an area known as Skwelkwek’welt, located approximately 45 kilometres northwest of Kamloops and 27 kilometres northeast of the Neskonlith reserve. It comprises Mt. Todd, Mt. Cahilty and Mt. Morrissey, and a watershed system which includes McGillivray Lake, Morrissey Lake, Cahilty Lake, and Eileen Lake. Skwelkwek’welt has been used for hunting and for the collection of traditional plants, roots, berries and lichens by the Secwepemc for millennia for medicinal, nutritional, and ceremonial purposes (Billy, 2006). As Elder Irene Billy explained its importance in her own life story, one marked by displacement at the hands of the residential school system and, more recently, the influx of amenity capital:

[I]n Kamloops Indian School and that is when I lost my language my culture when I was 6 years-old. The government had a law that we all had to go to the Kamloops Indian Residential School. I knew my language, I used to go hunting, I used to watch my Dad, he used to have a trap line—up at Sun Peaks now, it is all Sun Peaks’ area now, they have claimed that place, that’s my dad’s old trap line. McGillivray, where Nancy Greene’s got a cabin, that is where I used to watch my dad skin his catch: beaver, squirrels, minx. We used to catch for trapping, that is how we made our living, that is how I grew up.²⁵

Like the vast majority of land in BC, Secwepemc territory was never sold or given over to the Crown by treaty, but instead parcelled out into Crown and private property (mostly for European settlers) and Indian reserves. Adding more tension to this situation includes both the poor quality of the land given to Natives and that the size of the reserves was progressively reduced over the

²⁴ Interviewee #10, Secwepemc traditional land user (woman), 7 June, 2007.

²⁵ Interview with Irene Billy, Secwepemc Elder and Traditional Land User, 2007.

turn of the 20th century, a fact Natives widely protested to the highest government officials (Harris, 2002).

In 1992, the Tod Mountain ski area, named in honour of the fur trader who brought smallpox to the Secwepemc in blankets in the 19th century, was leased to Nippon Cable, a Japanese company that makes heavy equipment for ski resorts (funiculars, ski lifts) (Harrison, 2002, 30-31). The base of the mountain was also sold at this time to Nippon for development into a Swiss mountain “village” of condos, resort hotels and an 18-hole golf course. Between 1992 and 1993, there was a full consultation process with local communities and Natives according to Sun Peaks Resort Corporation (Sun Peaks, n.d.). In both 1999 and in 2008, the Government of Canada rejected a specific land claim for this territory as part of a reserve staked out by Chief Neskonlith in 1862 at the behest of provincial authorities. Canada declared that since Neskonlith was not an agent of the Crown and in the absence of evidence of official acceptance of the boundaries by Governor Sir James Douglas, that a reserve was not formed in 1862.²⁶ In this area, the Secwepemc have been left with three small reserves, Adams Lake, Neskonlith, and Little Shuswap, part of a colonial geography of postage-stamp reserves peculiar to British Columbia (Harris, 2002).

In 1997, Sun Peaks announced a \$70 million expansion of the resort and secured the signatures of eight Secwepemc chiefs on a protocol agreement to work together on future development. Critically, the *Delgamuukw* decision was also handed down that same year by the Supreme Court of Canada and it opened the possibility for Aboriginal land title across most of BC. In response to its requirement for proof of continued use and occupation, the Secwepemc Watershed Committee was established to document the traditional uses of the Sun Peaks area for the purposes of a future land claim (Drapeau, 153). As noted in Chapter 3, *Delgamuukw* also ignited activism by elected chiefs of the Interior Alliance who began logging on their traditional territories (i.e. land claimed as Crown property by the BC government), a line of force which ultimately led to a campaign for an international boycott of BC products and participation in the WTO U.S.-Canada *Softwood Lumber* case (WTO, 2002).

Key to this second phase of development was the meeting arranged between Masayoshi Ohkubo, owner of Nippon Cable, and Secwepemc elders at the Adams Lake Indian reserve in 1998. Considered by grassroots Natives to have an authority distinct from that of the nonhereditary, elected chiefs (the leaders who signed the protocol agreement), the Elders told

²⁶ <http://dsp-psd.pwgsc.gc.ca/collection_2009/indianclaims/RC31-80-2008E.pdf> This finding is not a bar to a land claim over the Douglas-Neskonlith area.

Ohkubo that they did not want to see further expansion of Sun Peaks owing to its potential to interfere with their practice of TEK and, by extension, the education of youth.²⁷ In particular, they were concerned about instruction carried out at the Chief Atahm School where the Secwepemctsin language and Secwepemc culture are taught in both the classroom and in their cultural contexts on the land based on the Maori model of “total physical response.”²⁸ In their message to Ohkubo, they entwined their territorial claim with an environmental concern for the protection of these practices:

Our People have suffered and endured poor treatment from the non-Secwepemc for many generations now. We have seen our Title and Rights ignored, our way of life attacked, our lands damaged and fenced in, the fish, game and plants we depend on depleted, and we have seen our children suffer because of all this (St. Pierre, n.d.).

Talks amongst the provincial government, Sun Peaks and the grassroots people continued until 2000, when the expansion finally went ahead.

In response to the civil disobedience which ensued, Sun Peaks argued that they had consulted First Nations, secured the consent of eight local chiefs “to cooperate,”²⁹ sought to partner with bands (including on some multi-million dollar projects) so as to increase wealth for all communities, and notes that there was no registered land claims in 1992-93 (Sun Peaks, n.d.). In a theme to be picked up by the BC Court of Appeal in its finding of intimidation against two protestors at Sun Peaks (*R. v. Manuel*, 2008), Sun Peaks pointed out that legal avenues existed for Natives to settle the land claims issue and those taking direct action were attempting to unlawfully push their dispute to the political forefront to the detriment of other Native nations. While not without merit, this assessment of legal avenues and civil activism is slightly disingenuous owing to the protracted and costly features of both the treaty process and litigation, a lack of acknowledgement of Natives’ inherent rights, and the dire economic challenges facing Natives. In its derision of the protests, these assessments are profoundly conservative and privatistic in their refusal to concede the West’s own important post-Enlightenment history of

²⁷ Interviews with Arthur Manuel and Irene Billy, *supra*.

²⁸ Interviewee #10, Secwepemc traditional land user (woman), 7 June, 2007.

²⁹ For the Protocol Agreement, 30 January, 1997, see p. 6-7: Sun Peaks, n.d. Interview with Arthur Manuel who describes the Protocol as “a little nothing paper, really, that we sort of recognize each other...it was very insignificant.”

civil disobedience and geography of public space as powerful means to bring about change (Mitchell, 1995; Blomley, 1996).³⁰

Despite proclaiming support for the resolution of the land claims issue in BC, Sun Peaks insisted that since they lawfully purchased the land from the government and secured Natives' consent, there was no reason for their expansion plans to be put on hold, especially at the behest of those who they further vilified as a small, unrepresentative fringe of the Native community. Missing from their narrow legal argument is a sense of corporate ethical responsibility to a colonized people only beginning to take advantage of their status as rights-bearing citizens in the context of sophisticated and powerful corporate actors and governments. Also missing is a cultural sensitivity to the fact that when dealing with collective societies, prior informed consent is a difficult matter of securing permission from multiple stakeholders ranging from the "local community," state-recognized "bands" or NGO-recognized "Indigenous peoples" (Berlin and Berlin, 2004), as well as in grassroots, self-identified Elders and land users (who Manuel asserts were never consulted, see: Manuel, 2002, 326). Not only is the community a composite of parts, but one side of the community may eventually win over the other to their side, as in the case of a letter sent from Elders Sarah Denault and Irene Billy (Drapeau, 2008, 158-159) to the Neskonlith and Adams Lake Bands which led to their withdrawal from the protocol (Neskonlith and Adams Lake, 2001). Given that the grassroots Natives did not call for Sun Peaks to suspend its contemporary operations and that Sun Peaks was aware of the nonexistence of a treaty with the Secwepemc, when presented with the challenge to their second expansion, the ethical choice would have been not to wilfully proceed with the development on land which the province may never have been legally entitled to sell but to instead encourage the principal parties to expeditiously work things out. Against the backdrop of colonialism, Sun Peaks and Okhubo only succeeded in making the Natives feel like they were yet again "pushed in the face."³¹

Although the vast majority of Native political pursuits have been made through negotiation and the courts, more geographical resistance began with the blockade at Fort St. John by the Beaver Indians in 1898 which resulted in their inclusion in Treaty 8, an agreement reached for lands mostly in the province of Alberta (Tennant, 1990, 66-67). Again in the 1970s, blockades were undertaken with more rigour but were launched by bands largely over reserve issues (although some were over land claims: e.g. those in the summer of 1974 by the Nisga'a and the

³⁰ As my informants told me, protesting and its related stresses are not a normal part of traditional Native life.

³¹ Interview with Irene Billy, *supra*.

Bonaparte band near Cache Creek; Tennant, 1990, 175). However, beginning in 1983-1988, blockades were set up by tribes and were focused on off-reserve issues (Tennant, 1990, 207-208), notably rights to traditional territory (Blomley, 1996, 12). Between 1980 and 1993, there were thirty-three blockades outside BC and forty-nine in BC alone (Blomley, 1996, 8), many of which were in response to the violence of the Oka Blockade between the Mohawk Nation and Québec in 1990. Rather than occurring on remote logging roads as had been the case in the 80s, they involved major roads and rail lines (Blomley, 1996, 9). Natives often attempted to stop the exploitation of their land by third parties while their land claims were pending and, in many cases, they were successful in getting injunctions against resource extraction businesses and garnering support from the nonNative community. In this chapter on the civil resistance to the expansion of Sun Peaks ski resort, one may examine another incarnation of tribal off-reserve direct action in a high-profile space, now linked to BC's lucrative tourism sector.³²

On Thanksgiving weekend in 2000, a roadside gathering was set up at the entrance of Sun Peaks by grassroots Secwepemc, including elders and the Secwepemc members of the Native Youth Movement (NYM), to inform skiers of the outstanding land issue and the threat posed to the environment and Native practices by the expansion of the resort into an international ski destination (Billy, 2001).³³ Shortly thereafter, a tent structure was erected at the roadside and the Secwepemc Watershed Committee was reborn as the Skwelkwek'welt Protection Centre (SPC). This marked a change in strategy from the documentation of and advocacy for traditional practices, to physical occupation (Drapeau, 2008, 154) and a fuller exploitation of the spatialization of politics: publicization and representation in public space (Mitchell, 1993). Distinct from the tendency of earlier Native politics to be oriented solely toward political institutions, the Secwepemc struggle is very much of the neoliberal era insofar as its targets are international corporations (e.g. Delta Hotels, Japan Cable) and its strategies often by-pass the state (e.g. appeals to the International Olympic Committee in respect of the Vancouver Games, which at one point took the form of protests at the Vancouver Stock Exchange, see Billy, 2001; see appeals to the World Trade Organization in Chapter 3) (Jung, 2003; N. Harvey, 2001; Perrault, 2003; Manuel, 2001). Hence, as Drapeau points out, the transnational economic space which gave rise to the investment to expand Sun Peaks also provided the Natives with a new space for politics, "un espace de manoeuvre" in the context of the retrenchment of the welfare

³² ...and important, given attempts to diversify the provincial economy away from the resource sector and secure a competitive position in the global service-based economy.

³³ I have produced this reduced chronology of the period 2001-2002 from: Harrison, 2002, 32-35; Manuel, 2003.

state and its increasing intransigence in fulfilling obligations to Natives established in its own courts (see geographies of scale in Chapter 3). Rounding out these tactics, the Secwepemc took advantage of the emergence of global Native and nonNative social justice networks to make their appeals to numerous international groups, such as the United Nations Committee on the Elimination of Racial Discrimination in alliance with Sutikalh, House of Smayusta, the Mik'maq, and the Coalition for a Public Inquiry into Ipperwash (Drapeau, 2008, 147-148; Sutikalh and Skwelkwek'welt, 2002, 2002b; Manuel, 2003, 331).

Over the period ending in 2001, a traditional winter house, men's and women's sweatlodges and other structures were established elsewhere around the resort and its environs (Manuel, 2003, 330). A cordwood cabin and barricade had been established at McGillivray Lake. Several protests and blockades took place at Sun Peaks as well as a three-day occupation of a government building in Kamloops. As in the case of all of the civil resistance against the expansion of Sun Peaks, a group of grassroots Elders (including Sarah Denault, Irene Billy, and Wolverine) and the NYM led the charge. The NYM, which had been involved with the building of the various structures as well as a camp located near the offices of the operational manager of Sun Peaks (Manuel, 2001b) figured prominently in the blockade of 24 August, 2001 which was prompted by the destruction of a recently-built Secwepemc winter house. There were nine arrests on that day, and eighty-year-old Elder Denault was cited for laying her body down in the path of a Sun Peaks excavator with the other protestors (Harris, 2002, 33). On October 9, 2001, the Secwepemc at both the SPC and McGillivray Lake were issued Trespass Notices under the BC Land Act for their activities on what they claimed as their own Aboriginal lands (Manuel, 2003, 329). In November, negotiations between Chief Manuel and Attorney-General Geoff Plant ended when Plant withdrew and proceeded against the Natives via legal channels, securing an injunction and enforcement order against the protestors on December 5, 2001.³⁴ A week later, on 10 December 2001, the Secwepemc voluntarily left their cabin at McGillivray Lake when their presence was challenged by the RCMP. Later they discovered that the house, the men's and women's sweat lodges, and the most recent SPC had been dismantled (Manuel, 2003, 330). Ironically, this took place on International Human Rights Day and on the advent of the fourth anniversary of the *Delgamuukw* decision. By March 2002, there had been 54 arrests, including a handful of influential Elders (Harrison, 2002, 54). As evidenced by the subsequent reestablishment of the SPC at the entrance to Sun Peaks, the Secwepemc were undaunted by the

³⁴ <http://www.turtleisland.org/news/news-secwepemc.htm> & <http://www.turtleisland.org/news/news-secwepemc2.htm>.

injunctions, the destruction of their structures, the seizure of ceremonial objects and constant surveillance by the RCMP (Manuel, 2003, 331).³⁵

In August 29, 2004, another major protest took place when 200 Native and non-native protestors staged the Sun Peaks Convergence protest (Drapeau, 2008). As in the case of the 2000-2001 protests, it was held in response to the announcement of an expansion of the resort and recent court decisions which detailed a right to consultation in respect of the development of lands for which Aboriginal title is claimed.³⁶ Sun Peaks announced plans for a \$285 million, third expansion to the resort.³⁷ On September 3, as a result of the disruptions caused by the protests and blockades, the BC Supreme Court issued an injunction³⁸ which effectively precluded both those Natives named in the case as well as “unknown persons” whom the police reasonably might suspect to disrupt the peace from a 16km radius of the resort.

On 18 March, 2007, the NYM held its most recent protest at Sun Peaks. The one-day protest also took aim at the Vancouver Olympics because of the shared similarities of unceded Native territory being exploited for the tourism industry, business connections between Sun Peaks and Whistler—notably around the skiing personalities of Nancy Greene Raine (a member of the Senate’s Aboriginal Committee)³⁹ and her husband, Al Raine—as well as the interest in foreign teams in Sun Peaks as a site of preparation for the 2010 Games.⁴⁰ As in the case of earlier protests, the singing, drumming and public speeches were met with a large contingent of RCMP officers who operated several video recorders. The protest was also met with indifference from

³⁵ <http://www.turtleisland.org/news/news-secwepemc2.htm>

³⁶ *Haida Nation v. BC and Weyerhaeuser*, 2002 BCCA 223, Docket CA 027999. *Haida* was appealed to the Supreme Court (*Haida Nation v. British Columbia (Minister of Forests)*, [2004] 3 S.C.R. 511, 2004 SCC 73). Importantly, while the appeal of BC was denied, Weyerhaeuser was successful and consequently no third party duty to consult currently exists.

³⁷ In 1992, Sun Peaks received 59 000 skiers annually and had 400 beds, but by 2008, as a result of its successive expansions, it received 300 000 visitors per year and had 5858 hotel beds. The 2004 expansion aimed to increase the number of hotel beds to 10352 by 2014. Its future plans call for 24178 beds and for the site to be home to 3000 people year- round (Drapeau, 2008, 132; <<http://www.firstnations.eu/development/secwepemc-skwelkwelwelt.htm>>).

³⁸ *Sunpeaks Corporation v. Janice Billy et al* [2004] B.C.J. S0113235.

³⁹ In 2008, Green Raine was appointed to the position of Senator (Conservative) by Canadian Prime Minister Harper, see: <http://www.parl.gc.ca/common/senmemb/Senate/isenator_det.asp?senator_id=2812&sortord=N&Language=E&M=M> (last accessed March 21, 2009).

⁴⁰ As a result of grassroots advocacy with an Austrian NGO, *Gesellschaft fur bedrohte Völker* (Austrian Society for Endangered Peoples), the Secwepemc worked to convince the Austrian Alpine Ski Team not to use Sun Peaks in the lead up to the Vancouver Olympics, see: <<http://www.sunpeaksresort.com/multimedia/mediacentre/article.aspx?newsId=4021>> Accessed 4 January, 2010. Ultimately, this campaign proved unsuccessful.

the vast majority of tourists, although a handful did bother to stop to listen or to heckle the group.⁴¹

Upwards of 40 Native and non-Native supporters marched through Sun Peaks Village and occupied the entrance to Nancy Greene's Cahilty Lodge to draw public attention to the threat posed to Aboriginal rights, title and the environment by the continued expansion of the resort and the planned addition of a second highway. In Chapter 3, I discussed the Native Warrior not as a specific individual but as a placeholder for a subject oriented toward social and environmental externalities as the basis of individual autonomy, a subject open to the outside, produced by a nondisciplinary type of sovereignty. The Native Warrior promoted this rationality through advocacy for property rights which included obligations to the environment. I now come upon this citizen of the Fourth World (Manuel, 1974) both as an avatar defending the constitutive relations (zoe, the flesh, multiplicity) which remain outside the political community (as bare life: Agamben's words) and in person standing up for the land. One masked warrior, a NYM spokesperson, emerged from her similarly dressed comrades and used a bull horn directed at the Easter Weekend skiers to proclaim:

[W]earing camouflage masks to symbolize the colours of Mother Earth that we show our Alliance with. We are speaking for those who cannot be heard, the trees, animals, sky, water, and all life on the land, which also depend on our Sacred Mountains. Our faces will be covered because even when we do speak, you do not listen, from the first contact until now, we remain invisible (NYM and SPC, 2007).

For Natives, Social Darwinism sets them on the pathway of the "vanishing Indian," and patriarchal and modernist discourses have similarly excluded women and nature (Butler, 1999; Scott, 1998). Since the object of violence is the silencing of the other, to be without discourse is to suffer violence. Having been so banished from the political community, the Native, woman and nature are always-already turned over to even further violence, now of a physical kind, since they are unreal. The Native Warrior is a provocative figure not simply because she was dressed in military fatigues while claiming not to be militarized,⁴² but also because she gives voice to these three figures which have largely been denied even a denigrated space in language. Their re-appearance is provocative because they signify what has already been consigned to the realm of the impossible as the ontological necessity of the real. Their haunting, spectral reappearance as

⁴¹ The hecklers dismissed the protest as a waste of time and implored the protestors to "get jobs": Personal observation, 18 March, 2007.

⁴² For a similar territorialization and deterritorialization, see Deleuze and Guattari's treatment of the Pink Panther and his crusade to paint the world pink (25).

figures which stubbornly refuse to die may be justifiably met not only with violence, but also a violence which may be repeated over and over again with impunity (Butler, 2004, 33).

The Native Warrior speaks out against her vanquished status as a body to which anything may be done—the status of the sacred man in Western law (Agamben’s homo sacer, 1998)—to declare future violence illegitimate and recover her body from the space of exception. The protest is characterized by a sophisticated politics of bare life where a hyperbolic figure of abandonment—the Native Warrior as a “deserving victim”: a mouthy, potentially criminal, Native woman speaking publically about the environment—both represents the foundational space of disavowal within the Western subject while aligning herself with the fullness of the world. However, as with *The Black Canoe*, the demands for recognition may be answered where the viewer can make out both a particularistic (Native) claim and a collective one (nature). I now turn to my second theoretical reflection where I unpack a politics which allows these constitutive relations to be recognized through the body while not allowing bare life to be heard.

4: TEK AS A TECHNOLOGY OF RECOGNITION

*TK is not what I would call it—it is more, like being Secwepemc.*⁴³

*[Traditional knowledge] is the backbone. It is like the guidelines or the protocols and all that. Other than the “I am”: that is the dressing on it [TEK], right?*⁴⁴

In Butler’s early work on gender, the performative self was theorized as having a constitutive vulnerability to the discursive legacy (Butler, 1997). Political action was a matter of the responsible performance of this legacy, which is to say, the performative resignification and reversal of discourse and practice in ways that would involve a more generous inclusion of aspects of abject identities. The difficulty is that society discourages identifications with “cultural impossibilities,” as I have just suggested, and so change occurs only in an incremental fashion (Butler, 1993). As I see it, the challenge is to develop technologies of recognition to encourage alliances with the abject, as a first step toward developing performances in which more types of

⁴³ Interviewee #4, Secwepemc youth (woman), 23 July, 2007.

⁴⁴ Interviewee #9, Secwepemc Elder (woman), 4 July, 2007.

bodies come to matter. In her essay “Violence, Mourning, Politics,” Butler returns to the primary political condition of “having” a body to explain the vulnerability of the self to the other and, to the extent that bodily experience encourages recognition of a collective political horizon, how the body fosters a more response-able performativity (Butler, 2004, page 29; see my Introduction). She does not posit a return to the humanist body, an atomistic individual with agency to act within a Cartesian space free of mystery. Instead, she describes the vulnerability of the body to the physical and emotional touch of the other—e.g. through the experiences of violence, mourning, ecstasy—as a conduit to appreciating our intra-subjective constitution and ultimate reliance on the collective. Through touch, I argue that she opens performativity to the spatial politics of affect and, thus, the social to the nonhuman and physical world. Perhaps as a sort of implicit rapprochement to charges of the aspatiality of her theory, she more fully materializes and breathes “life” into performativity (cf. Dewsbury and Thrift, 2000). The body as a cognitive register is engaged and the self comes to see that it is not only supported by the community, but also integrated into the collective. The self is “undone” by a “dispossessory” and, as affect theory would also conclude, a differential relationship partly owing to nonrepresentational forces.

Butler’s project is concerned with that I would call the politics of vulnerability, those self-techniques which turn the subject to recognize the relations which fundamentally sustain the self. She proposes that mourning, a technology of recognition, affords a way for the subject to work through what is being abandoned as a consequence of his own possibility. As opposed to referring only to some distinct other, these also include the identifications which exceed hegemonic categories of citizenship and yet which remain constitutive of identity (*zoe*), the fundament of the social structure. What comes into view through mourning is the subject’s primary sociality, vulnerability and responsibility to the other (Butler, 2004, 30). Butler illustrates the virtual aspect of the fullness of our bodies: the self is not just an individual or supported by a collective, but has a dispossessory and differential relationship with the other (and “life”) (Butler, 2004). This “humanization” of the political (Butler, 2004, pages 42-43) could be promoted in the proliferation of technologies which foster recognition of vulnerability and responsibility for the spatio-linguistic terrain and make room for “restaging and resignification” of unreal and derealized bodies (Butler, 1997a, page 23).

Her essay challenges us to devise new means of bringing vulnerability into view, not only so as to better direct policy toward collective security (a matter of ideology) but also, from the perspective of the knowledge-power disciplinary regimes which structure “life,” to afford responsibility for the other in the mundane enactments of the spatio-discursive legacy through

which we live. In other words, the practice of freedom in a society such as ours is concerned with developing technologies of recognition of our relational, dispossessory and differential constitution in the collective—the shattering of the cultural impossibility of other bodies and excessive attachments—and, based upon this perspective, performing differently, through reversals and slippages which allow for the iteration of more of “the relations which fundamentally sustain the self” to seep in. Despite beginning concerned with the body, I propose that the task of the responsabilization of performativity could be both further operationalized if her theory would more closely interrogate the spatial aspects of these technologies (the extensivity of the figure via networks)—how performing differently may also entail interventions on the bodily layers of thinking and not merely be occasioned by loss and violence. In the second part of this section, I argue by way of affect theory (a theory of touch which considers the social to only partly involve the human) that TEK is precisely this sort of technology of recognition and I explore its representational and nonrepresentational aspects through the case study of four bodily capacities.

Where Butler suggests that vulnerability is a resource for politics (via mourning), Sennett similarly explores the spatial provocation of the body as a resource for civic life (as a nonprivatistic and “worldly experience”) in his advocacy of a baroque spatiality of “coherence” which entails “restless movement” (Sennett, 1980, xii and 158).⁴⁵ Thanks to Sennett, one can characterize tragedy as the condition which attends these technologies of recognition, including the practice of TEK. Sennett contrasts the deployment of perspective in urban spaces of Sixtus V (Piazza del Popolo, c. 1580s) and Serlio (his set design for the Tragic Scene) with those of modern planning and Brunelleschi’s cathedral in Florence to show that in the latter, space is contrived such that the eye is focused on a particular point whereas in the former space is truer to nature such that no privileging of particular vantage point is made and the eye remains in motion. To the extent that any single point of view is inadequate and space exceeds “perceptual control,” Sennett states that Serlio and others arranged their theatrical spaces to visually reflect the theme of the classical tragedies: men and women learning the limits of “human comprehension, striving and understanding” (Sennett, 1990, 161). Where the eye “perceives limits, incompleteness, otherness” (161) and “nonpossessiveness” (Nietzsche’s term, 158), the “ocular experience of tragedy” inscribed in the geographical arrangement of the city produces an “ethical vision” (161). One outcome is that through the experience of complexity in space, or fullness and tragedy, the

⁴⁵ The Black Canoe, the Native Warrior, Piazza del Popolo, vulnerability and mourning, the spiral, and TEK are the six plateaux—multiplicities which connect to other multiplicities—addressed in this chapter.

outside returns as a dimension of human life and the subject is ethically reoriented to engage the other in order to know.⁴⁶

I similarly trace the “ethical feeling” of the practice of TEK: by recognizing the limits of the human in the landscape and turning to the other in order to know, tragedy takes hold. Where the most comfortable space for people is that “easy” approximation of place—one which omits “pain, wrong-doing and hurting” (Sennett’s terms)—ethical vision and feeling are uncomfortable and problematic for they extend the space of concern into these omissions and encourage exploration and discovery with the other in order to know. Thus, in place of the individualistic humanist subject set in a place where perspectival rays converge on the horizon, baroque architecture and TEK reveal a “full” world of multiple visual and affective horizons which displace and push on the self and shift the normative horizon of politics to the collective.

The work of freedom concerns not simply the proliferation of constituent powers and spatio-discursive restagings which merely replicate the hegemonic order on a local scale, but a political ordering informed by a set of technologies which recognize the vulnerability, fullness, tragedy, and becoming nature of the body. In the work of mourning—so essential to avoiding melancholy, the psychic and often violent condition of a society cut off from “life” (Butler, 1993)—the loss of the other thus presents an opportunity for revisioning the solidarity at the heart of being human. Technologies of recognition are thus resources for a politics of vulnerability which reconfigures the lineaments of identity and the normative horizon of politics. Aside from loss, alliances, friendships and loves must also have a dispossessory effect. In the next section, I set out how TEK was explained to me by grassroots Natives as a set of practices underpinned by deeply seated cultural values in the collective. Then in the following section, distinct from explanations of TEK, I explore the bodily ways of knowing connected with TEK as a technology of recognition.

⁴⁶ See Chapter 1 on feminist methodology and its implicit use of tragedy (via opacity) as a political strategy.

5: TEK AS A REPRESENTATIONAL TECHNOLOGY OF RECOGNITION

TEK is a practical set of protocols for human survival on the land. Aside from these concrete practices, narratives surrounding TEK both reflect and reproduce the principles seen as critical to living in harmony with nature: an understanding of the collective as the normative horizon of Native society; and an understanding of the subject as decentred not only in relation to the human community, but also to nonhumans, the land, ancestors, and future generations. The decentring of the self and horizoning of the collective as the baseline of community was described by John Jules:

One of things that we make sure that we do is basically looking at our social aspects...not only through the educational process, but also being a societal being in relation to your community: hunting and fishing practices. How we take care of the animals within the landscape and how we take care of the family and community primarily. Not as an individual meant to empower ourselves as a great hunter, but being part of a hunter that adds to the greatness of the community by giving meats and other resources, to the elderly, to the single-parent mothers, to the disabled, and to the children. So that they learn to care for all of the relatives or all of the quasi-relatives of that community...⁴⁷

But the collective is not simply important in the sense of political ordering, but also in the sense that the individual is constituted through it. Jeannette Armstrong's comments explain how TEK further attunes the self to its integrated and differential quality with the land:

Part of our belief is tied into the idea that the world—the natural world—is something that we are a part of, not something that we are in control of or dominant over or something that belongs to us to exploit and do to it what as we wish; that we have almost like an honourable role that if we can maintain that honourable role then we can expect that the land will maintain its honourable role to sustain us. You could say it is one of reciprocity...[W]e are constructed like the salmon in that we are without the covering of the river, we are not there. That is how indigenous people are; without the covering of our land and our whole systems around us, we are really not here, we are really not present.⁴⁸

Here, inasmuch the distinction between the figure/ground is erased, identity is produced in reciprocity with an intimate set of “relations” and when the land changes, so too do Indigenous people.

⁴⁷ Interview with John Jules, Secwepemc traditional land user, 3 July, 2007.

⁴⁸ Interview with Jeannette Armstrong, Okanagan knowledge keeper, 10 July, 2007.

As a technology of recognition, TEK simultaneously reveals the fullness of the world as well as the tragic position of the human within it. Where the self is held by the collective, she is also decentred and volition is turned into a matter of negotiation with a host of others on the landscape, as a Secwepemc traditional land user rhetorically asked: “But ultimately, nature controls, or the animals control the hunt—we don’t, humans don’t, right?”⁴⁹ Another Secwepemc traditional person’s comments on property reflected the fantasy of control which takes hold when you see yourself in an instrumental relationship with the earth as opposed to a position of constitutive vulnerability:

[Property] is from a Native perspective...totally abhorrent. You don’t own the land, the land owns you—that is where our songs come from, that is where our designs come from, that is where we come from. Our spirit is integral to the land, it is a reciprocal relationship... Christian people...the right to dominate everything, whereas in indigenous thought it is not about that—you are interrelated, you are related to everything—you know when indigenous people say, “All my relations”? It is not taken lightly, you are related to everything in the universe: the trees, the birds, the four-leggeds, the little crawly things, the water: you are related. It is like you take care of them, they will take care of you.⁵⁰

The decentring of the self and the attendant emotions when confronted by one’s vulnerability to the fullness of the world were described by one traditional practitioner as:

TK, it’s basically been built up...out of the... recognition that the land and nature provides us with everything we need to sustain ourselves: ...with food, and sustenance: The humility in that, and you know seeing ourselves as a part of the land and a part of the natural system...When a person is practicing TK on the land, we know that you are not really in control of it as a human being, it controls you...experiencing humility is more driven, you know, when a person is humble they are more driven by their soul as opposed to their ego.”⁵¹

The autonomy of the self thus depends on the collective, an ethico-political condition which insinuates a disposition of humility toward the world. Of note also are the sacred⁵² aspects of what I have been calling “the relations fundamental to the self” or the fullness of the world. I have suggested that Western technologies of recognition seek to recover cultural impossibilities, that part of life barely visible through regimes of truth, such that more of life can matter. Where

⁴⁹ Interviewee #10, Secwepemc traditional land user (woman), 26 October, 2008.

⁵⁰ Dorothy Christian, Okanagan/Secwepemc traditional land user, 24 September, 2007.

⁵¹ Interviewee #10, Secwepemc traditional land user (woman), 26 October, 2008.

⁵² According to its Latin root, *sacer*, sacred may either indicate something holy or accursed.

TEK operates in a geography of networks, the intermingling of the human and nonhuman therein means that excess—or “the sacred”—is foregrounded in the everyday:

From us to the land, from everything in the land, there is no separation. So everything you are, that is a part of the land, too, everything, everyone, even the rocks even everything is. And that is one thing that they couldn't break...and when we go out there [on our traditional territories], those plants, they govern us, they are our Chiefs...it is a great honour, the sacredness in it.⁵³

The “tradition” part of TEK is often misleading where it tends to set TEK in the past as the repetition of sameness, as opposed to acknowledging it as a dynamic knowledge system and protocol for living. Instead of referring to a set of unchanging practices and beliefs, it instead refers to the application of underlying values of stewardship which give form to but do not dictate the present. TEK is conciliatory and differential, yet under the sign of time-tested knowledge: the repetition of difference. Through the metaphor of the spiral (repetition of difference) as opposed to the circle (sameness), TEK may be seen not as a fixed image or transcendent code but instead as a multiplicity or line between points:

We use a common symbol in our language which is repeated over and over again: we use the symbol of the spiral: you are coming to the same point, but you are always expanding upward or outward. They use the symbol of coiled basketry: that is what the spiral symbol is in our tradition. It refers to the concept that you cannot go back to the same spot in any given year, any given season or any given cycle: that is a useful thing to understand where culture is concerned, that you never are the same. So there are some things that carry you along that track, back to the same point. But if you follow a spiral, you are following a track: what is that track? So if you are coiling on basketry, you are following on the same track over and over again, but you are expanding, but what you carry on that track is that knowledge—that is what keeps you on that track. If you waiver off the track, into no-knowledge then you are likely to go off in a different direction: not end up in the same place next year! So, the continuing cycle, it is important to build it on a track of knowledge. That is what stays the same is the knowledge: the knowledge about basic things like survival, but also the knowledge about interaction with [the land] and interaction as humans with each other in order to stay on that track.⁵⁴

Native knowledge is thus open to the world not in the sense that new information transforms its constitutive investments but that new information inflects its repetition in practice. The form of this comportment to the world is reflected in the subjectivity of traditional knowledge practitioners where, as I have shown, the self is neither bounded nor simply supported by the collective, but also open to the world and undone by it, like a line between points. In the next

⁵³ Interviewee #4, Secwepemc youth (woman), 23 July, 2007.

⁵⁴ Interview with Jeannette Armstrong, Okanagan knowledge keeper, 10 July, 2007.

section, I further explore the differential and deterritorializing self by inquiring into the role of nonrepresentational forces in performativity.

6: TEK AS A NONREPRESENTATIONAL TECHNOLOGY OF RECOGNITION

We know our duty is to protect the land: I know it in my mind, but I feel it way more than I think it.

—Interviewee #4, Secwepemc and Native Youth Movement activist

As distinct from conceptions of knowledge as a purely ideational enterprise, TEK is a practical way of knowing about the land which comes to the self by way of spirituality and, at issue here, the body interfacing with humans and nonhumans along its precognitive registers. Whether as a means to collect food or perform ceremony, TEK not only relies on conscious observation and representations of knowledge, but also on an embodied way of knowing, what my informants called the “felt” cues from the environment. In this section, I briefly introduce affect theory as a means to further illustrate TEK as a nonrepresentational technology of recognition.⁵⁵ Affect theory expands performativity from a matter of iterating the representational aspects of the social structure (discursive practice) to a matter of the unexpected effects of the practical “push” of the world on the self (the material doing of the world). As an affective technique, TEK is an intervention on the embodied and prediscursive layers of thought which turns the self to the fullness of the world. Politically, it is a self-technique, a caring for the self/care for the land (*yecwiminte r tmicw*), which draws the world into everyday identity. It is necessary in order to wrest loose from disciplinary structures and enact resistive subjectivities and, inasmuch as it is a technology of recognition, to foster an affinity for the pluriverse and the normative orientation of the political community to the collective. Along these lines, it is critical for understanding the basis of the Native constituent power at play in the Sun Peaks dispute as

⁵⁵ I earlier discussed the implicitly affective quality of Butler’s theory of the politics of mourning, which I reframed as one of many technologies of recognition in a politics of vulnerability, such as TEK. Here, I turn to affect theory not only to illustrate the resubjectivizing effects of nonrepresentational forces, but more for its democratizing effects (or “deep pluralism,” see: Connolly, 2002) and its intersection with the normative reorientation produced by the politics of vulnerability.

prediscursive and revolutionary. I illustrate affective ways of knowing as recounted by my informants across four geographies: the role of the body as a way of knowing in TEK; the distinction between being on- and off-reserve; the experience of the returning home to Secwepemculecw; and the role of TEK in the Sun Peaks dispute.

Affect theory is a line of Western philosophy which argues that thinking may no longer be conceived as only involving direct reflection on the world and its representations, but is also formed partly through the processing of stimuli by the preconscious layers of the body (Connolly, 2002).⁵⁶ This affective layer of thinking, “a different kind of intelligence about the world,” allows materiality to impinge upon thought, identity and our political disposition toward the world: these become inter- and intra-corporeal experiences (Connolly, 2002, 65). Recent neurological research has shown that embodied ways of knowing take place in the “space of the half-second delay”—a period of time and space which has been measured to exist between one’s embodied response to a stimulus and one’s cognition of it (Connolly, 2002, 83). Against a representational account, thinking and identity become the effects of not only the intellect, but also material practice in the external world which brings other actants to bear on the body. Deleuze and Guattari tell us that the self is like a marionette, but the strings are connected not to a puppeteer as a sovereign figure, but to his neural pathways which, in turn, “weave” into other multiplicities (Deleuze and Guattari, 1987, 8): “For affect is not a personal feeling, nor is it a characteristic; it is the effectuation of a power of the pack [network] that throws the self into upheaval and makes it reel...calling us toward unheard of becomings” (Deleuze and Guattari, 1987, 240 [my parentheses]).

The affective moment in Geography arose as a critique of the narrow theorisation of identity, place, practice, and politics by representational approaches. In place of a structuralist limiting of the world to “the social,” the open and excessive “doing” in the world in networks is the concern of nonrepresentational theory.⁵⁷ The anti-essentialism of social construction is therefore more aggressively pursued with the dissolution of the mind/body, self/other and body/space binaries and the arrival of the posthuman condition: “Individuals are generally

⁵⁶ I refer to a Deleuzian-Spinozian version of affect theory, see: Connolly, 2002; Thrift, 2004.

⁵⁷ Nonrepresentational theories have attempted to forge an analytic that explains phenomena as the products of relations between various human and nonhuman actants. Through the anti-Newtonian ontological lens of ANT, for instance, the binaries of material-immaterial, figure-ground, and self-other are effaced with the metaphor of the network: things come to be things through alliances struck in a thick fabric of technology, far-off managerial decisions, everyday habits, mundane regulations, practical skills, etc. (Latour, 1993; Whatmore, 1999; 2002).

understood as effects of the events to which their body parts (broadly understood) respond and in which they participate” (Thrift, 2004, 60). Rather than “the social” being distinct from “the biological,” the physical world is seen to press on the biological producing an intensity on thought which then combines in consciousness with the social. Law and Mol state: “Perhaps, then, when we look at the social, we are also looking at the production of materiality. And when we look at materials, we are witnessing the production of the social” (Law and Mol, 1995, 274). As Thrift cautions in the context of the city, since affective space has been colonized to support the status quo (cf. Sennett, 1990), political economic and biopolitical analyses must also concern themselves with the politics of affect (Thrift, 2004, 67). The importance of “micro-biopolitics” is intimated in the comments of one grassroots practitioner of TEK which suggest that practice on the land builds certainty of mind, spirit—and body—as a bulwark against cooptation in the policy arena:

the basis of indigenous food sovereignty comes from our day-to-day practice of being out there and maintaining those practices....I am not saying that the policy discussions aren't important...[but] we have to be practicing it first before we can go into those policy [areas] and spiritually, there is a lot of power in that, too: being spiritually connected to it.⁵⁸

The basis of sovereignty rests upon a material presence on the land as well as the nonrepresentational force of spirituality. Since disciplinary regimes work through space to individuate and domesticate, I would further add that sovereignty rests on access to spaces in which embodied experience provides a more complex set of cues and more dramatically solicits feeling excess and thinking difference. To be sure, the physical practice of TEK is also a nonrepresentational force important to sovereignty inasmuch as the body is set along a line of flight on the preconscious register.

Revolution and insurgency are waged where practical interventions (e.g. technologies of recognition) are made in the compositional dimension of knowing, thereby opening thought to its creative dimension—the layered intensities of the pre-political brain-body-space assemblage—with the aim of re-training the self to resist ideology, discourse, and discipline (Connolly, 2002, 76 and 1). As a bio-cultural assemblage, the subject threatens to enunciate not only discursive reversals, but also its unnatural participations with the outside into the social. Critically, rather than political volition being shaped by the humanist subject, ideology or discourse, “materiality is agency” (Dewsbury et al, 2002, 439) and is better framed as a “relational achievement”: the result of negotiation within the creative dimensions of the network (Whatmore, 1999, 26, as cited by

⁵⁸ Interviewee #10, Secwepemc traditional land user (woman), 7 June, 2007.

Knopp, 2004, 125). As a result, “the push” of the world (Thrift, 2000, p. 244) produces the self through the precognitive thinking-body immersed in a thick spatiality of involvements and involutions.

The political project proposed by proponents of affective politics is one which ethically values a comportment of openness to new affective styles. As opposed to prescribing an explicit practico-political program, the possibilities for experimentation inherent to the condition of having a body are held up as liberatory to the extent that they turn the body toward the wildness of posthuman becomings. In their openness towards the contingencies of the event, nonrepresentational theories go some distance to addressing the concern that they may not be political enough (Lorimer, 2005). Tactical, material interventions in precognitive registers are meant to re-wire the compositional element of thought and the pathways of emotionality otherwise insulated from argumentation. Examples of embodied techniques—“self-artistry” (Nietzsche), “techniques de soi” (Foucault), “micropolitics” (Deleuze)—which may be cultivated to re-educate thought along its compositional dimensions are wide-ranging: “You go for a slow run after having struggled with a paradox or quandary that perplexes you; [y]ou take Prozac or Valium to relax your nerves and improve the mood in which your thinking occurs ...[y]ou go dancing to music that inspires and energizes you after hearing very disappointing news...” (Connolly, 2002, 101). More traditionally, Elders and youth revitalize TEK practice and custom in the hopes of shifting themselves and their community out of a mindset and a system which has underwritten decades of poverty and separated them from place. As a bodily, partly prediscursive way of knowing, TEK is a self-technique which allows for a feeling-recognition of an expanded terrain of identity and political field, and the opportunity to subvert social structures where it supports a politics of practical intervention on the affective layer of thinking.

Where Butler insists that having a body liable to touch, fullness and tragedy affords the political possibility of recognition of the “thrall” of the other through which the human lives, TEK expands the spatial scope of recognition to the “swarm” of life (Henry James’ term); where Butler advises mourning as a technology of recognition which informs responsibility in the task of performativity, as a set of self-techniques TEK further exploits the political resource of vulnerability to intervene in the disciplinary habits of thought and emotionality aimed at the precognitive register. While she insists that the only place to begin is with the body, to use it to overcome cultural impossibility and abandonment, a politics of affect insists that it is also the only place to end: just as the body is open to the touch of the other, so discipline may be assailed through not only spatio-discursive restaging (Butler, 1997) but also intervention on precognitive

layers of thought. Following Spinoza, Deleuze and Guattari insist that one can never know in advance what a body can do: its capacity to affect other bodies and be affected by them, to then form new gregarious assemblages, marks its power (Deleuze and Guattari, 1987).

In the enactment of TEK, the forces of everything with a soul—the land, animals, plants, rocks, ancestors and future generations—bear down on the individual to not only suggest her collective and dispossessory relations with the collective, but also her differential and nonrepresentational relations. The defence of TEK requires the protection of its geographies, then, not simply because hunting, fishing and gathering takes place therein, but also because the landscape itself is a political actant orienting the normative dimension of constituent rationality and underpinning Native subjectivity. In making this argument about TEK as an “event” or a “cutting edge” gnawing away at liberal, atomistic identity (Deleuze and Guattari, 1987, 333), I track the “humours” which present themselves between the human and nonhuman in Native spaces for their revolutionary force. Hearing about the importance of practice “on the land,” “hands-on” and “total physical response” to TEK from my informants suggests affect theory as a means for addressing Native interpretative frameworks and the “fuller” political effects of TEK.

I have already proposed that identity and the normative dimension of politics are reproduced as a result of what is said about the values underlining TEK. I now explore their reproduction based upon the force of the land and practice on affective layer of thinking. I approached questioning my informants about the intra-relations between the human and nonhuman by asking them about the practice of TEK and its embodied or emotional aspects across four geographies as a way to draw out the involvements and involutions across human and nonhuman actants. Rather than posit that these flows were a sixth sense or intuition—let alone a push from the world onto something called the “affective layer of thinking”—my questions on practice left it open for the informant to detail the nature of the exchange. Coincidentally, in a recent court case on the blockades at Sun Peaks, protesters described their relationship to the land in terms of emotions. Since a lower court judge deemed such testimony to be “bordering on the ridiculous,” the counter-hegemonic quality of this extensive way of thinking about the land was very much in the minds of some of my respondents (see *R. v. Manuel*):

When we were going to court, and we were in the roadblocks...going up on Sun Peaks and people talked in court about their spirituality and emotions and all of that...in court...the lawyers, the Crown... and the judge, they would say that their [Native] comments were bordering on “ridiculous”: When Beverley [Manuel] said...about that deep, deep connection and...they [the Court] said...like anyone could ever think that way?...They do not understand that connection to the land, so they base their decision on their values and beliefs...So

they think it is crazy that we would even think about things like that, and therefore how could it be?⁵⁹

As she further described the deeming unintelligible of the Native connection to the land, Billy argued that this derealisation was central to the economic rationality of Western law and colonialism:

in...the political-legal, they do not even want to look at those issues, right? About the land and how we feel about it and our uses of it...because they want their things to prevail, their uses....and try to impose that on us. Like you could go up there and you [Natives] could set up a business or you could get a job up there.⁶⁰

In her remarks, Marilyn James, Sinixt spokesperson and traditional land user, provides a further distinction between different modalities of thinking about the importance of space across Native and Western economic rationalities:

[Western] knowing resists contextualization. Resists it. It has to! Because you don't have wholeness and wholeness thinking through [de]contextualization. How can you? You have the whole of one kind of thing maybe, but not wholeness.⁶¹

These comments suggest a conceptualization and connection to the land inimical to Western thinking: there is an ontological collapse of figure and ground and this pluriverse is known in part through the body, either emotionally or through more nonrepresentational means.

6.1 The role of the body as a way of knowing in TEK

In this section, I investigate the significance of the embodied aspects of Native identity and epistemology to their normative ordering. Some light on their ontological implications was provided by John Jules who asserted that “[y]ou can read about it...[b]ut if you actually participate and get hands on, that is where it becomes a part of you.” He further set out the resubjectifying aspects of TEK:

SR-What do you think is involved when you say “making it hands on,” how does that make a difference that reading about TEK does not?

⁵⁹ Interview with Janice Billy, Secwepemc traditional land user, 25 October, 2008.

⁶⁰ Interview with Janice Billy, Secwepemc traditional land user, 25 October, 2008.

⁶¹ Interview with Marilyn James, Sinixt spokesperson, 27-28 June, 2007.

JJ-Because when it becomes a part of you like that, it isn't a transmission of academic knowledge, it becomes a transmission of a worldview—far beyond spirituality...because it is something that ties all of the structures that we hold within ourselves as part of the holistic process: and you can't get that in from book. With hands-on, it is not only touching the earth and the plants, but it is touching the people that is part of it, both past and present and future.⁶² And you can't do that by being a hippie or an academic that is interested for a year or two and you get your thesis done and you are gone on speaking tours.⁶³

Critical here is an awareness of the import of practice, what we have been calling the politics of affect: how the “transmission” of worldview or recognition of Native political ordering inherently requires a body because it is felt. The self is thrown reeling into a network—a latitudinal line of the community on the land, and a longitudinal line of ancestors and future generations—which opens the parameters of the self to the doing in the world and decentres the subject in favour of a larger political community. Practice produces an embodied knowledge different in kind to discursive knowledge as it insinuates itself through the body and into the self.

In our exchanges on TEK, science and epistemology, the role of the body as a means of knowing was further elaborated upon as a matter of intuition or attunement to the environment, the subjective complement to the objective practices in TEK. With my initial question to Interviewee #10 about the emotionality associated with TEK, she immediately cast the interface of the body with the world in terms of a subjective and epistemological connection: “we just know certain things because we know it and are connected to that higher consciousness...intuition...we know it because we know it.”⁶⁴ Janice Billy set out the importance of the subjective aspect as both spiritual and experiential:

[W]e don't feel we have to prove things like “why” this happens in the land—like in Western knowledge they are always looking for ‘proof’ or it isn't true. We just know and we know from the spiritual aspect and experience and they are natural law and we follow natural law because we are part of the land.⁶⁵

⁶² The “holistic process” of “relations” across time and space, essentially the horizon of Native political community, speaks to the openness of Natives to the world, as opposed to their adherence to a singular historical figuration. This is what Deleuze and Guattari (1987, 19) mean when they say (in the intentionally opaque style of the French intellectual) that Aboriginals in the American West are “Indians without ancestry”: they of course have ancestors, but they lack ancestors in the Western sense of a linear, purely human genealogy. Rather than rendering them as barbarians without historical consciousness and justifying the civilizing mission, the immanence of the nomad and her conciliatory constitution impugns it. Such a perspective should be incorporated into the reconciliation with Natives and not flattened out (cf. Harris, 2002, 348, n. 27 and his critique of Deleuze and Guattari).

⁶³ Interview with John Jules, Secwepemc traditional land user, 3 July, 2007 (my emphasis).

⁶⁴ Interviewee #10, Secwepemc traditional land user (woman), 26 October, 2008.

⁶⁵ Interview with Janice Billy, Secwepemc traditional land user, 25 October, 2008.

Interviewee #10's comments more plainly drew out the distinction between bodily ("subjective") knowledge and representational ("objective") knowledge, again in terms critical of Western claims that only empirically-observable knowledge counts and that its knowledge practices are impartial:

But I think in terms of a process and a way of knowing—Western knowledge and Western science professes to be objective, which I think is an illusion...I think we all have that subjective, we're all driven by that to some extent... Whereas indigenous ways of knowing about the world—like interacting with our environment—intuition was a lot stronger. You could go and talk to a medicine man and he won't even need to talk to you—it is all based on intuition and feelings, being really intimately connected. There are some distinctions there; but that is not to say that indigenous knowledge systems or ways of knowing doesn't include objectivity, because I think indigenous people do that as well, and that is where the overlap is. It depends what lens you look through...we are all human beings, we do all have the same thought processes and functions.⁶⁶

Rather than intuition being purely a spiritual connection to the world exclusive to Natives, it is located in the shared, subjective faculties of humans to become more profoundly attuned to the world. The physical aspects of intuition were elaborated upon by Interviewee #10 as coming from the landscape:

it is recognized that there is more than just facts and more often that subjective part... reading a certain situation, responding to certain social and emotional cues in communication whether it is with another person or with the land: that subjectivity, that emotional piece of it is really important. And I think because of that, there is more of a sense of connectedness because you are challenged constantly to be responding to those cues, those nonverbal cues in terms of being able to read someone or the situation, or the weather, or the migration patterns of animals, whether it is reading and responding to the cues in any of the relationships...it is such an important piece of being connected...and through that being connected there is a sense of belonging—a real sense of belonging—and a sense of place.⁶⁷

Here, I take the "nonverbal" and "emotional cues" to which one must be responsive to include not only the objective facts observable through the five senses, but also the subjective experience of intuition or feeling—something like the push of the world. Emotion for the land is clearly evident, but I am interested less in the narration of feelings but in the transiting of affective force between the body and the world. In a different context, the importance of an embodied way of knowing through touch was also illustrated by one informant in her recollections of her grandmother, a traditional person born presumably shortly after contact (in the late 19th century):

⁶⁶ Interviewee #10, Secwepemc traditional land user (woman), 7 June, 2007.

⁶⁷ Interviewee #10, Secwepemc traditional land user (woman), 26 October, 2008.

I just always wonder at my grandmother. She would come in and there would be a room full of people, right? Everything would, regardless of what was going on, when she entered, she would go around and make physical contact with everybody in the room. And I used to say, “Gee, she has to shake everybody’s hand”, in a kid’s mind, I didn’t understand what she was doing. By her being able to feel people, she would know if somebody was not feeling good towards her, and she would make a point of talking more to that person...just to figure out what was wrong, and then the meeting could carry on, after she was finished that. That equipped her to be comfortable around everyone.⁶⁸

Having canvassed assertions that embodied aspects of TEK are important to Native normative values, epistemology and identity, I now explore the felt connectedness to space in the case of being on- and off-reserve and the experience of returning home.

6.2 On- and off-reserve

Although the subjective aspects of “felt” information inform a sense of place, not all spaces are the same. Certain spaces engage in a politics of affect and sensitize the body to being more or less responsive and thereby encourage a particular political worldview and reinforce a certain distribution of power. Throughout my interviews, Native traditional territories were discussed as wrongfully appropriated and as places both free from the social ills of the reserve and as sites for the continuation of Native lifestyles and traditions insofar as they supported a subjective recognition of “all” those Native relations. Indeed, despite assaults on Native language and knowledge, many traditional land users insisted that TEK is still embedded on the land, as if not just the material of TEK but the affective rudiments of custom await a resumption of traditional and sacred life, as we have described it:

And it is not that people say: ‘Ok, now is a time, we have to teach the children about the land’: it just happens, it is like a natural law, it is just happening again. It doesn’t need to be told, you don’t need to know the history of how it was before, it just happens. And nothing is stopping it...up there...when we are not being harassed, they are real happy times.⁶⁹

Thus, if the land (or property: Kirsch, 2001) is knowledge, its geography insinuates itself in and constitutes the bodies of TEK practitioners. One Secwepemc Elder expressed the imperative of recovering TEK by locating it both in Elders, but also by inverting its location from the practice on the land to the body per se:

⁶⁸ Interviewee #9, Secwepemc Elder (woman), 4 July, 2007.

⁶⁹ Interviewee #4, Secwepemc youth (woman), 23 July, 2007.

It is a thing that you do not stop. It is a thing in your body. If you want to look after your kids and feed your kids. And talk about the traditional things that are out there. And if you don't: go search. Go find an Elder, go talk to somebody about it. Go get that help, because it is out there.⁷⁰

To the experience of being off-reserve and practicing TEK, many of my interviewees attributed emotions such as happiness and peace:

It's just a total different consciousness than down here on the reserve...I guess it is that connection to land, you know, to the food...it is a real peaceful feeling, like you are away from everyone, is also a meditation type thing. You know, when you are out there you connect with the land and everything around you and you lose sight of all, if you have problems and other stuff going on [on the reserve]...⁷¹

But as this quotation reveals, the “feelings” associated with the practice of TEK are not only marked by emotionality, but also call up a physical feeling which impinges on consciousness, here in the form of an embodied and meditative experience of practice and connecting with the land. Billy continued to describe the embodied sensation of practicing TEK along these lines:

I guess it is holistic, like it is spiritual, too, like in your body, too, because you feel way better because you have that light feeling...We might be in an area berry picking where it is just so hard and you get physically tired, but it is a different kind of tired...you could get tired doing that but sometimes we have a meeting at the [band] hall and you come out just exhausted even though you weren't doing any physical work, mental exhaustion...up there it is like a physical exhaustion, but you don't feel as tired.⁷²

In terms of which spaces further the “attunement” of the body to its constitutive relations, Interviewee #10's comments provide an analysis of the effects of alternative affective spaces:

Looking at the responsiveness piece of it and the sensitivity, in terms of being...really sensitive and aware of the interactions and the different information that we are responding to. The land offers so much more as opposed to a sterile environment with four walls. I think that because there are so many more interactions and things happening on the land with the plants, the animals and the insects...it does change; it is a lot more intense, information-intense, in terms of really reading what is happening...⁷³

⁷⁰ Interviewee #21, Secwepemc Elder (woman), 28 August, 2007.

⁷¹ Interview with Janice Billy, Secwepemc traditional land user, 25 October, 2008.

⁷² Interview with Janice Billy, Secwepemc traditional land user, 25 October, 2008.

⁷³ Interviewee #10, Secwepemc traditional land user (woman), 26 October, 2008.

For Interviewee #19, an Okanagan youth traditional land user, the responsiveness of TEK to the land has always been essential to its application in an ever-changing landscape. His comments indicate that not only is an activation of the body at issue in performing TEK and maintaining one's attunement to the land, but also the practice of TEK supports an awareness or openness to the land:

[J]ust the practice of traditional practices is really important to do them daily just because the world is changing, people are changing, everything changes and you have to – even if you have learned something – everything about hunting is going to change about where they are or how they are acting and things like that. And even within the daily practice of it, it is a different mindset. You take out a different mindset when you do these things—especially for environmental knowledge and practices because you have to be more conscious of what you are doing.⁷⁴

Although Natives rehearse the value they place in the collective, rather than it being a cultural construct projected onto their experience of touch, the argument here is that space itself incites a multiplicity to which the body responds (cf. Geurts, 2002). Space is an affective force on the comportment of Natives to the world and thereby part of the thinking apparatus which informs the deliberation on identity and the normative dimension of politics. The importance of sensitivity to the world, a sensitivity partly discursive and partly cultivated in particular geographic arrangements and practices—on the land through TEK, as opposed to in an office—was further recommended as critical to a post-colonial politics:

By being disconnected, I think a person's ability to respond to the different energies and different forms of knowledge in the world is really...is lost. When there is that disconnect and that ability to respond isn't there, it is easier to oppress. And I am not sure whether the oppression politically if that happens because a person is unable to respond and is disconnected or if it is the other way around ...And I think that has huge implications: when a person realizes their full potential and power, they cannot be oppressed...when a person is disconnected and weakened in that way they are a lot easier to oppress with whatever policies, with whatever political forces....⁷⁵

Interviewee#10 thereby signals a key colonial technology in describing the difference between the individual attuned to the reciprocal relations to the world and the individual divested from that multiplicity into the affective regime of Western institutions, such as the individualism iterated through the geographical arrangements of the residential schools or individual-oriented workplace. It is not simply a matter of the state or capital dispossessing Natives from their land

⁷⁴ Interviewee #19, Okanagan youth (man), 11 July, 2007.

⁷⁵ Interviewee #10, Secwepemc traditional land user (woman), 26 October, 2008.

and rendering their voice and knowledge outside discursive intelligibility, but of occluding attunement to a multiplicity of forces and materials from the “country of the half-second delay.” Political oppression therefore results where custom on the land is curtailed both as a (collective) practice and as the everyday opening of the precognitive register to recognition and response. Above, where Janice Billy explained the court’s dismissal of Native emotional and spiritual connections to the land as part of a strategy of implanting an economic rationality, her comments intimate something along the lines of what Interviewee #10 describes here as a rationality of disconnection or narrowing of an ability to respond, what Billy elsewhere has called: “the extinction of experience” (Billy, 2006, 152, citing Maffi, 2001, 7) perhaps a more specific diagnosis of colonialism than Fanon’s claim of the reserve being a “world without spaciousness.”

To the degree that TEK opens performativity to unnatural participations and unheard of becomings, the results make both for better hunting, fishing and collection practices but also a subjectivity aware of its responsibilities and power, and hence more resistive to political oppression. Billy spoke of the customary law prohibition against being on the land during a time of mourning out of concern for the intra-subjective transfer of grief (see Introduction), and we can appreciate the subsequent support that the “dispossessed” bereaved receives from the community as a sort of practical-political technique that thickens the commitment to the collective as the normative horizon of the political community. The practice of grieving has a practical aspect—withdrawal from the land and enhanced connection with the community—whereupon the vulnerability of a self cut-off from sustenance becomes an opportunity for resubjectification inasmuch as other human connections intervene in the composition of a new “we.” Interviewee #4 responded this way when I asked her about the practical aspects of TEK:

No, it is more...it is a lot deeper than just harvesting or being out there on the land in a physical sense, it is deeper than that. I think in order to decolonize our mind, it is really important—it is not the act of just picking those berries that you have that makes you one, that makes you feel what those berries feel. ...A trapper that says he has to trap a weasel, they become that weasel.⁷⁶

According to these formulations, the attunement to the land and “making it part of you” by way of TEK is a matter of practical interventions on the human body which have a subjectifying effect. It is resistive to the extent that it is partly outside of discourse owing not simply to its derivation in Native culture but the contingencies of the push of the world. Resistance is a matter of Native roots, to be sure, but also routes through Native geographies. Being Secwepemc, then,

⁷⁶ Interviewee #4, Secwepemc youth (woman), 23 July, 2007.

as Interviewee #4 states in the introductory quote on TEK, above, is also a matter of involvements and involution: of being open to touch, being touched by the land and becoming with the land.

6.3 The experience of home

Resonating with more pleasurable experiences (love, ecstasy) than loss, the connection to the Okanagan and Secwepemc territories was voiced as an overlapping spiritual and embodied sensation by several traditional land users, including Interviewee #19:

I think it has a lot to do with the place and the actual spiritual sense of the place, of our territory...our urban people, cousins are always drawn back to where we are from, and it is just that sense of our territory, our home....you always seem to be drawn back to wherever you are from. And they don't understand that within our...band governments and economic development boards that these people are drawn to what we have as a reserve and our lands because it is one of the few places that is preserved with what we have.⁷⁷

While this comment begins with the inscrutable aspects of spirituality, it is also clear that the “draw” of the land relies on something quite material: traditional territory replete with networks and available for human/nonhuman connections of the sort I have been exploring through the optic of TEK. Along these more physical terms, the importance of sensitizing children to “the feel” of the land and its intrications in the self was explained by Jeannette Armstrong:

[O]ur people say you need to fall in love with the land when you are a child and that love will never leave you. If you don't fall in love with the land when you are a child, it won't be there for you when you grow up, you are disassociated from it. We take our children out to the land and they just hold wonder, wonder in those cottonwoods, they are extraordinary...then you go into the deeper part of it and there is this unbelievable feeling that it is there. So we take people, the children out there, because they feel that...to learn and understand and get them to hear the birds and all the different insects and the frogs, and all of these things...⁷⁸

As the inverse of the emptiness of mourning, the physical sensation remains one of vulnerability where the self is carried away by the thrall of life. But it can equally be expressed in terms of loss and dispossession: one of “falling” into love with the land, paradoxically a rather “full” partner who engulfs the self. A similar effect of the land undoing the self by touching both the spirit and the body and revealing the self as part of a multiplicity is explained by Dorothy Christian, a Secwepemc/Okanagan land user, in her description of travelling home by automobile:

⁷⁷ Interviewee #19, Okanagan youth (man), 11 July, 2007.

⁷⁸ Interview with Jeannette Armstrong, Okanagan knowledge keeper, 25 May, 2005.

Like going through Merritt, you are going down that big hill, and something happens to my spirit, it is almost like a sigh of relief because it feels like the land begins to embrace me or hold me, my heart opens...there are certain points that I can literally feel an energy shift in my body cells: that may be hard for people to understand. I really noticed it because I lived away from home for so long...⁷⁹

Dorothy Christian further detailed how practice formed her Native identity through the body:

Because of course what has happened in my family because we were put into white foster homes, I am the eldest of ten, I am the one who had the benefit of the relationship with my grandparents, I was raised by my grandmother. I have memory of things, body memory, some kind of memory of things that I don't even know how I know sometimes. But my younger siblings, some of them were two and three years old when they were put into foster homes. So their palette doesn't even have a taste for salmon or for berries, wild Saskatoon berries... they didn't have the benefit of being trained by a traditional hunter.

Where earlier on in this chapter Dorothy Christian told us how the land holds the self, here she explains that the land and practice make an impression on the body which shapes it to the traditional world. Native identity thus relies upon a type of "body memory" which is formed through a combination of traditional teachings and practices which attune the body to its dispossessive constitution with the land. Having argued that Natives experience TEK as enabling a revolutionary performativity, in the next section I more closely examine the politics at Sun Peaks as a defence not only of territory and the site of traditional practice, but as the site of a post-disciplinary sovereignty (or a constituent power) in the everyday. The protection of TEK will be shown as both an important rhetorical justification for the civil resistance as well as a part of the repertoire of protest which vitalized resubjectification as a way out toward the Third Rome on the Thompson.

6.4 The affective politics in the Sun Peaks dispute

Despite the subsequent expansions of the resort, Harrison rightly argues that one accomplishment of the Sun Peaks activism was the restoration of democratic power into the hands of the community and Native decision-making processes (Harrison, 2002, 35). As Interviewee #4 explained when I asked her about how the Elders and youth became politicized over Sun Peaks:

It is like something is wrong here, let's do something, what can we do that our people are ready for, that our Elders agree with, too, alongside with what the young people believe in, what can we do to come to this agreement. I guess it is

⁷⁹ Dorothy Christian, Okanagan/Secwepemc traditional land user, 24 September, 2007.

basically a way of how we are going to make decisions on our land. And when we were up there [Sun Peaks] the most significant thing that I got from being out there was how the grassroots traditional people took the jurisdiction away from the band office...The government: when they started including them [the grassroots], that was a powerful thing—not the talking to the government thing, because that is not powerful, but what happened within our people: they started saying...you know what I said about, “Oh, go to the Chief, he deals with that” ...the people started learning about these issues and educating themselves about the issues about the land, taking that initiative and it is empowering to see other people out there and that is where that traditional knowledge, it was something within there.⁸⁰

Rather than acting through the colonial structure of the band office—a structure that arguably depoliticizes Natives through a dependent relationship with settler government—the Natives enacted a constituent counter power (Hardt and Negri, 2000, 59). The Sun Peaks protest therefore manifested the expression of the Secwepemc belief that their rights come from the land and the Creator and their tenacity to uphold their obligations to it, as opposed to the state an immanent sovereignty in the everyday (Manuel, 2003).

I have further argued that TEK and its technology of recognition support a constituent power that works along representational and affective registers to reconfigure politics and subjectivity. Not only is power immanently vested in the people and networks, but also owing to the involvements and involutions, TEK encourages the power to affect and be affected in the form of performances which incorporate the outside. Democracy comes to be marked not by transfer of right or by an order internal to the relations of the multitude understood as a human collectivity, but by participation with networks. In its perpetual movement, the grassroots political formation further breaks from the transcendentalism of Hobbes and Rousseau where the subject is open to the fullness and revolutionary power of the world. In other words, to understand the sort of revolutionary republicanism and the mobilization of counter-rationalities necessary to work through Empire, its dissidents must turn their attention from the aspatiality of political science to a rather baroque political geography of the actants which press upon humble and vulnerable (but power-full) Native bodies.

⁸⁰ Interviewee #4, Secwepemc youth (woman), 23 July, 2007, my emphasis. However, it is not accurate to always characterise the elected Chiefs as fully enmeshed in the state as their activities and decisions are context dependent. As we saw in Chapter 3, just like the activists involved in resisting Sun Peaks, Interior Alliance Chiefs enacted Native sovereignty along constituent lines based upon the possibilities for enhanced rights found in *Delgamuukw*. This hybrid sort of identity materializes precisely in the personage of Arthur Manuel, who early on in his time as Chief at Neskonlith signed the protocol agreement with Sun Peaks, participated in the off-reserve logging, and then became a supporter and finally a spokesperson for the activities of the Elders and Native Youth.

By using a mixed theoretical approach, one could paint this story as a matter of Native people who have been disciplined by governmental structures becoming finally disillusioned with its failed promises to improve their lives either as wards of the state or entrepreneurial First Nations, and thereby “switching” into a political economic mode of resistance (Li, 2007). In his political economic anthropology of the Sun Peaks protests, Drapeau also suggests an ability to switch out of the bio-politics of our age based upon the resumption of traditional practices and establishment of authentic Native spaces (Drapeau, 2008, 170). In the switch to political economic revolt, both Li and Drapeau would insist that a political consciousness is maintained in response to dissatisfaction with governmental programs or the continuation of authentic culture somehow outside of biopolitical controls. On the one hand, it appears debilitating to insist that power is as comprehensive as some Foucauldian formulations would insist. The observations of Li and Drapeau clearly suggest the maintenance of oppositional energies that would not be unfamiliar to Foucault (1997). One could particularly see opposition blossom in the conditions in British Columbia, where the recent arrival of settlers, the intactness of many Native communities (ironically as a result of the peculiar colonial geography of small reserves),⁸¹ and their proximity to the traditional territories have lent a vitality to constituent politics. Indeed, when asked about the influence of government environmental policies on their practices, none of my informants held any truck with this proposition and considered such knowledge either an “external factor”⁸² to Native practices or as “b.s.”⁸³ given the tradition of stewardship of the environment by the West (cf. Agrawal, 2005): “You take two or three generations of people who have wiped out their deer...on the European part of the continent—then they are coming over here telling us how to conserve, how to regulate and what should be done. If that isn’t the most backward!”⁸⁴ By far the biggest obstacles attested to were those policies which allowed for private property, large-scale development and pollution. As Chief Judy Wilson stated: “We live the way we have lived since time immemorial. And we will continue those. But what I see is these developments that kill off the plants, pollute the water, erode the land, beyond where, so the land can’t repair itself: that’s where we have problems.”

Nevertheless, the difficulty with these representational political economic formulations is that they too easily will away how discourse and space are saturated with power and implant a

⁸¹ I thank Interviewee #9 for this insight: Interviewee #9, Secwepemc Elder (woman), 4 July, 2007.

⁸² Interview with Chief Judy Wilson (Neskonlith), Secwepemc, 25 June, 2007; Interview with Richard Armstrong, Okanagan knowledge keeper, 10 July, 2007.

⁸³ Interview with Richard Armstrong, Okanagan knowledge keeper, 10 July, 2007.

⁸⁴ Interview with Richard Armstrong, Okanagan knowledge keeper, 10 July, 2007.

subject whose gregarious sociality is flattened into the liberal subject. Indeed, it is highly insightful to locate a resistive consciousness based upon empiricism (Li, 2007), but the assertion needs to be even more attentive to materialities such as those illuminated by a spatial politics of affect because one cannot assume either a neutrality to space or communicative discourse (Butler 1997; cf. Habermas, 1984). I thus “push” this grounded empiricism of political change further to suggest that it is not only as a result of a frustration, cultural consciousness or a shift to radical democracy that accounts for overcoming the disciplined body, but also an affect-based constituent power. The body “becomes” a Warrior by adopting aspects of the geographical practices of other actants on the land, resulting in a subjectivity less amenable to discursive appropriation because of its in-between quality (the becoming-Warrior, the becoming-Weasel). One does not literally become a weasel to capture one, but partly iterates their territorialisation or aspects of weaselness, in order to partially reform one’s subjectivity along a destratifying axis. The practice of TEK is a technology of recognition which humanizes the political by valorizing and drawing in the outside to make a “we” out of “you” and “me”—and it undercuts Empire where these embodied tactics promulgate an immanent or nondisciplinary sovereignty.

Given their involvement with the revitalization of language and practice at the heart of tribal identity, it should perhaps come as no surprise that the faction of Elders and youth who took up civil resistance to the Sun Peaks dispute did so outside of any band instigation.⁸⁵ When they were rebuffed by Sun Peaks, these two groups shifted in form from a mostly educational alliance into a decidedly political one. The generational make-up of these two groups partly accounts for their staunch opposition: the Elders were residential schools survivors who were well aware of the “interruption” colonialization had caused to their culture and were eager to pass along TEK before the end of their lives. The youth have politicized themselves not only as a means to address the social ills of the reserve, but also to assert pride in their Native cultures through a voice which is focused on defending the title and environmental aspects of the land.

I asked Interviewee #4 about the sorts of rhetorics deployed in the dispute, specifically the extent to which maintaining a healthy environment and TEK was of concern, in addition to Aboriginal title:

Yeah, that is what it all is, that is what it all was, and still is...When that good feeling comes and you know the Creator is telling you: you got it right...When the Elders get on the land, that role comes back, when those Aunties get on that

⁸⁵ Interview with Arthur Manuel, Secwepemc, Spokesperson, INET, 30 October, 2007.

land...those roles come back. Those Elders: they took all the kids, and just went and started teaching.⁸⁶

The “switch” in this case entails no simple class consciousness, but is instead grounded in feelings associated with spirituality, community and practicing on the land. The prevalence of TEK in the dispute is further demonstrated by the forms of Native civil disobedience taken. It involved not only blockades and protests, but also a series of “reoccupations” of the land which had traditional aspects to them: in addition to the on-going collection, hunting and fishing practices, the TEK took a built form with the construction of men’s and women’s sweat lodges, a winter house, a cedar bark house, and a cordwood home in which Interviewee #4 and her young family briefly lived in 2001. What gets lost in the images of the protests and arrests, in the media and those posted on web sites in support of the Secwepemc, is the degree to which the dispute was motivated by the need to defend these cultural practices which go to the core of identity, practices which take place outside public space and are partly nonrepresentational as a consequence of their embodied aspect. As Interviewee #4 continues, this motivation is not entirely human in origin, at least in its limited Western sense:

And now [post-Contact] it is even hard to go out there and manage our land because that nomad in us, it is hard to rekindle it after it has been traumatized: no one wants to go there, it hurts to heal, and a lot of people don’t want to heal right now. But that land, when you go up there, you just start healing, without it hurting...and you just heal. And all the young people that talk about going—Native Youth Movement—going up the Skwelkwew’welt, that is what they talked about, the healing that took place there, that land, that rekindling, and finding that spirit that white colonizers killed in us and a lot of traumatic things had to be done in order for that to happen ...we think a lot differently, how our minds work has to be protected... We are partly assimilated—part of us—the one that makes our spirit happy that helps us keep on going, heals us from depression—it is all from going out there on the land, the berries, just picking the berries, that is medicine in its own self that heals a woman until the next year that she goes berry picking. To not go berry picking, could send some Indian woman insane living in this world: that is the thing that keeps us level-headed, in our right mind—or our sadness would just take control, that is how much the land is, it is all one with us, there is no separation, no separation.⁸⁷

TEK is thus more than a stewardship tradition for the land, a rhetoric used for political gain and an epistemology reliant upon an attunement to the land which has led to a relational and dispossessory comportment toward the world. It is also a self-technique which incorporates the nonhuman world to break the spell of discourse “in this world” to assist in healing and supporting

⁸⁶ Interviewee #4, Secwepemc youth (woman), 23 July, 2007.

⁸⁷ Interviewee #4, Secwepemc youth (woman), 23 July, 2007.

a resistive political stance. While the blockades are gone, at least for now, what the Secwepemc have gained from the dispute is a re-energizing of their traditional practices, a doing on the land immanent to the grassroots and immanent to post-human networks outside of discourse, what might be called “a nondisciplinary type of sovereignty in the everyday.” Where biopolitics cuts life out of the subject in order to defend society in a sort of governmental civil war fought within the population (Agamben, 2001), Native techniques open the self to zoe in order to defend Native minds and bodies and erect the edifice of a counter-governmentality.

7: CONCLUSION: THINK PINK

The struggle to protect Skwelkwek’welt is connected to a long history of accumulation by dispossession by the settler state and an assault on custom connecting the world and bodies. An Indigenous geography of civil resistance must therefore take seriously what Natives have to say about the spiritual and embodied importance of the landscape if it is to respect the terms of the Native interpretative framework: Thinking about the land in that way rather than arrogantly smuggling in the Western body at the expense of what remains outside it. Working under the evidentiary constraints of the social sciences and with the theoretical tools and empirical evidence available to me, I have focused on the space of the body and TEK as a technology of recognition and response to representational and nonrepresentational multiplicities. Not unlike *The Black Canoe*, the Native Warrior, the Piazza del Popolo, and mourning, TEK consists of a prediscursive “push” on the body along an agonizing path toward the fullness of the world (involvements and involutions with “all” their relations), the need for the other in order to know and be (tragedy), and the decentred position of the human (an ethics of humility). Although agency becomes more of a matter of negotiation with other actants in the network, to the degree that performativity is opened to practical interventions through this ordeal, the possibilities for responsibility and revolution are broadened (power as the ability to affect and be affected). Affect theory has allowed for an illumination of how thinking in that way through TEK allows for a less exclusionary sort of identity and has shown the politics of TEK as profoundly humanizing for how it countenances vulnerability, as performativity shifts from being an “cut” in life subscribing to discourse to a “cutting edge” against territorializations, folding unforeseen bodies into the landscape. Where my telling of the Sun Peaks dispute has telescoped to “little things” such as hunting or picking Saskatoon berries to uncover the affective republicanism of a Third Rome, it

has outlined the types of bodies which may come to populate this “strange country” (Thrift’s words).

Despite the march of the development of Sun Peaks against the protestations of Native Elders and youth, the protests evidence the rise of a constituent power: grassroots Natives began to emerge from a relation of dependency on the band system, re-established traditional means of decision-making and moved out on to the land to enact their sovereignty in the everyday, in the here and now in the interests of fulfilling obligations to the Creator, the land and “being Secwepemc.” The effects of this political story of the unleashing of the creativity of the multitude include: a stronger basis for demands for recognition and continuity of Native custom; the enactment of nonmonolithic constitutionality within the state; and, the materialization of counter-rationality within Empire—insofar as the practice and politics of TEK form a nondisciplinary line of determination which pushes back against the flows of investment and amenity migrants, are spoken in the juridical arena (*R. v. Manuel*), form the basis for international campaigns (as in the Interior Alliance’s *amicus curiae* brief at the WTO), and are shared through indigenous transnational alliances. Power was not only devolved to the people, but it was reconstituted in the potentiality of the body through the practice of TEK. The condition of having a body formed the basis for the recognition of an alternative political ordering and the basis for resubjection. The sovereignty in the everyday at issue is more forceful by degree to state power since it is differentially composed by the world, the humours in space, and....the divine. In order to move out of the colonial present and Empire, a partnership with Natives must be made through a shared recognition of place. Toward this end, the politics of vulnerability must be more elaborately pursued, by means of other spatial technologies and practices which encourage the recognition of (now) sacred participations with the collective and the dispossessory and differential relations underpinning the self.

8: FIGURES



Figure 22 Kamloops Reserve, former Residential School in middle ground and South Thompson River and Canadian Pacific Railway line in foreground, July 2007 (author's photo).

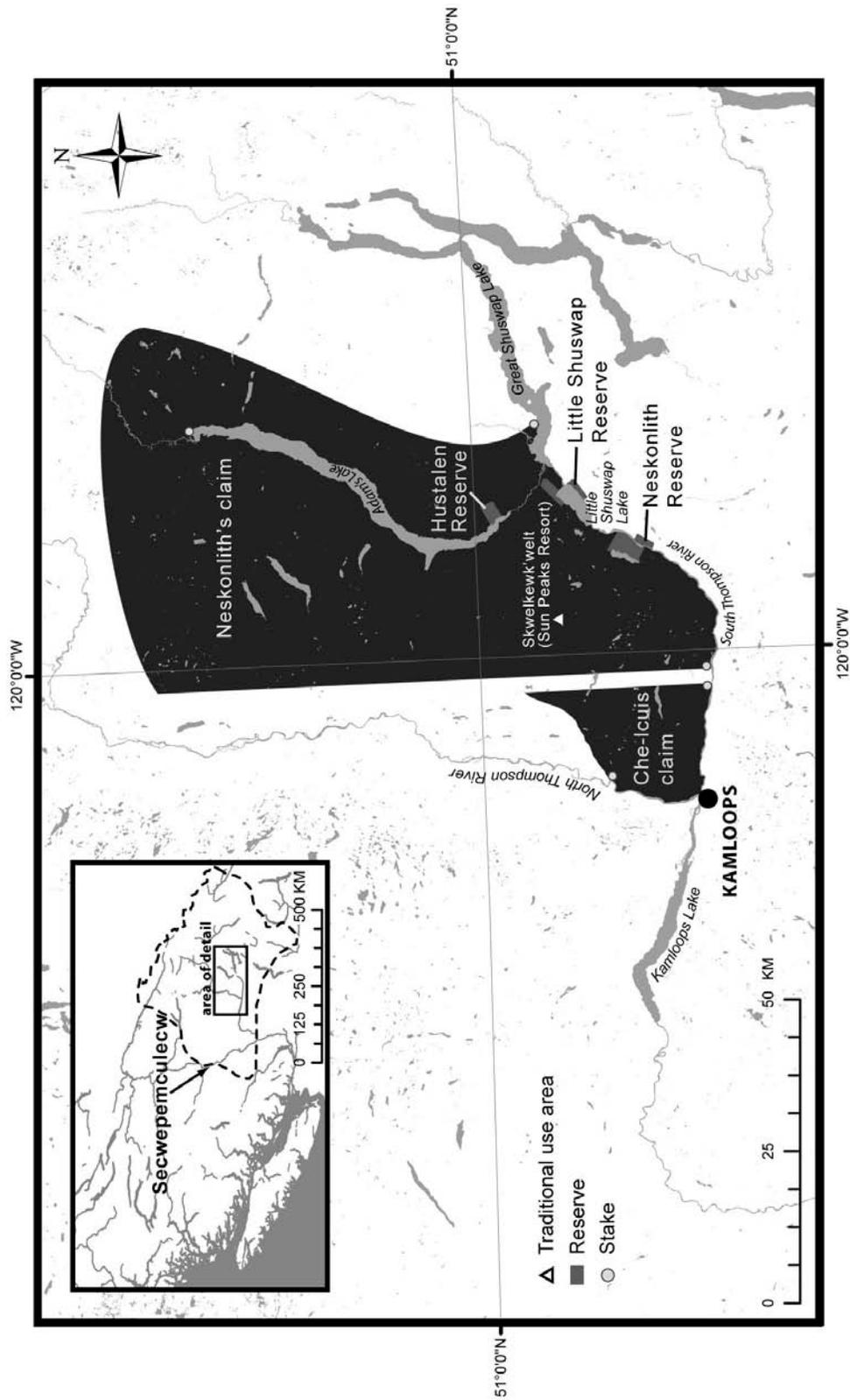


Figure 23 Map of Neskonlith's Claim, reduced reserves and Sun Peaks (by John Ng, Cartographer, SFU)



Figure 24 “Sun Peaks Village” (taken 12 December, 2004 by J. Hopkins <<http://www.flickr.com/photos/22371020@N08/2400066880/in/photostream>> Accessed 23 April 2011; Creative Commons Attribution 2.0 Generic License <http://creativecommons.org/licenses/by/2.0/deed.en_CA>).



Figure 25 Site of March 2007 Secwepemc protest. “Delta Sun Peaks Hotel” (taken 8 April, 2008 by J. Hopkins; <<http://www.flickr.com/photos/22371020@N08/2399273149/in/photostream>> Accessed 23 April 2011; Creative Commons Attribution 2.0 Generic License <http://creativecommons.org/licenses/by/2.0/deed.en_CA>).



Figure 26: Root digging with antler tool, June 2007 (author’s photo).



Figure 27: Practicing TEK, June 2007, near Kamloops (author's photo).



Figure 28: Practicing TEK (2), June 2007, near Kamloops (author's photo).



Figure 29: *The Black Canoe: The Spirit of Haida Gwaii*, Bill Reid (Washington, DC) (author's photo).

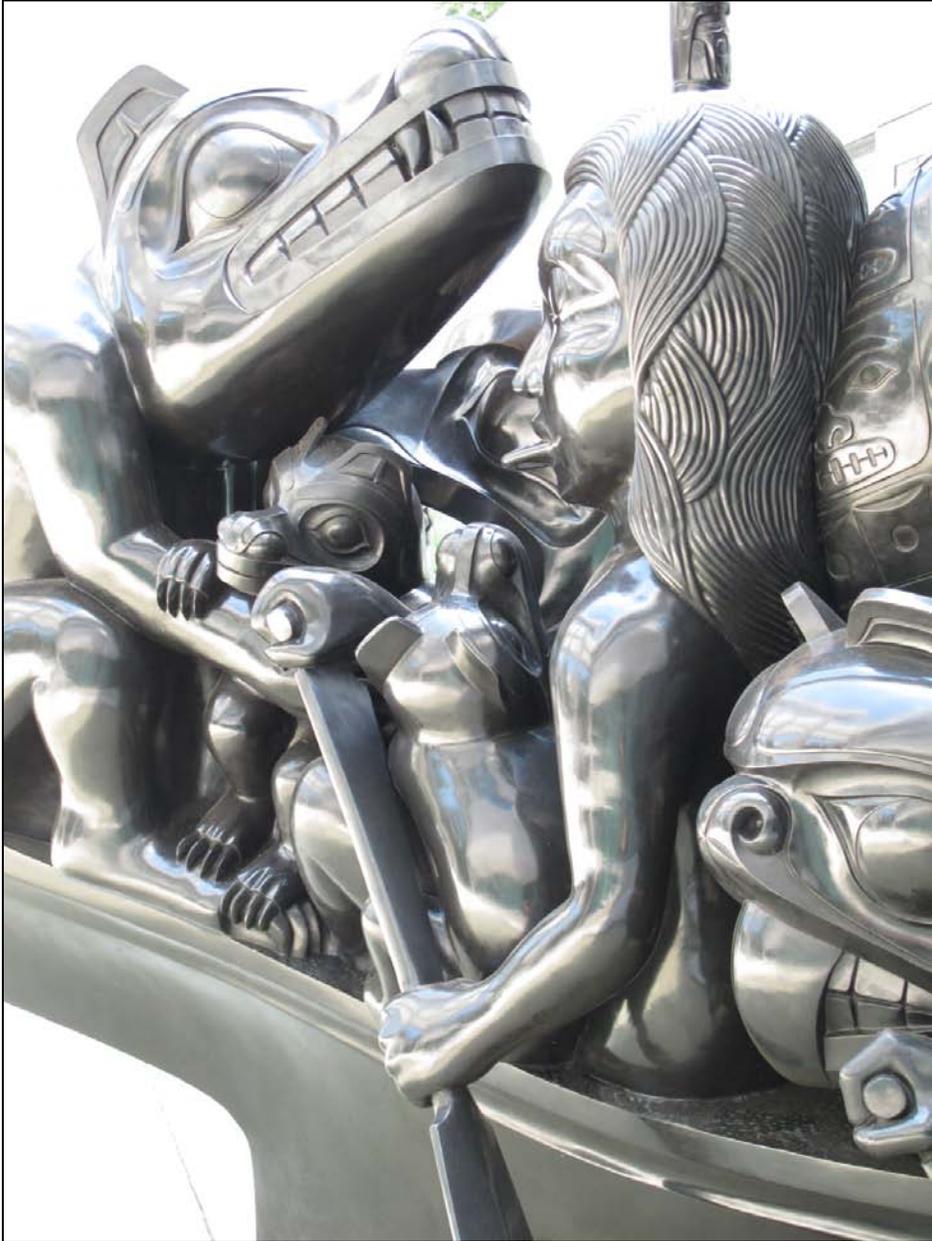


Figure 30: Detail of *The Black Canoe* (author's photo).

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GENERAL CONCLUSIONS - TOWARD ALTER-NATIVES

In his study of Native constitutionalism, Tully argued for the rights of recognition and continuity for Natives owing to the doctrines of ancient constitutionalism and the history of treaty making in Canada. Thinking of the state, he more syncretically advocated for the sort of “difficult whole” as found in *The Black Canoe*, or as Sennett found in the Piazza del Popolo, as a template for successful human political orderings. Although these rather full, three-dimensional forms can only be grasped aspectively, they nevertheless command a level of coherence, and Tully suggested that they could provide outlines for human communities facing unworkable political fragmentation and empirically dubious cultural groupings. Today, these threats to global peace continue, as in the case of Canada which continues to ride roughshod over the rights of Natives who have never surrendered sovereignty over their traditional territories.

But global peace is also threatened in terms of the war being waged on the environment and the flesh, as well as the possibilities for geopolitical conflict as a consequence. I have therefore meditated on Native governmentality owing to the illegitimacy of neoliberal biopolitical governmentality. Under the spectre of global heating and the pollution associated with industrial-consumerist societies, I have argued for the inclusion of Native values in order to protect the world upon which we all depend (similar to Borrows) and as part of a global practice of freedom concerned with proliferating political alternatives. My analytical contribution was to explore the domesticating, murderous and suicidal biopolitical context for Native politics since the end of the 19th century. My critical-reconstructive contribution was to illustrate contemporary enactments of Native counter-governmentality across sites such as the blockading of a logging company at Perry’s Ridge, Elders teaching youth about TEK on the land, protests over development at Sun Peaks, and even property claims at the World Trade Organization. In distinction from Tully and Borrows, these case studies provide the opportunity to explore power not simply as a matter of presentist politics and legislative-sovereign rule from the perspective of Native bodies in their geographies (ideology, the perspective of political economy), but as constitutive of and contested through bodies. Such a perspective is particularly important in the Native context since the Native body draws her worldview, rationality and identity through her geographies (disciplinary counter-conducts, the perspective of governmentality). Where Native constitutionality was interrogated based upon the vulnerability of the body to the touch of the other and the land, I explored the sites of the generation of Native counter-conduct through self-techniques concerned with effecting the

“care of land.” In this regard, TEK was studied as a representational and nonrepresentational interface between the human and the nonhuman.

Native knowledge, whose denigration once underwrote the colonial project—not to mention the discipline of Geography and the careers of geographers—has recently been recast as a science, law, and ontology. I have turned to its practices and what is said and felt around them to illustrate TEK as a governmentality whose importance for reconfiguring subjectivity and the normative horizon of society goes far beyond Indian country. As Jeannette Armstrong reminds us, Indigenous peoples are the only political groupings which have lived in balance with nature. As opposed to being a system of prevention and blockage, governmentality is concerned with managing the circulation of things so as to maintain optimal outcomes. It concerns maintaining the milieu (Foucault’s term, borrowed from Deleuze) whether in terms of the economy (as narrowly construed by biopolitics: Foucault, 2008) or, as in the case of Native governmentality, the gregarious relations of human and nonhumans in the mille feuille of the biosphere.

Aside from a cost-benefit logic that has attempted to permeate all aspects of life and eviscerated the public and the common, neoliberal governmentality rules by the disciplining of the body. The argument has been that it refuses the vulnerability of the body to the touch of the other (i.e. dispossession) as the drama and truth of our lives and, instead, from a battlestar gazes at the collective as a threat to the autonomy of the individual and sets about erecting walls and property around her. The resultant interpellation of a subject with an “eyeless vision” who is nearly unable to think otherwise stabilizes a regime which has lost its ethical justification. Europeans once collected “juicy herbs” (Zola, 1970, 216) with their bodies on the land and existed in cities which similarly sensitized them to the fullness of the world; the tragedy and limit to knowing without the other; and the necessity of performing in response to the other, of availing other bodies in order to see and in order to be. Native governmentality instead supports a gregarious body which can see and think about consequences without bumping into walls and imagine (the mind’s eye) other worlds because practices such as TEK make it open to the outside. Native governmentality enables a seeing- or a desiring-machine, or a Native Warrior, the type of subjectivity necessary to get out of our “biopolitical catastrophe.” We need to learn to see/feel humans and nonhumans not just as strange constituencies (as Tully and Borrrows might have it), but as intimate relations which press upon our body, such that “I” begin to look more like a “We.”

Turning to practices of freedom, I have tried to live up to the expectations of my informants by inserting their stories into conversations where they will make a difference, into conversations on the Left where there is already a place for them. Again, I am writing as much if

not more for mainstream society and the Left than for Native society. In light of the bankruptcy and increasing fault lines in the neoliberal project and the abandonment of old revolutionary narratives, Native economies clearly have a contribution to make to the important work of experimentation with economic practices (emergences), as well as the postcolonial struggle for cognitive justice (Santos' terms). Although implicit in scholarship of alternative economic subjectivities, I have made explicit the necessity of devising alternative political investments by interjecting a time-proven counter-governmentality and its cognate values. Where the Left moves to experiment economically, it must avoid re-erecting colonial architectures by epistemologically coming to terms with the legacy of TEK and political geographically coming to terms with Native territorial rights. In other words, in addition to a material transfer of control over territory, the queering project to which the Left portends involves more than the inclusion of Native voices within a proliferation of alternatives; it also involves at least partially adopting a Native ontological stance and governmental paradigm which reconfigure the subject toward the outside and "the push" from the world.

However inequitable the outcomes of neoliberalism are for the environment, the economically disenfranchised and Natives, the provision of growth nevertheless breeds a dangerous complacency. Under the sway of capitalist media and its visualities, externalities and alternatives are kept off the table. As such, community economic spaces and Indigenous geographies continue to read as lacking when compared to the apparent fullness of the market liberalism. Furthermore, Native claims to vast swathes of territory read as invitations to capital flight and economic chaos. Given these challenges, in the tradition of the Fourth World, the Left and Natives need to draw on each other's strengths in order to present convincing possibilities—necessarily alter-Natives—to a system populated by reluctant subjects with compromised vision.

A final objective of this research is to itself operate as a sort of seeing machine. Through its content, the reader is drawn into proximity with Natives and Native issues, specifically around TEK, the body and our shared politics of vulnerability. Analytically, the dissertation provides a set of optics that the reader may deploy in other settings as part of the self care of becoming a desiring body who is enthralled to "do something" about "their politics": responsible forms of witnessing translucent geographies, geographies of rights which trundle moral economies back to centre stage because of an eye "stuck" on context, and TEK as (just one) strategy in a politics of affect which turns the precognitive register of the thinking body over to the touch of "all our relations." Two stylistic tactics have been used to further point toward difference and the outside: as opposed to a singular narrative, a series of case studies was presented as a series of openings

(lines of flight) which unnaturally participate with one another; and these stories about fullness are themselves quite full—and stuffing always points not to the circle but the spiral and that-which-could-be-otherwise. Through similar seeing machines, settler society must develop governmental rationalities informed by the sort of meditation on the “essential” vulnerability that we find in Native society in order to protect TEK and re-humanize the human. Insofar as my words promulgate these openings to the open as a matter of subject matter, analysis or style, this is no longer a series of case studies which now closes in on itself, but a node in a multiplicity folding through other political and affective lives.

APPENDIX A: INTERVIEW QUESTIONS

Interview Questions*

Indigenism and the Politics of Traditional Environmental Knowledge

*Note: not all questions will be posed to every interviewee

Two major contemporary themes that scholars want to document include the rise of indigenism around the world since the 1990s and the so-called ‘politics of intellectual property’. In the context of globalization and the information economy, biotechnology firms seek to appropriate traditional environmental knowledge and wisdom [TEKW] in the interests of patents for new drugs and seeds, and others try to appropriate indigenous designs, stories, music, dances, and sacred sites. At the same time, indigenous groups seek to stop this exploitation of their traditional knowledge as part of the larger challenges of self-determination and self-governance. The questions in this interview frame the ‘protection’ of indigenous cultural resources/expression/property along three scales of analysis, from (1) local - indigenous perspectives, cultural preservation programs, practices, and laws; (2) national laws; and (3) international law and transnational mobilization.

Main Benefits:

1. Publicization of the issues surrounding the protection of TEKW in British Columbia; most scholarship focuses on indigenous people in the global south;
2. Documentation of indigenous attitudes and traditional practices is important for indigenous activists in the area of indigenous food sovereignty;
3. Documentation of indigenous attitudes and laws meant to control access to traditional knowledge is important as it publicizes how indigenous people have asserted control over their knowledge;
4. Reflection and contextualization of the struggles in BC in terms of those of indigenous people in other parts of the world.

Definitions:

Cultural resources: the things and ideas essential for the preservation of culture.

Tangible cultural resources: e.g. totem poles, masks, artifacts, sacred sites, ancestral

burial places and remains, and landscape...perhaps even natural resources more generally)

Intangible cultural resources: language, songs, stories, dances, and indigenous knowledge in medicines, plants, seeds, hunting, fishing (TEKW).

Intellectual property: western legal practice that involves delimiting a new expression, such as a novel, or an invention, such as a medicine, as the property of an individual or corporation for a limited period of time.

General questions on attitudes towards cultural resources/property including TEK:

1. How do you describe Traditional Environmental Knowledge and Wisdom?
2. Western culture values **newness and creativity**—and its intellectual property laws reflect this by providing a property rights over intangible cultural property (novels, movies, songs [copyright]; inventions, drugs, genetically-modified seeds [patents]): also known as intellectual property. Is indigenous culture built upon other or similar cultural values besides **newness** and **creativity** [for instance: **tradition**—being the basis for indigenous identity [static]; what about its **inventiveness** [dynamism]]? [Why this is important? Tradition and identity].
3. What is the relationship between TEKW (including indigenous foods) and **identity** for you and your community?
4. Do you think the **practice** of TEKW worthwhile, why?
5. Is it necessary for each individual to learn, practice and teach about TEKW with their own hands?
6. Is it important to protect tangible cultural resources (grave sites, totem poles, landscapes) and intangible cultural resources, such as TEKW (language, stories, songs, dances, indigenous knowledge in plants and medicines, ceremonies associated with natural resources) from misappropriation, commodification, and falling into the public domain?
7. What are the implications for the community when tangible cultural property (masks, totem poles) is used by outside culture [depletable cultural resources since indigenous people are prevented from using them: masks, totem poles]? Are the implications the same or different for intangible cultural property [traditional medicinal knowledge; knowledge of roots; names of indigenous tribes on professional sports teams] [nondepletable cultural resources since others' use does not prevent indigenous use]?

8. [Many indigenous artists appropriate ideas from mainstream culture. What are the issues when mainstream artists appropriate from indigenous culture?]

Formal Cultural Resource Preservation Programs:

9. Are there any programs in the community to preserve nature, natural resources, and places (maintaining traditional rights, habitat restoration) and/or culture (e.g. language) [Realizing these two overlap]?
10. Are there programs in the community concerning the control and protection of tangible cultural resources (plant and root species, masks, totem poles, sacred sites)?
11. Are there programs in the community concerning the control and protection of intangible cultural resources (knowledge about plants and roots [or TEKW], stories, ceremonies, folklore)?
12. Why has the community taken steps to protect their tangible and intangible culture?

Informal Cultural Resource Preservation Activities:

13. What forms of traditional economic practices take place in your community? Describe the traditional gathering, hunting, fishing, and/or farming activities that you and your family and community rely upon in your territory.
14. Describe **contemporary** traditional indigenous **trading**, bartering or selling relationships that take place in your community and territory. Within BC and with the United States?
15. What is the role of TEKW in your household economy, the gift economy, the volunteer economy, and in community alternative businesses?
16. How do you describe the indigenous community economy and its values?
17. What has been done in your community to encourage traditional indigenous food values and the use of traditional environmental knowledge?
18. What are some practical ways that indigenous food values and economies can be re-established in your family and community?
19. Are there any efforts to return cultural resources to the community? Or collect royalties from the use of community cultural resources from commercial use by others?
20. Could the commercialization of indigenous food production be a means to protect your territory? Through the use of marks and protective labeling? To promote indigenous food values and economies?
21. Does the maintenance of the indigenous economy have an importance beyond the economic ['living sovereignty'; strong nationhood; economy]?
22. Explain the role of customary law in TEKW and indigenous economies.

Cultural Resource Preservation Law:

23. In general, what are the protocols for establishing which members of the community receive which type of knowledge? And for members from outside the community [access to reserve; control of the gathering of information; controlling the uses to which the information can be put to use]?
24. Are there any policy statements, customary laws or statutes in the community to preserve nature, natural resources, and places (maintaining traditional rights, habitat restoration) and/or culture (e.g. language) [Realizing these two overlap]?
25. Are there any policy statements, customary laws or statutes in the community concerning the control and protection of tangible cultural resources (plant and root species, masks, totem poles, sacred sites)?
26. Are there any policy statements, customary laws or statutes in the community concerning the control and protection of intangible cultural resources (knowledge about plants and roots [or TEKW], stories, ceremonies, folklore)?
27. Would western or tribal law be the best means of protecting indigenous cultural property [incentives and punishments appropriate to the community]? Would it be important to have a form of law that reflects indigenous values or that may be more responsive [e.g. Elders or judges discretion]?
28. It is often said that indigenous property is a *bundle of relationships* and western property is a *bundle of rights*: what do you think this means? What are the values embodied in indigenous laws [economic; cultural; sacred]?
29. What are the larger political implications of indigenous law making [self-determination; indigenous sovereignty; influence on the common law]?
30. Are the belief systems, customary laws codified and/or publicly available (notice to outsiders)? Why or why not [benefits and drawbacks of ascertainable and publicly available tribal law]?
31. What was the process of codifying law in the community [broadly codified so that there is room for responsiveness]? What was the role of language in the meaning of tribal law?

National level: intangible cultural resources affecting the natural world: practices, government and change

32. ARE TEKW, its values, and its related economic practices important for the conservation and the protection of the natural world?
33. Do indigenous values conflict or complement government environmental policies and regulations?
34. How do governmental regulations and/or property rights affect TEKW-related practices?

35. Have government regulations or NGOs changed your TEKW practices and how you think about the environment?

International level: Politics and TEKW: biodiversity politics and organizational politics

36. What are the political objectives of your community as they pertain to TEKW and biodiversity?
37. Do you see any role for the actual practice of TEKW as a means to achieve these political objectives?
38. What legal and political institutions does your community use as a means to extend the reach of their claims for resources to support traditional lifestyles, self-governance, the protection of territory, and TEKW?
39. Does your community collaborate with indigenous and/or nonindigenous groups across political scales?
- a. Regional:
 - b. National:
 - c. International:
40. Does interaction with allies and adversaries affect your values or the practice of TEKW? If so, how?
41. What is your opinion of political networking and activism through diverse organizations (indigenous and nonindigenous; governmental and nongovernmental) at multiple scales? Do you think this is a particular product of the current juncture? What do you think the outcome will be?

**APPENDIX B: SUPPLEMENTARY INTERVIEW
QUESTIONS**

October, 2008

**Interview questions on the politics of traditional environmental knowledge and wisdom:
emotions, feeling and geography**

1. What emotions do you experience when you practice traditional environmental knowledge and wisdom?
 - a. Are emotions on the land different from those in daily life?
2. Are these emotions or feelings different when TEKW is practiced individually or collectively?
3. How does the practice of TEKW make you feel: emotions? The body? The mind?
4. Emotions sometimes direct the practice of TEKW: for example, at times of grieving one does not perform certain practices on the land because of the risk of transferring these emotions to the animals and plants. Discuss the significance of this approach to emotions.
5. Are there political implications to the emotions surrounding TEKW?

APPENDIX C: FOCUS GROUP QUESTIONS

**Traditional Environmental Knowledge Focus Group at Neskonlith Band Reserve
Focus Group Questionnaire**

A. What is traditional knowledge?

- a. How would you describe traditional environmental knowledge and wisdom (TEKW)?
- b. What is the relationship between TEKW and your identity?
- c. Is traditional knowledge distinct from western knowledge? Are there areas of overlap?
- d. Is it important to control access to TEKW from outsiders and/or community insiders?

B. The challenges surrounding traditional knowledge and its protection

- a. What is the history in the community surrounding the protection of TEKW?
- b. What are the challenges you personally face in maintaining TEKW and related practices?
- c. What are the challenges the community faces in protecting traditional environmental knowledge? (local, national, international threats and obstacles)

C. Existing programs, policies, regulations, and customary laws for the protection of TK

- a. Are there any *formal policies* in the community for the protection of **tangible cultural 'resources'**: nature and the natural world; plants; baskets?
- b. Are there any *formal policies* in the community for the protection of **intangible cultural resources**:
 - i. TEKW: knowledge of plants and roots, medicines, hunting techniques
 - ii. TCEs: songs, stories
- c. Are there any *programs* in the community to protect and promote cultural resources (TEKW and TCEs)?
- d. Describe the *customary law* in the community surrounding the protection of access to customary resources (TEK and TCEs).
 - i. What are the protocols for deciding who has access to knowledge?
 - ii. What values underpin customary law surrounding TEKW and TCEs?

- e. Why has the community taken steps to protect its TEKW and TCEs? Have customary laws been made into regulations or otherwise codified or written to this end?
- f. What are the *informal practices* in the community that protect and promote TEKW and TCEs?

D. Keeping TK Alive: Innovation in the practices, politics and customary law on the land

- a. What are some practical ways that TEKW has been encouraged in the community?
- b. Is the commercialisation of TEKW and TCEs a viable means of maintaining traditional knowledge and practices?
- c. Is western or customary law an appropriate way to protect TEKW and TCEs?
- d. Have there been attempts to return artefacts or ancestral remains to the community?
- e. What alliances has the community made in promoting or protecting TEKW: national, international? Indigenous and nonindigenous?
- f. Does the community argue for the protection of its tangible and intangible cultural resources as part of its larger political claims (e.g. to the land, self-determination)?

E. Discussion Questions

APPENDIX D: QUALITATIVE NODES & CODES

1. Traditional Environmental Knowledge
 - a. Appropriation
 - b. Food & medicine
 - c. Hybridity and transformation
 - d. Role of language
 - e. Political implications
 - f. Subjectivity
 - g. Values
 - h. Women
2. TEK Protection
 - a. Community economy
 - b. Education: formal and informal
 - c. Environmental arguments
 - d. Formal community programs
 - e. Intergenerational transmission
 - f. TKP-Law
 - i. Fishing
 - ii. Private property
 - iii. Park land and gathering
 - iv. Hunting
 - g. Community's own maps, interviews and use of technology
 - h. Practice on the land
 - i. Using property to control resources
 - j. Protocols for Natives
 - k. Protocols for nonNatives
 - l. Protection for tangible aspects of TEK
3. Threats to TEK
 - a. Access
 - b. Commercialization
 - c. Historical cultural loss
 - d. Environment deterioration
4. Governmentality
 - a. Governmentality: colonialism and cultural citizenship
 - b. Recognition and geographical imaginaries
 - c. Sovereign force
5. Counter-governmentality
 - a. Native knowledge and politics
 - b. Cultural revalorization
6. The everyday place of law: monarchical, resisted, or reluctance?
7. Place and Identity
 - a. Authenticity versus hybridity
 - b. Identity and nomadism
 - c. Identity and place
 - d. Identity and TEK
 - e. Particularism and blood
8. Political & legal events
 - a. Sinixt: Extinction & UN
 - b. Residential schools
 - c. Okanagan: Winter dance & Police-Black Robes

- d. Secwepemc: Sunpeaks civil disobedience
 - e. Interior Alliance: Harper Lake forestry case
 - i. Consultation and accommodation
 - f. Interior Alliance: WTO
 - g. Sinixt: Reclaiming remains
 - h. Various road blocks
9. Post-human relations
- a. Deontology, spirituality, ethics