THE POLITICS OF RESOURCE MANAGEMENT: ABORIGINAL RIGHTS AND LAND CLAIM SETTLEMENTS

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A Framework for Analysis

The study of the role of space in the historical processes of social life need not be limited to the study of the *city*. The urban structure is but one of many forms into which the interaction of social relationships crystallizes. This paper moves the debate on space and society from the city to the region by focussing on the conflicting land-use requirements between subsistence and industrial economies. The purpose of this shift in analysis is to identify and document some of the methods by which local non-industrial economic activities are integrated into the spatial logic of economic expansion.

Aboriginal rights—Native title to the land—are discussed here as the political expression of a growing resistance to the diminishing local significance of economic activities. Put another way, the thesis of this paper is that the resurgence of aboriginal rights in the North American public debate is both a particular response to the centralization of economic planning and a specific political strategy to resist the regional division of economic expansion. It is argued, here, that the resurfacing of aboriginal rights in the public debate in Canada and the United States is a particular expression of the contradiction between community as "life space" and the flow of capital as "economic space" (Bluestone & Harrison, 1982:19-20).

The struggles of Third World nations to cast off political, commercial, industrial, and technological dependencies have received extensive recognition in the literature on dependency theory. In this literature, the spatial expression of the dynamics of dependent social relations are analyzed almost invariably in the Third World. Yet within the geographical boundaries of many "First World" nations there live a number of peoples in a complex relation of dependency with the political institutions, the economic structure, and the cultural values of the nation in which they are a minority. As the struggles of the Third World have launched many nations towards a more symmetrical relation with other nations, the indigenous peoples of many countries have made similar demands for self-determination. Indigenous peoples in many countries have raised the issue of their rights to self-determination, self-reliance, and self-government.

The indigenous peoples of Australia, Canada, Japan, New Zealand, Scandinavia, South America, the Soviet Union, and the United States, among others, make up the *Fourth World.* The claims of the Fourth World appear to be more modest than those of the Third World; they ask only for limited sovereignty to control their lands. Yet the claims of the Fourth World "have not achieved the same recognition as the Third World claims to full sovereignty" (Berger, 1985:177). They have not received the same recognition because the claim to limited sovereignty is not as limited as the term implies.

There is a fundamental contradiction between the land use requirements of the industrial and subsistence economies. Hunting and fishing activities are often, if not in direct conflict, at least very much in the way of oil and gas exploration and mining surveys. Less visible, but no less powerful, is the contradiction between the spatial logic of industry and subsistence as expressed in the social institutions that assign economic functions to space. The territorial organization of social life in subsistence economies is based on the *communal* ownership of the land. The social organization of space in capitalism, however, is based on the private ownership of land. A full recognition of limited sovereignty, as proposed by indigenous peoples, would require the institutionalization of this contradiction.[1]

The recognition of aboriginal title will depend largely on its relative position in this contradiction. It is the hypothesis of this paper that concessions to aboriginal land claims will be made more readily and more comprehensively when the lands in dispute are used or needed as access routes to non-renewable resources. However, when title is claimed over lands that contain renewable resources such as forestry or fishing, and when these resources contribute the majority of the economic value of the region, concession to aboriginal claims is likely to be merely symbolic.

In support of the arguments made so far, two cases of aboriginal claims will be presented. The Alaska Native Claims Settlement Act (ANCSA) is discussed here as a unique economic solution to a potential political problem. The Canadian case is drawn from an ongoing political struggle for the recognition of aboriginal rights. The Nishga Claim is presented here as a political solution to an economic problem. This case also demonstrates how the provincial government's policy on aboriginal title has been used traditionally in the politics of populism in British Columbia for over a century.

From the Native perspective, the Alaska and the British Columbia cases are identical: both demand recognition of aboriginal title to the land and to its resources. The differences between policy responses to the same claim emerge from

differences in colonial histories, institutional structures, and economic conditions between Canada and United States.

The Noble Savage and the Savage Primitive

Although an understanding of the history of Indian and European relations in North America is neither necessary nor sufficient in illuminating the character of current Indian policy, a brief review of its two major themes places in context the historical patterns underlying some of the current debates.

The formal debate on the issue of aboriginal rights is nearly 500 years old. It emerged from an urgent need to justify the informal policy of genocide practiced by the Spanish in the West Indies. The debate started in Valladolid, Spain, in 1550, between two monks, Bartolome de Las Casas and Juan Gines de Sepulveda.

Sepulveda, who never visited the "New World", nor knew Indians, argued that American Indians did not possess social institutions worthy of the moral and legal respect of the Spanish conquerors. He used Aristotelian first principles to demonstrate the superiority of Christian Europeans in order to justify the enslavement of Indians as a step towards their betterment. Las Casas, who spent most of his life in the New World, argued that American Indians possessed a sophisticated social system which demanded moral as well as legal respect.

The history of policies on aboriginal rights in Canada and in the United States shows an oscillation between Sepulveda's argument from first principles and Las Casas' argument from first-hand experience. The United States pursued a vigorous policy of treaties from early colonial times. These treaties recognized the legal status of tribal governments, and as such, they were made between governments. Arguably, this policy was more the result of historical necessity than moral enlightenment. The initial survival of the new Colonies depended very much on the peaceful coexistence between Indians and settlers. As more Europeans came to the New World and encroached more and more on Indian territory, the recognition of Indian sovereignty paled in significance. Although treaties continued to be made, actual settlements did not guarantee peaceful coexistence nor were they made always under peaceful conditions.

Initial encounters with Indians were, perhaps, no different in Canada than they were in the United States. However, the subsequent patterns of European settlements in Canada differed from those of the United States. Colonial history in Canada is intimately bound with the history of the fur trade. Both French and English Canada emerged from the activities of a handful of fur trading companies. In fact, English colonialism in Canada was a company affair; the Hudson's Bay Company, through its trading

posts, started many settlements and opened the roads to the west and the north (Innis, 1956). Because of the importance of the fur trade, encounters with Indians in Canada followed a different course from those in the United States.

The nature of the fur trade industry required that Indians continue to live and hunt and trap on their lands in order to trade. Contacts between Indians and Europeans was limited mostly to the trading post. Therefore, a view of the Indian as the primitive and uncivilized savage was more likely to emerge in Canada than in the United States. Since settlements remained sparse, and the frontiers for expansion seemed endless, there were no compelling reasons either to 'civilize' Indians, nor to blanket Canada with treaties. As recently as 1970, only half of Canada was covered by treaties.

But it is mostly through a series of legal decisions that the concept of aboriginal rights surfaces in the North American public debate.[2] A number of important differences between claim settlements emerged from different interpretations given to the law governing relations with Indians which both Canada and the United States shared originally in the form of the Royal Proclamation of 1763. The Royal Proclamation recognized the legal title to the land held by the Indian peoples of North America. Moreover, it recognized a relation of reciprocity between Indian nations and the British Crown. Treaties in the United States were originally based on the recognition of this reciprocity. Through the history of subsequent litigation in the United States, Las Casas' argument supported most legal decisions on aboriginal rights.

The issue of aboriginal rights has received a much more narrow interpretation in Canadian courts; in fact, at various points in history, both the courts and the government disputed the very existence of such rights. In the United States through—or perhaps, because of—a long history of legal battles, Native people continue to exercise a legal right to self-government and to ownership of lands and resources to which their title has not been extinguished by the law. In Canada, on the contrary, title to the land, aboriginal rights, has proved to be a more fragile notion; often it was extinguished without the consent of Native people. To claim aboriginal rights, Native people in Canada must demonstrate that they have occupied and used the land as their forefathers did, and that no government, colonial, provincial, or Federal, has extinguished their title to this land. Once the right to this claim is established, the claim must be negotiated with both the Federal and provincial governments. Since provincial governments control public lands, no settlements can be reached without their participation at the negotiating table.

The differences between legal constraints on settling claims do not explain the different outcomes of the claims process in Alaska and in British Columbia. The next sections examine the political and economic conditions of Indian policy in Alaska and in British Columbia to document the political and economic constraints on the claims settlement process.

ANCSA: 'Wall Street on the Tundra'[3]

Hunters, politicians and oilmen

Alaska was granted statehood in 1958. Shortly after this, Congress authorized the new state to select 103 million acres from the "public lands of the United States which were vacant, unappropriated, and unreserved" (in U.S. Department of the Interior, *ANCSA 1985 Study,* 1985:ES-1) for state lands. The same authorization also specified that the State of Alaska could not appropriate any lands to which the title might have been held by Eskimos, Indians, and Aleuts: the Native population of Alaska. But Congress did not specify Native rights, nor the methods by which Native title to the land could be claimed by Natives. Since in principle Alaska Natives held aboriginal title to most of Alaska, the Congressional authorization created a conflict of interest between the State of Alaska and Native groups. The stage for a political conflict was set.

During the early 1960s, the State of Alaska proceeded with the appropriation of public lands. Watching their traditional hunting and fishing grounds slowly disappear, Alaska Natives organized to protest. The situation was confounded by yet another decision made by the Federal Government; namely, to withdraw lands from the reservoir of public lands in order to make it available for development. Faced with accelerating encroachment on what they considered to be their lands, the Eskimos, Indians, and Aleuts of Alaska formed the Alaska Federation of Natives (AFN) in 1966 to present a united front to demand settlement of land claims.

The initial strategy of Native groups, and later that of the AFN, was to file individual claims and protests with the Department of the Interior. By 1968, about 40 claims were filed. Taking each claim through the court system individually would have resulted in long delays for those eager to get on with the economic development of Alaska. On the suggestion of the AFN, Interior Secretary Stewart Udall imposed an informal freeze on public lands in 1966. He formalized the freeze in 1969, just before leaving office. The purpose of the freeze was to halt all transfer of lands until Congress could act on Native claims. The result of the freeze, however, was a freeze on the revenues of the State of Alaska; not only could the State not select new lands but it also could not issue leases on lands it had already selected.

Udall's decision forced the separate claims into one comprehensive issue for all involved: Native groups, the State of Alaska, Congress, and economic interests. The notion that a *legislated* settlement would be the most equitable and expedient solution gained popularity among all groups caught in the deadlock of the freeze.

Increased demand for oil as a primary energy source and the discovery of an estimated 9.6 billion barrels of oil in Prudhoe Bay, contributed towards a unique coalition of interests to settle claims through legislation. National oil companies were just as eager to settle claims as were Native groups and the State of Alaska. Oil companies needed to gain unimpeded access to the right of way for the construction of a 900-mile pipeline from Prudhoe Bay to the Gulf of Alaska. Increased demand for oil as a primary energy source and the discovery of an estimated 9.6 billion barrels of oil in Prudhoe Bay, contributed towards a unique coalition of interests to settle claims through legislation.

However, the political and economic interests and objectives of these groups do not explain completely the unique form of the settlement legislated by Congress in 1971. To understand the final structure of the Alaskan Native Claims Settlement Act (ANCSA), it is important to recall that in the United States the 1960s were the years of social upheavals and social experiments. This was the decade of the civil rights movement and of the war on poverty. President Johnson's Great Society consisted of a number of social programs that put racial and ethnic minorities on the political agenda. Whatever hidden political purposes might have oiled the wheels of the engine of the Great Society, these wheels moved many to draft visionary blueprints for revolutionary social change. On the drafting board, utilitarian politics and revolutionary visions were drawn together to produce improved social planning methods, the building blocks of "the great society." Indian policy had its turn on the drafting board as well; policies were shifted from programs designed for cultural assimilation to those that fostered a greater recognition of tribalism. The political rhetoric of Indian policy in the 1960s reflected Las Casas' argument.

Given the political and cultural expressions of the 1960s, the drafters of ANCSA and Congress would not consider suggestions of setting up a reservation system similar to that in the "Lower 48"; nor could they be satisfied with putting together a mere compensation package for the lands. Although tribalism was a favored issue in Indian policy, the programs of the war on poverty that stressed economic development were more attractive for involving Natives in the economic future of Alaska. In this sense, the drafting of ANCSA was the social engineer's dream; it was a chance to weld culture, politics, and economics into a spectacular showcase for regional development. In fact, participants in the

drafting of the legislation have stated explicitly that ANCSA was "a very radical effort at social engineering and it was done in a very, very calculated basis" (William Van Ness, staff assistant to Senator Jackson in 1971, as quoted by Berger, 1985:21).

It is in this light then, that ANCSA emerges as an economic solution to a political problem. On the one hand, ANCSA was to ensure also that by settling claims at once and in a comprehensive manner, Native opposition—politics—would not emerge again to obstruct access to economic resources. Finally, it was to ensure that tribalism remains a cultural concept only; by legislating industrial economic institutions into the settlement, ANCSA was to propel the economic institutions of tribalism into the twentieth century, and onto the fast sliding tracks of the international industrial economy.

Divide and Conquer: Corporate Colonialism

Congress passed the Alaskan Native Claims Settlement Act on December 18, 1971. For the 80,000 Natives of Alaska, this was clearly a victory, at first. However, as the implementation of this complex Act proceeded some of its unanticipated consequences emerged; ANCSA soon became a Trojan horse.

ANCSA gave Alaska Natives title to approximately 44 million acres of land, approximately 10 percent of Alaska. In compensation for the 90 percent of Alaska to which the Act extinguished their title, Alaska Natives received $962.5 million, approximately $3 per acre. Aboriginal hunting and fishing rights were also extinguished on lands other than to which the Act gave title to Alaska Natives. Moreover, the terms of the Act were applied only to Natives living at the time, or those born before the date of the Act. Therefore, Alaska Natives born on or after December 19, 1971 were excluded from the benefits. In a sense, the Act artificially divided individuals in families into Natives and Non-Natives; those with benefits, and those who had no legal title or claim to the land.

ANCSA created twelve State chartered profit-oriented regional corporations and more than 200 village corporations to hold the lands. Regional corporations received both surface and sub-surface rights to the 22 million acres they selected from lands withdrawn from the public domain by the Secretary of the Interior. The village corporations, chartered across Alaska in communities which had at least 25 members and were not urban or 'modern' in character, received only surface rights to the land. Most Natives enrolled in their village corporations as well as one of the regional corporations, holding one hundred shares in each. A thirteenth regional corporation was established for Alaska Natives residing outside of Alaska. This corporation received no

land: its members shared only in the money settlement.

Several provisions in the Act set the Native corporations apart from other types of profit-oriented institutions. First, Native shareholders could not sell their stock nor could they transfer their ownership of the land for 20 years. Secondly, the land conveyed under the Act could not be taxed by governments as long as it was not leased or developed. Thirdly, to balance regional disparities in mineral and timber resources, the Act required that each profit-making regional corporation distribute 70 percent of its annual revenues from the sale of natural resources among the other regional corporations on a per capita basis (U.S. Department of the Interior, *ANCSA 1985 Study*, 1985).

Ostensibly, these specifications were made to protect the value of the settlement and to provide the corporations with time to learn the techniques that would enable them to develop into economically viable and profitable enterprises. However, the specifications masked conflicting goals. On the one hand, Congress wanted to free Native management of lands from Federal, State, and local non-Native government control. This part of the Act also aimed to ensure Native autonomy over the economic employment of the land. On the other hand, the Act imposed a management structure foreign to the tribal organization of land management. It introduced the corporation, whose goals were in conflict with the goals of the subsistence activities practiced by the Natives of Alaska. In other words, the Act demanded that if Alaska Natives were to retain control of their lands, they were to do so not as hunters and fishermen, but as entrepreneurs.

Although ANCSA provided a large cash settlement, and provisions to protect the corporations from the kinds of economic demands made on other profit-oriented organizations, an enormous amount of money was spent on setting up these corporations initially. At this stage, the corporations benefited mostly those non-Natives who were hired because of their legal and financial expertise. The special restrictions on the sale of shares, and profit-sharing—measures enacted to protect the corporations—in fact, constrained profit-making business activities.

The special terms of ANCSA will expire in 1991. For many Alaska Natives this date is also the date on which they might lose their lands. After 1991, the Native corporations, like all other profit making corporations, will have to pay taxes on lands they own and will have to face takeovers if unable to pay. Taxes on 44 million acres of land would add a considerable amount to the revenues of the State of Alaska. In 1991, stocks in the corporations will be open for trade; Natives will be free to sell

their shares in the land to non-Natives. The study prepared for the Department of the Interior (1985) has found that 40 percent of ANCSA shareholders would sell their stock in the corporations. After 1991, Natives could lose control over the lands secured by the Act to preserve traditional lifestyles.

Drafters of ANCSA thought that by welding the village economy into the corporate structure they would open the gates of economic growth for rural Alaska.[4] Native objectives were much more modest; Alaska Natives wanted to retain control over the land to live in a way they always did.

ANCSA attempted to legislate an instant modern economy on the tundra. At its best, and as a piece of social engineering, it tried to fuse the best of two worlds; the economic benefits of the industrial economy and the cultural values of subsistence. At its worst, and as a political compromise, it failed at both; it did not bring the promised wealth to all, nor did it preserve a heritage. ANCSA failed on both counts; legislated corporations under the terms of the Act could not at the same time participate in mainstream economic activities and protect traditional forms of life. The corporations cannot both use the land for resource extraction and real-estate, as well as for subsistence activities such as hunting and fishing. The contradiction contained in this situation is perhaps best expressed by the following excerpt from hearings held by the Alaska Native Review Commission during 1983:

> When you look through the corporate eye, our relationship to the land is altered. We draw our identity as a people from our relationship to the land and to the sea and to the resources. This is a spiritual relationship, a sacred relationship. It is in danger because, from a corporate standpoint, if we are to pursue profit and growth, and this is why profit organizations exist, we would have to assume a position of control over the land and the resources and exploit these resources to achieve economic gain. This is in conflict with our traditional relationship to the land, we were stewards, we were caretakers and where we had respect for the resources that sustained us (Mary Miller, as quoted in Berger, 1985:48).

Although the traditional village in Alaska might be endangered because of ANCSA, an unforeseen consequence of the Act was to strengthen the political presence of Alaska Natives in the State. The corporations provided institutional support and representation for Native political aspirations. This political support and representation is now employed in lobbying for amendments to the Act to ensure continued Native control over the land. From the Native point of view, the lesson of ANCSA is simple:

> The land and the settlement is not the ultimate objective. If the ultimate objective is protecting traditional lands and traditional Native ways of life, such as subsistence ways of life, then only land can help you do that. But the fact of ownership is not enough to ensure protection. Title to the land is only a tool (Leaske, 1985:83).

If ANCSA failed to provide Alaska Natives with the expected wealth from cash dividends, it nevertheless brought them an unexpected wealth of shared political experience in negotiating the terms of control over land and its resources. The lesson of ANCSA was not lost on other indigenous peoples in negotiating settlements. Strengthening subsistence economies was on the agenda of a number of negotiations in Northern Canada. As a result of ANCSA, settlements reached in James Bay and Northern Quebec in 1975 have included provisions to improve Native access to fish and wildlife resources.

If ANCSA was an economic solution to a political situation, the Nishga Claim in British Columbia appears here, in contrast, as a political solution to an economic problem. In Alaska, the problem was to remove obstacles from access to resources. The next section discusses the relationship between the politics of populism and aboriginal rights in British Columbia.

The Political Economy of Aboriginal Rights

History on Trial: The Nishga Claim

The Nishga claim to aboriginal title in British Columbia encapsulates much of the history of Canadian Indian policy. To understand the history of this claim, is to understand the political role of aboriginal rights in Federal and provincial regional economic policy. It is to understand how Indian policy—or the lack of it—is employed to create a climate for investment in resource extraction such as mining, forestry, and fishing. Finally, it is also to understand the politics of populism practiced by the Social Credit party which forms the Government of the Province of British Columbia.

The struggle over the recognition of aboriginal rights in British Columbia provides the Social Credit government with yet another political issue which can be used to ensure that its 30 years of rule is not about to end.[5] By refusing to sit down at the negotiating table with the Nishga and the Federal Government, the government of British Columbia retains control of lands that contain forestry and mineral resources. Because forestry activities contribute 60 percent of total economic value in exports, claims contesting government control of timber-rich lands are destined to be at the front of the political debate.

The Nishga, who now occupy four villages in the salmon-rich region of the Nass Valley in the northwest region of British Columbia, have been one of the first tribes to *legally* challenge the lack of a clear policy on aboriginal rights in Canada. The Nishga claim, brought to the Supreme Court of Canada in 1969, ensured that aboriginal rights are recognized by and included in the Constitution of Canada.

When British Columbia entered the Canadian Confederation in 1871, the Terms of the Union shifted responsibility for Indians from the provincial government to the Federal Government. The Federal Government, however, had no specific provisions for settling claims. It merely suggested that provincial governments follow the policies they pursued in making treaties before Confederation. The policy practiced by the colonial government of British Columbia before Confederation, however, had been to appropriate Crown lands without making treaties with Indians. As the economic significance of the fur trade declined, and as agriculture and industry pushed the northern frontier farther north, Crown lands assumed more value; grants were issued without any consideration for Indians living on the land. Although the Federal Government repeatedly condemned this approach, the provincial government did not change its policy. The course of Indian policy in British Columbia was set for the next 100 years.

About the time the Alaska Native Claims Settlement Act was taking shape through its many drafts, the Nishga Indians took the Province of British Columbia to court to win recognition of their aboriginal title. The counsel for the province argued that aboriginal title is not a concept known to the law. Moreover, if it did exist, it was certainly extinguished by the colonial government.[6] The Supreme Court of British Columbia accepted this argument. The Nishga Indians did not accept this decision. They took their case to the Supreme Court of Canada. In its judgment, the Supreme Court of Canada recognized aboriginal title under English law. Whether this title was lawfully extinguished was not decided; the judges' decisions were tied. The Nishga did not win a settlement but they won a "moral victory" (Berger, 1982:245). Aboriginal title was now recognized by the laws of Canada.

The Supreme Court's decision had its greatest effects on the Federal Government's policy, however. Instead of administering welfare programs for Indians through the Department of Indian Affairs and Northern Development, the Federal Government had to adopt a comprehensive policy towards land claims brought by the Indian, Eskimo, and Metis people. The first to benefit from the recognition of aboriginal title were the Native peoples of the Yukon and the Northwest Territories. Since in these territories

public lands are owned and controlled by the Federal Government, negotiating claims involved only the Native people and the government.

This is not the case in British Columbia, or in the other provinces, for that matter. Because the provinces own all public lands, they must participate at the negotiating table. Without their participation, no settlement can be reached. The provincial government of British Columbia has refused to participate in the negotiation of the only aboriginal title claim under active negotiation; the Nishga claim has been on the table since 1974.

To recognize that aboriginal title exists in law, however, is no longer the prerogative of the provincial government. Aboriginal rights and treaty rights were included in the Constitution of Canada of 1981. Although the Constitution guarantees the *de jure* recognition of aboriginal title, the provincial government's jurisdiction over public lands ensures that in British Columbia this title is not realized *de facto*.[7]

In British Columbia a century of opposition to the recognition of Indian title has created a political tradition. But there are also the economics of this tradition. Just as the colonial government did away with treaties instead of raising taxes to pay for them in 1854, so the current provincial government will not recognize aboriginal title because it fears the loss of resource revenues.

The land in British Columbia, unlike Alaska, is not an access road to oil reserves; it is the base for the economic welfare of the province. In some sense, all of British Columbia is a resource region, highly dependent on the export of raw materials, and in particular as these exports are affected by world market conditions. Therefore, when aboriginal title is claimed, a suggestion that billions of dollars and many resource jobs could be lost over settlements assumes political significance. This suggestion is, in fact, a definite political strategy; the majority of the supporters of the Social Credit government live in the widely scattered resource communities of British Columbia, where, as world market conditions change, competition for employment in the resource industry is often fierce.

The issue of aboriginal title in British Columbia is out of the courts; it is now in the political arena where it is employed strategically by government, industry, and the Native people. The next section examines how these strategies intersect.

Resource politics: Loggers and Indians

British Columbia is highly dependent on resource industries. Of all the resource industries, forestry is the most important. The forest industry makes up more than half of the manufacturing value of shipments and 60 percent of the provincial exports in

British Columbia (B.C. Ministry of Finance, *Financial and Economic Review,* 1981, and Statistics Canada, *Canada Yearbook,* 1985). In fact, 64 percent of all lumber produced in Canada comes from the sawmills of British Columbia.

Forests cover about 60 percent of the province's land area; of this, 955 is owned and *managed* by the provincial government. During the 1940s the government set up a tree farm license system to manage the timber supply for the forest industry. Through the tree farm license the government contracts companies (or individuals) to manage an area of forested land on a sustained-yield basis. Where there are not contracts, the government through the forest service manages timber on the sustained-yield basis. However, established logging companies can apply for both timber sale and harvesting licenses on the publicly managed forest lands. This policy has often been interpreted as a government subsidy which gives the forest industry in British Columbia an unfair competitive advantage.

Another branch of forestry management in British Columbia is concerned with introducing an integrated use concept for forest land management. In theory the integrated use for forest and land management implies issuing licenses to harvest trees at biologically sustainable levels. In practice this is implemented usually by harvesting at the maximum level on existing licenses rather than at the biologically sustainable levels specified by the original system of tree farm licenses.

The forestry industry, if not highly concentrated, is nevertheless highly politically organized. The British Columbia Council of Forest Industries, formed in 1960, includes 95 percent of the companies of the forest industry in the province. The Council is active in lobbying for forest and range resource legislation and in matters related to extending its markets (B.C. Ministry of Finance, *Financial and Economic Report,* 1981, and Western Canada Wilderness Committee, *Meares Island,* 1985).

The effects of the world-wide recession reached British Columbia in the early 1980s. The forestry industry, which is subject to fluctuations at the best of times, saw a decline in the volume and the prices of lumber exports. However, these losses were offset by increases in pulp and paper, and newsprint production and exports. The effect of the recession were more directly and strongly felt by those who lost their jobs in the forest industry and related services. Through the recession, the forest industry continued to make capital investments in the industry. For example, in 1981 over $1.7 billion was committed to capital investment to modernize and increase plant capacity (B.C. Ministry of Finance, *Financial and Economic Report,* 1981). Thus, as some jobs were lost to reduced production and

international competition, many have also been lost to automation. The fact that the forest industry continues to invest in technologies to modernize shows its continued confidence in maintaining a competitive position in the market for forestry products.

Given the economic significance of forestry, given the political organization of the control and management of forested lands, and given the forest industry's commitment to invest in automation, it is not surprising that Indian land claims in British Columbia are singled out by the Social Credit government and by the forest industry as stumbling blocks to economic prosperity. In the public discourse, Indian claims are pitched against the forest industry; in the media, aboriginal rights are dramatized in accounts of incidences between Indian bands and logging crews. In the wake of the Nishga claim to aboriginal title to the lands in the salmon-rich Nass and Skeena rivers region, other Indian bands have claimed title to Crown lands across the province. Most of these lands, then, are forest resources, and some contain coal reserves (as in northeast British Columbia). It is this fact which gives the claims an appearance of a unified opposition to forestry activities and, therefore, pitches Indians against loggers in the popular media.

The unified strategy for Indians is not an opposition to logging, but an opposition to all development on lands they claim, so that the issue of aboriginal rights can be introduced in the British Columbia courts again. It is a strategy to force the government through legal means to sit down and negotiate. To stress the issue of aboriginal rights, the Indian bands who go to court because they block logging activities often do so in full ceremonial dress. In these encounters with loggers and lawyers—with the logging companies and the courts—Indian culture is not merely a cultural statement, but is, in fact, a political strategy.

In some instances the strategy is successful in halting logging, as it was on Meares Island, off the west coast of Vancouver Island. When in 1980 McMillan Bloedel, one of the largest forest companies, decided to log Meares Island, environmentalist groups and the Clayoquot Indian band staged many protests and blocked logging activity over the course of four years. The protests culminated in the declaration of Meares Island as a tribal park by the Clayoquot. The legal source for the protests lay in the provisions made in the original logging lease granted to a Seattle logging company in 1905. The terms stated that there should be no logging on "all Indian lands, plots and gardens" (Western Canada Wilderness Committee, *Meares Island,* 1985). The confrontation between loggers and the police on one hand, and the Clayoquot and the environmentalist groups on the other, ended in 1984 when the court ordered a moratorium on logging until the

Clayoquot Indians could start a Supreme Court Action on the nature of their claim. Needless to say, both the provincial government and McMillan Bloedel are fighting the moratorium in the Supreme Court of Canada.

The Haida Indians of the Queen Charlotte Islands have been perhaps less successful in halting logging activity on Lyell Island. However, they have been successful in politicizing the issue of aboriginal rights. They appeared in court in Vancouver during the first week of November 1985 in full ceremonial dress; their evidence consisted of traditional songs. The judge who was presiding the case gave the logging companies an injunction preventing the Haida from blocking logging crews. But he also said that the nature of the Haida claim is political, and that it should be dealt with in the political system by the provincial and federal governments (*The Province (Vancouver),* 8 November 1985).

The real conflict over aboriginal title in British Columbia, then, is between the resource industries, the government, and the Native peoples. The Social Credit party, forming the government of the province, benefits from this conflict considerably. Because it controls the lands, it has the political support of the forest companies. Because the government's refusal to recognize aboriginal rights is diffused in a confrontation between loggers and Indians, a dramatic vision that Indians do not abide by the law emerges. This vision then, can sustain the political suggestion that if settlements are made, with every acre ceded, wealth and jobs will be lost.

The Nishga claim originated in British Columbia and it brought about a change in the Federal Government's policy towards aboriginal claims. The Nishga claim, however, has yet to be settled in British Columbia. The provincial government refuses to recognize aboriginal title to the land because this land forms its economic and political power base. Its decision has been supported so far by the Federal Government's reluctance to apply pressure on the provincial government. Although it is within the power of the Federal Government to force a settlement, it has chosen not to do so yet. Another instance of a claim settlement that required the participation of a provincial government has revealed the largely symbolic nature of the Federal Government's change in Indian policy. In Ontario the provincial government has been very cooperative in reaching an agreement for a settlement; however, the Federal Government refused to sign.

Yet, in the Northwest Territories and the Yukon, the Federal Government has been exemplary in its claims settlement policy compared to the provinces.[8] The Northwest Territories and the Yukon are Canada's Alaska; they are the last frontier. They

provide the roads to oil and gas exploration. Lengthy legal or political battles in the North, as in Alaska during the 1960s, would have resulted in economic losses.

Government policy—federal and provincial—on aboriginal rights and title is a political decision insofar as it is a strategy to develop resources and to maintain a popular support base. The Federal Government's selective application of settlement policies is, in fact, a regional economic policy. As such, it is only a symbolic recognition of aboriginal title. In British Columbia, the issues of shifting resource markets, industrial trends, and automation in the forest industry and related manufacturing and service sectors, are conveniently concealed in the clash of cultures between loggers and Indians. The songs of Indians in the courtrooms are the voices that speak for resistance to the dissolution of the space of experience. The loggers would be well advised to listen, for their communities are also about to be swept into the insidious flows of capital in search of new locations for economic expansion.

Conclusion

> Concessions are made to Indian leaders so long as they do not demand a real recognition of the Indian economy. Pluralism is a North American ideal, but in practice it does not have room within it for a multiplicity of economic systems. Exotic languages do not get in the way of pipelines; hunting and trapping economies might.
>
> (Hugh Brody: *Maps and Dreams*)

This paper examined two cases of regional economic policy by comparing two responses to aboriginal claims in Alaska and in British Columbia. It was argued that government responses to Native land claims were designed to benefit economic and political interests that had competing claims over the same lands. In British Columbia a policy of non-settlement ensured—and still ensures—the political control of land, and it provides a strategy for the politics of populism. In Alaska a comprehensive policy, the Alaskan Native Claims Settlement Act (ANCSA), ensured that the new state could be open to oil and gas exploration. ANCSA also aimed to thrust rural Alaska into the twentieth century; the corporations set up by the Act were to bridge the tundra and the metropolis.

It was also argued that aboriginal claim settlements will reflect how far Native economies are permitted to coexist with competing economic interests in the land and its resources. If the land claimed is used primarily to access locations of non-renewable resources, negotiations are more likely to result in a settlement. If the resources on the land are at the center of the competing claims, negotiations are played out in the political arena rather than at the negotiating table.

While settlements reflect regional economic policies, land claims presented by the Native peoples are also economic policies in that they demand a share in economic resources. Native land claims, therefore, are not an attempt to repopulate 'Indian country'; they are not claims to recapture culture in the past, even if they are expressed in cultural terms. The social movements of the 1960s and the social programs of the 1970s have put ethnic and cultural diversity on the political agenda. Yet it would be a mistake to assume that Native peoples discovered their 'nativeness' in these movements and programs; aboriginal title is not about culture in this sense. Native goals were not defined by the social movements of the 1960s. For the Native peoples, aboriginal title has been an issue since Columbus.

The debate between Sepulveda and Las Casas on the nature of aboriginal title continues to this day, but is, (perhaps), harder to recognize. On the one hand, there are those who see in each claim to aboriginal title a plea for a return to culture as the only strategy for social survival. On the other hand, there are those who see each actual settlement as the final mechanism of assimilation. Both these views lead to a reification of the relationship between history, culture, and economy.

As Brody (1981) points out, it is all too easy to look at what is happening to Native subsistence social systems in North America and conclude that they are about to vanish under the cumulative impact of colonial, industrial, and market economies. To do this, however, is to misunderstand the dynamics of social history. It is to assume that history *happens* to people in a way in which they have neither the capacity nor the will to influence it. Taking the example of hunting economies in Northern Canada, Brody points out that the Native economy has imported many of the features of the colonial economy without self-destructing in the process. Steel traps, guns, and other artifacts of the hunt were 'technologies' brought by the colonists; they are now part of the traditional way of life.

In less obvious ways than steel traps and guns, however, the Native peoples of Alaska and British Columbia are importing other 'technologies'; they are importing political strategies and cultural institutions from the dominant society. The adaptation of these strategies and organizations to Native goals often lead non-Natives to associate them with forms of Native culture.

The Alaska Native Federation is one such institution; but, in fact, the Federation is a political organization that has learned how to lobby. The Haida Indians of British Columbia argue their case in court with traditional songs. They sing because they do not know the rules of law, but because this is their political strategy. They fight culture with culture. If the provincial government

speaks to them through legal rhetoric, they will answer with songs.

In this sense then, the resurgence of claims to aboriginal title is not a quest to recapture the past. Nor are these claims recent; Native peoples in North America have been asserting their legal rights for nearly five hundred years. What is recent and, perhaps, different about these claims, is the form they take; their expressions as claims to a right to a way of life, a right to a separate culture.

But the real debate is not about culture as a value in itself. The 'grammar' of the dialogue between the Native people, governments, corporations, and loggers is the structure of power relations which organize the allocation of economic and cultural values to space, to the lands claimed by aboriginal title. These power relations are no longer local in character; the significance of space is no longer that of 'place'. The internationalization of economies and the regional division of labor have transformed many 'places' into economic spaces through which capital flows in search of new locations. Native peoples, then, are not the only ones faced with the dissolution of the significance of their social space. Their experience reflects what is happening on a larger scale in many communities.

As 'life spaces', the spaces of experience are homogenized in more and more communities. Differences in cultures assume informational value, for information is a 'difference which makes a difference'.[9] And if we are truly shifting from a product-based economy to one in which information is the source of economic power, then the Native peoples of Alaska and British Columbia have an important lesson to teach us.

NOTES

1. The Canadian government knew this in 1927. The Superintendent of Indian Affairs, allegedly said the following to Indian leaders after the Joint Parliamentary Hearing on aboriginal rights:

   > If I ever recognize and accept what you people want in this land deal, it will have rocked the very foundation of Confederation, it will smash the principles of real estate. I had no choice, that is the way it is.
   > (As quoted by Frank Calder in *Native Self-Reliance through Resource Development*, 1985:95.)

2. A history of Indian law and related litigation is not within the scope of this paper, nor the ability of the writer. For an excellent annotated bibliography refer to Berger, 1985:191-97.

3. This expression is adapted from Rogers (1962), who captioned the photos of Anchorage in his book, *The Future of Alaska*, as "Fifth Avenue on the tundra."

4. The study prepared for the Department of the Interior points out that improvements in employment, income, housing, and education for Alaska Natives were the results of Federal and State spending in Alaska, rather than to direct effects of the economic success [of] Native Corporations. For instance, assuming that a change in Native employment from 1970 to 1980 is one of the variables by which the economic impact of ANCSA can be measured, it is apparent that the corporations did not provide as many jobs as State and local governments did. The number of Natives employed by government increased 88 percent from 1970 to 1980. In comparison, government employment increased only 67 percent for non-Natives over the same time. However, private employment increased 102 percent for non-Natives, and only 64 percent for Natives over the same time. Total increase in employment from 1970 to 1980 was 74 percent for Natives, and 86 percent for non-Natives (U.S. Department of the Interior, *ANCSA 1985 Study*, 1985:iv-13).

5. The ultra-conservative Social Credit Party, led by William A.C. Bennett, was elected first in 1952. It remained in power until 1972 when it lost the election to the left-wing socialist New Democratic Party. However, when the New Democratic Party called an election in 1975—which it did not have to do—the Social Credit Party was re-elected. It has been in power ever since, but this time, under the leadership of W.A.C. Bennett's son, Bill Bennett.

6. Although the colonial government made a number of treaties with the Indians of British Columbia in order to extinguish their title to the land, it stopped doing so in 1854, when the Colonial Office in London stopped funds for treaties. Realizing that the settlers had to finance treaties, the house assembly decided that rather than raise taxes, they would not recognize aboriginal title. Perhaps this is the sense in which the counsel for the province argued that aboriginal title was extinguished by the colonial government.

7. The particular wording of the amendment, arrived at by the prime minister and the premiers of the provinces, makes provisions for the recognition of *existing* aboriginal rights only. Therefore, Native groups now must demonstrate that their titles exist, then they can proceed with their claim.

8. The Federal Government has not only made what have been considered settlements, but has tried to involve the Indian population in economic resource development as well. Recently, the Canadian government has auctioned oil exploration rights in the Mackenzie Valley region near Fort Good Hope. Thus, the Native population have veto power over the bids. This has spurred

British Petroleum's Canadian subsidiary to not only establish good relations with the Native community of Fort Good Hope but also a joint trial oil exploration project. (*The Wall Street Journal*, 11 November 1985.

9. According to Bateson, "...information may be succinctly defined as *any difference which makes a difference in some later event*" (1972:381). This is more or less a cybernetic approach to the role of information (communication); its thesis is that organization, in general, is primarily a function of information. In this sense, the value of difference, any kind, is its power to alter the relations that organize a system.

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