CHASING THE RAVEN: PRACTICES OF SOVEREIGNTY IN NON-STATE NATIONS

by

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This dissertation examines ‘sovereignty’ as not only a theoretical abstraction of power relations within finite territories, but also as a very alive practice, a daily defense of inherent rights based on Indigenous philosophical notions of power and space. I examine the perspectives of Indigenous practitioners who either through their conversations and/or life ways cultivate an original conception of sovereignty, specifically the governance of the Gwich’in people, a nation of 15 villages in the Arctic Circle. As Indigenous nations living within legal structures of a settler state, they offer an alternative understanding of collective political power, rooted outside the western European paradigm but simultaneously confronting those ambi. I argue that rather than an alternative narrative of resistance towards secession or segregation, the Gwich’in Nation provide a viable, pro-active and realized form of co-existent sovereignty. This sovereignty is a form of political collective identity and a relationship with the environment and non-human actors, as well as other governments, that is productive, creative and focused as much on future generations as drawing from tradition.
INTRODUCTION

Chasing the Raven: Practices of Sovereignty in Non-State Nations

Prelude

Ravens are heroes of the skies in Gwich’in country. From downtown Fairbanks out to the Yukon Flats and over the U.S.-Canadian border, ravens or *deetru’* soar along the lines of light across the Arctic clouds. Three dips in the eastern banks of the Arctic Red River are called the ‘Raven’s Beds.’ There is a Gwich’in ceremonial dance called the Raven Dance which symbolizes sharing food with all creatures and caring for the earth (Gwich’in Gathering, 2010). *Deetru’* are pivotal in Athabascan origin stories as they are connected to creation, identity and governance—integral to these Indigenous spaces.

But raven is also a trickster, a creature of irony who keeps humans in check and represents often something very tangible but just out of reach. It is that symbolism that aligns the raven to modern day pursuits of sovereignty for a nation that has been split across a wide geography and two powerful nation-states, the U.S. and Canada. Both the United States and Canada are doctrine of discovery states, where land title and possession were achieved through colonial conquest. Dating back to papal bulls of the 15th century, e.g., *Romanus Pontifex*, 1455, doctrine of discovery legal precedence holds territorial concepts of sovereignty as a contest between Christian and heathen, *perpetui inimici* or ‘perpetual enemies’ from *Calvin’s Case*, 1608. And despite the evolution of U.S. law in numerous categories of religion, race and land title, it is Indigenous possession cases that are held to precedents more in keeping with a Hobbesian era notion of the sovereign than a ‘modern’ state as evidenced in *Oneida Nation v. New York*, 2005 (where the doctrine of discovery was upheld against a Native community) (Williams 2005).

This articulation of territorial sovereignty has been consistently challenged by Indigenous nations in North America since contact, utilizing alternative formulations of power derived from cultural values and practices of co-existent sovereignty (Degiya’goh /Gus Wen Tah 1645, Borrows 2002). But in comparing these forms of sovereignty, it would be clumsy to assume that Native Nations in North America have a naïve, ‘kum ba yah’ understanding of coexistence. These are nations that attempted diplomacy with European invaders as well as participated in war and there is an intrinsic philosophical basis for Indigenous sovereignty, distinct to each Native Nation and different from the European tradition. I argue, that it is this difference that has been the strength of Indigenous nations to sustain their power and governance practices despite hundreds of years of cultural subordination.

My dissertation work encompasses an examination of sovereignty not only as a theoretical abstraction of power relations within finite territories, but also as a very alive practice, a daily defense of inherent rights based on Indigenous philosophical notions of power and space. This dissertation is an examination of sovereignty, which continues to be a relevant theoretical field in political geography (Butler 2004, Agnew 2005, Elden 2006 and 2009); but the originality of Native Nation-based conceptions have been largely omitted from the conversations. Very little scholarship in political geography (Willems-Braun 1997, Sparke 1998, Bryan 2009) has looked at Indigenous non-state nations (self-identified polities
who maintain non-statist geographies), be they in non-contiguous spaces, traditional sacred lands, urban communities, or reservations, (either state mandated spaces near places of origin or prisoner of war camps disconnected/warped from traditional spaces). Native formulations of sovereignty—when they are acknowledged in scholarship—are often rendered as reactionary or through a patronizing lens.

Due to this void, I examine the perspectives of Indigenous practitioners who either through their conversations and/or life ways cultivate an original conception of sovereignty. As Indigenous nations living within legal structures of a settler state, they offer an alternative understanding of collective political power, rooted outside the western European paradigm but simultaneously confronting those ambitions. I argue that rather than an alternative narrative of resistance towards secession or segregation, the Gwich’in Nation provide a viable, proactive and realized form of co-existent sovereignty. This sovereignty is a form of political collective identity and a relationship with the environment and non-human actors, as well as other governments, that is productive, creative and focused as much on future generations as drawing from tradition.

To work with ‘sovereignty’ from an Indigenous perspective, I use the contributions of scholars Wallace Coffey [Comanche] and Rebecca Tsosie [Navajo] (2001). Coffey and Tsosie destabilize the notion that sovereignty is territorial and contingent on U.S. federal law, which is an external framing of Indigenous power they call ‘political sovereignty’ (2001: 192). Instead, they argue inherent sovereignty is ‘cultural sovereignty’ (2001: 196-199) articulated from within an Indigenous nation, built on self-recognition, relationships, respect, continuity through generations and community definitions of autonomy. This definition of cultural sovereignty informs my analysis of Gwich’in sovereignty as I discuss internal and external recognition, relationships with other humans and the environment, and the multi-generational scope of the Gwich’in people. Also employed throughout my dissertation is the term governance, which I recognize as the tools and practices of a people who self-identify as a nation (Deloria 1997) and operate as a collective political power and for the Gwich’in territory, a sacred geography.

Chasing the raven is not a futile exercise, but a continuing challenge. As will be seen through this dissertation, the Gwich’in have relied on their ways of being, their geography and their identity as a people to exist as a nation in the Arctic Circle. By doing this, the Gwich’in Nation shows what is possible, not as a prescription, but as a living integrated system based on their culture, their governance practices and their values of yinjih (perfect harmony) and t’aii (the good way) (Fast 1995). Like the raven, they herald an opening, a living space of difference and possibility.

**Theoretical Points of Entry**

This dissertation is comprised of three articles linked by empirical data and key theoretical concepts: sovereignty (as discussed above), the non-state nation, the settler state, authority, spatial representation and intergenerational memory.
The non-state nation

Primarily, I introduce the idea of the ‘non-state’ nation, a political entity that self-identifies, governs and represents itself as a nation both internally and internationally, and I use this concept in the Indigenous context. The idea of a non-state nation follows James Scott’s (2009) work on how inaccessible regions can sustain a type of non-statist sovereignty; as well as the foundational argument of Benedict Anderson (1982) who theorized the nation as a community derived from self-identity and recognition.

Moving beyond the ‘state’ is not a new direction for Indigenous self-determination projects, as theorized by both Duane Champagne (2005) [Turtle Mountain Chippewa] and James Anaya (2009). Duane Champagne (2005) has analyzed the current relationship between Indigenous nations and what he calls the ‘multicultural state’, finding that Native peoples are asked to abandon their traditions in order to assimilate into a nation-state model (2005: 16-17). Champagne compares traditional Indigenous institutional relationships with western views and finds that for Native peoples, land signifies a space of stewardship and identity (2005:6):

The creation stories provide many social, political and cultural institutions … [they show] why a particular people live in a particular place with specific institutions and ceremonies, and with particular forms of government and community organization are generally seen as gifts from the Creator.

He writes that in the last several decades, Native peoples have asserted their rights over land in international forums, including use of the U.N. Declaration on the Rights of Indigenous Populations. In doing so, they are operating as nations. While not identified as ‘nation-states’ in these arenas—they are imbued with national power from within their collectivity. Furthermore, they are operating outside the settler state for this recognition, and in many cases using the international forum as a basis of authority for claims against that state.

Similarly, James Anaya (2004) has written extensively on the international forum as a space for Indigenous expressions of nationhood. Since the early 20th century, Indigenous peoples have contributed to the development of international human rights. By sidestepping the ‘individual-state’ dichotomy in international legal forums, through leaders like Willie Littlechild and other elders who made arguments for collective rights, recognized by the international system (Anaya 2009: 6). By moving beyond the ‘state’ as the final authority, Indigenous nations not only alert other entities of their self-determination but also undermine the primacy of the state as the primary global actor. Like Champagne, Anaya argues that Indigenous peoples have sustained paradigms that do not always correspond to western models where western nations have categories of ‘individuals and the state’ bound by distinct territories. However, Anaya argues, geography and people are more complicated, with ‘overlapping and integrated political spheres…peoples…should be understood to reflect all those spheres of community, marked by elements of identity and collective consciousness…(2004: 103).’
The settler state


Essentially settlements replace the Indigenous population with new communities—the seeds of a nation-state—wherein settlers become the land and the land becomes part of the settlers’ blood (Wolfe, 2013: npn). Settler colonialism, Andrea Smith [Cherokee] argues, relies on a logic of white supremacy, ‘which for Indigenous peoples may unwittingly shape our vision of sovereignty and self-determination in such a way that we become locked into a politics of recognition rather than a politics of liberation’ (2010: 4). Andrea Smith [Cherokee], Jodi Byrd [Chickasaw], Mishuana Goeman [Seneca], Wallace Coffey [Comanche] and Rebecca Tsosie [Dine] all argue that key to undermining the settler state empire is reimagining North American geography and interpreting Indigenous sovereignty as not contingent on U.S. recognition. Specifically analyzing the racial formations of the settler state, Smith argues that settlement is not a permanent process, and offers this alternative (2010:4):

When we do not presume the givenness of settler states, then it is not as difficult to recognize the racial nature of nation-states while simultaneously maintaining a non-pessimistic approach to ending white supremacy. Many people in Native Studies believe alternative forms of governance can be developed that are not based on nation-states. We can work towards ‘transcendent change’ by not presuming it will happen within the confines of the U.S. state.

Smith conceptualizes an Indigenous polity that is not bound to a state structure, but is an alternative governance form that usurps settler hegemony. Byrd (2011) and Goeman (2013) separately propose a geographical reimagining of the North American continent, which destabilizes notions of ‘statist territory’, and directs the political landscape to overlapping ideas of Indigenous geographies including the diverse spaces of Native nations built from anti-colonial cosmologies and knowledge—for example, referring to North America as ‘Turtle Island’ and mapping traditional geographies that overlap current state boundaries (Goeman 2013).

James Scott has analyzed non-state spaces in a world where for most people the future is ‘the daunting task of taming the Leviathan, not evading it’ (2009:324). He writes that non-state spaces are locations where, ‘owing largely to geographical obstacles, the state has particular difficulty in establishing and maintaining authority’ (2009:9). The Tanana Chiefs Conference, a regional Gwich’in council, shared in interviews with me that it is the relative lack of contact up until the 1950s that has kept the Gwich’in people strong and arguably sustained their ‘nativeness’, in lieu of white settlers assuming that identity (Chircel 2011). Indeed, the rhetoric of frontier and settlement is different in Alaska than it is in the lower 48, a continual allusion to the wilderness and ‘strangeness’ of Alaska (Ongtooguk 1990, Banerjee 2012). However, while the terrain and climate of the Arctic Circle have
contributed to slower settlement patterns, the Gwich’in people today do not operate in isolation from the federal government or white settlers. Regular surveillance of fishing patterns, federal control of land, water and social services, and the changing policies over the Porcupine caribou migration cycles reveal a concentrated interference in Gwich’in everyday practices. Unlike the Zomia of Scott’s work, these colonized spaces are not ‘un-administered.’ They are in fact, highly regulated zones of movement and access. However, these spaces do correspond to Scott’s non-state spaces in resistance to a state of hegemonic ‘standardized institutional models’ (2009: 324). These ‘non-state’ nations are nations, internally recognized as peoples with inherent claims to their traditional geography.

**Authority**

Authority is a type of power. Specifically, authority is a claim to legitimacy in a polity via governance or collective sanction, which determines the limits of its exercise. Max Weber (1922) wrote that authority (or as he called it ‘domination’) is the ‘chance of commands’ being obeyed by a group of people. In his analysis of sovereignty and the ‘state of exception’, Giorgio Agamben (2005) finds that the growth of executive authority is ‘a threshold of indeterminacy between democracy and absolutism.’ Agamben further argues that authority can be exploited in democratic societies when a ‘crisis’ is determined. The result is that people will comply with increasingly more exercises of executive authority to achieve an illusion of security. This extreme form of authority is relevant to the discussion here in that authority can lead to the corrupt use of that power. Historically, the U.S. government and other state agencies have exercised authority in order to co-opt Native leaders and perpetuate colonial policies, often in the guise of supporting the Native community.

For the Gwich’in, authority has similarities and differences to these systems. Comparative to both Weber’s and Agamben’s theories, Gwich’in authority is derived from communal legitimacy. Yet, with a diverse network of committees, organizations and collaborations and the geographical distance between the 15 villages, the Gwich’in Nation has a more diffuse system of authority. Presenting its own challenges, this type of authority is more circular than chainlike, as input from the community is directly relayed to spokespersons who in turn report their progress back to the communities. These community reports can be debated and reassessed during national meetings like the Gwich’in Gathering or smaller village meetings. This direct accountability, which can result in rapid leadership changes, differs from the more detached models presented in Weber’s and Agamben’s works. J. Rappaport (1994) argues that the understanding of ‘authority’ in Native practices means that speakers must have the permission (communally given or obtained from either circumstance or other previously sanctioned authorities) to speak as well as the ability and need/occasion to do so. There is a ‘rank’ to authority because that person is chosen by the community, but that selection is also opportunity-based. The spokesperson is chosen for specific events to speak—not always. Thus, for Rappaport and in the Gwich’in events I have observed, certain people are selected to speak but that is based on context as much as title. For example, Chief Eddie Alexander will speak for his village in issues between the federal government and his constituency; whereas Princess Lucaj represents all of the Gwich’in Nation but only in issues directly related to the protecting the Porcupine caribou. Although the Gwich’in people number approximately 7,000 people (Wallace 2005), they regularly use public spaces to mobilize their national interests and articulate their rights to traditional life ways—in each instance, a process of determining and regulating authority is necessary.
Spatial Representation and Intergenerational Memory

Spatial representation in Native epistemology is a narrative of geographic-human-animal relationships and the medium of communicating that representation is routinely transmission through a song, a dance, a map, a quilt, a painting, though other forms such as writing can also be used (Basso 1996, Brody 1997, Sparke 1998, Borrows 2002, Colwell-Chanthaphonh 2006). For Indigenous nations, spatial representation or some form of mapping has been an increasingly relevant issue to substantiate land and title claims in courtrooms (settler state and international) around the world (Willems-Braun 1997, Sparke 1998, Borrows 2002, Enote and Bryan 2007, Wainwright and Bryan 2009). These forms of representation are based on community cultural memory or ‘intergenerational memory’ held by elders through cultural values, stories of land use and sacred practices. When delivering testimony in court to support their claims, Indigenous people have to confront a system that perceives of time/space differently and regards Native narratives as mendacious, mythical or simply out of touch. Here the settler state and non-state nation are in direct contest, and Indigenous nations who appeal to western style courts to substantiate their claims to environment and heritage must negotiate a stacked system. As Chief Satsan, one of the Wet’suwet’en chiefs in the 1997 Delgamuukw v. British Columbia case, said when presenting Indigenous spatial knowledge to an antagonistic court (Satsan 1992:55):

A criticism we had to take was that we were entering a game in which we had no involvement whatsoever with the putting together of that game, the making of the rules, in the appointment of the referees and umpires…So we chose instead to challenge the whole bloody game, to say that the game is wrong, to say we don’t agree with your referee and your umpire. This is a fixed game. We want to see a change.

Chief Satsan’s words reveal the fundamental struggle for Indigenous people using a settler state court—the game is rigged, but it is also the only game in town. Like issues of authority in Indigenous communities, collective histories and spatial narratives are complex. For many communities, court battles coincide with internal debates on whether to reveal insider knowledge to prove land title and verify histories. By looking at how authority and memory are built and shared internally in a Native community and, subsequently, how the resulting form can be presented to a western style court is an effort to produce a process of internal authentication within an Indigenous nation for community self-evidence. Biases and challenges to oral testimony and Indigenous space bring us to the need for self-evidentiary processes.

Purpose

As discussed, western theories of sovereignty in geographic scholarship revolve around the theoretical work of Giorgio Agamben (1998, 2003) and Michel Foucault (1980, 2004), as well as Stuart Elden (2006), Derek Gregory (2007) and Judith Butler (2004). The material practices of space and power in North American-based Indigeneity however, are virtually absent in these debates, despite the fact that the legal system is teeming with cases on sovereign Native claims and non-state governance has been sustained since pre-colonial contact (Getches, Wilkinson and Williams 2005, Anaya 2009). This dissertation responds to the void created by the absence of Native understandings in this literature, by focusing on
the actual practice of sovereignty in a specific non-state nation as it interacts with state-based institutions and physical environments. The aim is to enable a confrontation between Indigenous and western theories that challenges the latter’s ability to account for and respond adequately to the former’s alternative formulations.

Significantly, the Gwich’in case contributes to an emerging debate around non-state governance that is refusing the adequacy of orthodox understandings in a globalized world. Thus, this work is directly relevant to the myriad reformulations of sovereignty being advanced today including the notion of sovereignty as contingent (Elden 2006), concurrent between nations (Bruyneel 2007) and operating within overlapping jurisdictions (Appadurai 1996, Hansen and Stepputat 2007) and formulated in different ways among rapidly changing Indigenous political institutions around the world. This revolution in Indigenous politics is the result of a combination of efforts, including the passage of the United Nations Declaration on the Rights of Indigenous Peoples (2007), the 2008 state apologies to Aboriginal people for historical boarding school abuses in Australia and Canada (Waterstone and de Leeuw 2010), the 2009 constitutional reform efforts in Bolivia, and various rulings by the Inter-American Commission on Human Rights for North and South American-based indigenous nations (Anaya 2009). This dynamic climate of indigenous political activism around the world necessitates nuanced research on Native Nation (re)building (Jorgensen et al. 2007) in order to rethink how sovereignty has been sustained, altered, and deployed particularly with respect to other emerging and enduring governance bodies.

The Gwich’in Nation’s story is also compelling as a working government that is founded on relationships with each other, animals, the environment and outsiders to achieve yinjih, perfect harmony (Cornell et al. 1999, Fast 1995). The connections between the social/political life and cultural/physical environments is critical for the Gwich’in Nation, because the relationships between the Gwich’in people and their environments forms the basis of the Gwich’in worldview and the extent of their ‘national spaces’ (Deloria 2003, 2006, GSC 2005, 2010, Peter 2005). This style of governance built on yinjih is relevant for the globe as the effects of climate change impact the quality of life for different communities. The Gwich’in show how an arguably sustainable and equitable way can work—not as a universal model but as a context-based method.

Therefore, looking at alternative practices and philosophies of non-state governance and power through space has wide reaching implications for diverse political communities around the world. As discussed, not only is there a need for introducing more examples of alternative formulations from Indigenous nations into geographic scholarship on the state, there is legitimate cause to examine these practices in a rapidly changing world where vocalizations of self-determination and the desire for some political communities to operate outside the nation-state nexus is increasing. There is also an impetus for governments to embrace perspectives that consider the environment and human relationships as key to social and political life, and consider how a concept like yinjih can redirect public policy (over profit). The Gwich’in Nation study provides is not only an original conception of sustaining a peoplehood through historical waves of challenges, but a proactive assertion of relational power within multiple geographies.
Roadmap

This dissertation is composed of three separate journal articles: Appendix A) ‘Sovereignty Flows through the Threads of the Yukon River’; Appendix B) ‘Keeping Wild Alive? The Gwich’in Nation and the Artic National Wildlife Refuge’; and Appendix C) ‘Mapping Intergenerational Memories (Part I): Proving the Contemporary Truth of the Indigenous Past.’ The empirical work is based on a series of field visits in Gwich’in Country in the Arctic Circle (Gwichyaa Zee/Fort Yukon and Fairbanks) in Alaska, described in the methodology section in the articles and at the end of this dissertation. The first article Appendix A, addresses the conceptualization of Gwich’in sovereignty through their governance practices, highlighting the national summit or ‘the Gathering’ in June 2010, Gwichyaa Zee, Alaska. It details the practices that constitute that sovereignty as the Gwich’in confront increasing challenges to their autonomy and ability to live their lives through yinjib—which is a concept that supports collaboration and holds that people should not only exist in harmony with each other, but with the environment and animal life—as well as ta’ii or ‘the good way.’

The second article, Appendix B, examines a single event in Fairbanks, a public forum hosted by the U.S. Fish and Wildlife in which Gwich’in individuals and organizations, their allies and opponents debated the federal designation of the Arctic National Wildlife Refuge coastal plain as ‘wilderness’ and conversely, the calls to open the area to oil development. This work engages questions of authority and compares how both Gwich’in and Inupiat people have competing and complimentary claims for the same geography and how authority is implicated in their attempts to satisfy those claims.

Finally the third article, Appendix C, is a collaborative worth with Robert Hershey, Director of the Indigenous Peoples Law and Policy Law Clinic at the University of Arizona and Dr. Gillian Newell, an anthropologist based in Mexico. As a lead author, my contribution to this article was substantial: I researched the spatial and archival data, including many of the legal case and story vignettes, compiled the data and wrote numerous iterations to be reviewed by my co-authors. Our work is a multi-disciplinary examination of spatial representation, intergenerational memory (as community authority) and the disciplining context of the courtroom. How Indigenous nations negotiate legal discourse and an imperial legacy of map-making, territory and spatial context in order to argue land claims is the core of our discussion. Primarily, we argue for the development of an internal system in Indigenous communities to authenticate testimony that does not rely on third parties and that would be considered legitimate to settler state courtrooms.

Following is each article’s abstract:

Appendix A: Sovereignty Flows through the Threads of the Yukon River

The Gwich’in Nation is a ‘non-state’ nation scattered through 15 Arctic villages in both the U.S. and Canada. This article introduces the concept of a ‘non-state nation’ to analyze the governance practices of the Gwich’in people and examine an original conception of Indigenous sovereignty. Since the late 1990s, the Gwich’in people have reasserted their national identity through the biennial summit called the
Gathering, to mobilize protection for Izhik Gwats’an Gwandaii Goodlit ‘the sacred place where life begins’ or the coastal plain of the Arctic National Wildlife Refuge. This space is sacred to the Gwich’in because it is the nursing grounds for the Porcupine caribou who are a significant aspect of traditional Gwich’in life in food sustenance, culture, economy and national identity. The biennial meetings embody a process of national governance and result in resolutions shared to the U.S. and Canadian governments, and to the international community. Most significantly, however, the Gathering is a national summit for the Gwich’in people and uses traditional values and practices of consensus decision-making, full community participation, debate and diverse activities to assert their nationhood. Although their space is subject to U.S. and Canadian policies, the Gwich’in Nation articulates an understanding of sovereignty that is productive and resilient. Through their practices as a nation they defy the challenges of an international border, corporate oil interest to drill the coastal plain and a history of colonial policies to subdue their peoplehood.

Appendix B: Keeping Wild Alive? The Gwich’in Nation and the Artic National Wildlife Refuge

This article examines the debate over the wilderness designation of the Arctic National Wildlife Refuge (ANWR), part of U.S. domestic energy options. At issue is whether to continue to designate the Coastal Plain Study Area (CPSA) of the Refuge as ‘wilderness’ thereby allowing U.S. Fish and Wildlife Services to create a management plan in keeping with wilderness preservation, or to open this area to exploratory and seismic drilling. The pro-oil industry has asserted a discourse of ‘jobs for Alaskans’, while environmental lobbyists have venerated this area as unique on the planet in terms of biodiversity and beauty. Both groups have co-opted two Native Nations—the Gwich’in and the Inupiat—to substantiate their claims. From the lens of ‘authority’, this article examines the how the Gwich’in and to a lesser extent, the Inupiat people, reject the stereotypes placed on them by external agencies as either the ‘traditional, eco-Indian’ or the ‘modern pro-oil Indian’ and assert an Indigenous worldview in their claims over the space. At the same time, the Gwich’in and Inupiat use those external agencies for their own purposes. Neither Indigenous group is a pawn; both are politically savvy non-state nations who recognize the limitations of being an Indigenous entity in a settler state but also how to negotiate within that system for their own needs.

Appendix C: Mapping Intergenerational Memories (Part I): Proving the Contemporary Truth of the Indigenous Past

How Indigenous communities choose to represent spaces or spatial information is integral to constructing and archiving cultural memory, articulating current environmental use, and dealing with evidentiary issues for title or land claim cases. For Indigenous communities around the world, the legacy of Western (often, colonial) cartography and spatial theory is disconnected from the many distinct narratives of space (and time) in Native communities. Specifically in legal situations, this disconnect often reflects a power struggle between a Western, Cartesian division of space and time, and a relational, dynamic
capitulation of space and time by an Indigenous group. Indigenous communities attempting to utilize Western legal forums for recognition of their rights face evidentiary hurdles caused by the ethnocentrism inherently built into legal systems. Although exceptions exist to hearsay rules, which allow oral history to be admitted as evidence and are common in multiple jurisdictions, fact finders are not comfortable placing conclusive weight on intergenerational memories. This discomfort is based on Western society’s ideas about what constitutes reality and reliability and results in Indigenous communities being held to strictly Western and often overly lineal principles. Indigenous communities need concrete methods to bring their intergenerational memories into Western courtrooms and have lawyers and judges receive and understand these fully and from an Indigenous standpoint.
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METHODOLOGY

In this dissertation, I have employed an ethnographic method with an emphasis on participant observation, influenced by Indigenous research theories. In human geography, ethnography prioritizes participant observation (Herbert 2000) and as J. Eyles writes, ‘allows social order to be revealed’ through fieldwork (1988). Rather than approaching an event with a set of pre-determined categories, an ethnographic approach resists the schedule of fixed questions (seen in survey and interview methodology) and waits for the social order ‘to emerge from the field rather than be imposed on the field’ (Silverman 1985). Additionally, through my professional work at the Native Nations Institute at the University of Arizona (UA), collaborations with the Indigenous Peoples Law and Policy Program at UA and studies of Indigenous methodologies through the Department of American Indian Studies (UA), I sought an approach that acknowledges the pitfalls in conventional research between academic institutions and Native communities.

The legacy of exploitative research in Native nations around the world has been well documented and deconstructed, foremost by Vine Deloria, Jr. in his 1969 tome Caster Died for Your Sins. In Caster, Deloria argues that academic researchers (in this case, anthropologists) not only exploit Native people for their own careers but also are ‘behind each policy and program with which Indians are plagued.’ This anti-colonial critique of research has been an area of study and concern for several decades, but unfortunately research exploitation has continued in Indigenous communities around the world today. Examples include Huaorani blood sample purchases between Harvard University and Maxus Energy oil corporation in Ecuador; the abuse of Havasupai blood-testing in Arizona; the military mapping of the Bowman Expeditions 1 and 2 in Mexico; and the desire to patent Indigenous food sources like taro by the University of Hawaii (Ocean 2014, LaDuke 2012, AAG 2009). The reality of detrimental relationships between institutions of higher learning and Indigenous communities is a current headline and not a remnant of the past.

During my initial days of work with Gwich’in people in the Fort Yukon/Gwichyaa Zee community, I was told several stories of research abuse that had just occurred. One was a Ph.D. dissertation that had misrepresented the Gwich’in defense of the Arctic National Wildlife Refuge and another story from a Gwich’in graduate student who told me ‘Gwich’in people are too trusting. Be careful what you do and take.’ Throughout my experiences, I not only had to build trust but deal with suspicion because often non-Native researchers do not contribute positively to Indigenous groups they work with, despite the best of intentions.

A Dine (Navajo) elder once remarked to a research student who sought to work with him, ‘You’re my eighth dissertation, when am I finally going to get my PhD degree?’ (Austin, 2009). His quip dealt with a reality theorized by Vine Deloria, Jr. (1969) and Linda Tuhiiwai Smith (2006): Native and First Nations peoples are among the ‘most studied’ groups in the world, but what do they receive in exchange for what they give? Using ethnography, I wanted to hold my work accountable to an Indigenous research paradigm (Smith 2005, Tuhiiwai Smith 2006, and Byrd 2010) which is articulated as a form of ‘ceremony’ by Shawn Wilson (2008). Tuhiiwai Smith, Byrd, Smith and Wilson all separately argue for innovations in methodologies as more research is led by Native scholars and developed in collaboration between Indigenous and non-Indigenous organizations.
Chela Sandoval (2000), Chandra Mohanty (2003), Leanne Simpson (2004), Linda Tuhíwai Smith (2006) and Deborah Madsen (2007) all write that a fundamental problem in academic research is the default of applying western theoretical frameworks to Native work. Specifically, the actual work—be it the theoretical framing or analysis—reaffirms a colonial power dynamic through buttressing western knowledge regimes or reducing Indigenous people to ‘subjects’, not writer, theorist, or power holder. Or in the case of traditional knowledge of foodstuffs, plants and animals, Indigenous knowledge is collected by researchers and then either ‘sold’ back to communities through genetically engineering plants, dug up in the bones of ancestors, or resulted in moving people from their spaces after discovery of mineral deposits. Again, while these examples read as colonial history, Derrick Jensen (2013) and Winona LaDuke (2012) reveal numerous stories where, as Jensen writes, we are still inculcated in a ‘culture of plunder.’ The scientific or social ‘discoveries’ by the academic hegemony are ‘the fundamental ethos of this [mainstream] culture: the fulfillment of personal, social, and cultural dreams at the expense of all others…this culture considers actions that lead to the destruction of ancient ways as “rewarding finds”…’ (Jensen, 2013: 12). Franz Fanon also wrote of this culture of plunder: ‘The colonist makes history. His life is an epic, an odyssey’ (1963: 14). In many ways, as Smith argues too in her seminal work, Decolonizing Methodologies, anti-colonial research is work not possible for non-Native scholars. We are too steeped in our Euro-centric analytical traditions and theoretical training, when we hear a story we interpret the meaning from our own cultural pivots, and therefore lose much of the meaning.

However, Mohanty (2003) argues that the binary between ‘academy’ and ‘community’—which was instituted by a colonial, racialized power dynamic—is too simplistic and omits the reality of ‘third world scholars’ with a western education and the work they do bridging a ‘third space’ (Bhabha, 1994). Ella Shohat and Robert Stam (1994), and Keith Basso (1996) also argue against assumptions of this binary, because it inadvertently reifies power in the hands of the academy and fails to recognize the traction of Native theories and methods. A similar argument has been made by Native leaders in the Navajo and Menominee Nations, who have instituted strict research protocols and control research relationships between their community and outside researchers, as well as have established academic institution of their own (Navajo Nation 2014, College of Menominee Nation 2014). Projects like the Zuni Mapping Project led by Jim Enote [Zuni] with consultation from university geographer Joe Bryan, have designed geographic knowledge studies from within the community that recover lost knowledge and protect sacred information from outsiders—using both traditional artists and G.I.S. technology (Enote and Bryan 2007).

An academic power hierarchy can defeat a collaborative research process at the outset, as this perspective fails to acknowledge the roots of intellectual power within Indigenous communities. As Gerald Vizenor [Anishinaabe] argued, Native philosophies and narratives are the pre-post-modern, thus collapsing the divide between western tradition and Indigenous theories: ‘The postmodern opened in tribal imagination, oral cultures have never been without a postmodern condition that enlivens stories and ceremonies, or without trickster signatures and discourse on narrative chance—a comic utterance and adventure to be heard or read.’ (Vizenor 1993: x). Vizenor’s observations highlight how relationships of power and identity are nuanced due to Indigenous epistemological traditions of
deconstruction. In other words, a western academic analysis brings nothing new to Native peoples, and therefore both sides can entertain a complex collaboration without reducing Native people to mute ‘subjects’ and outside researchers as the ‘data analysis experts.’

Perhaps what is more effective than recapitulating the simplistic binary is going deeper and asking what is the goal of a research collaboration with an Indigenous community? Here is where the Indigenous emphasis on relationships creates an alternative methodology and one in synch with Native worldviews. Relationships, Wallace Coffey and Rebecca Tsosie (2001) argue, are critical to Indigenous manifestations of sovereignty. These relationships between human beings, the environment and non-human actors are central not only to traditional knowledge, but also in diverse Native philosophies and core values. These relationships constitute how a specific Indigenous nation operates within space, and how the roles and functions of each person are significant and affect the collective. A society built on a holistic conception of sovereignty then requires a knowledge/power dynamic that reflects those principles (Foucault 1980). Relational methods are critical to doing Indigenous research correctly, Shawn Wilson posits, by honoring models that are not Euro-centric, but based on a different conception of metaphysics and epistemology (2008). By treating ‘research as ceremony’, Wilson argues that ‘relational accountability’ is key to the Indigenous paradigm as a form of analysis. Orthodox academic work with Native communities has been problematic, not only in terms of data extraction and exploitation, but in failing to comprehend philosophical and cultural differences that assign different values to organizations, stories, language, law and geography than is understood by those of us trained in the hegemonic social sciences. Wilson’s work provides an original way to approach working with people and sharing knowledge and/or experiences. With this attitude of sharing and ceremony, Wilson recommends an approach of ‘heightened consciousness.’ Essentially, because research is ceremony, those of us participating should be approaching interviews or conversations as people partaking in a sacred trust.

For the fieldwork in Gwich’in country, I put these models in to practice. I prioritized relationship building in my research collaborations: doing more listening than talking, serving, planting and cleaning more than directing questions and giving monologues. I’ve had to rethink my language choices, my assumptions of ‘important questions’ and in many ways, submit the direction of exchange to the people who invited me to spend time with them. I was invited to attend the Gwich’in Gathering in 2010 via an introduction by Professor Stephen Cornell of the Udall Center for Studies in Public Policy and NNI to Luci Beach [Gwich’in] who was at that time the director of the Gwich’in Steering Committee (GSC). This invitation alone was an effective way to enter the community, coming from pre-established positive relationships in order to form some of my own. The following table shares the timeline and breadth of my research relationships and sites.
Table 1. Dissertation Field Research

<table>
<thead>
<tr>
<th>Date</th>
<th>Location</th>
<th>Participants</th>
<th>Research Tool</th>
</tr>
</thead>
<tbody>
<tr>
<td>January-May 2010</td>
<td>Email</td>
<td>Luci Beach, Gwich’in Steering Committee (GSC)</td>
<td>Correspondence</td>
</tr>
<tr>
<td>July 2010</td>
<td>Fairbanks, AK</td>
<td>Luci Beach, GSC, Jenna Hertz, Northern Alaska Environmental Center (NAEC) Pam Miller, NAEC</td>
<td>One-on-one interviews</td>
</tr>
<tr>
<td>July 2010</td>
<td>Fort Yukon/Gwichyaa Zee, AK</td>
<td>Luci Beach, GSC, Sarah James, GSC, Jenna Hertz, NAEC Pam Miller, NAEC Gathering Participants: Velma Wallis, Mardow Solomon, Chief Joe Linklater, Miho Aida, Pam Miller, Dacho Alexander, Eddie Alexander, Chief Clarence Alexander, Faith Gimbel, among many others.</td>
<td>Participant observation; One-on-one interviews</td>
</tr>
<tr>
<td>October-November 2011</td>
<td>Fairbanks, AK</td>
<td>Don Chircel, Tanana Chiefs Conference (TCC) Donielle Carroll, GSC Jenna hertz, NAEC Pam Miller, NAEC Luci Beach Marilyn Savage Matthew Gilbert</td>
<td>Participant observation; One-on-one interviews</td>
</tr>
<tr>
<td>October-November 2011</td>
<td>Fort Yukon/Gwichyaa Zee, AK</td>
<td>Gwichyaa Zee Tribal Government including the Environmental Office, the Housing Authority, Public Relations and Elders</td>
<td>Participant observation; One-on-one interviews</td>
</tr>
<tr>
<td>Concurrent</td>
<td>Cell Phone/ Email/Post</td>
<td>Luci Beach Jenna Hertz, NAEC</td>
<td>Correspondence</td>
</tr>
</tbody>
</table>

For the July 2010 gathering, I flew into Fairbanks, AK and stayed there only a few nights prior to the Gathering and one night post. Primarily, I was based in Fort Yukon/Gwichyaa Zee (Figure 1) on the banks of the Yukon River in a one-woman tent, in an area close to both Pat Stanley’s and Dacho Alexander’s properties. Due to that proximity, I was able to get to know Pat, Dacho and his brother Eddie in a more informal setting, than simply in the Gathering meetings and they shared some lovely vignettes about life in Gwichyaa Zee.
Access to Gwichyaa Zee/Fort Yukon is on 10-seater plane and flights during the Gathering were scheduled from 8am to 6pm, every hour or so leaving from Fairbanks. At the 2010 Gathering, I met hundreds of Gwich’in people who participated in the social and political events. Many of those people were whom I served food, shared laughs and participated in the meeting events—experiences that comprise part of the ethnographic experience. However, in terms of actual people I had conversations with in 2010, the participants numbered 25-35 (Table 1 designates core interview participants).

During the 2011 follow-up field trip, I based my field study in Fairbanks, in order to meet with representatives of the many Gwich’in and environmental organizations, attend the public hearing on the Arctic National Wildlife refuge (ANWR), as well as spend time with Gwich’in people living and working in Fairbanks. During this time, travel to the villages is more complicated based on seasonal weather conditions in the Arctic Circle and on my first journey north my plane was grounded. Fortunately, I was finally able to spend a few days in Fort Yukon, meeting with key Gwichyaa Zee government employees and village elders in the tribal headquarters. The number of interviewees during this trip was approximately 15-20 people between both Fairbanks and Gwichyaa Zee, with in-depth meetings including several dinner conversations. In attendance at the public hearing on October 19 in Fairbanks were several hundred individuals, and I did follow up interviews with about ten people.

After the two-week participation in the 2010 Gathering, I continued communicating with Luci Beach via email and held a second round of fieldwork in October-November 2011. We met in Fairbanks several times for conversations and meals, and after I left in November 2011, we maintained our friendship through texting throughout the writing process. This ‘relational accountability’ as Wilson would call it, became the lifeblood of my dissertation. One of our text conversations in the summer of 2013 has been critical.
inspiration to me while writing. I want to share an excerpt here, because I think Luci succinctly captures Indigenous struggles today:

**Luci:** I’m going to teach a class on how to oppress Alaska Natives since I’ve been given lessons for so long. I had a dream…

**Jen:** I don’t know whether to laugh at your amazing wit or cry with the truth of it…

**Luci:** I’m doing both especially since we are now the oppressors. I think it'll be a money-maker like Trump University. First I’ll invite the Alaska Native corpse.

Luci’s words are dark and poignant, and point to several aspects of this dissertation. Significantly, she critiques the relationship between the academy and Indigenous peoples, by using the metaphor of classes and university in Indigenous oppression. Citing the Alaska Native corpse, she deconstructs the legacy of dehumanizing research and the objectification of Native bodies for study. And she takes Mohanty’s (2003) argument one step further by writing of the complicity of Native people in oppressions which in many ways is an indictment on Alaska Native corporations like Doyon, Limited who seek to sell sacred lands to oil developers and change Gwich’in culture from a caribou and salmon social economy to oil wage laborers. This is a critique of how authority is determined for Indigenous cultures and how complicit Indigenous actors can be with the mainstream culture. She deals with the corporate structures that plague both university and community life, in her citing of Trump University and how knowledge is a construction of power holders ala Foucault. She confronts her frustration after years of work with the ANWR struggle, that the argument for Gwich’in sovereignty and human rights is not compelling enough to stop the oil development inertia.

Finally, Luci’s words point me back to my other question, what is the goal of a research collaboration between a Ph.D. student and an Indigenous community? Research attempts to make a difference, to illuminate a facet of society or question a practice or develop new theory. In this work I share stories that contribute to ideas about non-state nations, Indigenous governance in the settler state, and power—whether it be spatial seen in sovereignty issues, or through representation and authority in public hearings and courtroom maps. The Gwich’in Nation has sustained their governance through colonial policy, maintaining many traditions and updating many other practices to approach modern problems. Their ability to assert an alternative polity, mobilize thousands of people across an international border and dispersed in isolated terrain provides an original case for political geographers. This collaboration then is about ascertaining what is working for the Gwich’in, why it does work and how their system celebrates inherent sovereignty for Indigenous peoples. Gwich’in nationhood is not a prescription for other nations, Indigenous or not, because it is specific to their core values and life ways derived directly from their geography. But Gwich’in nationhood is a compelling example for politics that is productive, built by full community participation and moving towards sustainable relationships with the environment, animals and other humans. In this is a relevant story for scholars and practitioners.
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APPENDIX A

Sovereignty Flows through the Threads of the Yukon River

Abstract

The Gwich’in Nation is a ‘non-state’ nation scattered through 15 Arctic villages in both the U.S. and Canada. This article introduces the concept of a ‘non-state nation’ to analyze the governance practices of the Gwich’in people and examine an original conception of Indigenous sovereignty. Since the late 1990s, the Gwich’in people have reasserted their national identity through the biennial summit called the Gathering, to mobilize protection for Izhik Gwats’an Gwandaii Goodlit ‘the sacred place where life begins’ or the coastal plain of the Arctic National Wildlife Refuge. This space is sacred to the Gwich’in because it is the nursing grounds for the Porcupine caribou who are a significant aspect of traditional Gwich’in life in food sustenance, culture, economy and national identity. The biennial meetings embody a process of national governance and result in resolutions shared to the U.S. and Canadian governments, and to the international community. Most significantly, however, the Gathering is a national summit for the Gwich’in people and uses traditional values and practices of consensus decision-making, full community participation, debate and diverse activities to assert their nationhood. Although their space is subject to U.S. and Canadian policies, the Gwich’in Nation articulates an understanding of sovereignty that is productive and resilient. Through their practices as a nation they defy the challenges of an international border, corporate oil interest to drill the coastal plain and a history of colonial policies to subdue their peoplehood.

Key Words

Gwich’in
non-state nation
sovereignty
indigenous
Arctic

Proposed Journal: Political Geography

Introduction

On a November morning in Fort Yukon, Alaska, I negotiated with a Gwich’in geographer for dry smoked salmon. He worked in the Environmental Management office of the Gwichyaa Zee government, and like many Gwich’in people was a salmon fisherman (McCormack 2011). I pleaded and coaxed my way through bargaining, but he was resolute:

‘Sorry but that’s not going to happen. The salmon harvest was lower than we hoped for this year.’

‘Oh no, why is that? I wanted to score some salmon sticks and bring them home to Tucson. They are my candy.’

‘You and me both. Everyone here in Fort Yukon is wanting them. Good luck. Our grandmas have the lock down on the precious goods,’ he winked at me. ‘And there’s a couple of reasons for the low yield. The river was low this summer and the upstream fishing is grabbing all the salmon. The feds have us down river on a time of day limit, not a
maximum yield limit. And because the river is low, the salmon are moving through the threads of river and hard to fish.’

‘So both a space and time limit…wait, the Yukon is threaded? What do you mean?’

‘Yep,’ the Gwich’in geographer pointed to a detailed map of the Yukon River. ‘Look, see how up river the Yukon is one thick line, but as it comes down to Fort Yukon it threads out into all these different banks and byways?’

‘And the fish follow those lines and avoid the salmon wheels? Smart fish. But tough for us salmon-loving humans (Figure 1).’

‘Can you renegotiate with the feds to change the limits?’

The Gwich’in geographer smiled at me and laughed. I laughed too, for I had heard many stories of Gwich’in fishermen and the U.S. Fish and Wildlife Service (FWS) going mano-a-mano over river jurisdiction and salmon fishing.

The FWS is just one federal agency that the fifteen villages of the Gwich’in Nation work with on a regular basis to negotiate environmental jurisdiction. Issues of jurisdiction directly impact the Gwich’in social economy and lifestyle practices which are dependent on Yukon salmon, the Porcupine caribou and the sacredness of large tracts of Artic land. As the Gwich’in geographer explained to me, the Yukon River has a unique geography with its threaded banks allowing salmon to navigate away from traditional fishing wheels (see Figure 1). This has always been a challenge to Gwich’in fishermen, but the overlapping jurisdiction introduces a human barrier to Gwich’in livelihoods. This barrier is one the Gwich’in continuously fight—by negotiating with federal and state offices through some of their inter-village councils and by mobilizing their people to support fishermen who fish outside federal and state law. Through this stance, the Gwich’in people act as a nation. They focus their energies around the protection of their way of life, in this case salmon fishing, and over their traditional geography, the Yukon River. As will be discussed, the Gwich’in people sustain an Indigenous government in their ancestral homelands, neither as a reaction to nor a consequence of U.S. and Canadian colonial settlement. By drawing from core Gwich’in values, their relationships with each other, animals and the environment, I argue that the Gwich’in practice a form of sovereignty that is original, inherent and contemporary.
Gwich’in sovereignty is embodied in a national system of collective economy and traditional governance, distinct to each of the 15 villages located within the Arctic Circle on the U.S.-Canadian border (Figure 2). In this article, I aim to expand conventional understandings of sovereignty (Foucault 1980, 2004; Agamben 1998, 2003; Agnew 2005; Elden 2006) through an examination of the unique model of Gwich’in governance. To distinguish between these two complex terms—sovereignty and governance—I use the contributions of Indigenous scholars Wallace Coffey [Comanche] and Rebecca Tsosie [Navajo] (2001). Coffey and Tsosie destabilize the notion that sovereignty is territorial and contingent on U.S. federal law, which is an external framing of Indigenous power they call ‘political sovereignty’ (2001: 192). Instead, they argue inherent sovereignty is ‘cultural sovereignty’ (2001: 196-199) articulated from within an Indigenous nation, built on self-recognition, relationships, respect, continuity through generations and internal definitions of autonomy. This definition of cultural sovereignty informs my analysis of Gwich’in sovereignty in the following sections, as I discuss internal recognition, relationships with other humans and the environment, and the multi-generational scope of the Gwich’in people. Governance, by contrast, is comprised of the tools and practices of a people who self-identify as a nation (Deloria 1997) and operate as a collective political power and for the Gwich’in territory, a sacred geography (Figure 2). How they do what they do constitutes their governance and by drawing from their shared ideas of cultural sovereignty, they formulate material practices of self-government. The Gwich’in Nation is not a state structure but what I call, a ‘non-state’ nation (to be expanded on in the next section). Like many other

1 Traditional Gwich’in salmon wheels are placed in the river for salmon to swim through and get caught. The wheels and net are constructed in order to only catch adult salmon, immature fish are able to swim out.
2 This is a very hot issue in Alaska and was the subject of numerous conversations, especially during my second field visit in October-November 2011. The Alaska Native Corporations were hosting their annual conference in Anchorage and a diverse group of Alaska Natives—Gwich’in, Inupiat, etc.—protested the event. Their argument was that the Alaska Native Corporations like Doyon and Arctic Slope have assumed a reach of power outside their purview, and federal agencies and private companies (ignorant to the political and economic organization of Alaska Native life), explicitly and inadvertently use the corporate entities as the official voices for Alaska Native peoples. Why is this particularly galling, is corporate officers are not elected and therefore have no local accountability with a specific village council, leader, elders’ group, etc. Don Chiricel, of the Tanana Chiefs Conference, also argued this was a volatile situation and shared a document from a federal agency that listed Alaska Native representation randomly with some corporations, one or two villages
Indigenous peoples, their nations have been absorbed into the settler state structures. I argue, along with other native scholars, that Gwich’in sovereignty is inherent and through the internal recognition of their nationhood, they govern themselves based on equitable land-human-animal relationships and a process of collective decision-making embodying what the Gwich’in call, *yinjih* (perfect harmony) and *ta’ii* or ‘the good way.’

Figure 2. The Map of the Gwich’in Nation (GSC 2013)

The ‘Non State’ Nation, Governance and Sovereignty

In this article, I examine the concept of sovereignty practiced by what I term a ‘non-state nation’—a political entity that self-identifies, governs and represents itself as a nation both internally and internationally. A ‘non-state nation’ is not recognized as a nation-state in the international legal sense, and while many Indigenous nations issue their own passports, sustain treaties and maintain distinct borders, they are not included in the traditional international state system (Starks, McCormack and Cornell 2011). James Anaya (2009), however, argues that Indigenous nations are unique in international politics and law because they are able to assert their sovereignty as a nation with a notion of collective rights outside the state praxis. Since the early 20th century, Indigenous peoples have contributed to the development of international human rights. By sidestepping the ‘individual-state’ dichotomy in international legal forums, leaders like Willie Littlechild and other elders made arguments for collective rights, recognized by the international system (Anaya 2009: 6). By moving beyond the ‘state’ as the final authority, Indigenous nations not only alert other entities of their self-determination but also undermine the primacy of the state as the main global actor. Arguably corporations, NGOs and other non-state actors deeply shape and direct global politics, economy and law, and in this climate, Indigenous nations have strategically hewn a space for action, identity and collective power.
In my research, I found that the Gwich’in Nation is sovereign not in reaction to the existence of formal nation-states but because the Gwich’in people’s self-governance precedes the introduction of the Western nation-state system. Their governance practices rest on distinct values, laws and environmental relationships. The Gwich’in have practiced sovereignty, despite a legacy of colonial and racist policies emanating from the U.S. and Canadian federal governments. Today, many Gwich’in mobilize their nationhood around specific environmental concerns, namely the Porcupine caribou nursing habitats in the Arctic National Wildlife Refuge, as well as maintaining their traditional economies of fishing Yukon River salmon, hunting and timber harvesting. Dealing with internal disagreements—such as the conflicting goals with Doyon, Limited, the Gwich’in Native corporation established after the passage of the 1971 Alaska Native Claims Settlement Act (which will be discussed subsequently)—and Gwich’in shareholders, the Gwich’in have developed a pragmatic governance model that is firmly rooted in traditional values but speaks to their everyday political issues. Perhaps most importantly, Gwich’in governance provides a salient alternative to the nation-state and to the settler state apparatus in which most Indigenous nations around the world continue to operate.

The Problematic Absence of Indigenous Sovereignty

Western theories of sovereignty are circulated widely in geographic scholarship and revolve most frequently around the theoretical work of Giorgio Agamben (1998, 2003), Michel Foucault (1980, 2004), and Judith Butler (2004). These treatments of sovereignty are extended by others including Stuart Elden (2006), Derek Gregory (2007) and John Agnew (1995, 2005). The material practices of space and power in North American-based Indigeneity however, are virtually absent in these debates (Simpson 2004), despite the fact that the legal system is teeming with cases on sovereign Native claims (Getches, Wilkinson and Williams 2005, Anaya 2009). This article responds to the void in this literature, by focusing on the actual practices of sovereignty in a particular place as it interacts with state-based institutions and physical environments.

Significantly, the Gwich’in case contributes to an emerging debate around sovereignty that is refusing the adequacy of its orthodox understandings in a globalized world. Thus, this work is directly relevant to the myriad reformulations of sovereignty being advanced today including the notion of sovereignty as contingent (Elden 2006), concurrent between nations (Bruyneel 2007) and operating within overlapping jurisdictions (Appadurai 1996, Castells 1997, Hansen and Stepputat 2007), and formulated in different ways among rapidly changing Indigenous political institutions around the world.

The Gwich’in case is also relevant to the new canon of literature theorizing the ‘settler state’ as a unique political apparatus and how Indigenous peoples position themselves as nations within this polity (Simpson 2004, Smith 2010, Cornell 2011, Veracini 2011, Wolfe 2013, Mikdashi 2013). This revolution in Indigenous politics is the result of a combination of efforts, including the passage of the United Nations Declaration on the Rights of Indigenous Peoples (2007), the 2008 state apologies to Aboriginal people for historical boarding school abuses in Australia and Canada (Waterstone and de Leeuw 2010), the 2009 constitutional reform efforts in Bolivia, and various rulings by the Inter-American Commission on Human Rights for North and South American-based Indigenous nations (Anaya 2009). The 2013-2014 political movements protesting the Keystone Pipeline XL and the First Nations-based
'Idle No More Movement' have also contributed to a global recognition of the rights of Indigenous people to resist corporations and federal policies of development on their land and resources. This dynamic climate of Indigenous political activism necessitates nuanced research on Native Nation rebuilding (Jorgensen et al. 2007, Cornell and Kalt et al., 2008) in order to reconsider not only how sovereignty has been sustained, but also how it might be altered and deployed particularly with respect to non-orthodox governance bodies.

Alaska Native Indigenous Sovereignty


‘The political realities confronting Alaska Native are fundamentally different from those confronting other American Indians. This isn’t broadly recognized; few individuals understand our politics…Alaska Natives, unlike Natives in the lower 48 states, never signed treaties with the federal government directly…Our relationship has been defined, instead, through the court and legislative acts, such as the Indian Self-Determination Act…the Alaska Native Claims Settlement Act (ANSCA) and the Alaska National Interest Lands Conservation Act.’

Sovereignty for Native Nations in Alaska has not been analyzed in as much depth as that for Nations in the lower 48 states who have their own unique legal and geographical challenges. In order to understand how the Gwich’in express their nationhood, the particular context of Alaska requires consideration. Fundamentally, as Willie Kasayulie expressed, few Alaskan Native Nations signed treaties with the U.S. because just as the U.S. was acquiring Alaskan territory (1867), it was also ending the treaty process with Native people (1871). Few reserves and reservations were established and all that existed in the Alaska were closed (with the exception of Annette Island Reserve of Tsimshian) in 1971 through the Alaska Native Claims Settlement Act (ANSCA).

At the time of ANSCA’s passage, oil corporations and other developers were carving up Alaska. ANCSA legislated separate land areas for Native peoples, but also introduced policies of socio-economic consolidation/assimilation. ANSCA attempted to treat Native claims differently from the lower 48, due to the lack of a historical treaty process and the absence of a reservation system. Native peoples’ claims were negotiated through ANSCA, which among other policies divided the geography of Alaska into Native corporations. Although owned and run by Native people, these corporations were not intended to be political entities and were not based on traditional culture or notions of collective economy. The corporations are for-profit enterprises and run as businesses pursuant to Alaska state law, controlled by Native share-holding individuals (not villages or tribes for collective interests). The Alaska Business Corporation Act can ‘require the profit corporations to use their best efforts to make a profit.’ (Cornell et al., 1999: 25) For many Native Alaskans, the corporations had little cultural resonance and introduced a rigorous form of capitalism in communities that were/are still supported through subsistence economies of hunting, fishing and local food sources. These local economies are built on principles of basic subsistence and not excess profits and diffuse labor networks. As Cornell et al. (1999) write, the corporate model can be limiting to the subsistence-based communities as the institutional framework because a corporation is so different from traditional socio-economic models. Specifically, Gwich’in people hunt and fish for themselves and members
of the community who can’t take for themselves (Savage 2008, James 2010). A corporate structure, which is comparatively disconnected from local needs and has an emphasis on profits is a foreign system. Through time, the corporations have been able to generate economic activity in many villages and invest in development for community members. However, the corporate system has been mistaken as the political authority over villages by some federal agencies and policy makers. Viewing the corporate leaders as political leaders has created deep divisions in Native communities across Alaska.

Significantly, the corporations are an accessible network for industry, such as oil companies, where one Native corporation is pitted against another in land and possession rights. For example, both the Gwich’in and Inupiat Nations have legitimate claims in the coastal plain. Arctic Slope Regional Corporation represents the Inupiat interests, and the equivalent Gwich’in corporation is Doyon, Limited. Both Arctic Slope and Doyon assert possession rights over the space and the lucrative oil industry developments. At the same time, Inupiat and Gwich’in individuals often disagree with decisions of the corporate officers, despite the fact that many are shareholders. Within Native Alaska the corporations are a source of conflict for family members, because as Donnell Carroll (GSC) shared: ‘Part of my family sits on the Doyon board.’ While Carroll works with the Gwich’in Steering Committee whose mission is to prevent oil development in ANWR, Doyon supports corporate interests there.

Former Gwich’in Chief Dacho Alexander made the distinction between Doyon and Gwich’in governance:

‘Doyon is not a tribal association. They’re not even a Native association. Doyon is a corporation, just like Exxon Mobil, just like BP, just like Dow Corning, just like every other corporation out there whose best interest is profit…They are no longer a Native corporation. And now they are selling you out’ (Alexander 2012: 470).

Like Alexander, Gideon James of Arctic Village has argued against the corporate values in Gwich’in country. Instead, he sees the strength in traditional models: ‘[C]ultural change or western influence is too harsh! We need to turn it around through directly consulting with the leadership and knowledgeable elders’ (Fast 1995: 46). The villages, such as Fort Yukon, actually maintain the political leadership over their people, despite the corporate organizations. This political leadership is a push-pull relationship between Doyon and the Gwich’in villages. In these battles, an identity of nationhood as possessed by the Gwich’in people has come to be a powerful force to counter corporate organization.

Project Methodology

The method employed in this research is an ethnography informed by an approach to fieldwork theorized by Shawn Wilson [Cree] as ‘relational accountability’ (2008). I selected this approach in order to collaborate with and analyze the experiences of the Gwich’in Gathering in 2010; conduct follow-up field work in Fairbanks and Gwichya Zee in 2011; and maintain close relationships with several Gwich’in people throughout the writing process.
Ethnography in human geography prioritizes participant observation (Herbert 2000) and as J. Eyles writes, ‘allows social order to be revealed’ through fieldwork (1988). Rather than approaching an event or in this case, a gathering of people, to be analyzed against a set of pre-determined categories, an ethnographic approach resists the schedule of fixed questions (seen in survey and interview methodology) and waits for the social order ‘to emerge from the field rather than be imposed on the field’ (Silverman 1985). The style of the Gwich’in Gathering necessitated an ethnographic direction, over interviews in that each conversation I had was different, and led by the speaker not myself. While the content was consistent including different details of the Gathering and how people identified as Gwich’in, their answers were not drawn from a set of identical questions. I attended every open session, policy discussion and social event of the Gathering. Thus information came from varied sources and in what Greg Sarris [Kashaya Pomo and Miwok] writes is, a multitude of voices (1993). The different voices produce a space for dissonance, divergence and anecdotal data sharing, a perspective Sarris derived from Russian literary theorist Mikhail Bakhtin (1981) and the traditions of Indigenous storytelling. And in the multitude of voices, these are stories of people who see themselves as a nation—complex, distinct and very real.

Corresponding to an ethnography of multiple voices, the ‘relational accountability’ proposed by Shawn Wilson, is part of a theory that understands ‘research as ceremony.’ This approach is an attempt to change empirical research in Indigenous communities from an extractive process, to a collaboration where all the parties have acknowledged accountability. Ethnography with ‘relational accountability’ then requires continual communication from my end in the writing and dissemination process, and sharing regularly with my Gwich’in hosts.

Through direct and invited participation in the Gathering and sustained communication with the Gwich’in Nation over a three-year period, I have been able to observe and discuss with my research collaborators a unique form of governance. As they have allowed me to participate in their everyday activities, I argue for what I see is self-organized sovereignty in action, and I will return those observations to them so they may review my analysis.

**Gwich’in Governance: The Gathering, Yinjih (Harmony) and T’aii (the Good Way)**

How does the Gwich’in Nation govern itself and how does this form of governance support inherent sovereignty? I pursue these two general research questions by attention to three particular, empirically oriented ones.

1) Who governs this nation and how?
2) How are different constituencies included in Gwich’in governance and how are their needs and positions represented?
3) What ethic is at the center of Gwich’in governance?

By framing the empirical data around these questions, I hope to do several things. One, because I argue the Gwich’in engage in consensus-based decision-making, it is critical to look at how participatory that process actually is, and what everyday decision-making for the Gwich’in entails. Second, by asking how different perspectives and constituencies are represented, I explore how inclusive Gwich’in governance is/not and what mechanisms exist for dissension, and/or how pervasive a certain agenda may be. The Gwich’in are a nation
and one with a strong political presence to outsiders. Is that position absorbed or debated in governing processes? Finally, by examining the ethical foundation, I hope to share how the Gwich’in base their governance on core values outside a western ethos, and how they have maintained Gwich’in philosophy, despite centuries of colonial policies and acculturation.

The Gwich’in and Their Gathering

Gwich’in national identity is sustained through convening every two years with all 15 villages and urban Gwich’in residents in attendance at the Gwich’in socio-political event called ‘the Gathering.’ The Gwich’in Gathering is part family reunion and part governance summit. A week-long meeting, the Gathering began in the late 1980s through the urging of Gwich’in elder Myra ‘Choo’ Kyikavichik. She and elders from throughout the 15 villages expressed concern over potential oil development in the Arctic National Wildlife Refuge (ANWR). At this time, there was no consensus among the Gwich’in on proposed oil drilling. For some Gwich’in individuals and stakeholders in Doyon, Limited oil drilling was/is a pragmatic economic opportunity, but not surprisingly it is also a contentious issue.

Kyikavichik has argued that the short-term economic benefits of oil industry jobs would undercut long-term sustainability and more importantly, endanger the Porcupine caribou, which would erode Gwich’in culture. This caribou culture, she and other elders argue, is key to the Gwich’in identity as a nation. In Gwich’in origin stories, the people are created from the caribou and both human and caribou retain a part of each other’s heart. As Jonathon Solomon, former Chairman of the Gwich’in Steering Committee, said: ‘It is our belief that the future of the Gwich’in and the caribou are the same. We cannot stand by and let them sell our children’s heritage to the oil companies.’ At the close of the first Gathering in 1988, the elders issued a statement that they had ‘gathered together for the first time in 100 years to issue a declaration prohibiting development in the calving and post-calving grounds of the Porcupine caribou herd’ (Gwich’in Elders 1988: npn).

The diverse Gwich’in communities created the Gwich’in Steering Committee (GSC) to represent the Gwich’in Nation in the ANWR debates and to educate the people ‘in the good way’, appointing representatives from each region to serve on the GSC. The ‘good way’ is t‘aii, ‘the object of t‘aii encourages the individual to relate in perfect harmony (yinjih) to the world around him or herself…t‘aii embodies skills and moral values which people inherit from their ancestors, including skills to think.’ T‘aii also represents the source of energy or force which connects all living things and non-living things to each other” (Fast 1995: 57-59). This ethic of care between humans, animals and environment is central to the way the Gwich’in Nation governs itself and interacts with external entities, and it is a belief system that is taught by elders to young people. T‘aii is distinctly Gwich’in, as activist Marilyn Savage said: ‘There’s a feeling and you know in your heart by dreams and thinking that this is all what it means.’ (Fast 1995: 57).

Since 1988, a different village hosts the summit alternating between the Canadian and U.S.-based communities. The mobility of the Gathering emphasizes Gwich’in relationships to a large traditional geography and an Indigenous political landscape. There is no single ‘Gwich’in capital’; instead every part of the environment has resonance between animal, plant and human life and many spaces, like the calving grounds are kept sacred by lack of human intervention. Constant rotation of meeting does two things: 1) mirrors the
migration patterns of the caribou and salmon, showcasing the different environments as critical to the base of the Gwich’in diet and life, as well as the dynamism of environmental relationships; and 2) maintains an equality between villages which eliminates the potential for one locus of Gwich’in political power to emerge. The dispersed meeting spaces exemplify dispersed power: each village is critical to the national geography and each Gwich’in person is vital to the Gathering.

Faith Gemmill described the first Gathering to Evon Peter (2005: npn):

‘The eldest Gwich’in woman, she was over 100 years old, she advised our leaders on how we’re going to face this threat [oil drilling in caribou nursing grounds]. She told our people that we need to hold a traditional gathering and discuss the issue in our own traditional way. We called together our nation. All of our villages in Canada, all of our villages here in Alaska and we brought them all in, we brought in our leaders, our elders, and our young people... our people decided that there’s no way that we’re going to allow the oil companies to go into the calving grounds. Then the elders went further. And they decided that we needed a political arm to represent our nation [emphasis mine].’

Elder women leading the charge for defending Native rights is not a unique theme in Alaskan Native sovereignty battles. Kyikavichik and others were part of a powerful trend in late 1980s Alaska, highlighted by the land mark case Katie John v. United States (1990), in which an Ahtna elder, Katie John, defended her subsistence rights against the state of Alaska and U.S. federal government. In both John’s and Kyikavichik’s cases, the relationships to natural resources and animals is a fundamental right to their traditional lifestyles. Without the fishing for Katie John and caribou for Myra Kyikavichik, there is no ‘everyday practice’ to assert Native sovereignty. The everyday practices of living are tied directly to ‘the good way’, making t’aii not an abstraction but a material philosophy. This refusal to separate the philosophical from the material is a hallmark of Gwich’in governance.

The tradition of the elders’ statement has evolved into a series of resolutions that are drafted at the conclusion of each summit and voted on by Gwich’in Gathering participants. Consensus is critical as these resolutions represent Gwich’in national policy, both internally as a political entity and in government-to-government relations with nation-states like the U.S. and Canada, and in international forums like the United Nations. Although consensus from the Gwich’in participants is the aim, the resolutions are not representative of all Gwich’in people, notably the pro-oil interests and Doyon, Limited. Leaders like Dacho Alexander, Luci Beach and Marilyn Savage have spoken and written critically against the corporate entity, which like other Alaska Native corporations have been co-opting political representation of their people and making deals with private industries. Villages, however small, are legally the political authorities for Native Alaskans. These 15 villages are the

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2 This is a very hot issue in Alaska and was the subject of numerous conversations, especially during my second field visit in October-November 2011. The Alaska Native Corporations were hosting their annual conference in Anchorage and a diverse group of Alaska Natives—Gwich’in, Inupiat, etc.—protested the event. Their argument was that the Alaska Native Corporations like Doyon and Arctic Slope have assumed a reach of power outside their purview, and federal agencies and private companies (ignorant to the political and economic organization of Alaska Native life), explicitly and inadvertently use the corporate entities as the official voices for Alaska Native peoples. Why is this particularly galling, is corporate officers are not elected
political entities of Alaska Natives and Canadian First Nations peoples and it is from the village base that the Gathering has been born and retains traction.

For the 2010 Gathering, hosted by the Gwichyaa Zee Gwich’in community in Fort Yukon, Alaska, the week-long meeting had a theme: ‘Unity Through Our Cultural/Traditional Values For Our Sovereign Success’ (GZGTG 2010). The theme was the overall agenda for the gathering, and each day took that theme into specific issue areas of social health, physical health and environmental health. The event was held on the banks of the Yukon River under an octagon built especially for outdoor meetings (Figure 3).\footnote{The octagon is constructed of wood planks from the Gwichyaa Zee forests which curl up to the Yukon River, and in the center was a huge fire pit where tea was kept steeping throughout the day (Figure 3).} The octagon is constructed of wood planks from the Gwichyaa Zee forests which curl up to the Yukon River, and in the center was a huge fire pit where tea was kept steeping throughout the day (Figure 3).\footnote{In order to comprehend the national scale of the talking sessions, the subsequent table derived from the Gathering program (GZGTG 2010), shows the scope of the summit program.} In order to comprehend the national scale of the talking sessions, the subsequent table derived from the Gathering program (GZGTG 2010), shows the scope of the summit program.

Figure 3.
2010 Gathering Octagon, Early Morning Before Sessions Begin, Author 2010

and therefore have no local accountability with a specific village council, leader, elders’ group, etc. Don Chirce, of the Tanana Chiefs Conference, also argued this was a volatile situation and shared a document from a federal agency that listed Alaska Native representation randomly with some corporations, one or two villages and the TCC as well. The document, Chirce argued, revealed how little even the federal agencies know about Native Alaskan political organization—and a lack of desire to become educated.\footnote{When rain and wind threatened the proceedings, the meeting took a recess and participants grabbed plastic tarps and hammers to insulate the river-side wall of the octagon. The goal was to protect the elders, and I talked to one young man while he nailed the tarp to the wood. He was one of the directors of the Gwichyaa Zee housing division, a perfect example of how Gwich’in people not only bureaucratically administer a social need but practically take care of them, too.}

By my fourth day of participation, I was honored to watch the tea and pour for participants, often elders, from my seat at the fire.
Table 1.
Gwich’in Gathering Fort Yukon, AK July 18-24, 2010

<table>
<thead>
<tr>
<th>Travel Day</th>
<th>Social Health Issues</th>
<th>Physical Health Issues</th>
<th>Environmental Health Issues</th>
<th>GSC and Resolutions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customs Agent in Fort Yukon</td>
<td>Opening Prayer and Memoriam</td>
<td>Traditional Knowledge</td>
<td>Porcupine</td>
<td>International</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Develop Plan Position</td>
<td>Caribou</td>
<td>Issues-Build</td>
</tr>
<tr>
<td></td>
<td>‘Honor our Leaders’</td>
<td>Culture</td>
<td></td>
<td>Resolutions</td>
</tr>
<tr>
<td>Talking Stick-</td>
<td>Gwich’in Steering Committee Report</td>
<td>Introduce U.N. Policy of</td>
<td>Norma Kassi</td>
<td>Seat Appointment</td>
</tr>
<tr>
<td>Explain where it came from and</td>
<td></td>
<td>Gwich’in Language and Human Rights</td>
<td>Cross Border Food</td>
<td>for Leadership on Arctic Council and GIC</td>
</tr>
<tr>
<td>use in all meetings</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cultural trips to fish camps</td>
<td>Border Crossing Dogs &amp; Alcohol</td>
<td>Action on Sustainable Finance</td>
<td>Traditional Games for Youth</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Healthy Alternative</td>
<td>Economic</td>
<td>Economic Development Issues</td>
<td>Focus on International</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Guest Speaker</td>
<td>Recognition of Jonathon</td>
<td>Policy to Provide Protection for Caribou</td>
</tr>
<tr>
<td>Public Announcement</td>
<td>Fish and Wildlife 50 Anniversary Arctic</td>
<td>Development Issues</td>
<td>Solomon</td>
<td></td>
</tr>
<tr>
<td>Board for Info</td>
<td>Refuge</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Welcome Potlach at Tribal Hall</td>
<td>Prioritize Issues</td>
<td>Develop Action Plan to</td>
<td>Aerial Art</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Address Issues</td>
<td>(Everyone wear red)*</td>
<td></td>
</tr>
</tbody>
</table>

*See Figure 8.

As can be seen, participants debated everything from information sharing with the press and internally within the Gathering (a public message board, cell reception is dicey and not everyone owns a cell phone) to sharing a U.N. policy on Gwich’in language to compiling a policy on alternative energy. Note at the close of the ‘Social Health’ day, is the organizational component for prioritizing issues. Although the program had been pre-organized, the first day of people interacting with each other and responding to the GSC report was designated as an opportunity for the gathered to propose the topics for the week-long meeting. Each day also concluded with an action plan, in order to direct conversations beyond talking into a policy strategy. The final day was the day of decision-making. All action plans from the week, as well as the drafted resolutions were brought to consensus-based decision-making, led by the GSC and village leaders. Selecting Gwich’in representatives for other international bodies, such as Arctic Council, were also made at the final day of the Gathering.

In addition to the thematic sessions, there was a separate agenda for cultural and social events, including jig contests, nightly dances at the tribal hall, talent shows, battles of the band, comedians, regalia fashion shows, baby naming ceremonies, and youth and elder oriented games. Donielle Carroll (Gwich’in) explained how significant the Gathering is to nationhood: ‘The Gathering is the time [when] the Gwich’in reinstate as a nation, largely through the resolution process. But it is also the cultural events—the jig contests, traditional food and family’ (Carroll 2011).
Who governs the Nation and how?

As determined by the elders in 1988, the architecture of the Gathering is the national assembly of all 15 villages in one space. The identity of each village remains distinct and is representative of different stakes in certain issues, be they: relative proximity to the international border, isolation in the Arctic Circle, access to waterways, or resources and services for their people. All Gwich’in villages deal with an aspect of remoteness that is hard to imagine outside of interior Alaska. For example, the only way to Fort Yukon, one of the larger and ostensibly ‘developed’ villages is via the Yukon River barge, private boat or small plane. There are no public roads in or out of the village. This isolation is a reality that many Gwichyaa Zee residents enjoy, arguing how isolation preserves their way of life, but a few also remark of the inconveniences, especially prior to the building of a health clinic.

For the 2010 Gathering, many of the Gwich’in and non-Gwich’in participants came north via plane from Fairbanks, but large groups of Gwich’in people traveled south from deep within the Arctic Circle and southwest for the Canadians. Particularly challenging was travel for elders living on the Canadian side due to new U.S. Homeland Security protocols, cost and health conditions. This was a fact discussed at several sessions and determined to be a primary issue in the border resolution. The following figure is a banner for the Gathering that celebrates each village as well as the shared geography of the Gwich’in people (Figure 4). Worth noting is the absence of the representation of the U.S.-Canadian border separating Gwich’in national geography (in fact, the image of ‘Alaska’ is located on what would be a Canadian province).

Figure 4.
Gathering Banner: Gwich’in National Geography, Author 2010
The talking stick operates as a material form of Gwich’in ‘rules of order’ (Figure 5). Symbolically topped with caribou antlers, the talking stick is held by whomever is talking in the octagon. The M.C.s of the 2010 Gathering, Luci Beach and Sarah James, both of the GSC, would hold it to introduce the new topics and then hand it off to subsequent speakers. Within each session there were first designated speakers and then space for anyone under the octagon to hold the talking stick and speak. This included chiefs, council members, and activists as well as young people. This does not mean there were not leaders who were venerated as special guests, or annoyance with the occasional Chatty Cathys who had something to say in every session. But the Gathering is a political meeting for all Gwich’in people, which means everyone has a right to share and be heard.

Elders were especially valued for their experiences and as guardians of culture, and the Gwich’in youth were also critical in all proceedings because they are seen as the force that will carry on Gwich’in tradition. For example, a pre-teen girl spoke during the physical health sessions about her family. She didn’t speak long; she simply shared a personal story about a health issue that was up for debate. Adults of all ages and experiences listened to her testimony, validating her as a member of the nation and her words as influential in drafting a resolution for health issues. Young people participated at every level of the Gathering, sharing the traditional dances, speaking at the sessions, participating in youth activities and listening to elders. I sat with a group of young people many times in the afternoons, anxious
to observe their participation in the national event, as well as sitting at the first point of salmon jerky delivery from the grandmas (Figure 6).

**Figure 6.**
*Young People and Salmon Jerky*, Author 2010

Strategically, leaders of the Gwich’in Nation enacted several relationships that were opportune to goals of the community, but in which they retained their autonomy. For example, the day of the Gathering in which the environment was the central theme included a session with the U.S. Fish and Wildlife Service (FWS), ‘celebrating 50 years of collaboration.’ Both behind the scenes and during the session, Gwich’in individuals confronted the FWS, two men who ostensibly had expected to have a photo opportunity with Native community members and a hasty exit on the plane. Individuals whose family members included salmon fisherman whispered to me about the hypocrisy of the FWS policy limiting Gwich’in fishing but privileging private companies and white trophy fisherman upstream. Some individuals verbalized their frustration during the session. The government-to-government public relations blitz erupted when Gwichyaa Zee Second Chief Eddie Alexander stood to speak. As FWS agents also stood under the eight-pointed structure, Second Chief Alexander recounted how the previous summer, salmon fishermen were threatened with arrest when they refused to submit to FWS licensing and permits.

The Gwich’in fishermen had argued that salmon fishing like caribou hunting is their way of life. When the federal officers threatened the fishermen with arrest, the entire community of Gwichyaa Zee stood with the fishermen. ‘You will have to arrest us all,’ Chief Alexander said. ‘Sovereignty is getting arrested together—arrested as a nation.’ The threat of a public mobilization of the entire village pacified the federal agents and promoted the need for a table discussion about Gwich’in fishing rights. While federal surveillance of fishing activities continues to be an issue, the threat of a village-wide movement was a tool of political power for the Gwich’in. Chief Alexander noted that had it been only the fishermen protesting they would have been arrested. Arresting an entire village over subsistence rights, however, would not have been the best headline for ‘50 years of collaboration.’
A second example of Gwich’in national politics is the relationship between the diverse environmental lobbies, and specifically with the Northern Alaska Wilderness Center (NAEC). Donielle Carroll, David Solomon, Sarah James, Luci Beach, Marilyn Savage and Faith Gemmill have all said how protecting the coastal plain of ANWR is an ancestral trust, as it is the site where caribou nurse their young. One of the main allies of the Gwich’in for the protection of the coastal plan is the NAEC, specifically Pam Miller and Jenna Hertz, who substantially participated in the Gathering by filming presentations and volunteering for service labor. The green alliance, however, is neither simple nor benign. During one session at the Gathering, Sarah James expressed to all that the relationship was strategic in which the ultimate goals of the Gwich’in Nation and the green entities like NAEC may not be the same. For the Gwich’in, the coastal plain is sacred—too sacred for many Gwich’in to travel to—but economic practices like hunting and timber harvesting in other parts of ANWR are allowed. Comparatively, NAEC workers shared with me that preserving ANWR may look different for many of the environmental groups by prohibiting types of hunting and harvesting. Sarah James’s remarks at the 2010 Gathering were impassioned and a few of the environmental NGO representatives bristled at the comments. She also took umbrage at the word ‘subsistence’ which was not only used by different non-Gwich’in environmental groups, but in the Gathering agenda materials as well. James argued that the word ‘subsistence’ is patronizing and used by white people (often good hearted white people) to relegate Gwich’in economic choices as quaint or primitive. Just because hunting and fishing are small-scale livelihood strategies based on tradition, James and others refused to have those ways categorized as inferior to larger, corporate economic mechanisms. Although potentially alienating to some of the guests, James’s words are an example of how the Gwich’in maintain their national identity in the debate with multiple interests.

**How are different constituencies included in Gwich’in governance and how are their needs and positions represented?**

The Gwich’in Gathering is a national meeting for all Gwich’in people to attend, with an emphasis on open discussion and celebration, and there is an understanding that consensus is a process not a foregone conclusion. A diversity of opinions and experiences are expressed during the Gathering, and even then many Gwich’in voices are left out of the mix—specifically the pro-oil development arm of Doyon, Limited. The Gathering’s roots are Elder Myra Kyikavichik’s vision and the GSC’s mission to protect the Porcupine caribou habitats from oil development in the coastal plain. Thus, while debate is central to the process of decision-making, this space of Gwich’in governance is centered on a specific perspective of the Gwich’in nationhood linked with the caribou, not a forum for debating habitat v. oil field. To attend the Gathering and participate as a Gwich’in person and even an outsider is to be part of an event where there is a specific direction for policy, the ‘Gwich’in way of life’ (Figure 7). Looking closer at difference within the operation of governance, I have identified two aspects: 1) as Gwich’in people and 2) as an outsider—the role that I served as providing insight into the question of how different constituencies are included.
Although separated from each other and located in a rural settings as well as being isolated by political borders, the 15 different Gwich’in villages have formed multiple representative bodies. These institutional collectives include: the Council of Athabaskan Tribal Governments (CATG), the Tanana Chiefs Conference, the Gwich’in Tribal Council, the Gwich’in Steering Committee and intertribal groups like Resisting Environmental Destruction on Indigenous Lands (RED OIL) and the Yukon River Intertribal Watershed Council. These various bodies have collaborated for specific goals, like the new health clinic in Fort Yukon, offering services in English and Gwich’in funded by the CATG. Such organizational arrangements are a way to express Gwich’in sovereignty through traditional values, while facilitating the current needs of the Gwich’in people. These organizations are all represented at the Gathering and in between the Gathering years, they communicate with each other on their policy areas. Don Chircel of the Tanana Chiefs Conference explained to me, that these representational bodies have been part of decades of Gwich’in governance in the Arctic and that the isolated geography has in many ways facilitated Gwich’in sovereignty for centuries. Essentially, without federal and state agencies interfering on a regular basis, Gwich’in people have been able sustain their everyday governance. Chircel’s observation mirrors James Scott’s argument (2009: 13) that inaccessible locations can be havens of resistance to the state and may help to foster and sustain a type of non-statist sovereignty.

Referring to the Gwich’in concept of perfect harmony or *yinjih*, Phyllis Fast observed how: ‘*[Y]*injih provides a great tool for the Gwich’in with respect to their potential as a cohesive society. The chiefs of the Council of Athabascan Tribal Governments (CATG) have been exercising the use of *yinjih* since the inception of the coalition… (1995: 164).’ Fast’s analysis of *yinjih* reveals how this core Gwich’in value becomes the basis of inter-village cooperation as Gwich’in people and then taking that internal level of collaboration to
a government-to-government basis with state, provincial and federal governments. Essentially, with a national directive to ‘seek perfect harmony’ between people and the environment, the Gwich’in take their philosophy and operationalize the concept into action. Yinjih provides a culturally relevant impetus to create internal and external spaces of collaboration, and this is realized through in different Gwich’in governance organizations, each focused on specific policy areas but working in concert.

For example, in October 2012, the Gwich’in Tribal Council and the Government of the Northwest Territories (GNWT) signed an ‘Umbrella Intergovernmental Agreement regarding Intergovernmental Cooperation and Coordination’ which among other elements recognizes Gwich’in geography since time immemorial and outlines the communication protocol between the Gwich’in and GNWT governments. The GNWT and Gwich’in elders also recently completed a twenty-year collaborative project to assign and recognize 414 Gwich’in place names in the Northwest Territories, replacing 19th century Anglo names, an active form of decolonization (GNWT 2013). These inter-governmental negotiations recognize the Gwich’in people as a nation, one with a distinct geography and language, contributing to notions of inherency and sovereignty. This recognition would not have been possible a few years prior to the first Gathering, which is responsible for rallying the Gwich’in people as a nation, after decades of disconnectedness. And these changes were not reliant on a state structure, but the power of people to gather and negotiate on a government-to-government basis.

Inclusion is not only an ideological concern for consensus governance, but is also a material issue for Gwich’in people at the Gathering. The cross border geography of the Gwich’in Nation was a major point of discussion throughout the Gathering, seen in the intensified border patrolling between the U.S. and Canada which kept many Canadian Gwich’in from attending the Gathering that year. Specifically, the intensive secuirization of the border affected elders who did not have passports and in some cases legal documentation or funds to acquire passports. The huge and isolated expanse of Gwich’in geography is a considerable variable in governance, but as seen in Chircel’s words and others, the Gwich’in have optimized this challenge. Donielle Carroll described the relationship of the border to Gwich’in national identity: ‘One way or another, we are cousins. I don’t see many differences [between U.S. and Canadian-based Gwich’in] just small things like the spelling of Gwich’in and different dance styles…Canadian cousins have a faster pace, the U.S. side is more chill. The coastal plain is sacred to Gwich’in people in the U.S. and Canada, two countries united’ (Carroll 2011).

For the second perspective of inclusion, during the Gathering proceedings, even as a non-Gwich’in outsider, one is a participant. How an outsider participates is a varied experience, but no person at the Gathering is without a voice. On the first day, everyone under the octagon introduced themselves and outsiders had to articulate their reason for participation while leaders took note and would later hail them (us) at appropriate times. At that time, I was co-writing a policy book on border issues for Native Nations in the U.S., with Mexico, Russia and Canada (both the southern and northern borders) and on the border policy day, I was asked to share. The Gwich’in Gathering is an official forum, but leaders will take information from anyone. Essentially, while they will critique and parse your offering, they are open to hearing what you have to say and consider your knowledge a
resource. Active participation is not only for the Gwich’in people at the Gathering, but everyone.

As a participant and observer, my role was complex and I attempted to integrate aspects of Wilson’s research as ceremony paradigm, a model supported in part by actually participating in daily ceremonies with Gwich’in people. Camping with the other non-Gwich’in participants, which included five white women who were part of the Northern Alaska Wilderness Center, a Japanese filmmaker and her partner, I was assigned a space ‘outside’ the inner workings of Gwich’in social life. The main reason for this was that we were not members of any large family group who was already camping somewhere else. Thus we were not excluded, just thrown together as our own family unit.

Cleaning, setting up and breaking down Gathering meals was a huge portion of my participation. Two of the NAEC women and I worked under Velma Wallis, the meal coordinator, and helped her serve meals at three different locations: the main hall for the big dinner events like the jig contest and memorial to legendary Gwich’in leader and international spokesman for the GSC Jonathan Solomon, the school gym for breakfasts and smaller dinners, and outside the Gathering octagon for lunches. Food came from everyone at the Gathering, salmon fresh caught on the Yukon and preserved caribou were central to most meals, as well as various dishes made in Gwich’in homes to be shared. The Gwichyaa Zee government also sponsored some meals, as did other offices. Although the first night was the official ‘potlach’, in truth all of the meals were based on sharing via fishing or hunting, cooking and shopping, or serving and cleaning.

Throughout the week, I became closer to many participants, who I also call friend. By being allowed in, I was entrusted with more responsibilities, like making the campfire tea for the octagon sessions and helping to draft the border resolution. The second to last night of the Gathering I was given a draft of the border resolution and told to make additions and/or edits within a couple of hours. I took the resolution back to my tent, sat on a log and handwrote what I had. Specifically, my contribution to the border resolution was to highlight concerns for elder crossings, identification documents, and notations on possibility for memorandums of understanding (M.O.U.) between the Gwich’in, and U.S. and Canadian Border Patrols, especially for the Gathering and national meetings. The draft already contained a lengthy discussion on the traditional geography and caribou migration, and was composed with a rhetoric of human rights [the same strategy used by other Indigenous nations, highlighted by James Anaya (2009)]. Then I resubmitted the draft, which was taken to the Gwich’in voting session on the final day, sans outsiders. Here the authority is consensus and debate. When presented with this assignment, I yearned for a laptop to do some legal research. But this was ground level governance. Use what’s in your head and heart, and give that offering to the rest of the assembly. You can offer a resource without nomination. They will debate the ideas and words, a panel of critics whose lives are affected directly by the words you pen, the judges of the ‘good way.’ The request was intimidating, yet safe—the power of community authority is the openness and the debate. You don’t have to wring your hands in paranoia, because Luci, Chief Joe and Faith are reading your words and from their knowledge and experience, know what works.

In this arm of the Gathering, I observed an honesty of governance that is built from traditional Gwich’in values. This does not mean there aren’t internal politics or nepotism like
any other political structure or movement. But authority bound in the community through the processes of consensus and debate within the community, not outsourced to representatives, creates a level of visibility and disclosure that many nation-state governance structures would do well to observe and learn. Vine Deloria, Jr. (1997) wrote this about traditional Indigenous nationhood, ‘[H]ere once was a small group in nature...and this group recognized the value of relatives. So they said “We’re going to have a society of responsibility. In order to belong to this tribe you have to do certain things. You have to treat your relatives a certain way, you have to treat society at large a certain way. You have to feed the poor, you have to take care of the orphans, [and] provide for the elders”.

In this society of responsibility resides my argument: the Gwich’in govern themselves premised on a unique relationship to the environment and they don’t submit those values to the settler state apparatus for approval. A nation of diverse, thinking individuals they debate amongst themselves, ally with NGOs and agencies to support their goals, and neither rely nor ignore other governments to assert their identity as a nation across international borders. This is not a revolt against the U.S. and Canada, this is a nation that predates those states and is built from those pre-colonial values that they continue to maintain today. The governance is indigenous to them and this is the way decision-making has been done.

**What ethic is at the center of governance?**

As can be seen, debate and full participation are critical to Gwich’in governance. These processes manifest in the open sessions and are based on Gwich’in values and the ethic of t’aii or the ‘good way’, a component of traditional Gwich’in epistemology. In Gwich’in culture, knowledge is transferred by elders, who are the holders of diverse bodies of ecological, spiritual, legal and cosmological information (Wilson 1996). Shawn Wilson’s work in Fort Yukon in the mid-1990s reflected the enduring principle of elders as holders of knowledge but acknowledged the complicated realities in communities where social challenges like poverty and alcoholism have disrupted the traditional knowledge-sharing paradigm. Wilson worked with Gwich’in elder Simon Francis who explained to him: ‘A lot of elders are folks who have been educated in some form or another by other elders, that pass on not just knowledge, but way of seeing things and looking at the world’ (Wilson 1996, 42).

As introduced earlier, one component of this epistemology is t’aii. T’aii signifies a alternative way of configuring the world and the power relations within environments, governance and economy. ‘Gwich’in use of t’aii concentrates on the self-control of the individual...the object of t’aii encourages the individual to relate in perfect harmony (yinjih) to the world around him or herself...t’aii embodies skills and moral values which people inherit from their ancestors, including skills to think.’ T’aii also represents the source of energy or force which connects all living things and non-living things to each other (Fast 1995: 57-59). Thus, educating the people in t’aii is a core value of Gwich’in nationhood, because it is the plumb bob to orient actions and policies. When making a decision at the Gathering, the ‘good way’ ties those modern day decisions to the base of Gwich’in life by using this cultural measurement, Gwich’in people can sustain who they are, but adapt to new challenges and opportunities. Essentially, this ethical legacy moves the nation forward. In writing policies that operate in the physical world of today, the guiding principles refer back...
to the good way, thus a land management plan would not simply be based on profit, nor would it disavow being fiscally successful. However, rather than the bare profit seen in many extractive industries, the plan would assess sustaining herbs linked to traditional medicine (that only insiders know about), the hunting trails tied to other parts of the national economy and spaces significant to social narratives.

The Gwich’in take this ethic to their inter-governmental negotiations and throughout the Gathering, the Gwich’in shared and formulated environmental management policies. The Canadian-based delegates presented an environmental management plan that was the result of collaborations between the Gwich’in Tribal Council, Inuvialuit Game Council, Vuntut Gwich’in Government, Tr’ondek Hwech’in Government, the First Nation of NaCho Nyak Dun, the provincial government of the Northwest Territories and Yukon, and the Canadian federal government drafted a multi-governmental agreement with for the protection of caribou on the Canadian side. Gwich’in representatives who had been part of that agreement, shared how they worked with the Canadian and provincial governments to draft the agreement and then opened the floor to consider two aspects: 1) how their agreement would nurture the Porcupine caribou, one of the basic life way goals of the Nation; and 2) how an equivalent agreement would work on the U.S. side. Like every issue opened to the participants, people weighed in on the differences between U.S. and Canadian agencies. The U.S. Gwich’in communities argued with the Canadian cousins over the feasibility of negotiating a similar plan with Alaska and the U.S. government, and were skeptical that Alaskan officials would be as amenable.

T’aii is found in every aspect of the Gathering, day-to-day governance and the symbology of the nation. In addition to the traditional images of the caribou and the salmon, the Gwich’in people attending the Gathering all participated in an aerial photo installation, the second of a series that is becoming an international trademark of the Gwich’in Nation. These images are part of their iconography on websites, at the United Nations and in the press. These images, rather than flags used by nation-states around the world, typify the governance model of inclusion and the ethic of ‘the good way’ and all that it means for life. At the 2010 Gathering, all of us participants sailed on the Fort Yukon ferry (a series of three voyages with smaller vessels alongside the main boat) up the river to a sandy beach. Divided into groups wearing either red or dark colors, the group embodied the two animals that are life-giving to the Gwich’in nation (Figure 8). Together, we laid down on the beach, under the direction of the GSC and artists, waiting for the plane to fly overhead and take the image. I was paired with a young girl, about four years old, as her mother and little brother were wearing red and part of the letters, she had a pink t-shirt and borrowed my dark vest, laying foot to head, we were part of the smile on the salmon. Everyone—children, elders, leaders and non-Gwich’in participants—laid on the sandy beach together, even as clouds were threatening to pour open and cancel the photo shoot. The photograph shares with the world the cyclical relationship between Gwich’in people, the caribou and salmon—and with the directive to ‘protect’ these two animals, they are expressing how they protect their national identity.
Concluding Thoughts

In this article, I have described how the Gwich’in Nation governs outside the structures of a state system, in what I call a ‘non-state’ nation. Not reliant on the U.S. and Canadian governments to act as trustees of their governance process, the Gwich’in Nation has asserted their own form of governance for centuries. To protect the Porcupine caribou and Yukon River salmon, the Gwich’in have mobilized their people, gathered data, analyzed alternatives and utilized consensus decision-making to make national decisions. Relying on traditional methods to approach current challenges reveals a very much alive governance system. The Gathering embodies tradition, but it is not an archaic ritual. The Gwich’in measure their decisions against community values like yinjib (perfect harmony) and t’aii (the good way) and simultaneously form strategic alliances with non-governmental organizations, operating as a pragmatic polity with core Gwich’in values in today’s world.

As a sovereign nation outside the state system, many of the processes of Gwich’in governance are different from western styles. Yet, in as much as what the Gwich’in people do is unique from parliamentary or federalist systems, many of the exercises of government are comparable. They practice a form of law-making and have formulated national objectives for their everyday lives, their environment and for future generations. Through their many inter-governmental bodies and with the full representation at the GSC, the Gwich’in operate as a collective decision-making body, and have guidelines of participation for both Gwich’in citizens and outsiders. There is nothing random about how Gwich’in people govern; this is a thoughtful, complex process. And while the Gathering setting is outside by a fire and under
a wooden canopy (as opposed to a town hall or capitol building), the space is hallowed and the decisions sacred.

Like nation-states, military regimes and autonomous communities around the globe, the Gwich’ín Nation is deeply connected to geography. However the Gwich’ín conceive of space differently. Spatial interactions between human, wildlife and environment form the core of their law, economy and culture. The migration cycle of the Porcupine caribou is integral to their identity and an entire village will mobilize to protect their river use rights against federal agencies. Thus, Gwich’ín geography is not bound in the same way as other nation-state territories. The Gwich’ín perspective of space and governance is premised on the flow of people, animals and the centrality of the human-environment relationship. This formulation of space coincides with alternate configurations of time as well, e.g., thinking in cycles, which is relevant for communities that continue to base their economy on animal migrations (Gwich’ín International Council 2009). Articulating those differences is a challenge in and of itself because it is not part of hegemonic understandings of what a ‘nation’ looks like on a map. As Frantz Fanon wrote (1965: 2, 6): ‘Challenging the colonial world is not a rational confrontation of viewpoints, but the impassioned claim by the colonized that their world is fundamentally different.’

As Indigenous non-state nations move forward, the impetus is on state governments to de-center western understandings of space towards either: 1) mutual co-existence of different ontologies; or 2) elimination of the western ideology that has oriented an imperialistic planet (Deloria 2003, Smith 2006, Wainwright 2008). Gwich’ín leader Jonathon Solomon spoke before U.S. Congress in 1988 to express the power of the Indigenous difference and the self-determination of his nation:

‘Our people and Gwich’ín culture have lived in this region for thousands of years... For all those hundreds and hundreds of generations we have been nomadic hunters, and we continue to be hunters to this day...Please understand, we are a modern hunting culture—one of only a few left in the modern world. Congress has the power, but no one has the right to deny the Gwich’ín in our means of subsistence...Make no mistake our life is at stake here—the life of a modern hunting culture that is alive and healthy and growing. We are determined to take responsibility for our future.’

Solomon’s words express the core of the desired Gwich’ín relationships with the U.S. and Canadian governments: respect our economy, our culture, our way of being—and know that we take responsibility for our people and environment. Gwich’ín nationality is not seeking a hand-out, the people want to live their way of life which is unique from hegemonic culture in the U.S. and Canada. Gwich’ín life challenges that settler state hegemony by inhabiting their national space everyday, and significantly, the most salient aspect of Gwich’ín governance is that it works. Decisions are made, different viewpoints are represented, new information is gathered and analyzed, ancient customs are preserved and valued, vulnerable members of the nation are cared for and outsiders are taught to respect and invited to participate in the governance process. The imperial policies of the U.S. and Canadian governments have been detrimental in their attempts to undermine Indigenous nations, but the Gwich’ín people have resisted being subsumed into the settler state system. They have relied on their ways of being, their geography and their identity as a people to
exist as a nation in the Arctic Circle. By doing this, the Gwich’in Nation shows what is possible, not necessarily as a prescription—but they sustain an opening, a living space of difference and possibility.

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APPENDIX B

Keeping *Wild* Alive?
The Gwich’in Nation and the Arctic National Wildlife Refuge

Abstract

This article examines the debate over the wilderness designation of the Arctic National Wildlife Refuge (ANWR), part of U.S. domestic energy options. At issue is whether to continue to designate the Coastal Plain Study Area (CPSA) of the Refuge as ‘wilderness’ thereby allowing U.S. Fish and Wildlife Services to create a management plan in keeping with wilderness preservation, or to open this area to exploratory and seismic drilling. The pro-oil industry has asserted a discourse of ‘jobs for Alaskans’, while environmental lobbyists have venerated this area as unique in terms of biodiversity and beauty. Both groups have co-opted two Native Nations—the Gwich’in and the Inupiat—to substantiate their claims. From the lens of ‘authority’, this article examines the how the Gwich’in and to a lesser extent, the Inupiat people, reject the stereotypes placed on them by external agencies as either the ‘traditional, eco-Indian’ or the ‘modern pro-oil Indian’ and assert an Indigenous worldview in their claims over the space. At the same time, the Gwich’in and Inupiat use those external agencies for their own purposes. Neither Indigenous group is a pawn; both are politically savvy non-state nations who recognize the limitations of being an Indigenous entity in a settler state but also how to negotiate within that system for their own needs.

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Introduction

On October 19, 2011, a Fairbanks, AK hall was filled with people debating the wilderness designation of the coastal plain in the Arctic National Wildlife Refuge (ANWR). The public hearing was hosted by the U.S. Fish and Wildlife and consisted of diverse members of the public giving testimony in favor or against the wilderness designation. Here is one of those voices:

Hello, I’m Daniel Lum. I’m here today because I am not getting paid by some union. I am here on conviction, as are most of the people testifying to keep the wilderness....For me, I was outside and I had a sign. These guys were getting ugly with me saying, ‘Oh this guy has to bring his kid, you should have fought for your land.’ I brought my child today. That is the reason why I am here today. This is the reason why, because even if she never goes into [the Arctic National Wildlife Refuge] her whole life, maybe she never steps foot in the refuge, it’s still there. I see a sign outside to close ANWR for jobs…We hear how our nation needs oil. Instead of feeding that consumption, we need to break it down a little bit. There’s other energy sources. It’s all about money. But it’s also about conviction (Lum 2011).

This excerpt is from Daniel Lum’s testimony [Gwich’in] and it represents one component of that public hearing and within the greater ANWR debate—a political issue that has become part of the larger conflict in the U.S. over energy. At issue is whether to continue to designate the Coastal Plain Study Area (CPSA) of the Refuge as ‘wilderness’
thereby allowing U.S. Fish and Wildlife Services to create a management plan in keeping
with wilderness preservation, or to open this area to exploratory and seismic drilling.
ANWR’s coastal plain is sitting above dense oil reserves, estimated to be anywhere from 5.7
to 16 billion barrels (U.S. Energy Information Agency 2010). These oil resources have been
the subject of a debate throughout the Obama Administration which sees them as an answer
to energy independence. While pro-oil Alaskan senators have used satirical tactics to school
the lower 48 policy makers and interest groups on the need for oil development in their state
(AK House Joint Resolution 2011-2012), environmental lobbyists have venerated this area as
unique on the planet in terms of biodiversity and beauty. The coastal plain is known to the
Gwich’in Nation as Izhik Gwats’an Gwandaii Goodlit, ‘the sacred place where all life begins’
(Gwich’in Steering Committee 2005, Princess Lucaj 2012), because it is the nursing grounds
for the Porcupine caribou. This distinctive area is part of Inupiat traditional geography,
whose subsistence economies depend on the bowhead whale and the Arctic Sea more
generally as integral to their culture. From Fairbanks to D.C., diverse narratives of ANWR
have been generated to assert claims to this geography.

In this debate over the CPSA, the spectrum of voices reveals a deeper issue, that of
authority. This question of authority is complex and encompasses multiple related questions,
especially when Indigenous nations are central figures in debate: Why do spaces like public
testimony forums require an ‘official’ community voice? How is authority determined to
represent community interest? How do the external agencies cherry pick ‘official’ Indigenous
voices in political battles—and why? This article analyzes the ANWR debate specifically
from the Gwich’in point-of-view (based on my ethnographic field relationships) but
considers other perspectives like the Inupiat people in order to contribute insight to these
questions of ‘authority’ and expand understandings of Indigenous sovereignty within the
settler state. Who is speaking for the community and to what end is an increasingly relevant
issue as Indigenous Nations engage in an unprecedented number of legal cases, debates and
protests. Native nations have always directly engaged the U.S. and Canadian public spheres
from initial colonial efforts to now. But recent events including the June 2014 U.S. Patent
Office rescinding of the trademark of the Washington Redskins football team, the Idle No
More Movement, XL Keystone Pipeline resistance and the revival of the Honor the Treaty
movement, have suggested a climate where Indigenous direct action impacts policy in settler
societies. In these and other instances, Native communities command authoritative
positions.

Using the lens of ‘authority’, this article examines the how Gwich’in ‘non-state’
nation is using the public debate over ANWR to: 1) undermine reductionist narratives of
Native peoples in the ANWR debate, and; 2) to assert their sovereignty over this space as
integral to their identity as a nation. The Gwich’in testimonies provide an alternative
discourse on ANWR but they also engage a contest of authority over this space, not only
with the oil developers and federal agencies, but the Inupiat peoples as well. The Gwich’in
assertion of sovereignty represents a singular perspective in a geography that is constructed
by multiple and conflicting politics. The contentious area is not currently part of Gwich’in
legal territory despite the fact that the coastal plain is a sacred space within their culture,
economy and governance. ANWR is traditional geography for the Inupiat people, and it is
an Inupiat village that is the only inhabited area in the coastal plain of ANWR. The Inupiat
Nation has operated through subsistence ways on this same geography for thousands of
years and although their regional corporation, called Arctic Slope, is spearheading the pro-
development cause, many Inupiat individuals are also fighting oil development to preserve their culture.

For example, Rosemary Ahtuangaruk [Inupiat] has written on how oil development is destroying the health and culture of the Inupiat people (2013). Other Inupiat people argue for opening the area to oil drilling, as traditional economic practices are under threat from global warming in the Arctic. This paper does not attempt to answer ancient questions on primacy over the space, though as the empirical section demonstrates, this continues to be a passionate issue between the Gwich’in and Inupiat nations. And while there are these contentions, it is vital to point out as well that there is collaboration between the tribes through organizations such as RED OIL (Resisting Environmental Destruction on Indigenous Lands), where Gwich’in and Inupiat people have banded together against big oil—a venture generating less coverage than the animosity that has emerged around ANWR.

Here I examine how spatial narratives are created and embodied in debate by assessing it through the concept of authority. In Indigenous communities, authority is often the power to speak for others, a responsibility that is given and earned through a circle of legitimacy (elders and relatives). This authority is an opportunity, as well as a space to speak when the knowledge sharing is relevant and opportune (Rappaport 1994). Moreover, in this paper I consider how Indigenous non-state nations (to be defined in the next section), namely the Gwich’in, articulate their positions about environmental use and animal-human relationships to resonate with their national identity. For the Gwich’in, community authority is developed from consensus decision-making tools and a wide field of representation. At the same time, external interests like corporate oil, environmental lobbies and federal agencies tend to collapse and co-opt certain Indigenous stories towards their own aims. How authority is determined from within an Indigenous community and how external parties both collaborate and/or exploit these perspectives will be the core of the discussion.

Methodology

The ethnographic data culled for this paper is based on participant observation of the public hearing in Fairbanks, AK on October 19, 2011 and corresponding media coverage; the U.S. FWS documents on ANWR; attendance at the Gwich’in Gathering in July 2010 in Fort Yukon, Alaska; and maintenance of close relationships with several Gwich’in people throughout the writing process. Herbert (2000) argues that by integrating participant observation in ethnography, the researcher can observe social complexities as they emerge—rather than applying pre-determined categories to data collection and analysis. Using testimony through participant observation as my primary data source, I seek to elucidate the questions of community authority through the diversity of participant voices (Bahktin 1981, Sarris 1993).

To be discussed in the following section, Indigenous representation in state institutions like public forums, courtrooms and museums is a powerful force for Native nations and outsider agencies. Throughout the history of Indigenous-Euro American relations, Native people have asserted authority to confront colonizing offices, to care for their people and to sustain their sovereignty. At the same time, some community members and outsiders have exploited the ‘official voice’ to manipulate situations towards their own ends and to ‘normalize’ the colonizing process. Essentially, by attempting to speak on behalf
of a Native nation, a corrupt authority figure can negotiate between both community and settler state (Veracini 2011, Wolfe 2013), sacrifice the integrity of community values and participate in the subjection of the Native nation s/he is allegedly serving.

The ‘Necessity’ of Authority

What I term a ‘non-state nation’ is a political entity that self-identifies, governs and represents itself as a nation both internally and internationally. Indigenous nations uniquely embody the non-state nation, as sovereign collectives whose governance and traditions provide an alternative to the settler state (nation-states founded on principles of subjecting Native populations and establishing a European-descent hierarchy over the land and Indigenous peoples). Indigenous nations like the Gwich’in exert their power and identity in political debate and in those spaces, articulate their perspective from voices of authority. Mobilizing a ‘non-state’ nation often necessitates an ‘official voice’, for focusing the priorities and values of that nation, and for presenting their consensus-built decisions to outside entities. Creating a voice of authority within Indigenous nations is both an internal and external flexing of power. Myriad examples make this point: in legal cases for land possession and title (Willems-Braun 1997, Sparke 1998, Borrows 2002), as a form of political mobilization in international forums (Anaya 2009), and for expressions of national identity in museums, cultural centers, mapping, spiritual rituals and language preservation (Anderson 1982, Enoite and Bryan 2007, Srinivasan et al., 2008). Many of these spaces—like the courtrooms, museums and map-making projects—were initially manifested during the early imperialist era in settler states and instituted a statist discourse. As sites of settler state knowledge production, many are just now opening up to including Indigenous voices, yet insist upon a singular voice of expertise and authority that is abstracted from context. This need for the abstract is a fetish of western knowledge production, write both Vine Deloria, Jr. (1997, 2003) and Linda Tuhiwai Smith (2006). Institutions that elevate hierarchical and abstracted knowledge production continue to discipline Indigenous knowledges and variances to a western construct (Smith 2006, Srinivasan et al., 2008, Wainwright and Bryan 2009).

Non-state Indigenous nations have developed various strategies to communicate within settler state institutions and international forums, and the communication is an amalgamation of Indigenous and western strategies. Often the non-state polity appoints a spokesperson to represent the disparate voices of the people and serve as the public mouthpiece. This spokesperson will address international forums, governments and journalists, expressing the decisions or observations from other community members. The spokesperson’s words are not only his/her own. However, this alternate form of communication is not always legible to western traditions of thinking, in which slippages abound that presume these individuals as a figure head, rather than a mouthpiece for numerous elders, leaders and activists. Within the western political paradigm, an Indigenous spokesperson becomes the cult hero, the one-man symbol of a collective entity and relegated to a kind of Che/Jesus/Messianic iconography. This cult of personality reveals the Judeo-Christian lineage of western political thought and its dependency on figureheads, monarchs, popes, rock stars and saviors (Deloria 1997, 2003).

Avoiding the singular cult of personality, the Gwich’in Nation operates in different cells of authority, namely with multiple representations by different groups: 1) the village
tribal councils and chiefs; 2) the Gwich’in Steering Committee (GSC) which is made up of representatives from each of the 15 villages and a board of directors who oversee the committee decisions; 3) multiple inter-village councils like the Council of Athabaskan Tribal Governments (CATG), the Tanana Chiefs Conference, the Gwich’in Tribal Council, the Gwich’in Steering Committee and intertribal groups like RED OIL (Resisting Environmental Destruction on Indigenous Lands) and the Yukon River Intertribal Watershed Council. These groups are not singular authorities and are held accountable directly to the people. This type of accountability has its own challenges, including a dynamically rotating leadership.

These diverse bodies meet in the biennial summit of the Gwich’in Gathering, even alternating that space to each of the 15 villages, centering the locus of political power within the people. The Gwich’in base a significant portion of their identity from their traditional geography, but unlike a western notion of a ‘capital’ center of political power, that power can migrate within their national landscape (between international borders and multiple jurisdictions). And during the summit, every Gwich’in individual can and does participate—age, experience, career not withstanding. Outsiders who participate in Gathering are also hailed to share. The multitude of voices (Bahktin 1981, Sarris 1993) is actually a critical piece of community authority; and there is an inclusivity at the Gatherings that would seem inefficient and almost pedantic by other standards. But it is the Gwich’in way of making decisions: long open debates to collect information rather than isolate—a hesitancy for ‘the bottom line’ in lieu of full participation.

However, the positions of the GSC and the resolutions born out of consensus from the Gatherings still do not represent every Gwich’in perspective—neither the dissenters nor the levels of nuance for the nation. Those who do not participate in the Gatherings or those who endorse the economic leadership of Doyon, Limited (to be elucidated in the following section) for making business decisions are not represented in the resolutions born out of the biennial summit. Additionally, it would also be wrong to assume that some voices from the Gathering are not more powerful than others as spokespeople are chosen to represent the resolutions from the entire attendant body. But creating spaces of governance for inclusion is a priority of Gwich’in nationhood, in both the Gathering and through the public forums of testimony to be discussed shortly. Using spaces like forums, gatherings and public testimony, the Gwich’in spectrum of voices is emphasized as a primary governance process.

The Alaskan ‘Wilderness’ and Its Unique Native Organizations

There are few places on the planet that continue to generate such mystique as the Arctic, particularly because it is a place often described by those who were born elsewhere. For the portions of the Arctic Circle located in Alaska, this outsider narrative connotes a perpetual settler mentality as well as policies of control based in the lower 48 states. Whether they are voices of oil developers, environmental lobbyists, politicians, or simply people who wish to escape to their Jack London fantasies—the northern places are often constructed in breathy neo-colonial admiration. Alaska and surrounding environs are ‘there’ (not here)—the El Dorados of gold and oil resources, and of sensual poetry:

There, humans exist on the edge of another kind of life—a life that can be summed up in one tiny little word, a word that does so little to encompass the sheer potential
of existence without limits, beginnings, and endings that are dictated by the forces of raw survival, the beauty of life untended by the human hand. That word is *wild* (Surrusco and Shogan 2012:24).

The connotation of *wild* or *wilderness* continues to drive and be defined by not only policy—the U.S. Wilderness Act (1964)—but what is understood to be ‘wild’ also determines a hierarchy of social economies. These outsider formulations are powerful at the same time that Indigenous voices are equally strong and express alternative images of the same spaces. Native people acknowledge the outsider perspective that has often overwritten their own, as Paul Ongtooguk [Inupiat] shares:

We've lived in places with such efficiency and grace that later people who have come to our homelands have considered them to be empty of human beings; and they've called this a wilderness because they didn't see us in those places. They couldn't imagine that a people could live so well in a land that it would appear untouched by them. And we live with the dilemma of that to this day (1990).

Since statehood in 1948, Alaskan geography has been categorized in terms of ‘wilderness’ or development. The 1971 Alaska Native Claims Settlement Act (ANCSA) legislated separate land areas for Native peoples, but also introduced policies of socio-economic consolidation/assimilation (Hirschfield 1992, Getches et al., 2005). ANCSA was initiated in response to massive land grabs in 1960s Alaska. By 1969, Prudhoe Bay in north central Alaska had been opened for oil drilling and at the same time, numerous Cold War industries were buying up public land (including nuclear energies) from the state. Native villages and associations filed claims to block the state of Alaska from acquiring land and water that Native Alaskans had never ceded (Hensley 2001, Alaskool 2004, UAF 2013). Secretary of Interior Stewart Udall intervened and halted the transfer of public lands to the state until Congress settled Alaska Native claims. ANCSA was an attempt to treat Native claims differently from the lower 48, due to the lack of a historical treaty process and rejection of a reservation system (Hirschfield 1992, Getches et al., 2005). Among the tenets, ANCSA did two things that directly undermined Indigenous sovereignty: 1) treated Native people as individuals, not as tribes thus failing to recognize collective aboriginal title and rejecting Native nations as autonomous governing entities; and 2) extinguished aboriginal rights to hunt and fish with the implicit assumption that subsistence practices would decline as Natives moved into the modern cash economy (Hirschfield 1992, Alaskool 2004, Banerjee 2012, UAF 2013).

The implications of individualization were dramatic as they were premised on a different cultural understanding of title, and like the Dawes Act (1887) in the lower 48, and lead to the liquidation of Native land holdings overall. As well, extinguishing hunting and fishing forced Native people out of traditional economies and into profit-based alternatives (Cornell et al., 1999, Alaskool 2004, Banerjee 2012, UAF 2013). Arguing this change as ‘modernizing’ is emblematic of a colonizing system that refuses to recognize subsistence economies as integral to a peoples’ life ways and as a relevant use of their environments, to
say nothing of the cultural value.\(^5\)

As a result of ANCSA, Alaska’s geography was reorganized with 12 for-profit corporations created for each region (Figure 1). While the Native villages remain the political units of Alaska Native peoples and the entities imbued with protecting sovereignty, the corporations operate as the economic representatives for larger groupings of Native villages (Hirschfield 1992, Cornell et al., 1999, Getches et al., 2005, UAF 2013). These corporations were established as for-profit entities and are charged by federal and state law to operate as businesses, not social institutions. Despite the fact that both the villages and corporations are led by Native people, many internal conflicts for Native communities have emerged as the goals of the corporations are not always consistent with the aims of the village communities.\(^6\)

**Figure 1. ‘Borders of the Alaska Native Corporations’ Alaska Native Language Center, 2009**

The regional corporation for interior Alaska—Gwich’in country—is Doyon, Limited. Doyon, Limited is the largest private landowner in Alaska and one of the largest private landowners in North America with over 12.5 million acres in central Alaska (Doyon, 2014). And they are comprised of over 19,000 Alaska Native shareholders who share Athabascan (Dene) culture—the Gwich’in are Dene people. For example, Donielle Carroll [Gwich’in] a spokesperson of the Gwich’in Steering Committee (GSC) shared how she has relatives working for the Doyon, Limited which supports drilling in ANWR and how their perspectives conflict with her own work at the GSC. Gwich’in Elder Marilyn Savage and former Chief Dacho Alexander have testified against Doyon, Limited in pursuit of protection of Gwich’in villages in the Yukon Flats. Alexander argued that Doyon has sold out their people: ‘We have been marginalized. A price tag has been put on everything that is in Doyon land, on Doyon land. That tree over there, its got a price tag…that muskrat that’s

\(^5\) In 1971, the Gwich’in villages of Arctic Village and Venetie, rejected ANSCA and held out for their original tribal claim of 1.8 million acres. This move has cost them substantially and one other reason they rely on subsistence economies. Matthiessen, In the Great Country in *Arctic Voices*, 2012 p. 373
swimming down the creek, that’s got a price tag… our traditional area here that Doyon owns has a price tag now’ (Alexander 2012: 470).

Inupiat Perspectives and the Native v. Native Contest

My ethnographic research is built from several years of relationships within the Gwich’in community, particularly with individuals living in Fort Yukon/Gwich’yaa Zee, members of the GSC, and participants of the 2010 Gwich’in Gathering. The Gwich’in voices representing the GSC, RED OIL (a Gwich’in and Inupiat organization), and various villages dominated both my research and the public testimony on October 19, 2011 in Fairbanks. However, Inupiat voices are vital to this spatial debate and the stereotyping of both Gwich’in and Inupiat perspectives has been a clumsy reflex of external coverage and an effort to paint a battle royale between ‘voices of authority’ in both nations.

Consider a 2005 piece in the Smithsonian Magazine. There journalist Scott Wallace typifies the dispute as complex with one side of ‘7,000 militantly traditionalist Gwich’in’ in ‘15 settlements scattered along the caribou migration route’ and on the other, ‘9,000 Inupiat Eskimo, whose once-ramshackle coastal villages have been transformed into modern communities with schools, clinics and indoor plumbing since oil started flowing from Alaska's North Slope in the late 1970s’ (Wallace 2005: npn). Harkening to colonial stereotypes, the Gwich’in are scattered, wild and synonymous with the environment, and the Inupiat who were once just as ramshackle are now transformed into modern communities, due to their relationship with oil corporations. Vice Mayor of Kaktovik George Tagarook [Inupiat] takes the differentiation one step farther, alleging—and perhaps justifiably—that Gwich’in voices have been louder in the ANWR debate while Inupiat people actually live in the coastal plain vicinity. He directly challenges both the authority and authenticity of the Gwich’in, and complicates the debate over space, alleging that the Gwich’in are pawns of the environmental movement (2001):

One such reality is that real Native people do not intrude into the homelands of other Native people…And so when we hear about Native people from someplace else with plans for our homelands, we know we are not hearing real native voices. We know someone else from some other place wrote the language. When Sarah James, a Gwich’in spokesperson now using that alien language, signed the lease agreement years ago for oil and gas exploration within the Gwich’in homelands, we did not think to question the wisdom of her decision…When they speak of their sacred lands, the calving grounds of the Porcupine Caribou Herd, which just happen to be our homelands and far removed from theirs, we know we are hearing alien words spoken for somebody else…Step by insidious step, outsiders pushed us aside, set up rules that made it harder and harder for us to use our lands and waters…Now they want the entire coastal plain made wilderness. That is code for finally removing us from our homelands. That is code for genocide. (http://www.anwr.org/People/Inupiat-Eskimos.php)

Tagarook cites a 2000 community survey in which an alleged 78% of the Kaktovik community support oil development and want to do away with the wilderness designation. Tagarook and Tara MacLean Sweeney [Inupiat] of the Arctic Slope Regional Corporation (the Inupiat corporation) verbalize the flip side of the reductionist thinking that collapses
Inupiat as oil industry pawns, arguing the Gwich’in are the ‘savage’ icons for the environmental movement which has imperial claims to Inupiat land in the guise of ‘wilderness’ classification. Tagarook also engages in an argument of ‘authenticity’ and ‘authority’ over the contested space. He writes how ‘real Native people’ don’t interfere in the lands of other Native people, suggesting that Gwich’in people are less Native. In many ways Tagarook’s argument engages the external manipulations of both Gwich’in and Inupiat people by reducing the debate to the same caricatured sides. His point, that Gwich’in interests should be examined against the long-standing Inupiat habitation of the area, is a fair one. But by minimizing Gwich’in ‘Nativeness’, he enacts a colonial discourse of who is more ‘real.’

Other Inupiat voices destabilize Tagarook and Sweeney’s argument, while maintaining a distinct Inupiat identity with the geography and cultural values derived from this space. Living in proximity to existing oil fields, Inupiat leaders like Rosemary Ahtuangaruak, Kenny and Ann Tagarook, and many others express an anti-oil rhetoric that is often muffled by the more ‘official’ Inupiat voices that support industry efforts. For example, these are the words of the co-founder of RED OIL, Robert Thompson who lives in Kaktovik, like Tagarook:

Our culture is based on hunting activities…All of the activities related to whaling give our people purpose. Whaling involves many members of the community who participate in different ways…The ocean has sustained the Inupiate people for thousands of years and I wish to pass that along to future generations to enjoy as I have. I fear that if Shell’s proposed exploration drilling activity proceeds, our culture and the ocean we depend on could be seriously harmed (Banerjee 2012: 303-304).

Thompson also directly challenges the 2000 community survey cited by Tagarook arguing,

The survey wasn’t done in an open public format. For a little while, I began to believe the results of the survey, but then in 2005, I decided to circulate a petition in Kaktovik to oppose oil development in the Arctic Refuge…57 people signed the petition…57 people out of 97 who voted is a majority…However, the pro-oil politicians continue to misrepresent us (Banerjee 2012: 308).

Intensifying this further, is the fact that while Inupiat communities have material benefits from the oil collaborations, they have also born substantial costs to their quality of life. Rosemary Ahtuangaruak, an Inupiat leader and health worker observed a steady rise in respiratory illness and food contamination from oil industry air and water pollution. She criticized health reports that minimize oil industry contaminants in fish and encourage Inupiat consumption, because those reports fail to account for Inupiat levels of fish consumption which include a high intake of fish livers, considered a delicacy. Fish livers harvested from oil development waters contain the highest concentration of PCB and DDT. She wrote: ‘These persistent organic pollutants concentrate in us through consumption of our food. They accumulate in our bodies, our livers, our kidneys, our breast milk and our children’ (Banerjee 2012: 314).

Finally, the Inupiat are not alone in the dissension within their communities over the pros and cons of oil development, as much as external reporting reduces both the Inupiat
and Gwich’in struggles to one note for each. Here both the Inupiat and Gwich’in deal with similar elements: corporate structures instituted by the U.S. federal government pursuing an extractive based-economy. These corporations are not the only pro-oil voices in the communities, but arguably some of the most influential in their ability to form contracts with private companies and maintain representation with the state and federal governments. As business entities, they are directed by state law to pursue profit-generating enterprises (Cornell et al., 1999) and because of their establishment through U.S. law (ANSCA), federal offices maintain regular communication with the Native corporations. These corporations promise jobs and prosperity, not minor issues for either the Gwich’in or Inupiat peoples whose finances are difficult and poverty levels high. However, these corporations fail to recognize the traditional economies of hunting, fishing, forestry as having potential in sustainable development. Here is the clash of values between those people who see these traditional economies as viable and integral to identity, and those who argue that an extractive based economy is the best alternative to alleviate poverty. In debate, both of these viewpoints become imbued with stereotypes and facile soundbytes. The Gwich’in nation is centered on the Porcupine caribou and that evolves to an imaginary of either ‘wild, scattered and ancient’; ‘sustenance and environmentally responsible’ or ‘pawns of green lobby and overstretching into Inupiat territory.’ The Inupiat are ‘pragmatic and modern’, have ‘sold out their culture’ or ‘lackeys of the oil industry and Alaskan politicians.’

The reflex to reduce both nations into stereotypes of eco-friendly and pro-oil is based on external agencies that seek to harness authority from these communities to their own ends. The Alaska land rush and ANSCA resolution coincided with the Red Power Movement and the birth of the environmental movement (1963-1973) in the U.S., which informed a particular discourse in Alaska. In many ways, this era rehabilitated the idea of the ‘noble savage’. This time it was the ‘Ecological Indian’ connected to the land who cries at the sight of off-shore oil pollution and lives harmoniously with nature. This image invokes pre-contact living: the Eco-Indian is part of ‘nature’ and is ‘wild.’ This is a stereotype that continues to be widely used in environmental debates in Alaska, as will be seen in the testimonies of non-Native green activists. Shepard Krech (1999), critiqued this mythology by attempting to argue that Native peoples are no more stewards of the environment, than any other group:

[T]he New Ecological Indians exploded onto the scene. As critics linked many current global predicaments to industrial society, spoke openly of earlier less complex times as being more environmentally friendly, and castigated Christianity for anthropocentrism, they marshaled Ecological Indians (as deployment of the Crying Indian makes clear) to the support of environmental and antitechnocratic causes. … In their conscious antitechnocratic critique of Western society, Rousseau was reborn (Krech 1999, quoted by Trosper 2009: 30-31).

Krech’s attempt to de-mythologize Native people in eco-discourse created another problem by failing to read Native relationships with the environment from an Indigenous perspective. Ron Trosper argues that while critiquing one mythology of the noble savage, Krech introduces a new mythology: that Indigenous peoples were not stewards of the environment (Trosper 2009). Neither extreme comprehends the cyclical relationship between human and environment in terms of the Indigenous social and ethical economy, perhaps because it is so different to western philosophies.
For the Gwich’in, the coastal plain is sacred, so sacred many Gwich’in people will not go there, (as expressed in Daniel Lum’s public testimony). And the caribou are not simply worshipped, they are also hunted and consumed. The caribou and human heart are one in Gwich’in philosophy (Solomon 1988), but unlike Hinduism, which would prohibit hunting, or Christianity, which would situate the caribou below human beings in a socio-natural hierarchy, Gwich’in ways of seeing the world are distinctly different. The ethic is to protect caribou, respect the life cycles and hunt as your ancestors taught you. These principles create a distinct worldview premised on an alternate conception of time and space (e.g., migration cycles as seasons, a map of Gwich’in space that overlaps international borders). As an Athabaskan hunter explained to writer Paul Nadasdy, “[S]hooting a wolf is “not the same as shooting Saint Peter”… Shooting a wolf is not blasphemy or sin. On the contrary, First Nations people’s concept of respect is based on the need to kill animals. As long as hunters behave properly toward wolves and their remains, killing them can be a perfectly sensible and respectful act.’ (Nadasdy 2005: 320, quoted in Trosper 2009: 35).

For the Inupiat, ANWR is also sacred. Unlike the Gwich’in belief for no human activity in the coastal plain, an Inupiat village has long existed in the coastal plain vicinity. Akin to Gwich’in caribou hunting, Inupiat whaling is fundamental to the social-economy, culture, values, language and health of their nation. These values continue to be strong in the community and ignored by outside interests who promise much, but deliver very little. The Inupiat have years of experience dealing with the oil industry in their other villages (ones located in the National Petroleum Reserve Area (Figure 2), and offer these arguments against the safety that is promised in the current debates over ANWR.

Figure 2. ‘Northern Alaska: Wilderness Areas and Petroleum Discoveries’
U.S. Fish and Wildlife Service, 2011

From their challenges dealing with failed oil clean ups and health impacts on human-animals and the environment, the Inupiat perspective strengthens the Gwich’in argument. As Rosemary Ahtuangaruak observed:

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From their challenges dealing with failed oil clean ups and health impacts on human-animals and the environment, the Inupiat perspective strengthens the Gwich’in argument. As Rosemary Ahtuangaruak observed:
In early November 2010, there were federal government hearings in several Inupiat communities, including Barrow, Kozebue, Point Hope, Point Lay and Wainwright, to hear our concerns about Shell’s Arctic drilling...The hearing showed the continued concerns of the lack of ability to respond to a spill, the lack of taking the concerns of people into meaningful consideration, the lack of willingness to protect our traditional and cultural activities, and the stress and strain this causing to our people. The destruction stays with us while the benefits are taken elsewhere. (Banerjee 2012: 316).

Ahtuangerak’s words reveal another aspect of the debate that is often omitted: that a large proportion of oil industry money does not stay in Alaska. As will be seen in the public testimony section, the oil lobby argument is premised on how they will create jobs for Alaskans and how opening ANWR will infuse the struggling Alaskan economy with cash. What these arguments fail to recognize are the Indigenous economies now operating. The bias against hunting and fishing economies as capable of sustaining Native people in the Arctic is a huge failure of the economic side of this debate.

From both the Gwich’in and Inupiat perspectives, we can see how this space is critical to their social economies, however, outside observers argue one uses the traditional economy more than the other and the result is both Native nations are co-opted by external interests. The effect of this is what Trosper calls the ‘noble savage spin game’, resulting in the production of binaries where Native people and their policies are drawn as either eco-friendly and authentic, or capitalistic and assimilated—two categories that undermine inherent sovereignty for both the Gwich’in and Inupiat. Rather than recognizing the decisions of Gwich’in and Inupiat communities as acts of self-determined governments, the ‘noble savage spin game’ co-opts both the pro- and anti-oil policies of the communities for external interests. Their work is exploited by outside perspectives, in this case both oil corporations and the environmental lobby. Paul Ongtooguk [Inupiat] wrote an impassioned editorial for the Tundra Times that covered the environmentalist discourse and oil exploration debates in Alaska and the accompanying rhetoric of ‘authentic’ Native-ness within these two arenas. He analyzed an environmental rally for ANWR, which was led and attended by a dominantly Caucasian audience, with many people being recent arrivals to Alaska. The main speaker criticized Inupiat communities working with oil developers in Prudhoe Bay and cited the example of the Gwich’in and their subsistence economy of caribou and salmon as a more authentic and superior use of the natural environment. Comparing these two narratives, Ongtooguk examined how Native people are stereotyped by outsiders on all sides. These categories lead to a dichotomous view of the space and, depending on the special interest group, support is thrown behind either the ‘cash economy Native’ or ‘subsistence economy Native.’

The following empirical section of testimony reveals how the Gwich’in especially confront these stereotypical narratives and assert their own community authority as a practice of national sovereignty. The space is a public testimony hearing hosted by the U.S. federal government and due to being located in Fairbanks was more heavily represented by Gwich’in interests then Inupiat. The issues facing Gwich’in and Inupiat and how external agencies use both will be examined. Additionally, how the Gwich’in and Inupiat use those external agencies for their own purposes will be addressed. Neither Indigenous group is a pawn, but they are politically savvy non-state nations who recognize the limitations of being...
an Indigenous entity in a settler state as well as how to negotiate within that system for their own needs.

**Background on the ANWR Debate**

In 2011, the U.S. Fish and Wildlife Service (FWS) released a draft of a Comprehensive Conservation Plan (CCP) for the Arctic National Wildlife Refuge (ANWR) a document that guides management plans of the area and is revised every 15 years. Within the document, the vision statement for the 19.3 million acre refuge (Figure 2) contains the language previously discussed to preserve the ‘wild’ and ‘the untamed’:

> This untamed arctic landscape continues to sustain the ecological diversity and special values that inspired the Refuge's establishment. Natural processes continue and traditional cultures thrive with the seasons and changing times…and we honor the land, the wildlife and the native people with respect and restraint. Through responsible stewardship this vast wilderness is passed on, undiminished, to future generations (FWS 2011: 2).

Within this vision statement, the preservation of the ‘wilderness’ and supporting subsistence cultures, like the Gwich’in Nation, is entwined with the management of the Refuge. However, as public lands sitting above highly contested resources, the management plan has become a document of debate reflecting the myriad demands for access to this geography. Designating an area as ‘wilderness’ is a category that only Congress can make, and the FWS uses the wilderness review process as a tool to evaluate effective management of the Refuge according to the Refuge’s ‘purposes and other legal requirements’ namely the Alaska National Interest Lands Conservation Act (ANILCA). If the area meets wilderness requirements, the FWS can recommend wilderness designation to Congress, who then makes the final decision (until that decision, the areas are managed in a minimal management category). The latest CCP (2011), released on the 50th anniversary of the ANWR, proposed six new management directions for ANWR called ‘Alternatives A-F’ which were open for public debate and voting via testimony and/or the FWS website forum. The following table (Table 1) profiles the wilderness designation alternatives. The subsequent map (Figure 3) of ANWR delineates each of the areas of the Refuge: the area already under wilderness designation and the three study areas debated for designation.

**Table 1.‘ANWR CCP Alternatives’**

<table>
<thead>
<tr>
<th>Issue</th>
<th>Alternative A</th>
<th>Alternative B</th>
<th>Alternative C</th>
<th>Alternative D</th>
<th>Alternative E</th>
<th>Alternative F</th>
</tr>
</thead>
<tbody>
<tr>
<td>Should additional Wilderness Study Areas be recommended for inclusion in the National Wilderness Preservation System, and if so, what areas?</td>
<td>No new Wilderness recommended.</td>
<td>Recommend the Brooks Range Wilderness Study Area.</td>
<td>Recommend the Coastal Plain Wilderness Study Area.</td>
<td>Recommend the Brooks Range and Porcupine Plateau Wilderness Study Area.</td>
<td>Recommend the Brooks Range, Porcupine Plateau and Coastal Plain Wilderness Study Area.</td>
<td>Same as Alternative A.</td>
</tr>
</tbody>
</table>
As discussed previously, the coastal plain of the ANWR is the nursing and calving grounds for the Porcupine caribou, also called the 1002 Acre area. This is the ‘hotbed’ for the debates as it is the specific geography that both the Gwich’in and Inupiat claim through ancestral rights, and in which oil/gas interests assert development rights (under a nationalist security rhetoric for domestic oil). Thus Alternative C and E—which recommend the CPSA for a ‘wilderness’ designation—were the most contested options at many of the public hearings. In addition to voting on Alternatives A-F, many individuals campaigned directly against the designation of the coastal plain as ‘wilderness’ to allow for the oil and gas development supported by both industry and state legislators. Worth noting is that none of the FWS Alternatives include a gas and oil development option, as that directly contradicts the mission of ANWR.

Gwich’in interests mostly voted for Alternative C or E, and I interviewed several people on the distinctions between these two alternatives, specifically because Alternative E reserves more area for wilderness designation but Alternative C was touted at the top choice for green and Gwich’in interests. Representatives of the Northern Alaska Environment Center and spokespeople from the Gwich’in Steering Committee (GSC) separately informed me that Alternative C was the chosen option for their respective groups and the collaboration between their organizations. In private conversation and one-on-one interviews, I asked representatives from both groups what were the institutional preferences and why. Additionally, editorials in the Fairbanks’ Daily News-Miner leading up to the debate were also public spaces of commentary for promoting different wilderness designation alternatives.
for subsistence economic activities, like hunting and timber harvesting. In an op-ed piece for the Fairbanks’ *Daily News-Miner*, Gwich’in Elder Sarah James of the GSC promoted Alternative C, arguing that the oil development would make the Porcupine caribou herd decline, even if the oil companies ‘do everything right.’ Linking caribou health to the Gwich’in way of life protected by the International Covenant on Civil and Political Rights (ratified by the U.S. Senate), she wrote: ‘We have alternative sources of energy, and we have conservation. We have choices, but the Porcupine caribou don’t have a choice’ (James 2011).

### Creating Authority from Testimony

In my conversations with multiple Gwich’in individuals and others, community authority is a thorny issue with outside agencies, especially in these spaces of public discourse. Luci Beach, former director of the Gwich’in Steering Committee and Gwich’in community leader referred me to the Alaska Native Association (ANA) meeting that was taking place in Anchorage, the same week of the ANWR hearings in Fairbanks. Alaska Native corporations like Doyon and Arctic Slope have slowly assumed control over the proceedings in what was once a political event, and the ANA meeting has become a space where the Alaska Native economic corporations present themselves as the decision-making bodies for their peoples. Luci was working with a diverse group of Alaska Native activists who were protesting the event, reminding the corporations that they were in fact, not the elected leadership of their people. Accountability and consensus are two vital aspects of Gwich’in governance, and the corporations have neither of these two elements in place (Beach 2011).

The U.S. federal government further aggravates this incongruence by negotiating directly with the corporations, even though legally, they should be communicating with the villages as the political base for the tribes. Don Chircel of the TAA, expressed to me his frustration with educating the federal government who operate with little regard for the villages (Chircel 2011). Thus, the system of authority even between government-to-government is in a state of chaos. The federal government prefers to work with the corporations that it helped to found in the 1970s, rather than deal with all the variances from hundreds of villages. Expediency and legibility are two concepts often dealt with in state centric scholarship (Foucault 1980, Den Ouden and O’Brien 2013), and here those concepts mandate Native-federal relations. And the oil companies and environmental lobbies mirror the federal government—they too, cherry pick which Native organization represents their goal.

The Gwich’in and Inupiat, however are not passive in this process. As discussed, the Gwich’in have maintained a consensus-driven governance model drawing from each of their 15 villages and multiple organizations in the communities, administered by the Gwich’in Steering Committee in the Porcupine caribou and ANWR debates. And in those spaces, the Gwich’in present their own agenda, using the lobbyists as much as they too are being used. For the Gwich’in the ANWR hearing in Fairbanks was a space to counteract two narratives that challenged their positions and many participants used their testimonies to express sovereignty in lifestyle, economy, spirituality and in solidarity with Inupiat communities. The

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8 Refuge management allows for subsistence activities, so when I pressed Hertz she alluded to a greater volume and extent of the timber and hunting, but after that was quiet about the topic.
two narratives operating in media, conversations and debate that I observed were: 1) jobs v. pretty places, and 2) Native v. Native.

**Jobs v. Pretty Places**

The Alaska Chapter of the Sierra Club said the CCP was a chance:

[T]o finally protect the coastal plain of the Arctic National Wildlife Refuge as wilderness...Once this wilderness is destroyed, it's gone forever. Now is our chance to finally protect this magical place forever… (2011).

‘Magical places’ was the a key part of the rhetoric of many giving testimony at the autumn 2011 hearings, pitted against narratives of ‘pragmatic industry.’ Consider the following two excerpts from participants supporting Alternatives C and E:

David Hamilton: [I've] been in Alaska for 30 years…One of the most delicate and rich ecosystems in the world. It’s been called the Serengeti of the North…so many animals. [I've seen] tens of thousands of caribou crossing, not even saw half the herd.

Anne Harrison: I support Alternative E, otherwise where will it stop? Will we keep drilling until there is no wilderness? No caribou? No wildflowers? Yes jobs are indeed important, however, stopping [wilderness] for future needs and future generations is not the answer.

Both Hamilton and Harrison appeal to an aesthetic appreciation of wilderness, citing the beauty and uniqueness of the refuge environments. Their testimonies contribute to the FWS recommendations for wilderness areas, and rely on a rhetorical formulation of unique biodiversity and natural beauty (Figure 4). Comparatively, individuals arguing against continued wilderness designation found that wilderness limits more jobs for more Alaskans (Figure 5).

Janelle Divelore: I oppose additional wilderness designation in the Arctic National Wildlife Refuge and support future energy development in the 1002 Area on the table. ANWR will provide us with national security [and] we cannot afford to keep reliance on foreign oil. Alaskans need jobs and development is the perfect way to get them.

Shawn Mallory: I have lived here my entire life… it seems today has been a day of emotion, we have different thoughts, different ideologies, and I respect that but the fact of the matter is, we are talking about a very small area, very small, it wasn’t picked arbitrarily, the 1002 area was chosen because it has a very high potential for oil and gas…Wilderness designation? You have enough designated already.
Figure 4. ‘Oil Workers Union Protest Wilderness Designation, 1’ Author 2011
*Note the oil workers are not white and all male, instead the oil lobby strategically picked
  demonstrators that could relate to the predominantly Gwich’in and environmental lobby in attendance.

Figure 5. ‘Oil Workers Union Protest Wilderness Designation, 2’ Author 2011
The demonstrator happily performs the rhetoric of employment for Alaskans.

Divelore and Mallory elucidate a significant issue for the Alaskan economy. What this particular jobs-oriented rhetoric omits, however, is that oil development will destroy alternative work that already exists: Gwich’in and Inupiat hunting and subsistence economies. Indigenous subsistence practices are not part of an environmentalist mythology,

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9 Subsistence activities are defined in the CCP and include different provisions for whether the activities are allowed, need authorization and in terms of plant harvesting, the age of the plants/trees. The activities include: berry picking, hunting, trapping, fishing, firewood collecting, plant collecting, building temporary facilities (tents, shelters, etc.), using transportation, and inhabiting subsistence cabins.
they are the tangible way hundreds of people eat and survive through a winter. Thus, while a jobs discourse may be valid, as discussed previously, how jobs are defined within the rhetoric is strategically limited. In this ‘jobs versus pretty places’ argument, oil jobs are considered the only viable employment. Matthew Gilbert [Gwich’in] counters this argument:

I don’t like how this issue is being framed, workers are shouting to shut down the [wilderness] complex. I would like to remind [them], we are workers and we are also the greatest lawyers at this moment in the state of Alaska. Not only are we fighting to protect the refuge, but we are also fighting battles of cultural difference, racial discrimination, the challenge to develop our economy in our villages without oil and gas…

A second aspect of the ‘jobs v. pretty places’ rhetoric is how the pro-environmental lobby is put on the defensive to protect a space for its aesthetic value, over commercial value as if one narrative of space has primacy over the other. Fundamentally, the ‘jobs’ argument contradicts the core mission of the Refuge, and inevitably is an argument for the dismantling of the Refuge altogether. The following two excerpts share the diametric opposition manifested by native Alaskans over whether to maintain wilderness and the Refuge.

David Pruce: 85% of Alaskans do not support wilderness designation for area 1002 of ANWR and I have heard people speak about how it will decimate Porcupine caribou. I will give you a perfect example of why it won’t…we heard the same thing 40 years ago, at the time we heard there was less than 40,000…it has quadrupled the size since then and but there is no study ever been made that Prudhoe Bay has led to any [destruction] of the wildlife up there…I saw a lot of people today looking forward to working at ANWR [as an oil site].

Pamela Miller of the Northern Alaska Environmental Center: What’s the R in ANWR? It’s refuge. You may hear that but a lot of Alaskans don’t know it’s a refuge. The conversation plan before us does a remarkably good job of presenting the enduring vision and goals for…wilderness values….When the Refuge was established in 1960, the lands in the east were set aside as a refuge, the lands in the west were set aside for oil. Today we have over 14 million acres of land in Alaska set aside for oil.

Miller’s testimony refers to both the mission of the Refuge, a mission the pro-oil interests oppose, but she also reasserts federal definitions of wilderness for the area. The wilderness designation is a strategic appellation, it’s more than ‘wild’ and there are values that define this space (Figure 6). She conceptualizes the geography of Alaska in her words, the east gets oil development and the west gets wilderness. Pruce, on the other hand, rejects a federal perspective and argues for the jobs view: Alaskans are tired of wilderness and they want jobs (Figure 7).
In comparison to the oil lobby, which had demonstrators dressed for oil rigging, the collaboration between environmentalists and Gwich’in people opted for cute mascots and a cuddly rhetoric.

Native v. Native

The second narrative that ran through the public testimony and local debates was ‘Native versus Native.’ During the testimonies Inupiat interests were largely represented by the Arctic Slope Regional Corporation and its pro-oil stance, while Gwich’in testimonies were multi-angled defenses of the coastal plain as fundamental to their subsistence economy and culture. Oil union workers represented in large numbers to protest wilderness designation outside the hearing and were predominantly non-white, male and female workers—underscoring the racial politics of the debate.

As discussed, a significant part of the Native v. Native debate is the proposed land use. Gwich’in Elder Sarah James of the GSC argued: ‘If you marked on a map where the Gwich’in have always lived and also where the Porcupine caribou herd migrates, you would see how we live together’ (2011). James’ statement of comingled geography of Native people
and Porcupine caribou undercuts the main issue in the Native v. Native debate: whose land is this really? Tara Sweeney [Inupiat] of the Arctic Slope Regional Corporation addressed this question directly:

I am here representing the interests of the shareholders of the Arctic Slope Regional Corporation, who also [claim] the land in the coastal plain. I am here in opposition to wilderness designation of the coastal plain as a national wildlife refuge. Kaktovik is the only village in the federal boundaries of the Arctic National Wildlife Refuge. And to have a wilderness designation would shut down an economic activity for that village and the rest of the villages on the North Slope, where a half gallon of juice costs $15. Now I do respect the Gwich’in and thank you for opening up your home [Fairbanks] for us to have this hearing here, I have a profound respect for your people. And I believe we have more in common than we do differences, as we do on this one issue. The coastal plain is the homeland of the Inupiat people, not the Gwich’in. And it has been for 10,000 years. If they [Gwich’in] would like to have wilderness in their backyard, okay. It’s not okay in our home—the coastal plain [bold added by author].

Sweeney’s testimony directly engages James’ claim of Gwich’in rights over the space, and asserts the ancient home of the Inupiat. She assumes a geopolitical strategy in her testimony, citing Fairbanks, the site of the public forum, which she situates as Gwich’in as she thanks them for their hospitality. But she says that while she is a guest in Gwich’in land at the moment, she reminds them that they are trying to legislate her peoples’ geography.

Gwich’in testimonies differed in their geographic assertion. Many like Lum in the introduction acknowledge the coastal plain as a sacred space, one not to inhabit but to protect. This stewardship relationship is as ancient as are Inupiat rights in the same area. Consider the words of Donielle Carroll and Darlene Herbert:

Donielle Carroll [Gwich’in]: As Athnabaskans, we are here to protect…it’s not called the 1002 area, it’s called the ‘sacred place where life begins.’ And we need to protect it for future generations, and there’s not many of us left. We have resolutions with many tribes that agree that this land is to be protected from oil and gas development.

Darlene Herbert [Gwich’in]: You are making the decision for us, the oldest people in Alaska, and not only the Natives, but all of Alaska… You are making the decisions for thousands and thousands of Natives out in the woods, that you have never seen. People who eat caribou. I want the future for my kids. I want the land for them…[Y]es we have money but we can’t eat oil, as I have said before in other speeches, starvation is coming and this I believe because I heard it from my great, great grandmother…In order to live off the land, you have to save it.

Carroll and Herbert argue on the basis of ancient stewardship, corresponding to Trosper’s articulation of Indigenous human/non-human systems. These beliefs are long held and universally acknowledged in Gwih’in writings, practices and as part of their law and governance—all areas that embody Gwich’in sovereignty.
Finally, amidst the ancient territorial claims, which surfaced in the debates, there were also voices of Indigenous collaboration. These are voices rarely represented in media accounts of the debate but substantiate an alternative negotiation for shared space and sovereignty. Faith Gimbel [Gwich’in] offered the following:

I am representing Gwich’in mothers, first and foremost. Secondly, I am representing RED OIL (Resisting Environmental Destruction on Indigenous Lands). In my work and through RED OIL, this network that was created to protect Gwich’in homeland in Alaska, we strongly support permanent protection of the 1002 Area of the Arctic National Wildlife Refuge from oil and gas development…

We represent all Alaska Natives’ (Inupiat, Gwich’in, etc.) sustenance rights in our own traditional homelands. [According to] RED OIL principles, we adhere to the inherent right of self-determination for all indigenous peoples. We reject the Alaska Native Claims Settlement Act as an infringement on our right to sovereignty and self-determination. We are committed to a moratorium on all new exploration for oil and gas and coal as a first step to a full phase of moving from fossil fuels to a sustainable energy and environment. We take this position based on the disproportionate economic, social, cultural, spiritual, environmental, climate impacts on Indigenous people, particularly in Alaska.

Gimbel's and RED OIL's stance highlights multiple aspects of the disagreement. She asserts protecting the coastal plain as an exercise of sovereignty and rejects the Alaska Native Claims Settlement Act and the role of corporations that was developed as a result. Appealing to the rhetoric of human rights, she argues that subsistence economies are the valid use of the geography as well as part of the identity of her people, recognized on an international level. Finally, she also provides a voice of Indigenous collaboration over space that is largely omitted in the public discourse.

The Poignancy of Authority in Indigenous Politics

In the preceding sections, testimony from the October 19 ANWR hearing revealed contentious points of view from the Gwich’in, Inupiat and non-Native actors. Testimony was a battle over the wilderness designation, but more importantly, this was a contest over who had the authority to speak for their group and over the contested space of ANWR. Much of the testimony from non-Native actors was framed in the context of preserving the wild or developing jobs for Alaskans. Both groups collaborated with Native communities in their testimony, selection of the wilderness designation alternatives (or votes against designation) and in the pageantry of the hearing.

Noted on the photograph Figures 4-7, one can see how both the pro-oil and environmental lobbies worked with Native community members to substantiate their claims. For example, the pro-oil lobby chose all Native/non-white, male and female oil workers in labor garb (hard hats, boots, reflective vests) to demonstrate outside the hearing building. These smiling pro-oil faces protested wilderness and advocated for jobs as participants entered the hearing, thus their representation of the oil industry was the introduction to the public debate. Their presence destabilized the mainstream images of the pro-oil lobby as white and predominantly male. Yet, their presence as more than agitprop was short lived.
Within an hour of the hearing proceedings, all the Native oil workers were bussed back to their job training and only the white, male supervisors gave testimony. One supervisor even mentioned the exodus of the workers, saying they would like to have spoken but had job training, which was not only their top priority but the impetus of their protest anyway. The environmental lobby collaborated with Gwich’in organizations like the GSC in their pre-hearing rally and took numerous photos of Gwich’in people linked with wilderness protection advocates who donned faux caribou antlers or dressed as polar bears. In contrast to the pro-oil delegates and their hard hats and safety vests, the environmental/Gwich’in/RED OIL group projected a cuddly, pro-animal, pretty places vibe, replete with posters of generic Native sayings. I asked one of the advocates (wearing antlers) if this type of representation ever undermined their agenda. She smiled and said that while it was a little ridiculous, it was also expected and contributed to a festive atmosphere. Her insight about representation signifies how spectacle reasserts the stereotypical representations of Native people in debate.

The testimonies from Gwich’in and Inupiat participants draw more nuance to the debate than the pageantry and the ‘jobs v. pretty places’ argument. Many Gwich’in people gave testimony and the diversity of their perspectives dominated the proceedings. They were among the first to arrive and sign up for the testimony slots. However, as discussed, the Gwich’in were not uniform in their delivery, nor was their representation a hierarchy of leaders. Instead, there were fathers like Daniel Lum, grandmothers and elders like Darlene Herbert and Marilyn Savage, independent activists like Matthew Gilbert, and spokespeople from different organizations like Donielle Caroll and Faith Gimbel. In this form of simply showing up to speak about their sacred place, their economy, their identity, their way of life and even their predictions about the future, the Gwich’in testimony offered their national perspective, not a soundbyte. This multitude of voices (Bahktin 1981, Sarris 1993) constructs authority from a Gwich’in perspective in that it mirrors their form of participatory governance and the cultural value of yinjih or ‘perfect harmony’ (Fast 1995, Cornell et al., 1999) Yinjih is a concept that supports collaboration and holds that people should not only exist in harmony with each other, but with the environment and animal life, as well. Thus, yinjih is both a belief that informs the Gwich’in vote for wilderness designation as a sustainable relationship between human-animal-environment, but also a way of achieving this objective: harmony is the destination and the journey.

While the variety of Gwich’in voices produced a form of inclusive community authority at the hearing, two major components were omitted in the process. One is the pro-oil Gwich’in contingency, which had zero representation at the hearing (although Doyon, Limited has a seat during the oil industry negotiation meetings along with Arctic Slope Regional Corporation, which other Gwich’in do not). This lack of engaging the debate by the pro-oil Gwich’in side supports a homogenous appearance of Gwich’in policy. Furthermore it suggests that the anti-oil voice has evolved as the position of authority among Gwich’in people, a result of the mobilization of the Gwich’in as a caribou nation through the Gatherings, the multiple organizations, inter-tribal collaborations, international presentations and internal cultural education. If this has become a showdown between the Gwich’in Nation and the Gwich’in corporation of Doyon, Limited, the Nation possesses the political authority, even while Doyon holds the fiscal authority (outside the federal designation of ANWR).
In addition to internal authority, the Native v. Native discourse of the ANWR debate introduced a second question: whose claim, Gwich’in or Inupiat, to this space is justified, i.e. whose inherency is more inherent? By reducing Native people to an argument of who is entitled to land, Indigenous claims are pitted against each other by way of a colonial discourse of property. Often, U.S. colonial discourse allows for only one Native group to possess a claim at a time, even if pre-contact these claims and uses may have overlapped. ‘Whose land is it really?’ centers the debate and it minimizes the positions of both Native nations by necessitating a federal mediator. This situation corresponds to the notion of co-opting influence in Native communities to perpetuate a colonial notion, in this instance of settler territory, rather than the positions of Gwich’in and Inupiat people some of whom are united over this issue.

Conclusion

In this analysis of the ANWR public hearing, the Gwich’in spokespeople based their authority on the relationships between their people and their environments, the basis of the Gwich’in worldview (Deloria 2003, 2006, Peter 2005, GSC 2005, 2010). For many Native Nations, authority is designated through community and clan relationships, social roles designated by family and leaders whose decisions are not absolute but accountable to councils and elders (Deloria 1997, Blondin 1997). Specifically in Arctic Athabaskan/Dene histories of which the Gwich’in Nation is a part, authority is built from community councils and applied collective decision-making; and leadership is a collaboration of socio-political decision-makers, legal experts and spiritual elders (Mills 1994, Blondin 1997, Kulchyski 2005). Public representation about environmental issues is critical to Gwich’in society and governance. Articulated by Dene Chief Frank T’Seleie, these relationships form the basis of nationhood, ‘The way we were brought up, like each clan or family was responsible for certain places or geography on our land…You could see it, visualize how the land was governed. Some of it was stories or legends associated with certain landmarks…’ (quoted in Kulchyski 2005: 165).

Sharing stewardship over space is a cultural value for the Gwich’in. The federal and corporate entanglements are certainly not the first territorial disputes waged between Gwich’in and Inupiat Nations. This current climate however, is a unique ideological contest. While the outside media pits Gwich’in against Inupiat, testimony from the hearing and other research reveals how the debate is actually one interpretation of an Indigenous worldview versus another. There are Gwich’in and Inupiat people collaborating to preserve ancient traditions, and there are the regional corporations of Doyon, Limited and Arctic Slope Regional Corporation uniting towards mainstream culture priorities of industry and a wage-run economy.

During the ANWR forum, Gwich’in testimony vis a vis Inupiat testimony was a delicate issue. I observed levels of trepidation and concern with several Gwich’in participants during Tara Sweeney of Arctic Slope’s declaration of Inupiat space as sovereign and as pro-oil development. Unlike Arctic Slope Regional Corporation’s representative, the Gwich’in did not embark on a campaign that minimizes Inupiat traditional geography. They recognize this claim, and simultaneously recognize the sacredness of the coastal plain within their culture as Izhik Gwats’an Gwandaii Goo’dlit. For the Gwich’in people interviewed in this article, Inupiat and Gwich’in use are not mutually exclusive claims and can be exist as overlapping
spatial narratives. What is a threat to both traditional geographies, they argue, is oil development. Thus, they have argued directly against oil, but not Inupiat geography. For example, the Gwich’in-Inupiat collaboration of RED OIL attempts to change the Native versus Native discourse from antagonism to mutual goals of stewardship. Faith Gimbel (2011) said:

So protection of the refuge is about the human rights of the Gwich’in people and Inupiat people and the area of their subsistence rights. It is a subsistence rights issue. And the Gwich’in should not be asked to change our way of life to the consumption of energy of other Americans. Destroying the grounds of the Porcupine caribou is destroying my people’s culture…No jobs are worth that.

Robert Thompson [Inupiat], one of the founding members of RED OIL, has argued against the representation of all Inupiat people as pro-oil development. He has even spent time with Alaska Senator Lisa Murkowski to correct the representation of all Inupiat people of Kataktovik as pro-oil, saying a majority is actually against oil development in ANWR. He asked:

Will drilling be stopped to protect the Inupiat culture? I think not. Our country has a history of disregarding indigenous cultures. Many indigenous people were put on reservations so people from dominant culture could access what indigenous communities had (Thompson, 2011: 307).

Both Thompson and Gimbel assert an Indigenous worldview and center their cultures as primary sites for opposition to mainstream culture. Their articulations are of nationhood and a refusal to submit their life ways to a rhetoric of oil jobs, pretty places or warring Native peoples. They also directly refuse to collaborate with outside forces and ‘normalize’ the colonizing process of their life ways, economies and values. Changing their way of life is not an option, and instead they assert their alternatives as the main option for sustainable land use.

What the Indigenous participants—Gwich’in and Inupiat—experience is the direct impact of these policy decisions on their way of life. They resist the external framing of who is ‘authentic’ and whose claim is more legitimate by presenting their own positions in the debate, delineated by community authority. Not only are beautiful, sacred spaces and livelihoods on the line, but for most of these people, their very existence. As non-state nations existing within a settler state, both peoples have experienced the very real and sustained traumas of cultural and physical genocide. These debates are critical and from that perspective is the necessity of authority.
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APPENDIX C

Mapping Intergenerational Memories (Part I):
Proving the Contemporary Truth of the Indigenous Past

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Abstract

How Indigenous communities choose to represent spaces or spatial information is integral

to constructing and archiving cultural memory, articulating current environmental use, and
dealing with evidentiary issues for title or land claim cases. For Indigenous communities
around the world, the legacy of Western (often, colonial) cartography and spatial theory is
disconnected from the many distinct narratives of space (and time) in Native communities.
Specifically in legal situations, this disconnect often reflects a power struggle between a
Western, Cartesian division of space and time, and a relational, dynamic capitulation of space
and time by an Indigenous group. Indigenous communities attempting to utilize Western
legal forums for recognition of their rights face evidentiary hurdles caused by the
ethnocentrism inherently built into legal systems. Although exceptions exist to hearsay rules,
which allow oral history to be admitted as evidence and are common in multiple
jurisdictions, fact finders are not comfortable placing conclusive weight on intergenerational
memories. This discomfort is based on Western society’s ideas about what constitutes reality
and reliability and results in Indigenous communities being held to strictly Western and often
overly lineal principles. Indigenous communities need concrete methods to bring their
intergenerational memories into Western courtrooms and have lawyers and judges receive
and understand these fully and from an Indigenous standpoint.

Keywords
Indigenous communities
spatial information
cultural memory
evidence
Cartesian
intergenerational memories

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Introduction

How Indigenous communities choose to represent spaces or spatial information is integral to constructing and archiving cultural memory, articulating current environmental use, and dealing with evidentiary issues for title or land claim cases. For Indigenous communities around the world, the legacy of Western (often, colonial) cartography and spatial theory is disconnected from the many distinct narratives of space (and time) in Native communities.

Specifically in legal situations, this disconnect often reflects a power struggle between a Western, Cartesian division of space and time, and a relational, dynamic capitulation of space and time by an Indigenous group. Indigenous communities attempting to utilize Western legal forums for recognition of their rights face evidentiary hurdles caused by the ethnocentrism inherently built into legal systems. Although exceptions exist to hearsay rules, which allow oral history to be admitted as evidence and are common in multiple jurisdictions, fact finders are not comfortable placing conclusive weight on intergenerational memories. This discomfort is based on Western society’s ideas about what constitutes reality and reliability and results in Indigenous communities being held to strictly Western and often overly linear principles.

Currently, oral histories as employed in “Indigenous” cases are seen as reliable only when standing alongside corroborating “scientific” evidence such as archaeological and/or geological data not uncommonly accompanied by a Western-certified “expert” witness. Over time, it is likely that the reliability of oral histories in general will be proven through this corroboration, and Western judicial systems will begin to see oral histories as more reliable. However, in the interim Indigenous communities need concrete methods to bring their intergenerational memories into Western courtrooms and have lawyers and judges receive and understand these fully and from an Indigenous standpoint. This understanding and acceptance is both an issue of form as well as of shape: Indigenous lawyers need to know how to go about bringing Indigenous bodies of evidence into the Western court room effectively, and how this evidence needs to be explained (what symbolic markers, time and spatial content, etc.). It is important to emphasize that Indigenous oral histories are self-validating and self-validated within Indigenous communities themselves. In this Article, Part I of Mapping Intergenerational Memories: Proving the Contemporary Truth of the Indigenous Past, we only suggest the need to transform these largely oral histories—emic experiences told by insiders—into a legal medium more accessible to Western judicial systems out of necessity (adopting a more etic position as outsider or analyst), not out of a value judgment that Western evidentiary principles are superior. Rather, Western forums are a common place for contesting Indigenous communities’ colonized

10 VINE DELORIA, JR., GOD IS RED 61-76 (2003).
11 Michael Asch & Catherine Bell, Definition and Interpretation of Fact in Canadian Aboriginal Title Litigation: An Analysis of Delgamuukw, 19 QUEEN’S L.J. 503, 533 (1993).
pasts and Indigenous parties are confronted with ideologies supported by the colonial state apparatuses of law and governance. We hope this piece can be a tool for leaders and community members, practitioners and scholars in applied work, and legal professionals. In subsequent editions (Part II) of our project, *Visualizing the Contemporary Truth of the Indigenous Past*, we plan to present technological innovations for the preservation and presentation of oral histories.

**Multiple Conceptions of Space**

In 1997, the Ngurrara Canvas was presented to the National Native Land Title Tribunal in Australia. Over thirty senior traditional owners of the Great Sandy Desert in the South Kimberly region painted a canvas conveying traditional and continued Ngurrara relationships with the land. Their aim was to verify their claims of over 76,000 sq. km. Ten years later, Australian courts ruled for the Ngurrara community, which included 28% of land in western Australia. This narrative map provided a material pivot to the claim and was used in testimony throughout the proceedings. As Aboriginal lawyer and writer Larissa Behrendt pointed out, the Ngurrara Canvas confronted the colonial history of property and presented a carefully preserved Aboriginal law on spatial relationships:

The dominant legal culture has an emphasis on the written word, on economic rights and is focused on the individual. By stark contrast, Aboriginal law has an emphasis on oral transmission, the preservation and maintenance of culture and is communally owned. The Ngurrara canvas, by bringing an embodiment of Aboriginal law into the court for consideration by the dominant culture, communicated across the divide.

This canvas is, in other words, more than a “map.” The Ngurrara Canvas challenged the hegemonic dominance of Western concepts of space, property, and memory over Indigenous concepts. Here, an alternative understanding of space and time was offered as testimony and literally moved the courtroom into an Aboriginal articulation of this region. In so doing, it changed the standards for court admissible evidence.

Native title and collective rights cases rely on narratives and shared histories of land use and cosmology to affirm ancestral presence on their lands. Elders, leaders, and other community members validate traditional practices and geographic information in courts through oral testimony, but they confront a system that insists on foregrounding the

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14Due to the interdisciplinary nature of this piece (both in purpose and in the many writers and researchers of this essay) and of the topic at hand itself, we have attempted to steer clear of jargon or jump into the theoretical debates of our disparate disciplines. In that aim, some words such as “culture,” “oral tradition,” “oral history,” “space and place” and “power” among many others have not been unpacked of all their scholarly baggage, debate and significance. Where possible, we have tried to define terms, but moreover have left many of those terms open for redefinition by participants, especially for community leaders to redefine in their own languages and therefore, present a more accurate terminology.


16Id.

17Id.

archaeological record or other external sources rather than relying on Indigenous reports to corroborate Native authority on their own grounds.

The issue of conflicting evidentiary bases has surfaced in numerous cases, even legal victories for Native title claims in which oral testimony is paramount. Mapping traditional lands has become an increasingly popular and effective method for substantiating land claims taking for example the cases of Mayagna (Sumo) Awas Tingni v. Nicaragua, Tsilhqot’in Nation v. British Columbia, The Maya Atlas used by Mayan communities in Belize at the Inter-American Commission on Human Rights, and Zuni title cases in New Mexico, among others. Combining geographic technologies, in these cases, with Indigenous narratives of multi-generational land use has produced texts that verify Native possession throughout time. Yet, in these efforts where collective and individual histories identify specific areas with family use, law and culture within a Native community, courts continue to insist on external authority to reaffirm this information. In addition, in these cases a bias exists toward the study and recording of land use—a rather common western category—and not of time, its passing, and the experiences that both shape and reflect these processes according to the Indigenous world view. More work needs to be done, in other words, on the spatial mapping of intergenerational memory.

In other cases, such as the negative trial court proceedings in Delgamuukw v. British Columbia, where extensive Native testimony was incorporated into the proceedings, the attitude of the court was that elder testimony is but a component of a larger body of evidence that needs further corroborating either by ‘expert’ witnesses or by additional bodies of perhaps more acceptable sources of evidence according to Western standards. Corroborating community representatives’ testimony is a science of archaeological records and of accounts outside Native communities; principles of “fact” and “truth” are remnants of the western style court system. Matthew Sparke wrote on the creation of the Gitxsan and Wet’suwet’en maps, which were used throughout the case, against the spatial knowledge of the Canadian state and its territorial boundaries:

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19(Caso La Comunidad Mayagna (Sumo) Awas Tingni, Corte Interamericana D.H., Caso No. 11.577, Sentencia de 1 de Febrero de 2000; S. James Anaya and Robert A. Williams, Jr., The Protection of Indigenous Peoples’ Rights Over Lands and Natural Resources Under the Intern-American Human Rights System, 14 HARVARD HUMAN RIGHTS JOURNAL 33 (2001) (“In the Awas Tingni Case, the Inter-American Commission on Human Rights determined that the Awas Tingni community has property rights to its traditional land, on the basis of maps and other documentation developed by the community itself with the assistance of an anthropologist”)


25Michael Ashe & Catherine Bell, Definition and Interpretation of Fact in Canadian Aboriginal Title Litigation: An Analysis of Delgamuukw19 QUEENS L. J. 503, 505, 534, 538 (1994).
Given that they ultimately had to communicate their territorial knowledge to this judge in this court, they translated their oral knowledge into a series of maps. Through the medium of modern mapping, they articulated their claim to their territories in a way the judge might understand. In the process, they were effectively cartographing their lands as First Nations within the abstract state-space of Cartesian cartography. Simultaneously, they were supplementing the provincial and federal mapping of the land with maps based on Gitxsan and Wet’suwet’en oral knowledge.

Satsan, one of the Wet’suwet’en chiefs in the case, commented on presenting Indigenous spatial knowledge to an antagonistic court. He also pointed to the frustrations of having to make Indigenous spatial knowledge legible to a court, rejecting “the game”:

A criticism we had to take was that we were entering a game in which we had no involvement whatsoever with the putting together of that game, the making of the rules, in the appointment of the referees and umpires…So we chose instead to challenge the whole bloody game, to say that the game is wrong, to say we don’t agree with your referee and your umpire. This is a fixed game. We want to see a change.

The legal process in Delgamuukw highlighted the status of Indigenous oral testimony and spatial history in court cases. Although the trial court had difficulties accepting the oral history and maps as reliable evidence, the Supreme Court’s ruling favored the Indigenous communities involved, letting their “knowledge stand on its own.” They successfully “outline[d] their sovereignty in a way that a Canadian court might understand.” There are, evidently, a wide range of frustrations in making Indigenous-based evidence admissible in court.

Within Indigenous communities, collective histories and spatial narratives are complex, and there exists a variance of voices and non-western cosmologies that create space. For many communities, court battles coincide with internal debates on whether to reveal insider knowledge to prove land title and verify histories. This project seeks to rectify the third party requirement by looking at how authority and memory are built and shared internally in a Native community and, subsequently, how the resulting form can be presented to a western style court.

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26Sparke, supra note 15, at 472.
27Id. at 470-71.
28Id.
29Id. at 472.
30Id.(explaining that the Indigenous communities, in making the maps, wanted to separate outside experts from community knowledge)
31Id. at 468.”The two First Nations had to attempt to insert their voices and speak their claims in a way that would successfully communicate their primarily oral knowledge and understanding of territorial jurisdiction to a white judge trained in the abstractions and textual formalities of the modern western state.” Id. at 471.
Origin Stories and Maps

Facing an ignorant or merely skeptical Western-centric court is a challenge to Native communities whose origin stories and notions of time and space defy the norms and representation mechanisms established by a colonial and colonizing past and present. One difficulty for communities lies in the fact that it is no simple matter to distinguish what really is past or present in a particular colonizing paradigm according to the theory on memory making and history formation.32

The colonizing paradigm expresses one philosophical notion of time and space based on origin stories, which are then reconstructed in maps and texts.33 Maori scholar, Linda Tuhiiwai Smith, counters that time and space themselves can have very different connotations in Indigenous cultures around the world. For example, in Maori there are no separate words for “time” and “space.”34

Learning from Tohono O’odham elders, Chip Colwell-Chanthaphonh wrote on the different conceptions of time and space.35 In Tohono O’odham spatial philosophy, the past exists alongside the present, and people interact with spaces, acknowledging the “wi’ikam (“those things that are left behind”), the living objects left by the Huhugkam (“those that are gone”) and Wu:skam (“those that emerged”).36

Community histories are derived from stories like the Kogi, Arhuaco, Wiwa and Kankuamo in Colombia who relay how the earth was spun on a spindle, creating the nine layers of the universe.37 Thread was crossed to establish four points across the mountains, representing each of the four groups.38 Weaving and spinning continue to resonate for these peoples who describe nomadic journeys as “weavings” and environmental responsibility as “laying a cloak” over the earth.39 Along similar lines, anthropologist Joanne Rappaport40 explicates the use and existence of hitching posts, staffs of office, narration, curing and fumigation ceremonies, weaving, ceramics, civic-historical celebrations, and the production of modern and colony-related documents. She notes that those who tell ‘history’ in the community of Cumbal, Colombia, are also good at spinning yarn referring not literally at the skill of spinning yarn, but rather at the skill of spinning stories, stories which integrate the working of the earth, the passing of time, and people’s personal and community-communal experiences. She notes, in that respect, that ethnography is the task of collecting,

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33MiCHEL-ROLPH TrOUiLoiT, SiLENCiNG THE PaST: POWeR AND THE PRODUCTION OF HiSTORY (1995).
34SpARKe, supra note 15.
35LiNDa TuHiWAI SmiTh, DECOliEZING MENThOdOlOGiES: RESEARCH AND INDiGENOuS PEOPLES (2006).
36Chip TuCowell-ChANThAPont, DaRmS AT THE EDGE OF THE WoRLD AND OTHER EvoCATiONS OF O’odHAm HiSTORY, 2 ARChAEoLOGiES 20 (2006).
37Id. at 28.
38Id.
39Id.
40JoANNE RAPPApORT, CiMBE REBOuN: AN A NdEAN ETHNOGRAPHY OF HiSTORY (1994).
understanding, and re-presenting “the vestiges of communication across cultures,”—the “ethnographic data” as she explains—and indicates thus the communicative nature of any story, history, and memory lies in its telling and the vestiges themselves.

The origin stories and conceptions of time and space reveal a nation’s or community’s relationship to the land, illuminate how their particular customs and law developed, and point to distinct philosophies and communication styles. Narratives and experiences of ancestors and the environment are shared orally and through practices like art, dance and music. Ideas of justice, morality, and social cohesion are integral to the telling of origin stories and stories about practices, techniques, and strategies like subsistence farming, hunting locations or family fishing paths.

For example, Hopi members articulate their cosmology through ritual singing—katsina song texts—and use complex metaphors to illustrate and reflect the principles of Hopi livelihoods. The songs communicate several principles simultaneously, even while appearing superficially simple. For example, an agricultural lesson also connotes the role of rain and corn in the community, personal and collective responsibility, life philosophies, kinship and other insider information. Songs also connect the past with the present, including an oft-used lyric: Urahísato, “You remember when.” They are sung only when occasion calls for it and/or after required community permission has been obtained either by oral or communal agreement, or by ceremonial ritual.

These different narratives and practices are shared over time in a community and culminate in disparate and distinct notions of space. This complexity addresses the question of how a map is created. Cartography, like history, is not simply a linear story told from a universalizing perspective. Rather, maps are texts with a particular storyline and spatial comprehension. “Official” maps are not drawn without a particular perspective and history in mind, and this is an issue Native communities confront in their title cases.

Bruce Willems-Braun analyzes how colonial space is mapped vis-à-vis Native peoples in Canada:

First, at the same time that the skeleton of the nation was being given flesh, it
was also anatomized—divided into its component parts. The divisions of the
survey introduced categories by which the land could be known and
appropriated. Second, by constructing discrete entities—minerals, trees,
Indians—these could be apprehended entirely apart from their surrounding,
displacing and resituating objects within quite specific, but very different,
orders of signification.54

Space and time, in these experiences, were flattened, wrung out, and simplified.
Native spatial texts combat these colonial mapping projects and reaffirm sustained cultural
memory before and during colonial experiments. Currently, diverse ways of preserving the
Indigenous community’s spatial memories have started to develop—be it mental maps and
place-names, songs and storytelling, and well-traveled routes (3-D mapping) and dreams to
address, explore, and right these contradictory world experiences. Hugh Brody writes about
how Native communities in British Colombia have developed a tradition of real and mental
mapping from information conveyed in dreams.55 “Old-timers” could dream of auspicious
hunting trails and even heaven.56 “As it happens, heaven is one side of, and at the same level
as, the point the trails to animals all meet.”57 Here, a dream of hunting and heaven is a
multilayered map, both a material and metaphysical trail.

Keith Basso’s interviews with Dudley Patterson, Nick Thompson, and Lola Machuse
in the village of Cibecue in a Western Apache community revealed that kind of spatial
orientation. He explains how notions, separated in the West of community, history, and
evidence are bound into one experience forming a profound challenge to Western norms,
values, and bodies of acceptable evidence. There is simply too much multi-layering. He
writes that space and time are interrelated but mentions this is a reciprocal relationship
extending even beyond one’s life and personal space, making the community experience of
memory and history an intergenerational one and continuous by definition, and indicating,
moreover, the importance of orality:

This reciprocal relationship—a relationship in which individuals invest
themselves in the landscape while incorporating its meanings into their own
most fundamental experience—is the ultimate source of the rich sententious
potential and functionality of Western Apache place-names.58

Dudley Patterson, a Western Apache elder, observed, “[W]hite men need paper
maps. We have maps in our minds.”59 Place-names and their stories are retold to people in
comparable life decisions or to share as comfort, advice, or indirect admonishment.60

54Bruce Willems-Braun, Buried Epistemologies: The Politics of Nature in (Post)colonial British Columbia, 87 ANNALS
55See HUGH BRODY, MAPS AND DREAMS: INDIANS AND THE BRITISH COLUMBIA FRONTIER
(1988).
56Id.
57Id. at 47.
58BASSO, supra note 3, at 102.
59Id. at 43.
60Id.
and how the stories are told, and by and to whom, changes how space(s) (are) configured, interacted and positioned into the community imaginary.\textsuperscript{61}

Lakota theologian Vine Deloria, Jr., compares the different roles of geography between Native and Judeo-Christian religions as does Alfonso Villa Rojas, a native Yucatecan Maya and Mexican anthropologist, writing on the Maya Tzeltal Indigenous of the Highlands of Chiapas, in his analysis on \textit{nagualismo} (totemism).\textsuperscript{62} Unlike the role of universal revelation, such as that of Moses and the Ten Commandments (which is a historical epoch in Judeo-Christian beliefs) Indigenous revelation is continuous and context-dependent, Deloria states:

\begin{quote}
The structure of their [Indigenous] religious traditions is taken directly from the world around them, from their relationship with other forms of life. Context is therefore all-important for both practice and the understanding of reality . . . . Thousands of years of occupancy on their lands taught tribal people the sacred landscapes for which they were responsible and gradually the structure of ceremonial reality became clear. It was not what people believed to be true that was important but what they experienced as true . . . . Hence revelation was seen as a continuous process of adjustment to the natural surroundings and not as a specific message for all time and places.\textsuperscript{63}
\end{quote}

In a now somewhat outdated, but still very relevant and illustrative article on \textit{nagualismo} (totemism as it is customary among the Tzeltal Indigenous of the Highlands of Chiapas, or \textit{lab} as they call it), Villa Rojas explains the following:

\begin{quote}
[I]t makes possible the continued attachment to traditional custom. . . As stated above, there is a widely held Tzeltal belief that all chiefs and elders receive the supernatural help of a \textit{lab} or \textit{nagual} [the nahuatl word for the tzeltal term \textit{lab} and one that is more commonly used in anthropological texts]. In most cases the \textit{nagual} is thought of as an animal, a dog, a lizard or a hawk. But some \textit{naguales} assume diminutive form, dwarfs not three feet high, dressed all in black, in the vestments of catholic bishops or clergymen. These are very dangerous and powerfull [sic]. Still others are balls of fire of three different kinds, red, yellow, or green. Of the three varieties, the Tzeltal who has broken the law considers red the most effective agent of magical retaliation.\textsuperscript{64}

To the western eye this may sound like superstition, but to the Tzeltal “All these figures are incorporeal and invisible. ‘[S]heer wind’ as the Indians put it”\textsuperscript{65}. Villa Rojas indicates further that “nevertheless, there are times when they materialize, and one can then see them walking behind the huts, hiding between trees or behaving like they were real animals.”\textsuperscript{66} Whether or not one believes the full extent of this socio-religious Indigenous
\end{quote}

\textsuperscript{61}Id.
\textsuperscript{62}VINE DELORIA, JR., \textit{GOD IS RED} (1972); Alfonso Villa Rojas, \textit{Kinship and Nagualism in a Tzeltal Community, Southeastern Mexico}, 49 AM. ANTHROPOLOGIST 578 (1947).
\textsuperscript{63}Deloria, Jr., \textit{supra} note 53, at 65-66.
\textsuperscript{64}Villa Rojas, \textit{supra} note 53 at 583.
\textsuperscript{65}Id. \textit{at} 583-584.
\textsuperscript{66}Id. \textit{at} 583-584.
complex is beside the point. For the Tzeltal and many Indigenous like them the concept of totemism is real and continuous. It illustrates the intertwined relationship a person holds with one’s mental state, one’s environment, one’s landscape and nature, and one’s social group, all of which includes its flora, fauna, and physical aspects and forces Indicatively, Villa Rojas concludes that in “the belief prevails [the idea] that if the nagual is hurt or killed, the same fate befalls its owner, whose body shows the wounds suffered by the nagual.

Considering these sentiments juxtaposed with a case like the petition over the use of effluent snow by Snowbowl Resort on the San Francisco Peaks in northern Arizona reveals how very different perceptions of the same space simultaneously exist and challenge each other. For Dine’ (Navajo), Hopi, Yavapai Apache, Tewa, Hualapai, Yavapai-Prescott, Tonto Apache, White Mountain Apache, San Carlos Apache, San Juan Southern Paiute, Fort McDowell Mohave Apache, Acoma, and other Native nations, the use of effluent water on the peaks is an environmental and social hazard. More significantly, it is a direct affront to sacred spaces and core religious and philosophical beliefs. Failure to uphold and reaffirm the importance of these sacred spaces re-situates a hierarchy of Western religion, philosophy and economy (the Snowbowl Resort) over Indigenous thought. Dennis Martinez has contrasted sacred spaces between Indigenous and dominant cultures. “Native Americans have never won a single case for sacred site protection based on First Amendment rights because Indian sacred places occur in natural places and are not built by human labor, like non-Indian churches or mosques.”

67Navajo Nation v. U.S. Forest Service, 535 F.3d 1058 (9th Cir. 2008).
68Id. at 1063.
70Id. at 250. In fact, the sheer definition of “not built by human labor” is a Western construct that privileges physical and measurable realities, and bases itself on the radical Cartesian separation of body and spirit. Denis Wood, Maps Are Embedded in a History They Help Construct in THE POWER OF MAPS 28-47 (1992). Native people claim and live their lives with the knowledge and truth that the landscape is a process of building and comprehension. Human labor as well as natural forces, visualized to some extent in opposition and thus constituting the duality of being, but also seen as a continuum on a universal level, create the landscape, place, and time in which one lives and occupies a time and place. See Basso, supra note 3. Part of the building process occurs in mystical time, not unlike the Christian reading of the Genesis, but part also occurs in real and observable time, which is why many if not most native groups see themselves as the chosen or designated ones to labor a plot of land in a certain place and time, and why most native names represent and reflect this. For example, the Tseltal, a native group in Chiapas, Mexico, are called and call themselves Winik Amtel, or ‘real working men’. The concept of amtel means something like working, but working implies the working of the land and the cultivation of corn. One works the land to obtain corn, and thus pleases the gods on the one hand, but obtain real measurable sustenance for the family on the other. Work is visualized as a reciprocal relationship where by working and making offerings to the land either in the shape of ritual or in the shape of selfless work, the land will return the ‘favors’ by providing a harvest. The task of work is thus grounding. It also provides an identity as the changing and shaping of the land through working, planting, weeding, and ultimately harvesting, as well as in the tseltal area at least, the burning and destruction as they employ the slash and burn technique of agriculture, to give sustenance also gives them an occupation, and a justification for living where they do, linking into their worldview and cosmogony. Explanations of how certain features of the landscapes were formed entail moral lessons and provides other points of information as well, often related to epic time struggles of survival and cultivation (of mind, spirit, body, and morality in general). Native rituals evoke the divisions and the struggles or processes of negotiation between and among the wild and cultivated. The talking about space or even the entering of a space entail these relationships of humanity and nature, and must be seen and comprehended completely as a human way of building the natural space. The Western based argument that some spaces are humanly constructed, whereas others are not, is thus impossible and futile. A native person walking into a space frequently registers or even defines that space differently than a Western
For many Indigenous title and land claims cases, there are disparate accounts of not only history but the world itself, as we have discussed. Taking a land claim to court is, in many senses, subverting one’s cosmology and culture to the trappings of another philosophy, and presents challenges not only in the actual argument but also in the corollary operations of a court—what is accepted as fact, what is a “story,” and how space and interactions are articulated and understood. This is essentially a contest of ontological understandings in which the Indigenous truth is often posed as the losing and untrue perspective—even if the testimony is appreciated for its spiritual, “prehistoric” relevance. For example, arguments by Carrie and Mary Dann to protect Western Shoshone claims to their land [Mary and Carrie Dann v. United States, 2002], referred to the environment as Mother Earth. While gold mining companies like Barrick Gold were able to present their arguments for resource extraction as a positive for the economy and society, the Dann sisters’ argument that Shoshone cosmology saw the earth as a feminine space of life and mining akin to rape was not given the same weight as a Western understanding of the geography within the geography. The Dann’s narrative was considered at best not pragmatic and at worst, naturalistic and “primitive.”

Derrick Jensen wrote on these incommensurables via silver ore extraction in the Quechua community of San Cristobal where nearly a billion ounces of silver were found by a Colorado School of Mines geologist. The silver was embedded within the buildings and burial sites of the community whose inhabitants believe that “[r]ocks are their direct ancestors, living souls that speak, think, feel emotions and have distinct personalities.” While this perspective inspired the geologist and his wife to write a hand-wringing book, the Quechua people were moved and the silver was extracted. Jensen writes of the danger of the one culture’s fulfillment of desire overriding another: “[A]ctions that lead to the destruction of ancient ways of life as ‘rewarding finds’…there is little hope for life on this planet.”

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trained person: the latter registering only the physical, flat, empirically observable, or static dimensions. The former in many cases will see or attempt to look beyond the superficial layer of apparent observation and be aware of the person’s own role and participation in that definition and appreciation of the space at hand. When this occurs, the person assumes full responsibility for the process, something that a Western person is not likely, expected, or even trained to do, and which explains the irredeemable possibility, in the view of the native person, to distinguish the natural world from the human world, and to find a separation of body and spirit natural and beneficial. A native person would point out that even when one accepts the definition of a person constructing a space, this isn’t what really goes on in the building lies the covert implication that in taking away a space from nature (i.e. being cultivated in the Tseltal world view), nature is being ‘constructed’ or formulated, albeit by diminishing in space. Natural labor is thus simply not separable from human labor, just as places in nature are not separable from places for and of, or built by humans rejecting thus entirely the argument that some places can be built by humans exclusively and that there is no participation of humans in any natural place. See generally Keen Basso, Wisdom Sits in Places: Landscape and Language Among the Western Apache (1996); Luis Madrigal Frias, Interacción entre mayas y occidentales en la región intercultural de los Altos de Chiapas: un acercamiento ético-hermenéutico, 2012, tesis doctoral, Departamento estudios regionales, Universidad Autónoma de Chiapas; Pedro Pitarch Ramón, Ch’ule: una étzonia de las almas tzañales (1996); John Rhodes, An American Tradition: The Religious Persecution of Native Americans, 52 Mont. L. Rev. 13 (1991); Brian Edward Brown, Religion, Law, and the Land: Native Americans and the Judicial Interpretation of Sacred Land (1999). Derick Jensen, Cultures of Plunder: When Living the Dream Means Others Will Die, Orion, Jan.-Feb. 2013, at 12.

Id.
Therefore, evidentiary issues are an acute problem in Native title cases, particularly because historical records in many Indigenous communities contradict conventional practices of archiving (oral histories, etc.) and the onus of proof (i.e., of occupation) is often directed to Native plaintiffs and in terms unfamiliar and/or incompatible with them.

Evidentiary Rules

Indigenous peoples use intergenerational memories to demonstrate proof of prior events or to depict the meanings that a community has given, can give, and gives presently to its past. Particularly when making an aboriginal rights land claim based on continued use or when claiming a cultural object under America’s Native American Graves Repatriation Act, intergenerational memories are often the only evidence Indigenous peoples may have to put forward. However, this form of proof must overcome a huge barrier erected by Western legal systems: the rule against hearsay. Although allowances are being made for admitting intergenerational memories into the courtroom, judges do not give them the probative value they deserve and they are relegated to second-class and corruptible evidence status.

Hearsay is universally viewed as problematic in Western courtrooms, and the rule against it is one of the oldest rules of evidence. Hearsay is a statement that is made outside of the courtroom and that is offered in court to prove the truth of a matter. Western judicial systems support that if a declarant, or the person making the original statement, is under oath, observed in the courtroom, and available for cross-examination, his or her truthfulness can be better determined and the information is bound to be more reliable. On the other hand, Indigenous or Aboriginal notions of reliability depend on whether words are backed by an appropriate claim to authority or permissions granted, which can exist in a reliable person’s spoken words or communal approval (also sometimes evidenced as the absence of negation) dating back many generations.

Intergenerational memories are hearsay under Western legal principles. Testimony is based not on what the witness experienced or saw first hand, but on what someone told or

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76 F.R.E. § 802 (2009-2010) (stating that hearsay is not admissible except as provided by [the Federal Rules of Evidence])
77 Michael Asch & Catherine Bell, Definition and Interpretation of Face in Canadian Aboriginal Title Litigation: An Analysis of Delgamuuks, 19 QUEEN’S L.J. 503, 533 (1993).
78 Peter R. A. Gray, Do the Walls have Ears? Indigenous Title and Courts in Australia, 28 INT’L J. LEGAL INFO.185, 197 (2000).
79 F.R.E. § 801(c) (2009-2010)
81 Gray, supra note 69.
is thought to have told the witness, or what the community holds as a community-held, guarded, and acceptable communication, and likely on what someone told that person, or not, and so on, although the community aspect should not be forgotten or ignored here. Additionally, maps created based on oral history also qualify as hearsay. However, in many jurisdictions intergenerational memories are admitted as evidence under exceptions to the hearsay rule. Common exceptions are necessity and declarations made by a deceased person when the statement relates to the reputation of public or general rights. These rules, which have developed under the rationale of necessity (and now, more importantly, to comport with the ever-expanding and recognized concepts of basic and universal/national human rights) due to the lack of written documents in many Indigenous communities, only apply when the circumstances surrounding the making of the statement speak to its trustworthiness and a true necessity exists.

Recent recognition of intergenerational memory as a valid form of evidence in both Australian and Canadian courtrooms builds off other former British colonies’ treatment of this evidence. These areas, including India and many countries in Africa, allow for flexibility in the rules of evidence when dealing with local customs and land tenure. Although intergenerational memories have slipped in as relevant under the general hearsay rule, Indigenous peoples must then hurdle the weight, or probative value, given to this evidence once it is admitted. Oral histories are not preserved in a way that is accessible and familiar to Western courtrooms, making them appear unorganized and less reliable to biased Western judges. To truly place intergenerational memories on equal footing with typical Western-centric evidence, they must be given self-validating weight when a judge is finding fact.

83Id.
84F.R.E. § 805 (2009-2010)(stating that hearsay included within hearsay is excluded unless each part of the combined statements conform to an exception to the hearsay rule).
85Anaya & Williams, supra note 10, at 46.
86Napolean, supra note 71.
88Gray, supra note 69, at 195-96 (stating that the court in Ward v. Western Australia applied the reasoning in Canada’s Delgamuukw case to admit oral history as evidence in an effort to uphold the legal pluralism offered in Mabo); Anaya & Williams, supra note 10, at 46 (“Australia's High Court, as reflected in the landmark case of Mabo v. Queensland, has similarly recognized the relevance of Indigenous peoples' oral testimony and expert academic opinions in establishing the existence, scope, and characteristics of Indigenous peoples' traditional land tenure.”). But see Peter R. A. Gray, supra note 69 at 198-99 (stating that the court reasoned that further evidence would be needed for the oral histories’ acceptance as truth).
90Gray, supra note 69, at 200.
91Id. The Indian Evidence Act of 1872, which helped to shape evidence rules in many African countries, allows courts to consider local customs in the rules of evidence; Anaya & Williams, supra note 10, at 46 (“In the United States, the Hawaii Supreme Court has recognized customary and traditional property rights of Hawaiian native peoples by reference to their oral testimony at trial.”); Native American Graves Protection and Repatriation Act, 25 U.S.C. § 3001 et seq. (1998).
92Asch & Bell, supra note 71, at 533 .
93Id. at 538.
The Hawaiian Supreme Court has allowed oral testimony in the establishment of customary and traditional property rights for Native Hawaiians. In *Kalipi v. Hawaiian Trust Co., Ltd.*, the plaintiff asserted “it has long been the practice of him and his family to travel the lands of the Defendants in order to gather [I]ndigenous agricultural products for use in accordance with traditional Hawaiian practices.” The court simply admitted this and other intergenerational memory evidence without discussing its implications.

The United States has legislation dealing directly with Native American artifacts and calling for intergenerational memories as evidence of cultural affiliation. The Native American Graves Repatriation Act (NAGPRA) lists oral tradition along with linguistic, historical, archaeological, and genetic evidence without indicating whether any listed type of evidence should be allotted more weight than another. However, no effort has been made to reconcile allowing intergenerational memory evidence in the NAGPRA legislation with the broader federal rules of evidence. A similar critique holds that NAGPRA relies too heavily on the cultural history and direct historical approach and proceeds on facile and one-dimensional constructions of identity. No place is allotted, for example, for multivocality where different groups might find a unified significance in an object or share a memory of history, culture, and artifact use.

An issue is presented when cultural affiliation between a tribe and a cultural artifact cannot be established using the above-mentioned types of evidence. In that case, NAGPRA might allow for a tribe to claim ownership based on aboriginal occupation of the land dating back to the artifact, depending on historical trajectories, whether or not there are competing claims, and the temporal period of the object in question. This process must be recognized in a final judgment from the Indian Claims Commission or the United States Court of

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96*Kalipi*, 656 P.2d at 747.
97*Threedy*, *supra* note 73, at 108.
99April M. Beisaw, *Memory, Identity, and NAGPRA in the Northeastern United States*, 112 American Anthropologist 244-256 (June 2010).
100In many cases, it is extremely difficult, archaeologically or material culturally speaking, to prove ethnic or cultural affiliation through time and history, or even space. The archaeological record presents artifacts, but the interpretation of these objects is a more complex process and takes many multiple strands of evidence into account. It is not uncommon at all, to find sites with multiple occupation periods that are created by different cultures or ethnic groups, and even in places with the same ethnic adscription, it is important to remember that ethnicity is a fluid concept and that an ethnic group cannot and should not be frozen in time. Moreover, an essential part of ethnic adscription is one’s or the community’s self identification. This is obviously impossible or at best difficult to acquire in the archaeological record, which by definition and by law (archaeological remains are only so defined if they are at least over fifty years old) deals with objects that have been disconnected from people and individuals, making self identification processes challenging to interpret, study, and substantiate. MARGARITA DIAZ-ANDREU ET AL., *THE ARCHAEOLOGY OF IDENTITY* (2005); DISPLACEMENTS: CULTURAL IDENTITIES IN QUESTION (Angelika Bammer ed., 1994); Joane Nagel, *Constructing Ethnicity: Creating and Recreating Ethnic Identity and Culture*, 41 SOC. PROBLEMS 152 (1994).
Claims, both of which apply the federal rules of evidence. The Indian Claims Commission Act does not directly allow oral history evidence due to their categorization as hearsay.

One case dealt with under NAGPRA involved the Kennewick Man, in which the court ruled against the Native American Umatilla tribe. The court held that the oral histories, dating back 9,000 years, were not reliable enough or specific enough to establish a cultural affiliation between the Umatilla and the Kennewick Man under NAGPRA. The court discredited the intergenerational memory evidence stating that “reliance upon oral narratives under the circumstances presented here is highly problematic” because “we cannot know who first told a narrative, or the circumstances, or the identity of the intervening links in the chain, or whether the narrative has been altered, intentionally or otherwise, over time.” The court ruled that, while narratives can be used to establish cultural continuity, in the case of the Kennewick Man they did not establish how far into the prehistoric past the cultural continuity with the Kennewick Man existed, stating that “the 9,000 years between the life of the Kennewick Man and the present is an extraordinary length of time to bridge with evidence of oral traditions.”

Canadian courts have dealt directly with the issue of intergenerational memory as evidence through case law. In 1996, the court in R. v. VanderPeet determined that it should interpret the evidence that exists, [in an aboriginal claim] with a consciousness of the special nature of aboriginal claims, and of the evidentiary difficulties in proving a right which originates in times where there were no written records of the practices, customs and traditions engaged in. The courts must not undervalue the evidence presented by

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102 Id. at 311.
103 The authors wish to indicate that the Kennewick might not be the best example, yet, include it for the greater points that the case illustrates: namely, the absence and inability of oral history to be tied to the archaeological material found in situ, and the inability of cultural affiliation in these cases to be identified. “Kennewick Man” is the name for the skeletal remains of a prehistoric man found on a bank of the Columbia River in Kennewick, Washington, USA, on July 28, 1996… It is one of the most complete ancient skeletons ever found; bone tests have shown it to date from 7300 to 7600 B.C.E…. The finding of the skeleton triggered a nine-year legal clash between scientists, the American government and Native American tribes who claim Kennewick Man as one of their ancestors. In February 2004, the United States Court of Appeals for the Ninth Circuit ruled that a cultural link between any of the Native American tribes and the Kennewick Man was not genetically justified, allowing scientific study of the remains to continue.” www.en.wikipedia.org/wiki/Kennewick_Man
106 Bonnichsen, 217 F.Supp.2d at 1152 (D. Or. 2002); Dussias, supra note 95 (stating “oral accounts have been inevitably changed in context of transmission, because the traditions include myths that cannot be considered as if factual histories, because the value of such accounts is limited by concerns of authenticity, reliability, and accuracy, and because the record as a whole does not show where historical fact ends and mythic tale begins.”). It is useful to remember, here, that archaeology employs a number of data strategies to obtain the scientific representativeness and transparency that the discipline requires, and that it is the cross referencing that enables the credible interpretation to emerge. The absence of additional data strategies, in this case, (C14, magnetic dating strategies, affiliation to other groups and materials or the absence thereof, seriation techniques, lithic sourcing analysis, among many other strategies) hindered the case severely.
107 Bonnichsen, 217 F.Supp.2d at 1155.
aboriginal claimants simply because that evidence does not conform precisely with the evidentiary standards that would be applied in, for example, a private law torts case.\footnote{R. v. Vanderpeet, 2 S.C.R. 507, para 68 (Can. 1996).}

The court also stated that Native people must frame their perspective in a way that is “cognizable to the Canadian legal and constitutional structure,” simultaneously limiting how far courts should go in validating intergenerational memory as evidence.

In Delgamuukw v. British Columbia, the court built on the Vanderpeet treatment of intergenerational memories and established that oral histories can demonstrate that current occupation began before the Crown asserted sovereignty.\footnote{See Delgamuukw v. British Columbia, 3 S.C.R. 1010 (Can. 1997).} Gitskan and Wet’suwet’en band members participated in 318 days of evidence presentation and 56 days of closing argument to educate the court about “their understandings of space, time and territorial jurisdiction.” The case resulted in the Supreme Court ordering a new trial in which the lower court was directed to give due weight to the oral histories presented as evidence. Although the trial court allowed intergenerational memory evidence into the court, it failed to realize that admissibility and weight are two elements involved in recognizing sui generis Aboriginal rights.\footnote{Sparke, supra note 15, at 463-64.} The lower court found that facts and mythology were too intertwined in intergenerational memories and resulted in a romantic view of history, lacking detail and resulting in unreliable evidence.\footnote{Russell Binch, ‘Speaking for Themselves’ Historical Determinism and Cultural Relativity in Sui Generis Aboriginal and Treaty Rights Litigation, 13 NAT’L J. CONST. L. 245, 255 (2002).} This is a commonly held belief in Western courtrooms. In Samson Indian Nation and Band v. Canada, the court reiterated its understanding that the Supreme Court of Canada adapted the rules of evidence in reference to intergenerational memories so that this evidence could be treated as “independent proof of historical facts.”\footnote{David Stack, Making Aboriginal Policy: A Conference Ten Years After the Final Report of the Royal Commission on Aboriginal Peoples: The First Decade of RCAP’s Influence on Aboriginal Law, 70 SASKATCHEWAN L. REV. 123, 130 (2007). It is important to recognize that the lay person (one not educated in or very familiar with scientific reasoning or anthropological sciences) has difficulty recognizing the fluid boundaries between what goes as tradition, truth, and accepted fact, and ignores thus the malleability of these and other concepts. Beisaw, in an excellent article on NAGPRA and its limitations, explains convincingly that courts often interpret and apply NAGPRA in a theoretically old-fashioned way where cultural affiliation is seen only in strictly cultural historical and direct historical ways, making for overly linear and exclusive explanations and judgments. She details the case of the Engelbert Site of New York where mixed cultural remains were found and date to different periods and two different cultures: the earlier Onondaga (a nation of the Haudenosaunee or Iroquois), and the later Susquehannock. Upon closer analysis, the archaeologists determined that the Susquehannock reutilized the Onondaga remains, as part of a kinship and memory-based shared identity mortuary ritual. In the Western court room and for Western-styled archaeologists, these remains were seen initially to belong to different time periods and two different cultures, maintaining thus a strictly ontological separation. The Onondaga and the Susquehannock do not recognize this separation and privilege a community of memory and kinship sharing, even across the ages. Since the Cayuga stood off and no other competing claim was filed, the Onondaga continued with the claim and obtained the repatriation rights including the Susquehannock in this process. Beisaw, supra note 90.}
Additionally, the court in *Benoit v. Canada* admitted intergenerational memories to interpret Aboriginal signatories’ understandings of treaties as passed down through oral history.115

In a more recent case, *Mitchell v. Minister of National Revenue*, the court reaffirmed the statement in *Delgamuukw* that “the admission of oral histories represents a hollow recognition of the aboriginal perspective where this evidence is then systematically and consistently undervalued of deprived of all independent weight”116 but emphasized a caveat found in *Vanderpeet*. It stated that, although the rules of evidence have now been adapted in reference to oral histories, the evidence should still be weighed for its probative value according to how useful and reliable the judge views it in accordance with his discretionary powers.

Although the American and Canadian courts and legislatures have affirmed intergenerational memory as an admissible form of evidence in some cases, this form of evidence is still undervalued in the courtroom. Transferring these memories into map form has the potential to bolster their credibility and elicit more weight and probative value to be imparted on them by Western courtrooms.

**Testimony and Memory**

How then can Native peoples present testimony and sacred knowledge conducive to successful litigation in a Western style court? And is it possible to do this without external “authority”? How can lawyers make Native testimony beneficial and comprehensive in a Western-oriented and even biased courtroom?117

In court, community representatives are charged with testimony and face many challenges. Therefore, mapping, or map representation, should be carried with two goals in mind: (1) to satisfy a court unfamiliar with Indigenous culture and perhaps hostile to the case; and (2) to relay and preserve the sacred knowledge of the Indigenous community without revealing privileged truths.118

Mapping does create risks which should be considered: the sharing of secret knowledge, maps being met with disrespect, and the opening up of these maps, and in effect, the communities’ traditional knowledge and ways of being, to examination using a court’s assumptions concerning abstract ‘state-space’.119 Mapping this knowledge or recording it in

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118See id.
119State space in geography can refer to the material territory and boundaries of a nation state, or, as we use it here, a theoretical plane of the state imaginaries. Essentially, this relates to a politics of representation—these are the spaces where the socio-economic relations of a society are reproduced. See NEIL BRENNER, BOB JESSOP, MARTIN JONES, AND GORDON MACLEOD, *STATE/SPACE: A READER* 2003, [http://www.sca.as.nyu.edu/docs/10/222/Brenner_Jessop_Jones_MacLeod.pdf](http://www.sca.as.nyu.edu/docs/10/222/Brenner_Jessop_Jones_MacLeod.pdf). See also Sparke, supra note 15, at 465 note 4. Another question is whether privileged information, if revealed, would become part of the public domain and, therefore, capable of being re-revealed inappropriately. See generally Kristine Cordier
any form can also shape how the community perceives the knowledge, making it more static and encouraging elders to point to recorded data rather than producing, re-creating, and sharing information in a more traditional way. Creating a static map—demarcating geophysical boundaries—also creates the risk of overlapping with other Indigenous communities. Traditional subsistence patterns of Indigenous societies often overlap while all communities involved recognize the land as traditionally theirs, without the need for it to be mutually exclusive. However, creating a map with delineated boundaries may raise tensions between Indigenous communities, and even within communities. In reality, Indigenous claims to overlapping land should not bar proving a property interest because ownership is not traditionally exclusive. In fact the entire notion of ownership-western in origin and execution- is ill-compatible with native ways of seeing the land where land does not belong to any one person. Natives enter into a relationship with the land, receive its but do so in exchange for offerings of work and sacrifice and see the land thus as a relationship of community. Indigenous communities may be forced, thus, to work collectively to self-validate a historically sustained, yet, shared use by delineating areas where borders overlap.

Native people are very much inside the tangible struggle of land title within the Western court system. In the Zuni court battles of the last few decades, artists and elders collaborated to produce painted maps of Zuni land. Associate Director for the Indigenous Communities Mapping Initiative and director of the board for the A:shiwi A:wan Museum, James Enote has spoken on the process, particularly about how community members

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120Lecture by James Enote (explaining that, during the Zuni case, “because of the process of gathering testimony, evidence for our court cases, it began to discipline Zuni on how to talk even among us. So this sort of, what the courts were doing, not only was it disciplining the people participating in the courts and that process, it was disciplining us” and that elders were telling people to look for answers in the book of data for the case rather than transferring the knowledge themselves.) See https://vimeo.com/37065671 (Part I); https://vimeo.com/37065759 (Part II); https://vimeo.com/37035885 (Part III).

121Id.

122Id.

123Non-Native individuals and Western governments also have continuously encroached upon and made their own title claims to lands historically and ancestrally settled upon and occupied by Aboriginal Peoples (exclusively or collectively enjoyed by multi-Indigenous societies—whether either under contests or peaceful sharing or both), and this “Western” intrusion may force an acknowledgement of strategy between competing Indigenous groups that land was always used by one and all (trading relationships, for example). This re-articulation of collective use may come to be argued so long as non-native courts continue to fabricate “shell game” explanations of how Native rights were relinquished, diminished, or never existed in the first place. A recent example can be found in the British Columbia, Canada, Court of Appeals case of William v. B.C., 2012 BCCA 285. There, the Court held that Aboriginal title could be claimed only to those areas that were specifically occupied or used “intensively” and not to the broad lands between those areas that, to a ‘semi-nomadic’ people, are integral to those very hunting, trapping, and gathering rights. This is the westernized “postage-stamp” approach to Aboriginal title. The Supreme Court of Canada has indicated it will hear an appeal from this determination.” For a short compendium of non-governmental organizations whose interests dovetail with Aboriginal Societies as well as examples of co-management, Aboriginal stewardship, or shared use agreements and bio-cultural protocols, see Robert Alan Hershey, Globalization and its Special and Significant Impacts on Indigenous Communities, Arizona Legal Discussion Paper no. 12-19, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2070204.

124Enote, supra note 111.
selected what was represented for court and what was omitted to preserve the sanctity of Zuni life. \(^{125}\) Maps were produced by community members and artists:

The paintings took a relatively short time, once the artist had an understanding of what we wanted. A village painting, a regional area and reservation area. The thing that took the longest was when the advisors decided what not to map. What shouldn’t be on the maps, and what we put on the maps. \(^{126}\)

Enote and his colleague, geographer Joe Bryan, have also worked with four Indigenous communities on mapping initiatives in New Mexico (Santa Clara), Montana (Flathead), Hawaii, and Alaska. \(^{127}\) Both are aware that the spatial information is something possessed and preserved by the community. \(^{128}\) These experiences elucidate another issue in terms of authority and the impetus to produce a single, “official” narrative, when there are traditional variances.

In many cases there may not be a single version, but multiple versions or multiple aspects of a single story, which exist and are legitimate community histories. \(^{129}\) Another concern is an inaccurate story produced by representatives who are chosen through external forces (like outside academics or attorneys) and who testify with a narrative unauthorized by the Native nation. \(^{130}\) With all of these factors, formalizing a culture’s script into single, static voice could have detrimental reverberations. \(^{131}\)

Bryan touched on this in his work with Enotе:

\[\text{[H]ow do we know something is true? What do people have to do to make sure how they present themselves on a map or oral history or whatever, make it that map or oral history is true, make sure they tell the right oral history? [In] lots of Native communities, there’s a lot of versions, how do you know which one to tell when you go to court? . . . Now that it’s in court, they [the Native community] have to live with the consequences of perhaps not telling the right version.}\]

**Conclusion**

Despite the Western bias against the reliability of oral history, \(^{132}\) many scholars agree that written documents are no more reliable than oral accounts. In fact, for certain types of

\(\text{125 Id.}\)
\(\text{126 Id.}\)
\(\text{127 Id.}\)
\(\text{128 Id.}\)
\(\text{129 Id.}\)
\(\text{130 Id.}\)
\(\text{131 Id.}\)
\(\text{132 Id.}\)
Because oral histories may contain “mythic” elements, courts may pejoratively dismiss oral history as myth (in contrast to supposedly objective written history), but scholars of religion like William Doty reject this critique. Rather than viewing myth and history on a continuum, with myth representing “primitive superstition and “history as the product of enlightened and objective fact-finding,” Doty contends that myth is an attempt to express the quality and range of human existence. It is an attempt to capture the emotional, moral, and aesthetic aspects of human existence, not an attempt at scientific description. Consequently, “[m]yth is not unsophisticated science but sophisticated poetic enunciation of meaning and significance.” At least two centuries of anthropological and sociological studies on the topic of myth and religion have confirmed this and illustrate that

(“European culture prefers that transactions be substantiated by signed and dated documents. Indeed, it believes that such documents encapsulate an ‘objective’ truth.”).  
134 Id. See John Borrows, Listening For a Change: The Courts and Oral Tradition, 39 OSGOODE HALL L.J. 1, 3 (2001) ("[Oral history] could be enormously helpful in assembling a portrait of the past. It can provide evidence of prior circumstances that may not be available in written documents or other formally recorded instruments.").  
135 Id. at 3-5. For example, Borrows, describes how his Aunt’s account of his ancestors treaty-making activities deepened his understanding of the reasons they agreed to the substantive terms of the written treaty. These historical details were entirely absent from the written record.  
136 Id. at 10; see also James Enote & Joe Bryan, Lecture on Mapping Indigenous Lands (Spring 2007) (video available at supra note 110 (rejecting criticisms of oral histories that suggested that the past was not recoverable because of incomplete records by stating, “we lived the past, in our ceremonies, our prayers, we are joining our ancestors and living the past. We don’t separate it.").  
137 Val Napoleon, Delgamuukw: A Legal Straightjacket for Oral Histories, 20 No. 2 CAN. J.L. & SOC'Y 123 (2005) ("[T]he Gitksan and Wet'suwet'en cautioned [the judge] against expecting literal and chronological accuracy from [the oral histories] in order to establish connections with the past societies.")  
138 Borrows, supra note 125, at 10.  
139 Id. at 11.  
142 Id. at 140.  
143 Id.  
144 DOTY, supra note 132, at 93–94.
in reality all societies have myths and that these stimulate belief, conformity, thinking, and socio-cultural adherence. Similarly, in Emory Sekaquaptewa’s and Dorothy Washburn’s analysis of Hopi songs and ritual metaphors to relay Hopi histories, they make important distinctions between songs as individual texts, and their relationship to larger Hopi cosmology and culture: “We want to make it clear that what are being passed along are not specific song texts but rather, song words and phrases that are particularly succinct statements of Hopi concepts.”

Rather than downplay the subjective elements of oral history, it is important to acknowledge and uncover the unique value of a subjective account of history. Some oral histories may misstate the bare facts, but these supposedly “wrong” statements often reveal crucial information about how a group understands and relates to its own past, as the ‘historical method’ and any ethno-historic study will affirm. Acknowledging the differences between oral and written histories should not be mistaken for accepting a ‘historical method’ and any ethno-historic study will affirm. On the contrary, the two approaches are more alike than they are different. Much of the documentary record arose out of and maintains its

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Note: The text contains a list of works cited, including books and articles, which are essential for understanding the references made within the body of the text. These references are crucial for the historical and archaeological context discussed in the text. For a complete understanding, it is necessary to consult the full references provided in the cited materials.
features because of oral history. 150 Additionally, both oral and written records are subject to continuous revision. 151 Just as there may be differing oral accounts of a single event, there are often competing written accounts and competing visions within one account. The mere fact that there are differing accounts, however, does not preclude those accounts from being reliable. 152 Instead, the fluidity and dynamism of oral accounts should be acknowledged and analyzed, and this oral history should be transmitted in a manner that mimics the organic way that it was historically transmitted. 153

Most compellingly, both mainstream, western historians and Indigenous experts trained to carry on oral traditions evaluate the “truth” of a particular statement or account by relying on the same basic methods. 154 In the Western scientific tradition, the evaluation of “historical truth” of an expert historian’s testimony has two facets: first, the historian’s credentials are evaluated to vet their expertise, and then the specific historical assertions are subjected to the scientific method. 155 A similar process can be observed in the oral traditions of the Gitskan and Wet’suwet’en peoples of British Columbia. 156 The hereditary chiefs and elders who carry on the oral traditions undergo specialized training to ensure that they can present the facts in the proper manner. 157 Then, the truth of each statement is openly evaluated by their peers whenever it is recounted. In this sense, both western history and native traditional histories rely on “a notion of truth and a compatible process of comparison and evaluation.” 158

Aboriginal notions of truth require that words be supported by appropriate claims to authority 159, but this authority is typically based on statements like “this is what my father told me” or “this is what my elders told me.” 160 Rather than undermining the reliability of these truths, lines of authority are precisely what establish reliability within aboriginal

150 Id. at 15-16.
151 Id. at 16.
152 See note 111 supra.
153 Id.
155 Id.
156 Id.
157 Id.
158 Id. at 94; see also Russell Binch, “Speaking for Themselves” Historical Determinism and Cultural Relativity in Sui Generis Aboriginal and Treaty Rights Litigation, 13 NAT’L. J. CONST. L. 245, 251 (2002). (“Aboriginal oral tradition is the medium through which knowledge and culture is passed from generation to generation. It differs from Western science and history, but both are organized systems of knowledge that take many years to learn.”)
159 For anthropologists, authority is always a convoluted term and one that needs clarification. In this case, the reader should be aware that authority is not just authority in a flat, un-reflexive sense, and realize that among native cultures, speakers must have the permission (communally given and obtained from either circumstance or other authorities) to speak as well as having the ability and need/occasion to do so. Authority, in other words, is the double sense of having the title/rank and having the moment, need, and opportunity to open one’s mouth and talk. See JOANNE RAPPAPORT, CUMBE REBORN: AN ANDINE ETHNOGRAPHY OF HISTORY (1994).
epistemology.\textsuperscript{161} Often, these wires of authority date back several generations.\textsuperscript{162} Thus, as in Western scholarly culture, authority derives from an appeal to knowledgeable sources and to the processes of knowledge construction.\textsuperscript{163} The primary difference is simply the container of the information.\textsuperscript{164} Western notions of authority require reliable knowledge to be contained in written documents and place storytelling in the individual and singular realm, but aboriginal notions rely on knowledge contained within people.\textsuperscript{165} In both cases, however, truth is only recognized if supported by accepted authority.\textsuperscript{166}

Despite these similarities, Western culture still views written accounts as more reliable than oral accounts. This skepticism may reveal uncomfortable truths about the accepted epistemology of the Western tradition.\textsuperscript{167} Furthermore, courts may be reluctant to accept oral accounts if they highlight the “fact” that legal regimes used to conquer aboriginal peoples relied on deception, plunder, and inhumane treatment.\textsuperscript{168} Aside from challenging the law’s legitimacy, oral testimony can simultaneously assert an “alternative structure of legitimate normative order.”\textsuperscript{169} Even when oral tradition is permitted to be entered into evidence, there is still an acute risk of misinterpretation.\textsuperscript{170} This risk underscores the need for the assistance of Aboriginal elders, judges, amicus curiae, or skilled counsel who can ensure that the oral history will be properly valued by the fact-finder.\textsuperscript{171}

Courts often refrain from subjecting written accounts to the same rigorous, skeptical analysis that oral histories must overcome. For example, the lower court in the \textit{Delgamuukw} case gave greater weight to historical written documents that “largely spoke for themselves” than to oral tradition evidence provided by the Gitksan and Wet’suwet’en elders.\textsuperscript{172} The court relied on the written reports filed by a Scottish trader known only as “Trader Brown.”\textsuperscript{173} In fact, the court asserted that it had “no hesitation accepting the information contained in” Trader Brown’s records, despite clear evidence of Brown’s racism.\textsuperscript{174} The example demonstrates that “there is no good reason why written documents should be considered inherently more reliable than Aboriginal oral histories.”\textsuperscript{175} Unlike the testimony

\textsuperscript{161}Id.
\textsuperscript{162}Id.
\textsuperscript{163}Id.
\textsuperscript{164}Id.
\textsuperscript{165}Id.
\textsuperscript{166}Id.
\textsuperscript{167}Borrows, supra note 125 at 17-18 (“Giving oral tradition its due might require examining and partially overturning the values that lie hidden behind the most pervasive methods of "factual" interpretation.”).
\textsuperscript{168}Id. at 25-26.
\textsuperscript{169}Id. at 26.
\textsuperscript{170}Id. at 30.
\textsuperscript{171}Id. at 31. \textit{See} BRUCE MILLER, supra note 107.
\textsuperscript{172}Binch, supra note 124, at 255-58.
\textsuperscript{173}Id.
\textsuperscript{174}Id. at 256-7, n. 48 (“We learn that Brown regarded the Aboriginal people as ‘hardly amenable to obedience to anything but the most rudimentary form of custom. Brown held them in no high esteem.’ “); \textit{see also} Jim Enote & Joel Bryan, Lecture on Mapping Indigenous Lands (Spring 2007) (video supra note 111 (explaining that written accounts by ethno-historians and traders are a product of its own biases and culture).
\textsuperscript{175}Binch, supra note 124, at 258.
of living Gitksan or Wet’suwet’en hereditary chiefs, the Brown’s documents were deemed by the court to “speak for themselves.” Consequently, the parties with the best position to comment on the nature of native society are left without a voice and the ability, permission, and/or authority to speak.

Combining the experiences of Enote and Bryant and Zuni cases, and others like Sekaquaptewa and Hopi narratives, Basso and the Western Apache community, this project aims to produce a process of internal authentication within an Indigenous nation for community self-evidence. Biases and challenges to oral testimony and Indigenous space bring us to the need for self-evidentiary processes. Such methods can be employed by elders and witnesses chosen by the community for their expertise to relay privileged information or narratives, in a way that is culturally relevant and simultaneously amenable to the courtroom theatre. Western court systems operate with narratives of their own which situate how different kinds of testimony or witnesses are perceived. As Asch and Bell write, there exists a “myth of purely scientific investigation and objectivity involved in legal discourse, coupled with a conscious or unconscious stereotype of Aboriginal culture as ‘primitive’.”

Scholars in geography, anthropology, political ecology and law have been analyzing the testimonial procedures and biases in Native cases. Many argue for revamping methods but acknowledge that court culture can be difficult to surmount or even modify. A technique that meets the demands of both a Western court and Indigenous community must reconsider space and mapping to include the rich spheres of tradition, law, culture and philosophies in a nation or tribe.

Each site and nation is specific and thus an internal protocol would exist for every nation and tribe, operating with the streamlined approach suggested by intergenerational memory. A method of representing cultural truths while accessing several time-space dimensions in a presentation can provide a way for Native testimony to be heard in all the varying and complex ways an origin story or customary practice actually relates to the distinctive geography.

To promote internal authentication, a technological component of mapping out space is necessary. “Mapping” is used loosely and refers to rendering an authentic representation of space—be it how mountains were woven by a cosmic golden spindle or how rain storms are integral to a community’s sustenance and songs. Recent technological efforts can deal with multiple dimensions of narrative and different space-time ontologies.

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176 Id.
177 Id. at 251 (“Those people most suited by personal experience ... to comment on the nature of native society, the Natives themselves ... are thus left with no voice at all.”).
178 Asch & Bell, supra note 16, at 503-50.
and provide a Native representative access to better represent more complex relationships of space and time.180

For example, if the Tohono O’odham Nation wanted to portray the significance of Baboquivari Peak to eliminate pollution, a technology like Google Earth or other mapping and 3-D capability programs can capture the current environment, relay the creation story and trace community practices in the area juxtaposed with pollution. In so doing, the environmental problem is expressed in multiple layers and community frustrations can be more fully ascertained.

Therefore, Part II of this project aims to harness technology and develop a visual tableau for oral testimonies on space, time and Indigenous thought and practice. It aims to advocate for a process that is fundamentally rooted in community authority and can satisfy a court.

We hope that with this article, we can set the first steps on a necessary road of collaboration, investigation, and resource development. It has been our aim in the preparation of the appended and annotated bibliography to get adequate geographical representation for two reasons. First, we hoped to include all kinds of spaces and modes of representation to explain the various points on space and time making. Secondly, it was and is our aim to make the networking aspect of this effort a centerpiece. We welcome all contributions, suggestions, and corrections to this work, as it is clear to us, as it will be to others, that the effort of global sharing, protecting, evidence making, collecting and experience coordination is, and must be, shared by us all, locally and globally.

Annotated Bibliography

A: A history of maps: meta critiques and alternative visualizations of space

1. Selections from
Harris, Nathaniel

Excerpts from a concise and well-illustrated encyclopedia that serve to illustrate in brief the history of the mapping of the world and facilitate our understanding of the world’s current and past socio and geopolitics. It also provides a baseline from which to understand the different critiques and alternate visualizations of space, past, present and future.

2. Harley, J. Brian

The article emphasizes the point that European maps must be seen as artifacts of acculturation and colonization, and suggests that native maps present alternative cartographies and worldviews. The author argues for the inclusion of indigenous mapping when looking at the Columbian Encounter, which is usually understood and examined solely through European maps cast in the positivist tradition. It is, thus, a critique of mainstream mapping.

3. Lewis, Martin W. and Kären Wigen

The authors question accepted western geographical conventions, such as the existing global economic and political divisions, that appear on mainstream maps. The presentation of ten principles of critical metageography underscore the need for alternative depictions and the development of a critical eye toward existing geographies. The ten principles also help in the visualization of alternative mapping.

4. Tufte, Edward R.

This volume offers an attractive illustrative presentation of how visual explanations can be crafted. In depicting effective strategies, the chapters demonstrate that graphic illustration is a purposeful art that sets up certain meanings. The work is included to make the reader aware of this point and to awaken the possibility of alternative readings and creations.
5. Wood, Denis

This chapter “embeds the map in the history out of which it emerges, as an instrument that serves interests which not only bring maps into being, but in so doing divide the world…between those who use maps and those who don’t” (pp. 2). The chapter stands out from the other and equally relevant chapters on the power of maps, because it addresses most explicitly the manner and difficulty of distinguishing the good and the bad of any mapping endeavor. The article draws attention to the fact that history and space are social constructions and must be approached and explored as such.

6. Willems-Braun, Bruce

Author examines how colonial representations of ‘nature’ are not part of the past in British Colombia, but reasserted today through multiple neo-colonial representations. Using public debate over rainforest management, environmentalist rhetoric and forest industry promotional literature in the Clayoquot Sound area, the author argues that ‘nature’ has been created as an entity separate from ‘culture.’ The effects of these distinctions create a hierarchy of authority who can ‘speak for nature’ and the marginalization of First Nations people. The author also problematizes ‘wilderness’ in this argument, where wilderness is separated from ‘culture’ or hegemonic society and sustained as a ‘wild, pure space’, collapsing Native people as pre-modern and wild, and not decision makers today.

B: History and memory: depictions of truth?

7. Trouillot, Michel

The author explores the production of history to illustrate that all histories are socio-ideological and historical constructions. Trouillot elaborates on four moments of fact selection that determine how histories are ultimately written and proposes that an examination of which pasts are silenced provides insight into these techniques of selection revealing broader socio-ideological power struggles. The book in and of itself form a critical analysis of the Haitian revolution and offers a closer to the ground narrative in which the production of a historical account for the revolution becomes clear and is analyzed concomitantly.

8. Connerton, Paul

The author examines social memory and elaborates on what he calls “habit-memory,” the memory that is sedimented into our bodies through bodily practices or commemorations (rituals, celebrations). He argues that our routine habits evidence, foment, and perpetuate
our cultural memories simultaneously shaping and confirming these memories. Connerton makes the cogent point that memory is not just cognitive, but inscribed in and expressed through our bodies. His work is first in drawing attention to the sensory aspects of memory and, thus, destabilizes the notion that memory and history are objective, cold, and rigidly true or factual.

9. Rappaport, Joanne

This article presents the historical memory maintained by the Páez of Colombia in “their passage from an independent nation to a tribe subjugated by Spaniards and Colombians.” The account illustrates that there are strong contrasts between documentary and oral history and that the Páez historians negotiate this in ways that reveal both their social position and their indigenous identity. Rappaport discusses these ways and details the use among the Páez of landscape, language, and objects, such as the staff of office, in the maintenance and inscription of the intergenerational memories, and illustrates that the indigenous Páez of Colombia, not unlike, most indigenous peoples of the Americas have an intimate knowledge and modus operandi in regards to “western” or officially documented history. Rappaport’s ethnography provides a clear case study for this fluidity that is known to exist between oral and documentary history, destabilizing the idea of History (in all its authoritative guises).

10. Schmidt, Peter R. and Thomas C. Patterson

The edited volume in its entirety illustrates that there are different ways of making history in the diverse areas of the world and that archaeology, in particular, is a political process as well as a discipline that is based upon fact and interpretation. The article included is the introduction to the volume and it underscores that all institutions, disciplines, and cultural categories are ultimately socio-historical constructions that serve a variety of purposes (political, economic, ideological, symbolic, national). The volume was among the first to draw attention to the political sides of archaeology and to examine the constructivist aspects of history and archaeology.

11. Miller, Arthur G.
The article discusses the introduction of European symbolic systems and modes of representation at the time of Conquest and notes their effects on indigenous Mexican memory and cognition. It also addresses the colonial versus native production of images and texts. The author explores in detail the development of two colonial genres, native calendars and maps, among the Zapotec Indians of Oaxaca and provides insight into the changes that were made by force on the indigenous way of representing and seeing the world around them.

**C: Culture, customs, and social meaning: bringing memory to the court room**


Dr. Miller, an anthropologist, provides in his book a compelling analysis of the long trajectory oral history takes from Indigenous communities into non-Native courts, and the bias against traditional knowledge presented by Indigenous peoples and their experts.

13. Zion, James W.


This article addresses more precisely how courts receive evidence of ‘Indian’ tradition and custom under rules of evidence. Discussed are the “definition and nature of tradition and custom in court settings, their recognition as a legitimate form of law, a recent ‘culture defense’ controversy in the social sciences, principles of evidence on the introduction and use of Indian tradition and custom in court cases, and future trends in resolving problems of the reception and application of Indian tradition and custom as law.” The article forms a good discussion of the cores of the problem and why intergenerational mapping is a topic of interest and necessity.

14. Rosaldo, Renato


The book forms part of a paradigm shift and is therefore a classic of postmodernist anthropology critique. The introduction chapter, “Introduction: Grief and a Headhunter’s Rage” guides the reader into the topics of the book: a critical socio-historical discussion of the once-dominant conceptions of truth and objectivity and a presentation of alternative strategies for the study of the socio-cultural differences that make up our world. Rosaldo writes of personal experience making for a compelling tale.

Chapter 1: “The Erosion of Classic Norms” launches the first meta critique by reviewing the classic terms that formed the study of culture and form henceforth a good introduction to the terms that underlie the history, mapping, and colonial forming of the world. Rosaldo introduces his borderlands framework: “borderlands surface not only at the boundaries of officially recognized cultural units, but also at less formal intersections, such as those of gender, age, status, and distinctive life experiences” (pp.29). In doing so, he challenges the notion of boundaries as static and strict.
Chapter 2: “After Objectivism” picks up the pieces of the previous chapter. By undertaking the anthropological study of some aspects of general American culture, Rosaldo illustrates that everyone—scientists, natives, and people everywhere—and everything—from breakfast to death, science to headhunting—is culturally situated. This must be acknowledged, he argues, to get a semblance of truth.

Chapter 3: “Imperialist Nostalgia” proceeds from the demise of objectivism to explain the risk of imperialist nostalgia in an effort to underscore that the “observer is neither innocent nor omniscient.” The author cautions that we are all “necessarily both somewhat impartial and somewhat partisan, somewhat innocent and somewhat complicit.” The recognition of this dualist positioning is crucial to a balanced outlook on life and an effective execution of one’s profession.

In conjunction these chapters place the reader well into the context of postmodernism, critical readings of maps and histories, and the exercise of deconstructive-constructivist analysis and re-representation.

15. Clifford, James


In this book, Clifford discusses the deeper meanings behind the urge to collect and make art. In “On Collecting Art and Culture,” he elaborates on the meaning of the word “culture” and provides insight into duality of symbolism. In a subsequent chapter “On Orientalism,” Clifford explains some of the valuable and problematic aspects of Edward Said’s orientalism thesis. Finally, in his concluding chapter “Identity in Mashpee,” Clifford provides an interesting account of a federal court trail in which the Maspee sought to gain land rights over 16,000 acres of land. They failed, and Clifford’s presentation of the trial illustrates in some ways what the possible reasons may have been. Clifford explains what culture is, what the definition of tribe is, and what the difficulties are in trying to fix these terms that need be flexible to allow for change as well as continuity. On the whole, the selection is meant to convey a sense of the fundamental problems that are inevitable to emerge when dealing (translation, study, defense, circumscribing, protecting) with issues of culture and power and solidly links the study of culture to that of power—a necessary change of paradigm that transpired with the oncoming of postmodernism and poststructuralism.

D. Boundaries of space, understanding, and culture: the academy vs. the real world

16. Holm, Tom, Diane J. Pearson, and Ben Chavis


This article examines the position of American Indian Studies as an academic discipline and inter- or multidisciplinary exercise. It highlights the challenges of this position and explains that much of the discipline therefore is rendered tributary and without a core. Rather than importing categories from kindred but othering disciplines, the authors argue for a theoretical construct based solely upon Native American knowledge: a peoplehood matrix based on an encompassing view of group identity. 'Peoplehood' transcends notions of
statehood, nationalism, gender, ethnicity, etc. (pp. 11) and is more suitable to AIS than anthropological hierarchical terms. “People hood” focuses on interrelationships and is intrinsically multifaceted not allowing knowledge to be fragmented.

17. Deloria, Jr., Vine  

The book compares the Native and western ontologies, analyzing how Native religion and relationship in the world differ from those of the Judeo-Christian traditions. Significantly, the author posits the Native worldview is based on geography or a space-based context, unlike the historical or time-based hierarchies of western views. Indigenous cultures recognize context as the base for understanding reality, and interactions with different forms of life inform core principles. These preexisting relationships refer to sacred places for each nation/tribe that are sites of creation and other stories. Comparatively, in the European base, revelation has an emphasis on sharing, to the extent of proselytizing. Indigenous religions position revelation in sacred spaces, areas maintained as secret where revelations are personal and dynamic to each experience. Not an evangelical mission, but an intimate process between the person, the environment and spiritual theories. Thus, those sacred places which posses a series of pre-existing relationships deal with creation and other people who have interacted in those sacred places,

18. Shweder, Richard A.  

This book review examines the question: Who owns native culture? In so doing, the author debates what constitutes native culture and who gets to decide on its definitions.

19. Clifford, James  

The article addresses “the ambivalent legacy of anthropologists’s relations with local communities,” as it “presents…both obstacles and opportunities.” “This essay probes the possibilities and limits of collaborative work, focusing on recent Native heritage exhibitions in south-central and southwestern Alaska. It also discusses the cultural politics of identity and tradition, stressing social processes of articulation, performance, and translation.”

20. Ferguson, T. J.  

Discussion of the changing relationship and legislation between Native Americans and archaeologists. The article provides a brief overview of the history of archaeology and then
discusses the changing relationships (legal, political, scientific, social, and intellectual) of the discipline with Native Americans.

21. Holt, H. Barry

Summary of Native American religious beliefs and identification of categories of sacred areas for mitigation and management in response to a conflict between Navajo traditional beliefs and energy development initiatives in the San Juan Basin, NM.

22. Navajo Nation Historic Preservation Department
1991 Navajo Nation Policy to Protect Traditional Cultural Properties
1993 Navajo Nation Guidelines for the Treatment of Discovery Situations
1999 Guidelines for the Treatment of Historic, Modern, and Contemporary Abandoned Sites.

Four sets of guidelines or policies in use by the Navajo Nation for the protection of their cultural remains. Note the differences and similarities between Native initiatives and those in use by academic archaeologists (Ferguson article). Keep in mind also the challenge cultures face when deciding how to negotiate their cultural taboos or secrets within a Euro-American context. In the instance of the Navajo, for example, a hogan (traditional dwelling) where someone has passed on is culturally off limits.

E: Artifacts: harbors of experience and memories of making

23. Toledo Llancaqueno, Victor

This article presents the *nutram*, a discursive genre that the Mapuche utilize to harbor their intergenerational memory. The author narrates the role of the nutram in recent Mapuche initiatives to obtain rights from a new Chilean state by resolving land disputes that originated in the dismissal of nutram and the occupation of Mapuche land by the military during Chile’s dictatorship. The article illustrates the central connections between memory, land, and body, and of what happened subsequently.
24. Davis, Wade
Photo essay on the Kogi of Colombia, who weave memories into clothing and direct their spiritual thinking into bark and cotton fibers.

25. Winter, Joan G.
Sampling of art works from Native Title Business, an Australian national traveling exhibition. The pieces illustrate material inscription of intergenerational memories that characterize indigenous art. Brief explanations provide historical and cultural context.

26. Morphy, Howard
The different expressions described of Northern Australian Aboriginal art illustrate the richness and variation that exist in native art as well as the ways art and culture are interrelated.

27. Sutton, Peter
Succinct introduction to dreaming as cultural expression among Australia’s Aboriginals. Sutton explains form, content, and style of Dreamings and details their inscription in material shapes (designs, painting, sculpture).

28. Hume, Lynne
Descriptive discussion of themes and symbolism in Aboriginal painting that underscores that landscape and artifacts both reflect and shape culture.

29. Rose, Deborah B.
Descriptive article on Australian Aboriginal dreaming that includes a gendered mapping of the landscape.
30. Sekaquaptewa, Emory and Dorothy Washburn


Demonstration how cosmological metaphors in Hopi ritual song texts are an important yet unrecognized source for reconstructing past lifeways. Analysis of katsina song texts "reveal a consistency of thought and prescribed social action that has sustained the Hopi people as they have followed a lifeway of corn agriculture done by hand"(457). Ritual song serves as another form of intergenerational memory and cultural mapping. The article also addresses the validity of oral history despite the negative opinion of some archaeologists.

31. Colwell-Chanthaphonh, Chip, T.J. Ferguson, Robert Anyon.


Presentation of collaborative ethnohistorical research with four tribes that explore tribal histories drawing on concepts of cultural landscapes as memory. The article demonstrates that archaeological and native concepts of cultural behavior as expressed through material remains can be articulated in productive and respectful ways.

32. Basso, Keith H.


Chapter 4 depicts the linguistic inscription of memories, stories, and identity of landscape among the Western Apache. In other words, what we see around us is not just empty land, but landscape filled with significance.

33. Brody, Hugh


Chapter 2 provides the historical context of British Columbia and its native populations, and offers archaeological interpretations of its past. In Chapter 3, the author explains the mapping of dreams among the Beaver First Nation. Note the difference in form and content of recording and recalling the past. Chapter 10 elaborates on the map drawing project and provides examples of maps.
34. Woodsworth-Ney, Laura


The book was written with a native, land-based consideration of the Coeur d’Alene indigenous identity. The author considers the Coeur d’Alene oral tradition, contemplates the effects of mapping according to a Western, scientific, political agenda, and provides an interesting representation of Coeur d’Alene identity and the realities of reservation mapping. The entire book is a worthwhile read, but the introduction makes several important central points on the notion of ‘mental’ (as different from textual) maps.

**F: Tools and possibilities**

35. Crawhall, Nigel.

2005 Giving New Voice to Endangered Cultures. Unpublished?

The paper deals with the mapping of cultural landscapes and knowledge systems with and by indigenous peoples. It provides internet sites that may serve as sources for additional information on the topic.

36. Ayres, Ed


Brief exposition of a participatory mapping project between Native Lands and indigenous groups in Central America and southern Mexico. The resulting map reveals “a remarkable correspondence between indigenous land use and the survival of natural areas.” The author notes that maps are strategically defined.

37. Maya People of Southern Belize, Toledo Maya Cultural Council, and Toledo Alcaldes Association


Great example of a collaborative mapping project between the Toledo Maya of Southern Belize and the Indian Law Resource Center, Geomapping Inc., and UC Berkeley. Several different types of maps are included to illustrate how the Maya communities map their surroundings.

38. Aswani, Shankar and Matthew Lauer

Authors discuss how GIS database “can be used to incorporate socio-spatial information, such as indigenous knowledge and artisan fishing data, along with biophysical and other information to assist in the design of marine protected areas.” Their article serves to illustrate a bridging of the “gap between indigenous and Western cognitions of seascapes” and demonstrates that ocean is seascape like land is landscape.

G: Alternative or complementary strategies and techniques a ) Oral history

39. Okihiro, Gary Y.

The article discusses oral history versus history in the writing of ethnic history and underscores that history is not as scientifically solid as is portrayed. The author highlights the difficulties of oral history, but notes how much is to be gained from writing history that includes oral history.

40. Hicke, Carole

Practical guide to collecting oral history that includes a discussion of what oral history is, how it can be collected and processed.

41. Wood, W. Raymond.

Article on oral history: what it is, what it adds to the archaeological record, and how to best collect it and address its potential biases. The discussion illustrates the differences between obtaining insights from objects and from memories, or put differently from concrete materiality and abstract realities. In doing so, one also comes to appreciate differences between native versus academic world views.

42. Shafer, R. S.

Excerpts that offer practical guidance on collecting and interpreting oral history. The author suggests the use of the historical method, which consists of doing both external and internal critiques of a history’s content. Note, for example, that while the advice still holds up, the guide dates to 1974; we can read these excerpts as an artifact of its time and apply some of the analytical techniques to this somewhat outdated guide. The author argues it is this type of exercise that must be applied similarly to any document or oral history to arrive at a plausible and complete communal memory map.
b) The lay of the land

43. Anderson, M. K.
Provides an overview of different archival resources pertaining to ethnobiology. These resources may likely contain information on native memory or can serve as interpretative context. One is reminded of pharmaceutical prospecting that relies on and at times appropriates expertise on native medicine and may thus serve as additional resource for information for recovering intergenerational memory.

44. Edmonds, Michael
Presents an overview of written records available in archives, museums, etc. and discusses strategies and problems associated with finding documentary information or accessing the information presented in these documents.

45. Fogerty, James E.
Succinct discussion and overview of oral history as method, information, including the issue of storage.

46. Reithmaier, Tina
Description of resources to find maps and photographs. Summaries of their nature provides insight into the socio-historical context of their production and consequently of their potential biases. One is reminded of the importance of ‘reading against the grain.’ What areas have these mappers trespassed, appropriated, moved into, demarcated? What strategic decisions have led to these resources and in so doing denied or erased other peoples, traditions, maps? A critical comparison between photographs and maps may illustrate how
scientific mapping has justified physical alterations/intrusions into native landscapes (N.B. The Haida have started to explore the issue of encroachment).

47. Whitney, Gordon G. and Joseph P. DeCant
Discusses available surveys, which are mostly by the government. While these will mostly be the colonizers, the maps when read against the grain might still be of use. Understanding how, who, and where they colonize can provide alternative maps, understanding, and critical insight into “western” encroachment upon native lands and memories.

c) GIS-ing conceptual landscapes

48. Herlihy, Peter H. and Gregory Knapp
The authors discuss the recent development and use of participatory mapping in Latin America. The article elaborates on issues of methodology and contextualizes the interest in participatory mapping in socio-technological and anthro-geographical terms. GIS and GPS technologies offer opportunities to meet a wider range of socio-cultural needs than before.

49. Herlihy, Peter H.
Description of a participatory research mapping project that documented the subsistence lands used by the indigenous populations of the Darién Province, eastern Panama. The author walks the reader through the different stages of this project, which was one of earliest in the region of its kind, to highlight its all-around successful methodology.

50. Smith, Derek A.
Discussion of a participatory mapping project to underscore that “participatory” is a flexible concept and may mean different things in different communities, situations, and research requirements.

51. Stocks, Anthony
The author emphasizes that mapping should not be the end goal and discusses possible long-term aims in light of the case of the Bosawas International Biosphere Reserve of Nicaragua.

52. Smith, Richard C., Margarita Benavides, Mario Pariona, and Ermeto Tuesta

The authors examine conceptual and methodological steps to establish a map-based Native Communities Information System as the foundation for future land-use planning in Peru's indigenous territories.

53. Gordon, Edmund T., Galio C. Gurdián, and Charles R. Hale

Analysis of a diagnostic (research and analysis) of communal land claims of some 130 indigenous, Garifuna, and Afro-Nicaraguan communities on the Atlantic (Caribbean) Coast of Nicaragua. The authors examine the contradiction between working with state funding and a community that perceives the state as adversary. Theoretical insight obtained from this type of research is that the process of data collection transforms the object of inquiry, i.e. subjects become producers, presenting a complex series of obstacles and challenges.

54. Offen, Karl H.

Drawing on his participation in mapping Miskitu community land claims, the author discusses the relationship between the mapping process and an identity politics of place in northeastern Nicaragua. The article highlights the mapping project’s merging of a cultural politics of place with those of identity.


People of differing cultural spheres, he writes, vary in their thoughts about geographic space and geographic processes. He argues that little has been written about the spatial differences in cognition and GIS Science, and which have important ramifications for Indigenous GIS and Indigenous mapping.
H: Pressing issues

a) Scientific and local knowledge?

56. Smith, Linda Tuhiwai


In ten concise chapters, Maori author Linda Smith examines the uses and abuses of research as it was perpetrated mostly by Western researchers upon, for, about, and among native peoples. Exposing and articulating these pasts’ trespasses, she re-formulates and articulates as an attempt of decolonization an indigenous research agenda. In addition to the preparatory and sharp discussion of Western-styled research agendas, particularly interesting elements of this book are: the chapter outlining the 25 tendencies of existing indigenous research and community projects, the overall point and list of research protocols that research is important and useful in indigenous communities—especially when done right and by indigenous researchers—and the schematic drawing that outlines how indigenous research or research among indigenous peoples and communities must be undertaken. According to the author and the people she represents, reciprocity, respect, and community must lie at the core of any research effort. Smith illustrates, further, that research in a community must pass through four concentric and embedded foci—survival, recovery, development, and self-determination (self-determination being the ultimate goal)—and that both researcher and research topic must pass at the same time through four ‘processes’: transformation, decolonization, healing, and mobilization—to be valuable to a community. She outlines the research protocol and mentions by outlining the ten ways in which Western-styled research is not, and never should, be done to achieve individualizing progress. The exercise of research should serve the greater community goal of knowledge: knowledge being knowledge and methods—knowing, according to Smith, is knowing how to among the indigenous: a point that constitutes an important difference and one that deserves to be heeded considering the current states of events on our planet. Splendidly written, the book is an absolute must read for anyone wanting or pretending to work with or already working with indigenous issues, be it in research or in real world application.

57. Hunn, Eugene S., Darryll R. Johnson, Priscilla N. Russell, Thomas E. Thornton


Through a presentation of the Huna Tlingit gull egg harvest project, the authors debate the question of whether indigenous people conserve their local natural resources. Definitions of indigenous and traditional environmental knowledge (TEK) are considered.

58. Mitchell, Todd

Article describes scientific criteria for wetland definitions to underscore the need to include cultural and socio-economic approaches that TEK provides. The article concerns the Swinomish Indians.

59. Wheeler, Polly and Amy Craver
Discussion of some challenges the Office of Subsistence Management, a federally funded social science research program in Alaska, faced, concerning the collection and analysis of TEK. The article closes with observations on elements of successful projects.

60. Cirone, Patricia
The article elaborates on ways undertaken to foster a strong working relationship between the U.S. Environmental Protection Agency and Native American tribes and identifies several critical issues that must be bridged to ensure successful consultation.

61. Isé, Jennifer and Susan Abbott-Jamieson
Presentation of an outreach and education project that illustrates 1) how to effectively engage the community, and 2) what community engagement means and entails for the community and the researcher(s).

62. Hardison, Preston
Commentary from the articles on TEK presented in the issue of *Practicing Anthropology*. It provides reflections on the current status of TEK and briefly outlines ways forward based on several important core principles.

63. Sheppard, Eric
The author argues that GIS is a social technology. The article discusses questions of its social embeddedness and the impact of GIS.
64. Aitken, Stuart C. and Suzanne M. Michel

Critical discussion of definitions of GIS that are formed solely within scientific confines in order to advocate for the consideration of social, cultural, and political contexts of technology and management. The article presents a “post-positive ethic that merges the academic and professional world with the world of everyday experience.”

65. Weiner, Daniel, Timothy A. Warner, Trevor M. Harris, and Richard M. Levin

Case study of GIS research in South Africa that is informed by a regional political ecology in relationship with socially differentiated knowledge sources. Competing discourses associated with post-apartheid social transformation are discussed to illustrate that GIS are social constructions.

66. Rundstrom, Robert A.

Comparison of Euro-North American characteristics of geographical knowledge with those of indigenous peoples, looking particularly at how knowledge is developed and maintained differently. Special attention is paid to the differences between written tradition and oral tradition and the importance of studying the process by which one learns geographical information.

67. Curry, Michael R.

Discussion of rights and responsibilities of GIS as these systems appear to support and appeal to a scientific view. The author explains alternatives to the scientific view.

b) The management of people problems and differences

68. Saskatchewan Indian Federated College

Definition and succinct set of guidelines on co-management of natural resources with indigenous communities that was prepared for the Dept of Indian Affairs and Northern Development of Canada.

69. Ross, Helen

Comparative discussion of the co-management concept in environmental management between Washington State in the United States and Australia.

70. Craig, Donna

The author notes that indigenous co-management is rapidly expanding throughout the world and that Canada and Australia have led this development. “Their ‘success’ has been largely anecdotal and based on informal practices and relationships developed by dedicated participants” leading to a focus on practical means. “Much has been gained…[but] fundamental conflicts and issues relating to Indigenous rights have often been ignored.” She reviews “the very diverse Australian and Canadian experiences, having regard to international and national legal standards recognizing the comprehensive rights of Indigenous peoples, and suggests that a more “rights based” approach to co-management is needed.”

71. Hart, E. Richard (editor)

Excellent collection of essays on diverse aspects of the Zuni land claims. Each essay provides insights into the mapping of indigenous intergenerational memory in the context of the court of law. A must read!

c) Re-membering the politics of power

72. Hale, Charles R.

Written by activist anthropologist Charles Hale, who testified as expert witness, this article provides insight into the court room interactions and the experience of being an expert witness during the land claim trial brought by the Awas Tingmi community to the Inter-American Human Rights Court. The article draws attention to the challenges of managing
various power relationships by reflecting on the ways different witnesses handled the dichotomy between indigenous culture and Western courtroom culture according to their social position, structural power, and sense of self and history.

73. Joel Wainwright

In this volume, the author analyzes and challenges *The Maya Atlas Project* (in which he has personal experience), asking if anti-colonial work is possible or if such mapping projects inadvertently reassert neo-colonial principles in Indigenous communities. The author analyzes whether the practice of mapping confines Indigenous cosmologies to western metaphysics and the legacy of liberal Enlightenment thing. The argument focuses on logocentrism, which capitalizes on spatial arrangements towards a hegemonic ideal and questions if even resistance mapping is forced to repeat these structures.

74. Hampshire, Kate, Elaine Hills, and Nazalie Iqbal

Exploration of “power relations within a participatory health and social needs project…The project involved a number of different individuals and agencies, each of which began with a rather different combination of interests, agendas, resources, and power bases…we explore the ways in which these were continually re-negotiated within a context of shifting power relations.”

75. Bryan, Joe
2005 *Map or be Mapped; the Awas Tingni case, human rights, and the tactics of being indigenous*. Unpublished paper presented at the Annual Meeting of the American Association of Geographers.

Analysis of the role of maps in the development and implementation of a land claim brought by the Mayangna/Sumo community of Awas Tingni against the Government of Nicaragua. Maps associated with the claim illustrate how understandings of community and land rights were constructed as part of the process of pursuing legal recognition of the community’s claim, transforming community interests. In particular, this presentation will contrast the everyday importance of land and resources to members of Awas Tingni with the concept of indigenous territoriality articulated in international human rights law. The paper raises a number of questions for further debate between lawyers and geographers about the role of maps in advocating recognition of indigenous land claims.

76. Hale, Charles R.
Examines the divergence between Miskitu townspeople and MISURASATA leaders in terms of their notions of history and land rights. Hale uses two lines of inquiry to reveal important power differentials: historical explanation and the politics of memory. He contrasts documentary evidence with contemporary perspectives obtained through ethnographic research and concludes that the meaning Miskitu people attach to land rights since 1894 have undergone cumulative change. Hale also found that differences existed between leaders' discourse and grassroots consciousness within the antigovernment mobilization.

d) So whose law is it in the end anyway?

77. Clemmer, Richard O.


Examines the “legal, cultural, and ecological issues surrounding Western Shoshone Indians’ claims to and use of the public domain in Nevada through discussion of three cases of contested uses: plans for a mine in a proposed World Heritage Site; plans for a dam at a sacred site; and economic use of the public domain for stock grazing by a Western Shoshone family. Results of a research project aimed at documenting historic and contemporary uses of the area as well as Shoshone land claims reveal a challenge for anthropologists and other social scientists to include the political impact of institutional power on ecosystems in environmental studies.” The article directs attention to differential power structures and the problems emerging from different strategic interests.

78. Borrows, John


Article examines some perceived problems or existing preconceptions concerning oral history in terms of the court of law and the Euro-American legal context and law making processes. The author provides insights and suggestions to better understand and draw upon native oral history. Mostly discusses Canadian case studies.

79. Neate, Graeme


“Chapter identifies and analyzes various issues of proof that have arisen in the course of native title proceedings. The issues are discussed in the context of the roles of various participants in the process: adjudicators, claimants, legal practitioners, expert witnesses and objecting parties. Particular reference is made to contentious issues such as the need for "physical connection" with the land and crucial evidential issues such as the means of obtaining reliable information about native title." Pp. 275, section 10.5.3 discusses oral evidence. Pp. 303 section 10.5.5 deals with the role of anthropologists and other experts.
80. Howard, Seánna
2006 Memo concerning the Mapping of Sacred Sites.
“Overview of the legislation, case law and commentary addressing the confidentiality of sacred site information.”

81. Brown, Brian E.
Descriptive article on the Cherokee case against the Tennessee Valley Authority that underscores what is to be lost by not presenting the strongest case possible especially when it concerns native oral history or religious beliefs. Fighting against the Tellico dam, the Cherokee argued the flooding would "disturb the sacred balance of the land" (pp. 9), but were unable to articulate to the Court the content of this meaning and its centrality to their identity and way of life. The Cherokee lost the case.

82. Mills, Antonia
Narrates the struggle of the Witsuwit'en peoples to establish the meaning of aboriginal rights in the Canadian court of law and obtain their native land rights. The Gitksan and Witsuwit'en asked a number of expert witnesses, among them anthropologist Antonia Mills, to prepare reports on their behalf. Her report, this book, instructs the judge in the case on the laws, feasts, and institutions of the Witsuwit'en. Her testimony is based on two years of participant observation with the Witsuwit'en peoples and on her reading of the anthropological, historic, archaeological, and linguistic data about the Witsuwit'en. In 1991, the judge who rendered the decision in the court case, known as Delgamuukw v. the Queen, dismissed the testimony of Mills and the other anthropologists and ruled that the Witsuwit'en and Gitksan have no aboriginal title.

83. Asch, Michael and Catherine Bell
Analysis of the *Delgamuukw* case that illustrates that “Aboriginal title litigation processes present a unique set of evidentiary problems both for Aboriginal plaintiffs and the courts. The elements of proof of title are themselves imbued with an ethnocentrism which serves to ignore Aboriginal systems of land ownership and property transfer. Furthermore, the common law and statutory rules of evidence are at odds with Aboriginal oral historical traditions. The result is the rejection of much of the evidence adduced by plaintiffs in support of title…Our courts will be appropriate for a for the just resolution of Aboriginal
title claims only when the ethnocentric bent of Canadian law is acknowledged, and then replaced by an approach to fact-finding which starts from a premise of equality.”

84. Dion, Tina L.
Memorandum setting out the “test used in Canada for the admissibility of oral history in court proceedings and compar[ing] that test to the admissibility of oral history as evidence in American courts in respect of aboriginal claims.”

I: Balance Utopia with the danger of realities

85. Thompson, Charles D., Jr.
Examination of "the formations of native identities in a place where borders bleed, and people live and fall outside those boundaries" (p.66). The article describes Guatemalan indigenous Maya fleeing across the international border to Mexico during a civil war in terms of the bleeding of persons, of culture, and borders. The author concludes that territories and identities are never as tightly contained as depicted on maps, which is why the bleeding of indigenous identity theories is required also.

86. Sparke, Matthew
Excellent article that takes on the "geography of power, the nation-state, cartographic history, and postcolonial theory" (463). Sparke elaborates on two cartographic case studies, the Gitxsan and Wet'suwet'en case against the British Columbia government over recognition of their native sovereignty, and the Historical Atlas of Canada that included native peoples and spaces in Canada's cartography. His first case study highlights the difficulties of bringing oral history, native mapping, and song into Western court of law.

87. Robbins, Paul
Questioning the dichotomy between local and scientific knowledge that many approaches including TEK in land use and cover analysis, the article “demonstrates alternative use of GIS and remotely sensed imagery to both illustrate the partiality of mapping technology and show possibilities of critical usage of the tool.” Through a case study from India, Robbins
concludes that “for both local producers and expert managers, the cultural meaning of landscape is dependent on their roles in regional production and resource politics.”

88. Pickles, John

Excellent book on the history, politics, and presence of mapping in our geo-coded, and sometimes brave new, world. The chapter on cyber-empires is of special interest because cyber technology has become an increasingly important factor in the shaping of geo-politics. It also forms the way in which indigenous peoples and otherwise marginalized groups around the globe have been able to connect, organize, learn, and teach a watching world about the disadvantages of their conditions of marginality and oppression. The importance of community and communication become a paramount, albeit double-edged sword, when one considers the possibilities of cyber-technology with the real dangers of empire-building. (Many of the additional book chapters are worthwhile reading to obtain a deeper understanding of critical cartography.)

**Appendix: Additional Resources**

I. Codes of ethics of leading organizations in American anthropology and of museum organizations:

- American Anthropological Association (AAA): principal professional organization representing the entire discipline of anthropology
- Society for Applied Anthropology: professional organization
- Society for American Archaeology: professional organization
- National Association for Practicing Anthropologists: sub-section of AAA
- Archaeological Institute of America: non-profit organization promoting archaeology (research, education, knowledge)
- American Association of Museums (AAM)
- International Council of Museums (ICOM)

II. Zion, James W.

Overview of Navajo Nation Judicial System

III. Schnarch, Brian
Options for First Nations Communities. Reformatted version of paper published in the *Journal of Aboriginal Health* 1(1).

IV.

a) Mac Chapin, Zachary Lamb and Bill Threlkeld, *Mapping Indigenous Lands*, *Annual Review of Anthropology*, 619 (2005). The mapping of Indigenous lands to secure tenure, manage natural resources, and strengthen cultures began in Canada and Alaska in the 1960s and moved to use in other regions during the 1990s. A variety of methodologies, ranging from highly participatory approaches involving village sketch maps to more technical efforts with geographic information systems (GIS) and remote sensing have been utilized successfully. In general, Indigenous mapping has shown itself to be a powerful tool spreading rapidly, although the distribution of mapping projects is uneven, as opportunities are scarce in many parts of the world. This review covers the beginning and evolution of Indigenous mapping, different methodologies and their objectives, the development of Indigenous atlases and guidebooks for mapping Indigenous lands, and the often uneasy mix of participatory community approaches with technology. By many respects, Native Peoples have embraced these technologies in order to corroborate their traditional knowledge, which is often challenged by the intransigence of non-Indigenous forums.

b) Pacific Worlds ([http://www.pacificworlds.com/homepage/about.cfm](http://www.pacificworlds.com/homepage/about.cfm)). This is a brochure on Geography as a discipline of study for potential Indigenous scholars. Pacific Worlds is a vehicle for cultural preservation and the perpetuation of Indigenous traditions in the Pacific, presenting the Pacific Islands’ cultures and environments from Pacific-Islander perspectives.
c) Geography, GIS and Map Websites

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<tr>
<th>Association of American Geographers</th>
<th><a href="http://www.aag.org">www.aag.org</a></th>
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<tr>
<td>Indigenous Peoples Specialty Group of the AAG</td>
<td><a href="http://www.pacificworlds.com/ipsg/index.html">www.pacificworlds.com/ipsg/index.html</a></td>
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<td>IPSG Links (including programs, funding &amp; scholarships):</td>
<td><a href="http://www.pacificworlds.com/ipsg/links.html">www.pacificworlds.com/ipsg/links.html</a></td>
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<td>Aboriginal Mapping Network</td>
<td><a href="http://www.nativemaps.org">www.nativemaps.org</a></td>
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<td>ESRI Native Conservation Resources</td>
<td><a href="http://www.conservaiongis.org/links/native1.html">www.conservaiongis.org/links/native1.html</a></td>
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<td><a href="http://www.conservaiongis.org/links/nativepaper1.html">www.conservaiongis.org/links/nativepaper1.html</a></td>
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<td>Indigenous Geography as Discipline Arrives</td>
<td><a href="http://www.indianecountry.com/content.cfm?id=1096409838">www.indianecountry.com/content.cfm?id=1096409838</a></td>
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<td>Indian Land Working Group</td>
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<td>American Indian Map Pages</td>
<td><a href="http://www.americanindian.net/links7.html">www.americanindian.net/links7.html</a></td>
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<td>Traditional Ecological Knowledge</td>
<td>shr.aas.org/tek</td>
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<tr>
<td>Native Geographies and Counter-mapping links</td>
<td><a href="http://academic.evergreen.edu/g/grossmaz/nations.html">http://academic.evergreen.edu/g/grossmaz/nations.html</a></td>
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<td>INDIGENOUS PEOPLES SPECIALTY GROUP</td>
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VII. THE HOHOKAM MILLENIUM, SUZANNE K. FISH & PAUL R. FISH, ED. (School For Advanced Research Press 2007)