

**NEGOTIATING SPACE**  
*Geographies of the British Columbia Treaty Process*

by

**MARIAN HYNDMAN**

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Department of Geography

The University of British Columbia  
Vancouver, Canada

Date August 29, 2002

## ABSTRACT

In this thesis, I examine the silent but powerful role of cartography in the British Columbia Treaty Commission (BCTC) process given the context of the current perception that it is not progressing as hoped. I explore how the requirement for a spatial articulation of each First Nation's traditional territory as a prerequisite to negotiations, coupled with the cartographic method in which First Nations have chosen to meet this requirement, has frustrated the opportunity for agreement later on in the negotiation process by setting the stage for cross-cultural misunderstanding between neighbouring Aboriginal groups and between neighbouring Aboriginal and non-Aboriginal groups.

I also look at how post-colonial literature itself has served to frustrate the treaty negotiation process. I argue that while cartographic theory has assisted in post-colonial analyses, freeing First Nations from the colonial gaze and enabling a modern-day treaty process, post-colonial geography has created a new construct, that of the victim. By focusing on the power relations between the colonizer and the colonized, the post-colonial First Nation is empowered by virtue of its victimization, and not by a culture or history in the area since time immemorial. I further suggest that the victim construct is then protected from critique, in part by the Canadian Charter of Rights and Freedoms. I conclude by suggesting that the future success of First Nations comes from dismantling the victim construct, as some have begun to do, through techniques such as cartographic innovation.

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## **Chapter 1 *Introduction***

The treaty negotiation process with First Nations in Canada is fundamentally spatial in nature. The current negotiations between Aboriginal peoples in British Columbia and the federal and provincial governments are primarily about the ownership of and the jurisdiction over land, and about the size and location of those lands. Since the inception of the treaty process in 1993, there have been many reports, newspaper articles, interest papers, information bulletins, chapter drafts and other documents written on how the Aboriginal and non-Aboriginal understandings of land might be reconciled in British Columbia. However, "words alone are notoriously inefficient in describing spatial relationships" (Monmonier 1995, 119). It is with this in mind that I undertake an analysis of the spatial dimensions of the treaty process.

In this thesis, I examine the silent but powerful role of cartography in the British Columbia Treaty Commission (BCTC) process given the context of the current perception that it is not progressing as hoped. I explore how the requirement for a spatial articulation of each First Nation's traditional territory as a prerequisite to negotiations, coupled with the cartographic method in which First Nations have chosen to meet this requirement, has frustrated the opportunity for agreement later on in the negotiation process by setting the stage for cross-cultural misunderstanding between neighbouring Aboriginal groups and between neighbouring Aboriginal and non-

Aboriginal groups, and more importantly, by trapping First Nations in their role as oppressed victim. I review how this cartographic dynamic is played out in the negotiation of key substantive treaty issues such as land and self-government negotiations.

I also look at how post-colonial literature itself has served to frustrate the treaty negotiation process. I argue that while cartographic theory has assisted in post-colonial analyses, freeing First Nations from the colonial gaze and enabling a modern-day treaty process, post-colonial geography has created a new construct, that of the victim. By focusing on the power relations between the colonizer and the colonized, the post-colonial First Nation is empowered by virtue of its victimization, and not by a culture or history in the area since time immemorial. I further suggest that the victim construct is then protected from critique, in part by the Canadian Charter of Rights and Freedoms. I conclude by suggesting that the future success of First Nations comes from dismantling the victim construct, as some have begun to do, through techniques such as cartographic innovation.

This topic is important from both theoretical and practical standpoints. First, in examining colonial and post-colonial thought, I observe self-defeating tendencies in the post-colonial paradigm. While some writers have challenged post-colonialism and pushed its boundaries, I suggest that we need to take the theory one step further and move from the post-colonial to the “acolonial.” In other words, in examining the geographies of indigenous peoples, we must move beyond the colonial experience and



empower aboriginal people in their own right. Their geographies, histories and cultures stand on their own, and not simply in opposition to the colonizers.

There are also clear practical implications to the limitations of post-colonial theory. It is my suggestion that those limitations may be contributing to very tangible failings in the modern treaty process in British Columbia. It would appear that First Nations cartography has been influenced, whether consciously or not, by post-colonial theory. Understanding how this body of thought influences relationships between aboriginal and non-aboriginal peoples and governments can help suggest ways to improve those relationships.

In Chapter 2, I begin with a review of existing literature on the power of mapping and the cartographic process. I summarize academic works on the nature of maps and their relation to the culture of both their creators and viewers. I also examine how this relates to the different conceptions of land and ownership between aboriginal and non-aboriginal peoples. Finally, I look at the literature arising out of the bioregionalism movement, that views maps as powerful tools of resistance and legitimization.

In Chapter 3, I apply some of the ideas discussed in Chapter 2 to the British Columbia Treaty Commission process (BCTC process). In particular, I focus on Stage 1 of the negotiations and its requirement for First Nations to submit a Statement of Intent (SOI) map. I discuss how this forms the basis for cultural miscommunication, leading to a loss of support for the treaty process among non-aboriginal and aboriginal populations alike.

The way that First Nations have chosen to fulfil the requirement for an SOI map, in drawing solid lines around the extreme outer limits of their claimed traditional territory, both fails to depict the complexities of their traditional relationship with the land and presents a perceived challenge to the rights and legitimacy of non-aboriginal people and governments. I identify areas of common ground between the parties to the negotiations, and discuss how the structure of the initial stage of the process serves to frustrate opportunities to capitalize on those commonalities.

Finally, in Chapter 4 I examine the intersection between the BCTC process and post-colonial thought. While it could be argued that the treaty process itself is born of post-colonialism, I argue that in fact post-colonialism hurts the negotiations by trapping the parties into pre-determined roles. Just as colonialism itself forced aboriginal and non-aboriginal people into roles of savage and civilized, post-colonialism locks them in the roles of victim and oppressor. I suggest that in order to forge a new relationship through modern treaties, the process needs to allow all parties to be freed from these roles at the outset, and not simply as an end goal of treaties.

## **Methodology**

Before I continue, I would like to review briefly my methodology. My primary research involves an examination and analysis of public documents and statements produced by the Government of Canada, the Province of British Columbia and First Nations for the

treaty negotiation process. I have not engaged in personal interviews with the parties involved, nor have I examined documents that are not in the public domain.

My methodological choice is a conscious and deliberate one. It may be argued that a review of published documents is less probing than conducting interviews, especially in an examination of the strategic intent of the parties to the negotiations. It may also be argued that these published documents are themselves instruments of persuasion and strategic positioning. Undeniably, these public documents will often have goals other than articulating "true" intent; they are strategic documents used perhaps to influence negotiations, persuade constituents, or secure funding. As propaganda pieces or political documents, these documents may hinder an accurate understanding of each parties' conceptions.

However, my intent here is to examine the treaty process as it is played out in public discourse. In attempting to demonstrate how the SOI map forms the basis for misunderstandings between the parties and the public at large, I have attempted to place myself in a position analogous to that of the public. The parties and the public do not have the opportunity to ascertain the true conceptions and strategies of the other parties. Their understandings of ideas traded in negotiations come from public documents or statements made to each other. Openness is also a cornerstone to the BCTC process, and as such, the parties involved have generated many documents outlining their interests. This methodology allows for the collection of a large amount of information on a great number of issues. Hopefully, this will contribute to the ability to decipher the

discourse used by each party in expressing its beliefs and goals. It is for these reasons that I have chosen to use the methodology outlined here.

## **Chapter 2 *The Making of Worlds***

The post-colonial movement is a cross-disciplinary approach to challenging the ideas that supported imperialism in the pre-World War II era. This movement has tackled virtually all facets of the colonial ideology, from history and literature to anthropology and theology. Geography in particular has embraced this movement, especially in the analyses of the cartographic elements of the European conquests of North America and Oceania. This school of thought arose in response to an increasingly scientific interpretation of cartography. Critics sought to expose the myth of an objective cartography. The idea of scientific objectivity in mapping coincided with the rise in popularity of the Geographic Information System (GIS), a set of powerful computer-based tools that, more than ever, have the ability to mask the identity and intentions of the map-maker. However, as Harley stated, "cartography...is never merely the drawing of maps: it is the making of worlds" (Harley 1990, 16). Map-making is thus seen as intrinsically interrelated to the society and culture carrying it out.

It has become widely recognized that there is a power dynamic in the making of maps and in the viewing and interpreting of those maps. Maps are at once descriptive and prescriptive, asserting and affirming. While there has been some debate over whether maps are intrinsically powerful or if power is derived from the map as a tool for enabling or empowering social groups (Sparke 1996; Belyea 1992), it is useful to

examine how maps have been used to achieve the objectives of collectives. In this chapter, I review some of the ideas around the subjective nature of mapping in its construction and interpretation, and the power that maps hold despite their seeming objectivity. I also attempt to address the calls by Harley and others for social justice in cartography. I examine the literature regarding maps as social constructs used for territorial conquest, as evidence to legitimize those conquests, as icons of social and political movements, and as tools of empowerment and resistance.

### **The world constructs the map: the importance of context**

Maps and mapping techniques are necessarily culturally specific and correspondingly biased. Just as literature and art are manifestations of the culture of their authors and artists, maps are articulations of the culture and beliefs of their cartographers. As Harley states, “any self-respecting history must systematically embrace the structures or contexts within which individuals acted to produce their maps” (Harley 1990, 9). Similarly, groups can use cartography to develop their collective understanding of space, their understanding of territory, the relationships between their members, and groups’ relationships with others. As a result, the interpretation of maps without cultural or social context is subject to misunderstanding (Lewis 1993, 99). At the most basic and technical level, cartographic symbols are not universal: “different readers may apply different interpretations (including disregard and incomprehension) to the same map feature, or the same interpretation to different features” (Andrews 1990, 12).

The particularly acute challenge of achieving cross-cultural understanding between Aboriginal and non-Aboriginal groups has been documented (Brody 1981; Lewis 1993). Aboriginal and non-Aboriginal groups have been described as having “fundamentally different philosophical and cultural systems” (BC Claims Task Force 1991, 5). What is the nature of this fundamental difference in philosophical and cultural systems? This, of course, is not a simple question. The following characterization of the differences is typical: “Land ownership, in the profane European sense of buying, selling, inheriting, recording, and taxing was an alien concept [to Indigenous Americans]. American Indians, who considered land sacred and not ‘own-able,’ never developed a formal cartography focused on boundaries and surveys” (Monmonier 1995, 107). Here, Monmonier creates a simplistic, if not overly simplistic, link between formal cartography and the concept of land tenure and title. At the same time, Europeans considered ownership as connected with cultivation and agriculture. Those who failed to cultivate the land where they lived were merely sojourners, and had no real claim to that land. Christian mythology and teachings, coming as they did out of an agricultural society, promoted this view: ‘be fruitful, and replenish the earth and subdue it’ (Genesis 28 in Ryan 1996, 156).

In his analysis of Aboriginal mapping, Mark Warhus explores an alternate understanding of cartography. He explains that the Aboriginal peoples of North America used a form of cartography to map their worlds and the features in them, albeit with differing notions of what constituted a map in an oral culture (Warhus 1997, 7). He draws a distinction between “western” and “native” maps in that the latter take a secondary role to oral

tellings of the landscape, while the former take precedence over all other geographical representations. Native maps indicate not only physical features and transportation routes, but also historical events and sacred sites, "that wove together geography, history, and mythology ...[and]... are windows on a multidimensional landscape." (Warhus 1997, 7). Similarly, Lewis notes that First Nations maps depicted a mixture of geographical and religious or spiritual features (Lewis 1993, 99).

These writers paint a picture of First Nations mapping as a more holistic enterprise, bringing in aspects of the economic and political, as well as the spiritual and cosmological lives of the cultures that created them. Furthermore, maps themselves are viewed as only representing one aspect of First Nation cartography, and are intended to be used in conjunction with oral histories. The social construction of maps in the context of fundamental differences between the cultures and philosophies of native and colonial societies may have rendered each other's maps unrecognizable to one another (Andrews 1990, 12; Lewis 1993, 99; Monmonier 1995, 107).

Of course, the overriding caveat in discussions about cultures is one of oversimplification. One should challenge the romantic generalization of Indian conceptions of land tenure or the stark commercial/industrial critique of the colonial ethic. Indeed, Montminy cautions against over-generalizations given the diversity of cultures (Montminy 1996, 104), a diversity existing within both Aboriginal and non-Aboriginal communities. Many of the differences observed by these writers may well be better attributed to differences between oral and literate cultures. For example, an examination



of Norse cartography from the time of that people's early explorations in North America may well reveal greater similarities to "native" cartography than to the "European" category to which they have been assigned.

The socially constructed nature of maps can be a positive and useful element, but this nature must first be explicitly recognized and accepted (Harley 1990, 6). Maps are cultural documents that inform us about the society that has produced them, and give us an insight into the human and natural components that have importance and meaning for that culture (Lewis 1993, 98). A comparison of maps can facilitate a dialogue between societies, as each is the articulation of a world view (Harley in Ryan 1996, 103). Others, such as Brody and Aberley have examined the challenges of cross-cultural interaction, with maps as a point of contact and dialogue (Aberley 1993b, 15; Brody 1981).

Just as maps are products of the culture that has produced them, and must be understood as such, their interpretation by viewers must necessarily be informed by the culture and society of those viewers. A map that is produced by one society's cartographers is usually intended to be viewed and used by other members of the same group. Outside that societal context, the map may not serve the same function, and indeed, its very utility may be limited (Lewis 1993, 99). While cartographers often try to portray their tools and their language as universal, they are in fact speaking in a language that belongs to their own cultures. When others read the same "text," differing interpretations may result, and different features may be emphasized or ignored (Andrews 1990, 12). In viewing maps, we must continually be aware of our relationship to the cartographers, as

well as consider such matters as readership, geographical literacy, the circumstances under which the maps were made, and the implicit and explicit political intent of those maps (Harley 1988, 278).

### **Maps construct the world**

It has been said that the world of the cartographer informs the creation of the map. At the same time, however, some have argued that maps themselves have the power to affect and change the world they describe. By describing a state of affairs, a boundary, an area of control, or a region, maps contribute to bringing about that very state of affairs. Wood has argued that “the world represents the map” (Wood 1992, 72) and inconsistencies between the map and reality will be “rectified ... *by adjusting the world*” (Wood 1992, 71-72). Harley would seem to agree with Wood that maps can take on an importance of their own that rivals the authority of reality itself. “[A] map ‘structures the geography it depicts according to a set of beliefs about the way the world should be, and presents this construction as truth’” (Harley 1988, 290).

Maps are powerful precisely because they are seen as fact, rather than opinion. While readers are taught to evaluate literature with a critical eye, map viewers are taught to accept what they see at face value. “Most viewers willingly accept maps as factual and objective” (Monmonier 1995, 297). Where mapping becomes far more dangerous than literature is in its perception: most viewers are unaware of the prescriptive power of maps, and view them as purely objective descriptions of reality.

Harley has pointed out that map-making has, at times, preceded legislation and treaties. Rival imperial powers first agree on a map, then agree on the division of territory and resources between them (Harley 1988, 283). If this is the case, maps then have the power to become indelible records of things that do not yet exist in reality, and in being made, they bring that reality into being. In a subsequent work, Harley offers another example where maps contribute to the making of reality. He argues that in the labelling of "ethnic" neighbourhoods such as Chinatown, cartographers contribute to and reinforce the cultural boundaries of a city (Harley 1990, 2). It would seem that Rundstrom agrees with Harley in that "...although maps are not the territory, they become the territory" (Rundstrom 1991, 6).

In that vein, both Ryan and Wood have argued that maps, more than almost any other form of expression, are frequently confused with reality. They give us a false sense of having a complete view of the world (Wood 1992, 72). As Ryan put it, "There is a slippage between map and reality that attests to the peculiar authority that maps possess: there can be few representational objects that are so often confused with the things they are meant to represent" (Ryan 1996, 101). Maps construct both reality and our perceptions of it. Analyses of exploration histories, such as that of Ryan summarized below, have drawn upon this particular aspect of cartographic theory to explain the colonial process, both in the construction of *Tabula Rasa* and the construction of *Terra Nullius*.

**Tabula Rasa constructed through maps.** Ryan's argument is premised on the central role of cartography in the colonial experience. He argues that the power of maps is such that viewers are frequently led to accept their representations as fact. Early European cartographers in North America, who at first had only a sketchy knowledge of the fringes of the continent, left great blanks where they had not yet explored. This practice, either intentionally or unintentionally, caused viewers to conclude that there was nothing of note in those blanks. These voids did not simply convey an absence of knowledge about what was in those areas, but actively negated existing jurisdictional, cultural and territorial constructs on those lands. These empty maps both erased whatever existed in the areas represented by those blanks, and legitimized those destructive acts by laying the foundation for the imposition of a new geo-political order (Ryan 1996, 104).

Ryan further argues that this nullification of pre-existing structures plays out both for the cartographer, who "draws out" what already exists, and upon the viewer, who is led to believe that the cartographer has in fact viewed what is really there, and has responded to it cartographically by intentionally leaving a blank (Ryan 1996, 120). This act of trickery leaves the viewer feeling fulfilled, as though the map before him or her is complete.

**Terra Nullius as a legal construct enabled through maps of Tabula Rasa.** It follows then that a map with a void must be filled, and a land with no features must be created and populated. The creation of the myth of *terra nullius* sets the stage for the cartographic conquest of the "New World", the very name suggesting a blank slate, and

an opportunity for new beginnings. With the absence of geographical features came the natural assumption that there was an equal absence of political or legal features. The idea of *terra nullius* became one of the tools for imposing a new legal order on the land, thereby destroying whatever may have existed, and removing, with the stroke of a pen, those who lived there (Ryan 1996, 155).

Monmonier has also argued that the act of mapping a territory has been used as a claim of ownership and control over that territory. Like Ryan, he cites evidence of this in the approach taken in early European incursions into the Americas. He observes that European mapmakers used cartographic decoration and symbology to justify the colonial enterprise. For example, religious symbols and icons were used on European maps to suggest the approval of the church (and, implicitly, of God) of the colonial enterprise (Monmonier 1995, 108). Both Wood and Harley agree that maps have been powerful implements of conquest in the hands of colonisers and conquerors (Wood 1992, 66-7; Harley 1988, 280), and that the assertion of control by mapping sometimes precedes the physical imposition of authority over an area. In these arguments, maps have been seen primarily as tools of the powerful, and thus implements of conquest rather than of resistance (Harley in Ryan 1996, 103; Harley 1988, 301). Even within powerful nations, map-making has been the domain of, and has favoured, the elite (Harley 1988, 280).

Beyond facilitating conquest, Monmonier has argued that maps provide their own justification for the conquests that they themselves have facilitated in the first place. He

has identified what he describes as the use by European empires of mapping as a means of legitimizing and justifying conquest and exploitation, as well as the imposition of new cultural rules (Monmonier 1991, 90). Monmonier further argues that cartographic misunderstandings tied to differing understandings of land between natives and newcomers facilitated the colonisation of North America. Unaware that the map was part of a powerful colonial arsenal, First Nations fell prey to cartographic conquest (Monmonier 1995, 106-7). Once these conquests were realized, cartographers added legitimacy to them. Maps justified the status quo. By communicating the message of the conqueror, they supplemented the "rhetoric of speeches, newspapers, and written texts [and the] histories and popular songs extolling the virtues of empire" (Harley 1988, 282).

Just as mapping legitimizes conquest, it also promotes the ideology and even racism that accompanies it. For example, by placing names such as "Squaw" on maps, cartographers have given legitimacy to such terms and the underlying assumptions that gave rise to their use, making them a natural and acceptable part of viewers' world (Harley 1990, 4).

In allowing military and political conquest, maps also make that very conquest more palatable, by removing unwanted human elements from the landscape. Explorers and generals can carve up the land simply by drawing lines. Unsavoury thoughts of existing populations and attendant social responsibilities are avoided by removing those populations from their calculations (Harley 1988, 282-4).

Warhus points out that the geographic information that fed into these cartographic tools of conquest ironically often came from Aboriginal peoples themselves. As Europeans “remapped” North America, they were often forced to rely upon geographic knowledge and information provided by the indigenous inhabitants of the regions they sought to map. This knowledge was then transformed into terms that a European audience could understand, and new names were assigned. The map was thus “translated” into a form that allowed the European conquerors to lay claim to the land (Warhus 1997, 138).

Of course, the power of maps is not limited to military and political conquest. Maps also allow economic conquest of new lands, by codifying knowledge regarding ownership and tenancy of land, natural resources, and agricultural and industrial uses. Knowing the inventories of their new holdings allows conquerors to plan and control them (Harley 1988, 285). Ken Brealey explores this idea in his analysis of First Nations in Canada. He argues that First Nations were further mapped out of their territories through the imposition of another grid, that of the Indian Reserve system. He argues that this is a further example of cartographic conquest, although one that continued long after the initial contact between Europeans and First Nations (Brealey 1995).

### **Maps as symbols of nationhood, sovereignty, and unity**

Maps have been seen to have functions far beyond conquest. Indeed, nations new and old have relied on maps to reinforce their own existence. National maps and atlases

have become, for many “nations” (however one chooses to define them), important national symbols of sovereignty, independence, territorial integrity, independence and national development (Monmonier 1994, 1). In many ways, “maps came to serve as surrogate images for the nation state itself” (Harley 1988, 301).

The International Geographic Union’s Commission on National Atlases declared that: “a national atlas would:

- a. cover a single country, or nation;
- b. provide a variety of thematic maps based on scientific data and covering the physical, economic, demographic, and cultural-historical geography of the country; and
- c. receive the enthusiasm and support of the nation’s scientific organizations and government agencies” (Monmonier 1994, 1).

Maps and atlases lend an identity to a country, and give all those within that country a sense of belonging to it. For the budding empires of Europe in the 17<sup>th</sup>, 18<sup>th</sup> and 19<sup>th</sup> centuries, the emerging importance of scientific reasoning lent to maps and atlases an air of scientific legitimacy, strengthening the illusion that they were descriptive, and not simply declaratory. The atlas becomes a very symbol of the nation itself (Monmonier 1994, 2-8).

Maps can thus become more than implements of conquest. Indeed, they can become symbols of sovereignty, rallying points, and national icons. They come to symbolize the nation or community they seek to depict. “Maps...serve as *graphic icons*, symbolizing an attachment to or a concern for a place...maps are not only useful geographic reference works, but also useful illustrations of political organization, marketing activity, or sympathetic concern” (Monmonier and Schnell 1988, 35). Monmonier has



discussed the idea of the “cartographic banner,” or the map or atlas as a flag-like symbol: “A stylish or intriguing map becomes a flag to rally around and parade behind” (Monmonier 1995, 297).

States have long recognized the iconic power of maps, and have used them as symbols to rally their citizens: “The spate of newly independent states formed after World War II revived the national atlas as a symbol of nationhood...[F]ormer colonies turned to cartography as a tool of both economic development and political identity.” (Monmonier 1991, 89-90). Well thought out maps can reassure people about notions of place and belonging. Monmonier examines this concept and suggests that “A bold, solid line might make the map viewer infer a well-defined, generally accepted border separating neighbouring nations with homogeneous populations” (Monmonier 1991, 107). Conversely, an open border might suggest that there is room for expansion.

Just as map lines can be suggestive and persuasive, so too can the words and names affixed to cartographic features: “Place-names, or *toponyms*, not only make anonymous locations significant elements of the cultural landscape but also offer strong suggestions about a region’s character and ethnic allegiance” (Monmonier 1991, 110).

For Canada, the creation of a national atlas has been identified as an important symbol for the emerging nation-state, depicting a unified and independent entity. It also served in early years as an iconic representation of what the nation could and would be. As with other new nations, our national atlas sought to give Canada status alongside other

nations of the world (Monmonier 1994, 7-9). Just as the development of cartography has been linked to the development of the nation state in Europe (Harvey 1988, 284), mapping has been a crucial tool for newly minted post-colonial states.

Even those seeking something less than statehood can make use of maps to assert control. The bioregionalism movement has been quick to understand and harness this iconic power of mapping. In his discussion of bioregionalism, Doug Aberley asserts that “a map is an icon – a potent representation...” (Aberley 1993c, 5). Maps are thus used as pictures, as well as reference tools. Smith describes a bioregional map as “...a good image, a good map, a picture that said ‘home’” (Smith in Aberley 1993, 23).

### **Mapping and Resistance**

Just as maps can be used with an external orientation against others, they can be used with an internal orientation to empower a nation, people or community. The bioregionalism movement has been an active proponent of mapping as a form of active resistance. By mapping their bioregions, community members are empowered to take control of their lives and their environments. The *process* of mapping becomes the process of articulating self, community and home. “People can draw their own lines” (King in Aberley 1993, 33 ) and “...the doing of it will bring a lot of us closer to home” (Smith in Aberley 1993, 24). Bioregionalism encourages the use of mapping to reclaim control of their territories: “Mapping the biosphere charts your identity...It is the first step toward shifting the centre of political gravity from the nation and its moneyed elites

to more local circles of responsibility” (Marshall in Aberley 1993, 56). With the completion of this process, the bioregionalists aim to remake their territories as home: “By evolving maps which speak our alternative, we will more importantly be evolving ourselves. We will be transformed by the active reinhabitation of place – home again in the territories that our new maps describe” (Aberley 1993a, 131). Thus mapping takes on a defensive and counteroffensive power, in addition to its power of aggressive conquest. By drawing an alternative vision into a map, that alternative becomes a possibility, and ultimately a reality (Aberley 1993c, 5).

### **Cartographic Caveat**

Of course, the power of maps does not exist in isolation. There must be some foundation upon which that power rests. For the early Europeans mapping North America, the power of their maps came from an underlying military and economic power. Their military and economic ventures provided a venue for their maps, giving them both legitimacy and an audience. For maps to have power and influence for their creators, they must have a basis in some form of external power and a venue. Maps then buttress and supplement this power, taking on power dimensions of their own. The potency of maps themselves must not be overstated, nor must it be underestimated.

### Chapter 3 *Negotiated Spaces*

In the previous chapter, I reviewed some of the ideas around the power of mapping. However, as I noted at the end of the chapter, maps comprise but one component of a power structure. Maps depend on a foundation of temporal power, but also bolster that power and feed from it.

Turnbull has argued that “the cartographic trope is all-pervasive” in the modern world, so much so that we have become unconscious to its influence in our construction of knowledge, space and society (Turnbull 2000, 93). In this chapter, I want to reveal the largely overlooked existence of a cartographic dynamic in the treaty process. I suggest that the requirement for a First Nation to submit a map of its traditional territory as a prerequisite to tripartite negotiations, one small but fundamental step in the BCTC process, coupled with the way in which First Nations have chosen to represent themselves spatially according to this requirement, forms the basis for misunderstandings between the parties in an already complex set of negotiations.

The fundamental power and danger of these maps lie in the assumption that they are “just lines on a map”. I hope to show that these maps are neither benign in their making nor benign in their existence, and that their unintended social consequences are far more significant than their intended purpose (Harley and Woodward 1991, 6). In part, I would

suggest that misunderstandings arise because these maps do not adequately reflect the complex and multi-dimensional relationship that First Nations have with their land as articulated in their treaty documents. As a result, these maps are misinterpreted by those around them and by a First Nation's own community members. I am not suggesting that maps alone are the source of a frustrated set of negotiations, but rather that they play an important role in the negotiation dynamic.

In the following sections, I examine how the cartographic dynamic is played out in the negotiation of key treaty issues such as the negotiation of land, self-government and overlap issues. I begin with a review of the BCTC process, the progress made through that process, and provide a summary of some of the perceived "impasses" to agreement between the negotiating parties. I then review, in some detail, Stage 1 of the treaty-making process, and attempt to show that the guidelines for the submission of the traditional territory map, as outlined by the BCTC, form the basis for a frustrated negotiation process.

Finally, I look at how the maps themselves are read and understood by Aboriginal and non-Aboriginal people alike. I look at the reactions of local government, the media and members of the public in the Greater Vancouver area to these maps, and examine how these reactions are manifested as input to the treaty process through advice given during consultation meetings, in discussion papers, through letters to newspaper editors, and in newspaper articles. I draw upon the influence of western cartographic interpretation in the reading of these maps within this group. I also look within First Nations'

communities at how the exercise of spatially articulating their traditional territory have not only been shaped by their historic understanding of space, but also influence their current understanding of their relationship with their land. I then examine how the cartographic dynamic between Aboriginal and non-Aboriginal groups has been manifested in the treaty negotiation process, obscuring opportunities for agreement and accentuating areas of difference. I hope to show that these maps are not only a spatial articulation of the complexities inherent to the treaty process, but also an active contributor and perpetuator of these complexities, effectively turning interest-based negotiations into positional negotiations, and transforming a line on a map into a line in the sand.

I use, in part, the negotiations between the Tsawwassen First Nation, Canada and British Columbia as an illustrative study. The Tsawwassen treaty negotiations offer several advantages in this analysis. First, the negotiations to date have been very open, and many publicly accessible and detailed interest documents have been generated. Second, the Tsawwassen First Nation has a small but sophisticated GIS department, and has used mapping in their articulation of their treaty vision. Third, the Tsawwassen First Nation is located in an urban area; the multitude of overlapping interests demands that the Parties jointly find creative solutions to issues arising in these negotiations. Fourth, the Tsawwassen negotiations are some of the most advanced in the urban setting, certainly the most advanced in Greater Vancouver. Together, these factors make for an interesting and appropriate case study. However, the application of my analysis is not meant to be unique to this case only – I use the Tsawwassen example for illustrative

purposes, and use examples from other negotiations where appropriate. I will examine documents that are generated by these negotiations, and hope to demonstrate that First Nations' maps of their traditional territories, compiled prior to the start of negotiations, permeate the negotiation process and serve to frustrate opportunities for negotiated settlements.

### **The Treaty-Making Process and the Current "Impasse"**

In order to situate British Columbia's modern-day treaty process in a larger historical context, I will review briefly the development and evolution of aboriginal rights and title in legal terms and the political events that led to the formation of the British Columbia Treaty Commission and the treaty negotiation process that it oversees.

The concept of aboriginal rights and title is necessarily a legal one that developed from the common law system. The very terms "aboriginal rights" and "aboriginal title" have meaning in Canadian legal jurisprudence, although that definition continues to be refined through case law.

In the early stages of British colonialism in Canada, the Crown had a policy of recognizing aboriginal title within the colonial process. As set out in the *Royal Proclamation, 1763*, only the Crown could acquire lands from First Nations, and this was to be done through the negotiation of treaties with those First Nations. Through these treaties, the Crown acquired land for settlement, subsequently distributing or

selling it to individuals or groups. This policy was followed for over a century over most of the area that is now Canada.

While there were treaties signed in most of Canada, there are no treaties covering most of BC's land mass and aboriginal population. The only exceptions are the 14 "Douglas Treaties" covering a small portion of southeastern Vancouver Island, and Treaty 8, part of which covers the Peace River country. There are numerous reasons for this, which I will not canvass in detail. However, this difference arose in part because of distinct histories, settlement patterns and political cultures between British Columbia and the rest of Canada, as well as a chronological difference in that British Columbia was settled later than much of Eastern Canada.

In the absence of treaties, First Nations in British Columbia have always maintained that they retained aboriginal rights and title to their land. At the same time, the provincial government has continued to deny the existence of any aboriginal title. There has also been little political will on the part of either British Columbia or Canada to negotiate treaties in the province.

The positions of both governments began to change substantially in 1973 with the decision in *Calder v. A.-G. of British Columbia*, [1973] S.C.R. 313, when the Supreme Court of Canada ruled that the Nisga'a Nation had held aboriginal title to its lands pre-contact. However, the Court was inconclusive as to the continued existence of that title. This uncertainty prompted Canada to seek to settle the "land question" with British



Columbia First Nations. To that end, Canada adopted the “comprehensive claims policy” and began treaty negotiations with the Nisga’a. British Columbia chose not to participate in these negotiations, which continued for more than 20 years before any concrete results materialized.

British Columbia’s determination not to participate in modern treaty-making gradually weakened following the *Calder* decision. After years of lobbying, demonstrations and direct action by First Nations peoples, increasing legal and economic imperatives to address the outstanding issue of title, and increasing public support for First Nations causes, the Province of British Columbia agreed in 1990 to join Canada and First Nations in negotiations.

In December 1990, the BC Claims Task Force, with representatives from Canada, BC and First Nations, was asked to suggest a treaty negotiation process. The task force made 19 recommendations which were accepted by Canada, BC and the First Nations Summit. These recommendations form the foundations of the British Columbia Treaty Commission Process.

Since the 1970s, Canadian courts have continued to elaborate on and strengthen the definitions of aboriginal rights and title. These decisions, including the Supreme Court of Canada’s 1997 ruling in *Delgamuukw v. British Columbia*, [1997] 3 S.C.R. 1010, have provided an ongoing imperative for the treaty process and a continuing incentive for British Columbia and Canada to push forward with negotiations.

The British Columbia Treaty Commission (BCTC) was established in September 1992 by Canada, BC and the First Nations Summit through the tripartite *British Columbia Treaty Commission Agreement* (First Nations Summit, Canada and British Columbia 1992; "BCTC Agreement"). The BCTC is charged with the role of impartial "keeper of the process," a six-stage treaty negotiation process designed to advance modern-day treaty-making between the three parties. As per Section 4.0 of the BCTC Agreement, the BCTC consists of four Commissioners (two appointed by the First Nations Summit, and one each by Canada and BC), and one Chief Commissioner (appointed by agreement of all three parties). Decisions of the Commission are made "by agreement of at least one Commissioner nominated by each Principal" (First Nations Summit, Canada and British Columbia 1992, Section 9.2). The key roles of the BCTC are to monitor and facilitate the negotiation process, administer First Nation funding of the negotiations, and provide public information and education on the treaty process.

As of May 31, 2001, the BCTC reported that there were 51 First Nations participating in 42 sets of negotiations in the treaty process (BCTC 2001a). However, in the eight years that the treaty process has been in place and despite predictions from the BCTC itself that the treaties would take approximately 10 years to complete, not one treaty has been signed under this process, nor do any appear to be imminent. In recent years, there have been complaints that negotiations were not progressing as rapidly or as fruitfully as hoped. The BCTC acknowledged the frustrations and increasing impatience over this slow progress in its Annual Report 2000: "First Nations frustration over lack of

progress, mounting loans for negotiations and continued alienation of land and resources is prompting protest, threats of direct action and litigation. The public is also frustrated with the cost of treaty making, the length of time negotiations are taking and with some of the solutions being put forward” (BCTC 2000, 6).

In its June 2001 newsletter, the Treaty Commission Update, the BCTC again admitted that “the treaty process had already been under attack for failing to produce any treaties” (BCTC 2001a). In that same newsletter, it committed to undertaking, by September 2001, “an in-depth review of the treaty process [that would include] a thorough assessment of the strengths and weaknesses of [the] treaty process and will offer recommendations for improving the situation” (BCTC 2001a). This major review would examine the fundamental “reason why there are no treaties” (BCTC 2001a).

Of course, the BCTC is not the first to analyze some of the obstacles that modern treaty-making faces. Others have suggested reasons why the process is not progressing as originally predicted. They offer numerous explanations for the slow pace of negotiations. The major themes span issues of conflicting expectations to procedural problems:

- ♦ ***Conflicting treaty visions.*** Tully suggests that the Parties have differing visions as to the nature of the *relationships* that treaties are to achieve, the *purpose* of negotiations, and the kind of *reconciliation* that will result from treaties (Tully 2001).

- ♦ ***Differing expectations in key substantive issues.*** As First Nations, BC, and Canada engage in substantive Agreement In Principle negotiations, their proposals reveal gaps in their expectations as to land, jurisdiction, resource revenue sharing, financial arrangements, compensation, and the model for achieving certainty (BCTC 2000). Schulmann argues that the key contentious issue within the treaty process is that of aboriginal rights: “there is little or no agreement on existing aboriginal rights” (Schulmann 2000, 97).
- ♦ ***Problems with the process.*** Didluck suggests that “the current impasse facing the British Columbia Treaty Process is likely less the result of unrealistic expectations or competing mandates, and more about the need for procedural reconstruction” (Didluck 2000, 3). He argues that the Parties are not engaging in true interest-based negotiations; rather, they are using interest-based negotiations to forward pre-determined mandates. “While no one negotiation process is exclusively interest-based or exclusively competitive, the parties to the British Columbia process will need to come to terms with the assumptions and limits of the dispute resolution process they have created and whether the process is achieving intended objectives” (Didluck 2000, 3). Schulmann suggests that another fundamental flaw with the process that impedes the pace of negotiations is that there are “too many negotiations taking place simultaneously” (Schulmann 2000, 97).

However, none of these analyses have examined what I believe to be a small but significant factor in the slow and often frustrating pace of negotiations. The BCTC oversees a process that couches negotiations in a geographical framework. The power

of the spatial component to treaty negotiations is perhaps so underestimated that it is overlooked to for more tangible explanations of this “impasse”. To begin, it might be useful to review how the BCTC structures the geographical framework of these negotiations.

***Framing the Issues: the BCTC Process and Lines on a Map.*** In his discussion of interest-based negotiations and the treaty process in British Columbia, Didluck points out that “how issues are framed set the negotiating direction and directly affects the outcome” (Didluck 2000, 2). Part of the process of framing the issues in the BCTC process involves the submission by each interested First Nation of a map of its traditional territory. In the context of the six-stage process for treaty negotiations in British Columbia, this requirement forms part of “Stage 1 – Statement of Intent to Negotiate”. In its April 1997 publication *Policies and Procedures 6 Stage Process: Stages 1 – 4*, the BCTC describes stage one as follows:

#### **Stage 1 – Filing a Statement of Intent to Negotiate a Treaty**

To be accepted into the treaty process, a First Nation’s governing body must submit a Statement of Intent that meets the Commission’s criteria for Stage 1.

The definition of First Nation is set out in s. 1.1 of the BC Treaty Commission Agreement. A First Nation is “an aboriginal governing body, however organized and established by aboriginal people within their traditional territory in British Columbia, which has been mandated by its constituents to enter into treaty negotiations on their behalf with Canada and British Columbia.”

As recommended by the British Columbia Task Force, treaty negotiations are conducted on a government to government basis. Implicit in the definition of First Nation is a requirement that its organization be

appropriate to the task of negotiating and implementing a treaty of the kind contemplated by the Task Force Report. There should be elements of "nationhood" such as

- ♦ A shared sense of identity, language, laws and customs among the aboriginal people,
- ♦ Historical exercise of control over a distinct traditional territory that is not wholly shared or disputed,
- ♦ A degree of historical existence as a governing body, and
- ♦ A reasonably sizeable body of aboriginal people able to sustain the effective negotiation and implementation of a treaty.

This is the definition of First Nation that the Commission will apply for the purposes of treaty negotiations....

#### **A. Criteria for Stage 1**

An aboriginal governing body filing a Statement of Intent must provide the following information:

1. The name of the First Nation;
2. How the governing body is organized and established for the purposes of treaty negotiations by the aboriginal people it represents;
3. That the governing body is mandated by its constituents to submit a Statement of Intent to negotiate a treaty on their behalf with Canada and British Columbia under the treaty process;
4. Who the aboriginal people are represented in the Statement of Intent;
5. The number of aboriginal people represented in the Statement of Intent;
6. Whether there is any other First Nation that claims to represent the aboriginal people described in 4 and 5 above;
7. A description of the First Nation's traditional territory in British Columbia;
8. Whether there are any First Nations with whom the First Nation may have overlapping or shared territory; if so, identify them; and
9. The name of the person assigned as a contact for formal communications.

For Criteria 7 and 8 above, the BCTC provides the following explanatory note:

- 1. A description of the First Nation's traditional territory in British Columbia.**

The Treaty Commission does not make any determination of the boundaries of a First Nation's traditional territory. However, the Commission must be able to determine that the aboriginal people represented in the Statement of Intent have a distinct traditional territory that is generally recognized as being their own.

The governing body should attach a map showing the traditional territory. The suggested map size is 1:250,000.

**2. Whether there are any First Nations with whom the First Nation may have overlapping or shared territory; if so, identify.**

In many instances, traditional territories of different First Nations overlap one another. The governing body filing the Statement of Intent must identify any First Nations in or outside the treaty process with whom the First Nation may have shared or overlapping territory.

Insofar as these overlaps may affect negotiations, First Nations are responsible for resolving them. As a general principle, these issues do not have to be resolved before negotiations start, but a process for resolution must be established in Stage 2.

As outlined above, the BCTC requires that a First Nation submit a map demarcating what lands a given First Nation claims as its traditional territory as a prerequisite for entry into the negotiation process. This map, together with the First Nation's Statement of Intent to negotiate, is circulated as part of a basic package of information to Canada and BC prior to the first meeting of the three Parties (BCTC 1997, 11).

To summarize, a First Nation must submit the following cartographic requirements to the BCTC so that it can be received and circulated as part of a package of basic information to the other negotiating parties prior to the start of negotiations:

1. A map
2. that reflects some sense of nationhood

3. depicting a distinct traditional territory
4. generally recognized as their own
5. at a suggested scale of 1:250,000
6. accompanied by a document that indicates overlapping or shared territories with neighbouring First Nations.

I hereinafter refer to these maps as Statement of Intent maps or SOI maps.

While the BCTC does not suggest to First Nations how they should map their traditional territory, apart from a suggested scale, all of the SOI maps submitted by First Nations to the BCTC process thus far consist of a single solid line (some done free-hand, others with the aid of computer-based drawing applications) on a simple map (sometimes a photocopy). Traditional Use Studies have shown that, for most First Nations, this line is formed by connecting the outermost areas of traditional use, thereby enclosing all the areas of historical use to form a "traditional territory". None of the First Nations have sought to portray its traditional relationship with the land for Stage 1 of the negotiations in any other way other than through a simple line.

Under the *Information Sharing Protocol*, a cost-sharing mechanism by which Canada and British Columbia jointly provide GIS support to the treaty tables, Canada undertakes to standardize the format of all First Nations SOI maps, so that these maps can be disseminated for public education and consultation purposes. The First Nations' original SOI maps, as received by the BCTC, are digitized by Canada and reproduced in a



multitude of views, including BC-wide maps showing all of the SOI boundaries in the province (see Figure 1), regional maps showing parts of the province (see Figure 2), and maps showing individual SOI boundaries (see Figure 3). The SOI boundaries are shown as lines, as per the originals. In some cases, such as in the case of the maps showing just an individual SOI boundary, the area within the boundary is shaded. Each map contains the following disclaimer:

The lines on this map represent the approximate boundaries of traditional territories described in First Nation Statements of Intent to negotiate treaties which have been submitted to, and accepted by the B.C. Treaty Commission. They are illustrative only and may be updated in the future. Publication of this map does not imply that the First Nations, the Province of British Columbia, or the Government of Canada have agreed to the boundaries shown.

While Canada does standardize the submissions of individual First Nations, First Nations have not indicated that these maps are inadequate representations of their traditional territories<sup>1</sup>.

From a process point of view, it does not seem unreasonable to ask First Nations to submit a map describing their claimed *traditional territory* for the purposes of *land claims* negotiations. In fact, it seems only logical for First Nations to do so. Of the three parties to the negotiations, the spatial identity of British Columbia is known as is that of Canada; the spatial identity of the First Nation is unknown. The SOI map gives the other parties to the negotiations, the general public, and other First Nations a general

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<sup>1</sup> In the case of First Nations SOI boundaries that extend beyond Canadian jurisdiction, Canada has amended the boundary such that it terminates at the Canadian border. This is the case with the Tsawwassen SOI boundary.

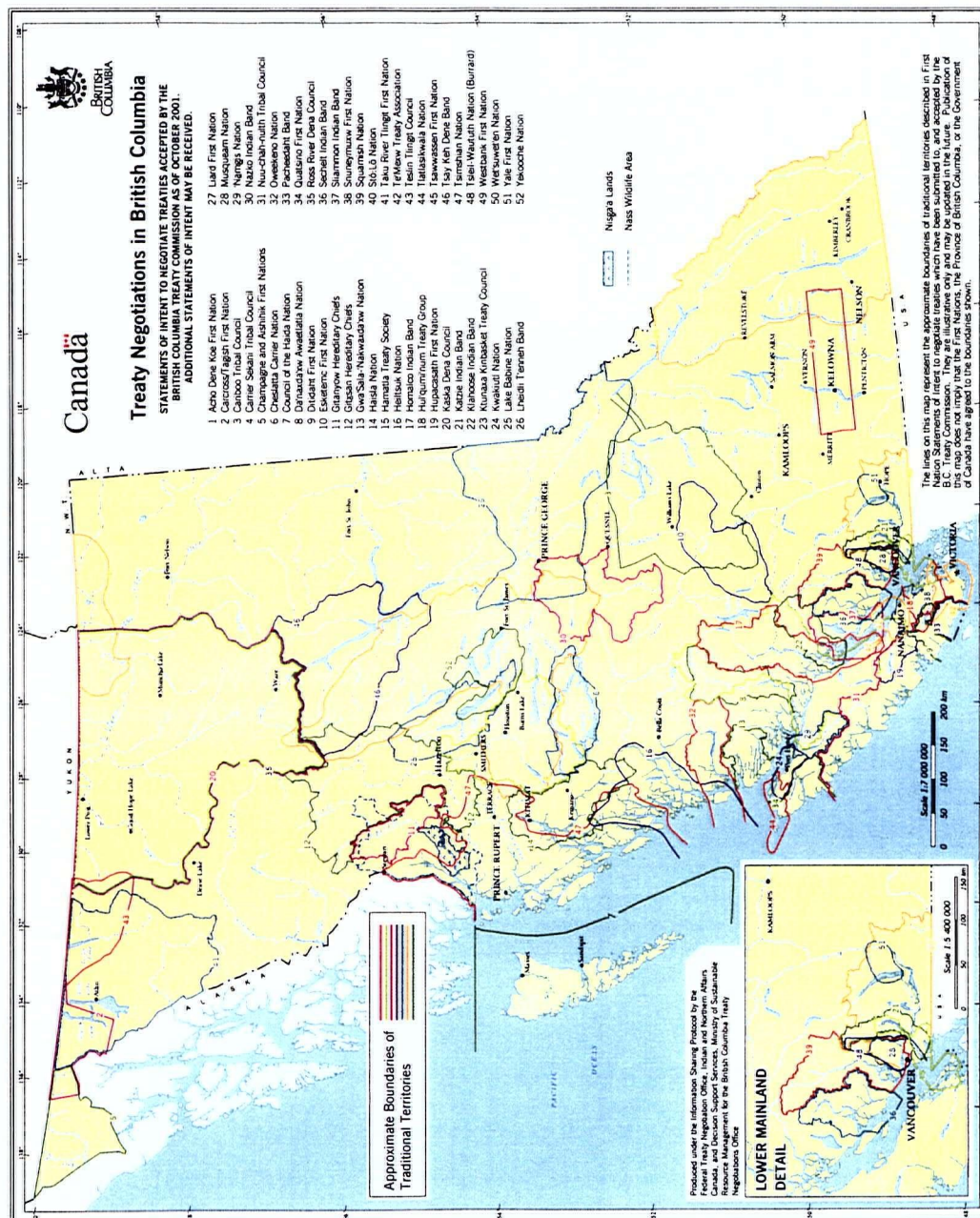
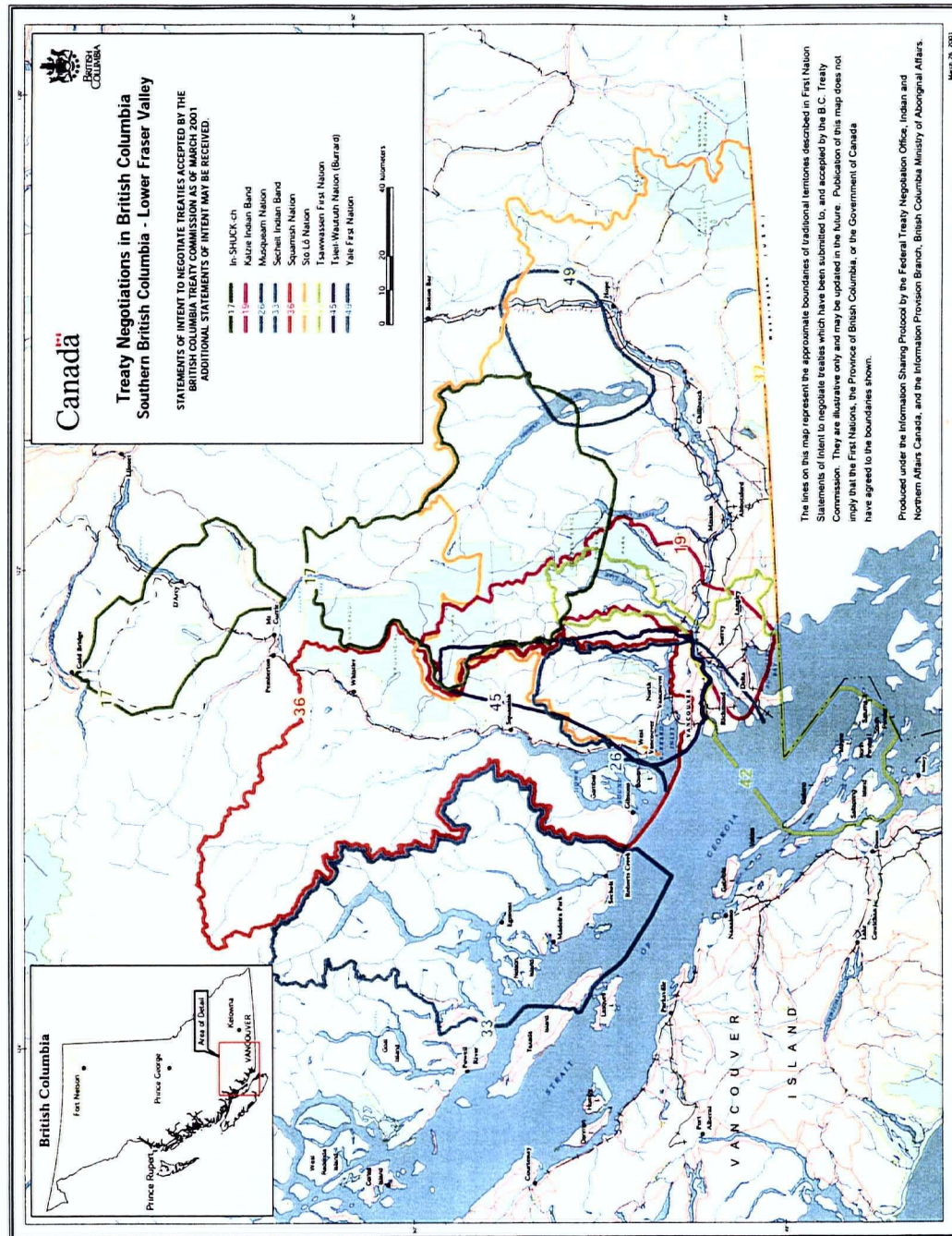
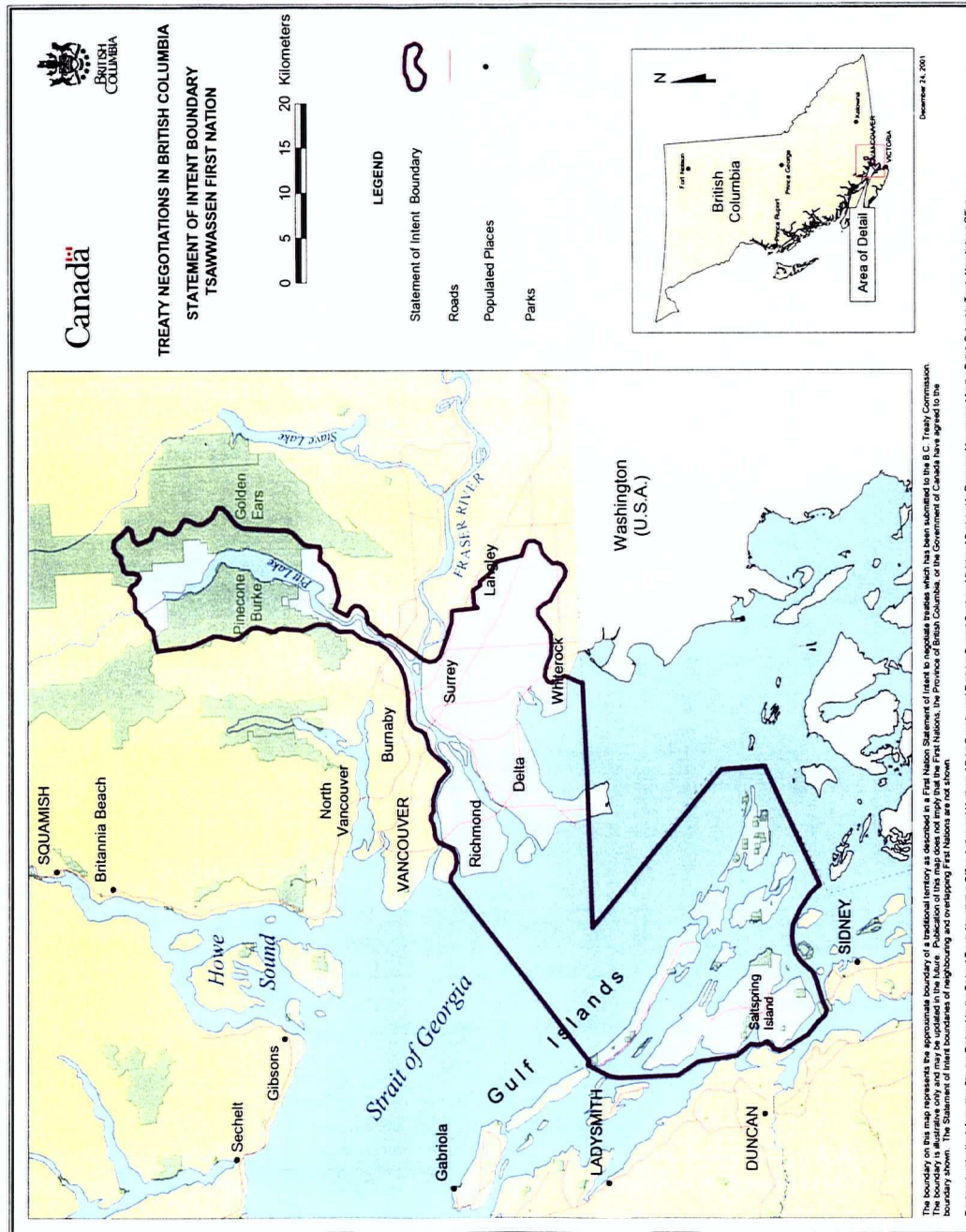


Figure 1 Map showing all of the First Nation Statement of Intent boundaries in British Columbia  
Source: Real Property Services for Indian and Northern Affairs Canada, Public Works and Government Services Canada, 2001





**Figure 2** Map showing all of the First Nation Statement of Intent boundaries in the Lower Mainland region  
Source: Real Property Services for Indian and Northern Affairs Canada, Public Works and Government Services Canada, 2001



**Figure 3** Map showing a single First Nation Statement of Intent boundary  
Source: Real Property Services for Indian and Northern Affairs Canada, Public Works and Government Services Canada, 2001

sense of the geographic area where the First Nation lived in the past, and perhaps, continues to use to the present. From the public's point of view, these SOI maps are the most widely circulated products in the treaty process. In such complex and legal negotiations where interests are traded by the volume, the graphic simplicity of the SOI maps make them the most accessible document generated by modern day treaty-making. These maps are taken to public meetings, used for consultation purposes, distributed as educational material, and forwarded to the media when requested. Because of their wide circulation, it could be argued that the sets of SOI maps are the emblem of the treaty process.

### **“Western” Cartographic Trope & Public Fears**

How are these SOI maps viewed by non-Aboriginal communities? Perhaps it is useful to return to the earlier discussion on the “western” cartographic trope and examine its applicability in the treaty-making context. As outlined in Chapter 2, many have tried to define, in general terms, “western civilization’s” understanding of land. The western world view has been characterized as embracing “exclusive ownership, control, and exploration of the land and its resources” (Warhus 1997, 139), that includes a “concept of real estate [that is defined by] the owning, selling, and buying of land” (Monmonier 1995, 105-106). The BC Claims Task Force describes “colonial society...[as one that] distrusted communal values, exalted the enterprising individual, favoured progress over tradition, and believed that the betterment of humankind lay not in harmony with nature but in its conquest and transformation” (BC Claims Task Force 1991, 8). This view is

echoed by Paul Tennant, who describes "Non-Indians, whose immigrant-derived society and culture are based upon exodus from established communities and upon individual rather than collective values" (Tennant 1990, 14). Matthew Sparke writes about the centrality of the notion of nation-state in the geopolitical construction of the modern world, particularly the "assumptions of the spatiality of nation-state...as autonomous spatial units" (Sparke 1996, 1-2). These concepts of land revolve around the concepts of exclusivity, discreteness and individuality.

It is important to note that the term "western civilization" is used interchangeably with "colonial society", and linked to "non-Aboriginal society" in the context of treaty negotiations. Therefore the cultural generalizations attributed to "western civilization" are attributed to non-Aboriginal society irrespective of the cultural diversity in Canada.

Such western concepts of land have been linked to culturally specific cartographic conventions and cartographic interpretation. It has been suggested that in western cartographic convention, "a bold, solid line might make the map viewer infer a well-defined, generally accepted border" (Monmonier 1991, 107), a symbol of a political boundary (Robinson et al. 1995, 322). If the area is shaded, it is generally understood "that the region has some common attribute, such as...administrative jurisdiction...." (Robinson et al. 1995, 322). King writes that political boundaries are one of the most significant cartographic symbols on a map (King 1996, 22), so much so, that "to map a territory is to stake various kinds of claim to it, to make assertions of ownership, and sovereignty and legitimacy of rule" (King 1996, 27). This has important implications



for cartographic interpretation, especially when there is such “slippage between the map and reality” (Ryan 1996, 101). The danger lies in the assumption that because “it’s on a map, ...it must be real” (Monmonier 1991, 88).

It could be argued that in the western-liberal understanding of “nation-state” as documented by Sparke, an SOI map with a discrete line demarcating a First Nation’s traditional territory suggests that First Nations have claimed ownership and jurisdiction over a discrete territory, in direct conflict with existing interests and jurisdictions. Certainly, SOI maps have been viewed by non-aboriginal communities with much emotion and distrust. Both local governments and members of the public have expressed concern that their interests are threatened by the treaty process. These views have been expressed in the local press, and through a series of interests developed by the Lower Mainland Treaty Advisory Committee (LMTAC), a group that considers itself not only “the voice of Lower Mainland area Local Governments on all issues relating to the treaty process” (LMTAC 2000, 9), but “through them their constituents” (LMTAC website). In the following sections, I attempt to show that some non-aboriginal communities see the SOI boundaries as a First Nation assertion of ownership and control over non-Native land, representing a direct challenge to the rights and legitimacy of non-aboriginal governments and land owners. The SOI maps give the impression that everything within the boundary is claimed, and is therefore available for negotiation. Local government and community concerns can be summarized as follows:

***Threat to local government jurisdiction.*** The concern over political boundaries has prompted local governments to produce their own version of their own SOI map. The map “First Nations’ Statements of Intent in the GVRD,” available on the LMTAC website, shows the SOI boundaries of First Nations in Greater Vancouver participating within the BCTC process in relation to local government administrative boundaries. It could be argued that this map suggests a local government anxiety over both First Nation boundaries that overlap their own, and First Nations’ boundaries that overlap neighbouring First Nations’ boundaries by characterizing an overall discomfort with non-exclusive boundaries that may pose a threat to their own jurisdictions. The overarching concern of local governments to maintain their jurisdiction is stated explicitly in their document of local government interests. Local governments stress that “treaties must recognize and respect the authority and jurisdiction of Federal, Provincial and Local Governments” (LMTAC 2000, 12). As an example, “the continuation of Local Government regulatory and taxation authority over lands within a municipality or regional district [that] may be transferred as part of a treaty settlement is paramount” (LMTAC 2000, 10). To local governments, the SOI map could be read as a statement of claim and a re-mapping of British Columbia with a disregard for existing lines and their corresponding jurisdictions.

***Fear that privately-held land will be offered to First Nations.*** Local governments have expressed concern that land owned privately by local governments and members of the public not be available for treaty settlements (LMTAC 2000, 10). This concern is so pervasive that local governments have suggested that “urban treaty settlements should



be composed primarily of cash and other fiscal considerations rather than land” (LMTAC 2000, 10). This would allow First Nations to purchase land on the market, ensuring that First Nations’ treaty settlement lands would be acquired on a willing seller/willing buyer basis. This same sentiment was expressed to federal and provincial governments at a local consultation meeting: “THA [Tsawwassen Homeowners’ Association] prefers that the matter be dealt with with cash, thereby allowing Tsawwassen First Nation to purchase land” (Tsawwassen Consultation Group, 2001).

***Threat to legitimacy of history.*** Another concern is more personal. Some non-aboriginal residents see First Nations’ claims of having a unique relationship with their traditional territories as a direct challenge to their own connection to their land, which in many cases goes back generations. For example, farm families in the Brunswick Point area of Delta have been eager to point out that they too have a very long-standing and personal relationship with the land that sustains them (*The Delta Optimist* [Delta], 18 October 2000). Aboriginal assertions of connections to the land may serve to threaten and undermine non-Aboriginal heritage and culture on the same lands. In this context, the LMTAC has developed a treaty negotiation principle that stresses the need for treaty settlements to “respect the values, heritage, culture and traditions of Aboriginal and *non-Aboriginal peoples*” (LMTAC 2001, 9, emphasis mine). At a meeting of the LMTAC, members discussed the need for a coordinated articulation of “non-Aboriginal” culture (LMTAC 2001) in order to provide an antithesis to First Nations’ history.

***Threat to sovereignty and fear of ghettoization.*** The use of the term “Nation” in First Nation, coupled with the articulation of First Nations’ traditional territories as a single solid line, has caused members of the public to conclude that treaties would result in mini nation-states within the Canadian polity. Writing on an information session related to the Tsawwassen treaty negotiations, the *Delta Optimist*, a local newspaper that has followed closely the Tsawwassen negotiations, reported that a member of the public “asked if Deltans would need passports to access settlement lands, newly created nations-states in a post-treaty world” (*The Delta Optimist* [Delta], 6 December 2000). This article was followed in a subsequent edition of the *Delta Optimist* with a letter to the editor under the banner headline, “Separate nations within Canada would cause political instability.” Speaking of the same meeting, the letter read:

Gordon Gibson was pilloried by a lady for referring to the native peoples as Indians. His response, in effect, pointed out that to refer to them as nations would ultimately redound to the political instability of Canada. Rightly so! A nation is defined as: ‘An aggregation of peoples of one or more cultures into a single state.’ The establishment of a set of sub nations within the nation of Canada could only result in the worst form of ghettoisation. (*The Delta Optimist* [Delta], 11 October, 2000)

Perhaps this fear of ghettoization has arisen in part from the historical anomaly that the past 150 years of interaction between Indians and non-Indians in British Columbia has coincided with the apex of the concept of the nation-state: the concept of discrete boundaries of jurisdiction is applied to an understanding of First Nations, their boundaries, and their interaction with each other.

***Anxiety over boundary ambiguity.*** Certainly the lack of exclusivity of First Nation SOI boundaries has brought about some anxiety within the non-Aboriginal community. The issue of overlapping boundaries between First Nations has been raised by both local and regional groups formed to advise federal and provincial governments on treaty issues (Tsawwassen Consultation Group 2000b; Lower Mainland Regional Advisory Committee 2000). This issue is particularly acute in Greater Vancouver as this area of wealth was the traditional territory of many First Nations that are both participating in and not participating in the BCTC process. The issue of overlapping boundaries is viewed by local governments as such a critical issue that their advice is that Agreements-in-Principle should not be signed until overlap issues are resolved between neighbouring First Nations (LMTAC, 16). Understanding boundaries as necessarily areas of exclusivity, overlapping territories are seen by local governments as “*conflicting* land, water and resource issues...[that need to be] *resolved*” (LMTAC 2000, 9, emphasis mine).

***General fear of the “other” and the accompanying unknown.*** The SOI map is also seen as a threat to the collective “we” as the geographic distinction reinforces the socially constructed distinction between “us” and “them”. For example, the LMTAC’s First Principle #32 seems to suggest that the local governments it represents do not regard First Nations as part of their communities:

Lower Mainland area Local Governments have increasing Aboriginal populations that are not from the traditional territories of Lower Mainland area First Nations as well as Aboriginal populations that will reside off future treaty settlement lands. Treaties must include mechanisms to

ensure that the costs of providing programs and services to these populations do not become the responsibility of Local Government. (LMTAC 2000, 13)

This LMTAC principle would seem to suggest that programs and services should be provided to people residing within their jurisdiction based on racial criteria. Fear of the “other” and the reassertion of the “collective self” is a symptom of a fear of the unknown, as is seen in a letter to the editor of the *Delta Optimist*: “...we, the general public, have been kept in the dark [about treaty negotiations]” (*The Delta Optimist* [Delta], 11 October, 2000). Here, the writer is careful to identify herself as part of the collective “we, the general public”. Tsawwassen First Nation Chief Kim Baird has also recognized the fear of “we, the general public” and linked it to a fear of the unknown. “‘A lot of people are fearful of what First Nation governance means. It is mainly a fear of the unknown,’ [Chief Kim Baird] said,” (*The Leader* [Surrey], 25 October 2000).

As these examples would suggest, SOI maps depict, engender or reinforce a fear amongst non-Aboriginal Canadians that the legitimacy of their history, culture, jurisdictions or rights would be undermined through the treaty process. But what impact does the making of these SOI maps have on First Nation communities?

### **“Aboriginal” Cartographic Trope of Empowerment**

Many have tried to differentiate between “Aboriginal cultures [in contrast to] their fundamental differences from Euro-Canadian culture” (Montminy 1996, 104). If western culture is said to embrace exclusivity, individuality and exploitation of nature,

then Aboriginal culture is said to embrace “collective values” (Tennant 1990, 14; Tsawwassen First Nation 1999b, 43) that “sought to exploit nature’s abundance...[through] balance and non-exclusive use” (Warhus 1997, 139). For First Nations, their land forms the foundation of their spirituality, culture, identity and language. Poelzer observes that “First Nations societies in British Columbia enjoy particularly rich relationships with the land. Their relationship to the territory they occupy determines many facets of their culture, from their economy, social structure, and religion to their politics. And because First Nations’ relationship to the land is so different from that of other Canadians, First Nations’ concepts of community, government and territoriality...are very different from those of the larger Canadian society” (Poelzer 1998, 85). As such, the BC Claims Task Force has concluded that “hereditary title is the source of all of their rights within their traditional territories” (BC Claims Task Force 1991, 24-25).

Within the treaty context, First Nations have spoken about the link between their culture and their land, particularly how the health of the community is linked to the health of the land. As part of the Tsawwassen treaty land proposal to the Governments of Canada and British Columbia, Chief Kim Baird said, “Our ability for cultural transmission is greatly hampered by the lack of resources with which we can practice our rights and traditions. How does an Elder show a child how to harvest shellfish on our foreshore or how to hunt in our Traditional Territory with no resources left?” (Tsawwassen First Nation

1999b, 34).<sup>2</sup> The connection between the spiritual and cultural well-being of the Tsleil-Waututh First Nation and the health of the land is echoed by Chief Leah George in a treaty presentation in October 1997:

Today we are confined. We are confined to 265 acres [of Indian Reserve land] because the resources within our territory have been exploited and destroyed and just plain used up. Today we raise our children without teaching them to dig for the five species of clams that existed for our Elders because they do not exist for us. Today our boys do not join the ranks of men by hunting their first deer or bear.... Today our Elders look at our territory and are upset and sad. It is important for the land to begin to be restored to its prior state. And in this journey to restoration, so will our People be restored..... (Tsleil-Waututh First Nation 1997).

The First Nations Summit also reinforces the sacred relationship that First Nations have to the land: "The land is part of us, as we are part of the land – we cannot be separated. It is these territories which provide the basis for our existence, enable us to sustain ourselves, create self-sufficient communities and allow our cultures to flourish" (First Nations Summit 1996, 3). The Ts'kw'aylaxw First Nation take this notion further, linking land to identity and language: "The very language describes the nuances of this land in a way that English will never be able to do. It is a land that is completely connected to the people that live in it" (Ts'kw'aylaxw 1999, 3).

First Nations have a complex and multi-faceted relationship with their land, but it would seem that the simple SOI maps submitted to the BCTC thus far do not adequately reflect

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<sup>2</sup> "In the Indian view, contemporary communities and tribal groups have the same essential connection with the land as did those same communities and tribal groups at contact. In most cases, indeed, present-day Indians do retain powerful emotional attachment to ancestral community, tribal group, and territory. This attachment, which is itself regarded by Indians as fundamental to their identity, is largely invisible to non-Indians, whose immigrant-derived society and culture are based upon exodus from established communities and upon individual rather than collective values." (Tennant 1990, 14)

this nuanced relationship. Perhaps studies of pre-colonial Aboriginal cartography can lend some understanding to modern Aboriginal cartography. In these studies, it has been noted that Aboriginal maps were not meant to be all-encompassing documents, but rather gestures or doodles in the sand that accompany other, often oral, texts. "Unlike western cartography, where the 'map' becomes one's picture of the landscape, Native American maps are always secondary to the oral 'picture' or experience of the landscape" (Warhus 1997, 8). Jan Kelly draws a similar conclusion in a study of the Maori: "The Maori map authors that we know about talked their maps. Each had a conversation, a *korero*, attached, and was not complete without it. There is no purpose to the written maps' existence otherwise" (Kelly 1999, 23). Thus, "if one sees the maps in the context of their verbal explanations, then there is no difficulty with their 'thinness' as line drawings. The supporting richness exists, and it is oral" (Kelly 1999, 24).

If this is the case, then perhaps the SOI map cannot be understood in isolation. Given a spiritual and cultural relationship with the land, I would argue that the requirement of a traditional territory map in BCTC process, as outlined in the Stage 1 procedures, takes First Nations along a structured path of contemplation. To draft a statement of intent to negotiate, First Nations must first consider who they are, how they would like to represent themselves, and what relationship they have to their traditional lands. The BCTC requirement, in effect, forces First Nations to consider these questions of identity, and express that identity spatially, in the form of an SOI map.

Using the Tsawwassen First Nation as an example, I examine in the following sections how the exercise of articulating their traditional territory under the BCTC process is one

of self-definition, legitimization and validation of traditional governance structures, nation-rebuilding and ultimately, an articulation of their aboriginal rights and title. As other studies of modern Aboriginal cartography demonstrate, modern “maps of their homeland are a reassertion of...identity” (Warhus 1997, 224). I will draw upon the other texts that inform the SOI map including speaking notes, written presentations, and other documents generated by First Nations for the treaty process. Of course, as I have said above, both the SOI maps and the documents that accompany them on all sides have political and other motives in addition to articulating the position of their authors. However, I suggest that they are still a useful indicator of the way each party sees the maps, and the way First Nations see their relationship to their traditional territory. Despite their other purposes, they are still provide hints as to the views and motivations of those who create them.

***Self-definition & Legitimization of Traditional Governance Structures.*** In July 1999, Tsawwassen First Nation presented to the Governments of Canada and British Columbia the first part of their treaty proposal. This proposal outlined Tsawwassen’s vision of a treaty settlement in the key areas of fisheries, self-government, fiscal arrangements and cash settlements, and land. In her introduction, Chief Kim Baird situates her community’s treaty proposal within the context of their history and identity as a people with their relationship with their traditional territory: “Prior to European contact, we occupied and used a Territory with a land base of approximately 148,000 hectares, while today we live on a Reserve which has an area of 290 hectares or 2/10<sup>ths</sup> of 1% of our Territory. (A map of our Territory is contained in Appendix A.)” (Tsawwassen First



Nation 1999b, 13). The map in Appendix A of Tsawwassen First Nation's presentation is the same as that submitted to the BCTC as part of the First Nation's statement of intent to negotiate. Chief Baird states that the treaty proposal can only be understood through an understanding of the history of her people: "To understand our needs and our Rights, it is first necessary to understand our four thousand year history as a First People in this region. It is our history which defines who we are, explains how we came to live in this region..." (Tsawwassen First Nation 1999b, 13).

According to Chief Baird, the traditional territory described in the SOI map is directly linked to the origins of her people, the history of her people, and the identity of her people. It serves to distinguish the Tsawwassen from their neighbours, much in the same way that the Canadian atlas marked the nation's unique identity by distinguishing it from the United States (Monmonier 1994, 7). The SOI map is spatial as well as temporal, linking the physical to the historical, land to identity. The Tsawwassen First Nation origin myth of Khaals describes how the First Nation came to use and occupy the lands described in the SOI (Tsawwassen First Nation 1999b, 16-18). Cartography is used to legitimize Tsawwassen's right to the land by linking "geographical with cosmological content" (Lewis 1993, 99). Chief Baird then draws upon the words of her ancestor to reconfirm the rights of the Tsawwassen people to the land outlined in their SOI map. She quotes from her great-grandfather Chief Harry Joe's submission to the McKenna McBride Commission in 1914: "This had been the home of our ancestors from time immemorial where they roamed from time to time, and used to say that the whole place was ours until the white peoples came...." (Tsawwassen First Nation

1999b, 28). The rights outlined by Chief Joe are based on use and occupancy. The First Nation's spiritual and physical relationship to the land is then supported by a naming system that documents a relationship with the land that is based on names tied to *use* and *legends* (see Table 1): "These are names in our language that describe certain areas within our Traditional Territory and thereby demonstrate our use and occupation of our Territory" (Tsawwassen First Nation 1999b, 19):

**Table 1. Tsawwassen First Nation names for areas in their traditional territory**  
(Source: Tsawwassen First Nation 1999b, 19)

<b>Tsawwassen Name</b>	<b>Present-day point of reference</b>	<i>Season</i>	<b>Tsawwassen's Description</b>
Tl'ektines	"on Lulu Island"	"in the spring"	"where we caught and dried sturgeon, picked and stored berries, as well as hunted"
Kikayt	"in New Westminster"	"from May to July"	"where we would catch and dry sockeye"
Swwhy amalth		"in the summer"	
SkwetExken	"in New Westminster... located near the current site of the Scott Paper Company"		"camping site"
Chilucktan Slough			"an important slough to the Tsawwassen, and is one of the only remaining original place names in our Territory recognized by the public"
Heleqt	"in what is now called Burns Bog"		"contains numerous harvesting sites as well"
Kwesewal	"in Boundary Bay, near the mouth of the Nicomekl River"		"a harvesting place, and the river itself formed part of our transportation network"
Stsewothen	"cover our existing Reserve"		"can loosely be translated to facing seaward"
Stl'alep	"on top of the bluff"		"the original Tsawwassen village"
Ts'ayem			"a camping place"
Sexwan			"a place where there is water, and where Khaals nearly got beaten"
Smahkwuts and Kewlkalecmen	"Point Roberts"		
Tsltenum	"Cannery Point"		

The use of resources on the lands described in the SOI map is further reinforced through the demonstration of traditional mechanisms to manage the resources. As Chief Baird explains, "Marriages were arranged, ensuring that certain land and resource rights were shared throughout Coast Salish Territories" (Tsawwassen First Nation 1999b, 20).

***Nation Re-Building & Reassertion of Aboriginal rights and title.*** Perhaps, then, the process of articulating their traditional territory on a map is more than just the making of a map. Perhaps, much in the same way that mapping empowered colonizers, mapping their traditional territory is an empowering act for First Nations seeking to reassert their Aboriginal rights and title to their traditional lands, and the treaty process becomes the vehicle in which to affirm their Aboriginal rights and title. In a presentation of their treaty vision, Chief Baird speaks to the relationship between Aboriginal rights and their goals through treaty: "This is the day that we continue our journey to restore the social, economic and cultural well-being of our people and to obtain recognition and respect for our Aboriginal Title and Rights in our Traditional Territory" (Tsawwassen First Nation 1999b, 13). The process of articulating their traditional territory in the form of an SOI map is akin to justifying their rights to the land and their inherent right to self-government, and forms the basis for government-to-government negotiations with Canada and British Columbia. The SOI map becomes a spatial and graphic representation of their rights and title. As a symbol of their Aboriginal rights, the SOI map itself becomes an icon of the inherent right to self-government over the territory depicted in that map.

The theme of Aboriginal rights permeates throughout Tsawwassen's treaty documents, and, in fact, forms the basis of their treaty proposals. The link between the SOI map and the Aboriginal rights of the First Nation are made explicit in Chief Kim Baird's speaking notes:

Aboriginal Title is the right to the land itself. Canadian courts have ruled that in order to establish a claim to Aboriginal Title, the Aboriginal group asserting the claim must establish that it occupied the lands in question exclusively, or in the form of shared exclusivity, at the time at which the Crown asserted sovereignty over the land subject to the Title....

We should have no difficulty establishing that Tsawwassen First Nation historically used the area identified as our Traditional Territory (please refer to map at Appendix A) and occupied the areas identified in our preliminary Treaty land selection (please refer to map at Appendix B) prior to the assertion of British Sovereignty.

One need only to review information in our traditional use of the area within our Traditional Territory, such as our Traditional Use Study, and other readily available archaeological and ethnographic evidence, to realize that these areas were intensively used and occupied by Tsawwassen people prior to the arrival of Europeans.

In cases where our connection to these areas has been interrupted, this has been due to alienation of areas to local farmers and others, over our objections and without our consultation or compensation. It is the direction of our community and our Elders that our connection to these areas be respected, restored and strengthened. (Tsawwassen First Nation 1999b, 120-121)

The fears of non-Aboriginal Canadians, described earlier, are understandable when the SOI map is coupled with assertions of Aboriginal rights and title to the land described in the map. Such a map could be easily understood as a (re)assertion of claim for jurisdiction and ownership. The SOI map can be understood by both Aboriginal and non-Aboriginal communities as a symbol of nationhood. And to non-Aboriginal

Canadians, the SOI map could be seen as a disregard for existing jurisdiction and ownership, as if the land were a *tabula rasa*, if you will.

***The map constructs the world – changing First Nation understandings of the relationship with the land.*** Although less clear, it is worth considering whether the act of drawing the SOI map in the form of a single line along the outer limit of their traditional territory causes First Nations to take on a new understanding of their relationship with that territory. It has been noted “maps have the power to shape our view of the world as well as reflect it” (King 1996, 21). As was noted above, Tsawwassen has a relationship with the land that is based on use and occupancy. I have also argued that the SOI map, in isolation, does not adequately represent First Nations’ stated relationships to the land, a multi-faceted relationship that requires either a more nuanced cartographic representation or other supplementary explanation. Rather the cartographic technique of a solid line, read in isolation by community members, can be interpreted more readily as jurisdiction to and outright ownership of a defined piece of land. Perhaps this simplified articulation of their relationship to the land has resulted in the creation of a new territorial construct, a territory defined in the ways of western civilization, a territory of jurisdiction, ownership and boundaries. Could it be said that the SOI map has turned a “nation” into a “nation-state”? Perhaps in inadequately depicting First Nations’ understanding of land, the SOI map has confused the objectives of First Nations of regaining a relationship to the land, through treaty, based on use, and created a fixation on the entire traditional territory of jurisdiction and ownership. While First Nations undertook to create a map that depicted their relationship with the land, the

act of creating the map and the map itself in turn has reshaped their relationship with the land. First Nations use their traditional territory as a point of reference and as a source of their Aboriginal rights. However, there is slippage between the map and reality. For all practical purposes, many First Nations have already lost control of these lands and the courts have yet to clearly define the nature and extent of these rights. This is especially true in urban areas.

It may follow that, for some First Nations, the cartographic dynamic of creating the SOI map has had some unexpected effects. First Nation members may have begun to take on western notions of boundaries and their relationship to the nation-state. The SOI map depicts the traditional territory as a discrete unit. The representation of the territory as one of discrete jurisdiction and ownership blurs traditional systems of land tenure and shared land use through alliances such as marriages, and in effect, turns areas of shared territories into disputes over overlapping jurisdictions. Perhaps Aboriginal use of western cartographic techniques may lead to western interpretation, even when that interpretation does not fit with traditional structures or cultural frameworks.

### **Frustrated Opportunities for Commonalities**

It would seem that that the SOI map has created confused understandings of what is being negotiated at the treaty table for both Aboriginal and non-Aboriginal participants. In fact, upon closer examination of treaty documents presented by Canada, British Columbia and the Tsawwassen First Nation, there appear to be commonalities between

their expressed interests, particularly in the areas of land and self-government negotiations.

### **Common Ground**

In the following sections, I outline some of the issues upon which the parties to the negotiations are substantially in agreement.

***Private Land Not on the Table.*** All parties agree that treaty settlement lands will be Crown lands or private lands purchased on a willing seller/willing buyer basis, and that, in general, private lands will not be expropriated for treaty settlement purposes. This position has been stated, either explicitly or implicitly, by each of the parties. For instance, in their July 1999 proposal, the Tsawwassen First Nation's preliminary land selection is taken from a "tract of provincial Crown Land, known as the Roberts Bank Backup Lands...[and]...other parcels of provincial and federal Crown Land throughout our Traditional Territory" (Tsawwassen First Nation 1999, 77). Tsawwassen's commitment to this principle is exemplified in their concern that "available Crown Land [for land selection] is dwindling" (Tsawwassen First Nation 1999, 72)

Canada's representative to the Tsawwassen negotiations has also been clear about Canada's position on this issue: "All parties to this table have acknowledged that settlement lands will be selected from provincial Crown lands or surplus federal Crown lands....In addition, settlement lands may include private lands offered on a willing

seller/willing buyer basis” (Canada 1999, 11). This statement is derived from FTNO’s policy that “two types of land may be involved in discussions on land-related matters: reserve lands where the federal government has primary jurisdiction; and Crown lands. For the most part, Crown lands discussed in treaty negotiations will be those under provincial jurisdiction” (Canada 1996, 15). Later in the same document, the principle is stated even more specifically: “...lands held in fee simple will not be expropriated in order to make them available for selection” (Canada 1996, 16).

Similarly, British Columbia has consistently held to the view that privately-owned land would not be on the table. This is despite the fact that BC has the most to lose from this position, as most of the remaining land is provincial Crown land: “Once again, the Province would like to emphasize that privately owned lands held in fee simple, whether by individuals, corporations or municipalities, are not on the negotiating table” (British Columbia 1999, 4). However, British Columbia has been careful to limit its exposure, stating that “fee simple land owned by Crown corporations is not on the table” (British Columbia 1996a, 6), and that “highways, resource roads, rights of ways for both public and private utilities and sites integral to the operation, maintenance and development of these networks will remain within Crown jurisdiction” (British Columbia 1996a, 6). British Columbia has repeated this position in the specific context of the Tsawwassen negotiations: “Only Crown land is considered....All access routes and utility corridors will be netted out of the land offered” (Cory Herrera in Tsawwassen Consultation Group, 2000b).



***Treaty Settlement Lands Only a Small Portion of Claimed Traditional Territory.***

Despite disagreements over precise amounts and locations, the parties to the Tsawwassen negotiations have agreed from the outset of negotiations that treaty settlement lands would only be a small portion of each First Nation's traditional territory as outlined in the SOI map. According to their "Preliminary Land Selection Map" (Tsawwassen First Nation 1999b), the Tsawwassen First Nation is seeking 1462 hectares of treaty lands, which they note is only 1% of their traditional territory. The Tsawwassen First Nation has recognized that any treaty will not return most of its claimed traditional territory to it, and that if there is to be compensation, it will have to come in other forms.

British Columbia is held to a policy whereby the total amount of treaty settlement land in the province is limited: "Overall, the total land held by First Nations, after treaty settlements are completed in British Columbia, will be less than five percent of the Province's land base" (British Columbia 1996b, 5). Moreover, British Columbia has chosen to disregard the size of claimed traditional territories in negotiating treaties: "The size of the First Nations' traditional territory, as identified in its Statement of Intent to Negotiate, will not be a factor in negotiating the area of Treaty Settlement Land (for example, Treaty Settlement Land will not be calculated as a percentage of the traditional territory)" (British Columbia 1996a, 3). British Columbia has maintained the position that the SOI map is primarily a geographic locator, rather than an indication of size, and that in any case the ultimate settlement lands will form only a small part of the lands indicated in the SOI map (British Columbia 1996a, 4). This has also been British

Columbia's answer to concerns about overlapping territorial claims: "In most cases, because the final area of Treaty Settlement Land will be only a small part of the traditional territory identified by the First Nation, overlapping territories may not, in the end, be a significant issue" (British Columbia 1996a, 9).

Of course, not all First Nations share this approach to land negotiations. Some First Nations, such as the Gitksan-Wet'suwet'en have insisted on jurisdiction over and ownership of their entire traditional territory (Poelzer 1998, 100). A more commonly held position of First Nations, such as the Tsleil-Waututh Nation, is that they have some degree of influence over or use of their traditional territory that is short of full ownership and jurisdiction. The Canadian legal system, land tenure regime and the treaty process can accommodate First Nation interests in land that are short of full jurisdiction and outright ownership.

***Self-Government Jurisdiction Based on Membership.*** All parties have agreed that First Nations governments will have jurisdiction based on membership. The Tsawwassen First Nation, for instance, has claimed a right to self-government as a people: "We, the Tsawwassen First Nation, continue to have an inherent right to self-determination arising from our status as distinct aboriginal peoples...that entitles us to determine our own governmental arrangements and to govern ourselves under institutions of our choice and design" (Tsawwassen First Nation 2000, 5). Self-government is seen as the expression of a First Nation's collective self, rather than a means simply to govern a piece of land: "The Treaty process offers our Nation the opportunity to craft a form of

government out of, and responsible to, our own community” (Tsawwassen First Nation 1999b, 89). And while practically, Aboriginal self-government may have a geographical component that encompasses people not of the First Nation’s membership, the primary concern of First Nations is to have governance authority over their own collective.

Of course, First Nations are aware that there will necessarily be a geographic dimension to self-government, necessitating structures to deal with the points where community and space do not intersect. Chief Baird has noted the “need to balance the goal of creating a new system of governance which reflects the values of our community and ensures our future survival, with the need to create appropriate consultation or representation mechanisms for non-members and non-citizens” (Tsawwassen First Nation 1999b, 94). The Tsawwassen First Nation has acknowledged the need to discuss in more detail appropriate governance structures that would maintain the good relations that they have with individuals who are not Tsawwassen First Nation members (Tsawwassen First Nation 2000, 22). It has stated that, “we are committed to ensuring...that treaty participation and consultation mechanisms are developed which respect Tsawwassen jurisdiction, while taking into account non-Tsawwassen interests. At times we believe that Canada and British Columbia are making this into a big issue when clearly it is not” (Tsawwassen First Nation 2000, 66).

Canada sees the scope of First Nations government as limited to those areas of jurisdiction that are “internal to the group, integral to its distinct Aboriginal culture, and essential to its operation as a government or institution” (Canada 1995, 5). Further,

Canada is clear that “where the exercise of Aboriginal jurisdiction or authority over non-members is contemplated, agreements must provide for the establishment of mechanisms through which non-members may have input into discussions that will affect their rights and interests, and must provide for the rights of redress” (Canada 1995, 12).

This approach has been consistent with that taken by British Columbia:

It is critical, from the Province’s point of view, that first nations governments clearly identify mechanisms through which non-aboriginal citizens residing on treaty settlement lands can participate in and influence the decision-making processes of first nations’ governments that directly affect them. For the Province, this is a fundamental principle. (British Columbia 1999, 10)

***Goal of Political Inclusion.*** Canada, British Columbia and many First Nations involved in the BCTC process agree that one of the ultimate goals of treaties will be to bring about First Nation integration with, and not isolation from, the Canadian polity. This may seem inconsistent with First Nations’ assertions of sovereignty and nationhood, but has nevertheless been a goal of most, if not simply for pragmatic reasons.

For example, the Tsawwassen First Nation has sought to build constructive relationships with different levels of government, as well as other entities such as Crown corporations (Tsawwassen First Nation 1999a, 5). It envisions for its own self-government “a system of governance that is democratic, effective, efficient and compatible with other government systems in British Columbia” (Tsawwassen First Nation 1999b, 89).

For Canada, political inclusion is a central goal: "Negotiations are not about separateness nor segregation. They will not result in sovereign states or autonomous enclaves within the boundaries of Canada. Treaties, including their self-government components, will enhance Aboriginal participation in Canadian society" (Canada 1996, 10). Canada is aware of the fear of many Canadians that treaties will result in sovereign mini-states within Canada's borders: "Canada will negotiate governance arrangements in the context of the Canadian constitutional framework. It will not create sovereign Aboriginal territories" (Canada 1996, 25). Canada has been clear that the inherent right of First Nations to self-government is not a right to sovereign independence, as it is meant in international law. Aboriginal self-government is seen by Canada as something that must exist within the Canadian state and society, and which will allow First Nations to participate more fully, rather than less, in Canadian political life (Canada 1995, 4).

### **Limits to Common Ground**

Of course these commonalities, while clear to negotiators, are not universally embraced by either the Aboriginal or non-Aboriginal communities that they represent.

Community support on all sides is recognized as a key element in a successful treaty negotiation. What I argue is that the SOI map in fact frustrates the opportunity for community support, in turn hindering the negotiating process itself.

As with all maps, the power and influence of the SOI maps does not exist in a vacuum. There are of course the legal notions of aboriginal rights and title underlying the entire

treaty process. These provide a "real-world" power upon which the maps rest. Even though aboriginal rights and title are still being litigated, negotiated, defined and refined, the very threat of some relatively undefined rights presents a powerful force against non-aboriginal viewers of the SOI maps. However, there is of course more to this dynamic, for maps need not only an underlying power base, but also some sort of venue. In the absence of a modern-day treaty process, if a First Nation were to produce and circulate a map of its traditional territory, it might have very little impact, and might be viewed with curiosity and historical interest, but not with a sense of panic or indignation. But in the context of the treaty process, maps are seen as claims, even a threats, demanding attention. The BCTC process provides a venue for these maps, accords them legitimacy, and announces First Nations' intentions and demands. Particularly in public discourse, where the complexities of the legal concepts around Aboriginal rights and title remain largely incomprehensible, the power of the SOI maps in this context derives not from the underlying aboriginal rights and title, but from the process which sets up the need for the maps, provides a forum for their publication and dissemination, and accords them legitimacy and authority.

### **BCTC as Western Process**

One could of course argue that any problems arising out of the SOI maps arise out of the very nature of the BCTC process. Perhaps the BCTC implicitly encourages this type of cartographic product from First Nations through their instructions: "the Commission must be able to determine that the aboriginal people represented in the Statement of

Intent have a distinct traditional territory that is generally recognized as being their own.” The use of phrases such as “distinct traditional territory” and “their own” seems to suggest that the BCTC is looking for an articulation of a traditional territory that is a discreet, cohesive geographical area that is delineated by a single, solid line. The argument could continue that the BCTC process is in fact a Eurocentric process, one that demands that western conceptions of land and land tenure be mapped through western cartographic conventions. Rundstrom has made the argument that “the mapping process at work in the dialogue [between American Indians and white Euro-Americans] reveals longstanding cultural stereotypes and perpetuates attempts to assimilate Indians to white ways of living and thinking....These stereotypes are reinforced in contemporary cartographic practice” (Rundstrom 1993, 21). It could be argued that the BCTC’s instructions ask First Nations to articulate their traditional relationship with the land in a manner that reflects western ideals of discrete ownership and jurisdiction.

Whether or not the BCTC’s instructions encourage First Nations to adopt western cartographic conventions in the making of SOI maps, most First Nations have responded to the instructions in a similar fashion, and have chosen to submit SOI maps of their traditional territory as a single, solid line. Further, to dismiss the BCTC process itself as a Eurocentric one would ignore the pivotal role of First Nations in the building of the process. Of the seven members that made up the BC Claims Task Force, four are aboriginal (BC Claims Task Force 1991, Appendix 1). In making its recommendations, the Task Force also consulted with and received submissions from numerous aboriginal organizations throughout British Columbia and Canada (BC Claims Task Force 1991,

Appendices 3-4). Furthermore, as of 2001, two of the four commissioners of the BCTC are aboriginal, as is the Chief Commissioner, Miles Richardson. The BCTC process is a process made in partnership with First Nations, granted that acknowledgement must be given to the fact that the power dynamics between First Nations and governments may not always be equal. Nevertheless, to argue that the process is Eurocentric would be to argue that First Nations were complicit in the western-based process. The problems of the SOI maps, therefore, should not be attributed solely to the imposition of a "Western" process onto First Nations.



## Chapter 4 *The (Re)making of Worlds*

In the previous chapter, I have examined how the cartographic dynamics of the SOI map have served to frustrate public support for negotiated treaty agreements, in both Aboriginal and non-Aboriginal communities. In this chapter, I consider how these maps, reflective of the BCTC process more generally, intersect with post-colonialism. I suggest that the post-colonial paradigm is all-pervasive in the operationalization of the treaty process, and has negatively impacted the success of modern treaty-making in British Columbia.

I suggest that in an attempt to free First Nations from the colonial gaze, post-colonialism has forced First Nations into the post-colonial gaze. This gaze relies on the dichotomous relationship between colonizer and colonized, and forces First Nations into what I would characterize as the victim construct. I further suggest that the victim construct is then protected from critique, in part by the Charter of Rights and Freedoms. I conclude that the future success for First Nations, including, but certainly not limited to, success in treaty-making, comes from the dismantling of the victim construct and an empowerment through the history that First Nations have with the land since time immemorial.

## **The Colonial Gaze**

In *Dissident Geographies*, Allison Blunt and Jane Wills dedicate one chapter to the challenging task of summarizing the varied and expansive literature on post-colonialism, particularly as it relates to post-colonial geography. They argue that “the aims of postcolonial geography are themselves diverse, encompassing the history as well as the present status of the discipline, the ways in which geographical imaginations have underpinned colonial power and knowledge, and the need to recover the experiences and agency of colonised peoples” (Blunt and Wills 2000, 167). According to this definition, the post-colonial paradigm has a clear political agenda of exposing the colonizer to reveal the colonized. The rise of post-colonial critique in the 1980’s was to challenge the hegemonic history of those with power. The post-colonial paradigm is based on the dichotomous relationship between the colonizer and the colonized, the oppressor and victim: one does not exist without the “other”.

In his landmark book, *The Cartographic Eye: How Explorers Saw Australia*, Simon Ryan examines the colonial process through the post-colonial paradigm in an attempt to carve away the colonizer to display the colonized. Ryan argues that Europeans undertook their task of colonizing Australia, in part, by creating a cultural framework in which to understand their contact experiences with the Aborigines. By creating sets of Aborigine stereotypes, all actions of the Aborigines could be “placed safely within a known category” (Ryan 1996, 166) and could be interpreted or explained in a coherent

and seemingly seamless way. In turn, these understandings facilitated the colonial dispossession of Aboriginal land.

Ryan describes and expands upon Abdul Jan Mohamad's Manichean allegory that "divides colonisers and indigene into a number of binary oppositions: White/Black, civilised/savage, Christian/heathen, rational/instinctive, progressive/regressive and self/other" (Ryan 1996, 137). Based on the journals of explorers, Ryan argues that the actions of Aborigines are interpreted according to these stereotypes. This has a two-pronged effect on the colonial enterprise. First, the interpretation of the contact process through the dichotomous relationship between the colonizer and the colonized serves to reinforce the roles between the two. The stereotypes of the Aborigines created by the colonizers not only enable them to explain their interactions with the Aborigines, but also enable the colonizers to create an understanding of themselves. The Aborigine paradigms created by the colonizer offer "an antitype against which the identity of the coloniser may be formed." (Ryan 1996, 138).

Second, the construction of a colonial self-identification legitimizes the dispossession of land and the imposition of a colonial government (Ryan 1996, 155). Ryan uses an example of the civilized/savage dichotomy to illustrate his point. The colonial construction that Aborigines were "pure" pre-contact, as Eve was pure before partaking of the fruit in the Garden of Eden, evokes a "nostalgia [that] places Aborigines within the 'past' (as imagined), [and] denies them a place in the present or future" (Ryan 1996, 171). The colonizers' construction of themselves as protectorate justifies the act of

“civilization” and “assuages the guilt [of the colonial enterprise giving]...them a place within the progressivist historical narrative, in which the process of settlement is embedded” (Ryan 1996, 173-4).

Ryan argues that these paradigms are used by colonists even in circumstances where Aboriginal actions did not fit with the stereotype. He uses the “trope of the treacherous native” (Ryan 1996, 147) as an example: “even when acting in a completely non-threatening manner, they are positioned as essentially treacherous” (Ryan 1996, 148). He argues that “the explorers’ discourse becomes trapped within these stereotypes, recirculating everything already known about indigenes and indigenous culture” (Ryan 1996, 137), and as such, “the Aborigines are almost completely entrapped within these paradigmatic structures by the dominant discourse” (Ryan 1996, 148).

In simplistic ways, post-colonial discourse has moved beyond academia into the discourse of treaty negotiations. The post-colonial critique of Canadian history has empowered First Nations by giving them a venue to articulate the injustices done to their peoples in the course of the colonial enterprise. The *BC Claims Task Force Report*, whose recommendations form the basis for the BCTC process, begins with a 14-page introduction outlining the injustices brought upon the Aboriginal peoples by the arrival of Europeans in British Columbia (BC Claims Task Force 1991, 5-19). It concludes that because “the relationship between the First Nations and the Crown has been a troubled one...a new relationship which recognizes the unique place of aboriginal people and First Nations and Canada must be developed and nurtured” (BC Claims Task Force

1991, 16). Likewise, Tsawwassen First Nation situates their pragmatic and future-oriented July 1999 treaty proposal with an introduction that speaks to the injustices from the colonization process. In “Part A: Tsawwassen First Nation: Past, Present and Future” (Tsawwassen First Nation 1999b, 15-41), they divide their history into three sections:

1. Life prior to European contact;
2. Life during the 150 years after European contact; and
3. Tsawwassen First Nation today – a substandard quality of life.

In sections 1 and 2, their history is told in relation to the point of contact. The third section explains the impact of contact on their current situation.

Similarly, the Tsleil-Waututh Nation preface their treaty proposal, *Our Land to Share*, with a Forward that describes their history in relation to the contact. It begins “before European arrival” (Tsleil-Waututh First Nation 1997, i), is followed mid-way with “the Europeans came” (Tsleil-Waututh First Nation 1997, i), and ends with “today we are confined” (Tsleil-Waututh First Nation 1997, v). In each of these tellings of history, contact between Europeans and the First Nation is the central theme. In each case, the First Nation is emphasizing the negative impact of the colonial process on their cultural and social well-being.

## **The Post-colonial Gaze**

I would suggest that while post-colonialism has been empowering to First Nations, it has done so by focusing on the power relations between the colonizer and the colonized. In the post-colonial telling of history, First Nations are empowered by virtue of their victimization, not by their culture or their long history. If indeed the colonized exists because of the colonizer, without the oppressor, the oppressed would not exist.

The oppressor-victim construct can be found in Ryan's own telling to Australia's colonial history. He falls into the trap of his own analysis by creating a new, but similarly necessary dichotomous relationship between the colonizer and the colonized. In the same way that the colonists in his analysis created a paradigm in which to understand their Aboriginal encounters, Ryan himself creates a known category or stereotype from which to understand colonial motives, a textual construction of colonists as ignorant, racist Christians who legitimized their evil acts through cultural stereotyping. Such a characterization provides the antithesis to characterize First Nations as pure, living in harmony with nature and each other. The BC Claims Task Force succinctly describes the pre-contact era: "despite their diversity, the First Nations were broadly alike in having cultures and spiritual understandings that stressed tradition, community, and harmony with the natural environment" (BC Claims Task Force 1991, 5). Similarly, the oppressor paradigm allows Tsawwassen to "paint a picture of what life was like prior to European contact" (Tsawwassen First Nation 1999b, 22): "The Tsawwassen First Nation was able to live comfortably and in harmony with the

environment for at least four thousand years. We were a rich and wealthy people....We were able to live comfortably and in a self-sustaining way" (Tsawwassen First Nation 1999b, 21).

Of course, the treaty process in British Columbia fits paradigmatically with post-colonialism because it addresses the effects of the colonial process. However, holding Aboriginal Canadians and non-Aboriginal Canadians to the roles of victim and oppressor is not beneficial to either group. While the post-colonial perspective is anti-colonial (Blunt and Wills 2000, 167), it necessarily dwells on the colonial, thereby undermining its own objective. It reinforces temporally the colonial period as the critical time in history, and reinforces the colonial relationship as an enduring relationship. Within this dichotomous relationship, where one cannot exist without the other, to sustain one is to sustain the other. The "First Nation victim" is no less an "othered" invention of the European imagination than the "noble savage". To feed the post-colonial rhetoric of First Nations as "pure" pre-contact is to conclude that the "contact" experience of the last few hundred years is more profound than all other experiences in the long and varied history of First Nations. This view is perhaps more ethnocentric or Eurocentric than those of colonists themselves as it is executed in a knowing space.

The political agenda behind post-colonial discourse has been acknowledged, and continues to spur others on to the purpose: "[T]here remains much more to be done. Inequality and injustice have not disappeared and, in many ways, they remain more

pressing than ever. Dissident geographies remain crucially important in attempting to change both the discipline and the world” (Blunt and Wills 2000, xii). The discourse attempts to right the wrongs done to “working class people, women, sexual dissidents and people of colour” (Blunt and Wills 2000, xi), as if self-flagellation assuages the guilt of the colonial enterprise and gives academics a place within the revisionist historical narrative. But in doing so, a victim construct is created, and First Nations are almost completely entrapped within these paradigmatic structures by the dominant discourse. The post-colonial construction of the Aboriginal is a construction of the Aboriginal victim paradigm. In an attempt to free First Nations from the colonial gaze, First Nations become trapped in the post-colonial gaze.

### **The Victim Construct and the Charter of Rights and Freedoms**

Interestingly, the rise of post-colonial theory coincides with the 1982 patriation of Constitution in Canada and the advent of the Charter of Rights and Freedoms. I will take a moment to discuss the significance of the Charter and how I believe it intersects with the perpetuation of the victim paradigm.

With the patriation of the Constitution, Canada underwent a significant shift in political and legal thought. Of note, the Charter of Rights and Freedoms explicitly entrenched, for the first time, individual and groups rights into the constitutional framework of the country, elevating them to a level beyond that of ordinary law or state action. While



governments could continue to derogate against these rights, they now had to satisfy strict constitutional standards to justify that derogation.

There seems to be a recognition of the security that constitutional protection provides. Discussions around the concept of a social charter, or the inclusion of additional social rights to the Charter of Rights and Freedoms, have recognized the power and protection that the Constitution brings. In his paper, "Just Words: Constitutional Rights and Social Wrongs," Joel Bakan examines the concept of a social charter, which he proposes as a companion to the Charter of Rights and Freedoms, that would entrench in the Constitution positive rights to public goods, such as health care, education and social welfare. Significant to the social charter debate is that proponents of the concept see Constitutional protection as an effective mechanism for protecting social rights. Bakan argues that Constitutional entrenchment is so powerful that it places rights "outside the scope of political debate and change" (Bakan 1997, 147), thereby ensuring that these rights are paramount. By placing positive rights to a public good such as healthcare or education into the Constitution, we take away the ability of the public and politicians to debate their importance.

If the "social charter" is expected to remove positive rights to public goods beyond public debate, this necessarily suggests that existing rights found in the Charter are also beyond the realm of public debate. Rights and freedoms contained within the Constitution are seen as immutable, and the characteristics to which they refer are viewed as inappropriate bases for government discrimination.

One possible characterization of rights within the Constitution is that they can be understood as individual rights or group rights. The rights and freedoms contained within Sections 2 through 15 are rights that apply to the individual. These are the fundamental freedoms, democratic rights, mobility rights, legal rights and equality rights. Sections relating to language such as Sections 16 - 22 (Official Languages of Canada) and Section 23 (Minority Language Education Rights) are rights that apply to groups. Likewise, aboriginal rights contained in Section 35 involve membership in a group. Further, equality rights, although exercised in relation to the individual, are also linked to membership in the stated groups: "[e]very individual is equal before and under the law...without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability" (*Constitution Act, 1982*, s. 15 (1)). Equality rights enshrine the rights of individuals to be free from discrimination at the hands of governments on the basis of their membership to groups with characteristics as listed above.

I would suggest, then, that Constitutional rights that depend on membership in groups, such as language rights, equality rights and aboriginal rights, have resulted in the coalescence of individuals around the defined characteristics set out in the Constitution. In order to take advantage of the protections offered by the Constitution, individuals must identify themselves with one of the characteristics listed in the Constitution. This membership affords them special protected status and allows them to avail themselves of Constitutional protection.

I want to return to the earlier point that Constitutional rights are beyond the scope of public debate. If this holds true, could the argument be made that groups of individuals united by common characteristics found within Constitutional rights are also beyond public debate? In effect, the Constitution has gone beyond the protection of rights to the protection of groups that share those rights. One might then argue that groups such as aboriginal people and minority groups are largely becoming untouchable in political debate.

The Charter, and indeed the entire Constitution, is intended to set out the basic relationship between individuals and governments, and between different levels of government. It is not intended to govern interactions between individuals. This is the nature of constitutional instruments in most modern states. However, in creating protected "Charter groups," the Charter has also contributed to the insulation of these groups from private and political critique.

The freedom to question or critique is valued in both academic and popular circles, and forms a key component of the democratic system as understood in Canada. However, it could be argued that groups born by the Charter are isolated from criticism by the Charter. For example, while individuals are free to challenge the policies or actions of groups that share common Charter characteristics, these critiques can now be neutralized by an assertion that the critiques are an expression, for example, of racism, religious discrimination, sexual discrimination or sexism, sentiments that are implicitly

condemned by the Charter. Even though the Charter only explicitly enjoins governments from being guided by such motivations, the Charter has also given groups protection from political attack.

It is perhaps not a coincidence that Charter groups coincide with groups that Blunt and Wills argue require liberation from ‘traditional power relations...[such as] working class people, women, sexual dissidents and people of colour’ (Blunt and Wills 2000, xi), including Aboriginal peoples. It would seem, then, that potential members of the victim construct – whether they be visible minorities, women, people with disabilities, gays and lesbians, or Aboriginal peoples – may be insulated from critique by the Charter. This may lead to a lack of the full consideration, innovation and experimentation that are necessary in processes as complex as the negotiation of modern-day treaties. More seriously, a lack of open debate on important issues can counter the very intent of the Charter itself by fostering the possible creation of untouchable groups. I will return to this issue in Chapter 5.

### **Contrapuntal Cartographies and the Negotiation of a Post-treaty Vision**

Perhaps, then, First Nations need to free themselves from the post-colonial gaze, and be empowered from their own history, a telling of North America from time immemorial, a telling not of a colonial power, with its accomplice the cartographic eye/I and its antithesis the romanticized pre-contact past, but one where the interaction with colonial Europe is one of series of human interactions on an ancient landscape. The Sto:lo

Nation has begun this work in their recent publication, *A Sto:lo-Coast Salish Historical Atlas*. In what they characterize as “decolonization of thought processes”, the Sto:lo Nation has articulated a spatial-historical narrative that dispenses with the oppressor/victim paradigm.

[The publication of their atlas] marks a shift toward a more balanced power relationship between Aboriginal and non-Native society. The fact that Aboriginal leaders are encouraging publications that discuss not merely accounts of Aboriginal-European relations, but also the dynamics and tensions within and between Aboriginal communities and people (over which there is no consensus of opinion or clear “good guy/bad guy” relationships) reflects a decolonization of thought processes. This new openness also exemplifies a reassertion of older cultural values and protocols, which call for a multiplicity of opinions on a host of topics to be shared publicly and openly discussed or debated. (Carlson 2001, xv)

Such a history relies not on the colonial “other” to build a romanticized past, but confidently embraces dissent and diversity by acknowledging that “...there has never been a single definitive voice in either Aboriginal or non-Native historical discourse. As editors and authors of this publication, we echo and endorse the sentiments of the Sto:lo Nation managers, Elders and political leaders in encouraging others to publish new information and interpretations to challenge or build upon the material presented here” (Carlson 2001, xv). Furthermore, they open up their own history to academic and popular critique and destabilization, in this case, the role of culture in interpretation.

We all live in worlds largely of our own social construction. It has become common for academics to state that “understanding precedes experience”: we come to expect order and coherence in our world and therefore experience things according to the models we have developed to explain past happenings. When we encounter something or someone from outside our world – as both European and Aboriginal people did

when they met for the first time – we try to understand the new entity within our preconceived world view. Eighteenth-century European observers could not really comprehend Coast Salish society, because the Coast Salish existed and operated outside their European-based scope of understanding. Likewise, the Coast Salish could, initially, use only their own predefined categories to interpret Europeans. The accounts presented in the following four plates should, therefore, be read carefully, with an eye to the cultural and historical context in which they were created. Just as we would not assume that the ethnographic observations of Europeans provided in Aboriginal oral traditions necessarily depict “realities” of European experience, the same applies in reverse: European accounts of Aboriginal people are not necessarily “true” depictions that coincided with Indigenous people’s understanding of themselves. (Carlson 2001, 84)

The atlas has empowered the Sto:lo Nation to take on strategies of cartographic persuasion in a telling of their past to build their future. The atlas empowers the First Nation by (re)constructing their territory to place them in a position of power in the Lower Fraser River region. In an assertion of political control over other First Nations in the area, the Sto:lo equate themselves with the Coast Salish group, as the title of the atlas would suggest. Musqueam and Squamish members are characterized as member communities of the Sto:lo Nation, and conflicts between the groups are characterized in the atlas as “intercommunity conflicts” (Carlson 2001, 48-9). I suspect that many members of the Musqueam Nation or the Squamish would disagree that they are part of the Sto:lo Nation. Perhaps the Sto:lo atlas is meant to be a symbol of nationhood, and a tool to legitimize their cultural and political domination of the Halkomelem language group for the purposes of political amalgamation, in part, for treaty negotiations. Regardless, what is important to note is that Sto:lo Nation’s telling of their history does not pivot on the point of contact, nor does it subvert the significance of contact in the history of the Canadian nation-state.

How, then, can the multiple histories of First Nations and the multiple histories of other Canadians be situated on a spatial plane? It may be helpful to draw upon Matthew Sparke's intriguing concept of "contrapuntal cartographies". Although Sparke's writings fall within the rubric of post-colonialism, they reflect a movement beyond the analyses of Ryan, Blunt and Wills. Sparke's concept of contrapuntal cartographies may be characterized as less post-colonial than it is acolonial in its dismantling of the dichotomous relationship between the oppressor and the victim. Drawn from Edward Said's notion of contrapuntal readings, Sparke explains that a "contrapuntal interpretation involves a strategic revoicing of a subtext to make it equal to the dominant text and thus to orchestrate an equality for strategic political purposes" (Sparke 1996, 47). In the acolonial construct, each voice exists independent of the other. Canada relies on the dynamic between contrapuntal geographies in the making of its identity as a nation-state.

To illustrate his point, Sparke uses the example of the Delgamuukw case, a case where the Gitksan and Witsuw'it'en peoples appeared before the Supreme Court of British Columbia to explore the issue of aboriginal rights and title. As Michael Jackson explained, this case demanded that the judicial process engage in a cross-cultural understanding that gives "equal validity to the Aboriginal world view and [does] not rely upon eurocentric experience and thinking as the universal reference point" (Jackson in Mills 1994, xviii). Sparke argues that the effect of this alternate telling is to give an equal voice to the First Nations, that is to provide a contrapuntal cartography. He also

gives the example of Volume I of the *Historical Atlas of Canada*, a compilation that gives voice to contrapuntal geographies by presenting different tellings of Canada's beginnings, and in doing so "subverts any punctual notion of a singular national origin" (Sparke 1996, 48). The *Sto:lo-Coast Salish Historical Atlas*, if read as a companion piece to the *Historical Atlas of Canada*, would certainly provide yet another contrapuntal voice.

It seems, however, that the treaty process in British Columbia has yet to move from the post-colonial to the acolonial. First Nations have not yet moved beyond their role as resisting victim, at least insofar as SOI maps are concerned. The SOI maps trap First Nations in a place of resistance, by defining First Nations against an "other," rather than as free-standing entities. The SOI map thus represents a reassertion of a claim against the Canadian state that has sought to dispossess the First Nation.

In creating their SOI maps, First Nations appear to have made use of post-colonial cartographic techniques to reassert themselves against an encroaching oppressor, much in the way that the bioregionalism movement has advocated. These are the "dissident geographies" proposed by the post-colonialists. However, dissident geography requires an "other" against which to dissent.

In the context of the BCTC process, the goal of treaties is to forge a new relationship. However, if First Nations fall into the victim construct at the outset of negotiations in framing their interests in a way that relies necessarily on an opposing oppressor



construct, they risk cementing that relationship in the treaty that ultimately results. The goal of First Nations at the outset of negotiations should be to define themselves, rather than to define their role in opposition to their perceived oppressors. Freeing themselves from the role of victim from the outset has the potential to open up the process to more equitable relationships and, hopefully, a broader range of solutions and outcomes.

The set of SOI maps already submitted so far in the BCTC process show a lack of cartographic imagination, and I suggest demonstrate that First Nations are still trapped in their roles as resisting victims. Breaking out of this mould, as the Sto:lo have sought to do through cartographic innovation, will allow new channels of communication to open between First Nations and their neighbours, both old and newer, and may facilitate negotiations by stepping back from an "us and them" mentality that has so far given rise to adversarial negotiations.

## Chapter 5 *Conclusion*

In this thesis, I have attempted to highlight the subtle, but important role of cartography in the negotiation of, and community support for, comprehensive treaty agreements between governments and First Nations in British Columbia. I have argued that the requirement for First Nations to submit a map of their traditional territory as part of their statement of intent to negotiate with governments in the BCTC process, a seemingly appropriate and necessary precursor to land and governance negotiations, ultimately serves to frustrate both Aboriginal and non-Aboriginal support throughout the process. I have also considered the broader issues around post-colonial geographic analyses of the Canadian colonial experience. I have argued that the post-colonial paradigm negatively impacts the success of treaty-making in British Columbia.

In Chapter 2, I reviewed some of the existing literature around the power of maps and the mapping process. I summarized the analyses of others on the subjective nature of maps, and the importance of culture in the creation and interpretation of maps. In that context, the acute differences between Aboriginal and non-Aboriginal relationships to land were discussed, as well as how these difference are reflected in culturally-specific mapping processes and conventions. I then examined the theory that maps not only describe the world in which they represent, but actively prescribe meaning to it as well. I reviewed the theory that the myth of *tabula rasa*, constructed through the colonial

mapping process, serves to legitimize the legal construct of *terra nullius*, thereby bringing about the dispossession of indigenous lands for colonial settlement and exploitation. I also looked at how maps, as symbols, can be used to reinforce collective identities to both legitimize or resist existing authorities. I concluded this Chapter with the caveat that the power of maps does not exist in isolation, but rather, works in tandem with other instruments of power, whether militaristic, social, cultural or otherwise. Other influences or venues provide the legitimacy to maps, such that they may take on power dimensions of their own.

In Chapter 3, I looked at how the cartographic dynamic is played out in the BCTC process, and argued that maps of traditional territories, as required by the BCTC process and depicted in the form of a single solid line by First Nations, form the basis for cross-cultural miscommunication, and serve to undermine Aboriginal and non-Aboriginal communities' support for the negotiation of land and governance treaty arrangements. I began with a review of the mapping requirements as outlined by the BCTC, and how First Nations in British Columbia have met this requirement. I then returned to the concepts around culturally-specific relationships to land and mapping conventions described in Chapter 2, and examined how these concepts surface in the treaty-making context by examining the reactions of both non-Aboriginal and Aboriginal communities to these maps of First Nations' traditional territories.

I argued that within the framework of western notions of land tenure and jurisdiction, in particular the overarching political construct of the nation-state, non-Aboriginal

Canadians see the maps as an affront to local jurisdictions, individual rights over private property, the collective histories of an immigrant society, and national sovereignty itself. From the Aboriginal perspective, I argued that the collective effort of articulating their traditional territory in the form of a simple map is an empowering exercise in self-definition, facilitating the legitimization of traditional governance structures, reinforcing traditional notions of multi-dimensional relationships with the land, and, ultimately, the assertion of Aboriginal rights. However, I also gave consideration to the possibility that the exercise of assembling such a map has unintended effects on First Nation community members. Because the simplicity of the maps does not adequately articulate the nuanced relationship that First Nations have with the land, I suggested that the traditional territory map of each First Nation, read in isolation, may lead community members to assume a more western interpretation of the maps based on the notion of the modern nation-state – where the relationship of land is based more on exclusive jurisdiction and outright ownership – even when that interpretation does not fit within Aboriginal cultural frameworks.

This discussion was then applied to the realm of modern treaty-making, where, in the context of interest-based negotiations, it would seem that First Nations and governments have common interests in the areas of land and governance. I argued that these commonalities are subsumed under perceived difference brought about by the creation and interpretation of the maps, and serve to frustrate public support, within both Aboriginal and non-Aboriginal communities, for negotiated treaty agreements between the parties.

In Chapter 4, I looked to the intersection between post-colonial analyses and the BCTC process. While the BCTC process fits paradigmatically within the post-colonial rubric by addressing the effects of the colonial encounters in British Columbia, I suggested that post-colonial discourse has in fact hindered the success of treaty-making in British Columbia. Post-colonial analyses of Canadian history have empowered First Nations by focusing on the power relations between the colonizers/oppressors and the colonized/victim, thereby giving First Nations the political freedom to articulate injustices done to them through the colonial process. However, I suggested that the post-colonial telling of history necessarily dwells on the colonial process, and First Nations are empowered by virtue of their role as the victims, not by their long and varied history in an ancient land. I suggested that post-colonialism reinforces temporally the colonial period as the pivotal moment in history, and reinforces the colonial relationship as an enduring relationship. Post-colonialism does not allow First Nations to see the colonial encounter as one of many encounters in their collective histories. In the treaty context, this limits First Nations' ability to negotiate from anywhere but a place of resistance and subservience. By showing little cartographic innovation and thus obscuring their complex relationship to the land, I suggest that the simple maps of First Nations' traditional territories examined in Chapter 3 demonstrate that they are still trapped in their roles as victims, exercising a cartography of resistance.

At the end of Chapter 4, I looked for alternatives to post-colonialism that would be truly empowering to First Nations, both within the treaty process and otherwise. Looking to

the work of Matthew Sparke, it would seem that post-colonial theory is challenging its own assumptions, and constructing what I characterized more accurately as an acolonial paradigm. Sparke's concept of contrapuntal cartographies dismantles the dichotomous relationship between the oppressor and the victim, and allows for multiple, simultaneous tellings of history on the same spatial plane. I cited the Sto:lo Nation's historical atlas as an effective articulation of a spatial-historical narrative that dispenses with the oppressor/victim construct in what the editor of the atlas characterizes as a "decolonization of thought processes". The colonial encounter is described as one of a series of encounters, and political and academic critique of the First Nation's own tellings of history is embraced. Through cartographic innovation, they explore a process of "new openness [that] exemplifies a reassertion of older cultural values and protocols" (Carlson 2001, xv). This is truly empowering to First Nations.

## **LOOKING FORWARD**

In the last few months, several key events have occurred in the context of treaty-making in British Columbia. I mention them here because of their political importance, although it is too early to assess their impact fully. The first is a frank review by the BCTC of the six-stage treaty negotiation process in its 2001 Annual Report. The second is the release of a tripartite response to that report from the First Nations Summit, the Province of British Columbia and the Government of Canada. The third is the provincial referendum on principles of treaty-making undertaken by the BC government. I will address each of these in turn.

*Looking Back, Looking Forward: A Review of the BC Treaty Process.* In the fall of 2001, the BCTC released as part of its annual report, "Looking Back, Looking Forward," a review of the treaty process that looked at the issue of why no treaties have been signed since the process began in 1993. In the report, the BCTC looks at the experience of the last eight years to evaluate the strengths of the process, the lessons learned, and the extent to which fundamental commitments of the parties have been honoured. It then offers suggestions for moving the process forward (BCTC 2001, 3).

The BCTC's critique is expansive, spanning many topics including issues of process, policy, capacity, funding, and the size of mandates, to name a few. Lessons learned applies to governments, First Nations, and the BCTC alike. It is clear the BCTC is considering comprehensive changes to treaty-making in British Columbia.

As part of its prescription for moving forward, the BCTC concludes that "looking back, the Treaty Commission believes not that the process was too slow, but that it tried to accomplish too much, too soon....What has become clear is that treaty negotiations were, and are, simply too complex for speedy solutions and that British Columbians – aboriginal and non-aboriginal – need time to prepare for the new relationships that will result" (BCTC 2001, 13). In this context, the BCTC's key recommendations involve building treaties incrementally and achieving efficiencies in the treaty process (BCTC 2001, 14-16):

We need to shift our focus away from a treaty as a one-time achievement, and see treaties instead as the embodiment of new relationships that can be

built over time. Interim measures, ministerial-level discussions to resolve certain issues, "slim AIPs," governance initiatives, time outs to allow for community development – all of these can be the building blocks of treaties. (BCTC 2001, 14)

***Improving the Treaty Process: Report of the Tripartite Working Group.*** In response to the BCTC's assessment, the Government of Canada, the Province of British Columbia and the First Nations Summit convened a working group to consider the recommendations. This Tripartite Working Group completed its report in February 2002. The report was reviewed and endorsed by the Principals in March, and released to the public in May 2002. In a covering letter to the report, the BCTC's Chief Commissioner Miles Richardson clearly articulated the significance of the process that is currently underway: "It is clear that we are at an important turning point in the treaty process – the ideas in these reports would fundamentally change the treaty process while continuing to embody the principles of the BC Claims Task Force Report in 1991 from which the BC treaty process emerged" (Richardson, May 2002). The report itself is a tripartite review of the issues raised by the BCTC around incremental treaty-building, process efficiencies, financial implications and the role of the BCTC. It also outlines changes to current approaches and practices that would be needed in order to achieve comprehensive treaties (Canada, British Columbia and First Nations Summit 2002, 2). The report also included a work plan that outlined further tripartite exploration of the issues. Progress reports on the topics of "time outs", assessment, funding implications, revenue-sharing, co-management, certainty, governance, land status and First Nation Constitution are expected by May 31, 2002.



***BC Treaty Referendum.*** While this comprehensive tripartite review of the treaty process is taking place, the Province of British Columbia, in keeping with its election promise, is holding a referendum on principles to guide provincial negotiators in treaty negotiations with First Nations and the Government of Canada (Campbell 2002). The purpose of the referendum, as explained by Geoff Plant, Minister Responsible for Treaty Negotiations, is to “establish a publicly supported mandate that will help us move forward and achieve tangible results in the treaty process” (British Columbia 2002). Mail-in referendum packages from Elections BC were sent to registered voters out beginning on April 2, 2002, and voters had until May 15, 2002 to return the ballots. Voters are given an opportunity to answer “yes” or “no” to the following questions:

Whereas the Government of British Columbia is committed to negotiating workable, affordable treaty settlements that will provide certainty, finality and equality;

1. Do you agree that the Provincial Government should adopt the principle that private property should not be expropriated for treaty settlements?
2. Do you agree that the Provincial Government should adopt the principle that the terms and conditions of leases and licences should be respected; and fair compensation for unavoidable disruption of commercial interests should be ensured?
3. Do you agree that the Provincial Government should adopt the principle that hunting, fishing and recreational opportunities on Crown land should be ensured for all British Columbians?
4. Do you agree that the Provincial Government should adopt the principle that parks and protected areas should be maintained for the use and benefit of all British Columbians?
5. Do you agree the Provincial Government adopt the principle that province-wide standards of resource management and environmental protection should continue to apply?
6. Do you agree that the Provincial Government should adopt the principle that aboriginal self-government should have the characteristics of local government, with powers delegated from Canada and British Columbia?

7. Do you agree that the Provincial Government should adopt the principle that treaties should include mechanisms for harmonizing land-use planning between aboriginal government and neighbouring local governments?
8. Do you agree that the Provincial Government should adopt the principle that the existing tax exemptions for aboriginal people should be phased out?

While the referendum has generated extensive media coverage from local, provincial and national media outlets, the debate has not been around the issues, as hoped by the government, but rather around the referendum process itself. A cursory review of major media sources would suggest that there is wide-spread criticism surrounding the legitimacy of the referendum process as a means of soliciting meaningful public support for a negotiating mandate.

Angus Reid, senior fellow at UBC's Liu Centre for the Study of Global Issues and former pollster, criticizes "the British Columbia aboriginal referendum [as] one of the most amateurish, one-sided attempts to gauge the public will that [he has] seen in [his] professional career" (*The Vancouver Sun* [Vancouver], 5 April 2002). He suggests that the referendum questions are one-sided motherhood statements, crafted, sometimes in a confusing manner, to incite a "yes" vote from British Columbians in order to "create a consensus where none existed". He concludes that the results of this exercise, even if it were a resounding "yes", would not yield meaningful instruction to negotiators.

John Dixon, president of the BC Civil Liberties Association, questions the legitimacy of the process because of the confusion around whether the results are binding on the government (*The Vancouver Sun* [Vancouver] 24 April 2002). He quotes from the BC

Referendum Office website: "A yes vote means that the government will be bound to adopt the principle in treaty negotiations. A no vote means the government will not be bound to adopt the principle to guide its participation in treaty negotiations." He concludes that this means that "the force of a majority 'no' vote on any one of the eight questions means that the government 'will not be bound to adopt the principle' voted against 'to guide' its negotiations." In other words, "'yes' means 'yes,' sort of, and 'no' definitely means 'maybe'." On behalf of the BC Civil Liberties Association, he urges British Columbians not to participate in the referendum "not because we are 'for' Indians or 'against' the government position in negotiations, but because this is an exercise in political cynicism, and deserves to be shunned."

Others have been critical of the government's use of a referendum process in this context from democratic and legal perspectives. Milton Wong, Chancellor of Simon Fraser University, is concerned that "a referendum could easily become a scenario where the rights of a ethnic minority are decided by the majority and the constitution or the ruling of the top court is ignored" (*Ming Pao Daily News* [Vancouver] 12 November 2001). Thomas Berger, lead counsel for the Nisga'a Nation in the *Calder* case (1973), provides a more detailed analysis of these concerns (*The Vancouver Sun* [Vancouver], 15 April 2002):

The First Nations are a minority in our province, vastly outnumbered in demographic terms. They look to the Constitution and the courts, as minorities must, to protect their rights. In a democracy you don't put minority rights up for auction. And governments don't hold referendums with a view to obtaining a mandate from the majority to refuse to recognize minority rights.

Moreover, he argues that “the inherent right of self-government is enshrined in the Constitution of our country.” The BC government’s use of the referendum process in the context of question 6 “is an exercise that is inconsistent with Canadian tradition. It isn’t a question of voting for or against”. He likewise urges British Columbians not to participate, so as “to avoid conferring the slightest legitimacy on this abuse of the referendum process.” Aboriginal rights lawyer Louise Mandell also supports a boycott of the referendum process, in part because it demonstrates an ignorance toward Canadian history and the evolution of jurisprudence as it relates to Aboriginal people (*The Vancouver Sun* [Vancouver], 4 May 2002).

In fact, many groups and individuals have called for a boycott of the referendum process, and the central point of debate has been around how to boycott most effectively. Specifically, the debate has been around the Elections BC process, and how to register a protest of the process itself, that is, whether to spoil the ballot or reject the ballot, and how either to spoil or reject the ballot. In a letter to their parishioners, the Bishops of British Columbia advise Anglicans to either vote “no” to all of the questions, or “sign the certification envelope as a registered voter but leave the ballot blank and mail it in as instructed” (Anglican Church of Canada, British Columbia 2000). The United Church of Canada “recommends church members to write ‘void’ across the ballots and send them to the church, after which they’ll be collected and tallied by an independent auditor” (*Vancouver Sun* [Vancouver] 11 April 2002). Lazar Puhlo, archbishop of the Canadian Orthodox Church, recommended “protest against that referendum, saying it is

‘immoral’ and urging Orthodox Christians to either vote no to all questions or abstain from voting” (*Vancouver Sun* [Vancouver] 11 April 2002).

Allan Garr’s opinion piece in the *Vancouver Courier*, recommending that the dustbin was the best place for the ballot (*The Vancouver Courier* [Vancouver], 8 April 2002), generated two reader responses with recommendations of how to effectively register a protest. Mark Mushet of Vancouver writes, “People wishing to protest should seal their ballot and send it directly to their MLA with a covering letter explaining why they are ‘consciously rejecting’ it and that they were not given an opportunity to do so on the ballot itself” (*The Vancouver Courier* [Vancouver], 17 April 2002). Diane Esther Rael of Vancouver cautioned that “Elections BC first promised to count spoiled ballots and include those in the referendum results, but later withdrew this promise and now will disregard spoiled ballots. A deliberately spoiled ballot is more effective than one thrown in the garbage. As a strategy to try and send a strong message to the government, people are now being asked to bring blank or spoiled ballots into any branch of the United Church, or any designated First Nations organization office, where the spoiled ballots can be counted, and a final figure tallied” (*The Vancouver Courier* [Vancouver] 15 April 2002).

There have even been farcical calls for more creative uses for the referendum ballot. “Artful dissent is the aim of STUPID Referendum (The Society To Understand and Promote Innovative Defiance of the Referendum). It’s awarding \$500 for the more artistic transformation of a ballot into a painting, sculpture or piece of origami”

(*Maclean's* [Toronto] 13 May 2002). The political cartoon in the May 15, 2002 edition of *The Vancouver Courier* shows a picture of a crumpled referendum ballot under the caption: "101 Uses for the Referendum Ballot – No. 63: Origami" (*The Vancouver Courier* [Vancouver] 15 May 2002). Local artist Diana Smith is asking voters to photocopy their ballots to create art. "She said that act will turn a private and confusing process into a public and positive one" (CBC Radio Two, May 2002).

Other groups advocating a boycott of the referendum include the Muslim Canadian Federation, the Canadian Jewish Congress, the Presbyterian Church (*The Vancouver Sun* [Vancouver] 4 May 2002), the BC Teachers' Federation (BC Teachers' Federation, 18 March 2002), the Vancouver Association of Chinese Canadians (CBC News, 12 April 2002), the Canadian Race Relations Foundation (Canadian Race Relations Foundation, 30 April 2002), the British Columbia Government Employees Union, and many First Nation groups. The concerns of these groups are largely two-fold in that minority rights should not be subject to a majority vote, and that such a process would result in racism or, more generally, discrimination against Aboriginal and other minority groups.

The Honourable Lincoln Alexander, Chair of the Canadian Race Relations Foundation, warns that BC's treaty referendum "has racist underpinnings" and "sets about re-subjugating First Nations to a colonized status" (Canadian Race Relations Foundation, 30 April 2002). The BC Teachers' Federation vowed to "launch an appeal to the United Nations about the injustice of the referendum process, which seeks to legitimize a

process that incites racism and will deepen divisions within British Columbia society upon racial grounds” (British Columbia Teachers’ Federation, 18 March 2002). Chief Stewart Philip of the Union of BC Indian Chiefs said that “this so-called referendum has proven itself a vehicle and a venue for white supremacist groups to express that kind of hate propaganda (CBC News, 17 April 2002). And indeed, Stephen Hume of the Vancouver Sun reports that “the web page of one racist group [BC White Pride] says the treaty referendum ‘will go down in Canadian history as enabling the most fundamental symbolic expression of white unity since racial pride went out of style almost 40 years ago. The genius of the referendum is that no matter how the vote turns out, Whites will benefit” (*The Vancouver Sun* [Vancouver] 4 May 2002).

While it may be too early to assess the implications of these new developments, especially given the fact that the processes are not yet complete, these three events raise some interesting issues. The BCTC report is, in part, simply an affirmation of the popular perception that the process is not working as planned, and a recognition of that fact by the keeper of the process itself. The report concludes that major changes are required, and canvasses some possibilities. However, it does not address any of the cartographic aspects of the process, in particular the SOI maps. The tripartite report in response to the BCTC’s report similarly suggests some changes, even dramatic ones, to the process, but it also does not identify the mapping element as either a source of problems or an opportunity for constructive change.

At the same time, the referendum on treaty principles is proposing changes to the way treaties are negotiated, at least from the point of view of British Columbia. It may appear at first glance that the vigorous debate surrounding the referendum on aboriginal treaty rights is a challenge to my earlier discussion around the untouchability of First Nations, their aboriginal rights, and similar "victimized" groups that are intended to be empowered by the post-colonial discourse. However, as I discussed above, almost all of the debate has centred on the referendum process itself, rather than on the treaty process and the aboriginal rights that were supposed to be the focus of the referendum. In what substantive debate there is, it would seem that some groups and individuals opposed to the referendum have constructed, perhaps legitimately but too readily, the process as racist, thereby implying that supporters of the referendum, or simply those who want to engage in public debate of the issues, would likewise be racist. Would the threat of such a characterization not limit open, legitimate debate on these issues? For example, the Canadian Taxpayers Federation, a supporter of the referendum process, is careful to justify its support within a disclaimer so as to avoid the "racist" label: "This referendum isn't about racism or rights; it's about a political bargaining position for the provincial government" (Canadian Taxpayers Federation, 2002). Regardless, we do not yet know the results of the referendum (these are expected in July 2002), so it is still too early to draw conclusions about whether British Columbians have really chosen to challenge these ideas.

At very least, all three parties to the negotiations are looking at ways to change the treaty-making process dramatically. But if First Nations are actually to forge a new way



of coexisting with non-aboriginal Canadians and governments, all parties need to revisit the first recommendation of the BC Treaty Task Force, that “the First Nations, Canada, and British Columbia establish a *new* relationship based on mutual trust, respect, and understanding” (BC Claims Task Force 1991, 82, emphasis mine). If this is to be done, then it will be crucial for all parties at the outset to avoid falling into their old relationships of victim and oppressor. In other words, the new relationship must not simply be an end goal, but rather must start at the beginning of negotiation process.

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