

**Indigenous Perspectives on the Outstanding Land Issue in
British Columbia: “We deny their right to it”**

by

Cathrena Narcisse

B.A., Simon Fraser University, 1994

M.A., Simon Fraser University, 1998

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Abstract

Arising from and sustained within the context of colonialism, the outstanding indigenous land issue in British Columbia has long been a source of significant conflict between indigenous people and settler governments. Due to its significantly complex political and legal background, it is difficult to reach a clear and comprehensive understanding about this matter, and gaining insight into the indigenous perspective about it is even more challenging. **Explicitly considering the broader framework of colonialism in exploring the outstanding indigenous land issue in British Columbia, this dissertation places its focus upon detailing the indigenous perspective in relation to opposing political and legal government positions.** Such a study is important in order to adequately understand the perpetuation of the conflicts between indigenous peoples and governments over the outstanding land issue.

The research approach relies upon the examination of archival data, along with representations of indigenous oral history narratives, and attendance at indigenous political gatherings. In particular, this research project relies upon information gathered from both indigenous elders and political representatives through interviews and political meetings to form the basis of indigenous perspectives on the outstanding land issue.

The findings from this research provide evidence that a discernible pattern of denial and disregard has been established and maintained by successive settler governments and that these patterns are purposefully perpetuated. The political, legal, and regulatory systems devised for power and control over indigenous peoples have effectively shaped the ‘taken for granted assumptions’ of the outstanding land issue. Indigenous perspectives on the ownership of their

territories have been consistently maintained through oral history narratives over several generations.

The central contribution that can be drawn from this research rests upon the revelation of how indigenous perspectives on the outstanding land issue were actively and continuously suppressed as part of the dispossession process. The significant findings include an in-depth disclosure of how purposeful political and legal procedures accompanied by expansive regulatory mechanisms have served to control how the outstanding indigenous land issue in British Columbia has been actively shaped, understood, and maintained over time through deliberate processes and procedures of colonialism.

Preface

This research was approved by the UBC Behavioral Research Ethics Board:

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List of Abbreviations

AFN	Assembly of First Nations
BC	British Columbia
BCAFN	British Columbia Assembly of First Nations
BCTC	British Columbia Treaty Commission
BCTV	British Columbia Television
CLCP	Comprehensive Land Claims Policy
DIA	Department of Indian Affairs
INET	Indigenous Network on Economies and Trade
IRABC	Indian Rights Association of British Columbia
LTC	Lillooet Tribal Council
RCAP	Royal Commission on Aboriginal Peoples
RCMP	Royal Canadian Mounted Police
SCC	Supreme Court of Canada
UBCIC	Union of British Columbia Indian Chiefs

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Dedication

This dissertation is dedicated to the Hereditary Chiefs and Ancestors who were the ones first faced with the denial and oppressive methods of the colonial officials. The foresight these traditional leaders had in documenting their positions and perspectives within a new medium of communication through the many petitions, memorials, and declarations has provided essential confirmation to support the oral history narratives of the longstanding indigenous political positions.

This dissertation is also dedicated to the many indigenous Elders, leaders, and people who continue to keep these stories and realities of our connection to the land alive and circulating. And last but not least, this dissertation is dedicated to the younger and future generations of indigenous peoples who I hope will find within these narratives a way to gain further insights into the suppressed knowledge of our people and to connect with that information.

Chapter 1: Introduction and Problem Statement

Indigenous peoples and settler governments have long-held opposing positions concerning the political and legal nature of the outstanding indigenous land issue in British Columbia. The character of the outstanding land issue has definitively formed qualities and has been handled in a particular way which has led to its commonly accepted understandings. General understanding about the outstanding indigenous land issue seem to have been based on how the settler governments, and in turn, settler society have regarded it, and the form it has taken is primarily due to the exclusion of the indigenous voice on the matter. By and large, the indigenous perspective on the outstanding land issue has been consigned to a position of relative obscurity within the arena of political and legal struggles. As a result, absent from the generally accepted understandings of this topic is the perspective or the voice of indigenous peoples themselves. **Taking the broader framework of colonialism into consideration, this dissertation will place its focus upon detailing the indigenous perspective in relation to the opposing political and legal positions on the outstanding land issue in British Columbia.** Due to its significant complexity it is often difficult to reach a comprehensive understanding about this matter and this is made more challenging when the indigenous perspective on this important issue has been repressed by successive governments. Expanding upon the established approaches with the inclusion of the indigenous perspectives has the potential to provide further insights into how this matter has both taken shape and been contested through time. Without the indigenous voice, and particularly the one that links to the circumstances of colonialism, it is simply not possible to accurately understand the issue.

The indigenous land issue in BC clearly is a long standing issue with a significant historical background of colonialism contributing to the current circumstances. This research project relies upon a wide variety of scholarly works to gain an inclusive understanding of the outstanding land issue. Taking the broader context into consideration allows for gathering related knowledge together from several fields of study including history, political science, indigenous studies, and legal studies. Based on anthropological approaches, I seek to frame this matter within the conceptual model of colonialism while also making room for the indigenous voice through the sharing of experiences and perspectives about the land issue. In addition to the anthropological sources on colonialism, the political and legal context of domination of indigenous peoples, and oral history narratives, I have also relied upon some of the studies that have looked at the issue of the outstanding indigenous land issue. While the indigenous voice was not well documented or recorded during the historical era, aspects of it do remain and have been brought forward by various scholars from its fragmented format in archival documents, and these clearly show the indigenous perspective and position that was held about the land issue. It reveals how indigenous knowledge and perspectives, the indigenous historical consciousness on this matter comprises a suppressed version of history even as that knowledge and experience lives on amongst indigenous peoples.

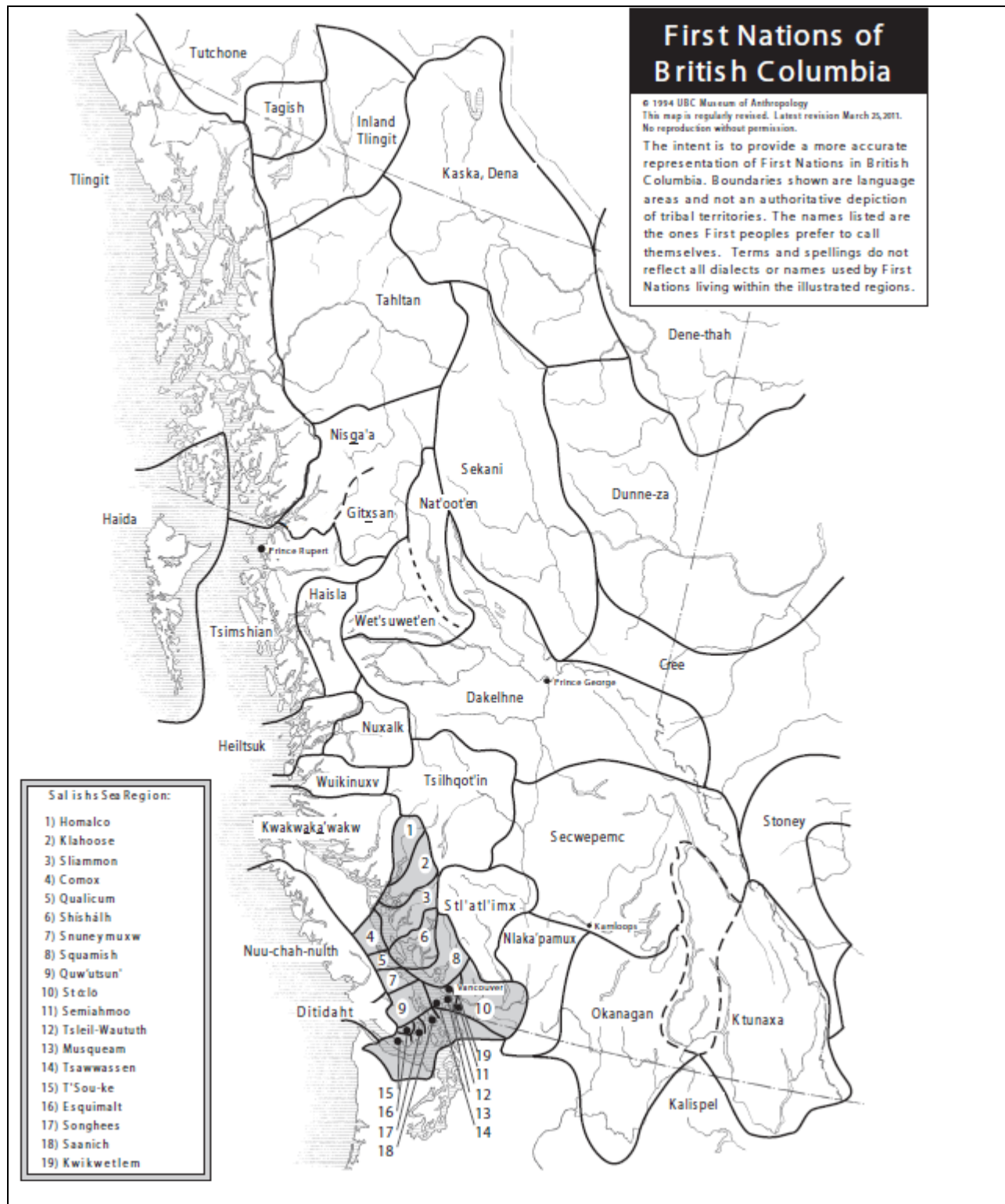


Figure 1 First Nations of British Columbia

1.1 Theoretical Approach toward the Research Problem

In addressing my research problem I have relied upon anthropological approaches that allow for the critical examination of processes of colonialism and the ideologies and power relations that arise from it. For the most part, the reality of the fact of colonialism seems to have been effectively denied and blended into the backdrop of BC and Canada. For example, in 2009 Canadian Prime Minister Stephen Harper said that Canada does not have a history of colonialism, yet the fact of colonialism continues to exist. Generally speaking, colonialism is understood as referring to processes of colonization along with claims of ownership of indigenous lands, and the establishment of political control over indigenous peoples by foreign representatives of a political power from another territory.

In order to critically examine the reality of colonialism in relation to the outstanding indigenous land issue in BC, a few elements that are generally ‘taken for granted’ require emphasis at the outset. As John Gledhill states, “in striving to transcend a view of the world based solely on the premises of European culture and history, anthropologists are also encouraged to look beneath the world of taken for granted assumptions in social life in general. This should help us pursue critical analyses of ideologies and power relations in all societies, including those of the west” (2000:7). For the most part, the outstanding indigenous land issue in British Columbia does not receive a lot of attention within the public consciousness. When the outstanding land issue did receive some public attention, up until very recently, the general discourse about the matter implied that it was essentially an irrelevant or moot issue. Rather it seemed to be viewed as a matter that had already been well dealt with historically or, alternatively, as one that is being effectively addressed by government processes. It is generally

considered normal for the differences over this matter to be addressed within the political and legal frameworks of the provincial and federal governing and judicial systems. Framing the outstanding land issue in these ways can be viewed as a significant element of the longstanding strategy of governments toward silencing the indigenous voice on this matter. The way in which the indigenous land issue developed into its current shape and form has been greatly influenced by the political and legal context from within which it still rests. For the most part, the ‘taken for granted assumptions’ (Gledhill 2000) about this matter originate from a one-sided formulation of it by the settler governments. These formulations have developed the common understanding that all of the land in British Columbia is ‘crown land.’ This understanding about the outstanding land issue has generally excluded indigenous perspectives on the matter. Beyond the common ‘taken for granted assumptions’ about the land issue, there exists another little known account of the subject which also continues to be actively sustained and to be repeated. The narratives connected to this can be found within the oral traditions amongst indigenous peoples in BC. In fact most indigenous Elders have knowledge accumulated over a lifetime of direct experience concerning the history associated with the outstanding land issue.

Along related lines of thought Talal Asad (2002) proposes a shift in anthropological focus toward one that explores the expansion of European global power and the resulting Western hegemony. Asad argues “that we need to pursue our historical concerns by anthropologizing the growth of Western imperial power, because unless we extend our questions about the cultural character of that hegemony, we may take too much for granted about the relationship between anthropology and colonialism” (2002:139). Relying upon evolving theoretical approaches that enable a broader perspective offers a way to pull together various

lines of thought from several disciplines for analysis of the experience of indigenous peoples in a way that explicitly considers the official suppression of the indigenous voice in relation to the outstanding land issue. In relation to exploring the process of transformation resulting from colonialism, Asad states “until we understand precisely how the social domain has been restructured (constituted), our accounts of the dynamic connections between power and knowledge during the colonial period will remain limited” (2002:140). Allowing for examination of how political and ‘legal’ power was used to suppress and contain the indigenous perspective on the land issue was an important factor in creating the ‘taken for granted assumptions’ about it that exist today.

Pointing toward the rapid growth in attention toward law and colonialism in recent years, John Comaroff highlights the use of law in the process of colonialism. He uses the term “lawfare” to mean “... the effort to conquer and control indigenous peoples by the coercive use of legal means...” (2001:306). Comaroff shows how colonization was rationalized by ideals of sharing western civilization with the rest of mankind while at the same time, as a means of justification, working to sustain the distinctions between themselves and ‘others.’ This same reasoning was used through the federal *Indian Act* and subsequent legal initiatives for establishing ways of handling indigenous peoples here. Comaroff indicates that since colonial law has been accepted as both an instrument of domination and as a site of resistance, he calls for more in-depth analyses that reach beyond simple models. He points out four observations about the academic treatment of colonialism and law. First he looks at the term “colonial law” and its common usage by scholars, as if they were referring to a well-defined set of practices and institutions and suggests that the practice of speaking of it in ways that are unrealistic easy

generalizations and easy theoretical statements is too superficial. Second, Comaroff points to the constitutive nature of colonial law as demonstrated through common European legal sensibilities and the use of economic legal instruments, the construction and use of colonial power/knowledge as upheld in legal terms, along with legal provisions that served to ethnicize and racialize colonial subjects, and finally the ritualization of state authority through the legal arena. With his third observation, he points to how the overseas colonies were often laboratories for experimentation of their legal orders. The fourth observation addresses the often complex relations between the colonizers themselves. Comaroff indicates that he sees these as the foundational coordinates that frame the analysis of lawfare in all instances of colonialism, both of the past and of the present (2001:312).

The social sciences, generally, have been instrumental in opening up new avenues for ways to understand and treat suppressed or subjugated knowledges. For example, Michel Foucault (1980:82) refers to the forms of knowledge, similar to those held by indigenous people, as being ‘subjugated knowledges’ and he described these ‘disqualified knowledges’ as being the historical contents that have been buried and disguised. This frame of thought fits nicely with the research project because indigenous perspectives about the outstanding land issue, as conveyed through oral narratives and through archival political documents sent from indigenous leaders to government officials, have been rejected out of hand on a regular basis by successive governments. As described by Grand Chief Stewart Phillip, “the efforts to resolve the outstanding land question of BC go back a very long time and there have been many different groups, organizations, and indigenous leaders and indigenous peoples that have applied their best efforts throughout our history to bring about some resolve with respect to the outstanding land

question in British Columbia. Needless to say that all of these efforts were vehemently opposed by the government of Canada and the province of British Columbia through a very repressive and oppressive framework of legislation and policies that denied the existence of our Aboriginal title and everything that represents” (Stewart Phillip, 2011). Grand Chief Stewart Phillip’s perspective is a very common point of view amongst indigenous peoples, yet this is something that is not widely known or well understood by the general population. Foucault indicated that it is these historical contents that allow us to rediscover the ruptural effects of conflict and struggle that have been denied or masked by the various forms of order imposed. Foucault states “subjugated knowledges are thus those blocks of historical knowledge which are present but disguised within the body of functionalist and systematizing theory and which criticism – which obviously draws upon scholarship – has been able to reveal” (Foucault 1980:82). He further points out that these subjugated knowledges are concerned with a historical knowledge of struggles that have been confined to the margins of knowledge (1980:83). Taking a step back from the ‘taken for granted assumptions’ about the outstanding indigenous land issue and recognizing the reality of colonialism as definitively forming its political and legal context allows for more inclusive analysis of the matter. More specifically, it allows for examination of the ideologies and power relations at play in the way the Crown has worked toward claiming ownership of indigenous lands. The way that the nation-state articulates concepts of its asserted sovereignty and jurisdiction, while discounting alternative accounts, provides insight into how colonialism and its inherent ideologies of power express themselves as realities on the ground.

1.1.1 Foundations of Sovereignty through Colonialism and Claiming Indigenous Lands

At this present time, the connections between colonialism and the continuation of the outstanding indigenous land issue in BC can be traced back to the ideologies arising from the recognized European legal foundations of British assertions of sovereignty following first ‘discovery’ and their early contacts with indigenous peoples. In his recent book, *On Being Here to Stay: Treaties and Aboriginal Rights*, Michael Asch (2014) revisits the concepts of asserted Crown sovereignty and jurisdiction over indigenous peoples and lands in Canada. In reassessing the basis of the relationships, Asch points out that explicit surrender of sovereignty and jurisdiction was not part of the Treaty 4 process or others, but rather that they established a nation to nation relationship between the Crown governments and indigenous peoples. Revisiting the spirit and original intent of the early relationship as expressed in the treaties, not generally understood by most people, can again shed light on the basis of the initial relationship and can lend insight into the possibilities toward reconciliation between indigenous peoples and the settler populations. He proposes that the unequal relationship can be addressed based upon an approach of mutual consent rather than upon the force of power by the settler majority.

As described by historian Cole Harris (2002), the mechanisms developed to dispossess indigenous peoples of their lands relied upon a particular way of understanding and representing the concepts used. “One might say that imperialism entails an ideology of land on which colonialism (the actual taking up of land and dispossession of its former owners) depends. One might equally say that imperialism constructs particular kinds of knowledge and representations of land by means of which colonial dispossessions proceed” (Harris 2002:47-48). It seems a fair assessment to surmise that the adjacent processes of colonialism and its ideologies of land that

are an inherent component of imperialism are the same processes that drive the construction of these particular forms of knowledge, while simultaneously suppressing others.

At the root of it, the connections between colonialism and the outstanding indigenous land issue in British Columbia (BC) extend back to the British assertions of sovereignty which ultimately are directly related to present day outcomes. Several scholars have explored the assertions of sovereignty in relation to the indigenous land issue. Within the Canadian context, Michael Asch (2007) discusses the British claims of sovereignty as being based upon the premises of *terra nullius* and the 'settlement' thesis. He points out that while Canada presents itself as being tolerant and anti-colonial, it uses the colonial doctrine of *terra nullius* which views indigenous peoples as being sufficiently inferior politically to serve as justification for its assertion of sovereignty over indigenous lands. Similar to the concept of pre-emptive principles as described through the *Royal Proclamation of 1763*, in asserting sovereignty, Robert Cail (1974:169) also raises the point that the British Crown has always reserved to itself the right to deal directly with the indigenous peoples for the surrender of their lands.

In examining the assertion of sovereignty over indigenous lands, indigenous researchers have also highlighted this subject. For example, Olive Dickason (1992) directs attention toward concepts of sovereignty that were asserted during the era of first contacts in Canada. John Borrows (1994) discusses how the *Royal Proclamation of 1763*, the primary document that Canada relies upon for showing Britain's claim of jurisdiction and sovereignty, was initially developed in partnership with indigenous peoples. Borrows points out how it was changed and how the written versions of the document leave out much of what was actually discussed with indigenous peoples. Instead the written document places much of its emphasis upon the

assertions of British sovereignty. Robert Miller, et al (2010) examined the process used for British claims within the Canadian context in their recent book *Discovering Indigenous Lands*. He described how the writing of the *Royal Proclamation* sets out British claims in relation to France's presence along the eastern parts of North America and is rooted within the European 'discovery' and claims-making principles. Several indigenous researchers have included as significant the foundational agreements amongst the European monarchies in affiliation with the papacy and the Church at the Vatican. Examination of these processes have brought to light the ideologies and changing principles that were relied upon for claiming sovereignty over distant lands and peoples (Miller 2006, 2011; Newcomb 1993; Manuel & Derrickson 2015). Indigenous scholars have advocated for examination of the broader context of Western European activities of claim-making activities that serve as the underlying premises for asserting sovereignty over foreign lands.

Looking into other locales with comparable histories of British colonialism, similar understandings were reached by scholars about the assertions of Crown sovereignty and the indigenous peoples' experiences of oppression, suppression, and dispossession. In his book, *Recognizing Aboriginal Title: The Mabo Case and Indigenous Resistance to English-Settler Colonialism*, Peter Russell (2005) discusses the British process of colonization and assertion of sovereignty in Australia. He draws upon the many similarities experienced by the Australian aborigines and the indigenous peoples here in Canada under the auspices of the *Law of Nations* and the following rules of international law for the acquisition of colonies. He examines Western imperialism and its 'legal magic' especially in terms of their use in facilitating massive dispossession of land and exertion of political oppression over indigenous peoples and notes the

continued reliance upon these early colonial tools to uphold the current structures in these societies.

1.2 Background Information Supporting My Research into Colonialism in British Columbia and Its Role in the Outstanding Indigenous Land Issue

Numerous scholars have influenced my understanding about the broader context within which the outstanding indigenous land issue has developed. As an indigenous people in the region commonly understood as being the Interior of the Province of British Columbia, the St'át'imc are one amongst many indigenous peoples who are upholding ancestral political positions of being the true owners of their territories. The starting point of the ongoing conflict between governments and indigenous peoples over the ownership of these lands necessitates looking back into the historical events that lent shape and form to its eventual character. The following sources have informed my understanding of the historical background to the struggle over indigenous lands in BC. Joanne Drake-Terry (1989) worked in conjunction with St'át'imc leadership and Elders, as well as archival and historical data to produce an in-depth chronology of the history of land dispossession as experienced by the St'át'imc and more generally indigenous peoples in BC. In the book by Paul Tennant (1990), *Aboriginal Peoples and Politics: The Indian Land Question in British Columbia, 1849-1989*, provides the first comprehensive treatment of the outstanding indigenous land issue in BC. In addressing the political history of the outstanding indigenous land issue from several angles, Tennant begins with the colonial period onward as he highlights the consistent political position of land ownership by indigenous peoples and how the governments worked steadfastly on denying it. Tennant directs attention toward the indigenous political and legal initiatives that occurred such as the early indigenous

political activities that brought about province-wide organization in relation to the land issue and the work carried out by the early indigenous leaders to have this matter resolved with the governments. Another important treatment of the outstanding indigenous land issue can be found in Robert Cail's (1974) book, *Land, Man, and the Law* in which he addresses the Imperial colonial *Indian* policy, *Indian* land policy after confederation, and the reserve allotment commissions. He points to the recognition by the English Crown of the aboriginal title of indigenous peoples to the lands they occupied and how the policy of respecting the indigenous peoples and their title was reaffirmed in the *Royal Proclamation of 1763* (1974:169). Cail provides further information on how this royal directive was to become neglected in the British Columbia context. He provides an in-depth analysis on the Indian land policy after confederation and the reserve allotment commissions, as well as highlighting archival documents from colonial officials such as Joseph Trutch and James Douglas that point to the directions being established in the denial process. Cail also includes a statement from the Allied Tribes of British Columbia that demonstrates how they counter the various approaches of both the provincial and dominion governments with respect to the claims of governments over their territorial lands without the benefit of treaty and compensation, pointing specifically to Article 13 of the Terms of Union and the McKenna-McBride Agreement.

The early contact period as it occurred between Europeans and indigenous peoples on the Pacific North West resulted in a robust maritime fur trade. Robin Fisher's (1977) book, *Contact and Conflict*, provides historical research that included the examination of extensive archival data. He provides an in depth description of these very early economic relations between a variety of Europeans and the indigenous peoples that occurred primarily on the coastal regions of

what was to become recognized as British Columbia. His work was instrumental in bringing to light and clarifying how the fur trade era was comprised of relatively amicable relations based upon mutual economic benefits and how this relationship lasted for approximately eighty years in the region that was to become the combined colonies of British Columbia. Overall historians have been very proactive in helping to shed old stereotypical notions of how the early contacts and fur trading relationships between indigenous peoples and Europeans began. Rather than being hapless victims who were quickly overrun by European firepower and technologies in one fell swoop, Wilson Duff (1964) provides the first comprehensive historical overview of the relationships that evolved historically between indigenous peoples and Europeans. Several historians including JR Miller (1989 1991), Barman (1991), Ray (1990), Duff (1964) and Trigger (1986), have addressed early relations between indigenous peoples and the Hudson Bay Company and colonial officials. More recently, in his book *Making Native Space: Colonialism, Resistance, and Reserves in British Columbia*, Cole Harris (2002) examines the element of European power during the fur trade era. Thomson and Ignace (2005) point to the indigenous perspectives on the relationships in the interior during this period by relying upon information from the Memorial to Sir Wilfred Laurier, August 25, 1910. This information came from the written documentation that was put forth by the Interior Chiefs as the relationship was changing from amenable relations to one in which indigenous ownership of land was being denied.

Beyond initial contacts and the fur trade era, the 1846 *Oregon Treaty* with the United States, the 1858 gold rush including the massive influx of Americans, and the extensive depopulation of indigenous peoples through the spread of disease, all proved to be significant contributors to the way in which British expansionism in BC took shape (Harris 1997, 2002,

Foster 2009, Marshall 2000, Swanky 2012). As well, archival documents of colonial correspondence between various officials show how the governments were dealing with the changing circumstances. As the gold rush and threat of Americans advanced, it is clear from the existing research that the overriding concern for the British was to firm up their claim to the northwest region as soon as possible (Foster 2009). The *Indian* policies of the northwestern region were distinct from the rest of Canada because in this region the British relationship with the United States was influential. Foster describes the intricate knowledge that both Douglas and Trutch had of the U.S. land policies in relation to the indigenous peoples as a result of their experiences in the Oregon fur trading territory. Also notable are the form of mixed messages that were received from the Colonial Office in London over time as the British shifted policy in how they wanted to see the indigenous land issue addressed. This is also evident in the early treaty process with its mixed approaches, meanings, and the development of a text template that was placed into the documents based upon particulars written later from London, followed shortly by the treaty approach being dropped altogether. In addition, explicitly examining previously excluded texts such as the indigenous memorials, declarations, and petitions provide a clear avenue for insights into the indigenous perspective. Along with Tennant (1990) and Cail (1974), other scholars, including Carlson (2001), Galois (1992), Thomson & Ignace (2005) and Wickwire (2000), have examined in their discussions many of the archival documents of petitions, memorials, and declarations that were sent from indigenous leaders to the governments. These provide detailed descriptions of the relationships and what officials had been promising indigenous peoples over time about the goodness of the Queen, how the British

will treat them fairly especially in comparison to the United States, and that treaties were going to be negotiated.

Within the context of evolving colonialism and the colonial project of the outstanding land issue in BC, the longstanding struggle between indigenous peoples and settler governments continues. As governments push forward with their determination to have indigenous peoples accept their versions of reality with respect to their claims of sovereignty and assertions of nation-state governance, indigenous peoples work to maintain and assert their historical political positions of self-determination and ownership of their territorial lands. This conflict plays out on the ground today through federal *Indian administration*, provincial government land use legislation and regulations, and within the Canadian judicial system of framing the legal concept of 'Aboriginal title.' I have looked into the more outstanding features of Canadian *Indian* administration and its relationship to the outstanding indigenous land issue in BC by exploring how its inherent mechanisms of regulation evolved in Canadian history. Several scholars, including Dyck (1991), Miller (1991), RCAP (1996), Titley (1986) and Tobias (1991), have addressed this. According to John Tobias "protection, civilization, and assimilation have always been the goals of Canada's Indian policy" (1991:127). He described how it was meant to protect indigenous peoples until they adjusted and adopted the ways of Canadian 'civilization'. When federal *Indian* administration was being brought to BC, there was steady resistance by the BC government in addressing the outstanding indigenous land issue. However, Duncan Campbell Scott, the deputy superintendent general of Indian affairs, agreed that pursuing the land issue by the indigenous peoples should be prohibited before it was able to reach the Privy Council in London. To achieve this, the federal government brought in one of the more stringent legal

mechanisms to contain it, the 1927 *Indian Act* amendment (Tennant 1990, Cail 1974, Berger 1982). In addition, around this time, the *Indian Agent* system, the *Indian reserve* system, and the residential *school* system became more systematically implemented in the province. During this same timeframe, the provincial government began regulating land and resource access and use more regularly and stringently through their evolving governing systems (D. Harris 2001). For indigenous peoples, this meant more oppressive methods of control over traditional land uses were being implemented. Information from this wide range of scholars about the historical circumstances surrounding *Indian* administration were then tied together with how these were experienced by indigenous peoples of the Interior of BC and how the *Indian* administration framework is ultimately tied into the formation and maintenance of the outstanding land issue.

This phase was only to change after World War II, a war fought in relation to racism, which brought about a new level of awareness and social activism toward ideals of human rights and justice. The *Indian Act* was amended in 1951 to drop some of its most discriminatory elements, including the restrictions on pursuing the land issue through legal avenues. This was followed by the renewal of indigenous efforts to raise the outstanding land issue with the governments (Manuel 1960). By this time, however, access to the Privy Council in London had been closed off as an option to address the matter. By 1969, the federal government's draft 'White Paper' was being proposed and was quickly condemned by indigenous groups throughout the province (Foster, Raven & Webber 2007). The Union of BC Indian Chiefs was formed to work on resolving the outstanding land issue (UBCIC 2004). Shortly afterwards, the Nisga'a case to pursue recognition of their land ownership went forward in the BC courts (D Harris 2009, Foster 2009). Renamed the *Calder* case, it was heard by the Supreme Court of Canada in 1973

(Borrows 2007, Mathias & Yabsley 1986). Shortly after the case was decided, the federal Comprehensive Land Claims Policy was developed (Alcantara 2007, McFarlane 1993). This was followed by the federal government's initiation of the Canadian Constitution and by the BC indigenous Constitution Express train which traveled across Canada to protest the exclusion of indigenous peoples from the Constitution (Borrows 2007, D Harris 2009, MacFarlane 1993).

Several scholars have addressed the significant turn of events concerning indigenous issues in Canada in 1990. This began with the Oka confrontation and was soon followed by the British Columbia Treaty Commission process (Blackburn 2005, Foster, Raven & Webber 2007, Price 2009, Alfred 2000, 2001). By 1997, the Supreme Court of Canada *Delgamuukw* ruling was released, which has been addressed by several scholars (Asch 2007, Culhane 1998, Daly & Napoleon 2003, D Harris 2009, Preston 2005, Thom 2001). The judicial system was effective in taking the outstanding indigenous land issue and framing the concept of *Aboriginal title* as an existing legal interest in the land based on the exclusive use and occupation by indigenous peoples prior to the British assertion of sovereignty in the region in 1846 with the Oregon Treaty at the 49th parallel. Having the opportunity to take a comprehensive approach to researching the outstanding land issue has proven instructive. For instance, if only the Canadian legal context is taken into consideration, a subtle but powerful political decision has been made in which the 'taken for granted assumptions' that underlie that system are either subconsciously or quietly accepted. Being bound exclusively within the imported political and legal systems as the only recognized frame of reference essentially means that indigenous peoples who maintain the position of ownership and authority over their territorial lands are required to operate in a context where their voices and perspectives are suppressed and for the most part continue to be denied.

The political and legal circumstances of present circumstances remain one in which the realities of the outstanding land issue is countered and struggled over daily. In his analysis of power relations within the context of colonialism in Canada, Glen Coulthard (2014) examines the recent state processes of reconciliation, recognition, and accommodation. He describes how although there was a shift from open exploitative modes, the Canadian settler-colonialism structures and objectives remain intact, continuing with the dispossession of indigenous peoples of both their lands and self-determining authority. Indigenous peoples resist government claims over the lands in as many ways as possible including politically, legally, and if necessary with direct action on the ground through protests, while the governments counter every move, every court ruling, in a similar manner along with the additional power to put their strategies into action legislatively and procedurally. While prominent ideologies and traditional historiography methods resulted in the disregard of indigenous perspectives on most recorded historical experiences, oral history methodology has opened a new way to allow for the inclusion of these.

1.3 Locating the Indigenous Voice on the Outstanding Land Issue: The Suppressed Perspective

The indigenous perspective shows what indigenous people think about the outstanding land issue and how they have experienced the political, legal, and regulatory means that have been used to contain and control this issue. Through the generations, indigenous peoples have become quite familiar with the underlying government pattern of the use of power and politics to suppress the indigenous perspective on the outstanding land issue and to ensure continued control over the matter. To gain a better understanding of this through my focus upon the indigenous perspective on the outstanding land issue in BC, I explored a wide range of related

treatment given the historical to present circumstances of indigenous peoples in BC. Most of the related sources can be found within various archival, historical, and academic accounts. I placed a lot of my research focus upon assessing the ‘taken for granted assumptions’ about this matter, noting how indigenous perspectives on the outstanding land issue in BC have been effectively eclipsed. In addressing how ‘official’ histories are often in conflict with the histories of various indigenous peoples, Chris Preston (2005:55) states “entrenched conceptions of objectivity, which dominate mainstream historical study, result in the marginalization of aboriginal historical narratives...” The pattern of suppression has been consistent through time and has heavily influenced the general consciousness about the outstanding land issue. Also addressing how knowledge can be suppressed, Brian Calliou (2004) asserts that all realms of society including academics, courts, and other Canadians should listen to aboriginal perspectives on history and the relationship they had with the immigrant populations to this country. He adds “it is crucial that we record and document our Elders’ oral histories and present the Aboriginal perspective on issues being debated in academic and legal circles” (2004:80). Calliou’s description applies to BC, where indigenous histories have been ignored and suppressed while written European histories gained credibility amongst the society that took root and developed around them. The general understanding that has developed and has become the standard position about the outstanding indigenous land issue seems to have been based on how the settler governments, and in turn, settler society have regarded it, and this is primarily due to the exclusion of the indigenous voice on the matter.

Historically the BC government’s position has been one entrenched in denial of any indigenous land ownership, and it seems as a result of this firm political position, they only

offered or allowed for a one-sided version of the circumstances. The way in which the background has come to be understood by the general population has been developed in a particular manner which did not allow for the indigenous voice and experience to be part of the understandings. This is similar to Judith Binney's (2004) description in relation to the Maori experience. Through listening directly to the Maori oral history, she came to realize that quite different perspectives existed alongside the formally recognized written versions of New Zealand history. These publicly suppressed or ignored versions of history had survived amongst the Maori. Binney (2004:213) points out "the 'telling of history,' whether it be oral or written, is not and never has been neutral. It is always the reflection of the priorities of the narrators and the perceptions of their world." After I spent time going through a vast amount of related material toward exploring the outstanding land issue in a comprehensive fashion, a clear pattern did arise showing how this matter has been handled through time by the governments. It was clear that the version of history that makes up the 'taken for granted assumptions' with respect to the outstanding land issue in BC have not been neutral and did not reflect the perceptions of the indigenous world. Along similar lines of thought, when considering the recent interest in indigenous traditional ecological knowledge, Julie Cruikshank (1998) highlights how official treatments and considerations given oral tradition and indigenous knowledge often end up being fragmented and used in a fashion to fit other universal type discourses and purposes. As such, Cruikshank explains that these methods are far from neutral and she suggests considering "the social conditions under which such knowledge becomes defined, produced, reproduced, and distributed (or repressed and eliminated) in struggles for legitimacy" (1998:49).

Anthropologists advocating the benefits of oral narratives in research methodology point out the suppression of indigenous voices on their histories as a widespread pattern that reaches a multitude of regions where colonialism has taken shape. John Sutton Lutz notes that throughout the world there are ongoing negotiations between groups regarding legitimacy, power, and rights. “At root, these are all struggles over what is an accurate recounting of what happened – about history – about what we believe. The stakes are huge. The legitimacy of the settler nations and indigenous claims to be the rightful owners or caretakers of the land and resources are based on these contact stories” (2007:2). Lutz highlights various themes and strategies that current scholars are using to move the European from the centre of contact stories. These include privileging both indigenous people and Europeans as actors and reactors, examining what has been called ‘the middle ground,’ a space of shared and contested meaning, looking at cultures in contact with each other in ‘terms of absolute simultaneity, radical contemporaneity...seeking signs of the common human experience’ but insisting at the same time on the existence of strong and concrete cultural difference and the importance of divergent context (2007:4-5).

1.3.1 The Call for the Indigenous Voice/Perspective from Anthropology

The discipline of anthropology has been influential in encouraging academia toward gaining greater insight and understanding of indigenous peoples and cultures through research methodologies developed over time. Several of these scholars have highlighted how these perspectives have been neglected and how the disregard results in a substantial lack of understanding. For example, James B. Langard described that “only when scholars and others listen to these voices will they be able to discern how twentieth-century Indian people have understood themselves and the institutions and forces at work around them.” (1997:99) In

assessing the difference between the oral and written historical models, Preston notes that these amount to more than simply differences in methodology and interpretation; rather they are based upon two distinct philosophies. He describes the dominance of written history over oral narratives in Canada as establishing an environment of structural violence. “An analysis of philosophical approaches to history and its meaning, examined in the context of Aboriginal disempowerment in Canada, leads to an understanding of why and how the dominance of particular narratives and silencing of others perpetuates a structural power imbalance” (2005:55).

Anthropologists have been influential in directing attention toward overcoming the obstacles for including the indigenous voice and perspectives. A good example is Renato Rosaldo who states “doing oral history involves telling stories about stories people tell about themselves” (1980:89). As such, he advocates for a methodology that pays attention to both the historians’ purpose in collecting testimonies and the narrative form of evidence used. Recognizing the strength in its wide applicability, Rosaldo advocates on behalf of analytical narratives for a comprehensive approach to understanding and interpreting historical subject matters. Rather than being restricted by limitations of narrow methodological approaches for reconstituting history, he encourages drawing upon as many convergent lines of evidence as possible, including documentary sources, demographic materials, lists of place-names, and other data in the reconstruction of the past. “The only general principle that emerged was: check a statement in as many ways as possible in order to assess its accuracy and flesh out its meaning” (1980:93). Working from this model, I have relied upon information from a broad range of sources to develop a comprehensive understanding of the outstanding indigenous land issue in BC. Rosaldo indicates that while historical consciousness may differ, the job of cultural analysis

is to provide a circumstantial account of how various societies conceive of their histories rather than to simply deny their versions. He uses the example of the Ilongot oral narratives to illustrate how in pulling together a wide array of testimonies along with additional sources of information, he ended up gaining insight into aspects of Ilongot historical consciousness, an understanding of their history from their perspective. He states “the main point is that oral traditions should not be isolated from other sources of knowledge about the past” (1980:97). The main purpose of working with oral history is directly related to reconstituting the past and the methodological approach of analytical narratives is well suited for organizing and communicating this form of historical understanding, much like a well told story.

Along similar lines, Patrick Moore (2007) places emphasis upon the methodological approach of intertextuality – the relationship of stories or text to each other. Putting this approach into practice has been useful in bringing to light the long history of the indigenous political position held in relation to the outstanding land issue in BC. Indigenous peoples began actively communicating their concerns with government representatives in written format immediately after colonization began to occur. The model of intertextuality which relates to connections between text and stories can be realized when examining the numerous written archival documents addressing the concerns of indigenous peoples about the outstanding land matter. The indigenous archival documents, such as all the various petitions, declarations, and memorials, were submitted to the governments from a multitude of indigenous peoples and groups beginning shortly after the land issue began to take on a contentious shape in BC. These written texts clearly show the indigenous perspectives on this matter. Using the approach of comparing these historical texts by indigenous peoples with oral history narratives by indigenous peoples on the

land issue as well as government documents allows for a broader interpretation and understanding of the circumstances. Anthropologists who have worked with indigenous peoples and oral history narratives advocate for consideration and inclusion of the indigenous voice. Taking a comprehensive approach allows for the ability to illuminate the manner in which indigenous perspectives have been excluded from consideration, and through its inclusion, a greater understanding of the outstanding indigenous land issue can be achieved.

1.3.2 Bringing Forth Indigenous Perspectives and Re-Telling History.

I have relied upon the works related to oral history narratives to inform my research by pointing to the need to include indigenous voices/perspectives. In her research addressing the search for generational memory through general collective memories and family histories, Tamara Harevan (1996) relies upon oral history to retrieve or salvage examples of the vanishing collective historical consciousness. It is the collective historical consciousness that allows for insight into how people think about certain events and this holds true for how indigenous peoples have thought about the outstanding land issue in BC through the generations. Harevan points out that an important feature of oral history is its value for understanding perceptions and experiences of groups who do not leave written records of their past along with its ability to link these experiences to the broader historical context. Brian Calliou (2004:73) stresses the importance of Elders' knowledge and he states "Elders knowledge can also be used to re-write history with an Aboriginal perspective, something which, historically, has largely been overlooked." Considering the primary anthropological task of cultural translation as she examined the inter-sects between indigenous storytelling, cultural translation, and social action, Cruikshank (1997) turns to various reflections on the social power of storytelling. Specifically,

with her examination of storytelling as community-based action, she underscores “the power of oral tradition to destabilize commonsense categories” (1997:63). More often than not these were tied into the processes of colonialism in the forms of dispossession of land and oppression of indigenous voice and perspectives.

Various anthropologists have been willing to advocate for using a wider angle lens, one that allows for examining the development of ideologies and power relations that take into explicit consideration the means by which colonialism has been justified and has been able to be actively maintained. Likewise, the inclusion of subjugated knowledges such as indigenous perspectives and experiences on the outstanding land issue within the context of British and Canadian colonialism raises the concern of the maintenance of systemic biases and discrimination within a nation-state that often presents itself and is viewed as being one of the most democratic and just countries in the world. Advocates for a broader more inclusive approach have opened doors in academia that eventually must be walked through and my concern with explicit inclusion of the indigenous voice in relation to the outstanding indigenous land issue in BC uses this research project to step forward into this opportunity.

1.4 Research Methods

This portion describes the methodology relied upon to address the research problem. I provide an overview of the type of archival data accessed along with the interview data collection processes. This is followed by a summary of the data analysis techniques that will be used within the study. I carried out the one year (2011-2012) fieldwork component of the project both in Lillooet, BC, and in various other locations as required for political meetings and for

interviews with representatives of indigenous political organizations such as the Union of BC Indian Chiefs (UBCIC) and Indigenous Network on Economies and Trade (INET).

Using ethnographic methods of inquiry and analysis, I provide details of indigenous perspectives about the outstanding indigenous land issue and the experiences that were shared through oral history narratives from St'át'imc and representatives of the UBCIC and INET political organizations. The inclusion of historical and archival documentation provide for a contextualized approach that depicts the development of differences between the settler and indigenous political and legal positions, while also showing the history of the unfolding power relations. Following the recommendation of several anthropologists, this research project relies on the methodology of oral history. For example, I fully respect Julie Cruikshank's (1990) idea of "documenting an unwritten social history" by using anthropological approaches to oral history to uncover the subjective experience and social memories of participants who live under conditions of unequal power relations while maintaining alternative ways of seeing the world. In referring to oral testimonies, she states "the narrative has symbolic qualities – a kind of autonomous life that simultaneously reflects continuity with the past and passes on experiences, stories, and guiding principles in the present" (1990:x). These methods of obtaining data were chosen to gain insight into the indigenous perspective on this matter in a clear and direct manner.

1.4.1 Historical and Archival Research

A comprehensive exploration of the circumstances of the outstanding land issue in BC from the contact period up to the present was carried out in order to provide context for the research that focused upon the indigenous experience and perspective. Relevant archival materials that dealt with the indigenous perspectives and actions on the outstanding land issue

around the turn of the twentieth century were gathered and reviewed. The ones of particular interest were the indigenous petitions, declarations, and memorials that were penned and sent to various high standing government representatives. Additional archival documents relied upon included colonial correspondences and the reserve land commissions.

1.4.2 Data Collection

In this dissertation, I employ ethnographic methods that include participant observation, gathering oral history narratives, and carrying out relevant archival research. A central part of this research process involves the recording and analysis of oral history narratives as a form of discourse from indigenous participants. A significant component of the research process focuses upon the collection and analysis of oral history narratives of indigenous participants in exploring the question of unequal power relations as these relate to the outstanding indigenous land issue in BC. The primary participant observation component took place from January 2011 to December 2011 amongst the St'át'imc through interviews with Elders, inquiring about their knowledge and experiences with the history of the outstanding land issue. In this case, St'át'imc Elders were asked to share their knowledge about the related historical and continuing events and also about how these forms of knowledge have been experienced, committed to memory, and are kept actively alive throughout subsequent generations. The second goal of the participant observation component was to facilitate interviews with political organization representatives from UBCIC and INET for further historical information as well as contemporary developments about the indigenous land issue. In addition, I attended indigenous political meetings that were concerned with the BCTC treaty process, the United Nations Special Rapporteur on the Rights of

Indigenous Peoples, as well as the Premier's meeting with BC First Nation Chiefs following the Tsilhqot'in decision from the Supreme Court of Canada.

The field work methods included using face to face semi-structured open-ended interviews with key participants. This involved gathering oral histories through interviews with St'át'imc Elders, especially those that have been in positions of leadership or who are descendants of past leaders, and also included carrying out interviews with current political representatives from indigenous political organizations such as the UBCIC and INET. The oral narratives gathered from the Elders and from the political representatives of the indigenous political organizations provide details of the indigenous experiences through stories of the political and legal challenges and conflicts. Gathering oral histories about related provincial and federal government activities that occurred alongside the imposition of the legislated *Indian Act* system and its impacts upon indigenous peoples has provided valuable contextual information about the contested political and legal position of indigenous lands in BC and exposes some of the underlying power dynamics that play into this situation. Another level of information was sought through these interviews by asking the Elders to relate stories and memories that have been relayed to them from their Elders about these conditions.

1.4.3 Data Analysis

The primary undertaking in the data analysis centered upon assessing and collating themes that arose from the archival documents, indigenous Elders, and political representatives that directed attention and consideration toward indigenous perspectives on the outstanding land issue in BC. The interview questions focused upon a line of inquiry which explored practices and patterns of power by colonial, provincial and federal governments that were directed toward

indigenous peoples in BC and checked on how these were experienced by indigenous people, Elders, and their past generations. Brian Calliou (2004:74) says “most oral history projects aim to supplement or complement written information. However, it can also provide primary research material where written evidence is lacking.” He is interested in allowing for the opportunity so the other side of the story can be told, pointing to how “Elder knowledge can supplement, complement, or contrast written history, and thereby put forth Aboriginal perspectives on history” (2004:74). Calliou points to the two proven methods of ethno-history and folk history to reconstruct a people’s past when little written information exists (2004:81). The use of Elder knowledge in this way allows for insight into indigenous experiences including perspectives held about the conflict-ridden processes involved in the formation and maintenance of the outstanding land issue.

The actual research procedures for the data analyses processes included note-taking, along with recording and transcribing, where appropriate, along with analyzing the data from the interviews based upon text analysis. This involves assessing the prominent themes that develop based upon the findings in the archival data and the interview outcomes. Using the methodological approach suggested by Patrick Moore (2007) of intertextuality to show the relationship between text and stories has been very useful in demonstrating the clear relationship that exists between the early textual materials from indigenous peoples concerning the outstanding land issue and the interview narratives that exist today. Taking an exploratory approach to the interview contents proves to be a useful data analysis procedure, allowing for theory based upon the outcomes to be built from the ground up. Through the identification of emerging themes and concepts, these methods and techniques serve the research purpose by

moving toward the development of an illustrative representation of the contested discourses and relationships within the political and legal realms associated with the outstanding land issue.

1.5 Situating Myself within the Research Project

Even the most cursory overview shows there are glaring differences of opinion and position held between the settler governments and indigenous peoples regarding the outstanding indigenous land issue in British Columbia. Having attended many indigenous political meetings through the years, it has become abundantly clear that indigenous peoples in BC hold considerably different perspectives than those held by the settler governments on the outstanding land issue. However, while the governments' positions are very well known, the indigenous perspective has not gained as much traction over the years except with other indigenous peoples and a small number of others. Having struggled over the years with the political implications of these prominent differences, I eventually had to make the decision toward becoming more informed about the details of how this situation had arisen. The path I chose to use in order to gain further knowledge about this was through carrying out this doctoral research on the outstanding indigenous land issue. The political and legal circumstances within which the outstanding indigenous land issue is set continue to be a source of conflict between indigenous peoples and government representatives. The locale of the disagreement is commonly focused around the government sanctioned land uses in indigenous territories where lands have not been surrendered to the Crown through treaties. The manner in which these areas of contention play out between the parties continues to be shaped by long standing power relations developed and implemented through government policies and regulations.

My position within this research project is as a St'át'imc woman from the St'át'imc territory. Before applying to the doctoral program, I had the opportunity to work for the Lillooet Tribal Council (LTC) for several years in the position of Policy Analyst/Governance Advisor with the Council of Chiefs. In this position, I interacted with provincial government representatives and the policies they developed to deal with indigenous peoples in relation to the outstanding land issue, particularly those meant to ensure unhindered access to the lands and resources. It quickly became clear that the long awaited court decisions on Aboriginal Title as they were interpreted and then developed into new policy and implemented by the provincial government were shaped to maintain their longstanding political position of 'Crown' title over all the lands in British Columbia as being supreme. The way this transpired when judicial decisions were received from the courts, for example, was through the established pattern in which the provincial government used its discretionary powers to ensure that only the minimalist interpretations were considered, developed into provincial policy, and then enacted on the ground or at the negotiating tables. In my view, this was an important problem we as indigenous peoples dealing with government political strategies continued to have to contend with. I used this research program to step outside of this ongoing day to day power struggle with the provincial government that was occurring with the Lillooet Tribal Council, like most if not all other such indigenous offices and organizations across the province, in order to take a comprehensive look at the overall situation and to give full attention toward the indigenous experience and perspective.

It is my hope that this research project and its findings may prove helpful toward increasing the inclusion of the perspectives of indigenous peoples on this important matter of the

outstanding indigenous land issue in British Columbia. As it is now, a significant portion of scholarship addressing the topic of the outstanding indigenous land issue in BC has relied primarily upon judicial proceedings, legal analyses, government reports, and similar documentary sources. While these are important and very informative, they tend to provide their analyses almost exclusively from an academic, legal, or governmental position. Facilitating this research project in a manner that allows for inclusion of indigenous voices and perspectives may serve to address a gap in available sources of scholarly knowledge on indigenous conditions in British Columbia, specifically those related to the outstanding indigenous land issue.

In this chapter, I have provided a statement of the research problem, an overview of the theoretical approach, along with an overview of the various scholarly treatments on a wide range of background sources that informed my research project and dissertation. The more important background sources that were used to inform my research addressed themes as they related to the outstanding land issue and the indigenous experience. Generally, these include the establishment of colonialism, the experience of *Indian Administration*, and more current political and legal experiences. I have also relied upon anthropological methodologies of drawing upon oral history narratives along with archival texts as the primary methodological approach. Additional methods outlined include aspects such as historical and archival research, data collection and analysis. I also describe how I situate myself in relation to the research project and touch on my belief in the significance of the research.

Chapter two provides examples of indigenous voices from early documentation where there were political activities calling for attention to the outstanding indigenous land issue.

Chapter three addresses the experience of government legislated *Indian Administration* as these

came into full force amongst indigenous peoples in BC, and chapter four deals with the more recent political and legal occurrences in relation to the outstanding land issue in St'át'imc territory and in BC. Chapter five offers insights and discussion from the research, followed by concluding thoughts.

Chapter 2: The Indigenous Voice on the Outstanding Title Issue

2.1 St'át'imc

The St'át'imc, sometimes referred to as the Lillooet Tribe, are an Interior Salish people traditionally categorized as belonging to the Plateau cultural area. The land base owned by the Interior Plateau indigenous peoples extends throughout central BC and is surrounded by the Cariboo and Monashee mountains on the east and by the Coastal and Cascade mountains on the west. The St'át'imc, Nl̓he7kepmx, Secwépemc, and Nsyilx? comprise the Interior peoples of BC. The territory of the St'át'imc is located in the southern interior of British Columbia. St'át'imc have lived around this part of the world for millennia. Archaeological sites and artifacts provide confirmation that date back several thousand years (Hayden 1992, Pokotylo and Mitchell 1998, Stryd and Rousseau 1996). The oral traditions of our people have shaped the way we understand our origins and connections to our territory. These also say that the Creator and his helpers made this part of the world and all that it holds in order that we could live here. St'át'imc people have lived in this territory for so many generations that in discussion it is often referred to as being 'from time immemorial.' Our people have been told that our language, our culture, and our land are all intrinsically tied together and that tie is not to be severed. Every part of our territory, each valley, each mountain top, each body of water and stream, each cliff and hill, every one of these places has a name and purpose, plays a part in the whole, and is part of a narrative that blends it into the intricate web of St'át'imc existence and reality throughout the lifetimes.

The St'át'imc territory at its points measures approximately 100 miles across east to west and 100 miles from north to south. Roughly speaking the territory extends east to Marble Canyon, west to the headwaters of Bridge River and Lillooet River, north to South French Bar,

and south to Harrison Lake. Our neighbours include the Nlhem7kepmx to the east, the Coast Salish to the southwest, the Sliammon to the west, the Tsilhqot'in to the north and the Secwepemc to the north-northeast. As it is now, St'át'imc people have been divided into federal "Indian Band" designations by the Department of Indian Affairs which make up the 11 St'át'imc reserve communities. These communities include the following: Sekw'el'was (Cayoose Creek Band), Nkwísten (Bridge River Band), T'ít'q'et (Lillooet Band), Xaxli'p (Fountain Band), Ts'kw'aylaxw (Pavilion Band), Tsal'alh (Seton Lake Band), N'Quat'qua (Anderson Lake Band), Lil'wat (Mount Currie Band), Xaxtsa (Port Douglas Band), Skátin (Skookumchuk Band), and Samahquam. The population level of the St'át'imc is roughly 6-7 thousand people.

The St'át'imc people, like all indigenous peoples in British Columbia, experienced increasing domination through various means from the British, provincial, and dominion governments as the British sought to strengthen their claims against other Europeans and to assert their jurisdiction and authority over the indigenous territorial lands within the land base. As the fur trade declined and colonial settlement was accelerated, the relationship that had been established between indigenous peoples and the British traders and early colonial officials deteriorated significantly. Personnel, processes, and procedures began to be implemented that were opposite of all the assurances and promises made by early arrivals to the indigenous territories. These regulatory procedures implemented by British officials amounted to mechanisms designed to claim ownership of indigenous territories without even the benefit of treaties, which until then had been the norm of British law through the *Royal Proclamation of 1763*. On May 10 1911, the St'át'imc put forth the Declaration of the Lillooet Tribe, denying the Provincial Government's claims on their tribal territory. As one of several similar documents put

forth by indigenous peoples to governments and officials, the Declaration of the Lillooet Tribe highlights the processes of colonialism and the way ownership of their lands were being actively denied over time. This document, put together and signed by the hereditary chiefs on behalf of the St'át'imc people, states the position maintained on the outstanding indigenous land issue.

Declaration of the Lillooet Tribe

To Whom It May Concern:

We the underwritten chiefs of the Lillooet tribe (being all the chiefs of said tribe) declare as follows: -

We speak the truth, and we speak for our whole tribe, numbering about 1400 people at the present time.

We claim that we are the rightful owners of our tribal territory, and everything pertaining thereto. We have always lived in our country; at no time have we ever deserted it, or left it to others. We have retained it from the invasion of other tribes at the cost of our blood. Our ancestors were in possession of our country centuries before the whites came. It is the same as yesterday when the latter came, and like the day before when the first fur trader came. We are aware the BC government claims our country, like all other Indian territories in BC; but we deny their right to it. We never gave it nor sold it to them. They certainly never got the title to the country from us, neither by agreement nor conquest, and none other than us could have any right to give them title. In early days we considered white chiefs like a superior race that never lied nor stole, and always acted wisely and honourably. We expected they would lay claim to what belonged to themselves only. In these considerations we have been mistaken and gradually have learned how cunning, cruel, untruthful, and thieving some of them can be. We have felt keenly the stealing of our lands by the BC government, but we could never learn how to get redress. We felt helpless and defeated; but lately we begin to hope. We think that perhaps after all we may get redress from the greater white chiefs from away in the King's country, or in Ottawa. It seemed to us all white chiefs and governments were against us, but now we commence to think we may get a measure of justice.

We have been informed of the stand taken by the Thompson River, Shuswap, and Okanagan tribes, as per their declaration of July 16th, 1910. We have learned of the Indian Rights Association of BC, and have also heard the glad news that the Ottawa government will help us to obtain our rights. As we are in the same position in regard to our lands, etc., and labor under the same disadvantages as the other tribes of BC, we resolved to join them in their movement for our mutual

rights. With this object, several of our chiefs attended the Indian meeting at Lytton on Feb. 13th, 1910, and again the meeting at Kamloops on the 6th of Feb. last. Thereafter we held a meeting ourselves at Lillooet on the 24th of Feb. last, when the chiefs of all Lillooet bands resolved as follows:

First – That we join the other interior tribes affiliated with the Indian Rights Association of the Coast.

Second – That we stand with them in the demand for their rights, and the settlement of the Indian land question.

Third – That we agree unanimously with them in all the eight articles of their Declaration, as made at Spence’s Bridge, July 16, 1910

In conclusion, we wish to protest against the recent seizing of certain of our lands at “The Short Portage,” by white settlers on authority of the BC government. These lands have been continually occupied by us from the time out of mind, and have been cultivated by us unmolested for over thirty years. We also wish to protest against the building of railway depots and sidings on any of our reservations, as we hear is projected. We agree that a copy of this Declaration be sent each to Hon. Mr. Oliver, the Superintendent of Indian Affairs, the Secretary of Indian Rights Association, Mr. Clark, K.C., and Mr. McDonald, Inspector of Indian Agencies.

(Signed)

JAMES NRAITESKEL, Chief Lillooet Band
JAMES STAGER, Chief Pemberton Band
PETER CHALAL, Chief Mission Band
JAMES JAMES, Chief Seaton Lake Band
JOHN KOIUSTGHEN, Chief Pasulko Band
DAVID EKSIEPALUS, Chief No. 2 Lillooet Band
CHARLES NEKAULA, Chief Nkempts Band
JAMES SMITH, Chief Tenas Lake Band
HARRY NKASUSA, Chief Samakw Band
PAUL KOITELAMUGH, Chief Skookum Chuck Band
AUGUST AKSTONKAIL, Chief Port Douglas Band
JEAN BAPTISTE, Chief No. 1 Cayuse Creek Band
DAVID SKWINSTWAUGH, Chief Bridge River Band
THOMAS BULL, Chief Slahoos Band
THOMAS JACK, Chief Anderson Lake Band
CHIEF FRANCOIS,
THOMAS ADOLPH, for La Fountain Indians

Spences Bridge, BC, May 10, 1911 (Chiefs of the Lillooet Tribe, May 1911)

2.2 Indigenous Voices from Archival Sources

From the beginning, indigenous peoples protested against the theft of their lands. However, the government officials were also consistent over the long run in developing and making compulsory various policies, legislation, and political stances designed to bolster the claims used by the settler governments of crown ownership. As its denial progressed amongst various governmental officials, indigenous peoples pushed forth on the outstanding land issue with assemblies, speeches, meetings, petitions, declarations, memorials, as well as the development of political organizations, as well as actively working toward pursuing potential legal opportunities. This chapter shares the words and positions of indigenous peoples themselves as relayed through the various written documents rather than placing the focus upon the Canadian legal context and governmental political positions, as has been the most common approach when this issue has been addressed.

Following the retirement of Governor James Douglas, and especially during the 1870s in British Columbia, the British colonial approach toward the indigenous land situation began to become increasingly convoluted as the colony was transformed into dominion and provincial entities. With the *Terms of Union*, the dominion government sealed the deal with the Pacific colony in its aspiration to expand its national holdings to the western ocean. The British Columbia colonial practice of denying indigenous title inadvertently became the founding 'law' of their new relationship. The lack of input from indigenous peoples on the new arrangement was simply taken as being the norm. Article 13 of the *Terms of Union* was relied upon diligently by the new province whenever any attempts were put forth to address the outstanding indigenous title issue. In response to this, the dominion government went through a range of varying

reactions, the form of each dependent upon whether the Liberals or Conservatives were in power in the new dominion. While the secretary of state for the colonies was designated as the final resort in case of a dispute according to the agreement, the right to use this avenue was never allowed and eventually as actions drew close to accessing it; it became prohibited in Canadian law. Pressures continued to increase upon indigenous peoples through governmental processes of arbitrarily assigning reserves, followed shortly afterwards by reserve cut-backs, or allowing settlers instead to take up the lands. In addition, ever mounting regulations were being devised and restrictions were implemented upon the rights of indigenous peoples to access their livelihood from the land in traditional ways. Early promises made by colonial officials acting as Crown representatives were disregarded as new versions of reality were created and imposed, leaving indigenous peoples to seek new avenues for expression of their disagreement with these. To achieve this, they worked with several people including advocates such as James Teit, various lawyers, clergy members and supportive societies in order to document and communicate with government entities whom they believed would uphold the initial promises made in the Queen's name.

2.3 Early Indigenous Activism Beginning in 1864

As the haphazard approach toward establishing and clarifying 'Indian' reserves was carried out by one governmental entity after another at various locations throughout the province, it soon became very clear that the settler populations and indigenous peoples were engaged in a protracted struggle over the land. Shortly after the departure of James Douglas, the ensuing first wave of cut-backs to his reserved lands had indigenous peoples putting forth various efforts to address the way in which the new government officials were actively imposing themselves and

their settler populations onto their respective indigenous territories without benefit of treaties. As early as August 1864, Salish Chiefs from the south coast and interior regions of the District of New Westminster, Fort Yale, Fort Douglas, and Lillooet assembled with the resolve to address the new representative for Queen Victoria, Governor Seymour, with a speech conveyed through their representatives. In this speech, the chiefs relayed their received knowledge of the Queen's good heart toward them and the governor's role in carrying that sentiment on her behalf, and reiterated their continuing loyalty based upon that previously established relationship. They wanted the protection of their lands, requesting that their reserves not be made too small, and wanted fair exchange for the lands occupied by the settlers. The speech to Governor Seymour was put forth by and on behalf of fifty-four chiefs. (Speech to Governor Seymour, August 1864)

This provided an early example of the use of a new medium by the indigenous leadership toward the goal of gaining attention for addressing the outstanding land issue. A couple of years later, a petition was put together for Governor Seymour by 70 indigenous representatives from throughout the lower mainland and the interior regions. In addition to discussing the trouble caused by the vices introduced amongst them, they stated, "the white men tell many things about taking our lands: our hearts become very sick. We wish to say to Governor Seymour: please protect our lands." (Petition to Governor Seymour, February 1866) In addition, they added further comments about the difficulty they were experiencing with new land and resource regulations being imposed upon them in their own territories. "We do not like to pay money to carry lumber and other things in our canoes on the river of our ancestors. We like to fish where our fathers fished" (ibid). In 1868, two more petitions, one from the Whonock and one from the Matsqui people, were forwarded to Governor Seymour. (Petition to Governor Seymour,

December 1868) The Whonock asserted their belief that the Queen, who had always been represented to them as being gracious and well disposed toward the indigenous peoples, could have not approved the acts being carried out against them by her representatives. The actions being carried out by the Crown representatives were quite different from those presented previously, and the beliefs expressed point to the image held of the Queen and the British system of law in her name. The petition included a description of the early process used to lay out the initial small patches of land by Douglas, and how this was followed shortly afterwards by new men who took their best lands and replaced them with hilly and sandy pieces. Likewise, the Matsqui indicated that men showed up to measure their reserves, cut off sections that included good agricultural lands for planting and their graveyard, which they replaced with marsh lands. A change in the British behavior toward indigenous peoples was clearly being experienced. Here again the petitioners referred to the accounts told them of the Queen's kind feelings toward them and the role of the Queen's representatives in protecting their interests. They relied upon these past messages and understandings when they sent the petition seeking redress for the actions being taken toward them. In August 1869, two petitions were prepared on behalf of the Burrard Inlet and Whonock people by Rev. Father Dureau to the Chief Commissioner of Lands and Works, Joseph Trutch. (Petitions to Chief Commissioner for Lands and Works, August 1869) These petitions outlined in detail the manner in which the lands they had settled on, had built a church on, and had cultivated began to be infringed upon by settlers making claims to these village sites in 1863 and 1866. Over the intervening years, the two indigenous groups took various steps of approaching the stipendiary magistrates with these infractions, but to no avail. When able to get one settler to leave, another soon took his place claiming up the land under the

indigenous villages, including their churches, graves, and gardens. Even as these actions occurred, it appears the indigenous peoples continued to hold an element of faith in the Queen's representatives and sought protection for their village sites that was, however, not forthcoming.

By 1872, a year following BC confederation with the dominion, the Coast Salish chiefs along the Lower Fraser and several hundred others rallied outside the provincial land registry office in New Westminster in efforts to obtain meaningful attention toward the outstanding land issue in BC. By 1873, during the transition process, colonial British Columbia had been through another new governor for British Columbia and had also joined confederation. The Chiefs of various villages situated on the Douglas Lillooet Road and along the Fraser River and also along the Coast to Bute Inlet, numbering seventy-three, turned to yet another representative of the Queen by putting together a petition to present during what had been the annual gathering for the Queen's day to I.W. Powell, the Superintendent of Indian Affairs of the Dominion Government. In petitioning this new head-person (chief) of the government, the coastal and interior Chiefs put forth:

We have been anxiously wishing to see you as we have been longing for a Chief, who will truly have at heart our Interests so long neglected for the past. The white man has taken our land and no compensation has been given us, though we have been told many times that the great Queen was so good she would help her distant children the Indians. White men have surrounded our Villages so much as in many instances especially on the Fraser River but a few acres of Land have been left us. We hope that you will see yourself our wants and desires, and you will remove that veil of sorrow which is spreading over our hearts. (Petition to Powell, 1873)

As the disputes between the federal and provincial governments regarding reserve sizes continued to increase, Tennant notes that these same chiefs organized a protest assembly that "drew representatives from Coast Salish communities along the Fraser and the mainland coast

and from the major Lillooet communities of the interior." (1990:53) Amongst the first of many petitions to government officials, this one was presented to Indian commissioner Powell, signed by fifty-six chiefs pressing for the implementation of eighty acres of reserved lands per family as put forth in the federal proposal. In July 1874, a petition to the Superintendent of Indian Affairs was brought forth by Peter Ayessik, Chief of Hope, on behalf of 54 Chiefs from Douglas Portage, the Lower Fraser, and the Coastal indigenous peoples. (Petition to Superintendent of Indian Affairs, July 14, 1874) In this petition, they described how they viewed with great anxiety the quantity of land to be reserved for each family. They pointed out their awareness that the Canadian government had allowed for more than a hundred acres per family in treaties and "we have been at a loss as to understand the views of the Local Government of British Columbia, in curtailing our land so much as to leave many instances, but few acres of land per family." In addition, they stated, "for many years we have been complaining of the land left us being too small. We have laid our complaints before Government officials nearest us; they sent us to some others; as we had no redress up to the present; and we have felt like men trampled on, and are commencing to believe that the aim of the white men is to exterminate us as soon as they can ..."

The petition also described how their reserved lands had not been protected. They described the work they had carried out to clear heavily timbered lands after losing their cultivated areas to settlers and how they worked long to get the money in order to buy agricultural implements and livestock, stating that assistance was not the basis of this work. Eighty acres per family for reserve lands was put forth as absolutely necessary for their support. They encouraged the Superintendent to take their request into consideration and if the dominion could not obtain the

agreement of the provincial government they requested that their petition be submitted to the Secretary of State for the Provinces in Ottawa.

In 1881, Chief Mountain of the Nisga'a, led a protest delegation to Victoria. This was followed in 1885 by a delegation of three Tsimshian chiefs, John Tait, Edward Mathers, and Herbert Wallace, as well as missionary William Duncan, to Ottawa. Tennant (1990:55) states that the delegation met with Prime Minister McDonald, who provided the chiefs with reassuring promises. In 1886, the discussions amongst indigenous leaders and peoples led to the decision amongst the Nisga'a and Port Simpson chiefs to try to arrange a meeting with federal and provincial authorities. In 1887, the Nisga'a and Tsimshian chiefs traveled to Victoria. Tennant points to Premier Smithe's comments to the chiefs, "which epitomized the white founding myth and white title doctrine now so firmly entrenched in the views of provincial officials. Smithe told the Indians: 'When the whites first came among you, you were little more than the wild beasts of the field'"(1990:58). The government officials spoke of the land as all belonging to the Queen. By October of 1887, the two joint federal and provincial commissioners (Clement Cornwall and Joseph Planta) went north to listen to the indigenous peoples. The Nisga'a chief Charles Russ was clear in describing the views held about their ownership of the land. He stated:

What we want is to speak about our property - our land. ... if we have the reserves, there is one thing we want with them, and that is a treaty. We have no word in our language for 'reserve.' We have the word 'land,' 'our land,' 'our property.' Your name for our land is 'reserve,' but every mountain, every stream, and all we see, we call our forefathers' land and streams. It is just lately that the white people are changing the name. Now it is called the Indian reserve, instead of the Naas people's land. If you ask the Hydahs, Alaskas, Stickeens, Bella Bellas, and Fort Ruperts, they will tell you that all this country is the Naas people's land, and we don't know when any change was made or when it was taken from us. (North Coast Enquiry, Papers 1888)

At this point, Commissioner Planta tried to indicate his view again that all the land was owned by the Queen, pointing to the 1867 *British North America Act* and the 1871 *Terms of Union*.

Chief Charles Ross stated:

The words you have read to us we never heard before in our lives. When they made the laws that you speak about they had never been to see us; they did not know what we used or what we wanted. I would like to ask, sirs, if there was one chief of the Naas present when that law was made, and whether they asked him to speak for the Naas people? Or did they write a letter asking them about it? Why they never even sent a letter to tell us it was done. You see these chiefs present laugh. We cannot believe the words we have heard, that the land was not acknowledged to be ours. We took the Queens flag and laws to honour them. We never thought when we did that she was taking the land away from us. ... how did the Queen get the land from our forefathers ... It is ours to give to the Queen, and we don't understand how she could have it to give to us. (North Coast Enquiry, Papers 1888)

This was followed by an elder Nisga'a named Neis Puck who said:

I am the oldest man here and can't sit still any longer and hear that it is not our fathers' land. Who is the chief that gave this land to the Queen? Give us his name. We have never heard of it. (North Coast Enquiry, Papers 1888)

Following the meeting with the commissioners, eleven Nisga'a chiefs presented the commissioners with a written statement which, in part, read:

What Mr. Commissioner Planta said ... to the effect that we were not the owners of the land, but that the Queen owned it - did not satisfy us ... we could not receive it in our hearts, and we wish to tell you that when we heard it again tonight we did not change our minds. The land was given to our forefathers ... and our forefathers handed it down and we have not given it to anyone. It is still ours, and will be ours till we sign a strong paper to give part of it to the Queen. (North Coast Enquiry, Papers 1888)

Later, the Nisga'a Land Committee submitted their 1913 Nisga'a petition to the British Government seeking treaties and self government.

2.4 Political Organization of Interior Indians of BC

Interior indigenous peoples were politically active in voicing exception to the lack of recognition for their ownership of their respective territories. This began very early on following the formation of British colonies and after the change in government with Douglas' retirement and especially after confederation took place. Several Salish speaking groups from the lower Fraser and interior were also signatories of the several letters and petitions mentioned above including the 1864 speech to Governor Seymour, the 1866 Petition to Governor Seymour, the 1873 Petition to Powell from Lillooet, Lower Fraser and Bute Inlet Indians, and the 1874 Petition to Superintendent of Indian Affairs. In addition, in 1877 the Okanagan and Shuswap were in contact with the Okanagan peoples that were involved in warfare with the United States south of the border over their land issue and contemplated taking up arms if the outstanding land title issue was not addressed by the dominion and provincial governments (Tennant 1990).

Other definite forms of political actions by the Interior indigenous peoples began to occur by 1904 when they began to participate in more formalized or organized protest activities. For example, there was the 1904 trip to England by Okanagan Chief Chilahitsa and Secwepemc Chief Louis along with oblate priest J.M. LeJeune where they sought to meet with King Edward VII. With no success in meeting with the king, they went on to Italy and met with Pope Leo XIII (Galois 1992:6-7). In James Teit's correspondence of May 1908 *Wickwire* (2000:210), he mentioned the grievances that were held by the indigenous peoples of southern British Columbia over increasing restrictions and settlers. He pointed to a meeting planned for thirty Thompson, Shuswap, and Okanagan chiefs. James Teit had lived amongst the Nlhe7kepmx (Thompson) for several years and was familiar with their language as well as the other Interior languages. It was

his familiarity and fluency in the indigenous languages that was of immense assistance to the Interior peoples and later to the other indigenous peoples as the political organizations expanded. By July of 1908, Teit penned the first of many petitions for indigenous peoples of British Columbia. This four page petition, 'Prayer of Indian Chiefs,' was addressed to A.W. Vowell, the Superintendent General of Indian affairs and written on behalf of four Nlaka'pamux chiefs. They signed the petition on behalf of eleven additional Nlhe7kepmx chiefs following open councils with them. As described by Wickwire (2000:211), the petition described the hardships being experienced by all of their people and concluded by stating "our country has been appropriated by the whites without treaty or payment ... In comparison with our fellow Indians of Alberta, Eastern Washington and Idaho, we have been simply neglected to speak mildly and we feel this strongly." The following year, in 1909, the Interior indigenous peoples formed a political organization, the Interior Chiefs of BC, with which they pushed for attention to the issues of treaties and reserves. James Teit was asked for his assistance, which he provided in the form of fulfilling the roles of secretary and treasurer.

By July 16 1910, the Southern Interior Chiefs put forth a petition that itemized nine points of their position regarding the question of Indian rights along with the policy of the Indian Rights Association of British Columbia (Petition of the Interior Tribes, 16 July 1910). They stated their stand for treaty rights with the dominion government similar to the other provinces of Canada and also their stand for compensation from the British Columbia government for all the lands appropriated including all lands pre-empted or bought by settlers, miners, lumbermen, etc. They wanted the enlargement of the reserved lands and for those reserved lands to be recognized as having a permanent and secure title. They stated that they stood for having the claims go

before the Privy Council of England for settlement with half the compensation to be paid to them and half to be held in trust for their future benefit. This initial request to have their concerns addressed by the Privy Council would continue until this avenue was closed in 1927 through *Indian Act* legislation. Based upon the ideal of the position of trust, they asked and expected the dominion government to support and help them to obtain their claims. Within this petition, they declared their agreement with and their resolve to join the Indian Rights Association of British Columbia who held the same objective and claims. They noted their agreement and support of the work by the legal counsel for the Indian Rights Association, K.C. Clark of Toronto. And lastly, the Interior Chiefs wanted a copy of their statement to be sent to Mr. Oliver Minister of the Interior, Mr. Clark, the Secretary of the Indian Rights Association, and the Nass River Chiefs in order that their position be clear to all of these people.

The following month, on August 25, 1910, the Chiefs of the Shuswap, Okanagan, and Couteau (Thompson) Tribes presented an extensive memorial to Sir Wilfred Laurier, Premier of the Dominion of Canada at Kamloops BC (Memorial to Sir Wilfred Laurier, 25 August 1910). In seeking fair and honorable treatment from the head of the Canadian nation, the chiefs stated they were looking toward his help for the wrongs against them to be righted. They relayed the history of the one hundred years since the coming of the first whites in their territories, differentiating between the characters of the fur traders first, followed by the gold miners, and finally the settlers and governments, through discussion on the forms of relationships that developed with each group. In describing the arrival of the fur traders into their territories, they stated:

When they first came among us there were only Indians here. They found the people of each tribe supreme in their own territory, and having tribal boundaries known and recognized by all. The country of each tribe was just the same as a very large farm or ranch (belonging to all the people of the tribe) from which they

gathered their food." (Chiefs of the Shuswap, Okanagan, and Couteau (Thompson) Tribes, 1910)

They went on to describe how all the necessities of life were available in abundance within the lands of each tribe and that all their people had equal rights of access to all that they needed.

They then went on to describe when the gold miners showed up:

Just 52 years ago the other whites came to this country. They found us just the same as the first or 'real whites' had found us, only we had larger bands of horses, some cattle, and in many places we had cultivated the land. They found us happy, healthy, strong and numerous. Each tribe was still living in its own 'house' or in other words on its own 'ranch.' No one interfered with our rights, nor disputed our possession of our own 'houses' and 'ranches'. (Chiefs of the Shuswap, Okanagan, and Couteau (Thompson) Tribes, 1910)

The distinctions between the fur traders, referred to as the 'real whites' and the following gold miners were significant. Yet, the indigenous peoples followed cultural protocol and treated the new arrivals with respect, caring for them as guests who were treated well with the expectation that they would return with equal treatment all that they had received. The chiefs stated:

We were friendly and helped these whites also, for had we not learned the first whites had done us no harm? ... we thought there are some bad ones among them, but surely, on the whole they must be good. Besides they are the queen's people. And we had already heard great things about the queen from the 'real whites.' We expected her subjects would do us no harm, but rather improve us by giving us knowledge, and enabling us to do some of the wonderful things they could do. At first they looked only for gold. We knew the latter was our property, but as we did not use it much nor need it to live by so we did not object to their searching for it. (Chiefs of the Shuswap, Okanagan, and Couteau (Thompson) Tribes, 1910)

Based upon what they had experienced with the fur traders along with the many promises on behalf of the Queen and her good will, the indigenous leaders were expecting the upholding of those promises and the return to good relationships. The gold rush in the Interior of British Columbia lasted only for a few years, however, the bulk of gold-seekers advancing north

traveled through the Interior territories to get to the new gold fields. Many of those that entered the regions chose to settle along the gold rush routes of travel. The chiefs stated further:

Soon they saw the country was good, and some of them made up their minds to settle in it. They commenced to take up pieces of land here and there. They told us they wanted only the use of these pieces of land for a few years, and then would hand them back to us in an improved condition; meanwhile they would give us some of the products they raised for the loan of our land. (Chiefs of the Shuswap, Okanagan, and Couteau (Thompson) Tribes, 1910)

This set of principles, articulated through acts of sharing and generosity, has been a common approach in the protocol practiced amongst indigenous peoples when other people arrived in their communities and territories. As long as the intentions of the new people are good, they were welcomed in this manner along with the standard expectation of reciprocity which involved the recognition and fulfillment of mutual exchanges for the privileges that were being shared with them. The chiefs went on to describe their understanding of the officials that resided in Victoria, BC.

The whites made a government in Victoria – perhaps the queen made it. We have heard it stated both ways. Their chiefs dwelt there. At this time they did not deny the Indian tribes owned the whole country and everything in it. (Chiefs of the Shuswap, Okanagan, and Couteau (Thompson) Tribes, 1910)

Based upon their experiences and what they had heard about the Queen, the past relationship was based upon one of trust and mutual respect. As such, they continued to hold out hope that they would be dealt with in a fair and just manner as had been repeatedly promised by early representatives and as they heard had occurred in surrounding indigenous territories through treaties.

We Indians were hopeful. We trusted the whites and waited patiently for their chiefs to declare their intentions toward us and our lands. We knew what had been done in the neighboring states, and we remembered what we had heard about the queen being so good to the Indians and that her laws carried out by her chiefs

were always just and better than the American laws. (Chiefs of the Shuswap, Okanagan, and Couteau (Thompson) Tribes, 1910)

As the governments went through their rotations of officials as determined through elections in both the province and dominion, the indigenous peoples continued to raise their issues and concerns with various representatives about the initiatives and regulations being imposed upon them. Their letter described how various government officials had visited and talked with their chiefs.

They told us to have no fear, the queen's laws would prevail in this country, and everything would be well for the Indians here. They said very large reservations would be staked off for us (southern interior tribes) and the tribal lands outside the reservation the government would buy from us for white settlement. They let us think this would be done soon, and meanwhile until this reserve was set apart, and our lands settled for, they assured us we would have perfect freedom of traveling and camping and the same liberties as from time immemorial to hunt, fish, graze, and gather our food supplies wherever we desired; also that all trails, land, water, timber, etc., would be as free of access to us as formerly. Our chiefs were agreeable to these propositions, so we waited for treaties to be made, and everything settled. We had never known white chiefs to break their word so we trusted. In the meanwhile white settlement progressed. (Chiefs of the Shuswap, Okanagan, and Couteau (Thompson) Tribes, 1910)

As settlement expanded without the benefit of treaties, the chiefs continued to express their belief in the promises made by the various officials that visited them from successive governments. The chiefs urged patience upon their people reassuring them that although something was blocking the officials from keeping their promises, these officials would eventually do the proper things by them.

What did we receive for our good faith, friendliness, and patience? Gradually as the whites of this country became more and more powerful, and we less and less powerful, they little by little changed their policy towards us, and commenced to put restrictions on us. (Chiefs of the Shuswap, Okanagan, and Couteau (Thompson) Tribes, 1910)

As the import of settler populations increased and surpassed the indigenous population levels, the equitable relationships as well as the balance of power changed significantly. As a result, the call for government officials to follow through on all of the promises of British legal standards made by various colonial representatives soon fell to the wayside. At the time, those promises had been instrumental in holding indigenous peoples back from taking action to counter escalating incursions into their territories.

Their government or chiefs have taken every advantage of our friendliness, weakness and ignorance to impose on us in every way. They treat us as subjects without any agreement to that effect, and force their laws on us without our consent, and irrespective of whether they were good for us or not. They say they have authority over us. They have broken down our old laws and customs (no matter how good) by which we regulated ourselves. They laugh at our chiefs and brush them aside. (Chiefs of the Shuswap, Okanagan, and Couteau (Thompson) Tribes, 1910)

The Memorial statement goes on to describe how the government officials denied the existence of boundaries between the indigenous nations and have claimed possession of all the lands.

They have taken possession of all the Indian country and claim it as their own. Just the same as taking the 'house' or 'ranch' and, therefore, the life of every Indian tribe into their possession. They have never consulted us in any of these matters, nor made any agreement, nor signed any papers with us. They have stolen our lands and everything on them and continue to use same for their own purposes. They treat us as less than children, and allow us no say in anything. They say the Indians know nothing, and own nothing, yet their power and wealth has come from our belongings. The queen's law which we believe guaranteed us our rights, the BC government has trampled underfoot. (Chiefs of the Shuswap, Okanagan, and Couteau (Thompson) Tribes, 1910)

The chiefs pointed to the small reserves that were set aside here and there, spread out over their territories and indicated how this approach was the government's proposal and that they never accepted the reserved lands as settlement for anything. The chiefs also specified that no papers

were signed or no treaties were made in connection to the process of setting out reserved lands and that they were not satisfied with the reserves as an answer to the land question.

They thought we would be satisfied with this, but we never have been satisfied and never will be until we get our rights. We thought the setting apart of these reservations was the commencement of some scheme they had evolved for our benefit, and that they would now continue until they had more than fulfilled their promises but although we had waited long we have been disappointed. We have always felt the injustice done us, but we did not know how to obtain redress. (Chiefs of the Shuswap, Okanagan, and Couteau (Thompson) Tribes, 1910)

While the indigenous leaders refused to accept the reserves as being any form of settlement before treaties were established, the government officials continued to work amongst themselves over the years in pushing this proposed activity as being the reality. The chiefs described how they felt that no government officials, even the dominion representatives, were willing to offer any help beyond some agricultural implements, schooling, and aid to the aged and medical assistance. They state they never asked for these items and refused them in case they would be used against them by the governments as being payment for the land. The chiefs described in further details the hardships they were being exposed to through all of the government's positions of claiming the land and resources and the restrictions they were imposing upon the people's use of these. People were being fined and imprisoned for their use of the game, fish, and timber, activities that they had always done. They distinguished between the settlers and the actions of the government.

We condemn the whole policy of the BC government towards the Indian tribes of this country as utterly unjust, shameful and blundering in every way. We denounce the same as being the main cause of the unsatisfactory condition of Indian affairs in this country and of animosity and friction with the whites. So long as what we consider justice is withheld from us, so long will dissatisfaction and unrest exist among us, and we will continue to struggle to better ourselves. For the accomplishment of this end we and other Indian tribes of this country are now uniting and we ask the help of yourself and your government in this fight

for our rights. (Chiefs of the Shuswap, Okanagan, and Couteau (Thompson) Tribes, 1910)

As the chiefs struggled to improve the conditions directed toward their peoples, they called upon the premier of the dominion to settle the land question and that treaties be made between the government and each of the tribes in the same manner as carried out in the other provinces of Canada and in the neighboring parts of the United States. The memorial presented to Sir Wilfred Laurier was put forward by the Chiefs of the Shuswap, Okanagan, and Couteau or Thompson tribes during his visit to Kamloops on August 25, 1910.

The document that followed the Memorial to Sir Wilfred Laurier was the Declaration of the Talhltan Tribe, October 18, 1910. The Talhltan people's territory extends over a significant portion of northern British Columbia. In the preparation of their declaration, they let it be known that they were in agreement with the Indian Rights Association of British Columbia which had been formed in 1909 by the Coastal indigenous peoples and the Chiefs of the Southern Interior Tribes to address the reserve-making process and the outstanding indigenous land issue. They stated:

Also we have read the Declaration made by the chiefs of the southern interior tribes at Spences Bridge on the 16th July last, and we hereby declare our complete agreement with the demands of same, and with the position taken by the said chiefs, and their people on all the questions stated in the said Declaration, and we furthermore make known that it is our desire and intention to join with them in the fight for our mutual rights, and that we will assist in the furtherance of this object in every way we can, until such time as all these matters of moment to us are finally settled. We further declare as follows:-

Firstly – We claim the sovereign right to all the country of our tribe – this country of ours which we have held intact from the encroachments, from other tribes, from time immemorial, at the cost of our own blood. We have done this because our lives depended on our country. To lose it meant we would lose our means of living, and therefore our lives. We are still, as heretofore, dependent for our living on our country, and we do not intend to give away the title to any part of same

without adequate compensation. We deny the BC government has any title or right of ownership in our country. We have never treated with them, nor given them any such title. (We have only very lately learned the BC government makes this claim, and that it has for long considered as its property all the territories of the Indian tribes in BC.) (Declaration of the Talhltan Tribe, October 18, 1910)

The Talhltan chief and people added that they wanted large reserves along with the recognition of their absolute property ownership of these as well as adequate compensation for any surrendered lands. They noted that they did not agree with the earlier arbitrarily set reserve by Mr. Vowell and further indicated that all questions of importance, including lands, hunting, fishing, and other important matters be settled through a treaty between themselves and the dominion government. And lastly, they stated "we are of the opinion it will be better for ourselves, also better for the governments and all concerned, if these treaties are made with us at a very early date, so all friction, and misunderstandings between ourselves and the whites may be avoided, for we hear lately much talk of white settlement in this region, and the building of railways, etc., in the near future." This declaration by the Tahltan Tribe was signed by the Chief of the Tahltan and representatives along with eighty other members on October 18, 1910 at Telegraph Creek, BC.

During the following spring, on May 10, 1911, the Chiefs of the Shuswap, Couteau or Thompson, Okanagan, Lillooet, Stalo or Lower Fraser, Chilcotin, Carrier, and Tahltan tribes in the Interior of British Columbia assembled at Spences Bridge and developed the Memorial to the Honorable Frank Oliver, Minister of the Interior, of the Dominion Government in Ottawa. The Minister of the Interior was a Cabinet post developed to replace the previous role of the Secretary of State for the provinces which had replaced the previous role of Secretary of State for the Colonies and Colonial Secretary. In later years, the Minister of the Interior was replaced by the Minister of Indian Affairs and Northern Development. In the comprehensive document for

Minister Frank Oliver, the chiefs again relayed much of what they had been petitioning the Provincial Premier and Dominion Prime Minister on earlier. They sought justice, fairness, and equal treatment in the settlement of the land question pointing to that which had been demonstrated by Canada toward other indigenous peoples through treaties. They drew attention to the dominion government's appointed role of looking after the interests of the indigenous peoples and also how the settlement of these grievances would ultimately result in the benefit toward the white people in the country as well. They outlined the many avenues previously used to communicate the grievances. They stated:

You already know most of those grievances we complain of, and the position we take regarding them. Some of our chiefs have written you from time to time, and several have visited the government in Ottawa within the last ten years. Your government has received petitions and complaints from the chiefs of the Thompson tribe in 1908 and 1909. The Declaration of the Shuswap, Thompson, and Okanagan tribes, July 1910. The memorial of the same tribes presented to Sir Wilfred Laurier at Kamloops, August 1910. Then Mr. McDougal, Special Commissioner, visited us twice and no doubt sent in a report to your government as to our condition. Consequently we need not reiterate everything here. (Chiefs of the Shuswap, Couteau or Thompson, Okanagan, Lillooet, Stalo or Lower Fraser, Chilcotin, Carrier, and Tahltan tribes in the Interior of British Columbia, 1911)

The many avenues taken by the indigenous leaders to try to address the outstanding land issue were expanded upon each time another possibility of having it dealt with presented itself. Having started the campaign with the colonial officials, followed by the provincial and dominion heads, and then onto the department heads, the coalition amongst the indigenous peoples deepened as each group began to feel the impacts of the incursions into their respective territories. By the time this Memorial was written to Minister Frank Oliver, its signatory representatives originated from eight tribal territories that covered well over two-thirds of the land mass that had been

claimed by Britain and designated as the province of British Columbia. The Memorial further stated:

You know how the BC government has laid claim to all our tribal territories, and has practically taken possession of same without treaty, and without payment. You know how they also claim the reservations, nominally set apart for us. We want to know if we own any land at all in this country. As a last chance of settling our land question with the BC government, we visited them in Victoria on the third of March last, and presented them with a petition (a copy of which we believe has been sent your government), asking for a speedy settlement. Forty of us from the interior waited on the government along with the Coast Indians. In this letter we wish to answer some of the statements made to us by the BC government at this interview.

Premier McBride, speaking for the BC government, said 'We Indians had no right or title to the unsundered lands of the province.' We cannot possibly have rights in any surrendered lands, because in the first place they would not be ours if we surrendered them, and, secondly, we have never surrendered any lands. That means that the BC government asserts that we have no claim or title to the lands of this country. Our tribal territories which we have held from time immemorial, often at cost of blood, are ours no longer if Premier McBride is correct. We are all beggars, and landless in our own country. We told him through one of our chiefs we were of the opposite opinion from him, and claimed our countries as hitherto. We asked that the question between us be submitted for settlement to the highest courts, for how otherwise can it now be settled? His answer was: 'There was no question to settle or submit to the courts.' Now, how can this be. That there is a question is self-evident, for Premier McBride takes one side of it, and we take the other. If there was no question, there would have been nothing to talk about; and nothing to take sides on. We wish to tell you, Chief, this question is very real to us. It is a live issue. The soreness in our hearts over this matter has been accumulating these many years, and will not die until either we are all dead, or we obtain what we consider a just settlement. If a person takes possession of something belonging to you, surely you know it, and he knows it, and land is a thing which cannot be taken away, and hidden. We see it constantly, and everything done with it must be more or less in view. If we had had nothing, or the British Columbia Government had taken nothing from us, then there would be nothing to settle, but we had lands, and the British Columbia Government has taken them, and we want a settlement for them. Surely then, it is clear there is a question to be settled, and how is it to be settled except in the courts? (Chiefs of the Shuswap, Couteau or Thompson, Okanagan, Lillooet, Stalo or Lower Fraser, Chilcotin, Carrier, and Tahltan tribes in the Interior of British Columbia, 1911)

The signatory chiefs also stressed their denial of Mr McBride's argument that the indigenous peoples were well satisfied with their position and that the present agitation was fomented by certain whites. They stated:

We deny this statement completely - it is not true. The fact of our visiting the Victoria Government - many of us from long distances, and at great expense - shows that we are not satisfied. As we have stated before, we never have at any time been entirely satisfied with our position, and now that the country is being more and more settled up, and we becoming more restricted in our liberties year by year, we are very far from satisfied. Why should we be satisfied? What have we received, and what has been done for us to make us satisfied? All the promises made to us, when the whites first came to this country have been broken. (Chiefs of the Shuswap, Couteau or Thompson, Okanagan, Lillooet, Stalo or Lower Fraser, Chilcotin, Carrier, and Tahltan tribes in the Interior of British Columbia, 1911)

They described how their people have been pushed off the lands they had lived and camped on from time immemorial and even driven from the lands that they had cultivated and raised food on. They noted that these areas were desirable for agriculture and the government wanted them for the white settlers. The government representatives carried this out without agreement or compensation. They further state:

This was done without agreement with us, and we received no compensation. It was also in direct opposition to the promises made to us by the first whites and Government officials, that no white men would be allowed to locate on any place where Indians were settled or which were camping stations and gardens. Thus were we robbed by the Government, and driven off many of our places by white settlers (backed by the Government), or coaxed off them with false promises. Then we were promised full freedom to hunt, fish, and travel over our country unrestricted by regulations of the whites, until such time as our lands were purchased or at least until treaties were made with us. (Chiefs of the Shuswap, Couteau or Thompson, Okanagan, Lillooet, Stalo or Lower Fraser, Chilcotin, Carrier, and Tahltan tribes in the Interior of British Columbia, 1911)

The chiefs referred to the promises made by successive representatives through a range of time expanding over four decades and locations throughout their territories and communities. They

described to the Minister the manner in which these promises were repeatedly broken. Their in-depth knowledge and record of the many promises continued as part of the memories and oral histories as experienced by living representatives.

Another promise broken, and so on with all. We can tell you all of them if you want to know, and prove them through witnesses still living. What of Governor Seymour's promises made to the Lower Fraser Indians who convened at his request purposely to hear his message to them concerning the proposed policy of the whites towards the Indians of this country? They rank with the other early promises, all broken. This is enough to show there is a sufficient reason for our dissatisfaction, and also that it required no white men to point out these things to us, and urge us to be dissatisfied. Even if it be true that certain white men help us at the present day in our agitation to obtain our rights by doing writing for us, etc., why should Mr. McBride find fault with them? Did not Governor Seymour and other great men of the Province in early days state to us that the whites had come here to help us and be brothers to us? Why should he denounce these men for doing what his predecessors, and, we believe, also the Queen, said was the right thing to do? (Chiefs of the Shuswap, Couteau or Thompson, Okanagan, Lillooet, Stalo or Lower Fraser, Chilcotin, Carrier, and Tahltan tribes in the Interior of British Columbia, 1911)

The repetitive referrals to 'white agitation' made by various government officials proved to be an effective form of propaganda. Or, if truly believed, it shows the level of inculcation based upon the frequently repeated concepts of indigenous peoples being 'savages, heathens, and inferior' that form the basis of European principles of asserting claims. They further added:

We assure you, Chief, the present agitation among us over these matters is simply the culmination of our dissatisfaction which has been growing with the years. With changing conditions, greater pressure and increasing restrictions put on us, we had at last to organize and agitate. Either this, or go down and out, for our position has been gradually becoming unbearable. We have not been hasty. It has never been our policy to jump at conclusions. We have never believed in acting without full knowledge, nor making charges without full proof. (Chiefs of the Shuswap, Couteau or Thompson, Okanagan, Lillooet, Stalo or Lower Fraser, Chilcotin, Carrier, and Tahltan tribes in the Interior of British Columbia, 1911)

The chiefs indicated that similar experiences brought the people of the Interior and those of the Coast together, joining forces in their efforts to try and obtain a just settlement of all questions

concerning them. They specified that while Premier McBride offered some explanation of how the reserve system in the province originated, the chiefs indicated that this was not what they wanted to deal with. Instead they said:

What we know and are concerned with is the fact that the British Columbia Government has already taken part of our lands without treaty with us, or payment of any compensation, and has disposed of them to settlers and others. The remaining lands of the country, the Government lays claim to as their property, and ignores our title. Out of our lands they reserved small pieces here and there called Indian Reserves, and allowed us the occupancy of them. ... No proper understanding was arrived at, nor proper agreements made between ourselves and the British Columbia Government, when reserves were laid off. Not one of us understood this matter clearly nor in the same light the British Columbia Government seems to have done. Things were not explained to us fully, and the Government's motives appear to have been concealed, for they were understood differently by the various chiefs. We never asked for part of our country to be parceled out in pieces and reserved for us. It was entirely a Government scheme originating with them. We always trusted the Government, as representing the Queen, to do the right thing by us, therefore we never have opposed any proposition of the Government hastily and without due consideration. We thought, although things appeared crooked, still in the end or before long, they might become straight. Today were the like to occur, or any proposition be made to us by the Government, we would not trust them; we would demand a full understanding of everything, and that all be made subjects of a regular treaty between us and them. (Chiefs of the Shuswap, Couteau or Thompson, Okanagan, Lillooet, Stalo or Lower Fraser, Chilcotin, Carrier, and Tahltan tribes in the Interior of British Columbia, 1911)

The chiefs made it clear in their statement that they had mistakenly put a lot of faith in the idea of the honor of the Queen and the promises of her representatives. The chiefs also discussed the amount of land being allocated to white settlers as being between 160 and 320 acres and put forth that indigenous peoples ought to have as much land of their own country to farm as the white settlers. They asked why was it McBride expected indigenous peoples to be successful farming four to five acres while 320 acres was deemed none too much for the settlers. The chiefs provided more extensive details regarding the poor quality of land including lack of water

assigned to the reserves as well as aggressive measures taken against them. They replied to McBride's claim that they were benefitting from the provincial infrastructure such as roads, railways, and other utilities by stating the resources and land used to supply these belonged to the indigenous peoples. They pointed out that a fee was never charged to the whites for the use of these resources but that now indigenous peoples are expected to pay a tax on them. They described how the roads had been built upon the good trails that existed long before the settlers ever came and that the new roads are of no help to them, being dangerous to the people and livestock, and instead have served as highways for robbers and all kinds of broken men to break into their houses and steal from the indigenous peoples. The chiefs added that they never asked for these things to be built and know that they were not built for their benefit. In addition, they indicated that the government utility of the police has been no benefit but rather is used to enforce laws upon them that were never agreed to. They state:

This, then, appears to be all the British Columbia Government can claim to have done for us, viz.: They let us use a few inferior spots of our own country to live on, and say we ought to be grateful to them for giving us such large pieces. They made roads of various kinds for themselves, and say we ought to be grateful for being allowed to share in the use of them. We ask is this the brotherly help that was promised to us in early days, or is it compensation to us for the spoilation of our country, stealing our lands, water, timber, pastures, our game, fish, roots, fruits, etc., and the introduction of diseases, poverty, hard labor, jails, unsuitable laws, whisky, and ever so many other things injurious to us? (Chiefs of the Shuswap, Couteau or Thompson, Okanagan, Lillooet, Stalo or Lower Fraser, Chilcotin, Carrier, and Tahltan tribes in the Interior of British Columbia, 1911)

In putting this comprehensive statement together outlining in detail their dispute with the provincial government, they turned to the dominion government and asked them to decide who has done wrong. However, the dominion government had little influence in addressing the outstanding land issue, and as the case may have been depending upon their political stripes,

little inclination. The signatory chiefs requested a complete settlement of the whole land question and to have treaties made that would cover the basis of their relationship with the whites of this country as represented by their governments and themselves. They state:

As the British Columbia Government through Mr. McBride has refused to consider any means of settling these matters legally, we call on the Dominion Government at Ottawa – the central and supreme Government of Canada – to have the question of title to our lands of this country brought into court and settled. We appeal to you for what we consider justice, and what we think you would yourself consider justice if you were in our position. Who has the power to help us in this matter? Only the Federal Government, and we look to them. As the building of railways, and settlement in this country is proceeding at a rapid pace, we wish to press on you the desirability (for the good of all concerned) of having these matters adjusted at as early a date as possible. In the hope that you will listen to our earnest appeal, we the underwritten chiefs, subscribe our names on behalf of our people. (Chiefs of the Shuswap, Couteau or Thompson, Okanagan, Lillooet, Stalo or Lower Fraser, Chilcotin, Carrier, and Tahltan tribes in the Interior of British Columbia, 1911)

This appeal to the Minister of the Interior Frank Oliver was put forth by a wide range of indigenous leaders representing people whose territories covered the majority of British Columbia. There were eight signatory chiefs from the Okanagan (Nsyilx?) territory, eighteen signatory chiefs from the Shuswap (Secwépemc) territory, seventeen from the Lillooet (St'át'imc) territory, one chief from the Carrier territory, two chiefs from the Chilcotin territory, one chief from Talhtan territory, fourteen from the Thompson (Nlh7kepmx) territory, and seven from the Lower Fraser territory.

The next document, the Declaration of the Lillooet Tribe, was also prepared at the Spences Bridge meeting on May 10, 1911. It was signed by all the chiefs of the Lillooet (St'át'imc) territory. They stated:

We claim that we are the rightful owners of our tribal territory, and everything pertaining thereto. We have always lived in our country; at no time have we ever deserted it, or left it to others. We have retained it from the invasion of other

tribes at the cost of our blood. Our ancestors were in possession of our country centuries before the whites came. It is the same as yesterday when the latter came, and like the day before when the first fur trader came. We are aware the BC government claims our country, like all other Indian territories in BC; but we deny their right to it. We never gave it nor sold it to them. They certainly never got the title to the country from us, neither by agreement nor conquest, and none other than us could have any right to give them title. In early days, we considered the white chiefs like a superior race that never lied nor stole, and always acted wisely, and honorably. We expected they would lay claim to what belonged to themselves only. In these considerations we have been mistaken, and gradually have learned how cunning, cruel, untruthful, and thieving some of them can be. We have felt keenly the stealing of our lands by the BC government, but we could never learn how to get redress. We felt helpless, and dejected; but lately we begin to hope. We think that perhaps after all we may get redress from the greater white chiefs away in the King's country, or in Ottawa. It seemed to us all white chiefs and governments were against us, but now we commence to think we may yet get a measure of justice. (Chiefs of the Lillooet Tribe, 1911)

They made notice of being in the same position as the other indigenous peoples in the province and having learned of the Indian Rights Association of BC, joined with them in the movement for their rights. They pointed to several meetings that were held on these issues and agreed unanimously with the positions put forth by the indigenous peoples.

The next document was the Statement of Chiefs of the Interior Tribes of British Columbia, May 23, 1913. This was addressed to the Honorable Mr. Borden, Prime Minister of Canada, and Members of the Dominion Government. In this document, they assured the government representatives that they were speaking from a position of honesty. They wanted their concerns about the outstanding land title issue to be addressed for the purpose of their future generations as well as the settler populations, in order that no feelings of injustice remain. They pointed to the previous contacts made with Borden's dominion government, to the dominion government preceding his, to the BC government, and to England, all without reply. They went on to describe the visit by Dr. McKenna:

We do not need to reiterate all that we have said already. We wish to speak to you only of late happenings. You sent out Dr. McKenna. We were glad you sent him. He came, and we met him at our meeting at Spences Bridge last summer. A number of our chiefs talked to him. We spoke as we have always spoken. We brought before him the question of our titles to and our rights in this country. We know we were the sole owners of the lands in this country, and we believe our rights in these possessions were guaranteed to us by King George (III). We also spoke to Dr. McKenna of the claim made by the BC Government that we have no rights. Also of our reserves, and of the game, and fish. Dr. McKenna listened to us, and then spoke. We did not like his speech in so far as it dealt with the question of our title. He seemed adverse to our having any claims to the lands of this country outside of the reserves. For this reason we said no more to him on this matter, but next day spoke to him only of the reserves, and matters pertaining to them. (Statement of Chiefs of the Interior Tribes of British Columbia, 1913)

At this point, they discussed how they had heard that Dr. McKenna had reached an agreement with Premier McBride regarding the Indian reserves and the revisionary interest with the dominion government. They point out that Dr. McKenna, in only addressing the reserve issue, had misunderstood the chiefs when he stated that the primary source of their dissatisfaction was the inadequacy of the reserves and the interest in them claimed by the provincial government.

They state:

We admit these are very important questions which must be treated, and settled before we can stand on our feet, but we claim that from the very beginning our chief grievance has been what we state here in plain language to be the stealing of our lands by the BC Government. Our hearts have grown sorer with the years on this question. It is a sore thing for us to see our country sold over our heads every day in the year, and now we are even taxed in some places if we cut a tree. Later as we gradually gave up our old manner of life, and as settlement of the country by the whites progressed the inadequacy of our reserves, and their unsatisfactory state ... has been steadily forced on us until now indeed it is a pressing question, but still above all we maintain the question of our title should be settled first. In this we simply ask justice, and our rights. We desire not what belong to the whites nor any one else. We simply want what belongs to us. We claim we have a tribal ownership in all unsundered lands of this country. We also claim tribal ownership of all the game, and fisheries, and water, and in fact all natural resources in these tribal territories of ours. We are suffering considerable loss in these lands being taken from us, we want some compensation for this loss. (Statement of Chiefs of the Interior Tribes of British Columbia, 1913)

They tried to appeal to reason in pointing out that no one likes to have their possessions taken from them, especially that from which he draws his life, and stating that if it were the settlers being treated in this way, they would not stand for it. They added:

When we heard of the appointment of the Reserve Commission, we regretted you had dealt with the Reserve question first instead of the one of title, which we call the 'head' of our complaints. However, we said nothing, but waited to hear what you would propose towards a settlement of the latter. Now only a few days ago we heard from our friends of the salt water that you may refer this matter to the Reserve Commission. This startled us, and surprised us, for all along we have petitioned that this question which we consider the main one, should be referred to the highest court in the Empire – to the court (of the Privy Council) in England for settlement. We were prepared to abide by the decision of this great court, even if against us. (Statement of Chiefs of the Interior Tribes of British Columbia, 1913)

They indicated how they had unbounded confidence in the fairness of the judgments of the Privy Council since it was the highest place that any matter could be settled. They added:

We object to the question of title being referred to the Reserve Commission as presently constituted. Two members of this Commission have been appointed directly by the BC Government, which denies us all the rights we claim in the lands of this country, and one other member, by his own utterances to us, is against our claims. How can this question be settled in an unbiased manner by them? How can we expect a fair deal from them? (Statement of Chiefs of the Interior Tribes of British Columbia, 1913)

They also made the point that they objected to the Reserve Commission settling the question of title because they had no representation and that they believed the majority if not all were biased against them. And they reaffirmed their position that they were against the settlement of the reserve question before that of title. They added their support to this position as it was agreed upon in a meeting at Vancouver on May 17, 1913, and vouching for the other Interior chiefs as holding this same position, and asserted their agreement with the statement put forth by the Nass Indians of January 22, 1913 on these same issues. The Statement of Chiefs of the Interior Tribes

of British Columbia to the Honorable Mr. Borden, Prime Minister of Canada, and Members of the Dominion Government was put together at a meeting held at Spences Bridge on May 23, 1913. Again the document was signed by the vast majority of chiefs, numbering fifty, covering the Interior territories. These included signatories from the Chiefs of the Tahltan, Sto:lo, Chilcotin, Thompson, Kootenay, Okanagans, and Lillooet indigenous peoples.

On June 5, 1914, the Chiefs of the Interior Tribes provided another formal statement to the Honorable R.L. Borden, Prime Minister of Canada and Members of the Dominion Government. They stated:

We have spoken to you many times already in various ways. We have stated our grievances to you and asked for redress. You must know our position. We have told you what was in our hearts; what we consider to be our rights as the original occupants, possessors and sovereigns of this country, and we have asked that you consider our case and see that we obtain justice. (Chiefs of the Interior Tribes, 1914)

They indicated that they were asking for the same treatment in the acknowledgement of their rights as had been given to the other indigenous nations of Canada. They further added:

We cannot see why our rights in our respective tribal territories should not hold good under your laws and the laws of Great Britain in the same way as the rights of these other tribes. We were equally the possessors and sovereigns within our respective tribal territories that the tribes of Alberta, Manitoba and other parts of Canada were in theirs. We have been told by our white friends of the difficulties in the way of a settlement of our claims, owing to the unfair and antagonistic attitude of the BC Government. We have, therefore, been patient and have waited long for you to find some way of settlement. However up to the present we have not heard that you have decided on any definite manner of settling our case. (Chiefs of the Interior Tribes, 1914)

By this time, the Reserve Commission process was underway and it was clear that the issue of title was not going to be effectively addressed there. The indigenous leadership, having tried

several means of communicating with all levels of domestic governing agencies, were now requesting to have their title issue address by the Privy Council in London.

It now seems to us that this matter of our rights cannot be settled in Canada, but must go before the Great Court in England. Therefore, we respectfully urge that you will at an early date have our claims referred to the Judicial Committee of the Privy Council for settlement. Not only our claims, but also those of the Nisga Indians (as stated in their Petition lodged with the Privy Council) as well as those of all other tribes.

We further respectfully ask that you request the Imperial authorities to take up this matter, so that same may be dealt with by the Judicial Committee as soon as possible, and we will ever pray. (Chiefs of the Interior Tribes, 1914)

This statement was signed by thirty chiefs and representatives from the Lillooet, Shuswap, Okanagan, Stalo, and Thompson peoples. During the timeframe that the Interior Chiefs were working together, they also worked with the Indian Rights Association of BC and with the Nisga'a.

2.5 Indian Rights Association of BC

Founded in 1909, the Indian Rights Association of British Columbia was initially made up of the coastal indigenous peoples and by 1912 was an association of Coastal and Interior peoples combined. On December 3, 1910, Counsel J.M. Clark wrote to the Honorable Richard McBride of the province of British Columbia. He indicated that he had been instructed to write in regard to the question of Indian title, which was not a new question. He relayed the details of the issue noting that "... I think there has been an initial error, ever since Sir James Douglas quitted office, in the government of British Columbia neglecting to recognize what is known as the Indian Title." (Clark to McBride, December 1910) He discussed how, in Canada, this had always been done by all governments, with none failing to acknowledge that the original title to the lands existed in the indigenous peoples. He described how before they touched an acre,

treaties were made with the chiefs and only after this would they enter into possession and not before this, consider that they were entitled to deal with even one acre of land. J.M. Clark stated:

The Indians have waited patiently for many years and finding that their rights were still ignored, they presented a petition to his majesty asking for a reference to the courts of the whole question of the Indian Title. This petition was presented to the Dominion government and the department at Ottawa, on being consulted, considered that there should be such a reference and that it should be to the Supreme Court of Canada. Questions for this purpose, to be submitted to the Supreme Court of Canada were prepared accordingly. This was done after interviews with the representative of your government and the questions to be so submitted were approved by counsel on behalf of the Province of British Columbia. Since then there has been a delay on the part of your government in proceeding with the reference, and we therefore write to urge that there be no further delay and to protest against the alienation by your Government of any lands to which the Indians claim to have any interest until the question of the Indian Title is settled by the courts. (Clark to McBride, December 1910)

Clark also revisited the Dominion's Department of Justice reply to the Province's Land Act of 1875. The Department of Justice was clear that the claim by the Province that they owned the unsurrendered lands was based upon an assumption "which completely ignores as applicable to the Indians the honor and good faith with which the crown has in all other cases since its sovereignty of the territories in North America dealt with their various Indians tribes." To this, Clark further quoted the Department of Justice, "The Indian Title must of necessity consist of some species of interest in the lands of British Columbia" (Clark to McBride, December 1910). Clark concluded his letter by pointing to the St. Catherine Millings and Lumber Company case in which Lord Dufferin described the Indian title to lands as being an interest other than that of the Province, and also referred to the words of Lord Dufferin when he was Governor-General when making an earnest appeal to British Columbia to reconsider in a spirit of wisdom and patriotism the land grievances indigenous peoples have.

By January 6, 1912, the Indian Rights Association of British Columbia (IRABC) wrote to the Honorable R. Borden and Members of the Dominion Cabinet. In this letter, the chiefs indicated that they were representing 20,000 Indians of British Columbia who were incorporated into the Indian Rights Association of British Columbia, all of whom had common grievances, labored under the same disadvantages, and all aimed by like methods to have their wrongs righted. They pledged to maintain the peace and strive for a peaceable settlement of these grievances. They stated, "instead of an appeal to arms we are appealing to the strong arm of British Law..." (IRABC, January 1912) These chiefs relayed to Borden that they did not come to beg any special favors, but to ask that Borden see that they were given equal rights and privileges as other indigenous peoples. They state:

You know we represent the original inhabitants and possessors of the territory now known as British Columbia. Our ancestors from time immemorial occupied that country, and held the title to the land and everything thereon and therein. This title was never relinquished nor given away by us; neither has it been extinguished by conquest, purchase, or treaty; therefore, we claim, it is still invested in us. It was recognized by the fur companies and by the early Government officials, as well as by the early settlers. It was acknowledged in speeches made to us by Governors Douglas, Seymour and others; and we expected our title and claim to the lands of BC would have been considered and dealt with, before any parts of them were sold, or given to railways and settlers by the Government of that Province. We expected negotiations would be opened with us for the surrender of such lands as were desired by the Government for white settlement, as we were told this would be done. We expected treaties would be made with us, and everything arranged in a regular and honest manner. We expected parts of our lands - similar in extent and character to those reserved for the neighboring tribes of Alberta, Washington, Idaho and Montana - would be set aside for our own use, and our ownership of them acknowledged. (IRABC to Borden, 6 January 1912)

Amongst the first of the documents put forward to government officials by the alliance of the Indians Rights Association of British Columbia reiterated the several forms of prior recognition of title provided to themselves and other indigenous peoples through the Queen's representatives

and the promises of treaties in order for government to access their lands for the purposes of settlement and infrastructure development. The Chiefs pointed out their reliance and faith in British law in upholding these standards and the promises made to them based on this law. They added:

We know the whites are strong, rich, civilized, and Christian; and we expected they would do great things for us in seeking to lift us to their level of civilization. This, we are sorry to say, has not been done; but instead, they have introduced diseases amongst us of which our forefathers knew nothing; they have killed the best of our people with strong drink; and now we are compelled to suffer the great indignity of having our lands forcibly taken from us. ... Our appeal to the Government of British Columbia resulted in our being entirely ignored, and told point-blank that we had no rights, and that even the lands we now occupy are only loaned to us by the Government. Is the BC Government right? We say not. If they are, then the Dominion and Washington Governments are wrong, for the titles of the Indian tribes south and east of us have been recognized ... Why is our claim not as good as theirs? Shall the BC Government alone be the Judge? ...

We have reached a critical point, and, unless justice comes to our rescue, we must go back and sink out of sight as a race. We have been told there is no issue; but we think there is a very clear issue, and our reason for being here is to press for an equitable settlement of the same, and an adjustment of every question concerning us and our relationship with your Government and that of British Columbia. (IRABC to Borden, 6 January 1912)

The Indian Rights Association of BC representing an expanded coalition of indigenous groups put forth this letter to the Prime Minister and Cabinet Members of the Dominion along with copies of the July 1910 Declaration of Indian Chiefs in the Southern Interior of BC; the August 1910 Memorial to Sir Wilfred Laurier by Chiefs of Shuswap, Okanagan and Couteau Tribes; the October 1910 Declaration of the Tahltan Tribe; the March 1911 Petition to the Hon. R. McBride from 96 BC Chiefs; the March 1911 Notes on interviews of Chiefs with the BC Government; the May 1911 Declaration of the Lillooet Tribe; and the May 1911 Memorial to the Hon. F. Oliver, from Chiefs of Tahltan, Carrier, Chilcotin, Lillooet, Shuswap, Couteau, Okanagan, and Stalo

Tribes. This correspondence was signed by the nine representatives of the Indian Rights Association of BC on January 6, 1912.

On January 8, 1912, representatives of the Indian Rights Association with their legal counsel, K.C. Clark, as well as James Teit who fulfilled the role as an interpreter, were able to meet with Prime Minister Borden of the Conservatives in Ottawa. Clark introduced the chiefs and indicated that they had been waiting a long time and they decided to get on a train to Ottawa to find out what had become of their petition. He explained, "On their behalf we presented a petition, a copy of which is on file, in March 1909, addressed to His Majesty, asking that the question of Indian title should be referred to the Judicial Committee of the Privy Council. That petition was submitted for consideration to the Dominion Government, who, after consideration decided that a case had been made out for reference to the Courts and that the reference, in their opinion, should be, in the first instance, to the Supreme Court, subject to appeal to the Judicial Committee of the Privy Council" (Deputation from the IRABC, 8 January 1912). As the Imperial government had long been reducing its direct involvement in the former British colonies, the dominion and provincial government were to carry out negotiations on the outstanding indigenous land issue in BC. In his overview to Borden, Clark stated, "I want to point out three things: First, that the Indian title now disputed by the British Columbia Government has been recognized by the Indian Department in the old days, and by the Justice Department, and acting upon the contention of the Justice Department the then Governor General, Lord Dufferin, made a speech which I set out in the petition, and which is on file; secondly, that title as recognized by the Governor General and the Department of Justice was recognized by the authorities at Vancouver, and, thirdly, that the same law applies today, or at any rate it is a question for judicial

determination" (Deputation from the IRABC, 8 January 1912). Following the introductory statements by Clark, the indigenous representatives spoke with their contributions being translated by James Teit, who was fluent in the Interior Salish languages.

Chief John Chilahitsa, of the Douglas Lake band, Okanagan tribe (through interpreter Teit) – I wish to tell you a little of what the Government official spoke to my father and the fathers of the other Chiefs in the old days. They told the Chiefs that they came there as the Spokesmen and the mouthpiece of the Queen, and they told my father that they wished to talk to him regarding the lands and other matters. ... There were four of them, and the last was a Mr. Sproat. So my father and the other Chiefs there said they would speak to these commissioners who said that what was said would be taken to the Queen. They said they proposed to give the Indian tribes reserves, large pieces of land, and that they would be set apart and posts set in the ground and these posts would be the same as a high fence around them. And they said the Chiefs would be set down there as heads of these places and everything upon these lands which would be posted would be the real property of the Indians - the gold and silver and everything. They explained to the Indians that it would all be done for the safety of the Indians, as many whites would come to that country and wish lands, and they wanted the Indians to have a certain amount of their own country kept for them and saved from settlement by these whites. My father and the other Chiefs asked them what about these lands outside of the reserves, and the Commissioners said, 'We will discuss these lands later.' Now, all these kinds of agreements with Government officials have been broken and different methods have been brought into vogue by the British Columbia Government with regard to reserves and the land outside of the reserves. We have been talking to the Queen at different times, and latterly through Mr. Clark we spoke to the Queen regarding these matters, and we understand that the Queen referred them to you for settlement, and we want to know what is going to be done about it. (Deputation from the IRABC, 8 January 1912)

The next chief to speak was Chief Basil David from the Bonaparte band of the Shuswap Tribe (through interpreter Teit). He indicated that he had traveled in previous delegations to both London and Ottawa in search for an authority that could address the outstanding indigenous land title issue in British Columbia. He stated, "... now for the third time I come in search of some Chiefs to settle this question, and that is the reason I am here now. I come to lay before you our right to the lands and the evil treatment the Indians received at the hands of the British Columbia

Government, for the food has been stolen from the wives and the orphans of the Indians." In response to Borden's inquiry about the meanings of the word stolen, Chief Basil David continued, "I mean that our land has been taken, and we look upon that as our life – we get all our life from the land. I am anxiously waiting for some action to be taken now, and for me to hear something in my ears which will be good for me and all my people – we want some expression of hope." (Deputation from the IRABC, 8 January 1912)

The next speaker for the indigenous chiefs was Chief John Tedlenitsa of Pekaist band of the Thompson Tribe through interpreter James Teit. He stated:

I wish to say that everything the former speakers or chiefs have told you is true ... The commissioners and other officials of the British Columbia Government came to us in the early days and spoke to the chiefs, and said: 'We come here to tell you the wishes of the Queen'; and they said: 'We want to do this and this'; and the chiefs said: 'Perhaps it is the wish of the Queen, but we do not know, and why do you want to set apart lands for us when we have our land here already?' They told the chiefs that the Queen said she wished their people to be well looked after and no harm come to them, and, therefore, they would set apart land for them that could not be taken away by the whites, for they expected a good many whites to go there. And these proposal of theirs was never carried out. And when the railways came to be constructed the officials came and spoke again and wanted to set aside reserves there, and the Indians asked about the former promise they had made about settlers coming there and about the lands and the country, and they said they had not been able to come to that yet. So they went ahead and set aside reserves for different bands of Indians and families, but not tribes, and in many cases without proper talks with the chiefs at all; but they were given to believe everything on the reserves, poor as they were, would be the property of the Indians - the wood and water and all, but now they learn it is not so. The reserves are very poor, poor land, and some with no water for irrigation, and they cannot get along on them. (Deputation from the IRABC, 8 January 1912)

The Chiefs pointed out how the governments were separating their people into the smaller units of bands, and refusing to recognize them in their larger tribal entities. This was also part of a clear government approach to keep indigenous peoples separated into manageable groups. In response to the presentation, Mr Borden inquired about the water and whether the indigenous

people practiced agriculture to which Chief Tedlenitsa's response was that nearly all the people did. Tedlenitsa added, "We have sent in many petitions to Ottawa, and also a big petition to the King through Mr. Clark, and we understand that the application was referred to the Ottawa Government, and we never heard anything more about it; and we said we would come and listen to the Chiefs with our own ears and hear what he would tell us." Having grown tired waiting to hear back from government officials, the leaders traveled to Ottawa in hopes of hearing directly from the Prime Minister his response to all of their various correspondence and concerns about the outstanding indigenous land issue in BC.

The last speaker amongst the Chiefs representing the Indian Rights Associations delegation that traveled to Ottawa in order to see Prime Minister Borden was Chief James Raitasket who spoke through interpreters Thomas Adolph and James Teit. He stated:

I am very glad to have come here and to have the opportunity of seeing you. I wish to tell you a little how badly the Indians are fixed in British Columbia. I was a boy when the whites came to the country – my father was chief of the Lillooets then – so I have seen with my own eyes everything the whites have done since they came to the country. My father never gave land to the whites – never lost it or gambled it away or gave it away or ever sold it. Surveyors came around to lay out the reserves and they spoke as the first chief explained that they spoke to his father, they also spoke to my father. I cannot see how the land belongs to anybody except us. There is no way that the British Columbia Government can prove that we do not own it. (Deputation from the IRABC, 8 January 1912)

To this, Prime Minister Borden asked, "Are you referring to all the land of the Province or just some of it?" Chief Raitasket replied:

To the whole of the lands of British Columbia. All the tribes in British Columbia are all agreed on that point. What the other Chiefs said is true, that the British Columbia Government has taken our food – our food is in deer, and they kill it and the fish, and destroy our food patches; and they are taking more and more all the time. What the chiefs said about the reserves is also true. I will not detain you more than one minute longer. All the Indians in British Columbia formed this association because they are all of one mind in this, and the King desires you to

settle it, and that is the reason why we are here. (Deputation from the IRABC, 8 January 1912)

Again Prime Minister Borden asked about the extent of the land ownership being put forth by the chiefs. He asked, "Do you claim all the land without exception – the cities and railways and everything else in British Columbia?" (Deputation from the IRABC, 8 January 1912) Chief Raitasket replied: "The whole country has been taken from us without treaty or agreement, and without compensation of any kind, and the cities have come later, and the railways later, and these things have been built on our lands" (Deputation from the IRABC, 8 January 1912). To this, Borden asked Teit to tell the chiefs that he was a new chief and has not seen any word from the Queen on these matters. He further indicated that he would read and consider with great care the petition and the words they had spoken to him and that word would be sent to their counsel Mr. Clark in response, and shook their hands and wished them all a safe journey home.

That following spring, on March 15, 1912, another document was prepared by the Indian Rights Association for the prime minister of the dominion government. The Petition to Prime Minister Borden pointed to the differing positions held between the government of British Columbia and the indigenous peoples over land title. The chiefs pointed to the law of King George III and stated, "To some of our chiefs, George III medals were given a century ago as tokens of good faith and surety that we were under the protection of British sovereignty and British laws" (Petition to Prime Minister Borden 1912). They noted that recognition of rights had been acknowledged for indigenous peoples in the other provinces and asked the prime minister why the indigenous peoples in BC were to be ignored and the same rights denied. They added:

We have tried to obtain justice and settlement of our claims from the British Columbia Government, but without results. Why should the government here in British Columbia be allowed to oppress us, crush us, and deny us justice. We have

asked them to come with us, and settle our differences in Court. Not in any court of ours, but in their own, the white man's court at Ottawa and England, but they will not consent to this. We understand this is the only fair method of settlement. Why is the British Columbia Government afraid? If they have done no wrong, and we have no rights, and no case as they say, then why need they be adverse to going to court? Now, we have already petitioned England to have this question settled, and have been told your government at Ottawa would talk to the British Columbia Government, and try to effect a settlement with them on our behalf. We have waited a long time, but there appears to have been little done toward this end yet. We sent chiefs to Ottawa last winter so they should petition you in person, and place our statements regarding our claims in your own hands, so you might read them, and understand our position thoroughly. You promised us an answer through our counsel to what you were prepared to do in the matter; but we have heard nothing yet. (Petition to Prime Minister Borden, 1912)

The many avenues tried by the indigenous leadership of British Columbia in order to reach a just outcome, whether through the provincial and dominion governmental representatives and alternating premiers and prime ministers or through direct delegations to meetings in addition to written materials, all efforts were repeatedly put off and not addressed.

In all respect we press for a speedy answer. We think we have a right to know whether you are moving in this matter, and whether you intend to do anything regarding it or not. If you have no power, nor influence with the British Columbia Government to accomplish a settlement, we want to know. We have been told your government is the central and supreme government of Canada, and that it is the desire of your government that justice be meted out to all your subjects irrespective of race, creed, etc. This is one reason we appeal to you. We want the injustice done us righted. We want to stand on our feet. We were never made for slaves. We cannot lie down and be ridden over. We demand our rights, and we expect your help not only because you are men and chiefs, but because we are called your wards and children. If you deem it unnecessary that we receive our rights, that it is not necessary that the laws of your kings should be maintained, and that it is well the white man's word to us should be broken, then tell us. (Petition to Prime Minister Borden, 1912)

This document was signed by the head chief of the Talhtans, by nine Okanagan chiefs, twelve Thompson chiefs, seventeen Shuswap chiefs, one Carrier chief, seven Lillooet chiefs, eleven Kootenay chiefs, and eight Stalo chiefs.

On February 27, 1915, the Indian Rights Association of BC prepared a letter to Hon. Dr. Roche, Minister of the Interior in Ottawa in response to the proposal of addressing the title issue by the dominion government. The conditions that were being proposed were constraining, and the Indian Rights Association of BC was not prepared to agree to these. They stated:

We consider it unreasonable that we should be asked to agree to the findings of the Royal Commission when we have no idea what their findings will be or whether the same will be satisfactory to us. We cannot agree to a thing we know nothing about. We do not care to jump in the dark. We are anxious that no mistakes be made which may in future years bring trouble to us or to our children. (IRABC to Roche, 27 February 1915)

They made it clear that they were not open to accepting the stipulation that extinguishment of their title would occur if the courts found that it did exist. In addition, they noted their objection to the expectation that the legal counsel to represent them in a court case addressing their title would be chosen for them. They stated, "regarding condition 4 of the Order in Council we consider that it would only be fair on the part of the Government to allow us the choosing of our own Council if the question of our claims goes Court for settlement" (IRABC to Roche, 27 February 1915). They also pointed out that they would like consideration to be directed toward the conditions they have been subjected to and that all restrictions upon them be removed as far as possible. This document was signed by thirty-eight chiefs of the Indian Rights Association of British Columbia.

2.6 Allied Tribes Of BC (First Province-Wide Indigenous Organization) 1916 and the McKenna-McBride Royal Commission, 1912 - 1916

The Allied Tribes of BC formed in 1916 as the first province-wide indigenous political organization. It was formed in response to the joint federal and provincial McKenna-McBride Royal Commission of 1912-1916. In 1912 Premier McBride and the new federal Conservative

government signed the McKenna-McBride Royal Commission agreement under which a process was set out under the auspices of settling the longstanding controversial BC Indian question, however it was stipulated that this would be carried out only through addressing reserve sizes. Restriction was placed upon addressing title and treaties, and as a result, these were to be ignored by this Royal Commission. From 1913-1916, the Commission heard repeated calls for treaties and larger reserves. By 1916, indigenous leaders formed the Allied Tribes of British Columbia to seek treaties and adequate reserves after the reserve commission neglected to address their most pressing concern, the title they held to their respective territories throughout the province. Peter Kelly and Andrew Paull were the main leaders and spokesmen for the Allied Tribes of British Columbia and James Teit acted as the executive secretary and special agent for them.

Throughout 1916-1920 the Allied Tribes held protest meetings and tried to have their outstanding land title issue addressed. On November 12, 1919, they issued the Statement of the Allied Tribes of British Columbia for the Government of British Columbia. As noted by Cail (1974:241) "included in the statement were their reasons for refusing to accept the findings of the 1916 Commission and a list of twenty 'Conditions proposed as a basis of Settlement.' For the next three years, conferences were held between the executive of the Allied Tribes, an Indian organization formed to press their claims, and both governments, including a meeting with the Superintendent General of Indian Affairs, Charles Stewart, and a meeting with D.C. Scott who had come to British Columbia to confer on Indian problems." However, like all of the previous work, no agreement with the indigenous peoples was reached. The Statement of the Allied Indian Tribes of British Columbia for the Government of British Columbia read, in part:

Part II - Report of the Royal Commission, Grounds of Refusal to Accept

In addition to the grounds shown by our introductory remarks, we mention the following as the principle grounds upon which we refuse to accept as a settlement the findings of the Royal Commission: -

1. We think it clear that fundamental matters such as tribal ownership of our territories require to be dealt with, either by concession of the governments, or by decision of the Judicial Committee, before subsidiary matters such as the finding of the Royal Commission can be equitably dealt with.
2. We are unwilling to be bound by the McKenna-McBride Agreement, under which the findings of the Royal Commission have been made.
3. The whole work of the Royal Commission has been based upon the assumption that Article 13 of the Terms of Union contains all obligations of the two governments toward the Indian Tribes of British Columbia, which assumption we cannot admit to be correct.
4. The McKenna-McBride Agreement, and the report of the Royal Commission ignore not only our land rights, but also the power conferred by Article 13 upon the Secretary of State for the Colonies.
5. The additional reserved lands recommended by the report of the Royal Commission, we consider to be utterly inadequate for meeting the present and future requirements of the Tribes.

...

Part III - Necessary Conditions of Equitable Settlement Conditions Proposed as Basis for Settlement

We beg to present for consideration of the two Governments the following which we regard as necessary conditions of equitable settlement:

That the Proclamation issued by King George III in the year 1763 and the Report presented by the Minister of Justice in the year 1875 be accepted by the two Governments and established as the main basis of all dealings and all adjustments of Indian land rights and other rights which shall be made."

(Statement of the Allied Indian Tribes of British Columbia for the Government of British Columbia, November 1919)

After trying many different avenues to have both the outstanding indigenous land and reserve allotment issue looked into by various representatives of the Monarchy, the indigenous peoples did not receive any adequate or meaningful answers or actions. As stated by Cail (1974:243) "but

through the sixty years of debate over article 13 surveyed here, the Indians of the province, left to themselves, conducted themselves with restraint and patience while awaiting a settlement of what they considered to be their legitimate grievances. That settlement has yet to come."

Chapter 3: *Indian Administration and Regulation: “For The Purpose of the Land Grab”*

In this chapter I examine connections between some of the more controversial features of Canadian *Indian administration* along with government and judicial actions, and their relationship to the outstanding land title issue in British Columbia. This is accomplished by exploring how *Indian* administration and its inherent mechanisms of regulation evolved into recognizable patterns of government actions. These historical elements are then tied together with how they were experienced by indigenous peoples in the interior of BC and how they are ultimately connected to the outstanding land issue. A picture emerges that reveals how governments worked toward cementing their claims of sovereignty, while the *Indian Act* regulations simultaneously advanced their aims of removing indigenous peoples from their traditional uses of their lands and their ways of conceptualizing their lands. Once the judicial system became involved, the established patterns of delaying and denying also transpired within that arena. Even as these actions were in full force, indigenous peoples continued to hold the position of their ownership of the lands and to pass that knowledge onto their descendants.

3.1 Early *Indian* Administration

The fact of government *Indian* administration itself is often taken for granted. It actually serves an important role in the maintenance of colonialism that continues on the land base now recognized as being the Canadian nation-state. It began with the several early pieces of colonial legislation affecting indigenous peoples which later morphed into the *Indian Act* with the establishment of a new dominion government. As the political and legal environment changed from one regulated by colonial governments into one governed within the realm of the new

dominion government, so did the legislation for *Indian* administration. The unilaterally assumed authority over indigenous peoples and indigenous lands by the imperial government was 'given' to the dominion government through the British North American Act of 1867, though Section 91(24). As described by one participant:

As far as I can see, you know, all of this stuff, the stealing of the land, is all cloaked in the form of legitimacy that the British Parliament established in Canada by enacting what they call the British North America Act. That was an Act of the British Parliament that established the federal and provincial governments in Canada. That's how they been saying that the land legitimately belongs to them, even though they have broken treaties and even though they have no agreement in British Columbia at all, they keep on pushing away with this lie that they basically are legitimately here. (Art Manuel 2011)

Over time, the BNA Act legislation, especially the *Indian Act* which evolved from it, ended up being a coercive tool for governmental control over indigenous peoples.

The *Indian Act* itself is commonly understood by most people to include aspects of 'protection, civilization, and assimilation' as described by John Tobias (1991). Tobias states "Protection, civilization, and assimilation have always been the goals of Canada's Indian policy" (127). Similarly Brian Titley notes that the *Indian Act* was meant "to protect Indians until they acquired the trappings of white civilization" (1986:13). The cornerstones of the *Indian administration* programs in the *Indian Act* include the *Indian reserve* system, the *Indian bands*, the use of *Indian agents* and as well as the *Indian residential schools*, and these have provided the mechanisms for carrying out the goals of government officials. The federal *Indian Department's* regulations have shaped and continue to shape the life experiences of most if not all indigenous peoples in Canada. As noted by Paul Tennant (1990:74) "the policy evolved slowly, as a result of much propaganda in Britain and North America about the need to develop the Indian." Similar to British colonial regulations in other regions of North America, the

conditions of *Indian administration* brought to BC were designed to meet European principles of inculcating Christianity and 'civilization' to indigenous peoples. However, upon closer inspection, a different interpretation is feasible specifically in relation to the land issue. In answer to the effects of the *Indian Act*, one Elder stated, “Yeah, it was to kind of like assimilate the Indians so they could get a hold of all the land that was good. The Indian Act, the Indians, the so-called Indians, you know, you had to live on reserve and anywhere off the reserve is considered crown land” (Carl Alexander 2011). In asking another informant about the role of the *Indian Act* in how the land issue developed, he responded:

Well the Indian Act, what did they say? They said it's not our land. It's Crown land, that's what they are saying. They put the Indian Act in there and the Indian Act kind of took our land and they say it is Crown land. So before it was Crown land, who owned it? So they're using the Indian Act to take away our land. They still try to get us to prove that it is our land. (Amos Bob 2011)

Having already formulated their own approach, British Columbia differed from the dominion in addressing the indigenous land issue in that they openly asserted their claimed ownership to indigenous lands in the entire region. Ultimately BC chose not to acknowledge the specific approaches made by their British crown in relation to indigenous peoples as defined in the *Royal Proclamation*. Beginning in their colonial and early confederated history, BC insisted upon an alternate and self-regulating path with respect to indigenous lands and resources. As a result, the way the indigenous land issue developed over time in BC is based on this early position and the ensuing activities amongst the two new governments.

The bulk of the *Indian Act*, other than the move toward settlement on reserves, was imposed upon or implemented amongst indigenous peoples of BC quite a while after the province became a part of confederation. As an example of priorities for the federal and

provincial governments, Titley notes it was not until 1938, after 67 years of irresolution and vacillation, that the provincial government finally agreed to convey title of *Indian reserves* to the federal government, illustrating how the *Indian* land issue evolved between them (1986:160). Instead early phases of *Indian administration* in BC, as carried out between the province and the federal government, were primarily concerned with sorting out the reserve lands issue while simultaneously working toward reaching various compromises that ultimately served to deflect, delay and deny the outstanding indigenous land issue.

3.1.1 1927 *Indian Act* Amendment

Clearly by 1927, for indigenous peoples in BC, the initial ‘protective’ nature of the *Indian Act* had long since transitioned into a tool of coercion. With the assignment of Israel W. Powell to the position of Indian superintendent, the dominion government continued with efforts to implement its form of *Indian administration* in BC. This led them into the brick wall of resistance by the provincial government on the land issue. The position of the dominion government changed from one that addressed the indigenous land issue through the numbered treaties into one that was supportive of the political position developed by the British Columbia governments. Although the dominion government had been placed in a position of trust for the interests of indigenous peoples according to the British North American Act, this ended up being superseded by their own interests. Duncan Campbell Scott, the federal Minister of Indian Affairs, took the position that campaigning for indigenous title in British Columbia should be discouraged. In fact, by this time, the dominion government also concluded its treaty-making process through the numbered treaties. As described by Titley (1986:59) by 1924, Minister Scott

proposed the idea of prohibiting the payment for lawyers to press the land issue forward without government approval.

In response to the continuous efforts by the indigenous leaders in British Columbia for recognition of the outstanding land issue, by 1927 federal legislation was developed to amend the *Indian Act* to forbid any further legal pursuance of it. At this point, the Indian Rights Association had been pushing to have the matter go before the Privy Council in London, the pinnacle of the British judicial system. Tennant indicates that the intent of Minister Scott was to prevent all activities associated with land claims, "and, above all, to block the British Columbia claim from getting to the Judicial Committee of the Privy Council" (1990:112). The *Indian Act* amendment was more than likely in reaction to the ruling by the Privy Council that recognized Aboriginal title in southern Nigeria, another of Britain's colonies. According to that ruling there was now the distinct probability of the Judicial Committee of the Privy Council addressing the long outstanding land issue in British Columbia in favor of indigenous peoples. This amendment to the *Indian Act*, prepared by Minister Scott, was quickly passed within Parliament. The resulting amendment, Section 141, forbade the payment of funds to legally pursue the land issue. The *Indian Act* amendment effectively served to outlaw the continued access to legal counsel to address the outstanding indigenous land issue without the express permission of the *Department of Indian Affairs*. This had the effect of making it illegal for indigenous peoples to pursue this matter through any designated legal channels. The legislative constraint against pursuing the outstanding indigenous land issue in BC was one of the most significant coercive changes to the *Indian Act*. This action provides a clear example of how 'legal' methods were utilized to contain

any possible opportunities and to definitively shape the parameters in handling the indigenous land issue by successive governments.

The barriers to accessing legal avenues for pursuing the land question in BC became more pronounced when their legal counsel, Arthur O'Meara, passed away in the year after the amendment, followed shortly by James Teit, two significant advocates of the position being put forth by indigenous peoples in BC. Eventually, during the twenty-four year ban on addressing the outstanding land issue, the elder hereditary chiefs that had kept this issue alive over their lifetimes also passed on. However the position they held about the continuing ownership of their lands remained alive amongst their people. Even as the federal legal restrictions remained in place for over a generation, the land issue did not diminish in importance amongst the indigenous peoples while the territorial land bases were becoming broadly recognized by the British and Canadian system as being the Province of British Columbia.

3.1.2 *Indian Administration as Experienced by Indigenous Peoples in BC: Indian Reserves, Indian Agents, and Indian Schools.*

Following the 1927 *Indian Act* amendment, the *Indian agent* system appears to have become more active in the province, implementing their duties of influence and control over *Indians* and *Indian reserves*. As described by Wilson Duff (1964) *Indian administration* became easier to implement as the inversion of population levels between immigrant and indigenous groups became more pronounced. All of the *Indian Act* policies were eventually imposed upon indigenous peoples in British Columbia. "By 1900 the province had been divided into fifteen Indian agencies, and the Indian agents were in a position to exert continual administrative supervision over Indian communities." (Tennant 1990:74) After laying out reserves without

benefit of treaties in the province, the dominion government began to implement various aspects of their policies through *Indian agents* along with the missionaries and provincial government. The bulk of influences by the *Indian agents* and missionaries on the *reserves* during these early years were designed to steer indigenous peoples away from their traditional land values and uses and toward *reserve* settlement, Christianity, and agriculture. A research participant described it as follows. “A lot of the government is geared to make sure the Indian population itself does not become a problem for those people that are coming in from foreign lands. As an Indian, you are just a ward of the government and you are stuck within that government policy” (Fred Alec 2011).

3.1.3 *Indian Reserves*

The *Indian reserves* were the initial instrument for introducing all of the major aspects of control used by the governments. As noted by Tobias, "the reserve system, which was to become the keystone of Canada's Indian policy, was conceived as a social laboratory, where the Indian could be prepared for coping with the European" (1991:129). *Indian reserves* are small pieces of land set aside by the various governments that claimed control over the lands including the colonial, provincial, and dominion/federal governments. *Indian reserves* also provided the location where the methods of management were implemented through the *Indian administrative* bodies. For example, the dominion government designated *Indian agencies* and within these *agencies* set out lists of *Indian bands* made up of individuals who were legally designated as *registered Indians* under the *Indian Act*. The bulk of *Indian administration* occurred on the *reserves*. The *reserves* were meant to direct indigenous peoples toward European cultural reproductions including settlement into stationary communities, learning the practices of

agriculture, and to receive instruction on religion and formal British education. These goals became the basis of how the *reserve* system was structured in Canada.

Since the inception of the *reserve* system and its accompanying *Indian administration* program in BC, it has been viewed by indigenous peoples as an instrument of control, especially in relation to land and resources. When asked about how the *Indian Act* system affected the history of the outstanding land issue, one interviewee stated “they put us on reserves to make it easier for them to steal our resources and to control us, you know, to steal our lands, to control our hunting and fishing. They just wanted to control everything. They even told us where we had to live, you know. They put us on these reserves” (Rosalin Sam 2011). In discussing how indigenous people felt about the *Indian Act reserve* system, the participant said, “they weren’t too happy because you know all of our food resources aren’t just here in this little valley. We traveled to different places to get our food sources and people went hungry. You know, it was hard for them to survive. My grandfather used to talk about it, you know, families having to take in other people because they were so hungry” (Rosalin Sam 2011). Another one of the Elders commented on the small size of the reserves and the fact that they were of poor quality lands. He said:

Look at some of the land they put us on, look at the reserve here. Why aren’t we staying beside the lakes? We weren’t dumb enough to put ourselves way down on a pile of rocks. They got the best land. Look at the ranches around the reserve, look at all the land. One person owns all that land. It’s bigger than our whole reserve. (Amos Bob 2011)

Another participant described how reserves were set out on the worst lands possible in order to keep other lands available for immigrant settlement.

When they decided to grant Indian reserves a little later, they evaluated the lands that they were going to set out in Reserve #1 and they described it as ‘rocky and

no good for nothing type of land, that it was only good to give to Indians.’ That’s the way they wrote it down in their documentation. If there were any available good lands like that, it was generally given to these new homesteaders. It is well documented. (Fred Alec 2011)

While the *Indian reserve* system is taken for granted today, it has always been and continues to be viewed as something that indigenous peoples never agreed to. Right from the beginning, the traditional indigenous leaders objected to the *Indian* reserve commissioners setting out *reserves* before dealing with the outstanding land issue. Instead they wanted to have the outstanding land title issue dealt with first before agreeing to settle on the reserved lands.

3.1.4 *Indian Agents*

The main vehicle for enforcing the *Indian Act* and all of its many regulations was through the *Indian agent* system. As noted by Noel Dyck (1991:83) "the Department of Indian Affairs acted virtually as a colonial government, regulating almost every aspect of Indians' lives, for by the end of the nineteenth century the goal of assisting Indians to become self-sufficient farmers had been displaced by a more far-reaching drive to transform their entire nature." During their most active time in British Columbia, the *Indian agents* usually visited the *reserve* communities once a month. As described by one participant:

Well they used to come up in the ‘60s. I remember they were still around in the ‘60s. They used to have an Indian agent right down here, next to the post office. That’s where they were. That guy’s name was Meeke. That was the Indian agent. That was our Indian agent. I remember he used to come up maybe once a month. He used to come up to our reserve. We used to have meetings right behind that little church. There was a little room in the back behind the church. That’s where they used to have meetings. I didn’t like the way he was treating our people. He was in charge, in total control, almost like them people in the residential schools hey. It’s the authority I guess. He was in control. Just like them priests, brothers, and nuns in the Indian school hey. That was probably why I didn’t like him, just due to the fact that he was, well even then I was saying ‘we own this country, we own this reserve, we own everything here, and they’re treating us this way.’ (Amos Bob 2011)

The missionaries also visited once a month, staying for about a week in each community. "The agents made all the day-to-day decisions regarding local matters on the reserves; even in later decades, when many bands had their own councils, the agents retained all important powers. The control by agents could extend even into the private lives of Indians" (Tennant 1990:75). An Elder described how the Indian Agent in the '50s used to gather signatures on band council resolutions that had nothing else on them except the signatures. He said:

Prior to this here, the Chief here didn't have an education. So when I first came up here they used to have their meeting behind the church there, a little building, Chief and Council. I seen R. J. Meeke come out of there with a band council resolution that didn't have anything on it, just signatures. So that's the way they dealt with the land. They just signed the paper and he filled in the rest when he got to the Agency. That's what they did. I think it happened in many cases before the education system really kicked in, because if they could read or write, well... That's probably how the land grab was. Like I say, they got the lake, they got the airport... (Des Peters Sr. 2011)

The *Indian agents* acted to ensure that the indigenous peoples were being directed toward christianity and so-called 'civilization.' At the same time though, they used the *Indian Act* to gain the best pieces of land from the *reserve* lands. Another issue that arose was the personnel that took on the roles of *Indian agents*. In describing this, one Elder said:

The Indian agents were always former officers of the British Army. They had this militant attitude against the people, you know. And they went by the guidelines they received from the government. So that was one thing about the Agency. They were retired military, because a lot of them came after the war you know, World War II. You know, they'd land there in Victoria and that was the nucleus of the Agency then. (Des Peters Sr. 2011)

This form of power was brought in and implemented through a variety of means amongst indigenous peoples in BC but it was the *Indian agents* that were described as being the most prominent force during the early stages. The official power of the *Indian agents* was predominant. "The Royal Canadian Mounted Police provided policing services for the reserves

and various Christian denominations operated schools for Indian children, but the personnel of both these agencies were subordinate to the authority of the agent" (Dyck 1991:84). The knowledge of the *Indian agent*, as being a dominant force, was well known amongst indigenous peoples. When I asked questions about the *Indian agents*, what kind of people they were, and how they operated, there was a range of answers. For example, one Elder described how as a child he remembers that if they wanted to travel somewhere off reserve that they would have to get permission from the *Indian agents*' office. He described how the older people couldn't read or write and had to get someone to translate for them. He recalled his mother saying in St'at'imcets, "Are we in jail then?" when discussing the way they were not allowed to leave their *reserves*. In providing an example of the police-like control the *Indian agents* held, one participant said, "I don't know if he was an ex-cop or something. We were told that some of them were ex-policemen at the time and when they retired or something like that, early retirement, and they were given jobs as being Indian Agents" (Larry Casper Sr. 2011). Tobias (1991:133) noted, "Indian agents were given the powers of a justice of the peace to enforce sections of the criminal code relating to vagrancy, in order that the western Indian could be kept on the reserve where he might be taught to farm and learn the value of work." Another example of the power the *Indian agent* held was provided through the interview process from another Elder. When I asked about the *Indian agents*, he stated "Well some of them would say 'I got more power than 3 judges' you know. Yeah. Like in the '40s hey, he'd say I got more power than 3 judges. Trying to scare the people into, that was when they were negotiating that first power line and they were trying to get that line right beside the reserve." He added, "Yeah, I could remember that. I was only about 10 years old. I was only about 10 years old when he was

scaring the hell out of the people. Yeah, like they'd all go to jail. The Indian agent would come to the reserve and he'd have lawyers with him, you know. That would scare the hell out of the people. They were all scared of cops, you know" (Albert Joseph 2011).

After asking another participant who had been a chief in the sixties about how his community communicated with the *Indian department*, he stated, "They'd come here, they would bring these resolutions and requisitions or whatever, and they used to come and you know they'd have it all written out already and they'd ask the Chief and Council to sign it" (Larry Casper Sr. 2011). Another participant described what he had heard about the *Indian agents* in relation to meetings with the band council. He said:

I think they [the council] met, back then, at least once a month. What she explained to me and so did Sam Mitchell was that whenever they had a council meeting the Indian agent would be here. And the Indian agent controlled the meetings, even though it was a chief and council meeting. She recalled, in particular, regarding when BC Electric first came through, or BC Hydro today, when they [community members] were writing down what they wanted. And at that time it was free electricity that they wanted. And the Indian Agent took that document and pushed it aside and said 'no, I got it all fixed for you right here, I have it written all down, all you have to do is sign it and you'll be looked after.' That's how the Indian Agent controlled the Chief and Council. And that's how they got their so-called permits. (Roger Adolph 2011)

I asked, "So they wrote the band council resolutions then, the Indian agents did?" The participant replied, "That they did, the Indian agent wrote the band council resolutions, before coming to the meetings." I asked, "Before they came into the meeting?" The participant replied, "Before they came into the meeting, came to the meeting prepared." And he further added, "I remember them saying that, 'they already had everything written down.' And I guess at that period in time too, the Indian agent and Catholic priest had total control over our people. Even growing up as a child, I seem to recall that. They had control." I asked, "The priest?" The participant replied,

“The priest and the Indian agent, because they were supposed to be there to look out for our best interests, which we now know they didn’t do.” In addition, regarding the Indian agents and priests, the participant stated, “Oh they manipulated our thinking. You know the Indian agent and the priests locally, maybe they weren’t physically abusive but by golly they manipulated our thinking into believing that they were right and we had to listen to them. That seemed to be the mentality that came after the residential schools and the Indian Act system started taking over.” After he pointed out the dual effects of both systems, I asked, “So the Indian agents and priests in the communities kind of prepped the people for the residential schools and then the residential schools prepped the people to follow the system on the reserves?” The participant replied, “Yes, yes, exactly, yes. They worked together. Yeah I still remember them coming onto the reserve, they’d come together, the priest and the Indian agent.” I asked, “Were they very active in this community?” The answer was, “Oh very much so. Like, well I was just a youngster in the ‘40s, but in the ‘50s I started to notice things. I was getting older I guess and I started noticing things that were happening. What I started noticing is the control that the priest and Indian agent had over our people.” I asked, “Can you remember anything specifically that brought that to your mind?” The participant replied, “Well you know, regarding back then, it was BC Electric. The other one was regarding housing. Housing was always a big thing. And the Indian agent would decide who was going to get a house and who can’t.” I commented, “So I guess that would’ve been a really big thing because people wanted a place to live.” The participant replied, “Yeah, control, yeah that’s right.” I asked, “So then the Indian agent decided who would get a house?” The reply was, “Yeah. And of course welfare was starting up around the same time. And they used welfare to, well they didn’t call it welfare at the time. There was another name for it. I can’t

remember the name of it. It was an assistance, where you would get so much money for food and stuff like that. That was when I started to see the decline of our gardens, the decline of our self sufficiency” (Roger Adolph 2011).

The *Indian agent* system was a form of direct control right on the *reserves*. “The actual putting us on square reserves, the actual oppression that happened after they put us on reserves is still happening today” (Fred Alec 2011). As Dyck points out, the federal Indian administration in the form of the agency system remained intact until the late 1960s. (1991:106) After the *Indian agent* system quit regular supervision of *Indian bands* on the *Indian reserves*; they were replaced by locally stationed District *Indian Council* offices. Here, during the early 1970s, the administrative roles for implementing the *Indian Act* system begun to be transitioned to the indigenous communities through the District *Indian Council* offices. It was also around this time when the election system for designating the Chief and Council municipal style of governance on the *reserves* began to be systematically implemented.

3.1.5 *Indian Residential Schools*

There were many accounts shared about the timeframe of the early decades following the 1927 prohibition of pursuing the land title issue. Another Elder spoke about how the *Indian residential school* system was a part of the overall land dispossession process. He said:

I guess it starts out the government wanted us to forget our language, forget our ways, like all that hunting, fishing, and things like that. Because back then we used to be able to go hunting around Mudd Lakes and anywhere like that. And when they sent us to school, they were trying to get us to forget our ways. That was one of the ways they were trying to put in that we couldn’t go hunting. Guess you could say it was connected to kind of like a land grab. They claimed it as Crown land and we couldn’t go out and hunt out there. (Carl Alexander 2011)

Another Elder who went during the 1940s described how he seen that the *residential schools* were intent on taking their ways of life out of them. He said:

Well the way I seen it is that if they could take the Indian out of us and make us like white people then they would be well off. We were taught to not use our language. We really got beat up when we used it so they really pushed that hard, to get the Indian out of us. But it was hard for me to understand why they were trying to make us change. Well I was pretty young when it first started so, you know, it was hard to understand why they took us so far away from home. There, you know, had to be something there. To push onto us, to make us forget how the people lived at home, you know, because them things were our way of life, and were way different from the residential school. (Albert Joseph 2011)

When I asked about how the *residential schools* were related to the outstanding land issue, he said:

They didn't want us to live like Native people, which was hard for me to understand because you can't change our color overnight. Just because we went to school doesn't mean we going to become *sáma7* [non-Native]. It was because they were going to take the land away and have us pay taxes and everything that went with being white people. (Albert Joseph 2011)

When I asked about the effects of the residential school in relation to the land issue, he described how they were taught to obey and to be afraid of authority figures. He said:

Well we were taught to be afraid of white people hey, afraid of the cops, the army. That's the way it looked to me. They wanted to scare us so bad that even when we grew up, we still had to obey. Yeah, that fear for the white people was right from the early age, right as soon as we stepped into the residential school. They tried to make us afraid of all white people. (Albert Joseph 2011)

After inquiring about how it is once that fear gets into a person, he replied, "Yeah, it's there to stay. Yeah, it's there to stay. Just like a concentration camp hey." He added, "That's what they were paid to do hey, to throw the scare into us, you know." Many of the Elder participants that shared information for this research project made the connections between the bad treatment experienced by the children at the *residential schools* and the governments' goals of separating indigenous peoples from the lands.

3.2 Increased Settlement, Industry, Land Regulations, and Restrictions

During this era, in the decades following the legal restriction on pursuing the land issue through court, the federal and provincial governments moved rapidly to increase the regulation of indigenous peoples as well as their access to the lands and its resources. In addition to the destruction of the territorial lands, many of the traditional sustenance activities were being curtailed by the provincial government's new regulations and restrictions. For example, the hunting and fishing restrictions began to be imposed upon the people at the same time that restrictions against leaving the reserves was being implemented by the Indian agents and enforced by the police.

Early on in their annexation of St'át'imc territory, the government began pushing in with infrastructure projects like the railway, followed by hydro-electric development. When I was asking about any government actions that may have affected the outstanding land issue in this area, one Elder told me about hearing his father and his father's generation talking about it. He said:

And my grandfather said, before he died in '46, he says 'you know the white man are going to steal the land.' That's when the power line was going through D'Arcy there, right above the reserve there. He told the chief, 'see that, they're putting that power line through there and they won't even give the people there electricity. They were still using gas lamps and coal-oil lamps. (Albert Joseph 2011)

He described how his grandfather said this to a bunch of people at a meeting, talking about what was happening. He added:

'They are starting to steal the land already. Like the tracks, that was the first ones they stole, then that hydro line,' then he told them 'they're going to take the timber next,' and nobody believed him. They took it piece by piece. (Albert Joseph 2011)

In addition to the passing on of knowledge that they had heard from their own Elder generations, the Elders that were interviewed also shared their own knowledge and experiences around the land issue as these occurred during their lives.

The Elders of today have many memories of experiencing the enforcement of these regulatory initiatives and their ensuing restrictive procedures. For example, an Elder shared:

It was '62 when they started the invasion of the forestry in West Pavilion. It was 1962 when the forestry put a road in through Leon Creek all the way to Big Bar. That's when they went in there to start the clear-cutting. And that's when the people from Leon Creek moved out. Their way of life changed on account of the ranches and all that. See once they got the machinery in there and everything, no more was labour required. Everything had to be mechanized and you had to be a mechanic. The horse days were gone. (Des Peters Sr. 2011)

Government sanctioned activities such as clear-cut logging brought about the destruction of the lands and in turn separated indigenous peoples from their lands once these were ruined.

Another interviewee talked about the development of Whistler and how this was experienced by the St'át'imc in the region. In describing the outstanding land issue, she stated, "As far as I know, the lands in Líl'wat belong to the people. That's the way my grandparents always told me. They never gave it away. They never sold it. It was always there for us to use. And they said that was the same for all the Indians, you know, everywhere." (Rosalin Sam 2011) She continued on, telling about how her grandparents had told her about many of these things when she was younger.

Yeah. When I came home from residential school, I lived some of my time with my dad and stepmother and then I lived some of my time with my grandparents. And they always told me the importance of the land to the people because that's where we did our hunting, our fishing, our picking of fruit, medicines. That's our survival, because at that time there was no such thing really as welfare, as it is today. I think there was maybe four or five people in all of Mount Currie that were on welfare and it was really strict and that was for single mothers that had nobody that could work for them or you know something like that. If you had no

income, then there was nothing you know, but we lived off the land. We grew gardens, we went hunting, we went fishing, and thought nothing of it. (Rosalin Sam 2011)

In answer to the question about how they talked about the idea of the lands belonging to the people, how they described that, she stated:

The only thing that I can remember is that certain families, they would take care of certain areas for their hunting and their trapping and they would do the burning, but what happened is they would all do it together. Each family would do it at a certain time or at different times but everyone would help. It wasn't just lit and let go, you know, it was all planned. Everything was planned. (Rosalin Sam 2011)

This participant described how the burning of the land was to bring back the berries and plants they used that grew in the mountains and how this also helped to bring new growth for the deer and animals. All of the surrounding lands were taken care of in that way by specific families that used those areas. She added a description of how the government wanted to log the surrounding lands and used the reserves to keep people off the land. She stated:

They told me that the reason why people ended up on reserve is because the [non-native] people wanted to log. They wanted to count, keep track of people. They wanted to know where people were at all times. ... The government, Indian Agents did this because we didn't stay in one place, our people didn't stay in one place. You know at certain times of the year, if it was time for picking berries, we'd go to where the berries are and stay one or two weeks, three weeks, and fishing time we'd go down by the river or down by the lake, or hunting time you know go up in the mountains. There wasn't really one set home you know. (Rosalin Sam 2011)

She added, "And I remember my grandfather and uncles when they'd go hunting. Then when we'd go pick berries, the whole family went you know." She described how the family would plan for the trip and would camp out at the location for berry picking.

Yeah. We'd go up Owl Mountain. Like it wasn't just planned today and gone tomorrow. It was like planned over a two week period you know. Everything set, what we needed you know, hay for the horses, the wagon, everything was all set, the food was all set through planning you know. We'd camp there for about a

week, because it would take a day to get there and you'd set up that evening. Then you didn't pick berries until the next day so you picked for a few days then you can it there or dry it. And then pick some fresh to bring home on the third or fourth day, then fifth day you break camp down and come home. It would be mostly huckleberries yeah, and mountain blackberries. Mountain blackberries, they just grow close to the ground, like on a vine, they just crawl hey. (Rosalin Sam 2011)

When asking this participant about hearing much about the land issue from her Elders, she said there were always meetings where they would talk about it. She stated, "they always told us the importance of the land. How important it was to survive. How important it was for the animals. How important the rivers were for our fish, and our medicines, our berries, for our survival, because we used it all the time hey." She added, we were told "you go out there and you respect it, because you want to go back again, you want to go back and get the medicine, or you want to go back and pick the huckleberries. You want to go back when you want to go hunting again, or go fishing. You had to respect it." She indicated that this was the main way that she came to understand the importance of the land, by using it to get foods and medicines and by being told by her older family members about exactly how important the land was to us as a people. She described how the strip-logging began and how it upset the traditional uses of the land. She said:

When they started strip-logging, oh my grandfather was really upset because they were just stripping mountains, one mountain after another. 'Oh that family is going to have a hard time' he'd say, 'all their deer is going to go away, all their berries are destroyed' you know. So he'd try help that family. 'Okay you two families, you hunt together or you two families, you know, pick berries together'. Yeah. That was in the fifties and sixties, I remember that. I remember helping this family. We all went on this truck and we had to help them because there was a forest fire and their area was just black, so we took them and we went berry picking with them. It was up toward Owl Creek. (Rosalin Sam 2011)

The government regulations instituted for forestry permits allowed clear-cut logging to occur on indigenous peoples' lands that they relied upon for their survival while simultaneously restricting

them from traditional burning practices used to managed brush and encourage growth of particular berries.

The indigenous hunting and fishing practices began to be regulated and restricted by requiring people to have a permit in order to carry out these activities. Another informant indicated that a permit was required to go out and hunt. He shared a story about his family's experience with the game warden and the restriction on hunting:

Back when I was very young, when I first went and hunted, I got a deer up on the Mackenzie trail and brought that home. That was sometime around February I guess and the first thing you know, the game warden was there early in the morning. Yeah, I don't know how he got there so fast because he had to go through the railroad from here to Shalalth on a gas cart and then from there over the mountain. He wanted to arrest my father for hunting off season, but I asked my father what the game warden was saying. My father said he was going to be arrested for hunting off season. And you know, I didn't know any sám7ats [English language] then so I had to talk with my father to talk to the game warden and the game warden had to talk with my father to talk to me. I told the game warden that time that I was the one who shot the deer. He had a good laugh at that. He said you're shorter than your gun, how can you do it. I told him, 'when you are determined you can do it'. They couldn't arrest me because I was only young at the time. My father couldn't go out and hunt because our mother was sick in bed with pneumonia or something like that. She was in bed for almost over two months. Yeah, that was 1947 or '48. (Carl Alexander 2011)

As time passed, and provincial government development and expansion of regulatory procedures expanded over the lands, prohibitions were implemented restricting these activities. One informant described this, stating "The governments would make up the rules and go by them and act as if there is no other way." (Des Peters Jr. 2011) As another informant relayed, "Anything that had to do with lands and rights, you know, was denied." (Butch Bob 2011) While the current public perceptions about the continued use of the lands may generally view these practices as being part of a long ago past, the access and use of the plants and animals from the land does in

fact continue. Indigenous peoples have consciously held onto and persisted in the cultural uses of their lands and what the lands provide for them.

3.3 Outstanding Indigenous Land Issue Revived

The resurgence of the pre-1927 Allied Tribes' goal of addressing the outstanding indigenous land issue was restated as the continuing key political concern during a convention of the Native Brotherhood in Kamloops BC in 1959. Following, in a brief prepared by the Aboriginal Rights Committee for the joint committee in Ottawa, George Manuel (1960:593-4) stated:

The Indians of the Interior still feel strongly about the Indian land question in British Columbia, both as to the allocation of land to the reserves by the Provincial and Dominion governments, and as to compensation for British Columbia lands which they consider are not as yet constitutionally surrendered with commensurate compensation to their peoples. ... The gist of the claims is as follows: That the various nations or tribes have aboriginal title to certain territories within the province, which, to perfect the Crown title in the right of the Province, should be extinguished by treaty providing for compensation for such extinguishment. (Special Committee (1960) *Proceedings*, No. 7 (26 May 1960) 593-594)

Even as the federal restriction for legally addressing the outstanding land issue remained in place for several years, the importance of this issue did not diminish amongst indigenous peoples in their territories which were now becoming recognized as the Province of British Columbia. One of the informants discussed how Grand Chief George Manuel used to visit at his grandparents' home and discuss the outstanding land issue with his grandfather.

I guess I'd like to say that this land issue has always been part of my life. I used to sit down and listen to Chief Sam Mitchell and Grand Chief George Manuel discuss politics in the late fifties and early sixties. Back then they were trying to find a way to get a positive way of reclaiming stewardship of their lands which had been taken away by the governments of British Columbia and Canada through the Indian Act, claiming that they had granted us reserves in 1881 or the 1880s, but these were never finalized until 1938 through the Westminster

Act when they finalized the reserves for British Columbia. The land question has always been an issue, ever since I first started to understand what they were talking about in their struggles. Every summer I know Sam and George would try to sit down and talk about it. They were part of the founding body of the North American Indian Brotherhood which is a political body that was formed by some of the chiefs of British Columbia. There has always been a struggle for our hunting areas, our fishing areas, our general use of picking areas outside of our reserves. The restrictions on all those hunting and fishing areas and berry-picking areas really define our use of the resources and restrict us in a negative way. There have never been any papers signed to give any of those rights away, be it fishing or hunting or anything else, not to anyone. (Fred Alec 2011)

3.4 Formation of Union of BC Indian Chiefs in 1969 by all BC Chiefs

The 1969 White Paper on Indian Affairs was supposed to have been developed in response to a new ‘consultation process’ that was being exercised by the Liberal Party under Pierre Trudeau’s leadership. As Tennant points out, the new Minister of Indian Affairs, Jean Chrétien, indicated that he wanted to carry out consultations with *Indians* in order to allow them to have a real influence on *Indian* policy through planned amendments to the *Indian Act*. However, the federal government’s plan toward *Indian* assimilation came to a sudden stop when the draft document, the Statement of the Government of Canada on Indian Policy, was released in June 1969. (Tennant 1990:149) The government stated the proposed White Paper policy was an outcome of the ‘consultation process,’ and it called for the elimination of the *Department of Indian Affairs, Indian status, Indian reserves*, and the responsibility for *Indians* would be transferred to the provinces. As noted by Foster et. al., “the paper is condemned by most Aboriginal groups and organizations.” (Foster, Raven & Webber 2007:237) The chiefs understood the goals of the proposed changes to mean the outright denial of any indigenous rights and the exclusion of any government obligations or legislative protections for their people or rights.

A meeting was called for all the chiefs of BC in order to address the federal government's proposed 'White Paper' on Indian Affairs. The creation of the Union of British Columbia Indian Chiefs (UBCIC) as an indigenous political organization occurred in November 1969 at Kamloops following a five day meeting that was attended by most of the chiefs of British Columbia. Before the formation of the Union of British Columbia Indian Chiefs in 1969, the indigenous political organizations available for indigenous people included the Native Brotherhood of BC, the North American Indian Brotherhood, and the Indian Homemakers Association.

The federal government's 'White Paper' initiative during the late sixties has been viewed as a galvanizing element of the widespread political activism that began to develop again amongst indigenous leaders and peoples throughout British Columbia. "That White Paper policy was the first thing they put out. The statement was the one that opened the eyes of the people" (Des Peters Sr. 2011). When I asked another participant about the proposed federal White Paper policy, he said, "I heard that they had this so-called White Paper policy out and they were trying to force it onto our people and George Manuel and other leaders opposed it. They told us that we can't allow this Act to go through, this policy, this White Paper policy to go through, you know because it would do away with us as Indians, as the assimilation process" (Butch Bob 2011). Similarly when asked about the outstanding land issue, the important role played by the White Paper issue rose. The Elder described it as follows:

Well it actually started in 1969 when the White Paper policy came out. That was a big issue then because all the chiefs got in an uproar for that and they gathered and that's when the Union was formed. It was because the Prime Minister wanted people to go into the same stream of society as everybody else. To me it was more for the purpose of the land grab. (Des Peters Sr. 2011)

The underlying message was that the federal government wanted to do away with the 'special status' of indigenous peoples in Canada and hand the responsibility over to the provinces. "Well in 1969 when the Union of Chiefs was formed, that was what involved all the Chiefs. It was spelled out from this one man from the Island. He called a meeting with all the Chiefs and that's when it was explained outright, the deal they were trying to put through. It didn't benefit us."

(Des Peters Sr. 2011) This brought the indigenous leaders together in order to discuss the implications of the proposed federal White Paper. As described by the Elder:

They [government] thought 'why should one people get special treatment and the others don't? They should be put into the mainstream of society.' That was the days of putting the people all into one bag like so they could have land taxes and everything else. You know if you don't pay it, you're in lieu of taxes, and they generally take your land. So that was a big issue then. That's when all the people, well there was a 188 chiefs from all over, right from North West territories, the Island, from all over, who met in Kamloops in 1969. That was the first Union meeting. That's when it was established, the Union. Each area had a spokesman and ours was Victor Adolph. There were 11 chiefs and we all spoke the [St'át'imc] language when we met and we agreed on the issues that we wanted to put forward." (Des Peters Sr. 2011)

At this point, the connection between the intention of the federal government to wash its hands of its responsibilities to indigenous peoples through the proposed White Paper and the formation of the Union of BC Indian Chiefs and the continuing importance of the outstanding land issue amongst indigenous peoples came together. When asked what the Elders and older Chiefs were saying about the land issue during this time, the informant said:

Well they always said that it was our land. Well there was Sam Mitchell there, Baptiste Richie, Eddie Thevarge, Charlie Mack, Ernest Jacob, you know. They always stated, you know they always said "it's our land, what are they doing with it?" They said "The people should open their eyes and look what has happened to us," you know. "Did we go to sleep or did we forget what we are supposed to be doing?" Yeah, they knew, they realized it. 'Now that we are all together, the hundred and eighty-eight, we can have a little strength,' they figured. And that's what started it off. See we had eleven bands here and all the different coastal

bands, they all formed their different councils or whatever they had, the north you know, the east, all through Vernon, Spallumcheen, and all that, Cranbrook, Chilliwack, they all had their own. The geography was all different, from one place to another too. See they were fighting for the shores, the Island, and the trees. The same as here.” (Des Peters Sr. 2011)

The indigenous leaders of the day came together to oppose the federal White Paper initiative, but it also brought them back together into a form of unity where they began to address the outstanding land issue from the position of political alliances on the matter. The leaders of the 1969 meeting that brought about the development of the Union of British Columbia Indian Chiefs continued to be strongly influenced by the Elders and previous leaders who had kept the land issue alive through the years when it was legislatively restricted.

In order to counter this undertaking by the *Department of Indian Affairs*, especially in light of the fact that the outstanding land issue had never been addressed, the chiefs in attendance at the unprecedented assembly voted on forming the Union of BC Indian Chiefs. This brought about a whole new wave of political activism, the primary focus of which was the outstanding indigenous land issue in British Columbia. It inspired the renewal of collaborative efforts from indigenous peoples across the province to work together to bring attention to the indigenous land issue. The UBCIC carried out much of its work over the years since then by putting its energies toward supporting indigenous communities and peoples as they worked to protect their lands and resources from ongoing expansion of settler populations and business corporate interests. In these activities, they offered meaningful support to often isolated communities that would have otherwise been facing the threat to their territories on their own. As one informant stated, “My belief is that the Union of BC Indian Chiefs was formed to resolve the outstanding land question” (Butch Bob 2011). As such, its mandate has been and continues to be

to provide whatever supports they can to protect and move forward the indigenous land issue and to work upon raising public awareness of indigenous political and legal concerns as well as holding the government and business corporations accountable in addressing these.

Most noteworthy, from an indigenous perspective, is the stated position of the Union of BC Indian Chiefs of refusing to engage in any negotiations or processes that would result in the extinguishment of indigenous title and rights. (UBCIC 2004) Often times, upholding this position has put the UBCIC representatives and its membership into positions that differed from various other groups or entities that wanted to have the opportunity to carry out negotiations and reach settlements even if they included extinguishment of their title and rights. For example, UBCIC representatives have been set against the federal Comprehensive Land Claims Policy and the British Columbia Treaty Commission treaty process for these very reasons. The tradition of this political organization has been to maintain the position of upholding indigenous title and rights, and at various times through its history, this commitment caused considerable strife amongst indigenous political organizations with different perspectives. Nevertheless, there remains a strong contingent of indigenous peoples and communities that are committed to the UBCIC principles. The UBCIC upholds as its position the responsibility “to hold the federal government to its fiduciary obligations and have them change their extinguishment policy and to continue to defend our Aboriginal Title through the revival of our way of life (political, social, economic and spiritual)” (UBCIC 2004). The governments have worked to curtail the efforts of this contingent of community representatives from throughout BC making up the UBCIC who, consistently without a viable alternative, continue to be politically active on the ground, raising the outstanding indigenous land issue and working to protect indigenous lands, resources, and rights.

3.5 Nisga'a Case Goes Forward

Once the federal restrictions were lifted against seeking legal recourse for recognition of indigenous title in BC through the 1951 changes to the *Indian Act*, the Nisga'a Tribal Council began preparing to put the question of Aboriginal title before the domestic courts. Their case went before the domestic courts in 1968. As noted by Foster (2009) the second campaign had begun, and in many respects, it both resurrected and resembled the first campaign for recognition of indigenous title in BC that had been shut down through the 1927 restriction. For instance, the legal argument was basically the same, relying on the same legal foundations that their predecessors had. He stated, "... victory seemed unlikely. But at least this time the case got to court. Their counsel, Thomas Berger, elected to proceed without seeking government consent to sue, and although technically they lost, in reality they won." (Foster 2009:136) Even as the domestic court systems were finally able to be approached to address the outstanding indigenous land issue in BC, the judicial environment was, at the outset, not very receptive to the cases being put before the bench. Along similar lines, in referring to the outcome of the legal restriction, D. Harris (2009:137) points out that the result of the 1927-51 legal restriction was to bar avenues for addressing Aboriginal rights and as a consequence these rights were not within the realm of the judiciary in British Columbia when they began to be raised in the domestic courtrooms. After the Nisga'a began their campaign to raise the land issue again, they were the first to bring their case into litigation for what was to become known as the *Calder* case.

The significance of this early push for legal recognition of the outstanding indigenous land issue is that it continues as a central part of current indigenous accounts. For example, one informant stated, "The Nisga'a people were probably the strongest, in my mind you know, when

it came to title and rights and how to keep it alive. You know a lot of great leaders in the past, like George Manuel and Andy Paull, continued working on title and rights without compromise.” (Butch Bob 2011) When asked about anything else that he would like to add about the history of the outstanding indigenous land issue, he added:

Well knowing that it has always been our land, and seeing how the governments continue to manipulate things. The other one there that had a real impression on me was James Gosnell of the Nisga’a. When I first heard him speak in Kamloops on Aboriginal title and rights, he said “we own it, lock, stock, and barrel.” I never ever forgot that. That’s what stuck out to me about James Gosnell.” (Butch Bob 2011)

While legislation and regulations continued to be developed in order to strengthen the Crown assertions of sovereignty over the lands and resources, indigenous leaders also continued to uphold their position of indigenous ownership of the lands and they pushed to have this fact recognized by the provincial and dominion governments.

This prominent case by the Nisga’a advanced first through the British Columbia Supreme Court, then onto the British Columbia Court of Appeal, and finally onto the Supreme Court of Canada. In the court case, the province argued that Aboriginal title never existed in British Columbia, but that if it had, it had been extinguished. At a recent *Doctrine of Discovery* workshop presentation put on by indigenous peoples, it was noted that the British Columbia government always presents the argument of *terra nullius* in its Aboriginal title litigations. (DoD Workshop, 2012) By 1969 the British Columbia Supreme Court ruled against the Nisga’a in the *Calder* case, basically stating that whatever the legal status of Aboriginal title, it had been extinguished. It was then appealed to the British Columbia Court of Appeal where they went further saying that Aboriginal title did not exist. It was in 1970 when the BC Court of Appeal unanimously dismissed the Nisga’a appeal in *Calder* (Foster, Raven, Webber 2007). It was

through this provincial judicial process that it became increasingly clear that justice would still not be easily attainable for indigenous peoples through the Canadian domestic legal system.

D. Harris (2009:143) points out that Thomas Berger and the Nisga'a had a considerable challenge to demonstrate that the province was wrong in law, a challenge compounded by the fact that such a finding would disrupt deeply seated assumptions within the province about the inviolability of the Crown's title. The colonial-settler biases that were explicitly embedded in the British Columbia and Canadian governing system were also deeply entrenched within the judicial system. For example, as described by D. Harris (2009:144) "... Chief Justice Davey found that 'they [the Nisga'a] were undoubtedly at the time of settlement a very primitive people with few of the institutions of civilized society, and none at all of our notions of private property.' The judgment reflected provincial policy and broadly accepted public perceptions." After each pronouncement from the Canadian justice system against the Nisga'a at the lower courts, the inherent futility of turning to the justice system of Her Majesty the Queen or the Crown was becoming more apparent. This reality was particularly pronounced since successive provincial governments had consistently denied the existence or relevance of any such thing as indigenous land ownership in BC. The lower courts were not prepared to go against the Province and its claims of ownership and jurisdiction over un-surrendered lands belonging to the Nisga'a. Nor were the Nisga'a prepared to be denied, and at each negative pronouncement to them by the domestic courts, the Nisga'a simply brought their case up to the next level.

Accordingly, following the loss at the BC Court of Appeal, the *Calder* case went on to the Supreme Court of Canada (SCC). As noted by Harris (2009:148), "in *Calder* the SCC had announced that Aboriginal title was an interest of legal consequence. Whether it had been

extinguished in British Columbia remained to be resolved, as did the details of its content.” In 1973, the Court recognized that Aboriginal title is, in fact, part of Canadian law, but they were split three to three on whether or not the Nisga’a still had title. And further, they did not know what exactly ‘Aboriginal title’ meant to them within their judicial system.

It was an effort, once you understand about the machinery of government, of the court basically saying to the politicians, ‘we don’t want to make this decision. ... We consider it more of a political decision. You guys come up with some kind of political decision.’ You need to realize that these Supreme Court judges, they sit around a boardroom table and they talk about this kind of stuff. It’s not like an accident that they all come out and take a vote on their decision and whether they’re going to throw it out on a technicality or not. But anyways, so people from legal scholars and so on, you just hear them say it was thrown out on a technicality (Art Manuel 2011).

Other than providing that the concept of Aboriginal title did, in fact, exist in Canadian law, the SCC chose to send the matter back to the political realm to address. Otherwise the SCC determined that the appeal was to be dismissed on a technicality, since four of the seven judges found that the Nisga’a should have obtained the Crown’s permission to sue. “It is now clear that the Crown has legally binding obligations towards Aboriginal peoples of Canada. Courts seemed unwilling to recognize this fact prior to the *Calder* case in 1973.” (Borrows 2007:202) However, other than the recognition of existing legal obligations in the British and, thus, Canadian legal systems, even the Supreme Court of Canada was not willing to present a binding decision on the outstanding indigenous land issue. This ruling provided a step forward from outright denial; however it also maintained and expanded upon the reliable mechanism of ‘delay.’

In discussing the outstanding land issue with an indigenous leader, Art Manuel pulled the various threads of the issue together and provided a much broader perspective than is often afforded the topic in accepted treatments. He stated:

So the land question is still here. It's paramount. The way the government has kind of skirted around the BC Indian land question was to actually initiate the 1973 federal Comprehensive Land Claims Policy. It is important to understand the policy a bit and how it was developed in order to really understand how the government is pushing the assimilation policy. Back then in 1973 the reason they came up with the policy was because of the Nisga'a case. That was the case where the Supreme Court of Canada was divided on whether or not Aboriginal title actually survived confederation. On the one hand three said basically it did, and three basically said no, it didn't, and the seventh one threw it out basically on a technicality that the Nisga'a didn't have the provincial government's permission to sue them." (Art Manuel 2011)

This participant tied together the provincial government's effort to avoid the outstanding indigenous land issue with the Supreme Court's avoidance of any binding outcomes and the federal government's development of the Comprehensive Land Claims Policy together. Based on this insightful perspective, it can be reasonably inferred that treating these elements as being separate issues, rather than being intricately tied to one another, is a matter of inclination rather than of fact. The finding of the Supreme Court of Canada in the *Calder* case that the concept of Aboriginal title did in fact have a legal basis in Canadian law was enough to get notice from the Prime Minister, Pierre Elliott Trudeau. This initiated a change of direction by the federal government from one of outright denial and neglect of the land issue toward one that was formed to extinguish any remaining indigenous land ownership in places where treaties had not yet occurred. After the 1973 SCC split decision, the legal battle concluded for the Nisga'a and they went into the Comprehensive Land Claims Policy process that was developed and offered by the federal government. The Aboriginal title issue did not to reach the Supreme Court of Canada level again until the 1997 *Delgamuukw* ruling.

3.6 Trudeau Forms ‘Blanket Extinguishment’ Comprehensive Land Claims Policy

A change of heart by Prime Minister Trudeau following the *Calder* case brought about the introduction in 1973 of the federal Comprehensive Land Claims Policy (CLCP). This new federal policy followed a dry spell of fifty-two years in which Canada, like British Columbia, had also decided that it was not necessary to negotiate treaties with indigenous peoples and instead began relying primarily upon the assimilation policies of the *Indian Act*. Previously following Britain’s early establishment of Canada as a dominion government, the federal government had been facilitating treaties with indigenous peoples in the prairie provinces known as the ‘numbered treaties.’ This approach ended in 1921, around the same time that federal legislation was prepared to outlaw the legal pursuance of the outstanding land issue in British Columbia. Even these early treaties with Canada were and continue to be a source of contention amongst the indigenous peoples affected. Similar to the Vancouver Island treaties, the concept and inclusion of land title extinguishment in the written text appears to have been a unilateral development included through a separately developed template. With regard to the early British and federal approach to treaties, the Royal Commission on Aboriginal Peoples (1996:127) points to the European claim to sovereignty over the land and people as being written into the terms of the treaties, but that these same concepts had not been communicated orally to the indigenous signatories.

Accordingly, by the time Pierre Elliott Trudeau was Prime Minister of the Canadian government, treaties were simply viewed as being irrelevant aspects of a long-ago history. “The treaties, to Canada, are often regarded as inconvenient and obsolete relics of the early days of this country” (RCAP 1996:128). It was into this political context that the Nisga’a legal initiative,

the *Calder* case, originating in BC, was delivered by the Supreme Court of Canada. Shortly after the *Calder* Case at the SCC, Trudeau's government allowed for the negotiation of comprehensive 'claims' over regions that had not had treaties. Just as the legal cases launched for recognition of indigenous land title became known as land 'claims' litigation, the federal government's idea of settling the outstanding land issues with indigenous peoples became written into federal policy framed as a process of 'claiming' their inherent territorial lands.

Indigenous peoples who have been involved politically on the outstanding land issue had watched the government's reaction to the litigation process and how the executive branch of the federal government responded to the court rulings. Following the Nisga'a decision, one participant shared the following:

The government reacted to that by establishing the first federal Comprehensive Land Claims Policy and that policy was based on a couple of facts. One of them is that the federal government basically said that 'your Aboriginal title is not being judicially recognized by the courts and your Aboriginal title has not been recognized by Parliament therefore we don't really know whether you do have or do not have Aboriginal title. That's unclear so what we're going to do is if you want to negotiate with us you have to agree to a blanket extinguishment policy that would result in your giving up whatever title you may have.' So basically they initiated or established in the policy the 'cede, surrender, and release' policy of the old numbered treaties. I know that's a big issue in the land settlement agreements where they say basically that the tribe cedes, surrenders, and releases all title for their land. So that was generally the government's response to land claims. The other thing is in terms of process. They said that only six groups could negotiate at any given time. (Art Manuel 2011)

There have been several problems with the federal approach toward comprehensive claims, of which the policy of extinguishment of title and rights has been the most prominent. As explained by Alcantara (2007:345) "a comprehensive land claims agreement can address only a limited range of issues and must in the end provide a full, certain, and final listing of all the rights and lands that a group may have now and in the future." As described by a participant:

My dad was actually back in Ottawa in the NIB (Native Indian Brotherhood) at that time and he actually told people to reject it, not to negotiate. He was really upset because soon as the government opened their doors, they had six groups lined up, that started negotiating way back in '73 through that extinguishment policy. So they actually said it in the framework, the direction they were going way back when their chiefs first started negotiating. My dad's feeling was that they should reject it. (Art Manuel 2011)

The participant described how since the turn of the twentieth century, when the indigenous leaders from the Interior were traveling to England, we have been trying to get recognition for the land issue, trying to figure out a mechanism that would go before this policy [of extinguishment], whether through the courts, through Parliament, or internationally. He states:

We've all been struggling, pushing this issue, trying to get some reaction, some kind of policy from the government to fairly and justly settle this issue. So that was their policy, in 1973, this blanket extinguishment policy. People, I think, need to understand what that really means is the Cabinet made a political decision that they're going to blanket extinguish the land rights of indigenous peoples which would finalize the assimilation of indigenous people, finalize the termination, the death of the peoples, nations. (Art Manuel 2011)

The CLCP provides another example of how governments have continued using legislative initiatives, which in turn formulate the government objectives into a 'legal' reality. These are then placed within the regulatory frameworks that act to steer the ways in which the outstanding land issue has been treated and maintained. The CLCP, which involves a long process of negotiation, is an example of the federal government's strategies on the land issue until extinguishment of title can be reached.

There have been several petitions by indigenous peoples to bring about change to the Comprehensive Land Claims Policy. For example, Art Manuel has worked with the Assembly of First Nations (AFN) over the years in attempting to have the executive branch of the federal government consider bringing forth a change in response to recent Supreme Court of Canada

decisions. Manuel was a committee member on the Delgamuukw Implementation Strategic Committee (DISC) which received a mandate from the AFN to press the federal government to take into consideration not only the inclusion of the protection of Aboriginal rights in the Canadian Constitution, but also the Supreme Court of Canada rulings over the years that recognized the viability of Aboriginal title in Canadian law and, later, the continued existence of Aboriginal title. Governmental recognition of these judicial rulings at the executive and legislative levels could, in turn, allow for meaningful change to the Comprehensive Land Claims Policy.

However when the Minister of Indian Affairs, Robert Nault, did reply to the DISC about implementing the 1997 *Delgamuukw* Supreme Court of Canada judicial recognition of Aboriginal title, it amounted to a letter of refusal to consider their request to address or update the Comprehensive Land Claims Policy. Instead, Minister Nault replied that since a significant number of indigenous groups were actively involved in the British Columbia Treaty Commission treaty process that there was no need to follow up on any requests for changes to the current policy for addressing the outstanding land issue. This has effectively resulted in a clear limitation upon indigenous peoples that do not wish to participate in the pre-determined negotiation process set out by the federal and provincial governments. The federal government's staunch refusal to change this policy has remained consistent for over four decades. The 'negotiating' template that is used by the Comprehensive Land Claims Policy process continues to lead the federal government's approach in British Columbia overall as it forms the basis of the Nisga'a Final Agreement deal and is also the foundation of the British Columbia Treaty Commission process.

3.7 Constitution Express and Canadian Constitution (1982)

In 1979, while the Union of BC Indian Chiefs was debating its twenty-four point Aboriginal Rights Position Paper across the province, the federal government under the direction of Prime Minister Trudeau began the drive to develop the new constitution for Canada. Amongst influential events were indigenous activities in response to Canada's aim of further refining the *1867 British North America Act* into the amended *Canadian Constitution of 1982*. This initiated one of the strongest indigenous protest activities in Canadian history, most notably the UBCIC chartered train called the Constitution Express, influencing the protection of Aboriginal and treaty rights before the Constitution was approved. In addition to Prime Minister Trudeau's acceptance of its legal significance, several noteworthy occurrences followed the *Calder* case outcome at the Supreme Court of Canada and the development of the CLCP. Douglas Harris (2009:162) points to the influence of the 1973 Supreme Court of Canada decision in *Calder* that led to the 1982 constitutional entrenchment of Aboriginal and treaty rights into Canada's legal framework. Indigenous leaders continue to point to the significance of the protest activities of many indigenous people from BC and across the country related to the Canadian Constitution.

The initial proposal by Prime Minister Trudeau for amending the Constitution placed its emphasis upon the commonly accepted model of the 'two founding nations,' while making no reference to outstanding indigenous land issues or the historical treaties. Prior to the approval of the proposed Constitution in Britain, indigenous peoples in British Columbia and across the country took focused actions to protest against their exclusion from it. The 'two founding nations' approach amounted to a clear disregard for any legal recognition or protection of aboriginal and treaty rights. By 1980, the Union of BC Indian Chiefs, under the leadership of

George Manuel was seeking alliance with the National Indian Brotherhood in order to challenge the federal government's exclusionary approach. Upon analysis of Trudeau's proposal, it became clear that George Manuel's concerns were confirmed (McFarlane 1993:266). Another factor that acted to further cement indigenous exclusion involved consultations between the provincial premiers and Trudeau in which the governments worried that any recognition of aboriginal rights would be detrimental to provincial control of lands and resources. These activities provide insight into how maintaining control over indigenous lands remained a prominent issue of concern for both levels of government. As a result of this exclusion, protest activities by indigenous peoples broke open upon the Canadian political arena and beyond. These actions extended across the country with the chartering of a passenger train from Vancouver to Ottawa, dubbed the Constitution Express. In addition, the protest activities extended onto London, England and to the international arena through the United Nations at New York. As described by one political leader:

In 1979, the UBCIC drafted the Aboriginal Rights Position Paper. It was in '79 that Trudeau announced they were going to patriate the Constitution. In 1981 was the Constitutional Express. All of the sovereign indigenous nations across the country petitioned the Queen to stop the patriation process until an agreement was reached with all the indigenous nations of Canada which eventually gave rise to the Constitution Express in '81. Members of the Constitutional Express ended up going all the way to New York, because once they got to Ottawa, a delegation went to the United Nations in New York." (Stewart Phillip 2011)

Working from his base with the Union of BC Indian Chiefs, George Manuel along with nine other BC chiefs began legal proceedings to counter the process. "In the summer of 1980, he files a legal declaration in the Federal Court 'to ensure that no patriation occurs without the consent of the Indian Nations'." (McFarlane 1993:268) With the goal of taking the constitution protest to the steps of Parliament Hill, plans were made by George Manuel and UBCIC for the

Constitutional Express. “He told the delegates of his plan for a Constitutional Express: the Union would charter trains to take hundreds of BC Indians to Ottawa to demand that aboriginal rights be included in Trudeau’s patriation package and that those rights take precedence over the Charter of Rights.” (1993:270) In addition, a petition was delivered to the Governor General, the Queen’s representative in Canada, calling on the Queen to reject the patriation of the Constitution until agreement was reached with the indigenous peoples and further to separate them from the jurisdiction and control of the Canadian government.

The Constitutional Express traveled across Canada, garnering significant media attention and public support, including support from the Ottawa mayor when they arrived in the city. Plans were developed to take the issue to the United Nations in New York, where it was to be put before the Decolonization Committee. As described by McFarlane (1993:285):

The Constitutional Express and its immediate aftermath had, in fact, turned out to be a significant turning point in Canada’s relations with the First Nations. It signalled for the first time that Indian leaders were to be dealt in as players in the constitutional game. Under George Manuel’s leadership, the Indian people of Canada had pushed themselves into the hall where the constitution was being decided and they would not be pushed outside again.

The next step taken by George Manuel and the Union of BC Indian Chiefs was to take their concern to the European powers.

The Union leader had hired a British lawyer to take the matter to the High Court in London to try to get an injunction against patriation. “Specifically what the Union was asking for was a veto power in the amending formula on any issue that touched on aboriginal or treaty rights.” (McFarlane 1993:286) During that autumn, one hundred UBCIC representatives and members traveled to Europe to make a last ditch effort to try to block the constitution. While they were over there, the delegation and their message were very well received. Back in Canada,

this contingency dubbed the ‘European Express’ being carried out by the UBCIC delegates was also causing quite a stir. “Prime Minister Trudeau had heard that the patriation would likely be refused by the British if the Canadian House of Commons was divided along party lines on the issue, so he was forced to go back to the premiers and ask them to reinstate the two aboriginal rights clauses to his package.” The final wording agreed to by all provincial premiers for Section 35 of the Constitution, titled Rights of the Aboriginal Peoples of Canada included, “The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed” (Canada 1982).

In discussing this with one of the indigenous leaders, he stated, “their position back then was that there should be no patriation of the Canadian Constitution and I agreed with that. There shouldn’t have been patriation of the Canadian Constitution, but England would not go along with that” (Art Manuel 2011). He pointed out that the government representatives that were pushing to patriate the Canadian Constitution, Prime Minister Pierre Elliott Trudeau and Minister of Justice Jean Chretien, were the same political players that tabled the 1969 White Paper which was designed to legislatively eliminate indigenous peoples altogether. This participant also described how the Union of BC Indian Chiefs and the grassroots indigenous people all across the province and, later, all across the country, worked very hard pushing this issue in every conceivable way. He further stated, “I know that the train, the Constitution Express train, as far as I’m concerned, was the most significant and most powerful indigenous demonstration that there has been because it basically got the British Parliament to actually force Canada into recognizing existing Aboriginal and treaty rights. It forced them into it” (Art Manuel 2011). The Constitutional Express ensured the constitutional protection of aboriginal rights including title.

He indicated that even though some people were disappointed that the Constitution got patriated anyway, the BC indigenous peoples that led that work were successful in terms of getting that protection put into the 1982 Canadian Constitution.

I tell people that they shouldn't be feeling any regret or any kind of remorse. I think the position they took, that it shouldn't be patriated, was the strong position and it forced the protection that came in under 35(1). If they didn't take that strong position to begin with, we would have ended up with something a hell of a lot less, you know, so they actually did what they had to do. We are one of the few people in the world that have been put into the Constitution, put into the Constitution with recognition and protection for indigenous people. This is something that other countries never did, but they were able to do that in a peaceful manner and were very strong. And they have to be congratulated over and over again because I know there were a lot of other people involved in the following negotiations, but the framework to ensure that indigenous peoples were going to be recognized and protected within the Canadian Constitution was established first. (Art Manuel 2011)

The 1982 patriation of the Canadian Constitution and the indigenous protest also came up a few times during interviews on the land issue with some of the other participants when asked about the various political and legal actions taken by both indigenous peoples and governments.

One participant stated:

Well politically there have been a lot of meetings with the governments over the years, at least since the sixties, sixty nine. There were a lot of meetings, a lot of discussions, you know when the Constitution was patriated into Canada, and there was a big fight to have our rights recognized. They put it in there, existing rights hey, still undefined. But that was a big fight that the leadership of the day put up you know and they have to be admired for that. It's not everything that we wanted, but you know it's there for someone to pick up that torch eventually and to define what those rights are that we have under the Constitution. (Butch Bob 2011)

When I attended at a political meeting of indigenous leaders in March 2012, one of the speakers reminded delegates how the Constitution Express protest movement by indigenous peoples during the early development of the Canadian Constitution was effective in forcing Canada to

recognize Aboriginal title and rights (Indigenous Political Meeting 2012). As described by an interviewee from an indigenous political organization:

The way Britain set up Canada was that only the federal and provincial governments, these two settler governments, had mutually and exclusively one hundred percent control. And it wasn't until the Constitution Express went and forced the government to add Section 35(1) which said that the federal and provincial governments will recognize existing Aboriginal and treaty rights, that really put into place a framework for a third order of government. (Art Manuel 2011)

Elevating these rights and embedding them within the Canadian Constitution, often referred to as being the highest form of the 'Rule of Law' within the Canadian legal system, initially served to change the legal landscape for raising indigenous issues. As noted by Borrows (2007), prior to the Constitutional recognition of Aboriginal and treaty rights through Section 35(1), the Crown viewed itself as being above and beyond constraint with respect to its treatment of indigenous peoples. He states:

It spoke and acted as if its power was absolute and could not be questioned. In 1982, when Aboriginal and treaty rights were placed in section 35 of Canada's constitution, Crown obligations followed. Aboriginal and treaty rights did not enjoy strength until the government's legal duty to honour Aboriginal peoples' rights were recognized and affirmed. Since governments are interposed between Aboriginal peoples and others when it comes to dealing with Aboriginal rights, they have the greatest potential to erode these rights if they do not possess firm legal obligations. (Borrows 2007:205)

Before this change, the governing and the judicial systems both had decidedly relegated indigenous peoples and indigenous issues, legislatively and logistically, far into the background.

It was these tumultuous times, during the decades leading up to the Canadian Constitution Act in 1982, that saw the recognition of existing Aboriginal and treaty rights in what is described as their highest form of law. It was during the 111 years between the time when British Columbia joined confederation on up to the official recognition of Aboriginal and

treaty rights through the Canadian Constitution that generations of indigenous peoples were being forcefully compelled by the *Indian Act* system toward circumscribing much of their survival activities to the confines of the *Indian reserves*, dealing with the *Indian agency* system, and being legislatively delegated into the *Indian residential school* system. Underlying all of these is the common denominator which has seen governments relentlessly acting to entrench control of the land and extend assertions of their jurisdiction. All of these legislative and regulatory administered systems of suppression, control, and assimilation are systemically interconnected elements which are rooted in the seemingly diverse approaches of British colonialism in both British Columbia and Canada.

Chapter 4: Oka: the Catalyst for the Current Tripartite BCTC Treaty Process

The most important element arising from the 1990 Oka confrontation, particularly as it influenced circumstances in British Columbia, was the pivotal role it played for indigenous peoples in raising the outstanding land issue from its position of relative obscurity into broad public awareness. In this chapter I explore how the Mohawk land confrontation in Oka Quebec ignited several protest activities and demonstrations over the outstanding indigenous land issue in BC and I also aim to show how these ultimately influenced the development of the British Columbia Treaty Commission (BCTC) process. At first glance, the Oka confrontation and the ensuing development of the BCTC process in BC may have given the impression that progress could finally take shape toward resolving the long outstanding land issue. Upon closer examination of how indigenous peoples have experienced this process, research participants share how the governments have inevitably developed the negotiation structure in such a fashion as to ensure their retention of power and control in both the process itself and in any potential agreements. By all accounts this old pattern has revealed itself yet again through the BCTC treaty process. I provide an illustration of the connections between old colonial political positions of the 'Crown' and the form the BCTC treaty process has taken by highlighting the continuance of this pattern of power maintenance. Since the BCTC treaty process falls far short of their established negotiating position, a significant proportion of indigenous peoples in BC refuse to enter into the inequitably shaped process. Others who have entered it have been endlessly attempting to get the governments to engage fairly while accumulating millions of dollars of debt for their communities. The chapter closes by showing the general consensus amongst indigenous

peoples that the BCTC treaty efforts are essentially a failed process, but that it is maintained for the purpose of ensuring the ‘status quo.’

4.1 The Oka Confrontation on Land Issues: Pivotal for St’át’imc

The outstanding land issue has been and continues to be the primary political concern for St’át’imc people and leaders. The continuity of its importance is demonstrated in the descriptions provided by the research participants about their protest actions in the summer of 1990.

Responses given by well-known research participants from the Interior to my interview questions concerning events they were involved in with the outstanding indigenous land issue refer to experiences that occurred as a result of the Oka confrontation. As stated by Roger Adolph, one interviewee, “I guess the biggest time during my time as chief when I felt I really made a difference standing for Aboriginal title was in 1990 when it came to the road and train blockades.” In describing this, Roger Adolph stated:

That was probably my most memorable time as a Chief, I would say, where we did anything that was any good because we made a stand. A lot of people got involved. People were just saying ‘enough is enough.’ All the abuse that was going on with our land, our land being stolen, taken, and the abuses going on against our people, people were standing up. (2011)

I was told that prior to the 1990 Oka Crisis and the ensuing blockades that occurred across the country, the St’át’imc Chiefs of the eleven communities had been working on moving beyond the reserve level issues and joining together again to address the land issue.

As was the norm, the governments simply refused to entertain the subject of the outstanding land issue with indigenous peoples in BC. Working altogether amongst all of the eleven St’át’imc communities on the land issue was viewed as the only viable approach that may garner some meaningful attention. There was a keen awareness amongst the leadership that the

Indian Act had significant influence over the people by this time so there were also real concerns related to this. Roger Adolph explained his own experience and how he “tried to avoid the whole *Indian Act* system, but he saw that it was there, right within our people, in everything that was done, up until 1990 when the Oka Crisis hit” (Roger Adolph 2011). Having been an elected chief of his community for 21 years, he expressed “Right from the beginning, I never did agree with the *Indian Act* system. Never did and I never will. It’s just a system that’s geared for failure and that’s what is going on, and I never did agree with it. However, I did become involved in it.” When asked about his view on the role of the *Indian Act* system in how the land issue took shape, he replied “It’s more than just my view. It’s a fact that the *Indian Act* system played a negative and destructive role in stopping our people from pursuing aboriginal title and rights.” The view that the regulatory and legislative imposition of the *Indian Act* system served as a deterrent to actively pursuing the outstanding land issue for many years is widely shared amongst the people that have sought to address it.

Although the *Indian Act* system was in full practice amongst the St’át’imc by 1990, all of the eleven Chiefs had previously agreed to get together for a meeting on the land issue. At this meeting, it was determined amongst themselves that since the *Declaration of the Lillooet Tribe May 10, 1911*, which was put together based on the strong position of territorial ownership of past Chiefs in protest to the theft of their lands, it could be relied upon as a form of direction. A part of the *Declaration* that the old Chiefs agreed to was the eight articles of the *Declaration of Indian Chiefs in the Southern Interior of BC, July 16, 1910*, which indicated that they stood for treaty rights with the dominion government, the same as all the Indian tribes in the other provinces of Canada. When the meeting of the eleven chiefs of the St’át’imc communities was

held, the plan at that time was that they would follow the Union of BC Indian Chiefs' political position, which was based on the principle of non-extinguishment of title. (See Appendix A) Roger Adolph (2011) continued, "So we said 'okay, we're going to get it up and running and we're going to start pushing for it.' Then July 11th came, 1990. The Oka Crisis hit." Once the Oka crisis occurred with the shooting incident and the advance of the Canadian Army upon the Mohawk, a number of St'át'imc leaders and people began to step outside of the confines of the *Indian Act* structure in order to make a stand for the land in a dramatic fashion.

The St'át'imc, like many indigenous peoples across Canada, felt a sense of connection with the Mohawk in their circumstances and their predicament, where they were required to either bow down to the forces that were pressing upon them or take a stand to protect their lands. The Mohawk protest camps arose when the March 1989 proposal for an expansion of a golf course and a new luxury homes subdivision by the Oka Golf Club and the town municipality was set out. The areas designated for these activities held a Mohawk graveyard as well as the community lacrosse field and were also the last remaining forested lands in the Kanésatake Mohawk lands. The events escalated from being three peaceful Mohawk protest camps to its pinnacle on July 11, 1990. The escalation of events began with the Oka Mayor calling in the police, initiating a raid by the Sûreté du Québec provincial police, which culminated in a brief but intense exchange of gunfire that ended in the shooting death of a police officer. As the police surrounded the Mohawk, the Mercier Bridge, a major thoroughway, was blockaded and the Army was brought in to confront the Mohawk people.

The reaction of indigenous peoples across Canada about the conflict and the treatment that the Mohawks were receiving was one of direct connection with them and their cause. This

was primarily due to the reality that most indigenous peoples in Canada had been receiving the same treatment for years in the form of avoidance and neglect of indigenous land issues while non-native people, municipalities, provinces, along with the federal government continued to use legislative powers along with stringent control mechanisms to maintain their unhindered access to the same lands. Blockades in support of the Mohawk people at Oka began to spring up across the country, but most notably in BC. where the outstanding land issue remained a concern of utmost importance amongst indigenous peoples.

4.2 St'át'imc Blockades

The first blockade in St'át'imc territory following the Oka shooting incident began in Ts'kw'aylaxw (Pavilion) with Chief Butch Bob. Ts'kw'aylaxw is the eastern-most community of the St'át'imc territory and is known as a border community between the Secwepemc and St'át'imc territories. During the *Department of Indian Affairs* establishment of *Indian bands*, the Leon's Creek people who were Secwepemc were joined together with the Ts'kw'aylaxw people who were St'át'imc on the Pavilion *Indian reserve* and into one *Indian band* for administrative purposes. Since then the community members have been made up of both St'át'imc and Secwepemc heritage. This area is known as the east gate of the St'át'imc territory.

When Chief Butch Bob was asked about his involvement with the outstanding land issue during our interview, he likewise referred to the Oka confrontation and the actions he took to set up a road block at his community in response to it. As a further point of interest, Chief Butch Bob is also a descendant of the hereditary chief who was active during the early twentieth century when the *Declaration of the Lillooet Tribe* was written and who had signed the various

petitions on behalf of Pavilion. In reflecting on his involvement with the 1990 St'át'imc blockades following the Oka confrontation, Chief Butch Bob said:

It was regarding the land, you know. There were a lot of people involved. There could've been more. That went on for quite a few months and there were a lot of people, you know, people made a lot of sacrifices. (2011)

Butch Bob described how his frustration reached a tipping point after he had watched the news on July 11, 1990 about what happened over in Oka Quebec with the Mohawk protest camps and the police raid which resulted in the shooting incident. He shared how he was very disturbed about the circumstances that occurred as the Mohawk tried to protect their land. When he was driving back home to Pavilion he was wondering about how he could do something to show support for them. By the time he was half way home, he had made up his mind to put up a highway blockade by his reserve community. He stated, "I made up my mind that nobody is going to go through Ts'kw'aylaxw." Chief Butch Bob described how he discussed his idea with one of his contacts, and how he then went out onto Highway 99N next to Pavilion early the following morning. When he first went out on the highway, his intention was to only be out there for twelve hours and to stop everyone from going through there. He described how it felt, being the only one out on the road and wondering if anyone else was going to join him. He said he would never forget [the first two community members] to come out to join him. He said "I think it was three hours later I was in jail, and I told the cops, 'you know this is a bad move, you guys are going to throw me in jail, hell people are going to get riled up and there's going to be more.' Sure enough, they slapped one up on Fountain Flats before I even got out of jail." Once word was out that one of the Chiefs got arrested for blocking the road in response to the Mohawk conflict over their land issue at Oka, more protest activities began to occur. The second

roadblock in St'át'imc territory, put up in response to both the arrest of Chief Butch Bob and in response to the Mohawk land dispute at Oka, took place at Xaxli'p (Fountain) on Fountain Flats. This was also on Highway 99 North, just outside of the town of Lillooet. Chief Roger Adolph described how he indicated to the people there that if it was a peaceful protest, he would support it and would be the first to put his vehicle across the road. He followed through by getting hold of the Fountain Ranch truck and put it across the road. The protest went on for several days.

Since the outstanding land issue has been understood as being the single most important underlying concern of our people, these activities were deemed as stepping outside of the *Department of Indian Affairs (DIA)* parameters and its programs which *band councils* are mandated to deal with. The chiefs involved are clear that the actions they took were for the purpose of pushing the outstanding land issues forward. Several people from the Seton Lake community, one of the eleven St'át'imc bands, had supported the roadblock at Xaxli'p. After the Fountain Flats blockade had been up for a while, the next blockade put up by the St'át'imc was at the Seton-Shalalth railway. As described by Chief Butch Bob of Pavilion, “we moved to Seton Lake because Seton Lake people asked us to go down there to block the railway.” It was determined that this would be the best place to make their stand for the outstanding land issue.

As described by Chief Roger Adolph:

We got together and we decided ‘look, we got to hit them where it really hurts them and that’s in their pocketbook’. We were going to throw a rail blockade down here. At that time it was still the BC Rail, then we looked at that *Declaration* and it mentions about Seton Portage. That land is mentioned in the *Declaration*, so we decided let’s go there, let’s do our train blockade there. (2011)

In mentioning the *Declaration* of 1911 as being influential in their choice to set up the railway blockade they were referring to the situation being faced by the St'át'imc people around the Seton Lake region during 1911.

It was during the early 20th century that the Pacific Great Eastern Railway (later BC Railway) was being built through St'át'imc territory by the provincial government without regard for indigenous land ownership. In response to these actions, the closing comments of the May 10, 1911 *Declaration of the Lillooet Tribe* stated:

In conclusion, we wish to protest against the recent seizing of certain of our lands at 'The Short Portage,' by white settlers on authority of the BC government. These lands have been continually occupied by us from the time out of mind, and have been cultivated by us unmolested for over thirty years. We also wish to protest against the building of railway depots and sidings on any of our reservations, as we hear is projected.

The significance of the *Declaration* during these turbulent times was that it had been developed specifically to counter the land and jurisdiction claiming activities of the BC government that began during colonial times and that were ever advancing. Once the stand for the land began with the 1990 blockades in St'át'imc territory, the leaders and people relied upon the words of our Ancestors in that document as being a ready form of guidance and direction. It was clearly stated in the *Declaration*:

We are aware the BC government claims our country, like all other Indian territories in BC; but we deny their right to it. We never gave it nor sold it to them. They certainly never got the title to the country from us, neither by agreement nor conquest, and none other than us could have any right to give them title.

It was signed by the hereditary chiefs and appointed representatives of the 17 St'át'imc communities. They had agreed that a copy of the *Declaration* be sent to Hon. Mr. Oliver, the Superintendent of Indian Affairs for the federal government, the Secretary of the Indian Rights

Association legal counsel Mr. Clark, K.C., and Mr. McDonald, the Inspector of Indian Agencies in hopes that meaningful attention would be directed toward the matter.

The same aspirations were in play when the leaders and people sought to elevate their protest activities. The discussions in making the change of blockade location from Fountain Flats to the Seton-Shalalth railway were also related to having a significant impact upon the economy while pushing the outstanding land issue further. As stated by Chief Roger Adolph, “there was an acknowledgment that this would be our stand towards resolving the land question.” The BC Railway was one of the main transportation corridors for shipping goods and resources into and out of the Interior and northern reaches of the province. As such, shutting down this railway that passed through Seton-Shalalth would have been cause for concern for the provincial economy. Chief Roger Adolph stated “We had that railway blocked for eight days and it was estimated that they were losing eight million dollars a day, probably more because we weren’t allowing the freight trains through. We were allowing the passenger trains through but not the freight trains.” It was not very long before Premier Bill Vander Zalm took it upon himself to go see what was going on with the indigenous people that were blockading the railway at Seton-Shalalth. Chief Butch Bob described his arrival.

I’m not sure what day Vander Zalm showed up down there. He showed up one morning hey. We didn’t invite him. No, he just showed up himself. They flew in by helicopter. Well, we were talking to him about this being our land, this is our territory, you know. We got him to sign our *Declaration*, as our position. (2011)

As the three Chiefs and St’át’imc community members met with Premier Vander Zalm at the Seton-Shalalth railway blockade, they described the outstanding land issue to him. Upon discussion with Vander Zalm, he was presented with a copy of the *Declaration of the Lillooet Tribe* by the people at the blockade and asked to acknowledge it as the St’át’imc position on the

outstanding land issue. The chiefs described how he really did not want to acknowledge it or sign it. Only after some convincing did he finally agree to sign it, as an acknowledgement by the Premier of BC of the St'át'imc position on the outstanding land issue. After acknowledging their position by signing a copy of the *Declaration*, Premier Vander Zalm indicated that he would like to meet further with the people on the issues. Chief Roger Adolph stated, "When Vanderzalm met with us, he said 'Look, I can't make a decision on my own. I'm inviting you people to my Cabinet Chambers to meet in Victoria and we'll try to resolve this.' So we all agreed to go."

As described by Chief Butch Bob, the meeting was arranged by one of the provincial deputy ministers and took place at Victoria down at the Parliament Buildings with the Premier and Cabinet members.

And then from there, we met with Eric Denhoff. I think he was his assistant, a Deputy Minister. He promised us meetings with Cabinet hey. So we took it [rail blockade] down for a while. Yeah, we went down to Victoria and met with the Cabinet, again talking about our territory and about how we didn't like what was happening in Oka. You know, an attack on one nation is an attack on everyone. And I remember Vander Zalm was willing to meet with the Lillooet Tribe, you know to try and resolve the issues hey, the land issue, land question issues hey.

Since they had only the three Chiefs working together on the blockades, the meeting with the Premier and Provincial Cabinet members occurred with the three chiefs and the support people that were involved in the blockades. This meeting was also described by Chief Roger Adolph:

Our strategy was very simple. All we wanted from the Provincial Cabinet was to recognize that we are a people with territory. We were there and we said we know that you are the Government of British Columbia, you have constituents. We recognize all that. Now we want that same recognition from you, that you recognize that we are a people with a territory. And right in Cabinet, Vander Zalm and his Cabinet called caucus. They came back and Vander Zalm said 'I'm sorry. I can't give you that recognition because we don't know what it means.' So nothing was resolved.

When nothing productive came out of the meeting, the St'át'imc Chiefs and people went back to the Seton-Shalalth railway and put the blockade back up. As stated by Roger Adolph, "I think it was about three or four days later they sent in the RCMP to arrest us, so we ended up going to jail, going to court." This was the first set of arrests at Seton.

Following the arrests at the Seton-Shalalth railway blockade, a fairly large meeting was held in Kamloops amongst several indigenous representatives from the Interior of BC. Support was requested for the blockade from the other indigenous groups who attended the meeting. This move toward collaboration between indigenous groups was significant as political alliances began to be re-established, moving beyond the meeting rooms where the land issue had often been discussed, and activities began occurring on the ground. It soon became evident that the protests and demonstrations had become quite prominent and had taken on a level of importance amongst several indigenous peoples in BC. Before too long, several other supporters would arrive to join the St'át'imc at the Seton railway blockade. This was followed before too long by a second set of arrests. The advance of the RCMP upon the Seton-Shalalth railway blockade was in the form of a large RCMP team and the arrests ended up being violent and dramatic.

As stated by Chief Butch Bob:

The Okanagan people came over and supported us down Seton Lake. That's when I first met Stewart and them in 1990. There was quite a few of them. Quite a few of them went to jail with us. (2011)

At the same time, the provincial government was intent on maintaining control over the protests that were beginning to expand across the province. This control was to be maintained and enforced in the usual manner, which involved bringing in the RCMP to deal with the indigenous people.

4.3 Okanagan Blockade and Support

Along a very similar vein, information gathered from an interview with Grand Chief Stewart Phillip of the Okanagan also pointed to the Oka confrontation as being an important catalyst in highlighting the outstanding indigenous land issue in BC. His description of how the Mohawk protests were so pivotal for the land issue in BC demonstrates again how the matter was still very much alive in the hearts and minds of indigenous people. Chief Stewart Phillip shared his memories of their community's involvement with political protests after hearing about the arrest of Chief Butch Bob of Pavilion in relation to the Oka crisis. This led to putting up a barricade at the road crossing their reserve that lasted for eighty-seven days. It also involved traveling to St'át'imc territory to help with the Seton-Shalalth railway blockade after the call had been put out for support. For many Okanagan supporters it also meant getting arrested. As had been the pattern, the political knowledge was relayed to the people through the words of the previous indigenous political activists and Elders. All of these elements contributed to the involvement of the Okanagan at the St'át'imc railway blockade.

In the case of the Okanagan blockade and the support they lent to the St'át'imc in their blockades, the first alert came from an Elder following the shooting at Oka and Chief Butch Bob's arrest. Chief Stewart described the Elder as being a person who monitored the news and as being very political. He stated:

Her political involvement went back to the North American Indian Brotherhood. She was very active in the early days, very active in the Indian Homemakers of British Columbia. I think she was the first woman ever to be elected to the band council.

Chief Stewart Phillip continued describing how the Elder was the one who phoned the band office and how she was really upset. The Elder had been listening to the news and heard that a

Chief named Butch Bob was arrested in Pavilion that morning in connection to the Oka shooting incident in Quebec. In addition to the fact that background knowledge on the land issue was always being shared by the Elders, there was also the common experience amongst indigenous peoples of having to deal with government suppression tactics.

While they had their own blockade set up at their community, several Okanagan people decided to travel to Lillooet after they heard that a call had been put out by Chief Roger Adolph for support after the first round of arrests of 38 people at the Seton-Shalalth railway blockade. There were a couple of different Chiefs' meetings that were held to discuss the Oka situation, the Seton-Shalalth arrests, and the call for support at the BC Rail blockade. While there were differences of opinion amongst those at the meetings, the leaders and people that were strong activists for the land issue chose to lend their support and went back out to the re-established Seton-Shalalth blockade. While they were at the blockade, they knew that there were going to be arrests and they discussed amongst themselves how these would be done. Before too long, the RCMP was on the scene for a second round of arrests. Chief Stewart Phillip's description of the arrival of the police depicted how the intent of the RCMP was to show a clear demonstration of their power and authority. The RCMP is another arm of the government and it is often called upon for the use of force against indigenous people whenever there are any types of protest or dispute. The fact that at times they carry out these duties with much glee is primarily an element of their discretionary powers. The use of power and control mechanisms, presented under the auspices of 'maintaining law and order,' has always been a significant factor in the control of the outstanding indigenous land issue by governments. It definitely came into play with the arrests at the Seton-Shalalth blockade.

Chief Stewart Phillip explained how the RCMP flew in a bunch of helicopters from across Seton Lake to the railway blockade. He described how they came around from behind the mountain and the pitch of the blades was set at the maximum so the noise they put off was extremely loud. He said that they couldn't see them, but they could hear them coming, getting louder and louder, and then they came around the mountain, seven of them. He described how after landing in a field, the RCMP came marching up the road in a column. There were at least fifty of them and the column was just swaying, and when their feet hit the ground they were stomping it really hard just to pronounce the noise effects. It was clear that their primary purpose was to instill fear. Chief Stewart Phillip described the arrests of those at the railway blockade who had determined that they would be arrested.

Then they came up there and they grabbed all of us. I think by the time we were finished there were sixteen arrests. Then we got taken out in choppers. They had buses waiting for us, those sheriff's buses. So we all loaded on the bus and they wouldn't move us, we just sat there. Later they took us off the bus, two by two, they were marching us into the little place there, the terminal building there. We went by these suburbans and they had a grey wooden trailer. It was about oh I don't know about six feet high, and the door was open and on both sides of the doors, there was about eight on each side or ten on each side, there's MP5s. An MP5 is a nine millimetre submachine gun, it's an HK, and they had the magazine sticking out like that and it was all just like that. And we were walking along and I looked over and I go 'whoa,' and I was telling my buddy there 'check that out' and that cop just started yelling at us telling us to keep our eyes straight ahead.

As it turned out, during the time that the first people arrested and were kept waiting in the buses, the RCMP advanced upon the Shalalth community, marching through the community and turning their police dogs loose on the people. It became volatile as the RCMP became physically violent with many of the community members.

Chief Stewart Phillip described the jubilant behavior of the RCMP officers after they returned to the helipad where the first sixteen people arrested were being held in buses.

So we go back on the bus and we're waiting and waiting and waiting, and pretty soon choppers start landing and all of these RCMP jump off and they're just absolutely like Grey Cup, like they are just yelling and screaming and hollering and laughing and whistling and they were just totally pumped. And one of them said something like 'you see that big f'ing Indian.' They had just come back from the riot scene that happened when they went to march in the village. The dogs were loose and the police were beating people up and it was all recorded on video. Well they had just come back from that scene and they were just absolutely pumped. That one guy threw his hat up in the air and they were just celebrating how they beat the crap out of people there. Those same officers that came in decided for some reason to march through the village there at Shalalth. Somehow a riot broke out. Yeah and they had been in the riot and they were just pumped. Like it was just pure adrenalin, like they thought it was great how they were able to beat up people and the dogs were set loose. So we were on the bus when they came back from that.

Chief Stewart Phillip continued to further describe how as it turned out, someone had video recorded the police behavior and sent the video down to BCTV News in Vancouver. When the BCTV News addressed the story, Tony Parsons interviewed Superintendent Olfred of the RCMP from Kamloops. He denied everything, saying that no police violence happened and he indicated that it was an orderly process in the village. At this time, the News program split the screen and Tony Parsons told the RCMP Superintendent that they had received film, being shown on the screen, and that it was not peaceful (Stewart Phillip 2011). Chief Stewart Phillip continued describing how the Superintendent realized that he had been caught in a lie, and that they were showing the whole thing on the news, the dogs, the violence, and that it was just a real ugly scene. The use of violent tactics by the RCMP and other policing entities against indigenous peoples has a very long history in BC and in Canada. The police have always been one of the primary power mechanisms to ensure that indigenous peoples are kept under control. This fact becomes more readily evident whenever the circumstances involve a conflict over land ownership between indigenous peoples and the governments (Stewart Phillip 2011).

A St'át'imc Elder that I interviewed also mentioned that he had been at the Shalalth village when the blockades were occurring and he described how he saw the police actions occur. He said "I was there when the cops came with the dogs and the dogs just chewed up one of our guys." He added, "And they carted off a whole bunch of leaders to jail and when they got out, they were told never to be seen around road-blocks again" (Carl Alexander 2011). Another blockade which occurred at this time in St'át'imc territory that this interviewee mentioned was at Mount Currie, also known as Líl'wat, located in the southern region of the territory. In recalling how he got arrested twice that summer, once at the Seton-Shalalth railway blockade and once later at the Mount Currie blockade, Chief Stewart Phillip described the summer of 1990 as being such an important turning point. He stated:

So 1990 was totally significant because it created that network and that sense of unity and solidarity throughout British Columbia and across Canada. And what's interesting to note, concurrent to these things happening, Oka came to an end when the barricades came down in September and the BC treaty process was first contemplated on December 3rd 1990. (2011)

The sense of underlying injustice felt by indigenous peoples across the country and the outstanding land issue in BC sparked the re-shaping of the alliances that extended beyond the *reserve* levels. These quickly took shape in the form of blockades in support of the Mohawks and for each of their own local outstanding land issues. The longstanding government techniques of suppression had lost their hold upon the people. The governments could not help but pay the situations some meaningful attention. As described by Chief Stewart Phillip, "I believe it was a realization on the part of Canada and all governments that unless land rights are resolved that it could give rise to a much more serious uprising than Oka. Oka demonstrated the ability of indigenous people to come together right across the country in a very formidable way". The

protest blockades, in turn, proved to be instrumental in influencing governments toward a new approach to the outstanding indigenous land issue in BC.

4.4 Introduction of the BC Claims Task Force

The denial of the existence of indigenous land ownership, now referred to as ‘Aboriginal Title,’ had been a foundation in the BC government’s approach reaching back over 120 years. The 1990 blockades forced the governments to become more willing to reconsider their longstanding position of outright denial of indigenous land ownership. As they began to discuss the matter amongst themselves, at federal and provincial levels, the concept of the BC Claims Task Force was developed. With so many indigenous protests arising, the real possibility of these impacting the economic endeavours of the settler societies encouraged governments toward trying to arrange an outcome that would settle the protest activities down. However, at the same time, it quickly became very clear they had no intentions of relinquishing any of their ultimate control over the land. In rounding out the discussion of the Seton-Shalalth BC Railway blockade in connection to the Oka Crisis and its influence in BC, Chief Roger Adolph of Xaxli’p said:

But as a result of those blockades we had then, one of the things that Vander Zalm mentioned to us in Victoria is that he has put together a Task Group to assess the Aboriginal Land Question. He called it the Task Group to resolve the land question and the issues dealing with Aboriginal people. And he offered us a seat on the Task Group. Of course we turned it down because we said ‘Look, you’ve done enough studying about our people already. We don’t see this as being fruitful at all.’ But he went ahead with the Task Group and in that committee that was formed, which involved some of the key leaders at that time, the person who took our seat that we turned down, was Bill Wilson, who at that time was part of the First Nations Congress. This was the forerunner to the First Nations Summit. It was called the First Nations Congress. There were a few other leaders involved along with the non-native politicians, and they came up with this Task Group Report, nineteen recommendations, and those recommendations would form the basis of the BC treaty process. (2011)

Similarly Chief Stewart Phillip described how the BCTC process arose from a series of meetings of the BC Native Claims Task Force. Nineteen recommendations came out of the Task Group meetings. By this, it all sounds fairly equitable, however, the manner in which it has rolled out at the BCTC treaty ‘negotiating’ tables tells another story altogether.

When the BCTC treaty process framework was being determined and indigenous communities were not allowed the opportunity to review and provide feedback on the BC Claims Task Force Report, this signaled a clear warning for what was to follow. While the framework agreement was being drafted, there was considerable controversy amongst indigenous peoples regarding serious concerns about the liberties and concessions that were being written right into the negotiating framework even prior to ‘negotiations’ having occurred. (UBCIC 2004) As explained by Chief Stewart Phillip, “It was on December 3rd that the Minister of Indian Affairs, Tom Siddon, Kim Wilson, and Jack Weisgerber from the Ministry of Native Affairs in BC, sketched out the concept of a so-called ‘made in BC’ treaty process. By June of 1991 the so-called BC Native Claims task force published its report and that period of time did not allow for any consultation at all with our communities.” This caused a great deal of upheaval, internal division, and opposition in response. The resulting BCTC treaty process started out as being very controversial amongst indigenous peoples in BC, when it was being developed, and has proven to remain very divisive. In speaking about the process in retrospect, Stewart Phillip stated, “one of the most divisive policies that caused a great deal of conflict, political conflict within the province of British Columbia was the so-called BC Treaty Commission process which began in 1992. We’re almost twenty years out now, and as such, the BC Treaty process has failed miserably in its efforts to seek the extinguishment of the title interests of our First Nations

communities” (Stewart Phillip 2011). The internal division over the BCTC process amongst indigenous peoples was significant especially at the beginning. The disagreement was over the negotiating framework, with its nineteen recommendations, that was being offered.

There were some indigenous groups that so wanted to address the land question that they were willing to accept the nineteen recommendations for the negotiations framework, while others were adamantly against it. The implications of the BCTC framework were of significant concern to several indigenous groups who were not willing to put the title of their lands onto the negotiating table. In addition, there appeared to be significant concerns that remained unanswered. For example, as described by one interviewee about the negotiating framework that was tabled:

Those 19 recommendations of the Task Force were to be used as the forefront on the agenda for treaty making. There were only two areas in there that they did not use. Those were the two, when it came to land and when it came to the natural resources. The province and the federal government did not want to give an inch. That’s why the BC Treaty Commission didn’t work. Because the land and resources, the governments continued to be in denial of our ownership of it, that we owned it. They avoided it and they are still doing that right to this today.” (Roger Adolph 2011)

As described, the whole topic of lands and resources was simply not allowed onto the negotiating table. When there was one big meeting about it, Chief Stewart Phillip described how many people from his community attended in order to try to push for the opportunity to allow their community members to discuss it.

Well I remember right about that time we brought sixty-three band members to a large provincial wide meeting down here and things got so intense in that meeting I thought there was going to be a brawl. We went into that meeting, sixty-three of us, and that’s our Council plus band members and Elders, and our whole purpose of going into that meeting in those numbers was to demand that they allow the Report to go back into the communities for discussion. We totally disrupted that meeting. We said at the very least we should have the opportunity to take it back

to our communities and we were denied that opportunity. In retrospect, if sixty-three members from every community went down there to that same meeting we probably could have stopped it. (2011)

In addition, once the framework agreement for the treaty negotiating conditions was signed off on, important discrepancies remained about whether the final written product was in the same form that had actually been discussed and agreed to during the development phase (Roger Adolph 2011). Rather than addressing these concerns, it was indicated that there were deadline pressures to bring the draft forward to get legislative sanction for the BCTC process. The pressure tactics involved at this phase involved the threat that the concept would not likely be entertained again afterwards.

As a result, prior to it actually being brought into legal reality through the Canadian and Provincial legislative systems there was no opportunity for adequate discussion by indigenous peoples in BC. Chief Stewart Phillip said, “By 1993 I believe reciprocal bills were passed through the Legislature and House of Common that legislated the treaty process and it opened its doors to willing communities.” After receiving legislative authorization, the BC Treaty Commission began to review submissions from First Nation bands for joining the process. When the BC Treaty Commission began its treaty negotiations in 1993, it had accepted statements-of-intent to negotiate from 42 First Nation bands (Foster, Raven & Webber 2007:239). While it is not often referred to, the interviewees have illustrated how connecting threads clearly exist between the 1990 blockades and the initiation of the British Columbia Treaty process. These protest activities were added to the court directives given to governments to negotiate with indigenous peoples on the outstanding land issue. When the courts took the position of turning the outstanding land issue over to the political realms, encouraging negotiation rather than

litigation, the governments eventually revealed their steadfast adherence to their historical position had been effectively maintained.

4.5 Implementation of the British Columbia Tripartite Treaty Process

The approach for a negotiations framework was developed by the three parties, the federal government, BC government, and First Nations Summit, who established the BC Claims Task Force. “The BCCTF made nineteen recommendations, including a six-step treaty negotiation process and the creation of the BC Treaty Commission (BCTC). All nineteen recommendations are accepted by Canada, British Columbia, and the FNS” (Foster, Raven & Webber 2007:238). The six stage process of the BCTC negotiation process includes: (1) Intent to Negotiate, (2) Readiness to Negotiate, (3) Negotiation of a Framework Agreement, (4) Negotiation of an Agreement-In-Principle, (5) Negotiation to Finalize a Treaty, (6) Implementation of a Treaty (BC Treaty Commission 2007).

The 42 First Nations *bands* or groups out of the 200 plus *Indian bands* in the province of BC, made the initial commitment to take the BCTC treaty process route of trying to address the outstanding land title issue. The fact that only a relatively small portion of eligible indigenous peoples took up the proposed opportunity of the BCTC treaty process, even after the outstanding land title issue had clearly been an important ongoing concern to indigenous peoples in BC for generations, is revealing. This form of participation has remained limited throughout the last couple of decades. Although communities began the treaty process with high hopes, it soon became clear that it would not succeed because its framework would not allow for equitable arrangements with indigenous peoples. Placed within the context of the longstanding denial by provincial and federal governments of indigenous land issues, the reality of the BCTC treaty

process that resulted fell far short of indigenous peoples' aspirations and, furthermore, it has proven not only to be ineffectual but also to be heavily weighted in favor of the objectives held by the federal and provincial governments. One of the more pertinent amongst these concerns included the extinguishment of indigenous title and diminutive versions of self-government arrangements. As stated by Art Manuel, "the Minister of Indian Affairs was only willing to work with those that are prepared to extinguish their title" (2011). The problems with the process from the indigenous perspective have proven to be intractable and this fact explains to a large extent the significant lack of successful agreements after all this time. As several groups of indigenous peoples entered the BCTC process, the tried and true patterns of government control mechanisms were revealed again. After twenty-four years in the BCTC treaty process, it has resolved only four final agreements and has encountered several significant problems. The treaty negotiation process has lost nearly all credibility as being an equitable negotiating process and instead is understood as being a 'take it or leave it' type of arrangement.

Many indigenous organizations and *band* organizations along with most indigenous peoples have come to view the BCTC treaty process as simply another long drawn out process of control and an avoidance mechanism to addressing the outstanding indigenous land title issue in a meaningful way. As a never-ending process, it simply allows for the status quo of assumed provincial jurisdiction over and access to unceded indigenous territories to continue unhindered.

In its entirety, the government's treaty policy is set up so that there is no movement in a lot of cases. And their courts have said basically that we have title in those areas. They have to be still dealt with no matter what way they want to deal with it. If you threaten to take it to court, they want to talk to you for years. I always say you talk about talk, you write papers about papers, and you basically do nothing during the time you talk about it. Talk is cheap. What people are looking for are answers to the certainty that the government talks about. Their

treaty negotiators have no mandate to deal with issues out in the open. (Fred Alec 2011)

Scholars of the BCTC treaty process have also recognized that it amounts to a process of containment and control. For example, Carole Blackburn (2005: 586) argues that the BCTC treaty negotiations process amounts to “a form of governmentality that helps regulate a population, mediates between Aboriginal-rights claims and the demands of global capital, and produces effects of state sovereignty.” In effect, the ongoing BCTC treaty process serves to control the uncertainty produced by the unresolved outstanding indigenous land issue and allows governments to carry on with the status quo approach of regulating theoretically unencumbered corporate access to indigenous land and resources on the ground. Similarly Taiaiake Alfred (2001) shows that the BCTC process is heavily weighted in favor of government objectives. He further points out how the central elements entrenched in the BCTC process and the negotiating positions put forward by the governments provide an illustration of the state’s entrenched position against justice for indigenous peoples. This holds true from the perspective of indigenous peoples in BC because regardless of how often governments are approached for an improved approach, they steadfastly maintain the BCTC approach, as it serves their purposes. Indigenous people involved in the process have also maintained their political position but those involved in the BCTC treaty process have found themselves in an awkward situation because of the agreements they signed onto for participating in the process. Several groups of indigenous people, recognizing the detrimental form of the BCTC framework proposed, refused to enter into it. Since then, for over 24 years, the governments have maintained the explicit position that this process is the only avenue available, essentially informing those outside of the BCTC process that it is the only option, to ‘take it or leave it’.

4.5.1 Non-Negotiables in BCTC Treaty Process

Having watched the BCTC treaty process unfold in British Columbia over several years without reaching any meaningful agreements, Alfred's critique was that the process is intent on completely diminishing the rights of indigenous peoples. "The political implications of these characteristics are clear: indigenous identity and rights are surrendered and then delegated through the established governmental process, where indigenous people are an extreme minority, leaving no substantial or effective protection of their continuing existence as nations" (2001:19). To ensure this, governments have repeatedly made unilateral decisions about what is or is not on the negotiating table. For example, this included things like the complete exclusion of lands held as 'private property' from the negotiating tables, the design of the per capita compensation formula, and the extinguishment of indigenous title on all of the lands followed by the ensuing return of 'settlement' lands under provincial jurisdiction. Alfred discusses how any concepts of human rights principles are routinely disregarded within the treaty process. "The principle of free and informed consent seems self-evident, but its violation is embedded in a process where one side arrives at the negotiating table with 'non-negotiables' not previously agreed to by the other party. This is the situation in BCTC process negotiations." (Alfred 2001:22) In the BCTC treaty process only a small fraction of lands on the negotiating table are to be available to indigenous entities as treaty settlement lands; any more is simply 'non-negotiable.'

There are three main legal characteristics of so-called 'treaty lands' under the land claims rubric and the BCTC approach arrived at in both previous settlements and the process' current structure. First, indigenous peoples must surrender their Aboriginal title to the Crown, whereupon it becomes vested in the province. Second, the provincial government has legislative power over indigenous peoples and their lands subject to the protections afforded indigenous peoples in s. 35 of the *Constitution Act, 1982*. Thirdly, under a so-called 'land selection' model,

indigenous peoples retain site-specific harvesting rights or access to lands for traditional purposes in designated areas. (Alfred 2001:11)

The resultant tripartite negotiation process that has been implemented in British Columbia has been based upon a template or upon a formula that includes financial loans to bands, a set rate of compensation based upon a per-capita payment, and settlement lands that amount to a maximum of 5% of the total territory that was tabled by the *Indian band* through their ‘statement of intent’ map. Aboriginal title of the entire area is extinguished and 95 – 99% of the lands relinquished to the Province, and the *First Nation* treaty society group settles on agreements of self-government based upon municipal style governance models.

The policy of extinguishment has been the common denominator in all efforts of the governments since treaties were initiated by the Crown representatives and indigenous peoples in Canada. The extinguishment of title embedded in the structure of the BCTC treaty process is based upon a pre-determined policy that follows from the 1973 Canadian Comprehensive Lands Claims Policy. In his description of how the BCTC treaty process is simply an offspring of the federal Comprehensive Land Claims Policy (CLCP), Art Manuel, a prominent indigenous activist stated:

The government’s position has always been to extinguish our title, that’s the policy. We need to make the distinction between policy and process. There’s the federal Comprehensive Land Claims Policy, then you got the BC treaty process. The process is the mechanism where they get the tri-parties together to negotiate, that is the federal, provincial governments, the settler governments, and the indigenous peoples together to negotiate. So that’s one aspect. But the policy that drives the BC treaty process is the federal Comprehensive Lands Claims Policy. (Art Manuel 2011)

The research participant explained the connections between the federal CLCP and the BCTC treaty process as being from the same general principles. By all appearances, despite decisions

regarding indigenous land rights, even at the Supreme Court of Canada, the ‘law of the land’ as it is sometimes referred to, the governments are able to continually take extreme negotiating positions without any reprisals whatsoever. Based upon this unchecked approach by government, once the outstanding BC land issue finally got to the point where a tri-partite treaty process was being proposed, it was simply a regurgitation of the old federal Comprehensive Land Claims Policy, which stipulated extinguishment. The federal CLCP had been implemented in 1973, following the failed 1969 White Paper and in response to the 1973 *Calder* decision at the Supreme Court of Canada which recognized legal rights in the land that survived European settlement. It reiterated the stipulation that indigenous ownership under Canadian jurisdiction ought to be extinguished. As explained by Art Manuel:

I don’t give a damn who the hell says they got a ‘made in BC process.’ That’s a pile of crap. You might have the BC treaty process which is going to be different from a Quebec treaty negotiating process or the Maritime treaty negotiation process because those are the three areas where the federal policy on Aboriginal title is really being applied across the country and the key area that is at the height of the whole thing is British Columbia because British Columbia is one of the largest unsettled territories in North America. So, you know, BC is larger than the California, Oregon, and Washington States combined. It’s larger than that, so it’s huge, you know, and it’s un-ceded, un-surrendered. So the thing is, in terms of policy, what happens in BC, in terms of policy development and processes, pretty well has an impact. (Art Manuel 2011)

The entrenched stipulation of surrender has been and continues as the position of both federal and provincial governments in their efforts to gain legitimate jurisdiction over indigenous lands.

4.5.2 Lack of Mandate toward Meaningful Negotiations

Without hesitation the governments are willing to recognize the rights of indigenous peoples to surrender their Aboriginal title for all lands, yet they absolutely refuse to recognize or even discuss that title under any other circumstances. Another research participant who had also

been a former chief during the involvement of his community with the BCTC process described how he views the treaty process as being defective. He said, “The treaty process is faulted because the mandates that are issued aren’t in any way effective because they do not have a mandate to settle anything in the treaty process” (Fred Alec 2011). Without having appropriate authorization, the government representatives arrive at the table with strict constraints, without the permission to talk about the specifics of title at all, which in effect does not allow for actual negotiations. This is further described by Fred Alec:

The actual issue of title and rights as I understand it through the BC Treaty Commission is that they recognize that we have a title. But during the process they never bring a mandate to say what that title is that they recognize as theirs or what the title is that they recognize as ours, to be negotiated to make all these land transactions legal. Supposedly the issue of title is itself illegal to talk about in this treaty process. If we raise the issue, they get up and walk away from the table. But the certainty that they are after is they want us to sign off on lands forever. We can’t do that as stewards of our land. We believe that we own and use all our territories. We have been taught through our fathers and mothers how to use these areas and that is our way of saying we are connected and own this part of our country. (Fred Alec 2011)

As a result of the ‘negotiation’ framework, the two parties never have the opportunity to actually negotiate, because they are not afforded the opportunity to discuss the actual issues that they are attempting to resolve. Instead, the governments rely upon the 1973 Comprehensive Land Claims Policy formula at the table and seek the surrender of all title from the BCTC treaty process participants. This stipulation of land surrender is something that totally goes against indigenous peoples’ connections to their lands.

4.6 ‘Law of the Land’ and Supreme Court Decisions Need Not Apply

As a result of the ongoing controversy over the ‘negotiation’ procedures used by the federal and provincial governments, indigenous political organizations continue to raise their

concerns and try to find ways to work around them. One of the major criticisms is that the BCTC treaty process does not allow any leeway for incorporation of any recent court decisions that are supportive of indigenous positions at the negotiations tables. Rather the governments' position has been to simply maintain the set parameters established and disallow any changes to the 'negotiation' framework. Indigenous peoples, both in and outside of the treaty process, have come to view this restrictive process simply as another land-grab being implemented by the federal and provincial governments.

At an indigenous political gathering about the outstanding land issue, representatives provided information on how the status quo was being actively maintained within the BCTC process, despite consistent efforts by indigenous peoples toward change. As stated by one of the BCTC treaty process indigenous representatives, "Government has been able to position themselves in a strangle-hold position in the legal battle regarding rights and title, despite the Constitution protection of those rights" (Indigenous Political Meeting 2012). Having what they consider as an adequate proportion of indigenous peoples involved or entangled in the BCTC treaty process serves to allow considerable leeway for the governments. One speaker at an indigenous political meeting who was representing the treaty participants' 'Common Table,' which has sixty First Nations participating, brought forward six issues regarding the lack of progress through the BCTC process. These issues include: recognition and certainty, governance, Constitutional status of lands, fiscal arrangements, co-management arrangements, and fisheries. After meeting with the federal and provincial governments on these issues, they waited and, after a year, finally received a response which specified clearly that the governments were not willing to move on any of these issues. The lead on the 'Common Table' has bluntly stated that there are

no real negotiations taking place through the BCTC treaty process and that the lack of good faith negotiations are a key issue of concern. The speaker also described their great efforts at getting the Supreme Court of Canada decisions to become a part of the negotiating process (Indigenous Political Meeting 2012). This too has been consistently refused by the governments. The BCTC treaty negotiations process fashioned after the federal Comprehensive Land Claims Policy leaves no viable alternative for the majority of indigenous peoples in British Columbia, who choose not to travel this route. When other indigenous groups raise concerns to the governments about land related issues, they are pointed toward the BCTC process. In addition, this group is repeatedly told that since there are significant amounts of participants involved in the BCTC treaty process, no other options will be considered by the governments.

4.6.1 Overlaps, Loans, Maintenance of Status Quo

Under the BCTC treaty process, indigenous groups are permitted to put as much land as they wish onto the table with their Intent to Negotiate Statement and to surrender ‘Aboriginal title’ to these lands, regardless if these are known to overlap with their indigenous neighbors’ territories. Government recognition and government permission to extinguish Aboriginal title to an *Indian band’s* area of interest as well as any other surrounding lands they unilaterally choose to place on the BCTC treaty table has been of primary concern to many neighboring indigenous peoples and communities who are not involved in the BCTC treaty process. This has resulted in indigenous communities being faced with the possibility of having title to their lands ‘negotiated’ away without ever approaching the BCTC negotiating tables. Meanwhile, that same title is steadfastly denied under all other circumstances except where it is being extinguished completely and surrendered to the government.

Another significant concern about the BCTC treaty process for indigenous peoples has been the demand that financially strapped communities be required to take out government loans in order to finance negotiations, while natural resources in their un-ceded territories continued to be freely and increasingly accessed through provincial authorization. For example, the BCTC negotiation process includes the element of providing operating budgets to carry out the necessary work in the form of loans to the bands that joined the process, the sum of which will later be deducted from the overall settlement fund, which itself is determined on a per capita basis. The very presence of these ‘negotiating’ funds to the often poverty-ridden indigenous communities has proven to be detrimental to the bands participating in the BCTC treaty process. Once in the BCTC treaty process, most communities remain in it only because it offers some of the few opportunities for employment on the reserves aside from the *Department of Indian Affairs* legal responsibilities for providing social services. Alfred also points to the access of funding that is made readily available in the form of loans to community treaty negotiations offices. “The other monetary factor acting as an incentive to prop up the process is an explicit threat made by the federal government to call in loans that were extended to band councils to fund the establishment of ‘treaty negotiation offices’ should they quit the process” (Alfred 2000:2). All the while, natural resources continue to be taken from indigenous lands without compensation, as treaty debts mount up. This controversial topic provides another example of something that cannot be discussed at the negotiating tables. The tactical choice by governments to provide treaty ‘negotiation’ loans to indigenous communities when the vast majority live well below the poverty line is viewed by indigenous peoples as being questionable at best. Concerns escalate further when it appears, primarily as a result of the unilaterally imposed restrictions and

parameters of those ‘negotiations,’ that the process is designed to drag on indefinitely. As the ‘negotiations’ and number of years entangled in the process continue to drag on, comparatively significant debts accumulate for those participating *bands* who often have no means to pay back the loans except for when they eventually reach an agreement.

Based on experiences shared during an open indigenous political meeting organized by those who do not agree with the BCTC treaty process which was held in the Lower Mainland called the “No Vote” in 2012, it appears that those community members who are in disagreement with the drafted BCTC Agreements in Principle simply have no recourse for having their concerns heard, registered, or responded to in an appropriate manner (No Vote 2012). At a meeting dealing with a community’s ‘No Vote’ for the treaty process, several of these same concerns were voiced. In particular, there were concerns mentioned over the divisive effects that have come with the treaty process and vote in the community (No Vote, 2012). Whether in the BCTC treaty organizations, the federal or provincial governments, or the *band* run treaty offices, it has been relayed that various staff and representatives who are in positions of power, regularly take rigorous, even aggressive or abusive steps, to guarantee that opposing voices are silenced and that participating *bands* do not drop out of the process, effectively ensuring that the ‘negotiations’ continue.

Regardless of the significant problems inherent in the BCTC treaty process, the governments are unwilling to offer an alternative for those indigenous groups who are not willing to participate in it due to its constraints and outcomes. A large proportion of the Interior indigenous peoples have been amongst those who refuse to enter into the BCTC process over the last twenty-plus years, while millions of dollars worth of natural resources have continued to be

exported from these territories. Having what the government considers to be an adequate proportion of indigenous peoples involved in the process has enabled them considerable leeway in directing its continuation. The only viable opportunity to otherwise address it is through the courts. However, Aboriginal title court cases turn into massive and extremely expensive undertakings.

Indigenous political organizations and peoples across the province long ago recognized that the legislatively approved framework of the BCTC process would not allow for equitable involvement or successful outcomes. However, even as a new Premier (Christy Clark) openly took issue with the slow level of progress, it has continued to be maintained. As noted by one interviewee:

Just a few days ago the Premier of British Columbia broke ranks with a long line of BC Premiers by declaring that essentially the Province has lost faith in the BC treaty process and was prepared to enter into reconciliatory agreements with anyone who was prepared to engage that discussion. In the past, BC Premiers have always said very clearly that they absolutely support the BC treaty process. Shortly after that statement was made by the Premier of British Columbia, the Minister of Indian Affairs, which is now known as Aboriginal Affairs, made an incredible statement to the effect that the BC treaty process could still be salvaged, and by using the word 'salvaged' it is a clear indication that Canada itself recognizes that the process is pretty much a spent political force in the province of British Columbia. The BCTC Chief Commissioner, former Chief Sophie Pierre, several weeks ago said that Canada and British Columbia should either make a dramatic commitment to the BC treaty process or just simply walk away from it. So indeed these are interesting times. The unresolved Aboriginal title issue is beginning to arise as a major factor in looming land use conflicts. (Stewart Phillip 2011)

The BCTC treaty process is openly viewed as a failed process, yet it continues. Primarily as a result of the inequitable 'negotiations' framework, and as a result of the financial constraints and incentives these communities are operating under, there are no real motivations to complete a 'treaty' agreement. "The treaty process has been an utter failure and it has incurred more

liabilities than benefits. They have been successful in completing only two treaties which are miniscule in comparison to the vast amount of un-surrendered lands in British Columbia” (Art Manuel 2011). Yet the BCTC treaty process remains as the only option for trying to address the outstanding land title issue, outside of litigation. “This process has been detrimental as it costs indigenous peoples. Those who do not negotiate have to pay the price of not having a mechanism by which to negotiate. When it is recognized that the BCTC process and CLCP have failed, it means that BC has no process for dealing with our title” (Art Manuel 2011). It is for this reason that several indigenous political leaders are of the opinion that the domestic situation here in Canada, and specifically within the British Columbia context, lacks effective remedies for equitably addressing the outstanding indigenous land title issue.

From the governments’ perspective, regardless of its lack of any noteworthy signed agreements, the long course of action has been successful in effectively dealing with indigenous peoples who have joined the BCTC treaty process. As the BCTC treaty process has dragged on for twenty plus years with very few tangible outcomes, the outstanding indigenous land issue has also continued its journey with the litigation process through the Canadian judicial path. Even as the majority of indigenous peoples, both inside and outside of the treaty process protest the procedures and constraints of the BCTC framework, it is politically and legally preserved by the governments because it serves the purpose of containing the indigenous land issue. Loaning money to participating First Nation *band* organizations is a small price to pay for ability of the governments to maintain ‘peace in the woods,’ as the saying goes, and to ensure open access to the unsurrendered indigenous lands and resources. It is now very rare to see roadblocks or rail blockades such as those that occurred during the summer of 1990 and in the aftermath of the Oka

confrontation. The BTC treaty process may be considered a failure to indigenous peoples, but it is highly doubtful that it is considered as a failure by governments, since it is continuing to serve a valuable function for them of providing the much coveted certainty. Certainty in this form allows for 'business as usual' to continue in the form of resource extraction activities.

Chapter 5: Conclusion

5.1 The Research Problem

This dissertation focuses upon bringing to light the indigenous perspective on the outstanding land issue in British Columbia within the context of colonialism as revealed over time. While the literature shows that there are many studies addressing the outstanding land issue in BC from a varied range of perspectives, the indigenous perspective has not been well represented. While this dissertation aims to decentralize the common approaches which have settler/state themes as the primary story, I have nevertheless been required to draw upon the circumstances of the historical contexts as a backdrop in order to illustrate the evolving state of colonialism that indigenous peoples have had to contend with. It is often difficult to reach a comprehensive understanding of the outstanding land issue because of its complexity and this is made more challenging by the silencing of the indigenous voice. As governments sought to further implement British and Canadian rule, Western imperialism and the resilient processes of colonialism in Canada and British Columbia have adopted many strategies to deal with the outstanding indigenous land issue. Pulling these multitudes of elements together requires a wide lens if a comprehensive understanding is to be achieved. I have used the approach of contextualizing the experiences and perspectives of indigenous peoples and the outstanding land issue within the historical and cultural context of colonialism, as described in Gledhill's (2000) discussion about power relations and social and political organization, in which he argues that each case of conflict needs to be *contextualized* by placing it within its particular historical and cultural setting (Gledhill 2000: loc 488/7229). This serves as the basis for a comprehensive understanding of the outstanding indigenous land issue in BC, as well as to sketch out the

processes of colonialism, the power relations at play in the advance of certain perspectives and the exclusion of others, and how indigenous perspectives have been effectively eclipsed from general understanding within the wider public realm. Michel Foucault (1980) refers to this type of silencing process as being “subjugated knowledges” in his description of how forms of order are imposed through the exercise of power as well as the various ways that historical contents relating to the effects of conflict and struggle get denied and masked. Relying upon both Gledhill and Foucault’s ideas as the basis of my approach has revealed tenacious patterns within the relationship between indigenous peoples and governments in British Columbia with respect to the conflict over land. In examining the ongoing relationship between indigenous peoples and governments over the outstanding land issue, this study shows clearly how the indigenous perspective has persevered even as it has been consistently demoted to a point of relative insignificance within the wider public consciousness.

The contested nature of the outstanding land issue became clearer through examining a range of indigenous perspectives. Using archival and oral history narrative research methods, this project has placed much of its focus upon bringing forth indigenous perspectives and experiences on the outstanding land issue. This involved several archival documents embodying the indigenous voice and perspective which were sent to government officials starting around the end of the British colonial era. Research into these archival documents (in the form of Petitions, Memorials, Statements, and Declarations put forward to government representatives on behalf of traditional indigenous leadership around the turn of the twentieth century) has provided insight into the perspectives held over one hundred and fifty years ago. These views continue through to the present day, shown through interviews with political representatives and Elders. The

interviews with Elders, past chiefs, and representatives of political organizations, as well as attendance at indigenous political meetings have clearly shown the connections that have been maintained between those early archival documents and the perspectives held today about continuing indigenous land ownership in British Columbia. The descriptions shared by indigenous people, both 150 years ago and during present day circumstances, serve to illustrate the nature of ongoing political, legal, and regulatory methods used over time to suppress their voice and perspectives on the outstanding land issue. This research project has examined indigenous perspectives over three different periods, the early contact/colonial era, the following era of *Indian administration*, and the more recent and present circumstances. The findings are presented in three research chapters.

5.2 Summary of Research Findings

5.2.1 Research Chapter One

The first research chapter addresses the early contact/colonial period in BC. To achieve a contextualized approach, the practice of integrating historical and archival information into anthropological research has become common. While the focus of this dissertation is not specifically upon historical elements, as pointed out by Gledhill, “little that is happening anywhere can be understood without references to the historical discontinuities produced by the rise of the modern state and modern forms of power” (2000: loc 665). Generally speaking, within the scope of a few decades the fur trading relationships in the BC Interior transitioned into one in which the prominent features of colonialism, including power relations, conflict over land, and government control or governmentality were becoming officially established (Thomson & Ignace 2005). In addition, indigenous peoples experienced an influx of gold miners into the

Interior and a massive depopulation through the spread of the foreign small pox disease, killing 70 to 90 per cent of the people. While indigenous people had understandings with the imperial representatives during early contact and continued to rely upon the decorum of those early relationships, (Memorial to Laurier, August 1910) little to no consideration of this was explicit in the 1867 *BNA Act* when Britain began to transition away from direct governance of its North American claims. Instead, all indigenous people were simply lumped into the legal category of being *Indian* and handed off to the new dominion government set up in Canada.

It was within the context of competing European powers and the rush of claiming lands in North America that the first glimpses of indigenous concerns showed up in the archival data. As early as 1864, indigenous peoples in BC began formally petitioning the colonial government through written documents as gold miners and settlers began encroaching upon their cultivated lands, burial grounds, fields, and other settlement areas (Speech to Governor Seymour, August 1864). The written documents at this very early stage were often penned by the missionaries who worked amongst indigenous peoples. Later, through a multitude of formal correspondence sent to government officials in the form of petitions, declarations, and memorials, indigenous leaders were consistently seeking fair treatment and honorable behavior of the government on the outstanding land issue. They described how the lands they held had been their lands from time immemorial and denied that the BC government had any title or right of ownership to it. In each of the petitions, memorials, statements, and declaration documents penned on behalf of the leadership, the history since contact was extensively laid out through descriptions about how the land issue had not been dealt with through treaties, although this was promised, and that treaties were going on amongst other indigenous peoples across the country with the settler governments.

The traditional leaders described how they had helped and then worked with the first whites, and when the first settlers came, they had made promises of only using the land of the indigenous people for a short while and returning it in better condition, and made payments for the use of that land (Memorial to Oliver, 1911). Of significant value for indigenous peoples was the connections made with some non-Native friends and allies as they sought to express their concerns over the outstanding land issue. Most valuable today for gaining insight into the perspectives of the hereditary leaders of the Interior has been the presentation of their political positions in long and well documented transcript letters through the ally they found in James Teit who, having lived amongst the Nlhem7kepmx for years, knew the languages of the Interior Salish peoples. James Teit was very important as their writer as they sought to raise their concerns through a new medium and within an evolving and hostile political and legal context (Wickwire 2000).

The early archival documents also show that indigenous peoples were in shock about the way they were being treated by the Queen's representatives because, as they repeatedly state in their petitions and letters, the Queen had always been described as being gracious and well disposed toward the indigenous peoples, promising that their wishes would be upheld by her and her representatives. They were told to not fear, that the Queen's law would prevail in this country. For example, in an indigenous petition of 1873 the Queen is described in terms of expectation. "The white man have taken our land and no compensation has been given us, though we have been told many times that the great Queen was so good" (Petition to Powell, 1873). The promises made on behalf of the Queen were well remembered and repeated through the oral history narratives of indigenous peoples in BC. By 1910 the Chiefs of the southern

Interior stated, “all the promises made to us when the whites first came to this country have been broken” (Declaration of Indian Chiefs of the Southern Interior of BC, July 1910). When it became apparent in the new political environment that the Queen’s word as relayed through her early representatives had little meaning, leaders made distinctions within ensuing correspondence between the differing waves of newcomers to the lands with the early fur traders described as being the ‘real whites’ while those that followed were viewed as being of a far lesser quality (Thomson & Ignace 2005). The ensuing government activities served to shape the components of denial and disregard and these became the official way of achieving the subjugation of indigenous knowledges (Foucault 1980) within this context. During this era, the strategy of government denial was being followed while subjugation processes were being developed and rolled out. Using the conceptual approach of governmentality (Blackburn 2005) as a process designed to legitimately control people, we can equate the actions of the early colonial government as striving to establish this framework. In the archival documents, the hereditary leaders shared descriptions about how, as settler populations increased, the governments began to put restrictions upon indigenous peoples, treating them as subjects without any agreements to that effect and forcing laws upon them without any consent. These leaders described how their old laws and customs were overridden and how official representatives told them that the government had authority over all of the indigenous peoples now. It is with disdain that they described how the Queen’s law, which they believed guaranteed their rights, had been trampled underfoot by the BC government. These leaders condemned the actions of the BC government toward the indigenous peoples as being “utterly unjust, shameful and blundering in

every way.” The multitudes of documents sent to government officials outlining the concerns were virtually ignored.

Developments in governmentality and power were being experimented with and exercised through legal means in the early colonial era (Comaroff 2001, Blackburn 2005). The settler population pushed for the separation of the large bodies of indigenous peoples into small groupings on small reserves in order to ensure effective means of control (Memorial to Oliver, 1911). The Southern Interior Chiefs stated, “they let us use a few inferior spots of our own country to live on, and say we ought to be grateful to them for giving us such large pieces” (Declaration of Indian Chiefs in the Southern Interior of BC, July 16, 1910). As described by Elder Desmond Peters Sr., the government worked to ensure the reserves were exceedingly small, located on the worst lands possible and without water (Desmond Peters Sr. 2011).

While the perspectives of the indigenous leaders may not have been openly or officially acknowledged, these views have nevertheless remained at the forefront of their efforts. Indigenous leaders expanded their political organizations to include collaboration with the Indian Rights Association of BC and also had legal counsel working for them on the matter as they tried to use available legal and political government channels. Later some of the hereditary leaders even traveled to Europe raise the outstanding land issue to Imperial representatives and to the Pope. By this time, the Chiefs were also pressing to have their case heard by the *Judicial Committee of the Privy Council* in London with the Imperial authorities. When the Chiefs of the Interior traveled to Ottawa to meet with Prime Minister Borden in 1912, Teit acted as an interpreter for them and they relayed the history of all the government officials that had been to see them on behalf of the Queen, all the promises made, and how these had never been fulfilled

or upheld. The Prime Minister replied to them that he was a new chief and had never seen any word from the Queen on those matters. He also indicated that he would carefully read and consider their concerns and he would be back in touch with the Chiefs' lawyer, Mr. Clark. This commitment by a high ranking dominion official, once again, was not followed through upon.

In a compromise amongst themselves, the provincial and federal governments developed the joint McKenna-McBride Indian Reserve Commission in which the indigenous peoples were expected to immediately and fully surrender their title to the land *if* it was found to exist. The Chiefs were incredulous at the suggestion and they made it clear that they were not willing to extinguish their title as was being suggested (Cail 1974). They had very little trust for the BC Government members of the Reserve commission because of the denial that was ongoing amongst provincial officials. "For this reason, we respectfully but strongly protest as follows: against the settlement of the Reserve question before that of title" (Statement of Chiefs of the Interior Tribes of BC, May 1913). The clear historical political position of the hereditary leaders was that they had never accepted the reserve lands as being settlement for the outstanding land issue. In response to the McKenna-McBride process which was designed by the provincial premier and dominion government to address the outstanding land issue and adjust reserve sizes, the Allied Tribes of BC, a province-wide political organization, was formed. They sought to have the power of the Secretary of the State of the Colonies at the Privy Council enacted to address the outstanding land issue. Rather than allowing this to occur, the two levels of settler governments acted in unity to avoid it and took measures through legislation to ensure this would never happen. The governments took the information and used it to strategize in skirting around and putting the issue off further. In his examination of the *how* of power by considering two

points of reference, Foucault points toward the rules of right that limit power and the effects of truth that power produces. He states “we are subjected to the production of truth through power and we cannot exercise power except through the production of truth” (1980:93). This is apparent in these circumstances. As time continued to pass, the pattern of government denial was becoming more entrenched while the development of general assumptions about the land issue and the government production of ‘truth’ about it were being further propagated.

5.2.2 Research Chapter Two

In moving beyond the archival data, the second research chapter places emphasis upon indigenous peoples’ experience of official suppression through colonial law with the introduction of *Indian administration* and ensuing legislative actions that show linkages to the outstanding land issue in British Columbia. Through interviews with Elders and political representatives, the recognizable patterns of official denial and oppression became more apparent during this period as more stringent measures of control were exercised through *Indian administration* in BC. John Comaroff (2001) outlined several characteristics of colonial law in his discussions on the use of law in the process of colonialism. He points out the most notable amongst these still is the construction and use of colonial power/knowledge processes termed “lawfare” which, in turn, are upheld in legal terms and through the ritualization of state authority in the legal realm. These ideas are useful for conceptualizing past and ongoing conflicts amongst indigenous peoples and government legislation and regulations of control. A prime example of the concept of “lawfare” for my research is the *Indian Act*, a comprehensive *Indian administration* system which over time has been made up of integral components designed to facilitate the subjugation of and removal of indigenous peoples from the land (Dyck 1991, Tobias 1991). Taking several strands

of reality together, a picture emerges that reveals how indigenous peoples experienced increasing governmental control over time through colonial law toward cementing claims of sovereignty and jurisdiction over indigenous lands and peoples and also how indigenous peoples experienced and resisted these actions.

Comaroff (2001) describes how colonial law was accepted as an instrument of domination. He explained how, on the one hand, colonization was rationalized by ideals of sharing western civilization with the rest of mankind and, at the same time, work was carried out to rationalize and sustain the distinctions between themselves and the ‘others’ encountered overseas. In Canada, this ‘benevolent’ thesis served to justify the imposition of the *Indian Act* upon indigenous peoples (Tobias 1991). The subject matter of *Indian administration* in Canada has received academic treatment from a diverse range of disciplines. Within the field of anthropology, Noel Dyck’s comprehensive handling of the subject in his book *What is the ‘Indian Problem’: Tutelage and Resistance in Canadian Indian Administration* (1991) has provided informative and relevant context to the broader indigenous experience. While the actions taken by governments in relation to indigenous peoples were said to be based upon concepts framed as benevolence arising from an advanced humanitarian approach toward ‘other’ peoples of the world, the ultimate underlying aims of gaining control of the land base were clearly recognized by indigenous peoples as never far out of sight. This has been viewed as being the primary driver of the continuing pattern of control along with denial and oppression being implemented through the mechanisms of colonial law with ever new legislative and regulatory approaches.

A significant factor that this research illuminates is a high point in explicit oppressive practices between 1927 and 1951 brought forth and exercised by the settler governments against indigenous peoples. This government action was in direct response to indigenous efforts to have the Privy Council in London hear their case on the outstanding indigenous land issue. The legislative changes to the *Indian Act* in 1927 were designed to counter these efforts and had the effect of outlawing these activities. One further result of this claimed government authority was that *Indian Agents* became more active in the BC *reserve* communities at this time, working in partnership with the missionaries who had a system of visiting the communities to work on their ideals of ‘civilization’ and Christianity amongst indigenous peoples. In effect, these forms of legislation served to remove indigenous peoples from their lands in a legal manner through claims of ‘Crown’ authority. These included forming legislation that served to oust indigenous forms of governance, while simultaneously instituting the *reserve system*, *Indian agencies*, *Indian agents*, and *Indian residential ‘schools’*.

It was within this context that indigenous participants describe how, over time beginning in the 1930s to the 1950s, they were subjected to many different governmental strategies to contain efforts toward pursuing the outstanding land issue. The legislative mechanisms to outlaw indigenous forms of governance remain a point of contention amongst indigenous peoples. The imposition of this piece of colonial ‘lawfare’ had the effect, over time, of officially displacing the hereditary indigenous leadership and the enormous efforts that had been made in pressing the outstanding land issue over the early generations (Amos Bob 2011, Desmond Peters Sr. 2011). The research participants view the *Indian Act* system as one of the most destructive tools used by governments to control, oppress, and suppress indigenous peoples, as the imported system of

European government and governmentality took hold. The actions of the *Indian agents* were described by the research participants as acting to enforce a form of strict control over the people right on the *reserves* (Albert Joseph 2011). The *Indian agents'* actions of allowing all manner of land expropriation from the *reserves* provide an example of the common practice that was referred to by the research participants. It also demonstrates the continuing pattern by government officials of disregarding concerns of indigenous peoples about the land issue. When indigenous peoples resisted these government initiatives, the *Indian agents* who were often ex-military men from the First World War, routinely used the threat of jail along with oppressive measures of surveillance, manipulation, and control as regular methods to ensure compliance (Des Peters Sr. 2011). The drive for *residential 'schooling'* of indigenous children in the BC Interior began to take on more force during this time and it then became a regular part of life for several generations. As the children were being routinely battered and abused within the *Indian residential 'schools'*, they often returned back home with the element of fear having become deeply ingrained into their characters. The research interviewees spoke quite openly about this aspect, describing how the fear was routinely developed through battery and abuse as a means to ensure governmental control over the people (Roger Adolph 2011, Albert Joseph 2011). As Elders described their experiences with these official processes, they were described as being a part of the "official land grab" of the governments. One Elder described the process as "they stole it fair and square" (Desmond Peters Sr. 2011).

Following the early to mid-twentieth century decades in which mechanisms of governmental power and control were being strategically formalized and implemented, Elders recognized that the governments began pushing further into unceded indigenous territories with

massive public infrastructure projects such as railways and hydro-electric developments as well as exploitative forestry and fisheries practices (Desmond Peters Sr. 2011). The provincial regulations and restrictions over accessing lands, fish, and wildlife began to be strictly enforced, further alienating indigenous peoples from using the lands in traditional ways (Carl Alexander 2011, Rosalin Sam 2011). The historical knowledge of these decades between 1927 and 1951 lives on amongst indigenous Elders while the evidence can also be found in the politically influenced legislative and regulatory procedures that were implemented by the settler governments. Indigenous peoples saw these land exploitation projects happening and discussed how the theft of the land was increasing in each of the territories during this time (Rosalin Sam 2011). Throughout all of these difficult experiences, while under oppressive legislative and regulatory restrictions, indigenous peoples kept the land issue alive amongst themselves by continuing to discuss and pass on the knowledge of how the government was stealing the land and how the land had never been given away or sold, stating that no treaty papers were ever signed with anyone.

Following World War II, some of the more discriminatory aspects of the *Indian Act* were dropped in 1951, including the restriction against legally pursuing settlement of the outstanding indigenous land issue. The push to have this matter recognized began once again (McFarlane 1993). Indigenous political organizations such as the newly formed Native Brotherhood began to press the governments, describing how the indigenous peoples of the Interior of BC still felt strongly about the outstanding land issue (George Manuel 1960). The context within which these renewed efforts took place was one where British claims to sovereignty had evolved in British Columbia. The outstanding indigenous land issue was finally allowed to be addressed through

the judicial system. The access to the Privy Council in London had been effectively closed off and the Canadian and provincial judicial systems were being further developed and implemented. So while early British law had been more favorable in its treatment of indigenous peoples, the Canadian judicial system held that indigenous peoples were automatically in a subordinate position relative to the 'Crown'. Nevertheless, it was the only avenue available so the first litigation case on the outstanding indigenous land issue began shortly with the Nisga'a case, better known as the *Calder* case.

After the federal government presented the draft White Paper in 1969 with their plans to further assimilate indigenous peoples, a province-wide meeting for all Chiefs was held in Kamloops BC (UBCIC 2004). At this historic meeting, the indigenous political organization called the Union of BC Indian Chiefs was formed. This acted as a catalyst for openly reviving the outstanding land issue amongst all of the political leaders of the province and bringing them together once again to work on this ongoing important concern. As the elected leaders joined together to oppose the federal White Paper initiative at this point, Elders described how they were still greatly influenced by the political position of the old hereditary Chiefs on this matter (Desmond Peters Sr. 2011). The new era of political and judicial actions by indigenous peoples had begun.

For the most part, indigenous peoples have continued to hold onto the expectation that the judicial system would treat the outstanding land issue in a fair manner based upon the facts. However, over time, it became clear that the judicial path has just as many twists and turns as have the political, legislative, and regulatory paths of the governments that preceded the courts in handling the outstanding land issue. As indigenous peoples watched the court cases play out,

they saw the governments rely upon varying responses and declarations, including the statement that *aboriginal* peoples were ‘primitive’ people when Europeans arrived, arguing that the land had been legally empty upon ‘discovery’ and that there was no such thing as *Aboriginal title*. These were the very same justifications used by early Europeans for their initial claims of sovereignty. The patterns of using the ‘racial inferiority’ arguments as a justifying discourse within the courts along with the silencing of indigenous voices have been strategically maintained even after an alternative avenue was provided through *Calder*. As described by Asch (2007), following *Calder*, a choice was presented between two different ways of comprehending indigenous societies and their rights to the land following contact and European settlement. However, the courts themselves also did not live up to the potential offered in *Calder*. Favorable representations of indigenous societies were not upheld post-*Calder* in Canadian jurisprudence, but instead fell back upon the ideology and legal reasoning developed over two hundred years before under the auspices of British colonialism. As further described by Asch (2007:109-10), “were the courts to adopt the representation of indigenous society advanced in *Calder*, it would, by necessity, invalidate this assumption, for, under such conditions, the legitimacy of our claim to sovereignty, legislative authority, and underlying title without the express consent of indigenous peoples is called into question. These are dangerous grounds for the judiciary to occupy, both in terms of audacity and of its very capacity as a creature of the state within which it is embedded.” The courts, like the governments, have a degree of discretion as they go along and as a result, they continually hesitate to take a position that would place the governments under binding outcomes. Culhane (1998) also points out how, in this day and age, it understandable if there is no widespread alarm when it is suggested that interests other than the

pursuit of justice may be a part of the legal processes. She states, “suggestions that judges’ decisions often reflect prejudices common in contemporary society at large, rather than being strictly determined by exclusively legal concerns, are hardly shocking revelation” (1998:15). Indigenous participants recognize and describe the avenues that the courts have taken to avoid definitively addressing the outstanding land issue over the years (Art Manuel 2011).

As the court cases gradually began to produce outcomes related to the foundational Canadian/British legal principles and responsibilities in relation to indigenous peoples and indigenous lands, the governments moved quickly to counter any of these partial successes on the ground. The courts eventually arrived at a legal definition of *Aboriginal title* based upon their own premises. It was maintained that *Aboriginal title* was the right to use and occupy ‘Crown’ land, and the court declared that each indigenous people will be required to *prove* their title. This ultimately had the effect of bolstering and upholding the British claims of sovereignty and the settler governments’ version of reality. As such, the courts designated how the relationship ought to be shaped between indigenous peoples and the settler governments in several rulings. They stated that *aboriginal title* is a recognized legal concept within British/Canadian law, followed by descriptions of *aboriginal rights*, declaring that indigenous oral history could be heard within the courts, introducing the terms of *consultation* and *accommodation*, and finally after a century and a half of land exploitation by the newcomers, by declaring the first court approved *aboriginal title* in BC through the 2014 *Tsilhqot’in* case. It was a decision that was made from within the Canadian legal system which is based upon the parameters of the British founding nation and sovereignty version of reality. In addition, rather than Supreme Court recognition as a comprehensive fact, instead the decision was specific only to the Tsilhqot’in. Now each

indigenous group would be required to also go to that extent to ‘prove’ their *aboriginal title*. The requirement to ‘prove’ this ownership within the context of the imported British/Canadian legal premises is just another of the unique circumstances arising from the original denial by the colonial government in BC.

Ultimately the Canadian legislative and judicial systems provide a significant example of ‘lawfare’ as described by Comaroff (2001) as it is imported from the same locale as the colonizing power, serves as a primary mechanism in maintaining modern colonialism, and is essentially in a position of conflict of interest for addressing the outstanding indigenous land issue in a meaningful way. Throughout the duration of court proceedings occurring over the last four and a half decades, indigenous peoples have remained actively involved and continue to maintain their political position in relation to the lands while the governments continue with their pattern of denying indigenous peoples. Within this context, indigenous people recognize the overall reality of colonialism that they must contend with.

5.2.3 Research Chapter Three

The focus of the third research chapter is the more recent period beginning with the 1990 Oka confrontation and continuing on to present day circumstances. Ultimately the form of resistance by the Mohawk was an expression of the deep sense of injustice held by indigenous peoples over outstanding land issues along with an example of actions used by government to maintain power over this matter. When the confrontation between indigenous people and the police broke out in Oka, Quebec, indigenous peoples across the country reacted to it because there was a sense of direct connection felt with the experience of the Mohawk, the treatment they were receiving, and their political position about their outstanding land issue (Butch Bob 2011).

As protest actions of this form simultaneously sprang up across the country, the usual government actions of disregarding indigenous peoples were no longer an option. The governments resorted to the use of police force and the Canadian Army and escalated the suppression and oppression components of their approaches through violent police raids and widespread arrests (Stewart Phillip 2012). Reflecting on similar occurrences, Comaroff and Comaroff (2006) have provided analysis on what they have termed 'lawlessness' and its elevated occurrences in post-colonies. In their research, they recognized a pattern of disorder under the imposition of foreign state power. They also have noted the preoccupation with the rule of law within these post-colonies. Within the context of the Oka confrontation, similar patterns based on upholding the 'rule of law' were also revealed through police and national defence actions.

The Oka confrontation and protest activities by indigenous peoples, along with the ensuing violent police conduct ended up playing a pivotal role in directing public attention toward indigenous perspectives on the outstanding land issue in BC. Up until the summer of 1990, the BC government was discounting indigenous peoples by treating the outstanding land issue as irrelevant, while explicit racism against indigenous peoples was still widespread and actively practiced in all sectors of society. Over time indigenous peoples in BC had been attempting to open meaningful discussions about the land issue and to reach understandings with governments through their political organizations; however, when proposals were put forth, these were simply disregarded. As described by research participants, the government position at this late date continued to be one of outright denial of any relevance to the longstanding indigenous position of land ownership. Once the Oka crisis was at its peak and the advance of the Canadian Army upon the Mohawk had occurred, a number of St'át'imc leaders and people began to step

outside the confines of the *Indian Act* structures to bring attention to the outstanding land issue. The leadership within St'át'imc communities were reviving the positions described within the 1911 *Declaration of the Lillooet Tribe* while the Union of BC Indian Chiefs were developing a position paper that was based upon the principle of non-extinguishment of title. Up to this point, indigenous peoples in BC had been subjected to the government processes for generations in the form of avoidance, denial, disregard, and neglect of indigenous land issues while non-Native people, municipalities, provinces, along with federal government continued to use legislative powers with stringent control mechanisms to maintain and enhance their unhindered control over the lands.

In St'át'imc territory the Oka confrontation took on significance after Chief Butch Bob of Pavilion put up a roadblock and was arrested shortly afterwards. This sparked a chain reaction that led to further blockades being put up in the territory as an avenue toward taking a stand on the outstanding land issue and the lack of meaningful recourse in BC and Canadian systems. Support for the St'át'imc blockades arrived from the Okanagan people. The railway blockade, set up with the aim of creating an economic impact on the provincial systems, had the effect of gaining interest from British Columbia Premier Bill Vander Zalm. When the Royal Canadian Mounted Police (RCMP) raided the blockades, several people were arrested. As described by the research participants, when indigenous people took a stand on the land issue all across the province it opened the door toward some changes (Stewart Phillip). In speaking with well known indigenous leaders who had actively pursued political activities, they felt that those actions were important in focusing public and political attention on the outstanding land issue in BC. The research participants shared how the protest activities during the summer of 1990 involving the

road and railway blockades in St'át'imc territory were important in bringing long sought-after attention toward the indigenous land issue (Roger Adolph 2011, Butch Bob 2011).

The BC Claims Task Force arose out of the blockades and protests that occurred in British Columbia in 1990 in response to the Oka confrontation. While the governments finally gave the outstanding land issue some attention by agreeing to devise a 'treaty' process, it soon became clear that they had no intention of loosening their grip on any meaningful control of the land through the processes developed. The creation of the BC Claims Task Force produced a report with recommendations for addressing the outstanding indigenous land issue in BC through a tripartite treaty process. The British Columbia Treaty Commission process resulted from the BC Claims Task Force report; however indigenous communities were not allowed the opportunity to review and provide feedback on it (Stewart Phillip 2012). This calculated lack of due process provided an indication of the potentially unreliable contents of the process which were to reveal themselves later. By not allowing for community review and feedback to the BCTC development, the lack of due process provides another example in the pattern of silencing indigenous voices and perspectives, the "subjugated knowledges" (Foucault 1980) on the outstanding land issue in BC. From the indigenous experiences, it quickly became clear that the objectives of the BCTC process were heavily weighted in favor of the provincial and federal governments (Fred Alec 2011, Des Peters Jr. 2011). The process was designed to maintain the status quo of assumed provincial jurisdiction over unceded indigenous territories. There was and remains considerable controversy about the lack of meaningful input to the process along with significant concern over the negotiating table parameters that were unilaterally set prior to the matter actually going to the negotiation table.

The so-called ‘made in BC treaty process’ is primarily a regurgitation of the 1973 federal Comprehensive Land Claims Policy which stipulates extinguishment of indigenous ownership of the land (Art Manuel 2011). The primary intent was to relieve the burden on the ‘Crown’ of the indigenous land ownership by extinguishing *aboriginal title*. In other words, the entire BCTC process is based upon the governments’ position, prior to the 1973 *Calder* ruling, and this has determined what would be allowed onto the ‘negotiating’ tables and which issues were simply deemed non-negotiable. This is one serious concern about the BCTC treaty process amongst numerous others. As described by Blackburn (2005), amongst the most cogent elements of the BCTC process has been its role in governmentality developed to regulate indigenous peoples and to manage risks and ensure economic ‘certainty.’ She states “it is also an exercise in governmentality, in which legal expertise is central in governing an Aboriginal population, providing security for the economy, and in the production of the effects of sovereignty” (2005:591). Blackburn describes how the governments are trying this avenue to address their legal obligations while maintaining secure sovereignty to ensure smooth economic opportunities.

Once the implementation of the BCTC treaty process actually began, there was a portion of BC *First Nation bands* and groups that signed up to participate with high hopes, however these were quickly dashed once it became clear that the treaty framework would not allow for equitable arrangements with indigenous peoples (Indigenous Political Meeting, 2012). Another major concern noted with the BCTC process involves the way governments completely disregard distinctions between indigenous groups and land holdings. For example, *First Nations bands* that chose to enter the BCTC process used the ‘Intent to Negotiate’ application process which asks them to provide the land base they were putting onto the ‘negotiation’ table. These *political*

rather than *researched-based* designations of Area of Interest maps put forth for negotiation frequently overlap the territories of their neighbors (Art Manuel 2011). To date there is simply no opportunity for recourse for the affected neighbor who would have their lands negotiated away without ever having chosen to participate in the process. This provides another example of the continued institutionalization of subjugating indigenous knowledges through government processes. Even as this matter is raised by the affected neighbors, there is no clear avenue, no viable process, and no established entity to approach to have it addressed (No Vote Meeting 2012). Along another line as a matter of policy, the governments are willing to have indigenous groups relinquish their title to the land base but, simultaneously, simply refuse to have this interpreted as being any form of official acknowledgement of indigenous title to the land (Fred Alec 2011). Critics of the BCTC process have noted that the policy of loan provisions as a component of negotiations is questionable at best when used for communities that are well known in Canada as systemically experiencing high poverty indicators. Communities that cannot afford these ever-increasing annual loans for a ‘treaty’ process that goes nowhere year after year are in debt for millions of dollars (Alfred 2001). Another criticism points to the ideal of the ‘law of the land,’ described as being held in high esteem by most Canadians, yet it does not apply to the BCTC process (Indigenous Political Meeting 2012). *First Nation bands* want the ‘law of the land’ as expressed through the Supreme Court of Canada rulings and the Canadian Constitution to apply to the negotiations but these, again, are simply not allowed.

While the BCTC treaty process continues without meaningful results, indigenous peoples who have refused to enter into the inequitable and defunct process have no viable alternative (Art Manuel 2011). When attempting to have their outstanding land issues addressed, they are simply

referred toward the BCTC treaty process as being their only recourse. This, too, is another example of official silencing of the indigenous perspective. Most indigenous peoples and groups have come to view the BCTC treaty process as simply another long drawn out process of governmental control and as a mechanism for governments to continue the engrained pattern of denial and avoidance in addressing the outstanding indigenous land issue in any meaningful way. The BCTC treaty process is openly viewed as a failed process but it continues to be upheld because it serves to bolster so many other objectives of the governments, not the least of which is its role in keeping protests like the Oka confrontation and ensuing BC indigenous blockade protests from occurring (Art Manuel 2011). And, just as importantly, the BCTC process allows for the perception that the outstanding indigenous land issue is being addressed and this soothes concerns of ‘uncertainty,’ provides for the maintenance of the status quo, and allows for continued access to indigenous lands by business and industry in the province.

5.3 Concluding Statement

Anthropologists have provided a wealth of analyses about how the political and legal systems have shaped the context of the indigenous land issue in Canada. On the broader scale, they have directed our attention toward the expansion of Western imperial power and its accompanying colonialism including the elements of oppressive power relations (Asad 2002). These have served to set out how the social domain has been constructed and also, for my purposes here, have provided a framework for illuminating the often unspoken but dynamic connections between power and the institutionalization of colonialism that began during the colonial era in BC. This has allowed for examination of the elements of colonialism that have been established and maintained through power relations which serve to ensure certain

conditions are repeatedly reinforced, while simultaneously ensuring that ‘other’ versions of reality and experience are subjugated and remain obscure. In addition, the field of anthropology has also been effective in highlighting the need for inclusion of indigenous perspectives by encouraging the use of oral history approaches on all related matters to gain clearer insights.

In aiming to gain a better understanding of the ongoing conflict over the outstanding land issue in British Columbia, it is clear that the political and legal struggle between indigenous peoples and settler governments is complex and not easy to fully comprehend through cursory observation. In reconsidering the outstanding indigenous land issue in BC through the inclusion of indigenous perspectives, this research has found that within the context of colonialism, settler governments have used and continue to use a patterned approach to deny and disregard indigenous ownership of the land. In direct contradiction to government claims, indigenous oral history narratives illuminate the historical knowledge and political position maintained through time about indigenous ownership of the lands. These long-standing competing versions between indigenous peoples and settler governments formulate the outstanding indigenous land issue in BC. Through this research process it became clear that understanding the competing versions about the outstanding land issue is based upon examining the way it has been framed and maintained by both indigenous peoples and the settler governments. Upon closer consideration, it also became evident that it has been shaped by a pattern of powerful political and legal processes which were formed to ensure that only one perspective of reality would be heard and given consideration while the ‘other’ became “subjugated knowledges” (Foucault 1980). These legal and political patterns are, in essence, processes of power that are developed to form select “taken

for granted assumptions” (Gledhill 2000) about this matter while simultaneously suppressing other perspectives.

Through an inclusive examination of the outstanding land issue in BC, themes and patterns began to present themselves. They include the common experiences of indigenous peoples as they worked to uphold their truths as the owners of the land. There are also the patterns of government denial of indigenous land ownership along with the use of political, legal, and regulatory mechanisms of power. These contribute toward the ‘taken for granted assumptions’ about the land issue while simultaneously working to silence the indigenous voice. Furthermore these patterns are devised to keep perpetuating themselves. The government processes illustrate its continued patterns of colonialism and its activities of governmentality on the ground which have evolved and been repeated through the extended timeframe.

The examination of indigenous perspectives on the outstanding land issue has revealed common experiences. While it is not often recognized, indigenous perspectives on this matter have remained consistent. Indigenous peoples view all of the political, legislative, and regulatory actions by the governments simply as a means used to suppress the truth. It is the indigenous view that these methods of suppression have been implemented for the specific purpose of expanding settler government claims of sovereignty over indigenous lands and jurisdiction over indigenous peoples. Even with the pervasive governmental uses of political, legal, and regulatory methods of suppression, indigenous perspectives have been kept alive through oral history narratives in which knowledge of indigenous ownership of the land was passed on through the generations. At its root, this perspective holds that the land belongs to indigenous peoples. Indigenous Elders, past leaders, and political representatives who have informed my project

allowed for the examination over time of what the indigenous experience and perspectives have been. These research participants shared how the indigenous perspective of being the true owners of the land have been consistently maintained through oral history narratives and traditional knowledge systems that continue to uphold the positions of the early traditional chiefs and pass these voices on through the generations. Indigenous perspectives, as described through the archival letters, research interviews, and political meetings have shown what has been experienced through the political, legal, and regulatory processes established by the settler governments. This research project shows that indigenous perspectives about territorial based land ownership have been maintained even as competing versions sought to suppress this reality. When attempting to join the discussion on this matter, these perspectives are not taken very seriously, since it is almost like speaking in another language than the one used to express the commonly accepted modes of understanding or the ‘taken for granted assumptions.’ Therefore, to bring forth the indigenous voice on the issue of the continuing ownership of the land tends to be viewed as speaking from completely outside of the commonly accepted framework.

A discernible pattern of subjugation of indigenous knowledge through denial and disregard has been consistently re-established by successive governments in their handling of the outstanding indigenous land issue in BC. Indigenous leaders began to experience this once the colonial government transitioned into a definite state of denial. Since successive settler governments have each insisted upon this version of reality, the established “taken for granted assumptions” that indigenous peoples had no ownership whatsoever of the lands has been maintained. In this version, the ‘Crown’ automatically owned the land based upon European sanctioned rights stemming from principles of ‘discovery.’ This claim by governments has

remained steadfast through the years, facilitating the initial colonial denial of indigenous ownership on right up to the present. Clear linkages exist between early and ongoing government actions and their ambitions toward claiming indigenous lands. The pattern of denial and disregard is also evident in the ongoing relations between indigenous peoples and governments. After going through this comprehensive research approach on the interactions between indigenous peoples and governments about the outstanding land issue, it became increasingly clear that the practices of government denial and disregard in dealing fairly with this matter show an entrenched pattern that began early, has evolved through time, and has been actively maintained into the present. These activities can be deemed as creating and facilitating the encompassing framework of colonialism. They are geared toward silencing the indigenous voice on the outstanding land issue. This becomes more apparent through the recognizable patterns of government actions through time. The pattern of silencing through denial and disregard has been facilitated through the procedural use of political and legal mechanisms of power.

The forms of governmentality exercised over indigenous peoples through political, legal, and regulatory mechanisms of power and control used by governments in shaping the understanding of the land issue have also been exercised in a patterned fashion. Indigenous experiences with governmentality are recognized as being explicitly connected to the land issue. These were developed, in many different forms, to ensure the continued establishment of 'legal' meanings and 'taken for granted assumptions' about the outstanding indigenous land issue. The primary 'taken for granted assumption' is that the 'Crown' owns the land and the governments manage that claimed sovereignty and jurisdiction on its behalf. This research revealed how settler governments worked diligently to establish and maintain oppressive control over

indigenous peoples and lands through political, legal, and regulatory means. Through formalized suppression of the indigenous voice on this matter, the “taken for granted assumptions” arising from official discourses have greatly influenced the perception of reality resulting in a constructed belief system about the outstanding land issue in BC. As such, the development of the ‘taken for granted assumptions’ about the outstanding indigenous land issue and its eventual form of public consciousness are contrary to perspectives held by indigenous peoples. The development of these assumptions on the outstanding land issue over time has revealed how it has come to be taken for granted that indigenous peoples have no significant rights to the land. Ultimately what this research has shown is how powerful government actions in the form of political, legal, and regulatory processes have explicitly and intricately shaped generally accepted understandings about the outstanding indigenous land issue over the generations in attempts to sever the inherent relationship with the ownership of their respective territorial lands and how indigenous peoples have maintained their truths about this important matter.

What readers can gain through this research project is an understanding about indigenous perspectives on the outstanding land issue in BC along with the interrelatedness between government actions and the responses of indigenous peoples regarding this matter. This ongoing relationship is a direct one. The form of this relationship has shown itself through the linkages found between settler government activities that shaped this situation and in the way these relate to how efforts have been ongoing to suppress the indigenous voice on this matter. Within this research project, the evolution of the outstanding land issue was examined as experienced primarily by St’át’imc people and indigenous leaders of BC, along with other indigenous peoples throughout BC. The interview information gathered from research participants illustrate the

consistent indigenous perspective along with how the government patterns of denial along with political, legal, and regulatory procedures continue today in relation to indigenous peoples and the outstanding land issue in BC. We also see the continued pattern of actions by indigenous people that press for recognition of their land ownership through political and legal avenues, including protest activities and blockades on the ground. This research highlights the shape and form that colonialism has taken over time and how it is maintained. The nature of these powerful political and legal processes developed to address the outstanding land issue has been shaped to meet the demands of colonialism. It is within this context of collective denial that the indigenous perspective, indigenous experiences, and indigenous knowledge have shows resilience by continuing to survive based upon the oral history narratives passed on through the generations. As such, this research may provide an opportunity to understand how the development and ongoing processes of colonialism shape the political and legal context that informs the outstanding indigenous land issue in BC.

Through the comprehensive approaches taken in this research project, a better understanding may be achieved about how the long outstanding land issue has clear causes that are related to the political and legal processes involved in colonialism. The power of this pattern of colonialism is found in its routine maintenance and is evident in the way this cycle keeps perpetuating itself in slow motion. These findings may be useful in future research about the outstanding indigenous land issue in British Columbia. As we know, the longstanding political matter of the indigenous land issue in British Columbia is not any closer to being resolved in a meaningful way. The alienation of indigenous lands carries on as a matter of course without due consideration of the longstanding legal requisite to address the issue prior to encroachment and

settlement. Indigenous peoples have responded by using political, legal, and direct action methods when and where they could to maintain their position as owners of the lands. After decades of litigation, the opportunities indigenous peoples have gained toward having a voice about the land issue have been suppressed to a diminutive version and have only been slowly incorporated into government processes. As directed by the courts in the ongoing government processes, indigenous peoples are now allowed to be heard through *consultation* processes. However, the pattern shows that these judicial directives are interpreted in a discretionary fashion and as a result governments ensure that the procedural processes are developed to meet only the minimal legal obligations. This resonates with the patterns established in this long relationship that show the liberties taken by governments to ensure that control over all the lands in the province is maintained. This is carried out by turning court directives for meaningful consultation with indigenous peoples about the land into meaningless form letters, phone calls, and empty consultation meetings. Policies in these forms are shaped to ensure the continued Provincial control over lands on behalf of 'the Crown.' The concerns of indigenous peoples about proposed land and resource use projects are taken as simply being opinions that governments are legally required to receive. In fact, all they routinely do is receive the opinions because that is all they are legally required to do.

Once governments have gone through these empty processes to meet the minimal interpretations of the court directives, they are then in a position to carry on with business as usual. This encapsulates the modern version of the entrenched pattern that has changed very little since government denial about indigenous ownership of lands began back in the 1860s. Taking a comprehensive perspective in researching the outstanding indigenous land issue may be helpful

for encouraging better understandings about the realities of the existence and maintenance of colonialism here. The tendency to continue with standard research models that eclipse broader perspective of matters that have developed within the context of colonialism may demonstrate the strength of the established framework of 'taken for granted assumptions.' And therein, for example, lays the power of such courses of action.

And finally, the indigenous perspective and voice have always been there, right below the acknowledged surface. It has always been a point of contention for governments and has influenced multitudes of their strategic initiatives and responses. These government initiatives and responses have included the imposition of their political, legal, and regulatory systems to be implemented upon indigenous peoples and indigenous lands. These have been imposed upon indigenous peoples through a wide range of political, legal, and regulatory means. Indigenous peoples have described their experiences and continuing efforts of upholding their ancestral political position as the owners of their respective indigenous territories. This has been no easy task against the powerful tools of colonialism, the massive machinery of the 'Crown,' the governments, and the courts. However the indigenous perspective and political position in relation to the ownership of the land has remained consistent. We own the land.

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Appendix A

UBCIC Declaration

as adopted by the UBCIC General Assembly

May 17, 1976

WE, the Native People of the Tribes in British Columbia, openly and publicly declare and affirm to the people and Governments of Canada and British Columbia:

THAT the Indian Tribes have held and still hold Native Title, Aboriginal Rights and ownership to all lands and resources of British Columbia, within our respective Tribal Territorial Boundaries, and

THAT the Indian Tribes have held and still hold Aboriginal Rights to fish, hunt, trap and gather food, resources and goods within our respective Tribal Territorial Boundaries, and

THAT the Indian Tribes have held and still hold inalienable and Aboriginal Rights to self-government within our respective Tribal Territorial Boundaries, and

THAT we, the Native People of the Tribes of British Columbia, have never reached any agreement or Treaty with the Governments of Canada and British Columbia concerning the occupation, settlement, sovereignty, and jurisdiction over our Native Lands, and

THAT such Native Title and Aboriginal Rights have never been extinguished, purchased, or acquired by treaty, agreement or by any other means by the Government of Canada and the Government of British Columbia, and

THAT such Native Title and Aboriginal Rights exist today and shall continue to exist for all future time, and

THAT the Governments of Canada and British Columbia shall immediately recognize the existence of Native Title and Aboriginal Rights and shall enter into tripartite negotiations with representatives of the Native People of British Columbia, and

THAT such negotiations will be based on the principle that Native Title and Aboriginal Rights exist and will continue to exist, and that any compensation benefits, resource royalties, or payments will not be a purchase or extinguishment of Native Title or Aboriginal Rights but will be a part of an on-going and perpetual recognition of Native Title and Aboriginal Rights, that such negotiations will determine the specific methods of putting Native Title and Aboriginal Rights into practice, and

THAT in recognition of Native Title and Aboriginal Rights there will be land, monetary, and other compensation for lands and resources held by the Indian People in British Columbia under Native Title and Aboriginal Rights that have already been irretrievably encroached upon, sold, or otherwise used under Provincial or Federal Grants of Title or License; that such compensation will be negotiated on the principle of perpetual and continuing recognition of Native Title and Aboriginal Rights, and

THAT lands that have been unjustly, arbitrarily, and capriciously taken from Indian Reserves shall be returned; that if return of these cut-offs and "Lost Reserve Lands" is not possible, then alternate lands of equal value shall be set aside as Indian Reserves, and

THAT in recognition of Native Title and Aboriginal Rights there will be protection for Indian participation in royalties, use and management of all lands and resources within our respective Tribal Territorial Boundaries; that such Indian participation and monies paid under agreement will not be construed to be a purchase, or extinguishment of Native Title and Aboriginal Rights, and

THAT in recognition of Native Title and Aboriginal Rights, the inalienable and Aboriginal Rights of hunting and fishing shall not be abridged, restricted, curtailed or regulated by any Act or Regulation of the Government of Canada or the Government of British Columbia; that if any regulation of such Aboriginal Rights of hunting and fishing are deemed necessary by the Indian People themselves, such regulation shall be administered by the Indian People themselves, or their representative, and

THAT all development, regulation, land sales, and resource extraction from or on so-called "Crown Lands" held by the Indian people of British Columbia under Native Title and Aboriginal Rights shall immediately cease until agreement is reached between the Government of Canada, the Government of British Columbia, and the Native People of British Columbia on recognition of Native Title and Aboriginal Rights, and

THAT all forest tenures, mineral claims, and land leases be declared in moratorium after expired dates of such licenses and leases until agreement is reached between the Governments and the Native People on recognition of Native Title and Aboriginal Rights, that the Government of British Columbia does not renew any resource licenses, mineral claims, tree farm licenses, timber sale harvesting licenses, timber sale licenses, and pulp harvesting licenses when they expire and that the Government of British Columbia cancel old crown grant timber berths, that no new Provincial or Federal park be established until after such agreement on recognition of Native Title and Aboriginal Rights, and

THAT all lands presently designated "Federal Crown Lands" within British Columbia shall be immediately turned over to the Indian People of British Columbia, as a show of good faith in recognition of Native Title and Aboriginal Rights under terms to be negotiated by the Indian People of British Columbia, and

WE, the Native People of the Tribes of British Columbia, hereby declare and affirm our inalienable rights of Native Title and Aboriginal Rights to: the land, the minerals, the trees, the lakes, the rivers, the streams, the seas, and other resources of our Native land. We declare that our Native Title and Aboriginal Rights have existed from time immemorial, exists at the present time, and shall exist for all future time, furthermore

WE the Native People of the Tribes of British Columbia, declare that we shall do all in our power to see that the Governments of Canada and British Columbia recognize, in law, and in practice, our native Title and Aboriginal Rights.