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# **Increasing Dispositional Legitimacy: Progressive Legitimation Dynamics in a Trajectory of Settlements**

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## **Biographical sketches**

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## **Abstract**

By focusing on individual settlements rather than viewing them as part of a trajectory of change, prior research on institutional settlements has not fully captured the dynamics of longer-term institutional change. Yet this would be important to better understand progressive legitimation dynamics; in other words, how successive settlements may increase legitimacy in a long-term trajectory of change. This is a crucial issue especially for peripheral actors lacking the resources, status, or power of more central ones. Our historical analysis focuses on the long-term struggle of the Cree First Nation in Canada and explains how they succeeded in increasing their dispositional legitimacy in and through the settlements. This required work in three interrelated processes: expansive argumentation including problematizing of the state of affairs and creating discursive resonance with the prevailing discourses and values, building momentum by generating attention and exerting pressure in networks of actors, and seizing opportunities to negotiate with the other side. Thus, we challenge previous research on settlements by showing how they should not be merely seen as endpoints but rather as stepping-stones in a trajectory of institutional change. More specifically, we develop a process model explaining how progressive legitimation unfolds in a series of settlements.

*“I have as an aboriginal leader, always insisted that we never give up the fight to have our rights fully respected. And for those ... who argued that this battle for our rights was counterproductive and impractical – that the “Crees could not eat rights” – my answer has always been: Rights are the only thing we can eat. Because without respect for our rights, we will have nothing at all.”*  
(Grand Chief Ted Moses, the signing ceremony of the Paix des Braves, 2002)

Settlements are key turning points in institutional change (Helms, Oliver, & Webb, 2012; Litrico & David, 2017; Lu & Reay, 2016). Scholars have acknowledged that settlements may only be temporary (Helms et al., 2012), but at the same time the literature tends to see settlements as outcomes in institutional change (Lu & Reay, 2016). Thus, by focusing on individual settlements rather than viewing them as part of a trajectory of change, prior research has not fully captured the dynamics of longer-term institutional change. As Lu and Reay (2016) have argued, it is important to focus attention on what happens after settlements have been reached, especially on how they are maintained. We argue that there is a need to take one additional step: not merely to see settlements as endpoints in institutional change but to focus on how they can serve as stepping-stones in a trajectory of change.

This is especially needed to better understand *progressive legitimation dynamics*; in other words, how successive settlements may serve to increase legitimacy in a long-term trajectory of institutional change. In this view, legitimacy is the “generalized perception or assumption that the actions of an entity are desirable, proper or appropriate within some socially constructed system of norms, values, beliefs and definitions” (Suchman, 1995: 574). Settlements mark moments where legitimacy is formalized in a particular – often legally binding – form (Helms et al., 2012; Litrico & David, 2017). In the long term, new settlements may both build upon previous settlements and challenge them. Theoretically, this implies re-establishing legitimacy through complex and possibly contradictory dynamics where the actors draw on past agreements while also challenging these very agreements to make further progress. How this occurs is the theoretical puzzle at the focus of this paper.

This is a crucial issue in particular for peripheral actors who lack the resources, status, or power of more central actors (Lu & Reay, 2016; Martí & Fernández, 2013). Thus, when striving to improve their positions, they may need to use previous settlements as springboards while at the same time pointing to the inadequacies in them. We argue that the key point is *dispositional legitimacy*, an aspect of legitimacy that has received little attention in prior research despite its explanatory power (Suchman, 1995). Suchman (1995) defined dispositional legitimacy as the attributes that actors and organizations possess in the eyes of their evaluators (e.g., whether an organization has a ‘good’ character). Subsequent studies, however, have not explained how actors can use such “stockpile” (p. 596) in increasing their legitimacy. In this paper, we adopt a broader view on dispositional legitimacy and define it as the recognition of the interests, rights, or voice of an actor in a given field. This leads us to formulate our research question as follows: How can peripheral actors succeed in progressively increasing their dispositional legitimacy in a series of settlements?

To better understand how this may happen, we focused on the long-term struggle of the Cree First Nation to protect and legitimate their rights in an environmental dispute in Canada. This case is historically significant in its own right but also offers a revealing opportunity to examine progressive legitimation dynamics. Our analysis explains how they succeeded in increasing their dispositional legitimacy in and through the settlements. This required work in three interrelated processes: expansive argumentation including problematizing of the state of affairs and establishing resonance with the prevailing discourses and values, building momentum by generating attention and exerting pressure in networks of actors, and seizing opportunities to negotiate with the other side.

Our analysis challenges previous research on settlements by demonstrating that they should not be merely seen as endpoints but rather as stepping-stones in a trajectory of institutional change (Helms & Oliver, 2015; Lu & Reay, 2016). More specifically, we develop a process model explaining how progressive legitimation unfolds in a series of settlements. This helps us to distinguish analytically between three key processes – expansive argumentation, building momentum, and

seizing opportunities to negotiate – and elaborate their interplay over time. By so doing, we elucidate the dynamics between the formalization of legitimacy taking place in settlements and the legitimation work needed to establish these settlements, thus contributing to the process perspective in legitimation (Suddaby, Bitektine, & Haack, 2017). By highlighting the key role of dispositional legitimacy, our analysis also brings this key aspect back into the front and center of research on legitimacy (Deephouse et al., 2017; Suchman, 1995). Moreover, our case analysis extends research on peripheral or marginalized actors striving to gain recognition of their rights (Mair, Martí, & Ventresca, 2012; Martí & Fernández, 2013).

## **SETTLEMENTS AND LEGITIMATION**

### **Institutional Settlements as Temporal Arrangements**

Scholars have paid increasing attention to the ways in which institutional actors can solve their conflicts through institutional settlements (Helms & Oliver, 2015; Helms et al., 2012; Lu & Reay, 2016; Rao & Kenney, 2008). Agreements, temporary de-escalation of major controversies, or the conclusion of a conflictual period are examples of settlements that allow actors to move on (Guérard, Bode, & Gustafsson, 2013). Defined by Helms et al. (2012: 1121) as “temporally bound agreements on the meaning and legitimacy of an institutional practice or arrangement,” settlements ascribe particular importance to the ‘temporal duration’ of arrangements between institutional actors (Helms & Oliver, 2015; Putnam & Fuller, 2014).

Although not always explicitly used as a term, the idea of settlements can be seen as a cross-cutting theme in research on institutions. Many, if not most studies of institutional change processes are intuitively based on the idea of temporal agreements between actors (Micelotta, Lounsbury, & Greenwood, 2017; Zietsma et al., 2017). Research on institutional logics has pointed to the need to reach new agreements or settlements in contexts of institutional complexity (Demers & Gond, 2020; Greenwood et al., 2011). For instance, studies have shown how organizations may resist pressure from new competing logics by pushing for a new settlement (Marquis & Lounsbury, 2007; Reay & Hinings, 2005). Under other circumstances, opposing logics can lead to a settlement where co-

existence is valued (Dunn & Jones, 2010; Pache & Santos, 2013; Purdy & Gray, 2009; Smets et al., 2015). Similarly, a hybrid organizational form may be a temporary settlement that is built on a blended structure created from elements of more than one institutional logic (Pache & Santos, 2013).

Other studies have pointed to specific moments such as field-configuring events that can lead to new institutional arrangements between key actors (Hardy & Maguire, 2010; Schüssler, Ruling, & Wittneben, 2014). In these and other settings, settlements seem to be especially relevant for an understanding of how incumbents and challengers or more central and peripheral actors deal with institutional change (Greenwood, Suddaby, & Hinings, 2002; Leung, Zietsma, & Peredo, 2014; Maguire & Hardy, 2009; Zietsma & Lawrence, 2010).

However, research also points out that the settlements reached are temporary and volatile and that conflicts may stay on. In particular, studies on ‘intractable conflicts’ (Lewicki, Gray, & Elliott, 2003) has demonstrated how disputes may persist despite points of agreement. Several institutional and social movement studies also show that field stability is often merely temporary, creating new situations to which organizations need to respond (Greenwood et al., 2011; Hoffman, 1999; Reay & Hinings, 2009). For instance, Helfen’s (2015) historical study about legalizing agency work in Germany illuminated how a long-term process of contestation between the incumbents and the challengers became permanent, as the two parties remained in the same field and continued to compete with each other. Van Wijk et al. (2013) have in turn elucidated how the joint efforts of incumbents and activists may lead to change but also dilute its radicalness.

In recent years, we have also seen the emergence of a new explicit focus on settlements (Helms & Oliver, 2015; Helms et al., 2012; Lu & Reay, 2016; Rao & Kenney, 2008). These studies have focused on the processes leading to settlements such as the negotiation tactics and strategies that allow actors to reach settlements (Helms et al., 2012; Schildt & Perkmann, 2017). They show that settlements allow actors to overcome conflicts in negotiations (Helms & Oliver, 2015), create new institutional practices in organizations (Helms et al., 2012), and establish field stability (Litrico &



David, 2017). Notably, in their study of how a settlement was reached on a new international standard (ISO 26000), Helms et al. (2012) highlight that logic pluralism was both a liability and an asset in reaching a settlement and creating new practices. Helms and Oliver (2015) have in turn focused on how settlements are negotiated by institutional actors in conditions of power asymmetry. While traditional scholarship on settlements tends to emphasize the stabilizing nature of settlements, they argued that settlements could be disruptive and act as an impetus for institutional change. In particular, they proposed that the degree of ideological salience, the polarization of the field's audiences, and power asymmetry affect how disruptive the settlement can turn out to be.

Important for our argument, Lu and Reay (2016) cast attention on how negotiated settlements can be maintained over time. They offer an illuminating study of how a seemingly fragile settlement was maintained by actors despite ongoing challenges within a turbulent institutional environment. The case in point is the Indian Gaming Regulatory Act in the U.S, which was passed in 1988 “as a shaky, compromised agreement after decades of contestation and negotiation among Indian tribes, federal and state governments, tribal advocates, and anti-Indian gaming forces” (Lu & Reay, 2016: 3). This settlement managed the power balance between those who favored Indian gaming and those who opposed it. Litrico and David (2017) in turn, studied shifts in the framing trajectories of groups of actors and found that field settlements are more likely when the actors most exposed to an issue shift their framings, thus highlighting the importance of the roles of multiple actors in examining the rise and fall of debates and controversies around field settlements.

In spite of these advances, this body of research has been limited in its focus on individual settlements rather than on placing settlements in a longer-term trajectory of change. Notable exceptions are Lu and Reay's (2016) and Litrico and David (2017) studies referred to above. This lack of understanding is especially delimiting in the case of one key theoretical issue: progressive legitimation in and through settlements. This is because new negotiations for potential settlements may be based on legitimacy acquired in previous settlements and at the same time challenge previous

settlements – implying contradictory implications from the legitimation perspective. Thus, we need a closer look at legitimacy and legitimation in settlements, which we will turn to next.

### **Legitimation in and through Institutional Settlements**

Although legitimacy can be conceptualized in multiple ways, most agree that it is a cornerstone of institutional order and that institutional change inevitably requires legitimation (Deephouse et al., 2017; Suddaby et al., 2017). In their recent review, Suddaby et al. (2017) point to three main perspectives when studying legitimacy: a property or asset possessed by an actor, a process of social construction involving multiple stakeholders, or a question of individual or collective legitimacy judgments. For our purposes, the process perspective is most useful as it allows us to zoom in on the role of legitimation efforts as an inherent part of institutional change.

Thus, we have seen a proliferation of research on how legitimacy is established (Kim, Croidieu, & Lippmann, 2016; Sherer & Lee, 2002; Suddaby & Greenwood, 2005). Scholars have shown how legitimation involves framing (Creed, Scully, & Austin, 2002; Gray, Purdy, & Ansari, 2015; Lefsrud & Vaara, 2019; Maguire, Hardy, & Lawrence, 2004), rhetoric (Harmon, Green, & Goodnight, 2015; Suddaby & Greenwood, 2005), narratives (Golant & Sillince, 2007), or discourse (Erkama & Vaara, 2010; Lefsrud & Meyer, 2012; Vaara & Tienari, 2008) as actors pursue their interests and ideas. Interestingly, Harmon et al. (2015) have recently shown how legitimacy always rests on certain criteria or values and elaborated on the implications for rhetorical argumentation, thus highlighting the inter-relationship between rhetorical argumentation and broader institutional discourses and values. Bitektine and Haack (2015) and Clemente and Roulet (2015) in turn detail how public opinion can either maintain or break established legitimacy. These and other studies thus underscore the importance of the public arenas for legitimation work.

Such legitimation work is not an easy task in settlements where the legitimation of change often requires delegitimation of the status quo. For example, even if not focusing on a settlement, Maguire and Hardy (2009) showed how the delegitimation of DDT involved a prolonged process of problematization, followed by normalization. Scholars have also demonstrated how various strategies

and tactics may be needed to reconcile contradictory viewpoints and interests in settlement (Helms & Oliver, 2015; Schildt & Perkmann, 2017). In particular, although not using the term legitimation strategy per se, Helms et al. (2012) identified five negotiation frames – imposing, normative, supportive, non-participative, and cognitive – through which actors shape the views and actions of others and engage in sensemaking and proposed that settlements are more likely to be achieved when conflicting positions are seen as “multiple legitimate rationalities” (p. 1136). Helms and Oliver (2015) in turn proposed five conflict management strategies leading to settlements: accommodation, collaboration, negotiation, contention, and appropriation.

These challenges are even more complex when dealing with a trajectory of settlements. This is because in the long-term, new settlements may both build upon and challenge previous ones; this complicates the ensuing negotiations and the struggles encountered in the pursuit of institutional change. This is especially the case with settings where peripheral actors – who are in a disadvantageous position vis-à-vis more central or dominant actors – strive for institutional change such as legitimation of their rights (de Bakker et al., 2013; Martí & Fernández, 2013). Such actors may even be marginalized because they lack the resources or power to impact developments in issues that concern them (Hardy & Phillips, 1998; Mair et al., 2012; Martí & Fernández, 2013; Martí & Mair, 2009). Thus, they struggle to achieve settlements, and especially the first settlements achieved may appear inadequate, implying a need to continue the struggle.

We argue that a core aspect of their struggle deals with dispositional legitimacy, i.e., recognition of the interests, rights, or voice of an actor in a given field. This view coheres with the Bourdieusian tradition that highlights the positions that actors have, or are granted, in specific institutional fields as key parts of institutional arrangements (Bourdieu & Wacquant, 1992; Fligstein, 2001). While Suchman (1995) introduced the term dispositional legitimacy as part of a general framework of legitimation, it has rarely been picked up by institutional scholars despite its usefulness. Suchman (1995: 578-579) initially associated it with pragmatic legitimacy, viewing it as recognition

of the positive characteristics of an actor, but also stated that it could be seen as part of the moral or structural aspects of legitimacy. We argue for a more comprehensive view highlighting the positions that specific actors acquire or are given in a particular field.

This view allows us to examine how the dispositional legitimacy of peripheral actors may be increased or decreased over time in a trajectory of settlements and what it requires from the actors involved. To illuminate the legitimation dynamics involved, we will next turn to the revealing case of the Crees' struggle for their indigenous rights in Northern Quebec.

## **CONTEXT AND METHODS**

### **Empirical Context**

Our study focuses on the revealing case of the Cree First Nation of James Bay, Northern Quebec, Canada, who were able to successfully legitimate their rights vis-à-vis a mega-development project in their traditional territory between 1971 and 2002. The Crees live in a territory called Eeyou Istchee James Bay, which encompasses approximately 300,000 square kilometers. The Crees – called Eeyou<sup>1</sup> in traditional Cree – have occupied that territory for about five millennia, hence well before the establishment of Europeans in North America (Feit, 1995a). The Crees have clung to spirituality, a traditional lifestyle, and activities in the bush such as trapping, fishing, and hunting, but their ways of life have been increasingly challenged by new development projects.

We are not the first to study this case; scholars have examined how the Crees have been spiritually impacted by development (Whiteman, 2004), their resistance to change (Feit, 1980, 2011; Niezen, 2009) and their struggles to deal with significant development projects and the 'social license to operate' (Baba & Raufflet, 2014, 2015; Baba et al., 2016; Desbiens, 2014; Hornig, 1999; Houck, 2010). For our purposes, this case offers a revealing setting that helps understand how peripheral actors may succeed in progressively increasing their dispositional legitimacy, in this case their rights, in a trajectory of settlements.

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<sup>1</sup>In Cree language, Eeyou means the People, while Eeyou Istchee can be understood as the People's land.

The starting point for this process was when Quebec Premier Robert Bourassa announced a plan in 1971 to develop a major hydroelectric project in James Bay, Northern Quebec, to “conquering and taming the North” (Bourassa, 1985: 11). The Crees learned on the radio about the Hydro-Quebec project, which would have destroyed a large part of their territory and threatened their traditional way of life. They decided to fight the project to preserve their traditions and lifestyle, the cornerstone of what is commonly referred to as indigenous rights. This eventually led to the progressive legitimation of their rights – and has thereafter also been seen as an example for others in Canada and beyond (Government of Quebec, 2019; Niezen, 2009; Papillon, 2014).

### **Empirical Material**

Our analysis is inspired by the recent historical turn in institutional analysis that has underscored the value of detailed historical analysis of organizational and institutional processes (Godfrey et al., 2016; Kipping & Üsdiken, 2014; Suddaby, Foster, & Mills, 2014). In this view, although history is always socially constructed, we can detect patterns and turning points that help explain long-term trajectories in institutional change (Vaara & Lamberg, 2016).

We gathered extensive empirical material from several sources, including documentary material, interviews, and observations. Table 1 below provides a summary of our empirical material and how it was used in our analysis.

Insert Table 1 about here

***Documentary material.*** As is typical in historical studies, we collected extensive empirical material from documentary sources such as archives, media material, and books and analyses written by experts. First, we collected all the relevant information from the archives. This included the digitalized archives of the Grand Council of the Crees, a six-hour video documentary realized by the Cree Government, specific archival documents from Quebec and Canadian courts, and transcripts of over 100 hours of live debate in the Assembly, Senate and parliamentary committees.

Second, we collected media material from local, national, and international newspapers. This material was systematically gathered through three specific databases: Eureka (which covers the

principal newspapers of Quebec and Canada), the National Archives of Quebec, and the Google News Archive. Overall, 343 newspaper articles were analyzed. To complement these data, we also engaged in additional searches (with the same keywords) to triangulate and validate them. Relevant websites were accessed directly, including Hydro-Quebec's annual reports as well as the reports and archives of the Grand Council of the Crees and Cree government. In total, this material amounted to over fourteen thousand pages.

Third, we also focused on historical books and analyses such as biographies and personal memoirs (Bourassa, 1985; Boyce, 1976; Ciaccia, 2015; MacGregor, 1989). In particular, we focused on the work of Feit (1980, 1983, 1995b), an anthropologist who followed the Crees early on during their political journey. We also used the work of Boyce (1976), a journalist attending the hearings in 1972-1973 publishing detailed accounts of them. In addition, we also gathered and used the work of other scholars considered to be experts in the controversy studied (Desbiens, 2014; Niezen, 2003, 2009; Papillon, 2014, 2018).

***Interviews.*** We were fortunate to gain access to and conduct interviews with the key people involved. The first author began by conducting 112 semi-structured interviews with 94 informants, some of whom were from local communities (especially elders, tallymen, land users, and key actors of the political process), Hydro-Quebec employees, officials of the Grand Council of the Crees, Cree government officials, political scientists, historians, and sociologists, current and previous high-level officials of the Quebec government, as well as local employees of the Cree band offices. To the extent possible, the interviews were audio-recorded and transcribed verbatim in the language of origin (English or French). When not audio-recorded, extensive notes were taken during the interviews. The length of the interviews ranged from 30 minutes to four hours, with the majority lasting about 75 minutes. Moreover, informal exchanges with key actors exceeded 35 hours of discussion and interaction. In some cases, the interviews were supplemented by e-mail correspondence and telephone conversations throughout the research period.

Most of the informants were involved in one way or another in the controversy and the process of rebuilding relationships. Some were direct stakeholders who negotiated agreements and fought against the hydroelectric project; others were impacted by the project (e.g., relocation, new way of life, new projects, or new habitats). In the first round of fieldwork (2011-2012), the interview questions focused on the James Bay hydroelectric project and its impact on local communities. The informants were asked to discuss this project and the relationship between Hydro-Quebec, the government of Quebec, and the Cree First Nation. Building on the analysis of the first data set, the questions during the second round of fieldwork (2016) explicitly addressed the internal dimension of this controversy, its impact on Cree institutions and traditional values, and the process of building the Cree Nation. In the third round (2018-2019), we extended our field of understanding to the societal and macro context (e.g., indigenous rights, Canadian and international politics, environmentalism and sustainability).

**Observations.** In addition, the first author spent two months in seven Cree communities in Northern Quebec (Mistassini, Nemaska, Waskaganish, Eastmain, Wemindji, Oujé-Bougoumou, and Waswanipi) as described in Table 1. Extensive notes were made during these observations. This work helped us develop the interview questions, complement the documentary analysis, and eventually validate our findings and interpretations.

### **Empirical Analysis**

Our empirical analysis followed an inductive logic and involved several iterations.

**Step 1: Identification of key events and processes.** First, we constructed a chronological map of the key events and the main actors therein. This made us realize that the historical development was ‘punctuated’ by settlements that played a crucial role in stepwise legitimation of the rights of the Crees. It should be noted that over 60 agreements were signed between Hydro-Quebec, the Crees, and the governments of Quebec and Canada during the period of our study, many of which are linked to each other as parts of broader arrangements or agreements. After some iterations, we focused on the four most significant settlements, each of which is linked to several formal agreements: the James

Bay and Northern Quebec Agreement (1975), the Cree-Naskapi Act (1984), the Memorandum of Understanding (1995), and the Paix des Braves (2002). These settlements were chosen because of their disruptive nature and the implications they had for the legitimacy of the Crees' indigenous rights. In this sense, the selection of these four settlements was guided by the concept of 'turning point' (Druckman, 2001; Guérard et al., 2013; Putnam & Fuller, 2014), which we consider a "critical moment during an interaction or development process" (Druckman & Olekalns, 2013: 332).

Each of these settlements marked a considerable advancement in the evolution of indigenous rights and the relationship between the Canadian and Quebec governments and the Cree Nation. The James Bay and Northern Quebec Agreement (hereinafter JBNQA) is widely considered the first major "modern, comprehensive land claims settlement" (Penn, 1995: 2) between the Canadian Crown and indigenous peoples. This settlement significantly advanced the conception of indigenous rights in Canada in the early 1970s and has been at the forefront in building an institutional infrastructure for the environmental, social, and cultural protection of aboriginal traditions. The Cree-Naskapi Act was the first legislative attempt to establish a self-governance model for indigenous peoples in Canada; it allowed the Crees to develop unprecedented freedom in the management of their traditional territory. It marked a historic milestone towards the right of indigenous peoples to self-determination. In the context of a new government's efforts to launch a new hydroelectric project called the Great Whale, the Crees found their rights challenged once again. This led to a negotiation process that eventually produced the Memorandum of Understanding in 1995. Finally, the Paix des Braves "marked a turning point in relations between the Crees and Quebec" as it opened "the way to a new Nation-to-Nation partnership between the Crees and Quebec" (Cree Nation Government, 2019). This historic settlement builds on previous settlements to strengthen indigenous rights by promoting the autonomy of the Crees in managing their traditional territory and in decision-making regarding economic development projects in their territory.



*Step 2: Identification and analysis of the progressive legitimation processes.* The focus on the settlements and how they were linked to the broader trajectory of institutional change helped us understand how the Crees were able to increase the legitimacy of their rights over time. Thus, after some iterations and helpful feedback, we realized that we were dealing with fundamental issues of legitimation, which required going back to the seminal work of Suchman (1995) and others (Deephouse et al., 2017; Suddaby et al., 2017). More specifically, our empirical analysis showed that in and through each settlement, the Crees increased what we call ‘dispositional legitimacy,’ i.e., recognition of the interests, rights, or voice of an actor in a given field. This was important per se, but it also helped them in the subsequent stages to gain increasing recognition in the societal discussion, a more central position in networks, and an enhanced bargaining position vis-a-vis the other side.

Thereafter, we began to analyze more specifically what happens after a settlement is reached, and more concretely, the processes and activities that allowed the Crees to reach a new settlement despite having already agreed on one. After some iterations, we discovered three core processes and activities and then focused on them: ‘expansive argumentation’ including ‘problematizing the state-of-affairs’ and ‘creating resonance’ with prevailing and new discourses and values, ‘building momentum’ underpinned by ‘generating attention’ to rally support and ‘exerting pressure,’ and ‘seizing negotiation opportunities’ at the right time. We then concentrated on how the more specific actions of the Crees in these processes from a legitimation perspective. This led us to zoom in on the evolving nature of their argumentation and on their ability to connect these arguments to the shifting discourses and values, on their skillful use of media stunts to generate attention and of legal and political channels to exert pressure, and on their ability to decide whether to act when windows of opportunity for negotiation emerged. See Table 2 below for a summary of the operationalization of our key constructs and respective interpretations based on our historical analysis.

Insert Table 2 about here

*Step 3: Development of a process model.* Finally, based on this extensive empirical analysis, we developed a process model that elucidates how peripheral actors can progressively increase their dispositional legitimacy over time from one settlement to another (as explained in Discussion in more detail). Our thinking evolved from identifying the core processes and activities to articulating their relationships (Gehman et al., 2018: 286). In particular, we focused special attention on different aspects of dispositional legitimacy and how they can enable or constrain peripheral actors in expansive argumentation, building momentum, and seizing negotiation opportunities. Also, we zoomed into the relationship between the three core processes to examine how they influence each other and how they together lead to increased dispositional legitimacy. This made us realize that although the processes are intertwined, there is usually a key pattern in that ongoing expansive argumentation provides a basis for building momentum, which in turn enables the creation and seizing of negotiation opportunities. Furthermore, we focused attention on the temporality of the three core processes to better understand their role in reaching settlements. Finally, in all this, we also considered the special characteristics of our case to be able to spell out the boundary conditions of our process model.

### **INCREASING DISPOSITIONAL LEGITIMACY: PROGRESSIVE LEGITIMATION IN A TRAJECTORY OF SETTLEMENTS**

Our empirical analysis reveals how progressive legitimation unfolded in a trajectory of settlements in the Crees' struggle for their indigenous rights (see Table 3 for a summary of how each settlement contributed to the increased dispositional legitimacy). In what follows, we will depict how this happened from settlement to settlement, highlighting the key actions of the Crees (see Figure 1 for a graphical summary of the key events and actions). We will specifically focus on three interrelated processes as key explanations: expansive argumentation (problematization of the state of affairs and creation of resonance with broader discourses and values); building momentum (generating attention and exerting pressure in a specific period); and seizing emerging windows of

opportunity to negotiate with the other side. We will now show how each of these processes played out in the Crees' efforts to gain increased dispositional legitimacy through each negotiated settlement.

Insert Table 3 about here

Insert Figure 1 about here

### **Settlement #1: Initial Formalization of Indigenous Rights**

The first settlement was historic in that it involved the first formalization of indigenous rights in Canada, but achieving this settlement required a new kind of argumentation in a highly unfavorable environment, building momentum from a marginalized position, and then seizing an emerging negotiation opportunity. Table 4 below offers supporting empirical evidence of these processes.

Insert Table 4 about here

#### **Starting points: Lack of dispositional legitimacy**

When they first started their endeavor in 1971, the Crees lacked dispositional legitimacy as they were not recognized as a key actor by public authorities or other social actors. As explained by the Cree Grand Chief Billy Diamond: “We wanted Quebec and Canada to come to a table of negotiations, but nobody wanted to negotiate. And every time we came to a meeting, the deputy ministers or whoever was representing the governments were always telling us: You have no rights! You are squatters!” (Billy Diamond, Cree Grand Chief, Grand Council of the Crees, 2012b). At the same time, it was apparent that the Quebec Government did not recognize them as legitimate actors: “The government of Quebec refused to negotiate, stating that the plans for the hydroelectric project were not negotiable and that Indian people had no special rights [to negotiate]” (Phillip Awashish, Cree negotiator and signatory of the JBNQA, during a conference, taken from Vincent & Bowers, 1988: 43). Thus, as highlighted by Feit (1980: 161) and other observers: “Quebec saw no threat from the indigenous people, no realistic means by which they could alter the course of action... and it therefore felt no need to give up anything it value, no need to compromise. In short, it really was not ready to negotiate.”

#### **Expansive argumentation: Novel argumentation in an unfavorable context**

**Focus on lifestyle survival.** Aware that they had limited means to advance their argument in a context marked by the systematic exclusion of indigenous peoples, the Crees engaged in public discussion by focusing on lifestyle survival. The Crees argued that “conquering the North” through a massive hydroelectric project was wrong insofar as it would lead to the destruction of the Crees’ traditional lifestyle: “If you destroy the animals, you destroy the Crees” (Mistassini community member, Matthew Neeposh, during Malouf’s hearings in 1973, taken from Diamond, 1977: 15). In particular, the Crees highlighted the negative social and cultural implications of the hydroelectric project to be built in their traditional territory. For example, the Grand Chief bitterly criticized the lack of indigenous rights in a meeting in 1972: “The Indian people have been the social casualties of development projects. I have seen it out in the west, towns booming, but the Indians poor, gone in prostitution and booze” (Boyce, 1976: 104).

**Resonance with emerging discourse on ancestral rights.** In this discussion, the Crees drew from the emergent discourse on ancestral rights in Canada to assert that the land belonged to them. They based their argumentation on the idea that they have ancestral rights over the territory they had occupied for millennia, well before the first settlers: “We, the Crees, have never surrendered our land; we have never lost our land in battle; we have never been conquered by a superior race; we have never signed a treaty with any government. Yet, a white government has announced that they planned to harness seven major rivers and flood thousands of square miles of land” (Cree Grand Chief Billy Diamond, in Diamond, 1977: 2). In doing so, they connected their claims with the nascent discourse regarding ancestral rights. Billy Diamond (then Cree Grand Chief) put it as follows: “I came to the conclusion that the conditions for extending the boundaries of Quebec put into law in 1898 and 1912 had not been met, and therefore we had legal grounds for challenging the validity of the law to build a hydro project in Cree territory” (Cree Nation of Waskaganish, n.d.).<sup>2</sup>

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<sup>2</sup> This argument was grounded in the conclusions of a commission report published in 1971, urging the Government of Quebec “to take without delay the necessary steps to honor the obligations towards the Indians that were assumed by the laws of 1912 concerning the extension of Quebec’s frontiers.” (Government of Quebec, 1998: XIV)

### **Building momentum: Working from a marginalized position**

**Building initial public awareness.** In the institutional context of the time, Canada's native people were little known in Canada, let alone elsewhere in the world. Shortly after the announcement of the hydroelectric project, the Crees made great efforts to share their tragedy with the national and international media scenes and emerging indigenous groups. For instance, in late July 1971, the Crees organized a press conference with the Indians of the Quebec Association, arguing that they "faced 'extermination' if the 'Project of the Century' went ahead" (MacGregor, 1989: 69). Relatedly, when the James Bay Development Corporation finally agreed to meet with the Crees to show them the hydro project plans in 1972, Cree leaders decided to visit all Cree communities to explain in detail what they had learned. They approached several provincial and national newspapers such as the *Montreal Star* to cover the tour. This tour generated significant daily media coverage and reports in major Canadian newspapers, radio, and TV: "Ralph Nader, then at the height of his fame as a fighter for the American underdog, also spoke out in support of the Crees" (MacGregor, 1989: 71).

**Relying on legal channels to exert pressure.** In parallel to increasing awareness about their specific case, the Crees also used legal channels to exert pressure on the government of Quebec and Hydro-Quebec, "until at least a satisfactory settlement could be achieved" (Diamond, 1977: 6). This materialized after the government had repeatedly refused to meet with Cree chiefs, and when the Premier of Quebec left in the middle of the only meeting he agreed to have with the Cree leaders, whom he did not consider as a legitimate counterpart (Ciaccia, 2015; Trudel, 2015). Thus, the Cree leaders filed lawsuits against Hydro-Quebec and the Quebec government to have the project stopped, arguing that it would destroy their lifestyle. During court hearings that lasted over seven full months, the Crees requested an injunction to stop the project. As discussed above, they focused on lifestyle survival and the importance of recognizing ancestral rights when submitting proof to Judge Albert Malouf (Boyce, 1976). In his decision to provisionally stop the project, which he described as being the most important of his career, the judge imposed the immediate suspension of construction in November 1973.

### **Seizing opportunity: Capturing the opportunity but delaying the settlement**

Following the initial historic legal victory, the Crees – who had been dismissed previously – seized the opportunity to negotiate “in the driver’s seat” (Deshaies, 1973). Interestingly, the Crees decided to jump on the opportunity created by the legal victory and to turn it to their advantage. In fact, the Cree leadership negotiated while using “legal action as a sort of Sword of Damocles to be hung over the head of the provincial government, prodding Bourassa [Premier of Quebec] to negotiate in good faith” (MacGregor, 1989: 74). They strategically delayed their responses as much as possible to rely fully on the momentum they had generated. Here the Crees were seeking to determine the appropriate time to settle: “We knew that this first offer was certainly way lower in terms of compensation than what we should and could obtain” (Interview with Cree Elder and signatory of the JBNQA, 2016). Later in the process of finalizing the settlement, the Crees issued a media press release announcing that an agreement had been reached before any formalization. The press release made the headlines in several newspapers; for the Crees, it was a way of making sure that the negotiations would lead to a concrete settlement.

### **Settlement #2: Broadening the Scope of Indigenous Rights**

The first settlement was followed by a period where the Crees built on what they had achieved but aimed at a significant improvement of their indigenous rights, which eventually happened with the Cree-Naskapi Act in 1984. To achieve this, the Crees had to continue their work at the discursive and network level, while seizing the opportunity to negotiate and reach the settlement when the right opportunity emerged. Table 5 below offers supporting empirical evidence of these processes.

Insert Table 5 about here

### **Starting points: Limited dispositional legitimacy**

As a result of the limited dispositional legitimacy established in the first historic settlement (JBNQA), the Crees were in a much better position to negotiate for the second settlement at the beginning of the 1980s. As a community activist put it, “The agreement has made us stronger than any other native community in Canada ... [it] recognizes our strength and our powers to defend our

traditional way of life.” (Matthew Mukash, a community activist in Great Whale River, cited in Aubin, 1991: B3) This helped them to deal with the government from a position that was not yet very powerful but at least much better than they had in the past (Feit, 1980). As the Cree negotiator put it, “the legal appreciation of the James Bay Agreement allowed us to put pressure on the government for the implementation and the respect of our rights” (Interview with Cree Elder and signatory of the JBNQA, 2016). To make the second settlement happen, the Cree leadership thus built on the previous settlement to push “for the proper implementation of self-government provisions of the JBNQA” (Personal correspondence with Cree elder and signatory of the JBNQA, 2017). In particular, the rights recently acquired by the Crees allowed them to continue their expansive argumentation and keep building momentum for strengthening their rights.

### **Expansive argumentation: Reasoning in the new context of indigenous rights**

**Problematizing the previous settlement and broadening its scope.** The Crees problematized aspects of the first settlement and argued for the necessity of broadening its scope. They were highly vocal about the poor implementation of the first settlement, which considerably limited the scope of the indigenous rights they had just formalized. As the Cree Grand Chief Billy Diamond put it, “there is a deliberate conspiracy on the part of governments to use the Agreement where it is weak, where it is unclear. As far as the Crees are concerned, there has been a deliberate conspiracy, white-collar racism against the Crees for signing the Agreement” (Grand Chief Billy Diamond during a debate, Vincent & Bowers, 1988: 144). They also pointed out the harsh conditions leading to the first settlement, arguing that it was negotiated “under circumstances that were clearly inequitable, highly pressured and, in a number of key respects, unconscionable” (Grand Council of the Crees, 1995: 252). Moreover, the Crees challenged the claim that the first settlement was a ‘social contract’ rather than a constitutionally protected right, thus justifying the importance of altering the very meaning of indigenous rights: “I wanted our rights recognized. I was tired of someone sitting across the table from me telling me I had no rights. So, I had to get the rights recognized into an agreement, and then turn those same rights into legislation [Constitutional amendment]” (Grand Chief

Billy Diamond, Grand Council of the Crees, 2012c). In this vein, the Crees argued for the necessity of broadening the definition of indigenous rights.

**Resonance with increasing discourse about self-determination.** In this discussion, the basis of the Crees' claims broadened: their arguments suggested that indigenous rights could not be limited to recognition of their traditional style and their right to pursue it. More specifically, the Crees actively drew on and contributed to the emerging discourse regarding the self-determination suggesting that "all peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development" (Wherrett, 1996: 10). The Crees' arguments resonated with a landmark report of 1983 on indigenous-related issues (commonly labeled as the Penner Report), which underscored that "the exercise of political self-determination is a necessary step toward national unity" (Penner, 1983). Although the association between indigenous rights and the right to self-determination was in its infancy in the early 1980s in international law, it was under the idea of 'self-governance' that Crees advanced their demands for increased control over their traditional territory (Grand Council of the Crees, 1978).

### **Building momentum: Working from an improved position in the networks**

**Media stunts to generate attention.** Our analysis suggests that organizing "media stunts" was key in generating attention to their issues and spreading the discourse about self-determination. For example, in December 1982, they deliberately internationalized their struggle through a meeting between their Grand Chief and the Pope. This meeting was a major media success and caught the attention of leading newspapers across Canada that wondered what the Cree Chief was doing at the Vatican. Because the Pope usually meets only with heads of state, Cree Grand Chief's audience with him had major implications for the Canadian government, whose "diplomats were running around trying to stop the visit because it implied that the Crees were seen as a state unto themselves and distinct from Canada" (Nicholls, 1999b). By so doing, the Crees were able to create a substantial media buzz in Canada and gain significant support from allies: "We organized a meeting with Pope



John Paul II in Rome, to capitalize on his moral authority. We used the public attention and media coverage of this international event to put pressure on the government” (Coon Come, 2015: 158).

**Exerting pressure by making their entry into politics.** When pursuing the second settlement, the Crees decided to increase the pressure by relying on the political system, both nationally and internationally. In particular, they made several appearances before the Aboriginal Affairs Committee of the House of Commons to speak about the implementation of the first settlement and respect for Cree rights. The support they received from opposition parliamentarians resulted in a major federal government report in 1982 that pointed out failures in the implementation of the first settlement (Indian and Northern Affairs Canada, 1982). Moreover, when the Canadian Premier opened a constitutional debate across Canada, the Crees insisted on having their place in the negotiations. Cree Grand Chief Billy Diamond led the nation-wide First Nation movement to get indigenous rights into the constitution. Being able to push for the constitutional amendment was important to the Crees, as it would allow them to achieve as a constitutional treaty protecting their rights. Additionally, the Crees made their entry into the international political system by occupying a key role in the first Working Group of Indigenous Peoples in 1982 within the United Nations.

### **Seizing opportunity: Capturing the opportunity before it disappeared**

The Crees were able to rely on the generated momentum to initiate negotiations at a point in time close to the elections: “We put so much pressure on the government that we were heard again” (Interview with Cree Elder and signatory of the JBNQA, 2016). In particular, the Crees temporally positioned themselves in connection with the government’s agenda: the Crees would support the government in passing a law if the latter formalized their second settlement through a law: “When Billy [Cree Grand Chief] would walk away from meetings saying that’s it, I want the Cree-Naskapi Act to go forward, John Munro [Minister of Indian Affairs and Northern Development] would run after him saying ‘Billy, you promised me you would stay part of this till Bill C52 came in, I am holding you to your word.’ Billy would say ‘Well, Minister, you got two weeks and you will probably lose the election. You are holding me to my word and I am telling you there is the future of the Cree

at stake here” (Rem Westland, Director for the JBNQA Implementation Secretariat, Grand Council of the Crees, 2012c). Interestingly, the Crees wanted the opportunity to come to fruition without delays. In fact, the Cree leadership had understood that their settlement was in the hands of the Liberal government still in power for a few weeks, after which the opportunity was likely to vanish under a recently elected Conservative government. Their settlement finally received parliamentary approval during the last day in power of the government of the day.

### **Settlement #3: Defending Indigenous Rights and Reinterpreting Their Meaning**

The events leading to the third settlement put the Crees in a challenging position: to defend their rights against the government’s and Hydro-Quebec’s new project plans (called the Great Whale, extending the initial hydro project). Eventually, the Crees were able to turn this difficult situation to their advantage. But this required resilient argumentation in a highly controversial context, building momentum to further their cause and again using the built-up momentum to seize an opportunity to negotiate. Table 6 below provides empirical evidence of these processes.

Insert Table 6 about here

### **Starting points: Increased dispositional legitimacy**

The Crees were able to obtain significant concessions from the government as the result of the Cree-Naskapi Act of 1984 (settlement 2), which increased their dispositional legitimacy.<sup>3</sup> The previous settlement thus allowed the Crees to have a stronger voice in society and occupy a more central position in the political networks. Furthermore, the second settlement established the first version of a “government-to-government relationship” between the Grand Council of the Crees and the government of Canada, which strengthened their bargaining position (Grand Chief Ted Moses, House of Commons, 1985: 51:30). All this was important when they encountered the new challenges

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<sup>3</sup> “The Cree-Naskapi (of Quebec) Act is a statute of great significance. It is the first Indian self-government legislation in Canada and its implementation has enormous consequences. On its success, rest the hopes and aspirations of the Cree and Naskapi to preserve their ways of life and live as autonomous, self-governing communities within the larger context of Canadian society. Beyond this, implementation of the Act is establishing patterns and setting precedents which will affect self-government for other First Nations in Canada.” (Cree-Naskapi Commission, 1986: 117)

posed by the government and Hydro-Quebec. Nevertheless, the position of the Crees was not easy at the outset of negotiations for the third settlement because of the new government's aggressive promotion of the Great Whale project and their interpretation of the first settlement, suggesting that the Crees had surrendered their rights to the land in the territory covered by the JBNQA, known as the "extinguishment clause."

### **Expansive argumentation: Disputing in a highly controversial context**

**Problematizing previous settlements and reinterpreting indigenous rights.** The Crees focused on the severe harm to be caused by the Great Whale project. In this context, they specifically pointed to the inadequacy of the first settlement and called for a reinterpretation of their indigenous rights: "The James Bay and Northern Quebec Agreement fails to meet both existing and emerging international standards, and this is more and more becoming a barometer by which the legitimacy of Canadian norms are measured" (Cree Grand Chief Matthew Coon Come during a Commission on indigenous rights, Royal Commission on Aboriginal Affairs, 1993: 41). In several speeches, parliamentary hearings, and submissions to the United Nations, the Cree leadership went as far as to say that the first settlement "promote[d] cultural genocide" (Grand Council of the Crees, 1995: 268) and that the Crees are victims of "environmental racism" (Brian Craik, Cree Federal Relations Director, Senate of Canada, 1989: 26), "white-collar terrorism" (Coon-Come, 1990: 6), and "massive land-theft" (Former Grand Chief Billy Diamond during a speech on August 1995, Grand Council of the Crees, 1998: 128). A key point was that in announcing the Great Whale project, the government and Hydro-Quebec claimed that the Crees had already accepted the proposed new project in the first settlement [the extinguishment clause allowing the Great Whale Project to happen]. The Crees denied this: "Let me say first that we had agreed [in the first settlement] to one project, and one project only." (Grand Chief Matthew Coon Come, House of Commons, 1989: 13)

**Resonance with self-determination, environmentalism, and sustainability.** The Crees continued to link their arguments to self-determination, which was a growing and well-established topic internationally (Wherrett, 1996: 14) as well as in Quebec where its independence from Canada

became a key topic of discussion (Turp, 2011). The Crees argued that if Quebec had the right to secede from Canada, then they could also freely pursue their destiny outside of Quebec by deciding to remain with Canada. Importantly, the Crees also linked their discussions with growing environmental concerns and sustainability discourse. They suggested that the hydro project promoted by the government conflicted with sustainable development because it was environmentally and socially destructive. They stated that Quebec's new hydroelectric project is a "death warrant of the Crees," while portraying "the [Quebec] government as one of the worst environmental offenders" ('Power' documentary, Isacson, 1996). Thus, the Crees also contributed to broader discussions by connecting the hitherto separate discourses of self-determination, environmentalism, and sustainability.

### **Building momentum: Leveraging a more central position in the networks**

**Initiating a worldwide media campaign.** In the events leading to settlement 3, the strategy to generate attention took a more assertive and structured direction. The Crees developed a public relations strategy that is considered one of the most powerful ever conducted by an indigenous group to promote environmental and indigenous rights (Houck, 2010). The Crees maintained the "storytelling" of their tragedy through a "mediatic war" (Martin, 2003), opting for public awareness to alert potential Hydro-Quebec customers and American citizens to the danger of purchasing hydropower from Quebec. This public relations campaign continued and intensified in the early 1990s as titled rock concerts were scheduled by famous musicians in support of the Crees, alongside cycling groups educating citizens of Vermont and New York about the risks posed by Quebec's hydroelectricity. In sum, momentum seemed to pay off as the Great Whale project's main buyer – the New York Power Authority – "vigorously insisted to Hydro-Quebec that New York wants a proper environmental review of the project" (Verhovek, 1992).

**Increasing the pressure by legal actions and reinforcing political engagement.** In addition to mounting support by media campaigns, the Crees exerted pressure on the government through legal actions. They launched a lawsuit to stop the Great Whale project quickly after its announcement.

A federal court judge, Paul Rouleau, ruled in favor of the Crees in 1991, suggesting that the Great Whale project was automatically subject to environmental and social impact assessment, which was later decided in their favor. Thus, Hydro-Quebec had to start all over again to produce a thorough environmental assessment, which could severely delay the project (The New York Times, 1991). Furthermore, the Crees engaged in challenging the government's hydroelectric plan from a political standpoint. In particular, Cree leaders led a campaign in the early 1990s to mobilize elected U.S. officials to question the project (Ha, 1991).

### **Seizing opportunity: Moving quickly to capture the negotiation opportunity**

In November 18, 1994, largely as a result of the exerted pressure, Quebec Premier understood the socio-political complexity of the situation and announced that he would postpone the Great Whale project indefinitely (Trueheart, 1994). As he put it, "I knew that Great Whale was not a necessity for Quebec. It was also evident that it became a social issue, so I decided to make it end because the independence of Quebec was more important for me than a socio-economically debatable hydro project" (Interview with Jacques Parizeau, former Quebec Premier, 2014). The Cree leadership acted quickly to seize the new window of opportunity to negotiate. After "six years without formal talks between Crees and Quebec," the Cree leadership met "for the first time with Premier Jacques Parizeau on May 23, 1995 ... to resume formal talks on a wide variety of outstanding issues from economic development ... and the "modernization" of the James Bay and Northern Quebec Agreement." (Roslin, 1995) They could also reach a new settlement – Memorandum of Understanding – at this favorable point in time in 1995. Interestingly, the opportunity was seized so quickly that it generated internal tensions among the Crees: "The people should've been given an opportunity to examine this before it was signed. No Band Councils got a chance to see this" (Matthew Mukash, Chief of Great Whale community, Roslin, 1995).

### **Settlement #4: Extending Indigenous Rights by Renegotiating Previous Settlements**

Finally, the fourth settlement (Paix des Braves, 2002) meant a more profound extension of their rights. This was the result of relentless expansive argumentation, using their increasingly central

position in networks to generate momentum, and again seizing a specific opportunity to reach a new settlement. Table 7 below provides supporting empirical evidence of these processes.

Insert Table 7 about here

### **Starting points: Amplified dispositional legitimacy**

After the third settlement, the Crees' dispositional legitimacy was significantly higher than ever before. The Memorandum of Understanding was an important landmark in the recognition of the Crees' position as it confirmed the renewal of the dialogue with Quebec in a highly controversial context: "[the] Memorandum is intended to be a first step in order to establish a framework for effective discussions and cooperation between Quebec and the Crees" (The Nation, 1995). Furthermore, "the memorandum was very symbolic because relations had never been so bad as at that time. The agreement gave us hope for the future and the possibility of reinventing positive relations with the Crees." (Interview with official, The Secrétariat aux affaires autochtones, 2012) In this sense, the Crees were able to have a strong voice in broader societal discussions and to greatly reinforce their political status (Niezen, 2009). Symbolically, their ability to challenge the massive Great Whale project strengthened their image as leaders in defense of oppressed indigenous peoples around the world: "The new politics of resistance connects indigenous leaders with national and international laws that provide legitimacy for local expressions of self-determination through written laws" (Niezen, 2003: 189). This helped a great deal at the outset of discussions that eventually led to a significant extension of their rights in the Paix des Braves settlement.

### **Expansive Argumentation: Argumentation in a more favorable context**

**Problematizing by focusing on the necessity to extend indigenous rights.** In the events leading up to the last settlement, the Crees continued to focus on extending indigenous rights by renegotiating previous settlements: "Aboriginal peoples are peoples with rights. Our domination and subjugation may have been acceptable last decade, last year, but they are not acceptable to us now... the Cree have no reason to be silent, even if Great Whale is dead ... we will now be in a position to defend and assert our rights with both hands, rather than with one hand tied behind our backs by the

threat of a mega-project.” (Coon-Come, 1995: 17) Thus, the Crees voiced the necessity of giving more profound meaning to indigenous rights: “We always knew that at some point this issue would be looked at clearly and that the whole extinguishment issue would be revised ... [because] what the government has attempted to do in their interpretation of the James Bay and Northern Quebec Agreement is wrong and cannot stand” (Speaking notes of Cree Grand Chief, Matthew Coon Come, Royal Commission on Aboriginal Affairs, 1993: 40-43).

### **Resonance with self-determination, environmentalism, and economic considerations.**

The Crees drew from and contributed to the national and international discussions on indigenous rights by emphasizing another perspective: the importance of considering the natives as real economic partners and treating them in a nation-to-nation relationship while recognizing their right to “to cash royalties or resource rents from their lands, and the regulation of forestry developments on Cree lands” (Feit, 2011: 70). As time passed, the Crees made their economic argument clear: “an equitable, sustainable approach to development in our territory” is possible as long as it “is compatible with our way of life and our identity as a people” and “based upon an enduring nation-ton-nation relationship.” (Coon Come, 2015: 159) Thus, in addition to self-determination and environmental issues, the Crees showed that they were not opposed to economic development per se, but favorable instead to a specific form of development that respects indigenous people and their right to self-determination. This can be seen as openness to development that respects their indigenous values and rights: “Without a greater share of land and resources, institutions of aboriginal self-government will fail ... the right to self-determination requires, inter alia, that all peoples must be able to dispose of their natural wealth and resources freely” (United Nations Human Rights Committee, 1999, cited during a speech by Cree Grand Chief Ted Moses, Grand Council of the Crees, 2002: 6-7). The Crees thus linked their right to self-determination with the necessity of becoming full partners in economic development taking place on their traditional territory.

### **Building Momentum: Using a stronger position in the networks**

**Continuation of media campaigns to rally support.** With substantial support from their increased dispositional legitimacy gained in the previous settlements, the Crees continued to invest in media campaigns while pursuing the fourth settlement. They met with heads of states and top officials of institutions such as the United Nations and the European Commission: “The Crees were giving lectures all around the world: from the United States to Europe, including the United Nations” (Interview with Jacques Parizeau, former Quebec Premier, 2014). With hydroelectric projects at a standstill, the Crees turned their attention to the forestry industry and were vocal to condemn Quebec’s forestry management plans, which they claimed “were in violation of the JBNQA” (Richardson, 2001). These activities manifested the Crees’ continued mistrust of the governments (of Quebec and Canada), both of which became increasingly concerned with their international reputation. In a full-page advertisement named “Cree blasts Quebec in Washington newspaper,” the Crees emphasized that “wholesale export of Quebec’s forests into the U.S. market is destroying our Indian way of life.” (The Nation, 2001)

**Exerting pressure via extensive lawsuits and political work.** By imposing their view through legal channels, Cree leaders were also able to exert pressure that paved the way for the negotiations. The Crees were deeply concerned about the forest industry, which had cut down vast areas of timber in their territory without consultation or information. Subsequently, the Crees launched further lawsuits between 1998 and 2000 that challenged the government on its failure to fulfill its obligations according to the settlements. In parallel, the Crees pursued their political work both nationally and internationally. This work also yielded results. For instance, a report from the United Nations concluded in April 1999 that Canada was violating Natives’ human rights and that the federal and provincial laws undermine indigenous rights: “The Committee is concerned that gaps remain between the protection of rights under the Canadian Charter and other federal and provincial laws and the protection required under the Covenant [on Civil and Political Rights], and recommends



measures to ensure full implementation of Covenant rights” (Human Rights Committee, 65th Session, CCPR/C/79/Add.105, paragraph 10, in Senate of Canada, 2001).

### **Seizing opportunity: Rejecting an offer before capturing a better one**

The other side wanted to negotiate with the Crees by proposing alternate hydroelectric projects in the late 1990s, but the Crees initially refused following internal consultations (MacLeod, 2001; Roslin, 2001). The Cree leaders were aware of their improved power position and decided to use it to affirm their refusal to approve any future project on their territory. They made it clear that no hydroelectric project would be developed in James Bay before certain long-lasting issues were resolved, and a new settlement reached. By taking advantage of the momentum that ensued from their successful legal and political victories, the Crees seized an opportunity for negotiation at a time when Quebec’s political leadership had changed and when the government was pressured by the increase of domestic energy consumption to build a new project: “Analysts agree by and large that the government had much to lose by continuing to object to the Cree’s claims on Quebec’s boreal forest. The political impasse created by their legal action stalled its ambitions to develop further hydroelectric projects in the north” (Salée & Lévesque, 2010: 116). The final negotiations between the Crees and the Quebec government were held in secrecy, and they led to the Paix des Braves settlement significantly extending their indigenous rights.

## **DISCUSSION**

Our analysis contributes to research on settlements by explaining how progressive legitimation may unfold in a series of settlements, which challenges the way we typically think about settlements. By so doing, our analysis also has implications for research on legitimacy and legitimation more generally. Finally, it also adds to the limited research on peripheral actors who struggle to gain recognition for their rights.

### **Explaining Progressive Legitimation in a Trajectory of Settlements**

The main contribution of our analysis is that it challenges the received wisdom in research on institutional settlements by elucidating how progressive legitimation may unfold in a series of

settlements and explaining what this requires from the actors involved. Until now, scholars in this area of research have mainly studied how organization- and field-level struggles are managed through institutional settlements (Helms & Oliver, 2015; Helms et al., 2012; Lu & Reay, 2016; Rao & Kenney, 2008). This literature has thus helped explain how institutional settlements are formed (Helms et al., 2012), how they impact field-level stability and change (Rao & Kenney, 2008), and how they are maintained over time despite ongoing challenges (Lu & Reay, 2016). Our analysis challenges this body of work by showing that settlements should not merely be seen as the endpoints but rather as stepping-stones of progressive legitimation in a trajectory of institutional change. In other words, while we used to think of settlements as outcomes, our study suggests that they also serve as starting points for future legitimation efforts.

How this progressive legitimation unfolds and what it requires from the actors involved, however, has remained unexplored and undertheorized in previous research. Our analysis offers answers to this question. By drawing on the historical analysis of the Crees' struggle for recognition of their indigenous rights, we provide a process model that elucidates the key dynamics involved (see Figure 2 below). The focus of this process model is on what happens between settlements, which allows us to better understand how the Crees were able to progress from one settlement to another. Although this case has unique features, we argue that similar or analogous process dynamics are also likely to characterize other cases and settings. The key point is that the model helps explain a progressive increase in dispositional legitimacy, in our case extension of the Crees' indigenous rights from one settlement to another. Three processes form the core of this model: expansive argumentation, building momentum, and seizing opportunities for negotiation. Each of them is important and warrants attention in its own right, but they are also intertwined (as shown with the arrows in the process model). In particular, there is a pattern where ongoing expansive argumentation provides a basis for building momentum, which in turn enables the creation and seizing of negotiation opportunities.

Insert Figure 2 about here

**Expansive argumentation.** Our analysis shows that expansive argumentation is an ongoing process that involves problematization and creating discursive resonance. Peripheral actors need to problematize the state-of-affairs, which involves challenging the current situation and especially the previous settlements. The key in this is the ability to enrich and develop the arguments with new concepts to be able to go beyond the previous settlements. In our case, this was illustrated by novel arguments calling for an extension of rights with vocabulary that helped them to expand their claims. In the first period, it was a question of talking about lifestyle survival because the notion of indigenous rights did not yet exist in Canadian discussions. Then, towards the second settlement, the focus was on the problematizations of the previous settlement and calling for a broadening of the scope of indigenous rights. In the third period, they continued to problematize their situation whilst defending the reinterpretation of indigenous rights, and towards the fourth settlement, the arguments focused clearly on the overall necessity to extend indigenous rights by revisiting previous settlements. Interestingly, this can be interpreted not only as problematization and its normalization as in Maguire and Hardy (2009), but as an evolving process where new problematizations are based on the normalized ones.

Importantly, our analysis also shows that the arguments must be linked with the prevailing discourses or values of that period, which we call discursive resonance. Thus, our case explains how the very basis of legitimation can change over time and that the actors such as the Crees may both draw on and contribute to the overall discussions and respective social movements. Shifts in discourses and values can be a challenge for peripheral actors such as they may need to make their case time and again in new conditions. However, as vividly illustrated in our case, such shifts also open up significant opportunities to expand the basis for legitimation, implying that drawing on and contributing these discourses is crucial to enlarge the basis of the claims and to connect to broader social movements. In this case, there was first resonance with the nascent discourse regarding

ancestral right and then with the increasing discourse about self-determination, offering a broader basis for legitimation. In the third period, the resonance involved new linkages to environmental discourse and sustainability, and in the fourth to economic discourse, offering a clear illustration of the expansion on the very basis of legitimation.

**Building momentum.** Building momentum is another central process in our theoretical model. Unlike ongoing expansive argumentation, building momentum is more situational and happens at specific points in time. Our analysis suggests that generating attention to rally support and exerting pressure on the other side are key elements in this process. As for generating attention, our case shows that ‘media stunts’ can be effective in building momentum. In particular, they can stir public awareness and help to mobilize support. Exerting pressure on the opponent by engaging in lawsuits and political work are the other key mechanisms for building momentum. Our analysis suggests that peripheral actors may be rather reactive in initial settlements because of their limited role in networks. Over time, however, they can become more proactive generators of momentum by repeatedly engaging with stakeholders in the network sphere.

**Seizing emerging opportunities to negotiate.** Our theoretical model highlights the crucial importance of seizing opportunities for negotiation, in other words knowing when to negotiate and when not to. Such opportunities are the key to be able to reach settlements enhancing the position of peripheral actors (Lewicki, Barry, & Saunders, 2019; Lewicki, Saunders, & Minton, 1999; McAdam, McCarthy, & Zald, 1996). Rather than seeing these opportunities as emerging by themselves, our analysis underscores that they are usually created by persistent expansive argumentation and building momentum. Interestingly, in the first settlement, Judge Malouf’s decision resulting from legal action was the hard-won opportunity that the Crees seized, but while doing that, they delayed their responses to the other side to maximize their bargaining power. As to the second settlement, they Crees started the negotiations at a point in time when they felt they could leverage the political pressure. The opportunity for the third settlement involved moving quickly when their pressure had made the

government back down from the Great Whale project. Finally, after generating a lot of attention and pressuring the other side, the Crees were in a position to first refuse a less attractive offer and then start secret negotiations at a favorable moment to reach the fourth settlement. Thus, our analysis also suggests that over time, peripheral actors may become increasingly better at defining the terms of the negotiations because they are able to build upon the previous settlements while seizing subsequent opportunities in a more proactive manner.

In all this, we can see how the Crees succeeded in increasing their dispositional legitimacy, and how this increase helped them to be in a better position in striving for a new settlement. In Figure 2, this is captured by the arrows emanating from the initial/previous settlement. First, the increasing dispositional legitimacy enables the actors to have a stronger voice in societal discussions when moving from one settlement to another. This was an important enabler for the Crees for developing new problematizing arguments and to benefit from discursive resonance with the broader discourses and values. Second, the increased dispositional legitimacy also allowed them to adopt a more central position in the networks of actors relevant to building momentum. This was the key, for instance, to be able to orchestrate media stunts or to engage in international politics to exert pressure on the other side. As shown in our empirical case, the Crees were increasingly better equipped to do that when moving from one settlement to another. Third, this increased dispositional legitimacy also allowed them to have a stronger power position in negotiations with the other side.

The temporality of these processes and the Crees' activities warrant special attention. Interestingly, the three processes are characterized by specific temporalities; while expansive argumentation is a long-term process, momentum needs to be created more situationally, and then seizing emerging opportunities to negotiate involves crucial calls for timing. Thus, succeeding in the progressive legitimation is not simply a question of offering the right arguments in a given period (as in Kairos in rhetorical argumentation)<sup>4</sup> or acting upon opportunities, but involves multifaceted efforts

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<sup>4</sup> The Greek had two terms describing time: 'kronos' (chronological time) and 'kairos' (opportune time). Later, research on rhetoric has used 'kairos' as a term to describe the ability to argue successfully for specific ideas at the right time .

with different time orientations. In essence, the key point is continuous and resilient argumentation, but this does not in and of itself guarantee action to promote specific causes. Thus, building momentum is needed at the right time points, and then the emerging windows of opportunity can be seized – even if it may imply difficult compromises or inadequate solutions from the short-term perspective.

Thus, this cumulative view of institutional settlements is especially useful for understanding how peripheral actors may partially overcome the power asymmetry they face in achieving settlements. This is important for understanding how peripheral actors may increase their agency; it also specifically offers a new perspective on the discussion of power imbalance and positioning in research on settlements, which has so far centered on what happens in negotiations for individual settlements (Helms & Oliver, 2015; Lu & Reay, 2016; Rao & Kenney, 2008). Furthermore, by offering a long-term perspective, our analysis also helps connect negotiations for individual settlements (Helms & Oliver, 2015; Rao & Kenney, 2008) with the evolution of longer-term struggles beyond specific settlements (Fligstein & McAdam, 2011; Helfen, 2015; Lu & Reay, 2016; Van Wijk et al., 2013). In this vein, our study adds new insight to the existing settlement research by theorizing the relationship between the strategies used by peripheral actors and the broader shifts and developments in the environment.

### **Implications on Research on Legitimacy and Legitimation**

By focusing on legitimacy and legitimation, our analysis also extends research in this area more generally (Deephouse et al., 2017; Kim et al., 2016; Suddaby et al., 2017). Our analysis specifically adds to theory development in this area by elucidating the dynamics of the long-term legitimation work and settlements punctuating these processes. A key point in these dynamics is that settlements are a means to formalize legitimacy. As our analysis implies, there is a difference between legitimacy in ongoing discussions, which may remain ephemeral, and legitimacy that is pinned down in settlements, usually implying formalization through concrete documents. In cases such as ours, peripheral actors may be granted rights in a legally binding way, which they would not otherwise

have. Such crystallization of legitimacy is important in progressive legitimation because without such stepping-stones, it could be much easier to undermine the processes.

Furthermore, as explained above, our analysis highlights the importance of dispositional legitimacy, which has received little attention in this area of research. Our analysis shows that this concept, which has been overlooked to a large extent in previous legitimacy research (Suchman, 1995), can be useful if we see it more broadly as the recognition of the interests, rights, or voice of an actor in a given situation or process. As demonstrated in our analysis, dispositional legitimacy offers a link to the positions that actors are given in specific institutional fields; it is especially helpful for understanding how and to what extent the rights of peripheral actors are recognized. Indeed, our process model explains how dispositional legitimacy may increase cumulatively over time, and thereby helps to understand how actors' positions develop during lengthy trajectories of institutional change. As our model suggests, the concrete role of such legitimacy can, perhaps, be best understood if we focus on the specific effects that established dispositional legitimacy (in our case formalized in settlements) has on the abilities of actors to pursue legitimation work (in our case facilitating expansive argumentation, building momentum, and seizing negotiation opportunities).

As for the process of legitimation, a particularly interesting finding is that legitimation must build on arguments that 'resonate' with the prevailing value basis and discourse. Thus, to be successful, arguments need to be based on legitimation criteria shared by other key actors (Bitektine & Haack, 2015; Harmon et al., 2015; Lefsrud & Vaara, 2019). Interestingly, as the discourses or value systems develop over time, we can see an 'enlargement' of the value basis for moral legitimation (as in our case moving successively from ancestral right to self-determination to broader considerations about the environment and the economy). This is an intriguing point that adds to previous discussions on the development of validity (general acceptance of arguments) (Bitektine & Haack, 2015) or the movement from intra- to inter-field rhetoric (new criteria) in legitimation (Harmon et al., 2015). It can also be linked with the discussion of bounded ethicality, which has so

far focused more on the constraints of moral reflection (Bazerman & Tenbrunsel, 2011) than on enlargement of the basis or criteria for argumentation.

Interestingly, most research on legitimation tends to focus on similarity, conformity, or isomorphism rather than difference as a basis for legitimacy (Deephouse et al., 2017; Suchman, 1995; Suddaby et al., 2017). This may also be the case with studies on peripheral or marginalized actors (Maguire & Hardy, 2009), which have often pointed to the need to establish analogy or similarity to gain legitimacy. At the same time, we know from other contexts that to bring about change, actors often need to alter the prevailing values to gain support (Quinn, 2008; Zelizer, 1978, 1979). Our analysis shows that actors such as the Crees seem to be doing both. Especially in the beginning, their ability to shape discourses may be limited, but they are able to benefit greatly from discursive resonance. However, as illustrated in our case, over time, they may become more proactive agents and contribute to the spread of new discourses and values.

### **Understanding How Peripheral Actors Struggle for Recognition of their Rights**

Our analysis also has implications for the discussion of how peripheral or marginalized actors struggle to gain recognition for their rights. Although this critical issue has received attention in existing research (Banerjee, 2011; de Bakker et al., 2013; Martí & Fernández, 2013), less is known about the long-term processes through which actors who have ‘little chance of winning’ may be able to legitimate their rights and bring about institutional change. In fact, while previous research has pointed to various ways of gaining more central positions in institutions (e.g., Creed, DeJordy, & Lok, 2010), mounting social movements to bring about change (e.g., Schneiberg & Lounsbury, 2008), or resisting the oppression of more powerful actors (e.g., Kraemer, Whiteman, & Banerjee, 2013), we know little about the long-term process dynamics in which the “voices of the governed” (Banerjee, 2011) – such as indigenous peoples – are increasingly recognized.

Indeed, our case illuminates the long-term process through which peripheral actors, who have experienced exclusion, segregation, or marginalization for a prolonged period, may be able to improve their situation as part of institutional change. In essence, while existing literature suggests



that efforts by peripheral actors “may not change radically” things as central actors of the field either appropriate new practices to maintain their dominant position (Maguire & Hardy, 2009: 171), our analysis shows that changes in the field can happen, but that it is done over a long period of time; hence this radicality may be lost in the time horizon. The incremental or stepwise nature of this type of work is paramount. In this sense, our analysis coheres with previous studies pointing out that institutional change driven by peripheral actors requires time because of powerful and organized resistance from incumbents (Vaccaro & Palazzo, 2014; Van Wijk et al., 2013).

Our analysis underlines three points that are crucial in such efforts. The first implication of our analysis is that peripheral actors such as the Crees need to engage in expansive argumentation. In the case of the Crees, argumentation was conducted on an ongoing basis involving novel concepts in resonance with broader discourses and values and shifts in them. This finding may explain, at least in part, why many other First Nations have not succeeded in gaining recognition for their rights. Perhaps they have been unable to produce sufficiently powerful arguments in changing circumstances, or maybe the lack of resonance has undermined the impact of their rhetorical work.

The second implication of the study is that moral or any other type of argumentation is not enough per se; it should be accompanied by efforts to build momentum in the network sphere. The lesson here is that peripheral actors have to be skillful in adapting to the context and finding novel ways to build momentum to further their cause. Interestingly, the idea that peripheral actors avoid direct confrontation with incumbents (Gurses & Ozcan, 2015; Maguire et al., 2004; Meyer & Höllerer, 2010) is challenged by our historical analysis, which shows, on the contrary, that confrontation was an essential mechanism through which the Crees were able to create windows of opportunity for direct negotiations.

The third implication of the study is the importance of seizing the right negotiation opportunity to formalize settlements. This may be difficult for peripheral actors because it implies accepting settlements that are imperfect. Rather than choosing between perfect settlements or nothing,

our study shows how the Crees were strategic in legitimating their rights progressively, although sometimes this approach led them to agree to settlements about which they were highly critical. Nevertheless, these settlements enabled them to progress to the point where they were able to renegotiate those same settlements and improve them.

### **Limitations and Future Research**

Our analysis is characterized by a specific cultural-institutional context, and its limitations and boundary conditions must be taken seriously when generalizing the findings. In essence, our model applies to cases where peripheral actors are able to use various means to progressively improve their position vis-à-vis a government organization in a western democracy. Thus, it would be essential to compare the process dynamics of this case with those in other institutional and cultural contexts, such as with authoritarian governments, or in situations of significant political changes (Gray & Purdy, 2018; Lewicki et al., 2003). Our case can be seen as a special one in that the Crees were gradually able to legitimate their interests and rights. Although our analysis also points to problems, challenges, and setbacks, it would be important to examine less successful cases in future research. While each of the four successive settlements in our case led to increased dispositional legitimacy, the resulting path in other cases may be less of a trajectory and, in the case of failed legitimation efforts, may also involve setbacks and even decreased legitimacy. Thus, one could also observe regressive and more complicated legitimation dynamics in trajectories of settlements and link these to existing research on legitimation (Clemente & Roulet, 2015; Lefsrud & Vaara, 2019; Suddaby et al., 2017) and intractable conflicts (Asah et al., 2012; Lewicki et al., 2003).

Our analysis has brought dispositional legitimacy (Suchman, 1995) back into the front and center of research on legitimacy, and future research could use this concept to further advance our theoretical and empirical understanding of legitimacy and legitimation. It would be especially interesting to delve into the different aspects and dimensions of dispositional legitimacy as well as to clarify its linkages to reputation or stigma. Future research could for instance focus on the various ways in which dispositional legitimacy or the lack thereof influences the ways in which actors have

their voices heard in today's mediatized society or are able to engage in negotiations with other actors. Our analysis also highlights the multifaceted and dynamic nature of the legitimation processes; future research could dig deeper into specific strategies and examine for examples the micro-level rhetorical strategies used and the changes in them, thus extending what we know about framing and rhetorical strategies and tactics in settlements (Helms & Oliver, 2015; Helms et al., 2012). Future studies could also examine the role of history and memory (Ravasi, Rindova, & Stigliani, 2019; Suddaby, Foster, & Trank, 2016) in more detail and for example focus on how the constructions of the past affect discursive legitimation efforts in new settlements.

If anything, our study shows the need to focus attention on the ways in which peripheral or marginalized actors struggle to have their rights recognized in society. While we have focused on the Cree, future studies could concentrate on other cases. For instance, our theoretical framework could be used to study and examine the differences and similarities of our case with the Black Lives Matter movement, a relevant social phenomenon. Another interesting historical analogy is the Palestinian movement for self-determination. Yet other cases can be found with the marginalized communities in Africa and China, many of whom remain largely unknown to the western world.

Our analysis has focused on legitimacy, but the struggles that peripheral and marginalized actors face can and should also be examined from an outright power perspective (Gray & Purdy, 2018). Another interesting set of questions deals with their abilities, skills, and learning. For instance, it would be intriguing to analyze to which extent the education that the younger generations of Crees received in the Canadian society facilitated their ability to maneuver in the Canadian public discussion and political spheres. Another issue is whether the resources they had gathered were crucial in terms of their efforts to generate attention and work through legal channels.

We have adopted the perspective of peripheral actors in this paper to highlight the various strategies needed to succeed in bringing about change. Future research could complement this view by focusing on the other side and by zooming in on the need to create common ground and

(temporary) consensus in and through settlements. Divisions within the key parties are yet another issue that would warrant attention in future research. In our case, the Crees were not always united or unanimous, and the governments on the other side consisted of various coalitions over time. Thus, future studies could dig deeper into the political dynamics across the key stakeholders and focus on how such internal struggles may affect legitimation processes.

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**Table 1: Empirical Material**

Data type	Sources and details	Use in the analysis
Documents	<p><b>Governmental documents (approximately 6,000 pages)</b></p> <ul style="list-style-type: none"> <li>▪ Federal parliamentary and senate discussions, as well as debates at the Quebec National Assembly (over 100 hours of debate in verbatim exchange from the National Assembly of Quebec’s archival database). The ‘Debates Journal Index’ was used for specific themes provided by the database. Most of the parliamentary discussions and debates were found by referencing the “Indian” topic (the early 1970s), “Aboriginals” (late 90s and early 2000s), “James Bay,” “Natural resources,” and “Great Whale.”</li> <li>▪ Agreements between the governments of Quebec/Canada and the Crees, such as the James Bay and Northern Quebec Agreement (1975), the Cree-Naskapi Act (1984), the Memorandum of Understanding (1995), as well as the Paix des Braves (2002).</li> <li>▪ Laws passed, such as the Cree-Naskapi Act and the constitutional amendment of 1982.</li> <li>▪ Archival documents from Quebec and Canadian courts such as the 1973 Calder decision and Malouf’s historic legal decision of the same year.</li> <li>▪ Reports ordered by the government regarding aboriginal issues in Canada: the White Paper proposed by the federal government (1969), Tait Report on the review of the James Bay and Northern Quebec Agreement (1982), Penner Report on Indian Self-Government (1983), the Report of the Royal Commission on Aboriginal Peoples (1996), Report on Equality Rights of Aboriginal Rights (2013), and the Truth and Reconciliation Report (2015).</li> </ul>	<ul style="list-style-type: none"> <li>▪ Identification of key events and processes and construction of the initial timeline.</li> <li>▪ Gaining an understanding of indigenous rights and different perspectives adopted by various actors over time.</li> <li>▪ Mapping the role of specific agreements in this process, leading to a focus on the four key settlements.</li> <li>▪ Analysis of the extension of rights (increasing dispositional legitimacy) as reflected in documents.</li> <li>▪ Analysis of how the Crees used different types of arguments to further their cause.</li> <li>▪ Analysis of how the Crees created momentum through exerting pressure (especially the legal system).</li> </ul>
	<p><b>Corporate archives (approximately 5,500 pages)</b></p> <ul style="list-style-type: none"> <li>▪ Hydro-Quebec reports, which highlight the practices, outcomes, and learning by Hydro-Quebec regarding environmental management and dealing with local communities.</li> <li>▪ Grand Council of the Crees archival documents such as letters exchanged between the Grand Council and various stakeholders (including ministers, Hydro-Quebec officials, American Hydro-Quebec’s stakeholders), the GCCQ’s chiefs’ discourses between 1980-2000, reports submitted to the United Nations and other international institutions, as well as confidential letters exchanged with prime ministers and speaking notes from Grand Chiefs and Cree officials at international events.</li> <li>▪ Specific Hydro-Quebec archival documents such as social and environmental impact studies, as well as agreements signed with local indigenous communities.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Mapping the long-term evolution of relations between the government, Hydro-Quebec, and the Crees.</li> <li>▪ Analysis of the extension of rights (increasing dispositional legitimacy) as reflected in documents.</li> <li>▪ Analysis of how the Crees used different types of arguments to further their cause.</li> <li>▪ Analysis of how the Crees created momentum through exerting pressure (especially the legal system).</li> </ul>

	<p><b>Media material (343 newspapers articles)</b></p> <ul style="list-style-type: none"> <li>▪ Systematic research of major Quebec, Canada, and North America newspapers: <i>Washington Post, Globe and Mail, New York Post, La Presse, Le Devoir, National Post, The Montreal Gazette, Le Droit, Le Soleil, Le Journal de Montréal and The Nation (Cree newspaper)</i>.</li> <li>▪ Depending on the newspaper, keywords were used both in English and French over the period 1970-2018: ‘James Bay’ (<i>Baie-James</i>), ‘Cree’ (<i>Cri</i>), ‘Cree Nation’ (<i>Nation Crie</i>), ‘Eeyou Istchee’ (<i>Eeyou Istchee</i>), ‘Project of the Century’ (<i>Project du siècle</i>), ‘Great Whale Project’ (<i>Projet de la Grande Baleine</i>), ‘Grand Council of the Crees’ (<i>Grand Conseil des Cris</i>), ‘James Bay and Northern Quebec Agreement’ (<i>Accord de la Baie-James et du Nord Québécois</i>), the ‘Paix des Braves’ (<i>La Paix des Braves</i>). The research was limited to the period 1940-2018.</li> <li>▪ Targeted searches conducted for specific periods, e.g., using keywords related to specific stakeholders (New York Power Authority), agreements (Cree-Naskapi Act, constitutional amendment, Memorandum of Understanding), or events (Quebec referendum, Cree referendum, the resignation of Jacques Parizeau).</li> </ul>	<ul style="list-style-type: none"> <li>▪ Analysis of the discourses of specific periods as the basis for moral argumentation (discursive resonance).</li> <li>▪ Analysis of the arguments Crees used to problematize the state-of-affairs.</li> <li>▪ Analysis of how the Crees created momentum through generating attention.</li> <li>▪ Analysis of how the dispositional legitimacy of the Crees changed over time (as perceived by the media and specific actors in media texts).</li> </ul>
	<p><b>Historical books and analyses (approximately 8,500 pages and 12 hours)</b></p> <ul style="list-style-type: none"> <li>▪ Scholarly books written by sociologists, environmentalists, journalists, historians, and anthropologists have also been used. More recent biographies and autobiographies (Personal Memoirs) of the Cree leaders and government officials who were involved in the controversy were also examined to understand back-scene events.</li> <li>▪ <i>Video documentaries</i>. Some video documentaries such as <i>Power</i> by Magnus Isacson, <i>One More River</i> by Neil Diamond and <i>Our Land, Our Truth</i> by Maurice Bulbulian. Another recent documentary of 2012 was produced by the Grand Council of the Crees to educate Cree people on the evolution of Cree-Quebec-Canada relationships since 1970.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Establishing the initial timeline between and identification of key turning points and actions in the long-term evolution of relationships between the government, Hydro-Quebec, and the Crees.</li> <li>▪ Enriching understanding of events that occurred and the reasons for the Crees’ decisions and actions.</li> </ul>
Interviews	<p><b>Total: 112 interviews with 94 informants</b></p> <ul style="list-style-type: none"> <li>▪ Hydro-Quebec: 11 interviews</li> <li>▪ Quebec government: 8 interviews</li> <li>▪ Niskamoon: 20 interviews</li> <li>▪ Scholars and experts: 6 interviews</li> <li>▪ Grand Council of the Cree, Cree government and local band office employees: 16 interviews</li> <li>▪ Land users, tallymen, and local communities: 51 interviews</li> </ul>	<ul style="list-style-type: none"> <li>▪ Analysis of how the dispositional legitimacy of the Crees changed over time.</li> <li>▪ Analysis of the arguments Crees used to problematize the state-of-affairs.</li> <li>▪ Analysis of how their arguments were linked with the broader discourses and values (discursive resonance).</li> <li>▪ Analysis of how the Crees created momentum through generating attention and exerting pressure.</li> <li>▪ Analysis of the Crees’ decisions to seize (or not) negotiation opportunities.</li> </ul>

Observations	<p><b><i>Total: Two months within seven Cree communities (Mistassini, Nemaska, Waskaganish, Eastmain, Wemindji, Oujé-Bougoumou, Waswanipi)</i></b></p> <ul style="list-style-type: none"> <li>▪ Round 1 (August 2016). Two weeks were spent in Mistissini, the biggest Cree community (5,000 inhabitants).</li> <li>▪ Round 2 (November 2016). The main field researcher spent one week in Nemaska (800 inhabitants) and one week in Waskaganish (1,500 inhabitants).</li> <li>▪ Round 3 (September 2017). Five (5) days were spent in Nemaska, where the main field researcher had in-depth discussions with a tallyman and participated in traditional activities in his traditional trapline.</li> <li>▪ Round 4 (July and August 2018). Almost one month spent in four different communities: Eastmain (750 inhabitants), Wemindji (1,200 inhabitants), Oujé-Bougoumou (900 inhabitants), and Waswanipi (1,500 inhabitants).</li> <li>▪ Collaboration on several joint research projects and an international conference organized with Niskamoon, a joint Hydro-Quebec/Cree organization (June 2016-2019; over 150 hours of involvement)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Refinement of interview questions.</li> <li>▪ Insights guiding archival search and analysis.</li> <li>▪ Gaining an understanding of the historical events and how they impact the Cree Nation today, and the present-day relevance of the study.</li> <li>▪ Feedback and validation of our findings and interpretations.</li> </ul>
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**Table 2: Operationalization of Constructs and Interpretations Based on Historical Analysis**

Construct	Operationalization	Interpretations based on historical analysis
<b>Dispositional legitimacy</b>	Recognition of the rights of the Crees (as reflected in the settlements and perceived by various actors)	<ul style="list-style-type: none"> <li>▪ <b>Settlement 1:</b> Initial formalization of indigenous rights. Indigenous rights were not recognized before by the government, and Crees had very limited recognition as epitomized by the government’s refusals to negotiate with Cree leaders.</li> <li>▪ <b>Settlement 2:</b> Broadening the scope of indigenous rights. Recognition of the Crees’ indigenous rights gave them a legal basis to protect their traditions and values, which also led to increased visibility and recognition.</li> <li>▪ <b>Settlement 3:</b> Defending their indigenous rights and reinterpreting their meaning. The previous settlements, as well as the international media campaign led against the government and Hydro-Quebec, strengthened recognition for the Crees at the international level.</li> <li>▪ <b>Settlement 4:</b> Extending indigenous rights by renegotiating previous settlements. Leading to the fourth settlement, the three previous settlements, as well as the Crees’ ability to establish themselves as powerful actors against the Great Whale project, enabled them to increase their status and legitimacy as a distinct nation with rights.</li> </ul>
<b>Expansive argumentation</b>	Problematizing the state-of-affairs	<ul style="list-style-type: none"> <li>▪ <b>Settlement 1:</b> Focus on lifestyle survival. Problematizing the necessity for indigenous rights, which were non-existent back then and unrecognized by the government.</li> <li>▪ <b>Settlement 2:</b> Problematizing the previous settlement and the necessity to broaden its scope. Here, the Crees challenged the government’s implementation of the settlement and arguing for the necessity of promoting the self-governance facet of the settlement.</li> <li>▪ <b>Settlement 3:</b> Problematizing previous settlements and reinterpreting indigenous rights. Building on the environmental threats of the Great Whale hydro project, the Crees focused on highlighting the lack of implementation of the settlement and the “poor” circumstances under which the settlement was reached.</li> <li>▪ <b>Settlement 4:</b> Problematizing by focusing on the necessity to extend indigenous rights. Leading to the fourth settlement, the Crees focused on expanding indigenous rights by renegotiating previous settlements, which they deemed unfair. The further recognition of the Crees’ right to self-determination was central.</li> </ul>
	Creating resonance with broader discourses and values	<ul style="list-style-type: none"> <li>▪ <b>Settlement 1:</b> Resonance with emerging discourse on ancestral rights. The discourse about indigenous people’s ancestral rights over their traditional lands took off in the early 1970s, with several reports and legal cases acting as an impetus.</li> <li>▪ <b>Settlement 2:</b> Resonance with increasing discourse about self-determination. The issue of self-governance of indigenous peoples was an increasing discourse in Canada, while indigenous peoples’ self-determination was also attracting attention at the United Nations.</li> <li>▪ <b>Settlement 3:</b> Resonance with self-determination, environmentalism, and sustainability. The prominence of the environmentalist and sustainability discourses grew in Canada and internationally. The issue of indigenous rights could be linked with these discourses.</li> </ul>



		<ul style="list-style-type: none"> <li>▪ <b>Settlement 4:</b> Resonance with self-determination, environmentalism, and economic considerations. In addition to the other discourses previously mentioned, the economic aspects took on particular significance in public discussion.</li> </ul>
<b>Creating momentum</b>	Generating attention to rally support	<ul style="list-style-type: none"> <li>▪ <b>Settlement 1:</b> Building initial public awareness. To do this, Crees connect with media and emerging indigenous groups through collaborating with several newspapers, radio, and television outlets.</li> <li>▪ <b>Settlement 2:</b> Media stunts to generate attention. Here, the Crees deliberately internationalized their struggle through a meeting between their Grand Chief and the Pope.</li> <li>▪ <b>Settlement 3:</b> Initiating a worldwide media campaign. Crees act as entrepreneurs in defending indigenous rights worldwide through relying on the media to share their story with, especially, international institutions, environmentalists, and human rights activists.</li> <li>▪ <b>Settlement 4:</b> Continuation of media campaigns to rally support. Crees continued the public relations campaign both nationally and internationally, particularly in international forums concerned with indigenous and human rights, as well as environmental protection.</li> </ul>
	Exerting pressure on the other side	<ul style="list-style-type: none"> <li>▪ <b>Settlement 1:</b> Relying on legal channels to exert pressure. The Crees engaged in two lawsuits to have the James Bay hydro project stopped in 1972.</li> <li>▪ <b>Settlement 2:</b> Exerting pressure by making their entry into politics. Relying on the legal system to negotiate the implementation of the self-governance provisions of the first settlement and engaging in political work to promote their self-governance legislation.</li> <li>▪ <b>Settlement 3:</b> Increasing the pressure by legal actions and reinforcing political engagement. Crees exerted pressure by engaging more actively in international politics related to indigenous and human rights, while also using legal channels to challenge the Great Whale project.</li> <li>▪ <b>Settlement 4:</b> Exerting pressure via extensive lawsuits and political work. In this phase, the Crees maintained the pressure by relying on legal channels while pursuing their political engagement. The Crees engage in a series of lawsuits in the late 1990s.</li> </ul>
<b>Seizing negotiation opportunities</b>	Seizing negotiation opportunities (decisions to act or not to act)	<ul style="list-style-type: none"> <li>▪ <b>Settlement 1:</b> Capturing the opportunity but delaying the settlement. Crees postponed actual negotiations as much as possible to rely on the momentum they had generated, seeking to negotiate and settle at the appropriate moment.</li> <li>▪ <b>Settlement 2:</b> Capturing the opportunity before it disappeared. Crees seized the negotiation opportunity by temporally positioning themselves in connection with the government's agenda to reach the settlement as soon as possible.</li> <li>▪ <b>Settlement 3:</b> Moving quickly to capture the negotiation opportunity. The Cree leadership decided to quickly negotiate the settlement to receive community development funding.</li> <li>▪ <b>Settlement 4:</b> Rejecting an offer before capturing a better one. The Crees decided to refuse the first offer, but later seized another negotiation opportunity.</li> </ul>

**Table 3: Increase of Dispositional Legitimacy: Progressive Legitimation of Indigenous Rights**

Settlement	Increase of dispositional legitimacy (indigenous rights)	Examples from empirical material
Settlement 1: James Bay and Northern Quebec Agreement (1975)	Initial formalization of indigenous rights	<p><b>Cree first Grand Chief Billy Diamond recalling his people’s lack of voice before the James Bay project was announced:</b> “Many times, I was told some 35 years ago, ‘You have no rights. You are not citizens, just squatters who can be removed without any notice or consultation’” (Grand Council of the Crees, 2012b)</p> <p><b>The non-recognition of the Crees was the norm rather than the exception.</b> “The Cree were ignored when the first phase of hydro-electric development was planned and announced ... [their] active opposition to the developments required a revision of the view of the Cree which had been used in the earlier decades. Until then, Euro-Canadians did not really anticipate that the Cree could actively oppose large-scale developments or activities in their region.” (Feit, 1995b: 115)</p> <p><b>Recognition of Cree rights surprised Quebec Premier’s advisors:</b> “From ‘no rights’ to an injunction is quite a jump. It was also a total repudiation of the advice that Bourassa’s [<i>Quebec Premier</i>] legal advisors had provided, suggesting injunction proceedings would last just a few days and then be rejected. The process had in fact taken six months and an injunction had been granted.” (John Ciaccia, main negotiator of the JBNQA for the government, Personal Memoirs, Ciaccia, 2015: 57)</p>
Settlement 2: Cree-Naskapi Act (1984)	Broadening the scope of indigenous rights	<p><b>Cree-Naskapi Act offers another level of legal protection and sanctioning of the Crees’ rights and sets precedents for other First Nations in Canada:</b> “The Cree-Naskapi (of Quebec) Act, 1984, is the first legislation in Canada to provide recognition of Indian-self-government. It redefines the relationship between the Government of Canada and the Cree and Naskapi peoples as the Indian Act no longer applies to the Cree and Naskapi bands and their community lands.” (Saunders, Kanatewat, &amp; Awashish, 2012)</p> <p><b>The historic nature of the Cree-Naskapi Act for enforcing indigenous peoples’ self-determination is widely acknowledged:</b> “The Cree-Naskapi Act, signed in 1984, is a constitutionally protected treaty that represents the first aboriginal self-government legislation in Canada [...] <i>which</i> provided for a level of self-determination previously unattainable.” (Belanger, 2007: 519-520)</p> <p><b>Canada officials recognize the increased legitimacy of the Crees’ rights:</b> “Some ten years ago, the federal government in conjunction with, and with co-operation with, the Cree and the Naskapi Indians embarked upon a journey that was unique in Canadian history, because it meant for the first time that we were involved in a process of negotiations whereby in return for certain lands, the Indian people themselves would receive the economic tools in order to achieve self-government for their own peoples.” (Douglas Frith, Minister of Indian Affairs and Northern Development during a Meeting in Eastmain, Quebec, on August 9, 1984, from Cree-Naskapi Commission, 1986)</p>

<p>Settlement 3: Memorandum of Understanding (1995)</p>	<p>Defending their indigenous rights and reinterpreting their meaning</p>	<p><b>The MOU marks an important milestone in the context of deteriorated relations:</b> “[The MOU] has been negotiated and is concluded without prejudice to the positions of any of the parties regarding their respective rights and obligations under the JBNQA and elsewhere.” (Memorandum of Understanding signed between the Grand Council of the Crees and the Quebec government, from the Crees newspaper, The Nation, 1995)</p> <p><b>The MOU maintained the legitimacy of indigenous rights in spelling out concrete steps to be taken in new circumstances:</b> “The 1995 MOU and the 1998 implementation agreements confirm and give rise to Cree rights independently of Cree constitutionalized treaty rights under the James Bay and Northern Quebec Agreement and Cree aboriginal rights.” (Reply from Matthew Coon Come, Cree Grand Chief, to Guy Chrette, Quebec Minister delegated to Aboriginal Affairs, February 1999, GCCQ Archives: Matthew Coon Come, 1999)</p> <p><b>After years of conflict, the MOU also aimed at helping communities with their socio-economic development.</b> “The Memorandum of Understanding that was signed may be the best deal the Crees have ever entered into for all I know. In fact some of our communities are in desperate need of infrastructure funding and this agreement will help.” (Nichols, 1995)</p>
<p>Settlement 4: Paix des Braves (2002)</p>	<p>Extending indigenous rights by renegotiating previous settlements</p>	<p><b>Paix des Braves was lauded as one of the biggest improvements in terms of indigenous rights:</b> “[Paix des Braves] is one of the most important developments in the world in recent years, in regards to the protection of human rights and protection of fundamental freedoms of Indigenous Peoples” (Cree official Romeo Saganash at the 20th session of the Working Group on Indigenous Populations, Geneva, July 22, 2002, in Bergeron, 2008: 146)</p> <p><b>Politicians such as Quebec Premier acknowledged the legitimacy of extending Crees’ rights:</b> “I wish to reiterate that the signature of this historic agreement marks the establishment of a new and open relationship, based on the common values and interests of the Cree and Québec nations. It reinforces the capacity of the Cree to ensure their own development and focuses on a shared willingness to pursue the harmonious development of Northern Québec, in respect for our respective cultural heritages in a context of increasing modernization.” (Quebec Premier Bernard Landry during a joint press conference with the Crees in regards to the Agreement in Principle, October 23, 2001, from Quebec Government, 2001)</p> <p><b>Crees have gained increased legitimacy as a distinct nation:</b> “Despite their many concessions, the agreement was a victory for the Crees: their political status and legitimacy as a distinct nation were acknowledged by Quebec.” (Papillon, 2011: 120)</p>

**Table 4: Legitimation Processes and Activities Leading to Settlement #1**

Process	Key aspects	Examples from the empirical material
<p>Novel argumentation in an unfavorable context</p>	<p>Focus on lifestyle survival</p>	<p><b>Crees invoking their rights on the territory:</b> “Petitioners are invoking not only their collective territorial rights, also known at times as aboriginal rights, in the land; they are also invoking rights presently recognized by the province of Quebec to hunt and trap exclusively in all of the territory which will be affected.” (Cree lawyer O’Reilly to Judge Malouf in December 1972, from Boyce, 1976: 25)</p> <p><b>Nature and the Crees’ traditional lifestyle which depends on it were the key themes employed by the Crees in hearings:</b> “The real hero of the courtroom during the six months of the hearing was nature herself. Her wonderful processes had never been described in such detail in a Canadian courtroom before: and the description of her complexities and beauties given by both the native people and their supporting scientists showed that nature has a wisdom that man is very far from emulating.” (Notes from a journalist who attended the entire legal process and documented it between 1972 and 1973, Boyce, 1976: 250)</p>
	<p>Resonance with emerging discourse on ancestral rights</p>	<p><b>The Crees’ arguments resonated with the emerging discussion on ancestral rights:</b> “Mobilization around the James Bay hydroelectric project certainly played a key role in the social, political and cultural turmoil in the Indigenous world throughout the 1970s. This turmoil was also tied to an international environment that was becoming increasingly open to Indigenous matters ... things were happening in Canada as well.” (Government of Quebec, 2019: 83)</p> <p><b>The Cree’s approach was embedded in a broader context of initial territorial claims in late 1960s and early 1970s:</b> “In an attempt to broaden the political and symbolic space left to them by the governments, the [indigenous] associations, which until now had brought to the attention of the Canadian public the existence of their hunting and fishing rights, will pass more clearly to the claim of their territorial rights.” (Vincent, 1992: 756)</p> <p><b>Issues related to indigenous rights started to become a political and societal issue:</b> “This committee [parliamentary hearings of a special joint committee on the Indian Act in 1946-1948] gave Indians the first opportunity they had ever received to speak directly to parliamentarians and to be exposed to the parliamentary system. Its hearings brought to public attention the economic disparities between Aboriginal peoples and other groups of citizens; Aboriginal peoples’ limited access to education; and the degree of power that government exercised over Aboriginal affairs.” (Cassidy, 2005: 42)</p>
<p>Building momentum from a marginalized position</p>	<p>Building initial public awareness</p>	<p><b>National and international media attention towards the Crees increased:</b> “It was a remarkable tour, complete with daily reports in the Montreal Star, the Montreal Gazette, Le Soleil and on CBC and Radio-Canada [Newspapers]. The Paris newspaper, Le Monde, interviewed Max Gros-Louis [First Nation leader] and ran a story tying the Quebec Indians to the Ibos in Nigeria and the Bengalese of Bangladesh.” (MacGregor, 1989: 71)</p>

		<p><b>Media followed Cree consultations with tallymen:</b> “We visited all Cree communities, and especially tallymen, to explain in detail what the project was about. We had journalists and media with us to make sure our story was being properly covered ... international media also covered our story.” (Interview with Elder and signatory of the JBNQA, 2016)</p>
	<p>Relying on legal channels to exert pressure</p>	<p><b>The Cree leadership decided to engage a lawsuit to halt the hydroelectric project:</b> “After being ignored and then rebuffed by Bourassa, the Crees ... initiated legal proceedings against Quebec and the James Bay project in November 1972.” (Rynar, 2000: 215)</p> <p><b>The Malouf’s legal decision helped the Crees increase pressure:</b> “Although the injunction sought was reversed in the court of appeal the following week, it became clear that the Cree supported their claims on a serious legal basis. And that we had to negotiate.” (Personal memoirs of Quebec Premier’s advisor, translated by the authors, Trudel, 2015: 71)</p> <p><b>Politicians acknowledge the pressure:</b> “The decision of the court will strengthen the position of the Indians ... it’s in the best interest of all parties concerned to try to reach a settlement.” (Jean Chérien, Indian Affairs Minister cited in The Gazette newspaper, November 16, 1973: Laurent &amp; Waters, 1994: 1)</p>
<p>Seizing negotiation opportunities</p>	<p>Capturing the opportunity but delaying the settlement</p>	<p><b>Crees seize the negotiation opportunity given by Malouf’s historic legal ruling:</b> “[Malouf’s injunction] had shown that it was no longer possible for governments to deny the legal existence of Aboriginal land rights. And indeed the threat to the James Bay hydro project posed by further legal appeals by the Crees pushed the provincial government into treaty negotiations.” (Rynar, 2000: 216)</p> <p><b>The Crees initially and repeatedly rejected government calls for negotiations:</b> “I presented the Natives with an eleven-point proposal for the settlement of their claims... at first, I could not get the Natives to negotiate. I had several meetings with them... They listened to my proposal but they wouldn’t budge.” (John Ciaccia, main negotiator of the JBNQA for the government, Personal Memoirs, Ciaccia, 2015: 61-62)</p> <p><b>Crees’ strategy in terms of delaying their response to Quebec’s offers.</b> “We did not want to sign nor too early nor too late. We had a time pressure, but we also wanted to take the time to consult our Elders and get things done right.” (Interview with Cree Elder and signatory of the JBNQA, 2016)</p>

**Table 5: Legitimation Processes and Activities Leading to Settlement #2**

Process	Key aspects	Examples from the empirical material
<p>Expansive argumentation in the new context of indigenous rights</p>	<p>Problematizing the previous settlement and broadening its scope</p>	<p><b>Crees criticized the implementation of JBNQA:</b> “With respect to the overall James Bay and Northern Quebec Agreement, we have had fifteen (15) years of constant struggle to try to force the governments to respect their commitments ...if I had known in 1975 what I now know about the way solemn commitments become twisted and interpreted, I would have refused to sign!” (Address by Chief Billy Diamond, Institute for Canadian Studies, Oslo, Norway, August, 1990: Diamond, 1990: 11)</p> <p><b>The Crees’ moral arguments on the poor implementation of the first settlement were echoed in the House of Commons:</b> “After hearing Chief Billy Diamond describe the James Bay and Northern Quebec Agreement as having fallen “in the trail of broken treaties,” Committee Members sympathize with the Cree and Inuit charges that Federal and Quebec officials have treated the Agreement as little more than a confirmation of the status quo... the Committee agrees with Cree and Inuit suggestions that an implementation structure should be set up as quickly as possible.” (House of Commons, 1981b: 24A-22)</p> <p><b>The unfair nature of the process leading to the first settlement was problematized:</b> “The native peoples were hauled down to Montreal and forced to deal, they being people accustomed to a very different way of life ... the negotiations into which they were forced to enter did not occur where they were comfortable. ... finally, they were forced to negotiate under the gun of extraordinary conditions, conditions to which people of a different kind of background would probably not have been subjected.” (Joe Clark, Leader of the parliamentary opposition, House of Commons, December 14, 1976: House of Commons, 1981a: 1999)</p>
	<p>Resonance with increasing discourse about self-determination</p>	<p><b>By leading the Aboriginal Peoples’ negotiations for increased rights in the constitution, the Crees linked their argumentation with broader Canadian discussion:</b> “We have only had our constitution for less than a year now, and already the Aboriginal Peoples have been able to see that they had to be amended so that they could have their place in nation-building, building of this Canadian nation.” (Premier Pierre E. Trudeau during the negotiations with First Nations, March 15-16, 1983: CBC Archives, 1991)</p> <p><b>The Crees were basing their argument on self-determination:</b> “The context had changed after the signature of the James Bay Agreement. Here in Canada, politicians and civil society began to look closely at the issue of indigenous rights ... Internationally, the United Nations also increasingly discussed the issue of indigenous rights. They were especially looking at their right to self-determination.” (Interview with Cree official #1, 2016)</p> <p><b>Indigenous rights and their right to self-determination become an important topic:</b> “The 1981 meeting [Indigenous peoples meeting at the United Nations] was one of the events that led to the eventual establishment of the working group on Indigenous populations in 1983. Establishing this working group and the International Labor Office, Convention 107 on Indigenous and Tribal Populations, were the only visible evidence that the United Nations had finally recognized our existence.” (Moses, 2005: 226)</p>
<p>Building momentum from an improved</p>	<p>Media stunts to generate attention</p>	<p><b>Connecting with the international community such as the Pope:</b> ““We want you to speak on aboriginal rights when you come [to Canada]. The Pope smiled. ‘You are the first citizens of this earth,’ he said. ‘I have read your material and I will speak.’ Diamond pressed on, nervous that the cardinals were pressing in to move</p>

position in the networks		<p>their charges on to the next room. ‘We want you to visit, as well.’ ‘Yes,’ the Pope agreed. ‘I do want to see how you live.’” (MacGregor, 1989: 195)</p> <p><b>The Crees attracted attention by being among the first indigenous groups to present at the United Nations:</b> “The Grand Council of the Crees first went to the United Nations in 1981 to address unresolved grievances with the Québec and federal governments.” (Niezen, 2009: 114)</p> <p><b>Crees’ media approach was able to attract broad attention:</b> “The government now had the bad international publicity, the increasingly negative domestic press, the damning Tait report [on the issues related to the JBNQA implementation].” (MacGregor, 1989: 182)</p>
	Exerting pressure by making entry into politics	<p><b>The Crees took their case to the House of Commons:</b> “At the end of March [1981], the Crees and Inuit appeared before the House of Commons Committee on Indian Affairs [...] so compelling was the testimony of Billy Diamond and Charlie Watt that the committee took the unprecedented step of drafting a special statement of concern, which was then presented to Indian Affairs Minister.” (MacGregor, 1989: 178)</p> <p><b>The Crees used lobbyists:</b> “The Crees hired very able lobbyists who were led by Billy, who is very canny, very able, very, very tough [...] in dealing with them, I felt I had to be on top of my form or I’d be in difficulty. I have never seen anyone more skilled at lobbying. They are the masters.” (Deputy Minister John Tait, lead of a review of the JBNQA implementation by the government in 1982, MacGregor, 1989: 182)</p> <p><b>The Crees were actively engaged in international politics:</b> “We went to the international community because we had come to the unhappy realization that there was little likelihood of solving our problems, grievances and differences by addressing ourselves exclusively to the Government of Canada or the Province of Québec or by raising our issues only inside of this country.” (Statement by Grand Chief Matthew Coon-Come and Cree Ambassador Ted Moses, Canadian Parliament, Grand Council of the Crees, 1996: 2)</p>
Seizing negotiation opportunities	Capturing the opportunity before it disappeared	<p><b>The Cree leadership pressured the federal government officials to capture the opportunity:</b> “Billy Diamond went to Ottawa to press the issue, and informed the Liberals that C-46 [Cree-Naskapi Act] had better go through fast – otherwise they were going to have the Cree nation marching on Parliament.” (MacGregor, 1989: 216)</p> <p><b>The Crees took advantage of the situation to seize the opportunity to negotiate:</b> “During the period of 1975-1984 [...] our meetings with Minister of Indian Affairs Munroe led to the 1983 Penner Report on Indian Self-Government. The recommendations of this Penner Report led to John Munroe’s Bill C-52 in 1984.” (Personal correspondence with Cree Elder and signatory of the JBNQA, September 29, 2017)</p> <p><b>The Crees wanted to pass the settlement promptly:</b> “The self-government legislation ... could not seem to reach final reading and passage. The Crees grew increasingly suspicious ... If John Turner won the leadership [<i>at the federal elections</i>], as expected ... then bills like C-46 [Cree-Naskapi Act] would die on the order paper and perhaps not be raised again for years to come. Perhaps, under a new government, never.” (MacGregor, 1989: 216)</p>

**Table 6: Legitimation Processes and Activities Leading to Settlement #3**

Process	Key aspects	Examples from the empirical material
<p>Expansive argumentation in a highly controversial context</p>	<p>Problematizing previous settlements and reinterpreting indigenous rights</p>	<p><b>The Crees focused on the lack of respect and efficient implementation of the first settlement:</b> “Signed an agreement in 1975 that promised participation, community development and protection of their traditional way of life. The Great Whale fight was in large part a reaction to the lack of the promised participation and the problems in community development” (Taken from Brian Craik, Director of federal relations of the GCCQ, Craik, 2004: 184).</p> <p><b>The Crees problematized JBNQA on the basis of worldwide standards:</b> “Because a group has signed a treaty in the past saying that they have given up, extinguished or surrendered Rights, this easily fitted into the legal strategy which has been continuously followed. The real question is whether they can legitimately do what they feel they legally have accomplished.” (Speaking notes of Grand Chief Matthew Coon Come, Cree Nation Presentation at the Royal Commission on Aboriginal Affairs, May 28, 1993: Royal Commission on Aboriginal Affairs, 1993: 39)</p>
	<p>Resonance with self-determination, environmentalism, and sustainability</p>	<p><b>The Crees relied on the prevailing values of indigenous peoples’ self-determination:</b> “And I don’t know what would happen should Quebec secede from Canada. How Quebec will treat its First Nations here in Quebec. So, in order to protect ourselves, we also got to be able to be out there in the international community. To be able to make sure that we highlight what is being done now. Because we will need that support” (Cree Grand Chief Matthew Coon Come during a meeting with Cree leaders in 1992, Power documentary, 1996)</p> <p><b>Environmentalism and sustainability were prevalent themes towards the end of the 1980s:</b> “It is certainly no coincidence that the Crees have defended their interests with an environment-based approach given the context ... we had just finished the Brundtland Commission [1987] and the Earth Summit [1992] where indigenous peoples had played a very active role.” (Interview with historian and Hydro-Quebec expert, 2012)</p> <p><b>The Crees connected their argumentation to broader environmentalism values:</b> “Agenda 21 [action plan of the United Nations in regard to sustainable development] is important for indigenous peoples because for the first time, the international community has begun to provide recommendations and forums in which the problems faced by indigenous peoples around the world may be made public. It is important for the debate to transcend national boundaries.” (Cree conference at the United Nations, on the topic of environment and development, Grand Council of the Crees, 1994: 6)</p>
<p>Building momentum by leveraging a more central position in the networks</p>	<p>Initiating a worldwide media campaign</p>	<p><b>Crees connected their cause with Earth Day for media attention:</b> “Snowballing media coverage of the voyage culminated on Earth Day, 1992, when Grand Chief Matthew Coon Come addressed a crowd in Times Square. Introduced by the then-mayor of New York City, David Dinkins, Coon Come presented the message of Cree opposition to James Bay II, not only to the 10,000 in attendance, but also to a much larger audience watching the evening news.” (Taken from Niezen, 2009: 86, quoting The Financial Post Magazine, 'The Vision of Matthew', by John Greenwod, April, 1995, p. 58)</p>



		<p><b>Crees sought support from international actors:</b> “Big-name entertainers, including rock star James Taylor, have held benefit concerts; Robert Kennedy Jr. has visited the Great Whale site and is providing legal advice for the Crees; Indians from the rain forests of Brazil and environmentalists from elsewhere around the world have traveled to Canada to champion the Crees’ cause.” (The Washington Post, ‘Québec, Indian Wage Public Relations War’, November 28, 1991: Claiborne, 1991)</p> <p><b>The Crees found support with new stakeholders:</b> “We understand that you are stopping here to deliver a message which I think that many of us here in the legislature are ready to receive ... We will introduce a legislation that would say very simply: unless a certifiable environmental impact statement is done, New York will buy no more hydropower.” (Bill Hoyt, New York State Assemblyman, during a public meeting in 1992, Power documentary, 1996)</p>
	<p>Increasing the pressure by legal actions and reinforcing political engagement</p>	<p><b>The Crees launched a series of lawsuits to stop the Great Whale:</b> “As of mid-August, the Cree were pursuing major litigation files against the proposed Whale project, including two in the Federal Court of Canada, two in Québec Superior Court, and one each with the National Energy Board and the Access to Information Commission. In one of these cases begun in May 1989 in the Federal Court of Canada, the Cree are seeking an injunction to stop the project.” (Mugerauer &amp; Manzo, 2008: 322)</p> <p><b>Hydro-Quebec and the Quebec government were surprised by the scope of the Crees’ political activities:</b> “Frankly, none of us believed they could go as far as they did,” said one Québec official involved in Great Whale [...] officials of Hydro-Québec and the Québec government said they were just as surprised at the intensity of public interest that grew over the power project.” (The Washington Post, ‘Québec, Indian Wage Public Relations War’, November 28, 1991: Claiborne, 1991)</p> <p><b>The Crees were very active in the United Nations:</b> “The present analysis is an elaborate update to an earlier Submission made in February 1992 by the Grand Council of the Crees to the United Nations Commission on Human Rights in Geneva... this submission served to inform the international community of political developments in Québec.” (Grand Council of the Crees, 1995: 1)</p>
<p>Seizing negotiation opportunities</p>	<p>Moving quickly to capture the negotiation opportunity</p>	<p><b>The Crees seized the negotiation opportunity immediately:</b> “Cree leaders took the opportunity to negotiate and sign the 1995 agreement without much hesitation [because] Cree communities were suffering a lot in that period. Funds were regularly delayed and frozen and the social, health and infrastructural conditions of the communities were dire... Cree lives were at stake.” (Interview with Cree official #1, 2015)</p> <p><b>The negotiations leading to the settlement were not delayed by the Crees:</b> “My memory was that the MOU had not really been delayed by anyone. The actors concerned – the Quebec government and the Crees – quickly concluded this agreement for the benefit of the parties. We saw it as a great opportunity to renew our relations in a very difficult and hostile context.” (Interview with official, Quebec’s Ministry of Energy and Natural Resources, 2012)</p>

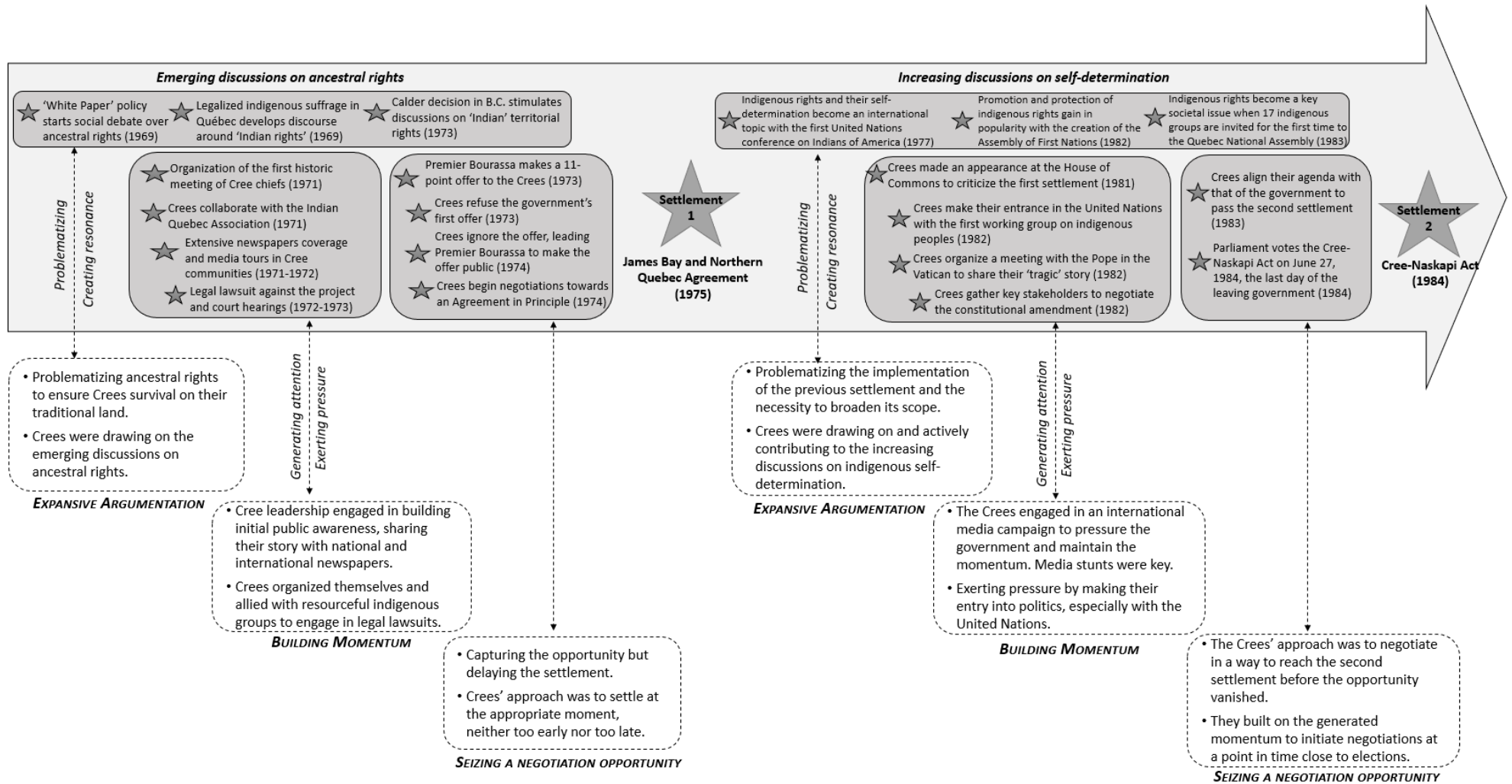
**Table 7: Legitimation Processes and Activities Leading to Settlement #4**

Process	Key aspects	Examples from the empirical material
<p>Expansive argumentation in a more favorable context</p>	<p>Problematizing by focusing on the necessity to extend indigenous rights</p>	<p><b>The third settlement once again raised the question of respect for indigenous rights:</b> “The recent Memorandum of Understanding signed with the Quebec government has seen some unexpected responses to Cree requests... The request for reimbursement of Cree money met with a “well, too bad for you” attitude... This is not sitting well with some Chiefs who expected a much more favourable attitude from Quebec after the recent signing of the Memorandum of Understanding.” (Nicholls, 1995)</p> <p><b>Despite the third settlement, the Crees kept emphasizing that their rights are continually being violated:</b> “The reason my people have mandated me to travel the world and assert our aspirations is more than 500 years old and should no longer be news at all. The reason we are doing these things is that the First Peoples of this continent have been shoved aside for far too long ... The attempted dispossession of my people, and the purported extinguishment of our rights, is the cause.” (Coon Come, 1995: 6-7)</p> <p><b>Cree leadership maintaining strong opinions on the way indigenous rights are dealt with by the government:</b> “The debate is about competing rights: The rights of the Aboriginal peoples to continue to live where we have lived for thousands of years, and the rights of a post-colonial population, defeated in war by another colonial power, to occupy our Territory and force us once again to be subjugated to a new master.” (Cree Grand Chief Matthew Coon Come, Speech at the Canada Unity Forum in January, 1997, Montréal, Matthew Coon Come, 1997: 3)</p>
	<p>Resonance with self-determination, environmentalism, and economic considerations</p>	<p><b>Self-determination was a key discourse that the Crees’ arguments were based on:</b> “Canada, happily, is concerned with its international reputation. The Commission’s Report [<i>the Royal Commission on Aboriginal Peoples</i>] can now be stacked on top of the last five Annual Reports of the Canadian Human Rights Commission, the Manitoba Justice Inquiry, the Marshall Inquiry, the Reports of the Cree-Naskapi Commission ... which call upon Canada to respect its solemn undertakings, to eliminate discrimination against aboriginal peoples” (Speech by Ted Moses, Cree Ambassador to the United Nations, Moses, 1997: 6).</p> <p><b>The Crees’ arguments were linked with sustainable development and environmentalism:</b> “One must position Cree activities within a broader societal context of sustainable development and environmentalism here in Canada but also across the globe ...it was a time when international institutions were prioritizing these issues and when states as well as private businesses were adopting sustainable and environmental policies, including Hydro-Quebec. Let’s say it was the trend.” (Interview with historian and Hydro-Quebec expert, 2012)</p> <p><b>Economic independence became an increasingly important discussion in the 1990s:</b> “Possibly the single most important finding of the Royal Commission [on Aboriginal Peoples, 1996] is that Aboriginal peoples are confused on a fraction of the lands that would be required for even a small measure of economic self-sufficiency. The Commission recommended that there must be a</p>

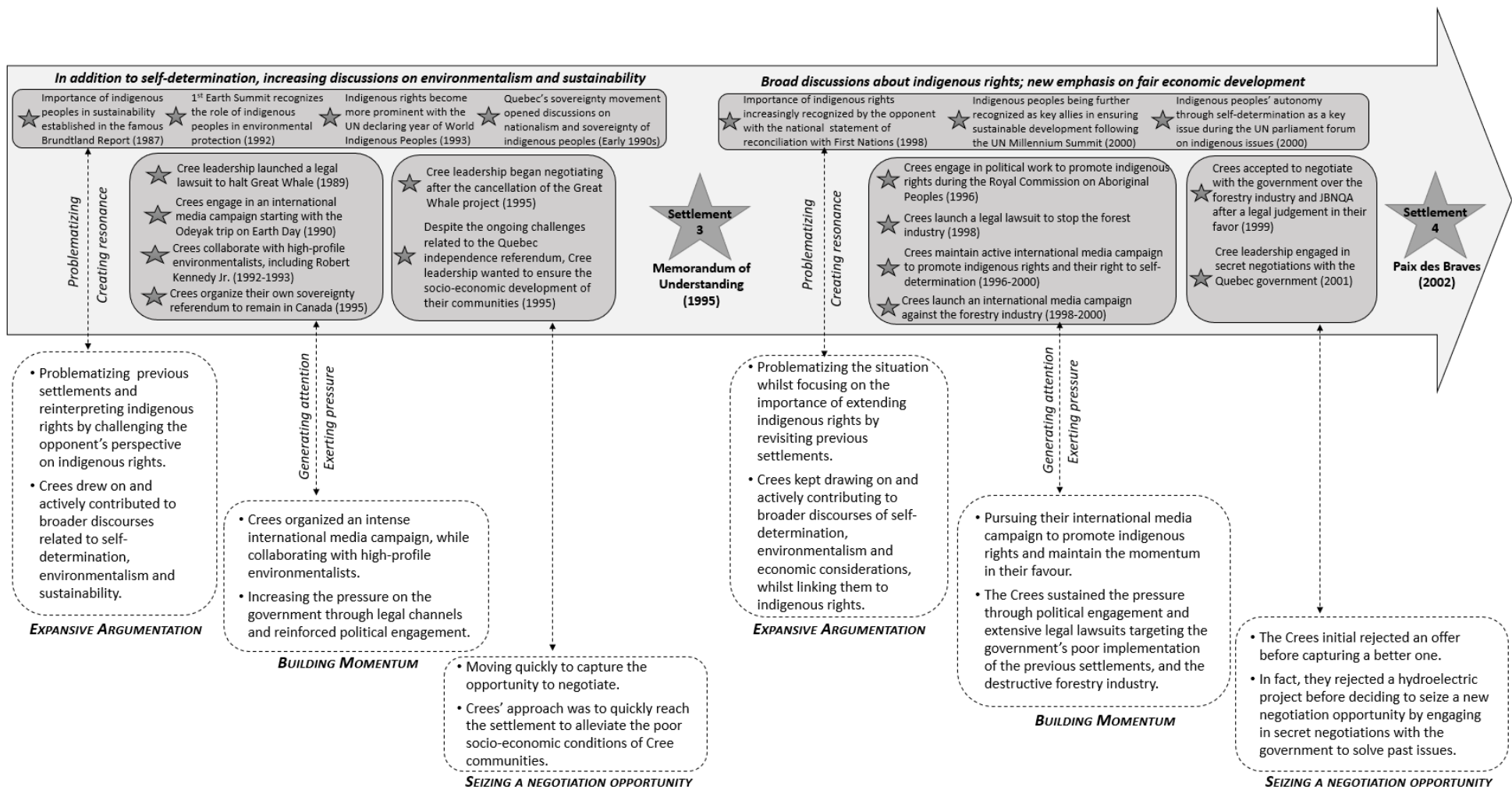
		meaningful redistribution of lands and resources in favor of Aboriginal peoples in this country.” (Coon-Come, 2004: 162)
Building momentum from a stronger position in the networks	Continuation of the media campaigns to rally support	<p><b>With high-profile figures (e.g. Robert Kennedy Jr.) a documentary and its coverage by the media received international attention:</b> “‘Power’ is not the first and probably not the last, version of the James Bay Cree story to be told. But it may be the best told thus far ... The film plays like it sprang from an inspired Hollywood screenwriter’s imagination. There is the fallible hero and his ever-faithful sidekick, the villains, the supporting cast, the bit players, the twist in the plot and the happy ending. In its essence it is the Cowboys and Indians story with a subplot of the growing pains of a Nation.” (Diamond, 1996)</p> <p><b>The Crees engaged in highly publicized initiative, The Northern Virgin Forest Coalition, to defend their forests called:</b> “The Grand Council of the Crees are part of the coalition along with The Assembly of Quebec Evelles, the Federation of Quebec Wood Producers, The Federation of Paperworkers and Forest Workers, The Network of Quebec Environmental Groups, The Canadian Energy and Paper Communications Union, the Quebec Public Service Union, The Union of Quebec Government Professionals and The Quebec Union for the Conservation of Nature, representing over 200,000 Quebecers.” (Parts of the quote were translated by the authors, Nicholls, 1999a)</p> <p><b>The Crees maintained their media presence internationally to rally support for their struggles:</b> “You will not be surprised to hear that after the cancellation of the Great Whale project, the media machine created by the Crees could no longer stop. It was in my opinion too big to stop suddenly. The Crees were present in the media, and especially internationally, to share their human rights and environmental struggles ... The Great Whale project gave them a great platform.” (Interview with former employee, Cree Regional Authority, 2012)</p>
	Exerting pressure via extensive lawsuits and political work	<p><b>The Crees launched a series of lawsuits to stop forestry activities in their territory:</b> “In 1998, they [Crees] filed a lawsuit in the Quebec Superior Court against the federal and Quebec governments and twenty-seven forest companies for many millions of dollars in compensation. They also sought legal injunctions against all forest operations in their territories because these did not meet the requirements of the James Bay and Northern Quebec Agreement.” (Francis, 2016: 73)</p> <p><b>The Crees pressured the government alongside their lawsuits:</b> “This letter [<i>in which the government threatened to cut funding because of ongoing lawsuits</i>] could have a very significant impact on Cree-Quebec relations [...] at the outset, we must express our disappointment, although not our surprise, in regard to some of the positions in Minister Chevrette's letter, which are obviously unacceptable to the Cree Nation.” (Reply from Grand Chief Matthew Coon Come to the Minister delegated to Aboriginal Affairs, February 10, 1999: Matthew Coon Come, 1999)</p>
Seizing negotiation opportunities	Rejecting an offer before capturing a better one	<b>Crees set their conditions and thus refused to seize first negotiation opportunities:</b> “I would say that between 1997 and 2000, we had several opportunities to sign an agreement with the government, especially when we were asked if we agreed to a new major hydro project. But our Grand Chief, Ted Moses, made it clear that no agreement about any project will be signed until the government has respected and resolved all the issues of the past.” (Interview with Cree official #1, 2016)

		<p><b>Crees had an opportunity to refuse the negotiation opportunity but decided to embrace it:</b> “We had an opportunity. Waskaganish Band Council had an opportunity to stop the River diversion. But they did not say no. They had an opportunity to say no, right in the beginning when they saw the Agreement-in-Principle and they did not say no.” (Billy Diamond, former Grand Chief of the Crees, documentary 'Our Way, Our Future': Grand Council of the Crees, 2012a)</p> <p><b>Cree leadership seizing a window of opportunity for negotiations by engaging in negotiations leading to the Paix des Braves:</b> “We have fought a long time to have the Cree people recognized and respected. But there comes a time when we must recognize that we have met the objectives that will lead us toward peace and common goals.” (Statement by Ted Moses, Grand Chief, following the Agreement in Principle, Dufour, 2001: A2)</p>
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**Figure 1: Key Events, Processes and Activities in Progressive Legitimation Across the Four Settlements**



Two-pages figure



**Figure 2: A Process Model of Progressive Legitimation in a Trajectory of Settlements**

