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### Cash Back: A Yellowhead Institute Red Paper

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# Cash Back

A Yellowhead Institute Red Paper

**MAY 2021**







“...the more we live as Indigenous People, the more that we have, the more freedom that we have, the more we can envision the hope and the realization of our liberation as Indigenous People. And that is what is such a threat to the state, that is what is such a threat to the economy.”

MOLLY WICKHAM (SLEYDO'): CAS-YIKH (GRIZZLY) HOUSE  
GIDIMT'EN CLAN OF THE WET'SUWET'EN NATION  
RANSOM ECONOMY WEBINAR



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**Cash Back**  
is about restitution  
from the perspective  
of stolen wealth.





## INTRODUCTION

**THIS REPORT** is about the value of Indigenous lands.

Picking up from *Land Back*, the first Red Paper by Yellowhead about the project of land reclamation, *Cash Back* looks at how the dispossession of Indigenous lands created a dependency on the state due to the loss of economic livelihood. *Cash Back* is about restitution from the perspective of stolen wealth.

From Canada's perspective, the value of Indigenous lands rests on what can be extracted and commodified. The economy has been built on the transformation of Indigenous lands and waterways into corporate profit and national power. In place of their riches in territory, Canada set up for First Nations a weak, impoverished fiscal system — a cradle-to-grave bureaucracy — to control life through a stranglehold on each and every need.

What is at stake here in *Cash Back* is the restitution of Indigenous economies. Canada's dysfunctional fiscal system for First Nations is not an Indigenous economy.

An Indigenous economy would be built upon the jurisdiction of Indigenous nations over our territories, not the 0.2 percent economies of reserves and the federal transfer system.<sup>1</sup> Therefore, this report is explicitly about reparations and not about adjustments to the status quo. *Cash Back* is not a charity project; it is part of a decolonization process.

Colonization is an economic project based on land theft. It requires a political system that operates through domination and violence to maintain this theft. Therefore, that which enriches the settler state necessarily impoverishes and criminalizes the colonized.<sup>2</sup>

But wealth is not exclusive to this economic system — a form of accumulation based in hoarding and exploitation. There are many other ways a society can thrive, depending on the knowledge through which we come to know the world. As the Secwepemc leader George Manuel describes in *The Fourth World*:

**Our economy carried on because it was being held together by a substance much stronger than the simple list of raw materials with which we worked.**

**The roots and berries, fish and meat, bark and moss, are a list of ingredients that cannot by themselves make a whole cloth.**

**There is only organizing when those raw materials are brought together on the loom of social values toward which people choose to work.<sup>3</sup>**

It is the underpinning value system that provides (or denies) the conditions for well-being, in other words.

In Canada, the economy can't be understood outside of the problem of land. This report is focused on cash and the different roles it has played in this colonial country. It is the companion-analysis to *Land Back* and perhaps, a less told story, though every bit as critical. In many ways, money has become the language of colonization itself.



## MYTHOLOGIES

This report will not focus on poverty statistics in First Nation reserves and in cities. These figures are well known and tell us almost nothing. In fact, they can hide more than they reveal because they point to huge differences between First Nation and Canadian standards of living without offering any explanation for these gaps.

Many Canadians jump to the conclusion that these gaps confirm or imply an inability of Indigenous people to succeed financially in society. The data is used to point to the “failure” of First Nations to self-govern with the limited powers they currently have. “Can they really handle more?” the pundits ask.

These insinuations are ironically uttered alongside another stereotype: that First Nations are getting rich unfairly from their special rights, or from “taxpayer” money and unearned “handouts” at the expense of Canadians. This caricature is well-represented in the comment section of news stories, where angry Canadians seek to dispute evidence of discrimination by claiming First Nations possess all kinds of unjust advantages, like free education and housing.

Neither stereotype has any basis in fact or history. The irony of the “lazy” or backward Indian stereotypes is that *despite* efforts by “First Nations” to participate in the settler economy, every possible legal, legislative, policy, and military strategy has been deployed to make sure First Nations could not compete with white people for money. To this day, Indigenous peoples do not have the full authority to regulate their own economies; therefore, they haven’t “failed” to succeed financially, since they’ve rarely exercised actual control. As we will see, there is nothing “free” for First Nations under colonial rule: the costs are catastrophic and the “special rights” severely discounted.

Instead, First Nations are caught between a rock and a hard place. Assimilation has long been the goalpost of Canadian policy, but it moves constantly depending on the danger to state sovereignty. When First Nations demand access to the Canadian economy — e.g. seeking to remove barriers erected in the *Indian Act*

— they are granted piecemeal progress, so long as the balance of power remains intact. But when they refuse to grant access to corporations and governments to their territories — in order to protect their own economies — First Nations are no longer wanted in the franchise. They are perceived as threats that must be contained and constrained.

Thus, First Nation poverty is a choice Canada has made. That’s why racism is so fundamental to this country: the cultural hierarchies that underpin racist stereotypes act as cover for the treatment of First Nations by governments, like systemic impoverishment. In this report, we will show the way dispossession, debt, and discrimination has been constructed, created, and justified over the past 150 years.

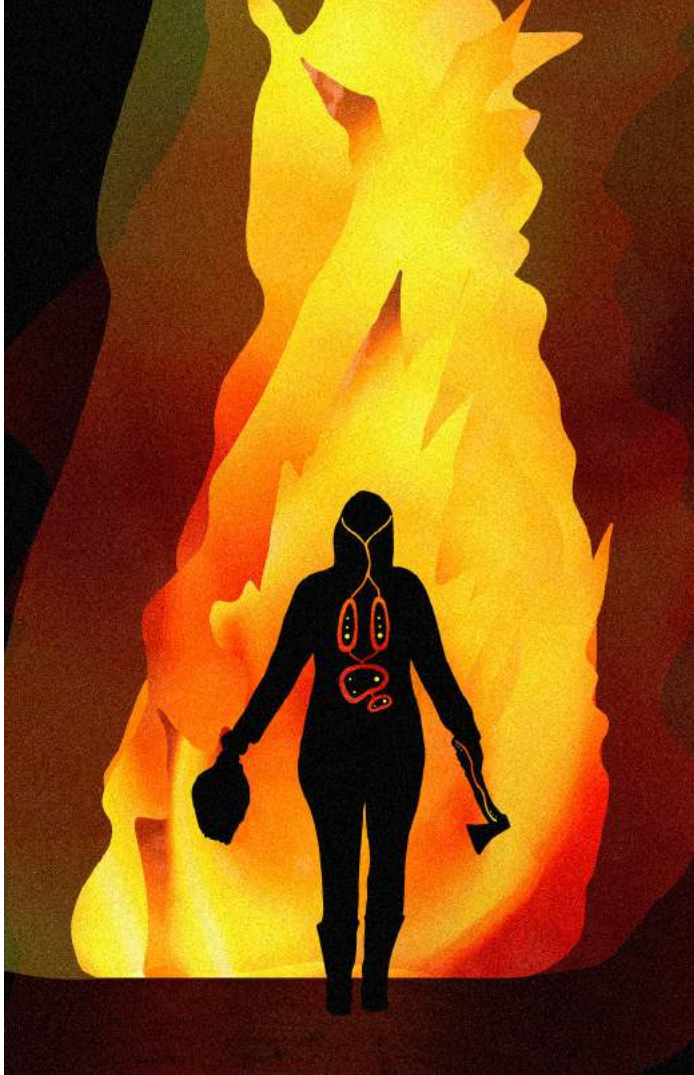
Hard work is not what made Canadians richer than First Nations. Pioneers were batting from third base and yet, celebrated like they got home runs. The difference was that their labour was paid off in free land stolen from Indigenous peoples. First Nations were left stranded on a vast archipelago of reserves and settlements, denied access to their wealth in territory.

## INDIGENOUS ECONOMIES

It is important that we do not talk about a single “economy” in this country. Because the “Canadian economy” is not the same thing as the many other types of economies that organize Indigenous lives.

In English, *economy* is the wealth and resources of a region. But *economics* has a deeper meaning. It is a word that originally comes from the ancient Greek combining *home* and *accounts*, which is not so different from Indigenous conceptions. Indigenous economies are grounded in the social, political, and ecological relationships to which they are held *accountable*. An Indigenous economy, as Stó:lō economist Dara Kelly and scholar Christine Woods describe, is one that protects the well-being of the people, the culture, and its worldviews. Ethical Indigenous economies must not be subsumed to Canadian economic well-being.<sup>4</sup>





In contrast to the ethics of Indigenous economies, Anishinaabe economist Winona LaDuke and geographer Deborah Cowen understand the Canadian economy to be a key contributor to a major ecological crisis. It is a crisis that is, as they write, “a direct result of an economic system predicated upon accumulation and dispossession, that denigrates the sacred in all of us.”<sup>5</sup>

It is what LaDuke calls the *Wiindigo economy*, the Cannibal or Wasichu figure in Anishinaabe legend that destroys itself through addictive indulgence in its craven desires. Wiindigo infrastructure consumes the earth it needs to survive through pipelines, industrial sprawl, and chemical contaminations of all kinds.

CUT OFF THE HEAD, BURN THE BODY  
BY ELIZABETH LAPENSÉE, 2018

As LaDuke writes, Anishinaabe economies are based on *minobimaatisiwin* — intimate knowledge of place — and on the principle of *minobimaatisiwin*: a good life, characterized by “continuous rebirth.”<sup>6</sup> Therefore, building up Indigenous economies will require the replacement of *colonial infrastructures of death* with *Indigenous infrastructures of life*. As LaDuke and Cowen write:

**We suggest that effective initiatives for justice, decolonization, and planetary survival must center infrastructure in their efforts, and we highlight alimentary infrastructure—infrastructure that is life-giving in its design, finance, and effects.<sup>7</sup>**

Transforming infrastructures could mean water pipelines instead of oil. But it also means challenging the regulatory frameworks that make sustainable economies impossible.

Nehiyaw (Cree) scholar Shalene Jobin theorizes that colonial domination in settler society has a two-pronged approach: (1) bureaucratic control and (2) economic exploitation, like resource extraction and development programs. Indigenous communities are often forced into difficult decisions of needing to enter economically exploitative domains in order to exit bureaucratic control through the *Indian Act*. These decisions have serious consequences.

Referring to the findings of a report on extraction in Métis settlements, Jobin writes, “extractive capitalism alters the ability of Indigenous people to live with the land in *miyo wiche-towin* (good relationships) or be able to have *miyo pimatsowin* (a good or healthy life / livelihood), through hunting, fishing, or harvesting.”<sup>8</sup> But she is hopeful these extractive practices can be replaced with Indigenous economies, despite the pressures.

The multiplicity of Indigenous economies is not a future prospect: it is already here. It is in the community-regulated fisheries and the dismantled dams that usher home fish kin.

They exist in community freezers of wild meat, at feasts that fill bellies and hearts with connection and care. They can be seen in the governance protocols of sugar bush camps and salmon harvests. They live in lipstick lines, airlines, and moccasin-making micro-enterprises. They are the multi-billion-dollar rental housing developments, tobacco trade, and lumber shops. They are in defund police movements, harm reduction initiatives, friendship centre childcares.

At their core, what makes them Indigenous economies is that they do not exploit that which they depend upon to live, including people. And they protect a world that is not prepared to value people's time, homelands, and harvests solely in cash.

Yellowknives Dene scholar Glen Coulthard invites us to think about how radical sustainability, self-sufficiency, and sustainable production of core foods and life materials could challenge the destructive impacts of capitalism, as well. He writes that this kind of Indigenous economy is not one that is stuck in the past, but that "through the application of Indigenous governance principles to non-traditional economic activities," Indigenous economies could thrive.<sup>9</sup>

To this point, the governance systems through which Indigenous economies are organized and take meaning are as multiple as the Indigenous communities that exist across these lands. They are adaptive, modern institutions of value and wealth ordered around care, reciprocity, and other cultural norms. One shared principle, though, is that human beings are not the only decision makers in the ecological system.

For example, the Potlatch systems along the Salish coast and interior demonstrate the futility of separating the political, economic, spiritual, and legal forms of governance in Indigenous communities into distinct strands. For the Gitskan and Wet'suwet'ten, House leaders play a critical role to ensure respectful relations with the animal and fish nations. As hereditary chiefs Gisday Wa and Delgam Uukw explain:

**"By ensuring that the salmons are not wasted, the Chief maintains his House's relationship with the salmon to ensure their annual return to provide for the needs of the House members."<sup>10</sup>**

Acting as a doorway between the spirit, animal, and human worlds, the Chief regulates the economy by maintaining these relationships and correcting harms



that may come to them. This is as true for subsistence economies as it is to commercial fisheries.

## INDIGENOUS ECONOMIES IN CANADIAN LAW

Under Canadian law, Indigenous economies look very different to settlers than to First Nations. There seems to be a great deal of confusion in the courts about Indigenous peoples' capacity and inherent right to govern their resources. And unfortunately, this is where many First Nations end up when they protect their livelihoods.

Starting with the salmon cases in the 1990s, the Supreme Court of Canada was left to decide how to interpret the Aboriginal and treaty rights enshrined in the new Constitution under Section 35. The Sparrow and Van der Peet decisions laid down a series of tests for when and how Indigenous peoples could exercise their rights to live off their ancestral lands and waters. Sparrow established these rights and Van der Peet created the tests to prove them.

But Anishinaabe legal scholar John Borrows calls the Supreme Court's understanding of Indigenous rights in these cases a "frozen rights" approach because Indigenous culture is not permitted to be adaptive and dynamic<sup>11</sup>. The Supreme Court Justices construct Indigenous economies as essentially survivalist and inauthentic should a practice evolve beyond pre-contact forms.

The Heiltsuk were moderately successful in pushing back against this salvage ethnography. In *R. v. Gladstone* (1996), the Supreme Court found that harvesting herring roe was "integral and distinctive" to Heiltsuk culture, therefore passing the Van Der Peet test for establishing an Aboriginal right. But the issue of whether the government could justifiably infringe (essentially, violate) such a right was sent back to trial. Here, the Supreme Court makes a distinction between the right to fish for food, social and ceremonial purposes — which has an "inherent limit" to the practice, based on need — and the right to fish for commercial purposes — which, seemingly, to the Supreme Court, has no inherent limits.

What this case shows so clearly is that the unique nature of the Heiltsuk's herring spawn-on-kelp fishery was never considered in the Court's understanding of their right to an economic livelihood. While commercial herring fisheries licensed and authorized by the Department of Fisheries have devastated herring stocks through wholesale trawling, the Heiltsuk fishing economy was already regulated internally by Heiltsuk law and culture.<sup>12</sup> Likewise, in a case heard across the country a few years later — in the context of a pre-Confederation treaty in Mi'kmaq territory — *Marshall 1 and 2* (1999) at first recognized Mi'kmaq commercial fishing rights, then almost immediately emphasized that these rights must be regulated by the Crown<sup>13</sup> — the same entity that led to the collapse of the fisheries!

In both cases, the Crown failed to regulate the fisheries properly. When the Mi'kmaq grew tired of waiting and asserted their rights immediately following the decision — and more recently in 2020 at Saulnierville Wharf by the Sipekne'katik First Nation — Mi'kmaq fishers had their boats attacked and their vans and pounds burned down. They were also physically attacked and swarmed and threatened by non-Indigenous fishers. Indigenous economies were once again treated as a danger to society — a tone set by the courts.

In *Marshall, Gladstone*, and also in the 1997 *Delgamuukw* decision, the Supreme Court reserved conditions for governments to infringe on Aboriginal rights by explicitly weighing Indigenous economic rights versus settler economic rights — permitting infringement of Aboriginal rights for:

**the development of agriculture, forestry, mining, and hydroelectric power, the general economic development of the interior of British Columbia, protection of the environment or endangered species, the building of infrastructure and the settlement of foreign populations to support those aims.**<sup>14</sup>

But why not encourage First Nation financial independence? Inupiat/Inuvialuit legal theorist Gordon Christie concludes that while the courts have granted rights to hunt and fish, they "have traditionally been reluctant to extend the validity of Aboriginal claims to cover rights to resources in the pursuit of commercial

ends” because of a real fear of interfering with non-Indigenous access to land and rights.<sup>15</sup>



Learn more about **Indigenous Fishing Rights** in this flowchart.

## POLICIES OF POVERTY

This fear of competition is entrenched in Canadian policy, too. The criminalization of the Mohawk tobacco trade is a case study for how Indigenous self-government policies exclude commercial rights to protect settler rights. In 2014, Bill C-10 was passed to amend the Criminal Code, introducing harsher penalties for “trafficking in contraband tobacco,” and explicitly mentions First Nations’ trade in order to beef up enforcement powers against them.

This criminalization is one side of the tale of two First Nations’ economies. Bands located in oil-rich regions of the country are heartily encouraged to participate *more* in the market economy through resource extraction and investment.<sup>16</sup> Meanwhile, the *independent* Mohawk tobacco industry is treated as a threat to the Canadian economy and criminalized.

Both economies are expressions of Indigenous sovereignty, but one is criminalized because it threatens the authority of the state to regulate and control the economy and undermines industry.”

As Tsimshian (Kitsumkalum/Kitselas) and Nuuchah-nulth (Ahousaht) scholar Clifford Atleo writes, Indigenous communities are placed between a rock and a hard place, since they must increasingly depend on the mainstream economy for survival:

“How different Indigenous nations navigate settler colonialism varies from place to place, despite many similarities in our collective treatment by federal, provincial, and territorial governments. If some continuity exists within and across Indigenous nations, it is that they have almost always attempted to act in ways that would preserve and perpetuate their political and economic autonomy. How this is manifested looks different depending on the nation, treaties (or their

absence), and options and strategies for survival and resilience. There is no template.”<sup>17</sup>

Therefore, the frameworks for “economic development” for First Nations in Canada must be critically examined and reviewed. Without the powers of economic regulation, without the expansion of jurisdiction off-reserve, without the recognition of Indigenous governance and law, economic development can be just colonization by another name.

In our first Yellowhead special report, *Canada’s Emerging Indigenous Rights Framework: A Critical Analysis*, we identify the status quo trend of Canadian policy for First Nations that has been embraced by the Trudeau government. We argue that Trudeau’s agenda does not support Indigenous self-determination, but rather “guides First Nations towards a narrow model of ‘self-government’ outside of the *Indian Act*.”<sup>18</sup> This track towards assimilation can be seen, for example, in fiscal policy. As we write, this “new relationship” proposed between First Nations and the Crown:

**... does not restructure the existing fiscal relationship to develop a strong economic base for First Nations. Within the new process, lands, territories, and resources outside the reserve are delinked from fiscal relations, except for any own-source-revenue (OSR) from resource extraction on traditional territories. This approach is premised on training First Nations to integrate into the market economy and further erodes federal fiduciary responsibility to First Nations.**

This Red Paper tackles the truth behind this fiscal policy, media headlines, and representations of Indigenous economies. *Cash Back* is not only about restitution but it is also about setting the record straight on the illegal and immoral transfer of wealth in this country as well as the subterfuge that both hides and perpetuates this reality.



Check out our **Glossary** for clear definitions of the terms used throughout *Cash Back*.



Visit [cashback.yellowheadinstitute.org](https://cashback.yellowheadinstitute.org)  
for an interactive Cash Back experience.

The Cash Back site includes special features in a variety of formats including accessible comics, factsheets and videos on topics related to Cash Back.





## EXECUTIVE SUMMARY

AT THE END OF 2019, the Yellowhead Institute began the process of developing our second Red Paper on the topic of “Cash Back.” We welcomed over 20 Indigenous leaders and thinkers, as well as allies, for a two-day workshop on the sources of poverty in Indigenous communities. We also imagined models for new financial relationships and discussed the basis of Indigenous economies. The workshop focused on First Nation-Crown financial relations for the most part, but more deeply on systemic problems with funding issues stemming from loss of jurisdiction and colonization, including the incredible power this gave the federal government to control First Nation communities.

Linking to Yellowhead’s inaugural Red Paper from 2019, *Land Back*, we asked how dispossession became a “fiscal” problem. One year later, we met again, joined by Yellowhead’s Board of Advisors, to review a draft of the report. We were encouraged to push it further: provide better sightlines to Indigenous economies and wealth — from past to present to future — and clearly mark the barriers to overcome.

**The outcome of these workshops shaped the research direction and elements of the report, which has been divided into three key sections:**

### **PART ONE**

How Canada Got its Economy:  
A History of Economic Dispossession

### **PART TWO**

Colonialism as Fiscal Policy:  
Following the Money

### **PART THREE**

How to Get that Cash Back:  
Redress, Compensation, and Restitution

## **PART ONE**

### **How Canada Got Its Economy: A History of Economic Dispossession**

Canada formed from the cooling lava of European competition for land and resources. The Europeans “explored” the world and planted their flags according to a law they claimed was universal — the doctrine of discovery. This doctrine was based on the Pope’s claim to rule the earth under the kingdom of Christianity. It is a racist dogma/belief related to the concept of terra nullius, or “no one’s land,” that depicted Indigenous occupation as savage, uncivilized, and lacking a sense of territory and system of governance. European nations, like the British, and successor states like Canada each developed their own versions of the doctrine as it suited them to wield against the authority of Indigenous nations.

This was how Rupert’s Land came to be claimed by the Hudson’s Bay Company (HBC): the King of England granted a royal charter to the company in 1670 and at least a third of what would become “Canada” was suddenly owned by English shareholders. But this ownership was as real as a sandcastle. These were the lands of the Inuit, Oji-Cree, Cree, Anishinaabe, Innu, Inuit, Métis, Gwich’in, and others. They were never settled or subject to treaty when Canada bought Rupert’s Land in 1869. It was a swindle of epic proportions.

In Part One, we examine new legislation introduced in the wake of this sale to expropriate Indigenous lands for colonization companies, railroads, and settlement. We also show how the *Indian Act* and treaty negotiations worked in brutal counterpoint to subjugate, criminalize, and pacify Indigenous resistance to this theft.

We shine a light on how money flowed from First Nations to the Crown coffers in the form of the Indian Trust Fund, in a circuit that Nehiyaw researcher Robert Houle calls “reverse laundering” — instead of cleaning the funds through the Trust, it dirtied the cash through land sales and forcing First Nations to pay their own treaty annuities. We explore: where are these funds today and what have they been used for?



# What we have tried to show here is a glimpse of how Canada got its economy through theft, how colonialism has been reframed as fiscal policy, and how Indigenous livelihoods can be protected and thrive even in the face of state deprivations and violence.

Canada was *capitalized* by a land grab that transformed the economy. By *capitalized*, we mean that Canada did not own the lands and resources that it sold and continues to lease, license, and permit away. But it uses the claim to hold the underlying title to the country to fill its coffers.

We argue that the original model for colonization in Canada is repeated across the country on a daily basis. The HBC was a gift from the King to a group of investors to secure land for England. How is that so different from the permits, approvals, and massive subsidies granted to TC Energy's Coastal Gaslink (CGL) pipeline that asserts provincial authority on unceded Indigenous (Wet'suwet'en) lands?

We conclude this section by looking at how Indigenous economies were badly affected by rapid industrialization and development, while systemic barriers arose to impede Indigenous participation in the Canadian economy.

## **PART TWO**

### **Colonialism as Fiscal Policy: Following the Money**

In Part Two, we cover examples for how Canada became "self-supporting" as a settler colony through the theft of Indigenous lands, resources, and territories. But how does Canada maintain the theft? How does Canada manage it?

In Part Two of this report, we look at the ways that dispossession led to dependency — making the fiscal relationship between the Crown and First Nations a key lever of colonization through the power of money to control. This continual denial of inherent Indigenous jurisdiction results in most Bands in Canada having to rely almost exclusively on federal transfer payments to survive.

Since the Department refuses to release the reigns of financial control, a system of racial inequality has developed between Canadians and First Nations. Instead of addressing the trifecta of underlying issues — dispossession, insufficient funding, lack of First Nation control — Canada continues to double down on administrative solutions, tinkering with the funding policies and refusing to link these to political discussion of treaty obligations, reparations, and inherent rights. All of this is despite consistent and ongoing political organizing by First Nations who have always fought for self-determination over welfare policies.

Here, we look at four specific ways that Canada maintains colonization through the "fiscal relationship," i.e. you need to *follow the money* across these policies: 1. Welfare; 2. Devolution; 3. Austerity; 4. Finger Pointing. We spotlight education as a case study of Canada's failure to provide the necessities of life, thus creating deeper cycles of poverty and predatory conditions, particularly for women, girls, 2SLGBTQQIA, and non-binary people. Finally, we ask where to look for

recourse and what barriers must be brought down to make meaningful change.

## **PART THREE**

### **How to Get That Cash Back: Redress, Compensation, and Restitution**

In this section, we examine different forms of reparations to address the colonial fiscal relationship between Canada and First Nations. So much persists under the weight of the fiscal relationship. Historically, Indigenous economies have swum upstream against the tides of settler colonial capitalism. Where livelihoods have been damaged or destroyed, in every community, there are people who continue to do the hard work of restoration.

In *Land Back*, we set out to study the proliferation of present-day forms of dispossession and the reclamation efforts of communities to reverse them. Here, in *Cash Back*, we set out to examine the transformation of Indigenous wealth into a cradle-to-grave welfare system by Canada. Now we want to explore the multiple forms of redress, restitution, and compensation that Indigenous peoples are pursuing across the country to restore Indigenous economies.

Here, we focus on Indigenous economies of care that seek to restore what Anishinaabe scholar Eva Jewell refers to as “Indigenous relationality and stewardship principles.”<sup>19</sup> Through an engagement with thinkers and leaders on Indigenous economic restoration, we have developed three principles of *Cash Back* that we explore in Part Three:

**Redress** for suppression of Indigenous institutions that affirm Indigenous values and culture.

**Compensation** for land theft based on principles of Indigenous law and mechanisms of justice.

**Restitution** of Indigenous economies that challenge the exploitation of global capitalism.

In this section of *Cash Back*, we examine different forms of reparations to address the colonial fiscal relations between Canada and Indigenous peoples, taking into account the principles of redress, compensation, and restitution as discussed above.

These forms of reparations run the gamut of strategies: they involve direct infusions of cash, from the redistribution of a wealth tax to printing money, from the Spirit Bear Plan to treaty-based funding. They involve new forms of Indigenous economic rights, from Indigenous accounting to the economic leverage of Aboriginal title to human rights approaches like Jordan’s Principle. And they involve deep structural change, from an Indigenous-led transition to energy sustainability to police abolition and new oversight mechanisms controlled by Indigenous nations.

## **CONCLUSION**

We have only begun to scratch the surface in this report on the financial and economic aspects of colonization in Canada. We have not examined Canada’s imperialistic position in the world or covered in detail many regions throughout this country, and it would take many more years of research to represent the diversity of Indigenous economies across these lands.

What we have tried to show here, instead, is a glimpse of how Canada got its economy through theft, how colonialism has been reframed as fiscal policy, and how Indigenous livelihoods can be protected and thrive even in the face of state deprivations and violence.

In opposition to the “free handouts” stereotypes — the idea that somehow First Nations are pampered and privileged — is a much darker reality. In fact, First Nations face a *predatory* environment of interconnected forms of violence, as Pitawatakwat describes in Part Three, due to systemic impoverishment. First Nations have been denied even a fraction of what they have contributed to this nation’s wealth.

Restoring Indigenous economies will mean centring the perspectives of those most impacted by colonization and the attacks on Indigenous livelihoods. It will mean reclaiming the language for “sharing” in dozens of Indigenous tongues. It will mean recognizing that Indigenous inherent rights do not stop at the boundaries of the reserve. It will mean holding up the mirror to a beastly world of self-destruction, guiding it forward through the fire.







**PART ONE**

**How Canada  
Got Its Economy**

A History of Economic  
Dispossession



# The Canadian economy is based on a parasitic form of value. It cannot survive without stolen Indigenous wealth. But Canada refuses to acknowledge its basis in theft.

**INSTEAD, IT ATTACHES** itself to the lifeblood of earth, sucking like a mosquito, slapped down repeatedly by Indigenous hands but still relentless. It multiplies in fetid and contaminated waters, carrying the Wiindigo disease. The mosquito's life is not long. But its damage is real, and its whine is high-pitched and piercing.

This part of the report follows the famished mosquito's path from the imperial Hudson's Bay Company (HBC) to the Crown and corporate pipelines that burrow into the earth. Since we can't tell the whole story of Canada's voracious appetite for Indigenous wealth, we want to show some key examples of how wealth in Canada has accumulated (and who has benefited) as a result of colonization.

**Canada was *capitalized* by a land grab that transformed the economy. By *capitalized*, we mean that Canada did not own the lands and resources that it sold and continues to lease, license, and permit away. But it uses the claim to hold the underlying title to the land to fill its own coffers.**

The original model for colonization in Canada is repeated across the country on a daily basis. The Hudson's Bay Company (HBC) was a gift from the King to a group of investors to secure land for England.

How is that so different from the permits and approvals granted to TC Energy's Coastal Gaslink (CGL) pipeline that asserts provincial authority on unceded Indigenous (Wet'suwet'en) lands? Not quite a royal charter, yet tens of millions of dollars in subsidies from both levels of government (British Columbia and Canada) roll out the red carpet to the oil and gas industry. Like the HBC, CGL extends Crown sovereignty onto Indigenous territories — in this case through permits, Impact Benefit Agreements, injunctions, and right-of-ways, removing people from their homelands.

To understand this economic relationship, we have focused on a few key moments that demonstrate some broader patterns between colonization and Canada's current wealth. We show how Indigenous peoples have literally bankrolled Canada, from the past to the present, and some of the Crown tactics and state violence that made that happen.

We begin with Rupert's Land — HBC's "paper empire" — that, when sold, transferred around a third of the present-day country into Canadian hands. We examine the Crown-held Indian Trust Fund that accumulated billions and lost millions of Indigenous moneys through fraud, mismanagement, and settler need. We look at the great land theft legislation that allocated millions of acres of Indigenous lands to settlers and colonization companies while sequestering First Nations on reserves. Finally, we look at how these corporate handouts are the blueprint for colonization in Canada today.

## How did a company become Canada?

"Canada" was a British imperial corporation before it was a country. Over a third of the land within the country's present-day boundaries was claimed by the HBC, and when Canada bought this land in 1869, it established itself as one of the largest forgeries of the "New World." How did this happen?

Throughout the early to late 1600s, the English established settlements to the east of the Mississippi River and south of "New France" along the Atlantic seaboard. Their European rivals, the French, had set up forts from the Atlantic Ocean, east to the Great Lakes, and down from there to the Mississippi Basin and Ohio Valley. Jealous, the British sought to best them in their claims to territory and seize control of the lucrative fur trade. Seeking greater economic and strategic control of the continent, they locked their attention on its northern regions.

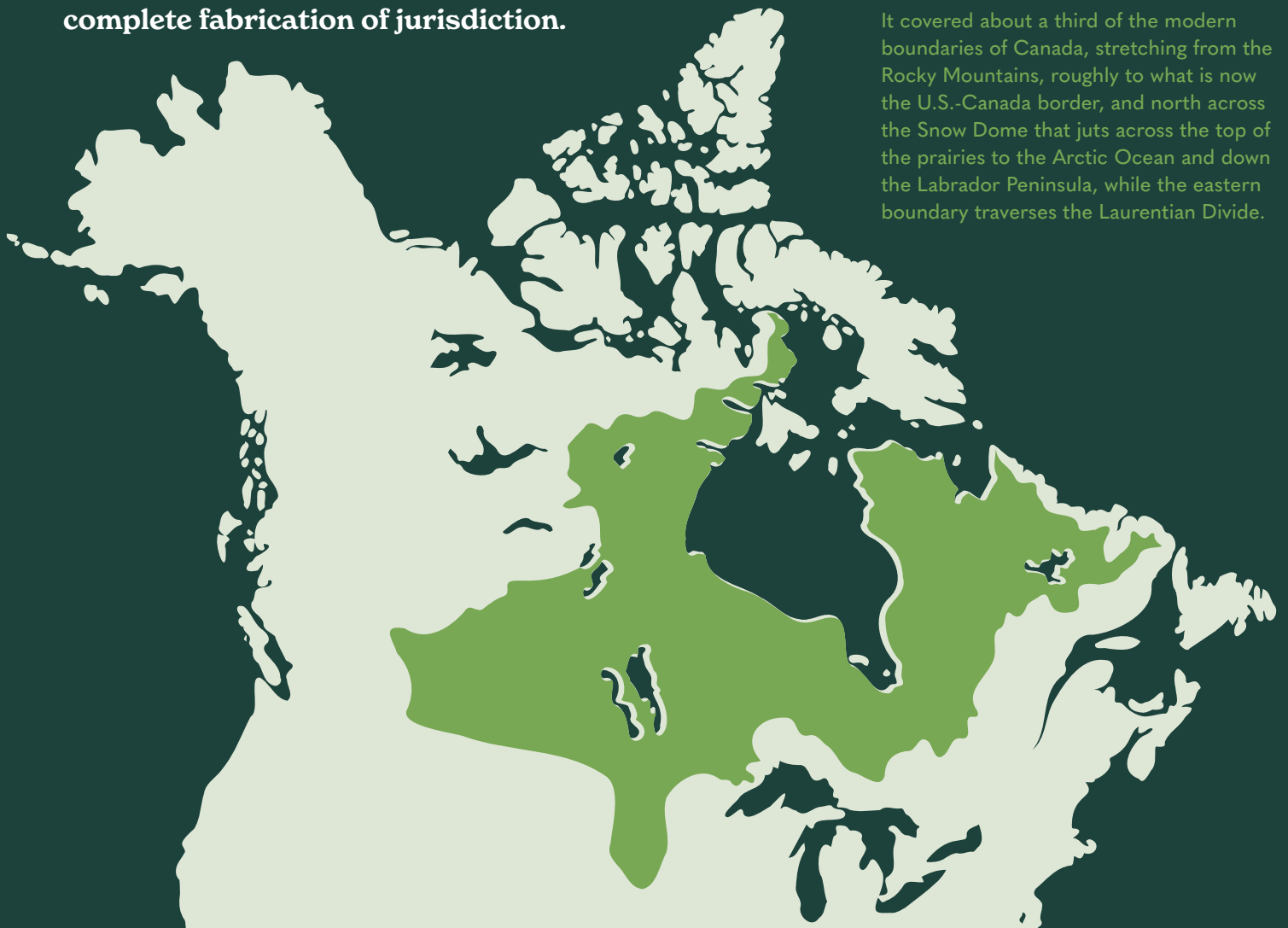
In 1668, a ship named *Nonsuch* voyaged from England and wintered in James Bay. When the vessel returned with a load of beaver pelts obtained through trade with the local Cree, investors rejoiced. One of those investors was Prince Rupert, who had financed the voyage and was a cousin to King Charles II. In May 1670, eighteen investors in the HBC were granted a royal charter from the English Crown to provide exclusive trade privileges for the entire drainage basin of the bay. Cousin Rupert was named the First Governor appointed to the HBC and so a massive swath of Indigenous territory was dubbed "Rupert's Land."

Sharon Venne, a Nehiyaw scholar of Treaty, compared the land grant as "tantamount to Pepsi Cola or another such company gaining title to the lands of another country merely by engaging in trading."<sup>20</sup> As far as Indigenous nations were concerned, the HBC had no jurisdiction, and neither could the British Crown authorize it. As Venne argues, only reciprocal trade relations and kinship ties counted as consent to European presence on the territory.

## Rupert's Land

The HBC Royal Charter describes a vast geography the English neither understood nor ever actually occupied. It covered the entire drainage basin of the bay, expanding westward in 1821 to an adjacent area that came to be known as the North-West Territory through the HBC's merger with the North-West Company. **Rupert's Land was a complete fabrication of jurisdiction.**

It covered about a third of the modern boundaries of Canada, stretching from the Rocky Mountains, roughly to what is now the U.S.-Canada border, and north across the Snow Dome that juts across the top of the prairies to the Arctic Ocean and down the Labrador Peninsula, while the eastern boundary traverses the Laurentian Divide.





## How did Canada buy unceded lands?

In reality, the HBC never actually occupied or controlled Rupert's Land: its domain was a scattering of forts throughout a massive territory, and England had no legal title to the vast majority of it, even by its own law. According to the British interpretation of the doctrines of discovery, *physical occupation* was necessary to lay sovereign claim to the land.<sup>21</sup>

From the perspective of Indigenous law, Rupert's Land was never purchased, treated, or negotiated with any Indigenous nations. The land was governed by and belonged to the Cree, Inuit, Innu, Dene, Gwich'in, Oji-Cree, and other nations that lived there for thousands of years. It was also governed by the Métis based along the Red River, who would fiercely defend their territories from invasion and their sovereignty from encroachment.

Rupert's Land is what is called a "parchment grant" or a "paper empire." And yet, Canada bought Rupert's Land from the HBC in 1869 for 300,000 pounds sterling — about \$60 million<sup>22</sup> in today's terms. The HBC got a lot more, too, in this transfer of deed: one-twentieth of the "fertile belt" and a maximum of 50,000 acres in total around the Company's 97 trading posts.

While the sale went through in 1869, it could not be implemented until 1870 because the Red River Rebellion against the theft of Métis lands stalled the transfer. Moreover, the sale of HBC violated the Royal Proclamation of 1763 and the Treaty of Niagara; these constitutional documents provided that no lands could be taken from Indigenous peoples without their explicit and collective consent.<sup>23</sup>

But the sale left the matter of Indigenous lands to be dealt with *after the fact*. Article 14 of the 1870 order-in-council admitting Rupert's Land into confederation states:

**Any claims of Indians to compensation for lands required for purposes of settlement shall be disposed of by the Canadian Government in communication with the Imperial Government; and the Company shall be relieved of all responsibility in respect of them.**

The deed of surrender from the HBC to the Crown marked an economic transaction that laid the foundation for Canada's geography. It represents perhaps the single largest land grab in the world and a significant basis for Canada's economy today.

## Who bankrolled Canada?

In 1868, one year after Confederation, efforts began to finalize the purchase of Rupert's Land from the HBC.<sup>24</sup> But Canada was riddled with debt and had to borrow the money from Britain to pay for the Red River purchase that enabled the deal to move forward.<sup>25</sup>

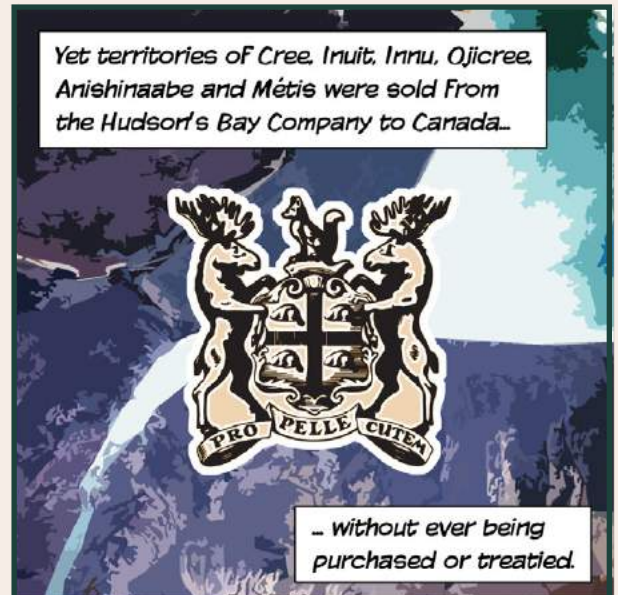
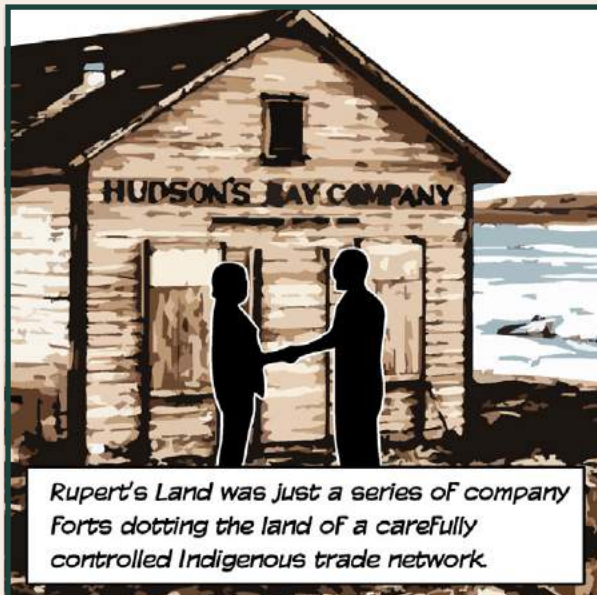
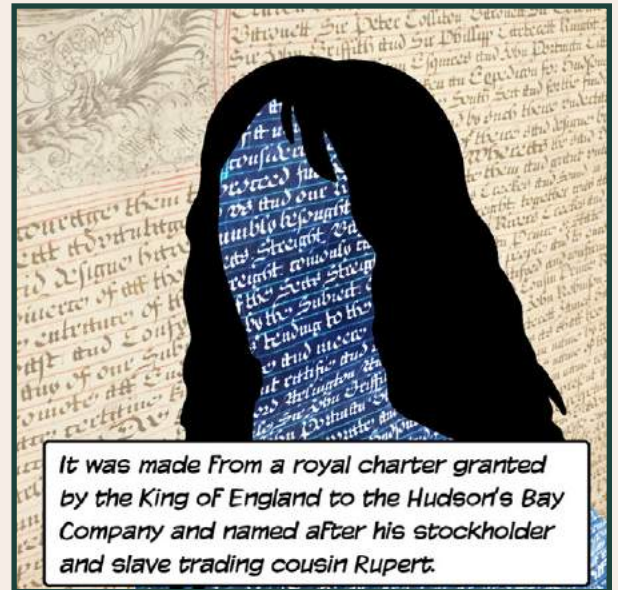
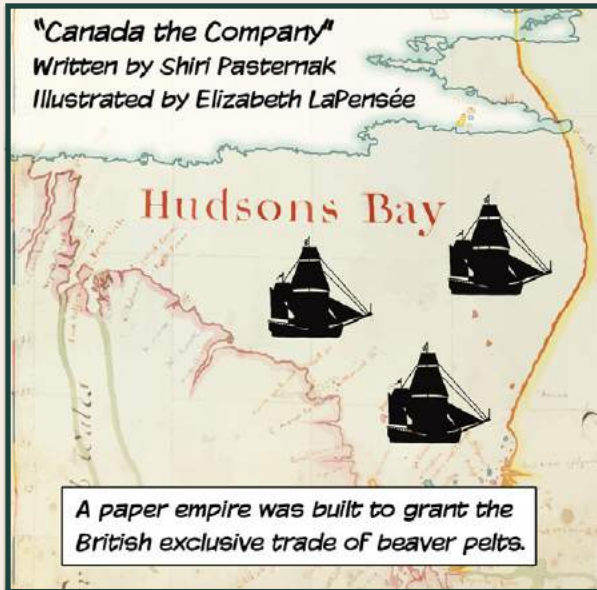
The Crown was also managing an Indian Trust Fund, established to hold the revenues of land sales from "Indians" to the Crown. The trust was so large at the time of Confederation that it amounted to more than 10 percent of Canada's annual revenues.<sup>26</sup>



Learn more about the **Indian Trust Fund** on our website!

By the time of Confederation, Indigenous peoples had already been bankrolling the colony for years through the misspending of Indian Trust moneys. For example, beginning in 1834, the Province of Upper Canada invested Six Nations money — that had been held in trust — to fund the Grand River Navigation Company (GRNC) without Six Nations' consent or knowledge. When the company failed to actually make the Welland Canal more navigable for passage to the City of Brantford, the moneys and community lands were lost and never compensated.<sup>27</sup>

Indigenous peoples were bankrolling Canada in other ways, too. Starting in the 1850s, Indigenous land found its way onto global financial markets. Debt instruments — that is, loans to the colonial government — were made based on the *future* promise of expansion and Indigenous removal. Emigration numbers went from thousands to millions as Indigenous peoples' lands, like those of the Mi'kmaq Confederacy of Epekwitk (Prince Edward Island), were leveraged on the London Stock





# Canada's Debt to First Nations

According to their own calculations

**“Contingent liabilities” are potential future costs based on legal responsibility. All levels of government report these in Canada, and in recent years, they have included Indigenous land claims.**

**Take Alberta. According to their 2018-19 Annual Report, the province identifies claim amounts totalling \$94 Billion. At least a dozen cases identified do not have estimated dollar amounts attached, but application of known amounts would place all liabilities at over \$200 Billion. And that is just ONE province or territory.**

Exchange to bankroll settlement, as well as railways, banks, telegraph lines and other critical infrastructure.<sup>28</sup>

But one of the most significant ways that Indigenous people bankrolled the nation, on the whole, and against their will, was through the imposition of the *Dominion Lands Act*. The Act was passed in 1872 and established the legal framework for massive land give-aways. HBC was on this list, but so were railway companies, municipalities, individual homesteaders, and religious groups. Also, among this group were “colonization companies.” These companies bought huge blocks of land at discount rates in exchange for building bridges and roads to promote migration and settlement. Twenty-six colonization companies received charters in 1882; included in the applicant pool were four senators, 24 parliamentarians, and seven members of provincial legislatures.<sup>29</sup> Politics and business went hand-in-hand.

National parks were also carved out of Indigenous territories a year later through the Act, but the big push was for settlement. Between 1870-1930, hundreds of thousands of people came to settle in the prairies as a million and a quarter homesteads were made available on the homelands of the Cree, Siksikaitsitapi (Blackfoot Confederacy), Nakoda Oyadebi (Assiniboine), Dene,

and other nations. The 80 million hectares settlers cultivated in order to receive their deeds was the “largest survey grid in the world.”<sup>30</sup>

## **Why didn't treaty making restore peace to the prairies?**

Many of the reserves across Canada were created through the treaty process. This process secured reserve lands — tiny islands within their broader territories — to signatories between 1896 and 1911. However, around 21 percent of “land reserved for the Indians” was forcibly surrendered to the Crown to make way for Western expansion.<sup>31</sup> By the first decade of the twentieth century, with sales booming in proximity to rail lines and other critical infrastructure, shares prices of the HBC rose 129 percent in 1906 as investors scrambled to profit.<sup>32</sup> The Canadian Pacific Railroad (CPR) started to use the colonization companies, or land companies, to broker its own land sales of subsidized land holdings. From 1901-1906, CPR sold 2.3 million acres to 13 different companies.<sup>33</sup>

The North-West Mounted Police (NWMP) (now known as the Royal Canadian Mounted Police) played a crucial role here. Entrusted with magisterial powers permitted

them to arrest, try, and sentence Indigenous people, creating criminals out of homeland protectors, in order to “clear the plains.”<sup>34</sup> The Pass System — a policy with no basis in law — was introduced in the 1880s as a strict form of control and surveillance over Cree, Blackfoot Confederacy, Métis and other nations in the prairies. First and foremost, it was used to snuff out political organizing in the wake of massive resistance to the treaties and Canada’s assertions of sovereignty over Indigenous lands.

Indigenous peoples signed treaties to protect their jurisdiction and also to set a limit on settler incursions on their territories. As Gina Starblanket and Dallas Hunt write, “Throughout the course of treaty negotiations, when pressed on the Crown’s intentions, Crown representatives assured Indigenous populations to trust ‘the benevolence of the Queen...’; however, “benevolence” was not Indigenous peoples’ understanding of these “living, enduring agreements.”<sup>35</sup> These agreements were meant to be a framework for future generations to thrive. Yet all around them, Indigenous nations’ territories shrank into pieces — scarred by development, subject to police surveillance, and sold off to hostile newcomers.

The federal government whittled the meaning of treaties instead into a hollow set of rights. Treaties today are not interpreted as international agreements by Canada, as First Nations and the United Nations have advised they must be, but rather as contracts of settler law.<sup>36</sup>

At the heart of so much land theft, the *Dominion Lands Act* was repealed in 1930 through the *Natural Resource Transfer Act* when Alberta, Saskatchewan, and Manitoba wrestled control from the federal government to control the colonization process themselves.<sup>37</sup> Now, these provinces could regulate game hunting and natural resources, despite the treaties First Nations made with the federal Crown.

### What was happening even further west?

With the establishment of the Oregon Treaty border in 1846 between the British colony and the United States, Vancouver Island was converted into a colony under the proprietorship of the HBC. As the relationship

between local nations and settlers transformed from one of longstanding trade to settler claims to land, the Company men began signing treaties with First Nations (“Douglas Treaties”). The written terms of these “agreements” were dictated by London.

But it was the Gold Rush that opened the floodgates to settlement in what became known as “British Columbia” (BC) as settlers swarmed through the Okanagan valley and up the coast. Settlers ransacked Indigenous land and abused women while en route to the Klondike Gold Rush in the Yukon. Political power slowly concentrated into the hands of the white minority, and when BC joined Confederation in 1871, it was these men who called the shots.<sup>38</sup>

In the Yukon, tens of thousands of people suddenly appeared between 1896 and 1899, overwhelming local First Nations. The search for gold required infrastructures of extraction, which transformed the region to serve the seekers: survey lines carved out Dawson city. They “measured the roads and railway; and snaked up the creeks delineating mining leases and land for dams, sawmills and water management systems, all in aid of mining gold.”<sup>39</sup>

Linked to the global stock market through riverboats and telegraph lines, the circulation of Indigenous wealth in gold was worldwide, much like the fish, furs, and timber that dominated earlier periods and places had made their way to global markets. By treating the Yukon and BC like more empty land, this settler wealth only further devastated Indigenous economies.





## Corporate Colonialism

Private capital has always been deeply interlaced with colonial governance. With the sale of Rupert's Land, for example, the Hudson's Bay Company and CN Rail received millions in dollars and acres of land from the Crown as well as the freedom to leverage these assets and create more wealth over time.

At the same time, treaties — interpreted by the Crown as “land deals” — limited communities' access to land. For instance, instead of receiving a lump sum payment (or capital), treaty terms were outlined as annuities, rations and parcels of land that would be distributed per person or per family. The annuities system also limited First Nations' abilities to save, accrue or invest money promised in these agreements.

Banking on the Crown's duplicity, companies were able to exploit this unfair distribution of land and resources, leading to the accumulation of intergenerational wealth at the expense of First Nations.



## How can we even begin to assess the cumulative impacts of corporate colonialism?

Sociologist Elizabeth Comack has assigned the term “corporate colonialism” to the ways in which the Hudson’s Bay Company acquired and profited off lands granted by the Canadian state through the Deed of Surrender at the expense of Indigenous peoples.\*

\*Elizabeth Comack, “Corporate Colonialism and the ‘Crimes of the Powerful’ Committed Against the Indigenous Peoples of Canada.” *Critical Criminology* 26 (2018): 455-471.

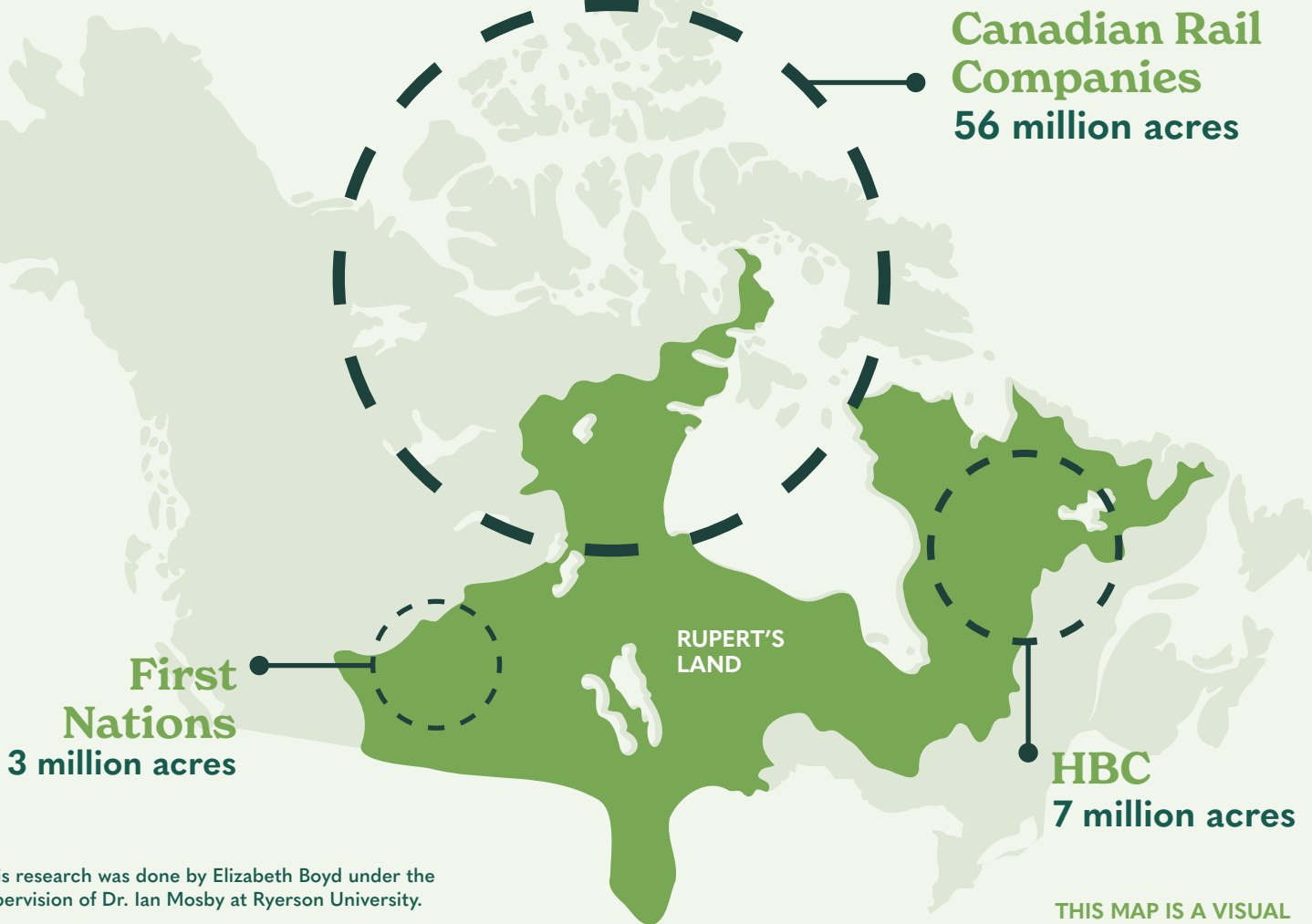
### 01. LAND

Land was the foundation of wealth generated by Canadians through re-sale and development. But how much land was distributed with the sale of the HBC?

## What Canada Got

### 1.2 billion acres

Or approximately 5 million square kilometres, at a very minimum



This research was done by Elizabeth Boyd under the supervision of Dr. Ian Mosby at Ryerson University.

Discrepancies in census data, limited historical documentation along with generally shoddy and confusing financial accounting over the years means that it is difficult to calculate exact numbers when it comes to colonial financial transactions.

What we share here, provides a glimpse into these numbers, and just scratches the surface.

THIS MAP IS A VISUAL INTERPRETATION OF THE DATA



In the “Deed of Surrender”, in 1869, 7 million acres of land were granted to the **Hudson’s Bay Company**. They also received \$1.5 million and were free to leverage these assets to create even more wealth over time.



#### RESOURCE EXTRACTION

The Hudson’s Bay Oil and Gas company played a pivotal role in the building of Canada’s oil and gas sector. This company was sold to Dome Petroleum Ltd.; with shares eventually sold to Conoco, the multinational oil and gas company for \$1.68 billion USD. Conoco’s operations run by BP Canada Energy Co, supporter of the Trans Mountain Pipeline Expansion today.



#### REAL ESTATE

The company established a real estate division in July 1873 that focused solely on the selection and sale of lands, to potential settlers. An untold number of Canadians would come to “own” these stolen lands.



#### LAND SALES

HBC lands rarely sold for under \$10 per acre. In fact, in some instances, they were able to sell for as high as \$34 per acre, in part because they capitalized on the fertile land they acquired in the Rupert’s Land transfer terms.

**The “Deed of Surrender” from the HBC to the Crown marked an economic transaction that laid the foundation for Canada’s geography.**

**It represents perhaps the single largest land grab in the world and a significant basis for Canada’s economy today.**

## 02. MONEY

The value of lands and resources that First Nations received vs. companies is difficult to compare because the 'deals' were formulated and designed so differently.

While HBC received a lump sum of \$1.5 million along with other highly lucrative terms, treaty terms were outlined as annuities, rations, and parcels of land that would be distributed per person or per family instead.

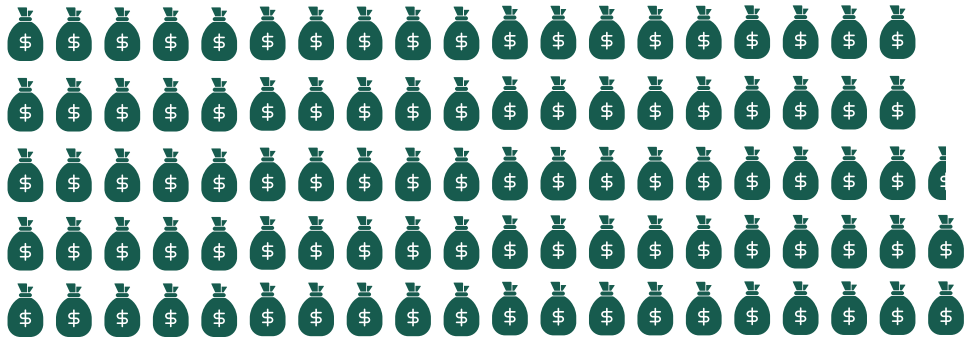


Each bag represents \$1 million

Railroad Companies  
\$107 million



Hudson's Bay Company  
\$97.5 million



\$1.5 million paid out in the "Deed of Surrender", plus estimated profits of \$96 million from selling the 7 million acres of land acquired over 50 years, for additional lands HBC received, in addition to other ventures including retail and resource extraction across the prairies.

First Nations  
\$50 million



Total estimated annuities paid to the Signatories of Treaties 1-7 (1871-2021) following the transfer of Rupert's Land. Many descendants of treaty signatories never even saw these funds.



5/2 x 2 1/2 Canted

# HUDSON'S BAY CO'Y.

Farming, Grazing, Coal & Mineral

## LANDS FOR SALE,

IN THE PROVINCE OF MANITOBA, AND THE NORTH-WEST TERRITORIES OF CANADA. THE COMPANY OWNS  
7,000,000 ACRES IN THE

## Great Fertile Belt!

Extending from the International Boundary northward five miles beyond the north branch of the Great Saskatchewan River, and from the Eastern boundary of Manitoba to the Summit of the Rocky Mountains.

All these lands are carefully examined by competent Inspectors, each quarter section being separately reported upon. Reports have also been received upon the Company's

## COAL LANDS

— IN THE —

## Souris River District

And the Inspection of the Sections in the Vast Coal Areas of the

Saskatchewan, Bow and Belly Rivers,

Will be proceeded with in the course of the present year. The whole of these lands are now offered for Sale on

## EASY TERMS OF PAYMENT!

AND WITHOUT ANY

CONDITIONS OF SETTLEMENT OR CULTIVATION DUTIES.

TOWN LOTS are also for sale in the following Flourishing and Rising Centers of Trade:---

WINNIPEG, WEST LYNNE, PORTAGE LA PRAIRIE,  
RAT PORTAGE, ELPHINSTONE, FORT QU'APPELLE,  
COLVILE, EDMONTON, PRINCE ALBERT.

Maps and Plans with full information in regard to all these lands can be obtained either personally or by letter, at the Company's Office, in the City of Winnipeg.

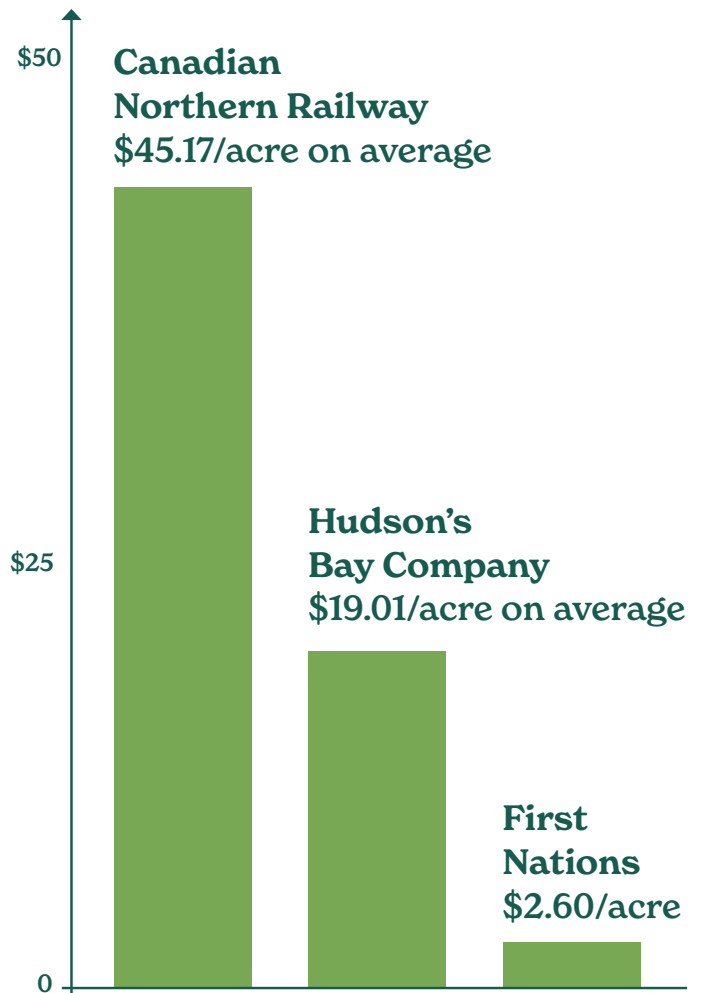
**C. J. BRYDGES, Land-Commissioner.**

FEBRUARY 1st, 1883.

Hudson's Bay Company Advertisement to Settlers, February 1, 1883. *The Company Own 7,000,000 acres in the Great Fertile Belt!*

In reality, the majority of this land was not acquired by the company until 1924.

### 03. LAND SALES



While corporations were allowed to sell land at favourable rates, First Nations had a rate set that was at least 10x lower. They were also only allowed to sell land back to the Department of Indian Affairs. While these sales were made by First Nations, they were often coerced into these transactions.

## What is the legacy of these great land grabs today?

**It is under section 91 federal and 92 provincial sections that the provinces establish their power to cut down our trees, build mines and lay out pipelines. The wealth and economy of Canada and the provinces is based on this colonial constitution that basically dispossesses Indigenous Peoples and makes us dependent on the federal and provincial governments. Dispossession and dependency is humiliating and creates a great upheaval in our social, political, economic, cultural and spiritual life.**<sup>40</sup>

- Arthur Manuel, 2013

Rupert's Land might seem like ancient history. But it's one key piece — among many others we could fit together — that tells the story of Canada. The fur trade introduced the credit system — the first relationship of dependency between the settlers and First Nations. At times, this relationship was one of trust and mutual dependency. But at others, the Company's reluctance to use cash with First Nations was thin cover for keeping Native trappers indentured within a system of extended credit and trade. This way, they could closely monitor Indigenous wealth, while enabling the growth of commercial markets and colonial expansion.<sup>41</sup>

Following the purchase of Rupert's Land, in the northern regions of the country, Canada set out to disrupt this credit system that threatened its hold on power. Canada sought to introduce a cash economy to link the north and south under one monetary system. As Zebedee Nungak explains, it eventually drew Indigenous peoples more deeply into the Department of Indian Affairs' power.<sup>42</sup> A mix of systems persisted, though, well into the 1970s and perhaps beyond, where Hudson Bay trade posts that doubled as Canada Post offices would hold welfare cheques as credit for the purchase of marked-up goods.<sup>43</sup>

**The story of Rupert's Land not only explains how a land theft created many of Canada's provinces and territories, and led to a massive transfer of wealth from Indigenous peoples to settlers as a result: it also demonstrates the ways that corporations are entangled in colonization.**

For example, on Wet'suwet'en territory — where there are no treaties, and where Canada has uncertain title — an oil and gas pipeline company, backed by the national police force, did the dirty work of occupying Indigenous lands and removing the rightful titleholders from their homelands. Coastal Gaslink obtained permits from the provincial government against the will of the hereditary leadership, therefore illegally under Wet'suwet'en law. These permits and other provincial authorizations triggered police violence, harassment, and access to Wet'suwet'en camps and settlements, rendering it now a "legitimate" invasion.

How is this so different from the imperial power granted to the HBC to govern Indigenous lands? Now the power to give corporations control over Indigenous lands and peoples rests with the Canadian and provincial governments, who back these deals with armed state militias. These uneasy entanglements form the backdrop for a system of fiscal relations that cropped up to replace the land-based economies Canada stole.

## What is the connection between Canada's economy and Indigenous economies?

Another uneasy entanglement persists, as well: Indigenous economies coexist with settler economies, but Canadian, provincial, municipal, and corporate interests are always prioritized. Even when Indigenous people seek to participate in market economies, racism rears its ugly head. Yet Indigenous economies have always been up for auction. For a few examples, we take a brief look at the economic history of dams, bison, and farming.

**Dams.** This giant island is alive and deeply interconnected through flowing waters. These water bodies give *life* to First Nations, in every sense of the word: to feed and drink, to travel and visit, to meet and swim on shorelines, to sustain the work of individuals and community, to govern, and to generate law.

In the 1800s, human-made dams began to dot the side of rivers and spread throughout the land. They choked the flow of waters to power mills and mines and lanterns on town streets. Today, Canada has dammed more water than any other country in the world.<sup>44</sup> There are 713 large dams in the northern homelands of First Nations that generate 39 percent



of hydroelectricity in the country. Thousands of small hydro projects contribute smaller amounts, both on and off the grid, as well. Contamination from hydro projects has made fishing impossible in many communities across the country.<sup>45</sup>

Anishinaabe scholar Brittany Luby's book *Dammed* (2020) details how the introduction of the Whitedog Falls Generating Station and the Norman Dam in Treaty 3 territory caused the destruction of the Anishinaabe trade-based economy that relied on ice roads in the winter. She writes:

**Elder testimony suggests that Anishinaabe men from Dalles 38C [reserve] limited winter treks toward Rat Portage because of perceived travel risks. Urgencies—such as food shortages—led Anishinaabe men toward the western outlet. Elder Jacob Lindsay suggested that by the 1940s “there were fewer and fewer people. Most of them drowned.” It is difficult to enumerate the cost of damages that the Province of Ontario and dam operators, working in tandem, caused to Anishinaabe ice roads. How do we evaluate the loss of potential trade? Reduced medical access? How can we calculate family loss?<sup>46</sup>**

Locks also re-engineered lakes into wicked shortcuts for settlers. The Trent Severn Waterway, for instance, connected Lake Ontario to Georgian Bay through a canal system built across Anishinaabe homelands. The locks choked what Michi Saagig Nishnaabeg scholar Madeline Whetung calls the “radiating relationships” of Indigenous *shoreline law*. She points, for example, to requests by the Nishnaabeg to planners to keep the beaver dens when their shorelines were flooded, “as beaver damming creates wetland spaces that allow much of what we depend on for survival to thrive.”<sup>47</sup> These requests were denied by planners.

**Bison.** A staple in the grasslands across the continent, this animal was not just a resource for human consumption; it exemplified a “radiating relationship” between Indigenous people and an animal that was reflected, for example, in Blackfoot stewardship practices, such as burning grasslands to enrich the

bison's diet.<sup>48</sup> This symbiotic relationship was precisely why the bison were slaughtered by the U.S. Cavalry, over-hunted by settlers, and pushed to the edge of their habitat by environmental destruction. Bison were collateral damage of colonization as settlers sought to eliminate Indigenous nations. Herds were on the edge of extinction by the mid-1800s.

The NWMP were more subtle than the Cavalry but every bit as destructive in their mission to control prairie nations through depriving bison. The Crown criminalized the trade in alcohol since the currency was bison hide and clamped down on horse theft, since horses permitted Indigenous mobility and enabled bison hunting.<sup>49</sup> The result of this sustained continental campaign was starvation on the prairies, which pushed unwilling nations into the treaty process that many by then did not trust.

**Farming.** In economic terms, the *Indian Act* (1876) and the treaty process built many barriers for First Nations to access and use their lands for commercial, or even subsistence, purposes. It may come as a surprise that the steady push towards assimilation did not mean equal opportunities for First Nations to access the same economy as Canadian citizens. For example, the Cree on the prairies were encouraged to give up hunting. But when they became successful competitors to local farmers, statutory restrictions were introduced in the *Indian Act* in 1880 to ban the sale of agricultural products by “Indians” to “non-Indians.”<sup>50</sup>

In Ontario, the *Indian Act* amendments also restricted the sale of Ojibwe agricultural produce to non-Indigenous customers, collapsing a growing, powerful agricultural industry.<sup>51</sup> Other policies to maintain First Nations in a state of “peasant farming” persisted for years and restricted First Nation access to modern farming equipment and proper resources.<sup>52</sup>

## Conclusion

Hydroelectricity, bison, and farming are three economies that exemplify here how Canadian and Indigenous economies intertwined. For close to two centuries, the tightening coil of Canadian industry has tried to still the movement of life underneath. It attempted to replace this life with a barebones welfare system that seemed doomed to fail from the start. It also continued to prioritize the Canadian economy over Indigenous economies, challenging First Nations to choose.

In *Land Back*, we described how the Crown's claims to underlying title in Canada authorized the settler governments to sell, license, and lease out Indigenous lands. Here, we want to emphasize the cumulative economic loss rooted in the Crown's failure to honour the treaties and recognize Indigenous jurisdiction. Instead, they Frankensteined a fiscal system that was doomed to fail. It was meant to be a holding place until Indigenous peoples transitioned into a Canadian economy — the one from which they were systematically excluded.

**These failures are not momentary lapses in reason. They are designed to result in systemic impoverishment of First Nation peoples. And they contrast dramatically with those settlers who have benefitted from inter-generational wealth and asset transfers built off the theft of Indigenous territories. Canadians are living off the lands, resources, and wealth of Indigenous peoples: not the other way around, as often told.**







**PART TWO**

**Colonialism  
as Fiscal Policy**  
Following the Money



**“The principle is simple. Only Indian people can design systems for Indians. Anything other than that is assimilation.”**

Testimony from the House of Commons,  
Special Committee on Indian Self-Government,  
Indian Self-Government in Canada (12–20 October 1983) at 29.

**We do not propose to expend large sums of money to give [the Indians] food from the first day of the year to the last. We must give them enough to keep them alive; but the Indians must, under the regulations that have been sanctioned by Parliament, go to their reservations and cultivate their land. They must provide partially for their wants. And therefore, if, by accident, an Indian should starve, it is not the fault of the Government nor the wish of the Government.**

Sir Hector Langevin, MP, House of Commons,  
Debates, 15 April 1886.<sup>53</sup>

## **INTRODUCTION**

**ONE PARTICULAR STORY** well captures the current fiscal relationship between the Crown and First Nations.

In 2012, the Attawapiskat First Nation declared a national emergency due to a housing crisis on the reserve. The subarctic Mushkegowuk Cree community, located near James Bay in northern Ontario, didn't have the resources to provide safe shelter for dozens of families despite years of lobbying governments for investment in community infrastructure.

Instead of taking responsibility, Prime Minister Stephen Harper blamed the community for their hardship. He declared that it was “unacceptable” to see such “poor results” from \$90 million in federal funding since 2006 and told the House of Commons:

**That's over \$50,000 for every man, woman and child in the community. Obviously we're not very happy that the results do not seem to have been achieved for that, we're concerned about that, we have officials looking into it and taking action.**<sup>54</sup>

The Minister of Aboriginal Affairs and Northern Development Canada (AANDC) (as it was called at the time) “took action” by putting the community under Third-Party Management — a policy that removed Band control over their finances.

Now, on top of the housing crisis, the accounting “experts” AANDC hired caused further delay in delivering housing while costing the Band an additional \$20,000 per month in fees. Attawapiskat Chief Theresa Spence responded: “I guess, as First Nations, when we do ask for assistance and make a lot of noise, we get penalized for it. So, you know, to put us in third-party while we're in crisis, that's very shameful and a disgrace from the government.”<sup>55</sup>

The judge thought so, too, when the community successfully challenged the Minister's decision to put them under Third-Party Management.<sup>56</sup> But the media only reported on the accusations of corruption, theft, and community mismanagement. Not on the community's vindication.

Maybe the public was confused by the \$90 million annual investment Harper claimed Canada had made in the community over six years. Where had it all gone? At \$50,000 per person, as he claimed, that seems like a pretty nice income!

Like the magician, who distracts you with stories so you don't pay attention to their hands, this was an illusion. The \$90 million in funding over six years was not divided into annual incomes for each Band member. Instead, it had to cover every expense of operating life on the reserve, just like a city, but without provincial support. A Band must cover the costs of community health care and education in addition to infrastructure investment and other critical programs. Healthcare costs can eat up 20 percent of the Band's budget alone.<sup>57</sup>

The Prime Minister of Canada wanted the public to think that the crisis at Attawapiskat was due to the First Nation's *mismanagement* of enormous sums of money transferred from the federal government. And the public believed it. A national opinion poll done around this time showed that 81 percent of Canadians felt that, "no additional taxpayer money should go to any Reserve until external auditors can be put in place to ensure financial accountability."<sup>58</sup> Instead of supporting the community in a time of crisis, the leader of the country blew the dog whistle to sic the media and the public against them.

The public was also confused by the lack of housing on a reserve located 90 kilometres west of a billion dollar De Beers Group diamond mine named "Victor." However, what the public didn't see was how De Beers money — a tiny 1.5 percent in annual royalties<sup>59</sup> — entered the community through a funnel and trickled to little at the bottom. Jobs promised at the mine were entry-level, scarce, and workers reported racism and discrimination on-site. Contracts were outsourced due to lack of capacity, diverting revenue off-reserve. Not only did this access to the Canadian economy

fail, it deeply impacted the Indigenous economy, as well. Victor damaged 50,000 kilometres of wilderness and drove up mercury levels in the muskeg, making it dangerous to eat the fish.<sup>60</sup>

But most importantly, the money De Beers promised for less than 10 years' of operation could not possibly plug the holes that many decades of Indian Affairs' neglect had caused. And the geographic proximity of the mine to Attawapiskat made matters worse. In 2009, for the second time, the De Beers Victor Mine triggered sewage backups in Attawapiskat's septic tank, causing flooding and major housing damage across the reserve, which was already suffering from acute shortages. One hundred people were forced out of their homes. De Beers and AANDC refused to shoulder these costs, forcing the band further into debt. Worst of all, engineering firms had warned AANDC in 2005 and 2006 that the pump had to be replaced and was vulnerable to "fail at any time," but the Department did nothing.<sup>61</sup>

Chief Theresa Spence went on a hunger strike on Victoria Island near Parliament Hill when Canada refused to respond to the housing crisis. Treaty 9 had ensured mutual benefit and protection, so she demanded a meeting with the Prime Minister and Governor-General of Canada to resolve the impasse, nation-to-nation, as her ancestors had agreed. Through community support networks, blockades against De Beers, the hunger strike, and growing solidarity of the Idle No More movement, Attawapiskat did receive the attention of their treaty partners for that moment in time — until the next "crisis" unfolded.<sup>62</sup>

These situations play out every day across the country, in a variety of other ways, with far less attention and almost no background context when the media reports them.

### What is the fiscal relationship?

As we saw in Part 1, Canada became "self-supporting" as a settler colony through the theft of Indigenous lands, resources, and territories. But how does Canada maintain the theft? How does Canada manage it?

In Part 2 of this report, we will look at how dispossession led to *dependency* — making the fiscal relationship



between the Crown and First Nations a key lever of colonization through the power of money to control. This continual denial of inherent Indigenous jurisdiction results in most Bands in Canada having to rely almost exclusively on federal transfer payments in order to survive.

Since the Department refuses to release the reins of financial control, a system of racial inequality has developed between Canadians and First Nations. Instead of addressing the trifecta of underlying issues — dispossession, insufficient funding, lack of First Nation control — Canada continues to double down on administrative solutions, tinkering with the funding policies, and refusing to link these to political discussion of treaty obligations, reparations, and inherent rights. All of this is despite consistent and ongoing political organizing by First Nations who have always fought for self-determination over welfare policies.

Here, we look at four specific ways that Canada maintains colonization through the “fiscal relationship,” i.e. you need to *follow the money* across these policies: 1. Welfare; 2. Devolution; 3. Austerity; 4. Finger Pointing. We spotlight education as a case study of Canada’s failure to provide the necessities of life, thus creating deeper cycles of poverty and predatory conditions, particularly for women, girls, 2SLGBTQQA, and non-binary people. Finally, we ask where to look for recourse and what barriers must be brought down to make meaningful change.

## **01. WELFARE VS. ECONOMIC DEVELOPMENT**

In Part 1, we looked at how Indigenous fishing, hunting, and farming economies were wildly disrupted by Canadian laws, policies, and the use of military force. The systemic impoverishment that resulted became a major issue for the branch of Indian administration. The Canadian government wanted to discourage Indigenous financial dependency on the state, but it had significantly criminalized or barred Indigenous access to their territories and livelihoods in many parts of the country.

So, First Nations adapted to new mixed economies: the Mohawks built skyscrapers in Manhattan; the Algonquins laboured at mink farms in upstate New York; commercial salmon canning enterprises provided income on the coast; interior B.C. nations picked fruit over long, arid summers. Some of these wages were plunged back into Indigenous economies with the purchase of boats, gas, cars, and materials to build cabins on traplines or rivers, and throughout the territory. Businesses like farms, stores, gas stations, restaurants, and craft stands also came and went.

Despite this hard work, poverty persisted. Racism or remoteness kept First Nations out of the wage economy on top of the problem of settler encroachments. Railways ran through these lands without stopping, without stations. Canada’s early response was to offer “relief” in tiny, insufficient amounts. In 1947, The Head of the Welfare Section of Indian Affairs stated:

The general policy of the division is to encourage and assist Indians to be self-supporting rather than to furnish them with direct relief... Because of this, the scale of relief supplied to able-bodied Indians *must err on the parsimonious rather than on the generous side.*<sup>63</sup>

**Relief was not an Indigenous “right,” but “given at the pleasure of the Branch.”<sup>64</sup> The policy of “enough to keep them alive” has been the backbone of the fiscal approach since Confederation.**

**It is a policy that has also been fought tooth and nail ever since.**

For example, strategy meetings held in 1943 in Kahnawake and 1944 in Ohsweken led to a call for Bands across the country to meet and collectively craft demands<sup>65</sup> (despite attempts from the Indian Affairs Branch to block their participation). Among the delegation’s demands were the “restoration of all treaty obligations and redress for all in full measures, and compensation for all cases of encroachment” and “provision of old-age pensions, family allowances, and other social security benefits that were available to whites.”<sup>66</sup> The first demand shows the long history of struggle for redress and compensation, the second, the long fight against widespread discrimination.

## TIMELINE

# Foundations of Fiscal Warfare

### 1940s

Committee members of the 1944 Special Parliamentary Committee on Post-War Reconstruction and Re-Establishment overwhelmingly agreed with First Nation advocates that they must be extended equal rights to resolve their marginalization.

However, the Committee ineffectively addressed the problem by transferring Indian administration to the Department of Citizenship and failing to put any provisions in place to require stable funding.

### 1950s

Amendments to the *Indian Act* now include Section 88, allowing provinces to deliver services to First Nations in an early move to promote the withdrawal of the federal government from financial obligations.

### 1960s–1970s

In 1964, the federal government introduced a welfare system on reserves. It began as a temporary policy — federal bureaucrats and politicians thought they could convince the provinces to take it over, but this handover never really happened. Instead, the program gradually expanded to cover everything: child welfare, education, assisted living, housing, infrastructure, policing, emergency services, and daycare.<sup>67</sup> The design of these programs was imposed on First Nations at a massive discount to what Canadians received. Despite First Nations' insistence, no economic development programs materialized.

Years later, in 1970, the Union of British Columbia Indian Chiefs (UBCIC) released the B.C. Indian Position Paper, outlining why fiscal relations must be tied to Indigenous self-determination and not welfare policy:

**Indian reserves are pockets of social and economic poverty that have become increasingly dependent on welfare-oriented government programs. The future advancement of our people depends upon a suitable social and economic environment. An environment must be created in which we will become involved in our own affairs and our aspirations can be encouraged to grow. A concerted effort is needed in the area of community improvement, economic opportunity and social development. A massive social program is required to improve the educational achievements, health and housing standards, training and job opportunities, business opportunities and recreational activities of our people.<sup>68</sup>**

Despite First Nations' advocacy for programs focused on economic development instead of social assistance, Canada has stubbornly held on to their "enough to keep them alive" strategy.

By 1967, the welfare program had been declared a failure by the Hawthorn Report, a famous government assessment. The report doubled down on assimilation as the solution, though the language was now "integration." The funding policies remained the same, but the framework soon switched to accommodate the growing chorus of demands from First Nations for "self-government." Soon, *devolution* would become the buzzword.

## 02. DEVOLUTION

**(Or, how Canada passed the buck to First Nations, without the buck)**

Devolution is the transfer of responsibility from the federal government to First Nations. Sounds great, right? Not so much. A blueprint for devolution first appeared in 1969. It was called the White Paper (officially, the "Statement of the Government of Canada



on Indian Policy”), and in it, the Minister of Indian Affairs proposed the wholesale assimilation of all special First Nation rights in Canada. First Nation opposition soundly defeated the White Paper, but it never really went away. As Jean Chrétien told Pierre Trudeau in a secret memo in 1971: “A more promising approach to the long-term objectives... might be obtained by setting specific deadlines for relinquishing federal administration.”<sup>69</sup> In other words, “Let’s withdraw piece by piece to complete this assimilation goal.”

To the clamour of demands for real First Nation control over their lives — but with this secret plan in mind — Canada said: *Fine*. The Department of Indian Affairs started to transfer programs and service delivery to First Nations in the process called “devolution.” While devolution had started years earlier, it was accelerated by the growing strength of First Nation political movements.

But First Nations quickly learned that devolution was not self-government: it was self-administration without the funds.

By 1983, the Penner Report<sup>70</sup> (headed by Minister of Parliament and public official, Keith Penner) was calling the devolution process disastrous. The increasing power of Bands to administer services was cancelled out by the accountability burdens, lack of control over programs, inadequate funds, and the denial of mechanisms to negotiate funds.

In one example, the Report noted that 75 percent of a Band’s time was spent on administering federal funds. There were no savings, either, and budgets went up. Another study Penner commissioned reiterated his findings on the problems with devolution: “There has been no real shift in decision-making responsibilities... and almost complete control still lies with the department.”<sup>71</sup> The study also calculated that Indian and Northern Affairs Canada (INAC) administration costs amounted to 25 percent of First Nations’ total funding.<sup>72</sup>

The Penner Report advocated for a “radically different approach to its fiscal arrangements” for Canada with First Nations: it recommended that Canada send fiscal transfers to First Nations, as it did to provinces, and phase out Indian Affairs and middle people. Penner

also said this should happen alongside legislation recognizing self-government. He found devolution to be the opposite of self-government.

Unfortunately, Penner’s recommendations were never implemented. Into the 1980s and 90s, program devolution, maintained by new funding agreements, became the norm.

## TIMELINE

# The White Paper as Blueprint

### 1969

Minister of Indian Affairs Jean Chrétien and Prime Minister Pierre Elliot Trudeau advocated for the end of special status for First Nations in Canada, including the recognition of treaties and collectively held lands. The inequality faced by First Nations was attributed to their different status from other Canadians, not the history of dispossession and discrimination.

### 1970s

A series of “Red” and “Brown” papers followed by First Nations. The problem, they insisted, was not the dependency that poverty created; it was the dispossession that created the dependency. Instead, the White Paper tried to solve the first problem without addressing the second.

Though the White Paper was defeated, it remained the informal policy of Indian Affairs. David Munro, an Assistant Deputy Minister of Indian Affairs on Indian Consultation and Negotiations, wrote in a department memo that the White Paper could be officially withdrawn, yet implemented piecemeal. He stated, “Thus my conclusion is that we do not change the policy content, but we should put varying emphasis on its several components — we should try to discuss it in terms of its components rather than as a whole.”<sup>73</sup>

### 03. AUSTERITY: TURNING RIGHTS INTO NEEDS

Over the years, the funding tools for delivering programs and services to First Nations multiplied and came to be seen as the gateway to First Nation self-government. But the gaps between First Nations and Canadians continued to deepen. Simply, there was no new money, only new funding policies.

“Contribution agreements” that dictated annual line-by-line budgets were introduced and gradually shifted to a mix between these and more flexible, block-year grants.<sup>74</sup> However, review after review reported that poverty in First Nation communities was not a result of the funding arrangements alone, but that funding amounts and underlying formulas were central.<sup>75</sup>

Austerity is a diet governments place on spending, usually to pay off debt or “balance the books.” It can be direct, with cuts to budgets, or indirect, with policies that hide the discounted funds or redirect them.

One key strategy of austerity for First Nations — the hidden discount kind — is the sneaky concept of “comparability.”

“Comparability” is a key standard that was set by the federal government for First Nations funding from the start. It is supposedly the measurement for how First Nation Band funding formulas are set: they must be *comparable* to levels of services with provinces and territories; they set the standard for funding for Indigenous Self-Governments, too.

There are a few problems here. First, governments use the term “comparability” as meaning a “keep up” cost. In other words, what do you need to *keep up* with other jurisdictions? But what about “catch up” costs? First Nations are not moving forward from the same starting point as provincial and territorial governments. By all indicators, they will be starting from a significant gap in housing stock, education, health care access, etc. Many programs will cost more if they are *catching up* and not just *keeping up*.

The concept of “catch up” costs is particularly important for Indigenous governments that have signed Self-Government Agreements to exit the *Indian Act*. This is because they cannot become financially independent overnight. Nor can they bounce back easily from decades, if not centuries, of dispossession and underfunding. Like other orders of government (though different, since these are their homelands), Indigenous governments require robust federal transfer payments. Very few First Nations have comparability. Outside of these few agreements, the principle only exists in policy.

How does this form of austerity maintain the colonial relationship? It secures the systemic underfunding that undermines Indigenous self-determination. Additionally, the principle of comparability is an expression of *equality*. Much like the opposition to the White Paper, First Nations have never simply demanded formal equality, but an end to colonial relations. For example, an Indigenous child welfare program that is more expensive than a provincial counterpart would likely be rejected on the basis of comparability. But given the history of child apprehension in this country, should the funding decision not be based on First Nation needs and defined by them?

Further, debt begets more debt, and austerity budgets for First Nations create cycles of endless issues. For example, First Nations are punished for debts incurred due to underfunding, and forced under debt management policies that erode community infrastructure even more, through restrictions on spending.



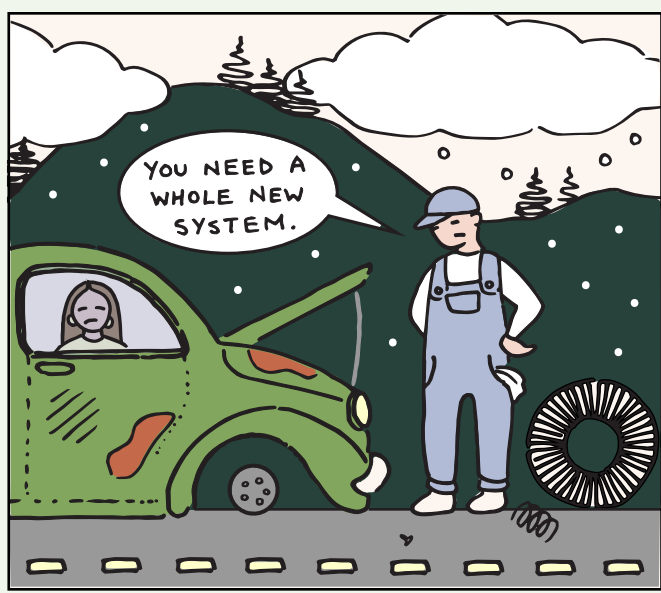
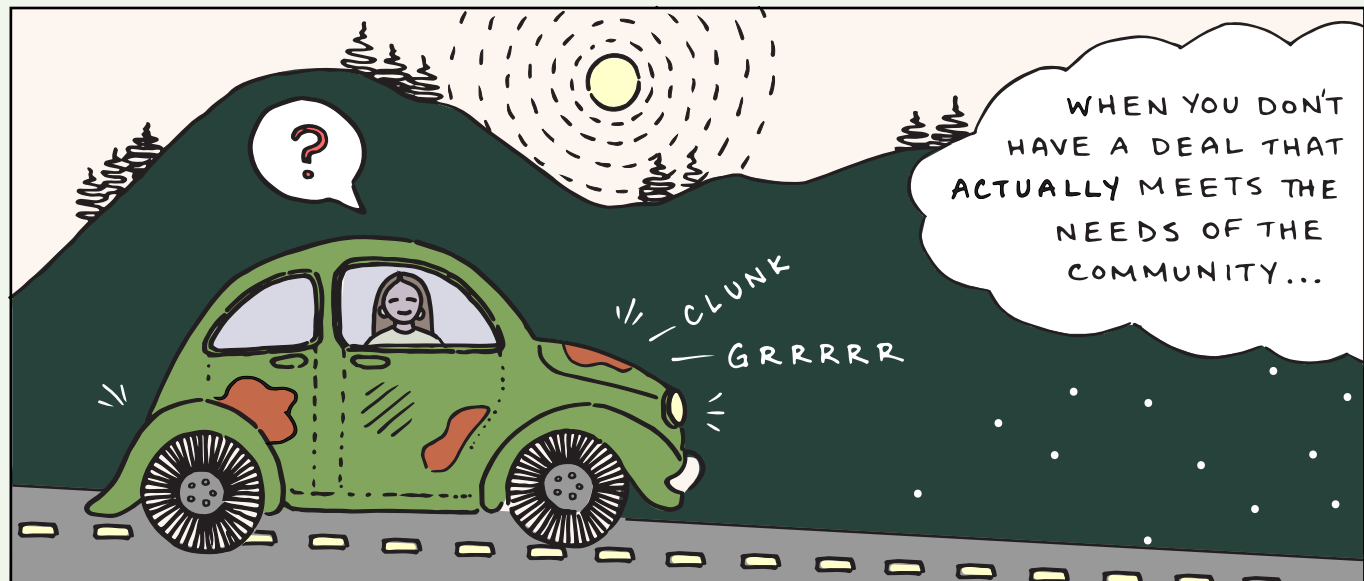
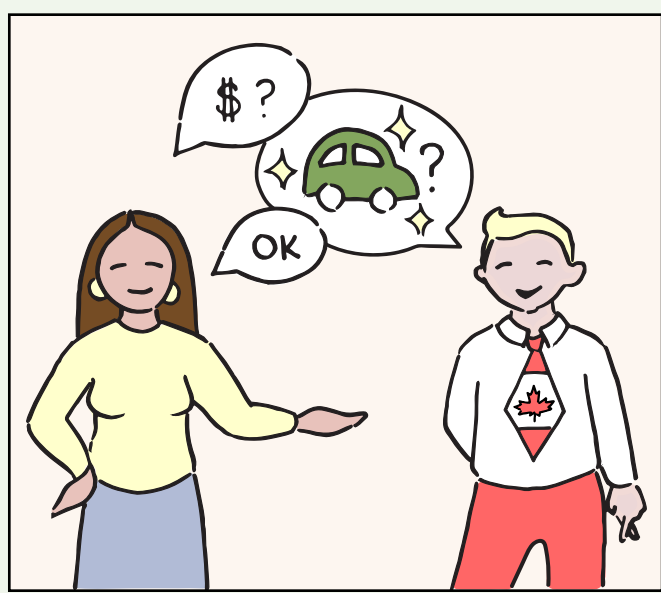
Read our story on the **Default Management and Prevention Strategy** and housing.



# How Canada's Self-Government Policy is like Buying a Used Car

A COMPARABILITY EXPLAINER

ILLUSTRATED BY MIA OHKI



Another key form of austerity is direct cuts, of course, like these two emblematic examples:

**Buffalo Jump of the 1980s:** When Conservatives took power in 1984, they continued to interpret demands for Indian Self-Government as an opportunity to transfer federal obligations onto First Nations, provinces, and territories once and for all. The secret Nielsen Report proposed that all special rights would devolve to administration by local and provincial governments to expedite the transformation of reserves into municipalities under provincial jurisdiction. It recommended the removal of housing benefits and more “exit strategies” from funding First Nations: abolishing programs, cutting health funds, non-insured health benefits, and post-secondary education. It advised relaxing benchmarks in infrastructure management and capital assets to “minimum standards” to ensure that “modern suburbs in the northern bush” were not created.<sup>76</sup> This proposal failed when First Nations’ caught wind of it.

**1995 Bloodbath Budget:** The Liberal Government inherited a huge national debt which led to Finance Minister Paul Martin slashing \$25 billion from the public purse in 1995. Martin introduced “moderated” growth caps to INAC and made further cuts one year later in a subsequent program review.

**1997–98 INAC’s Budget Cap:** INAC’s budget was scaled back to 2 percent growth, guaranteeing that the budget would not keep up with Indigenous people’s growth rate, let alone catch up with overdue funding shortages or keep up with the cost of inflation.<sup>77</sup> This move would result in a *de facto* annual cut. “Core obligations” to First Nations were also formally redefined as water, sewage, social assistance, and education, further entrenching the bare-bones policies that would be based on “basic needs,” not rights. Needs were defined as “maintenance-level responsibilities.”<sup>78</sup>

## Status and Austerity

Canada even found a way to weaponize an important moment in the legal recognition for First Nation rights on *status*. In 1985, the *Indian Act*’s discrimination against First Nation women was partially addressed

through Bill C-31. The change came as a result of Indigenous women winning a UN Human Rights complaint against Canada that successfully proved gender discrimination in the *Indian Act* — thousands of families had lost Indian status when women “married out” to men who did not have status. Bill C-31 doubled the number of status Indians in Canada, dramatically expanding the population for which the Crown held fiduciary obligations.<sup>79</sup>

But instead of expanding services when First Nations’ demographics grew, Canada’s response to new expenditures linked to Bill C-31 was *fiscally driven distinctions* based on status.<sup>80</sup> This fractured communities. For example, in the 1990s, faced with growing First Nations populations and decisions to make on who could get housed, the Canada Mortgage and Housing Corporation (CMHC) Rural and Native Housing Program changed its mandate from serving both on and off-reserve First Nations to only on-reserve status Indians.<sup>81</sup> These hidden cuts impacted communities’ abilities to care for their citizens.

The issue of fiscally-driven status distinctions continues to impact communities today. As Anishinaabe scholar Damien Lee reports, just before Christmas in 2020, the federal government quietly appealed to the Federal Court to restrict an earlier Canadian Human Rights Tribunal decision that would have ensured non-status First Nation children could benefit from Jordan’s Principle.<sup>82</sup>

Every Canadian government has practiced austerity; however, a decade of the Harper government led to a series of changes to the fiscal relationship that deeply impacted First Nations.

By depicting reserves and Indigenous governments as broken systems where waste and mismanagement were abundant, Harper primed the ground to push for greater First Nations integration into the economic agenda of resource capitalism, as he widely promoted the country as an “energy superpower” to trading partners at the time.

## The Failed “Blue Book” Policy

The Harper government also targeted Indigenous Governments under the Self-Government policy



through a “fiscal harmonization” proposal that would have flattened all negotiation into one funding formula, regardless of work Indigenous Governments were doing to assess their unique needs.

**The so-called “Blue Book” policy would have entrenched insufficient funding, a drastic clawback for any own-source-revenue raised, and a controlling accountability structure that closely mirrored the paternalistic *Indian Act*.<sup>83</sup>**

The proposal failed to get traction, but the Blue Book demonstrated pre-existing problems with the fiscal relationship between Indigenous Governments and the Crown, such as the lack of citizenship-based funding and ongoing reliance on Indian status. In litigating this issue, the court in *Teslin Tlingit Council v. Canada* (Attorney General) (2019) summarized other fiscal problems, as well:

- Inadequate funding for programs and services and treaty implementation;
- Insufficient funding for Yukon First Nation human resources;
- Shortfalls in funding regarding capital, infrastructure, and housing — particularly in light of the significant expansion of capital needs — but funding support being tied to or dictated by the funding provided to the predecessor Indian Bands;
- Fiscal support for governance also being derived from the predecessor “Band Support Funding,” rather than consideration of expanded governance-responsibilities and authorities;
- Heavy reliance on proposal-driven funding, which, in principle, is at odds with the SGAs (Self-Government Agreements), and practically diverts time, attention, and resources away from governing.<sup>84</sup>

These problems represent the “end game” some have predicted for all First Nation Bands, as they are pushed along the conveyor belt of federal policy towards Self-Government Agreements.<sup>85</sup>

## TIMELINE

# Harper Government Austerity

## 2011–2012

“General Assessment” Tool – This risk assessment determines the type of funding Bands can access. Russell Evans calls this new funding mechanism a means of institutional control, which perpetuates negative stereotypes of irresponsible First Nations and restricts access to funding based on a paternalistic system of accounting.<sup>86</sup>

## 2012

Cuts to Indigenous political organizations – 30 percent cuts across the board to the core funding of Indigenous organizations such as the Assembly of First Nations, the Inuit Tapiriit Kanatami, and tribal councils.

## 2013

First Nations Financial Transparency Act (FNFTA) – The FNFTA forced Bands to post their consolidated financial statement online for the country to scrutinize. These audits were already mandatory; public posting of them was not.

## 2013–2014

Cuts to the Aboriginal Healing Foundation (AHF) – Established in 1998 to support Indian Residential School Survivors, the AHF’s funding was cut and it was eventually shuttered along with a number of other initiatives established to support survivor recovery. Canada’s letter to organizations stated that to be funded, projects in 2013–2014 must demonstrate “clear and achievable outcomes and be linked to departmental priorities.”<sup>87</sup> Perhaps not coincidentally, the cuts followed the Idle No More movement. This political uprising united Indigenous communities across the country in opposition to Harper’s “economic modernization” agenda on reserves. Healing from state violence was not part of this plan.

## 04. THE GREAT FINGER-POINTING BATTLE BETWEEN THE FEDERAL AND PROVINCIAL GOVERNMENTS

Canada has always used the issue of overlapping provincial jurisdiction as an excuse for not funding services to First Nations. Provinces have used the same excuse. Generally, both claim the other is responsible for First Nations. This denial of responsibility by both levels of government is unique to s. 91(24) of the Canadian Constitution, as observed by Kent McNeil:

In other division of powers situations, the federal government and the provinces usually fight one another for jurisdiction, each trying to amass as much authority as possible. But when it comes to jurisdiction in relation to Aboriginal peoples, exactly the opposite phenomenon occurs.<sup>88</sup>

S. 91(24) places “Indians and the Lands Reserved for Indians” under federal jurisdiction. But that hasn’t stopped them from designing all their land claims and service policies in an attempt to shift this power onto provinces and territories.

The National Inquiry into Missing and Murdered Indigenous Women and Girls (MMIWG) has coined “interjurisdictional neglect” to describe this issue, and suggested it constitutes a violation of Indigenous peoples’ Charter right to equality and security of the person:

**Canada has failed, partially through a lack of interjurisdictional cooperation, to ensure that Indigenous Peoples have access to adequate resources and the support necessary to have their human dignity, life, liberty, and security protected... Interjurisdictional neglect represents a breach of relationship and responsibility, as well as of a constitutionally protected Section 7 Charter right to life, liberty, and security of the person... These deficits, then, are about much more than the organization of services, or the specifics of their delivery: they are about the foundational right to life, liberty, and security of every Indigenous woman, girl, and 2SLGBTQQIA person.<sup>89</sup>**

The impacts of these jurisdictional conflicts are born by women, girls, and 2SLGBTQQIA across a broad range of issues.

In natural resource sectors, the federal government shrug their shoulders because the power to regulate non-renewable resources falls under provincial jurisdiction. But as Mi’kmaq scholar Sherry Pictou notes, environmental destruction has a particular impact on Indigenous women, girls, and gender-diverse people who fall “under” federal jurisdiction.<sup>90</sup> Pictou stated in a recent interview:

**If we do not address gender and its intersections to environmental injustice, that rate stands at risk of accelerating upwards, and opportunities to learn and restore gender roles in Indigenous governance and decision-making processes become even more limited.<sup>91</sup>**

This gender-based violence builds on centuries of dispossession that often places women, girls, and gender-diverse people on the frontlines as land and water defenders.

In health sectors, jurisdictional neglect is rife (as we will see in Part 3 with the need for Jordan’s Principle) and has a particular impact on gender-diverse Indigenous people. For example, Kwagu’l scholar Sarah Hunt finds that “gendered gaps in service provision at the community level” can lead to the erasure of non-binary and gender non-conforming people within the health care system.<sup>92</sup> Gaps in funding unfairly target Indigenous women and girls, but also trans and gender-diverse Indigenous people. In urban areas, where provinces tend to deliver health services, these gaps for delivery can widen even further for Indigenous people.

Finally, as Jewell et al. found in their research on Indigenous employment in the Niagara region, the “feminization of poverty” is a key outcome of Canada’s Federal Indian Policy. While public transportation is a provincial issue, for example, it deeply impacts First



Nations. Jewell et al. cite evidence from the MMIWG report on how lack of access to public transportation could be particularly dangerous to Indigenous women, girls, and 2SLGBTQIA people forced to hitchhike where no public transportation infrastructure exists.



Watch this animated short, **Lily's Story**, on the feminization of poverty.

## Is there a New Fiscal Relationship?

What is the gold standard for a new fiscal relationship? The criteria set by the benchmark reports like the Royal Commission on Aboriginal People (RCAP) and the Penner Report established three central thresholds:

- (1) Fiscal reform must be linked to an expansion of the economic base;
- (2) There must be nation-to-nation political negotiations on the form and content of financial tools;
- (3) There must be a massive infusion of funds based on local needs.

The second volume of the RCAP, released in 1996, states:

**[A] critical element of fiscal autonomy is a fair and just redistribution of lands and resources for Aboriginal peoples. Without such a redistribution, Aboriginal governments, and the communities they govern, will continue to lack a viable and sustaining economic base, which is integral to self-government.**<sup>93</sup>

The Penner Report also recommended a new bilateral fiscal relationship that would be negotiated on a nation-to-nation basis, rather than through unilateral and non-transparent federal processes. It noted the critical importance of increased transfers from Canada in the form of grants.<sup>94</sup>

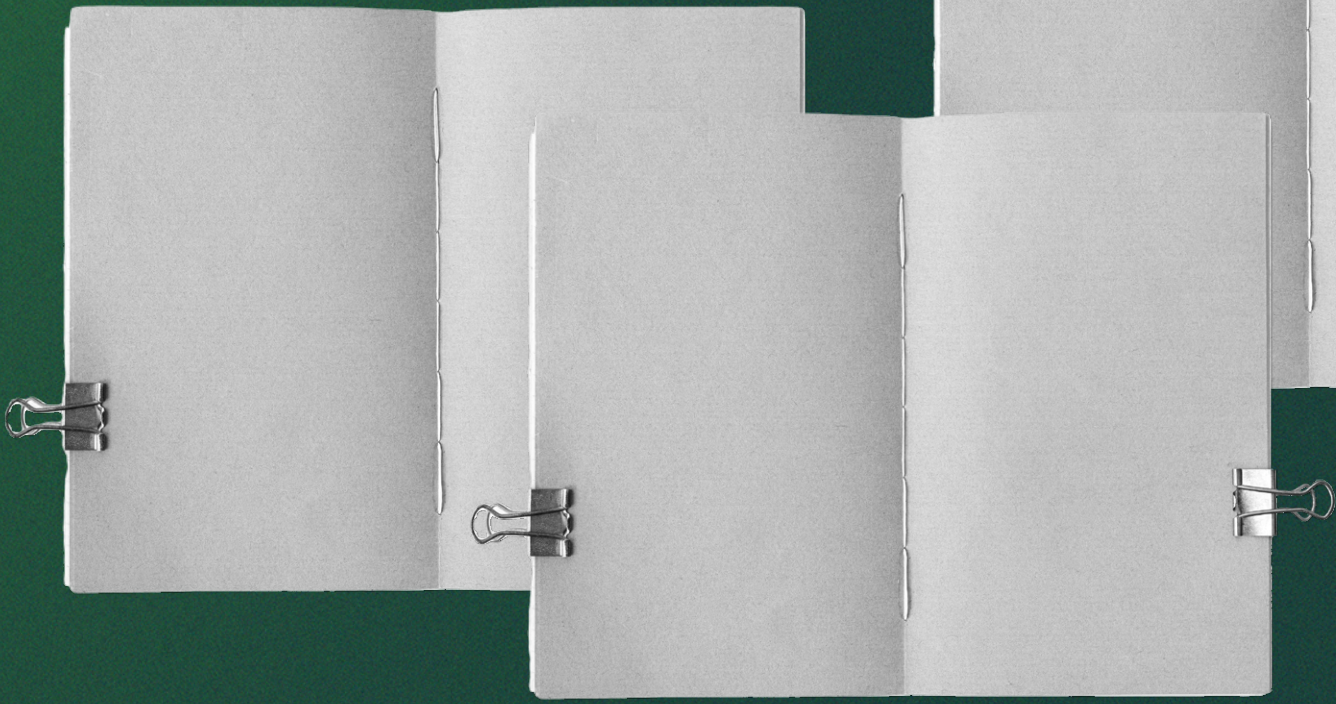
When Justin Trudeau took over from Harper, he promised a new fiscal relationship with First Nations. A Memorandum of Understanding (MOU) was signed in 2016 between the Assembly of First Nations (AFN) and INAC to explore the framework for change.

The goal of the new fiscal relationship with First Nations is “to ensure sufficient, predictable and sustained funding for First Nations governments.”<sup>95</sup> Progress to date includes the lifting of the 2 percent cap implemented by the previous Liberal government<sup>96</sup> and introducing a 10-year funding agreement mechanism that addresses the constricted spending regulations in the regular funding mechanisms. By the end of 2018, 85 Bands had executed agreements.

A key aspect of the 10-year grant is that it is not an increase in funding; rather, it is a long-term agreement with greater spending flexibility. Positively, the policies and guidelines that apply to these new fiscal agreements are based on a granting model as opposed to a contribution model. This shift is intended to alleviate the reporting burden on recipients and ensure that stringent mechanisms built into the contribution processes do not restrict funding allocations. With a long-term dedication of funding, the grants are also intended to allow First Nations to adequately and effectively borrow against these long-term allocations.

But there has been criticism of the process, too. The AFN is a representative body that can't negotiate rights on behalf of Indigenous nations.<sup>97</sup> And Self-Government groups have also criticized their stream in the process as reminiscent of the Blue Book strategy they rejected. Others argue that First Nation institutions, like the First Nations Management Board, should not be negotiating on behalf of First Nations, since the federal government appointed them.

Judging by the criteria set out in the Penner and RCAP reports, the new fiscal relationship has a long way to go to change the dynamic of self-administration to meaningful self-determination. The Trudeau government introduced a reserve-based budget that delinks land from fiscal relations — even by virtue of its base in INAC's services branch (ISC) rather than in Crown Indigenous Relations Canada, the land branch. It does not provide methods for nation-to-nation negotiations.



## (No) Free Money: Spotlight on Education

Over the years, the funding tools for delivering programs and services to First Nations multiplied and came to be seen as the gateway to First Nation self-government. But the gaps between First Nations and Canadians continued to grow. Simply put, there was no new money, only new funding policies.

In her 2011 report, the Auditor General of Canada (AGC) found disparities in living conditions across the board between First Nations and Canadians in the realm of education, clean drinking water, and adequate housing standards on reserve — all of which fell well below the average funding unit for non-Indigenous Canadians.

By 2018, little had changed. Let's take education. While the Department reported that on-reserve high school graduation results had "improved," they failed to mention that the non-Indigenous high school graduation numbers had improved at a much higher rate. The Spring AGC Report that year found that the

Department did not adequately measure or report on the gap, which had widened over the past 15 years. In a scathing rebuke, the AGC wrote:

**We found that despite commitments the Department made 18 years ago, Indigenous Services Canada did not collect relevant data, or adequately use data to improve education programs and inform funding decisions. It also did not assess the relevant data it collected, for accuracy and completeness. Nor did the Department provide access to or regularly share its education information or the results of data analysis with First Nations. In addition, the Department was still unable to report how federal funding for on-reserve education compared with the funding levels for other education systems across Canada.<sup>98</sup>**



As the AGC Report demonstrates, First Nations living on reserves must overcome incredibly high hurdles to access a proper education. These obstacles include a lack of proper resources like computers or buildings, being forced to bus for hours to local high schools, or having to leave home entirely to have access to junior high or high school — or both.<sup>99</sup>

If First Nation youth can overcome all these barriers, their “free university education” — rumoured to be the inheritance of all First Nations in Canada — can begin. Or can it?

First Nations fought for and won the right to post-secondary university funding in the 1960s, but it is not available to everyone who needs it. Accessing a fully funded university education can be like winning a lottery.

1. You have to be recognized as a status Indian (non-status and Métis don't qualify), rendering thousands ineligible;
2. Highly variable, regionally-determined Department formulas must be met;
3. Bands have only a small pool of money transferred from the Post-Secondary Student Support Program (PSSSP) to allocate according to this criteria, and often, there are more applicants than funding;
4. Finally, due to growth caps on Band spending that froze funds from 1996–2015, Bands had to choose whether to fund fewer students or allocate less money per student — the pot barely increased while education costs have risen by an average of 6 percent per year. As a result of the cap, there was a 20 percent decrease in post-secondary students from 1996–2008.<sup>100</sup> This drop is a huge shame, because since the 1970s, when First Nations began administering these funds, graduation rates had jumped nine times as high.<sup>101</sup>

The legacy of Residential and Day School programs has made control over schools a lightning rod of activism across the country for decades. The National Indian Brotherhood released a paper in 1972 called Indian Control of Indian Education that called for full responsibility and resources for First Nations education to be transferred to Bands — a move that was partly inspired by the 1970 Blue Quills Residential School occupation that closed down the institution. In 1988, the (AFN) tabled Tradition and Education, which re-articulated the demand for First Nation control over education that had still not been met, now framed in the language of constitutional rights and self-government.

It's disappointing that these demands have rarely been met, because when First Nations control education, good things can happen: one Self-Government Agreement, the Mi'kmaq Education Agreement, signed in 1997 by 13 First Nations, has resulted in Nova Scotia Mi'kmaq First Nations achieving the highest secondary school completion rates — double the national rate of First Nations living on reserve in the rest of the country.<sup>102</sup>



For more on education, listen to **An Oral History of First Nation Education Funding.**

## CONCLUSION

Why haven't we been fighting the blatant discrimination and total denial of Indigenous rights in Canada's economic policy? We have been — for decades. But the existing avenues for challenging the government within Canadian law have made this extremely hard.

Even though First Nations' funding agreements with Canada include a dispute resolution clause, they have always been drafted to exclude any funding decisions. Given that these agreements are only about funding, this makes the dispute resolution rather meaningless. You can find this in the current funding agreement template at clause 12.3(b). This gap in the funding agreements leaves us only the Canadian courts.



Learn more in this **Looking for Cash Back in the Courts** factsheet!

It is difficult for First Nations to challenge the government at the best of times. Canada has nearly limitless cash available to fight First Nations' lawsuits and a reputation for throwing every possible legal and procedural argument at a suit to get it thrown out or win through a war of attrition.

Fun fact: INAC often has one of the highest annual spendings on litigation of federal departments. In 2012–2013, it had the highest (\$104 Million) — almost double the expense of the second-place department, the Canada Revenue Agency (\$66 Million). And the CRA has a mandate to sue people to recover unpaid taxes!

Canada has also been known to retaliate against First Nations who challenge it. The First Nations Child and Family Caring Society lost its funding after its Director, Cindy Blackstock, started a human rights complaint against Canada for years of underfunding of First Nations child welfare services on reserve.<sup>103</sup> Dr. Blackstock was put under government surveillance and barred from attending government meetings because of her involvement in the case. The threat of retaliation is real.

Add all of this to the fact that most Canadian judges hate being put in a position of questioning government funding decisions,<sup>104</sup> and you have a recipe for disaster. Arguments based on Aboriginal rights, treaty rights, and fiduciary duty have been dismissed out of hand. In a 1997 case involving cuts to child welfare services by INAC, the judge said that fiduciary duty does not go so far as to require Canada to provide a specific amount of funding for any specific purpose.<sup>105</sup>

Arguments based on equality rights have also been rejected. In a recent case about Canada denying orthodontic services for a First Nations girl, a judge was unwilling to consider substantive equality, Jordan's Principle, or the history of Indigenous child welfare.<sup>106</sup> The judge found no problem with the denial of coverage, stating, "This case has to do with Josey's teeth; no more, no less."



Learn more about **Josey's case in this comic.**

A few cases have won on administrative law grounds of lack of fairness or an unreasonable decision, but these are few and far between. Some cases have gotten tossed out because they were in the wrong court. Some have been thrown out with judges ruling that government funding decisions can't be considered by the courts because they involve policy decisions. In many cases, government lawyers argue that Canada has no legal obligations to Indigenous peoples beyond what is in a funding agreement. In some cases, the courts have agreed with that.

All things considered, at least to date, Canadian courts seem to be a fairly inhospitable place to look for cash back.







**PART THREE**

**How to Get  
that Cash Back**

Redress, Compensation,  
and Restitution



**For us, Indigenous economy is that idea that our lands and our language, our culture, our heritage, all of those things that make us Indigenous people, wherever you are from, this is who we are. That is where we put our wealth, that is what wealth is for us.”**

- Skyler Williams, Mohawk, Wolf Clan member, member and resident of the Six Nations of the Grand River Territory and spokesperson for the #1492LandBackLane occupation (from the Ransom Economy webinar)

**The First Nations have already made a one-time-only contribution of resources to Canada sufficient to capitalize a fund for current payments.**

(Assembly of First Nations, Special 9:11)<sup>107</sup>

**SO MUCH STILL FLOATS** under the weight of the fiscal relationship. Historically, Indigenous economies have swum upstream against the tides of settler colonial capitalism. Where livelihoods have been damaged or destroyed, in every community there are people who continue to do the hard work of restoration — from language camps to medicine walks, from run-of-the-river to solar grids, from hemp farms to seal hunting. Indigenous economies everywhere enact the promise of new life.

In Land Back, we set out to study the proliferation of present-day forms of dispossession and the reclamation efforts of communities to reverse them. Here, in Cash Back, we set out to examine the transformation of Indigenous wealth into a cradle-to-grave welfare system by Canada. Now we want to explore the multiple forms of redress, restitution and compensation that Indigenous peoples are pursuing across the country to restore Indigenous economies. Here, we focus on Indigenous economies of care that seek to restore what Anishinaabe scholar Eva Jewell describes as Indigenous relationality and stewardship principles — the opposite of capitalism.<sup>108</sup>

**Through an engagement with thinkers and leaders on Indigenous economic restoration, we have developed three principles of Cash Back that we explore in Part 3:**

**REDRESS** for suppression of Indigenous institutions that affirm Indigenous values and culture.

**COMPENSATION** for land theft based on principles of Indigenous law and mechanisms of justice.

**RESTITUTION** of Indigenous economies that challenge the exploitation of global capitalism.



## On Principles

Redress, compensation, and restitution are all principles enshrined in the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)*, now embodied in proposed federal UNDRIP legislation.<sup>109</sup> Article 8, for example, instructs:

*States shall provide effective mechanisms for prevention of and redress for:*

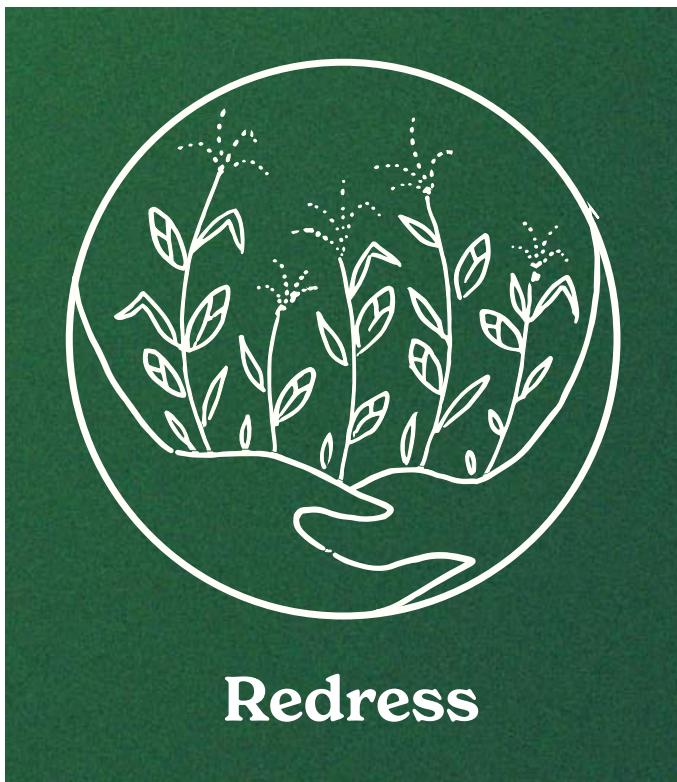
- *Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;*
- *Any action which has the aim or effect of dispossessing them of their lands, territories or resources;*
- *Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;*
- *Any form of forced assimilation or integration;*
- *Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.*

Here, we examine different forms of reparations to address the colonial fiscal relations between Canada and Indigenous peoples, taking into account the principles of redress, compensation, and restitution.



## 10 WAYS TO GET CASH BACK

This section contains several different voices, ideas, and approaches from across the spectrum of Cash Back that are like little seeds to be planted within the Land Back movement: they can sprout economies that will flourish when jurisdiction is exercised by and returns to Indigenous people.



**THE INTERGENERATIONAL** stress and trauma of land dispossession and systemic injustice carries with it a specific type of harm that must be redressed. Jewell et al. cite the work of Kristie Dotson, who names these harms connected to assimilation as “epistemic oppression.”<sup>110</sup> When Indigenous peoples face a constant dismissal and denial of their politics, worldviews, and history this kind of oppression ‘place[s] Indigenous peoples’ well-being at higher risk.’<sup>111</sup>

But the authors also note that this harm can be redressed through other kinds of institutional strength: Indigenous individuals can better navigate colonial oppression through knowledge of their culture, a critical Indigenous education that points to a history of systemic injustices, and support from family or community. These institutional sources of power must

be on the agenda for meaningful redress. Nehiyaw legal scholar Doug Sanderson concurs, writing that:

[T]he single greatest wrong committed against Indigenous peoples has been the historical and ongoing suppression of institutions in Indigenous communities that positively affirm Indigenous values, cultures, and identities.<sup>112</sup>

Sanderson argues for shifting the focus from land claims to “identity-affirming institutions” that are key to restoring what was taken, such as child welfare programs. Control over institutions can restore to Indigenous peoples not just jurisdiction over child welfare, for example, but the primary source of Indigenous values embedded in this institution, “like conceptions of the family.”<sup>113</sup>

These intimate forms of violence are often less visible to the public, less spectacular than the blockade, but supporting social institutions — like language schools, First Nation-led education, and food sovereignty programs — represent a powerful reclamation of Indigenous economies of care.

### 01. Indigenous Accounting and Accountability

by Dr. Matthew Scobie, Ngāi Tahu  
Lecturer, University of Canterbury

When Indigenous peoples get land and cash back, we must be ready to account for it in a way that fits our traditions and aspirations. Mainstream accounting techniques have evolved within the capitalist tradition at the frontier of colonial-capitalist accumulation to serve

exploitation: they render “outsides” — like water, air, animal habitat — either valuable or valueless, depending on their capacity to generate financial profit. There is a risk that if we do not transform these far-from-neutral accounting practices to be in service of Indigenous values and aspirations, we could maintain forms of exploitation. The role of accounting in rendering social, ecological, and cultural relations invisible in financial decision-making needs to be resisted, and alternatives must be developed.

**How can accounting as a practice of measuring, monitoring, and assigning value be grounded within Indigenous communities’ enduring practices and social systems?**

Accounting systems must transform to recognize the multitude of values intrinsic to Indigeneities, and this can only be done community by community, nation by nation. To do this requires comprehensive, effective, and authentic community participation to determine who is accountable to whom, and for what, and how this can be measured and monitored within Indigenous conceptions of stewardship.

Across the ocean, Māori iwi Ngāi Tahu have been considering ways to transform accounting systems within their own accountability relations.<sup>114</sup> It has been instructive to think through this transformation from a community economies perspective.<sup>115</sup> The Community Economy Return on Investment tool has emerged as just one potential way to track and value ethical economies. The “returns” can include many social, cultural, and ecological benefits to individuals and communities and will depend on what that community deems important to measure over time.

These forms of value and valuation can recognize the intimate kinship relations shared between humans and non-humans that exist across generations and demonstrate this value in novel ways that surpass anything accountants have managed to construct in their pursuit of capital accumulation. This requires making accounting techniques accountable to Indigenous responsibilities and relationalities.

There is a lot of work to do: Indigenous accountability practices are in stark contrast to either altogether

rejecting the practice of accounting as a colonizer’s tool — or worse, copy-pasting the colonizer’s accounting tool to transform the profound relationships between humans, non-humans, land, and water into financial capital. Accounting and accountability systems must be grounded within Indigenous values and practices — determined by us, for us, from below, rather than enforced on us from above.

## **02. Urban Indigenous Economies of Care**

When the pandemic hit Tkaronto (Toronto) in March 2020, all the government-run institutions for the city’s houseless people shut down. Toronto Indigenous Harm Reduction (TIHR) was born when Nanook Gordon stepped in to provide care in the forms of food, medicine, culture, and love to fill this gap. Soon joined by their fiancé Brianna Olson Pitawanakwat and others, the Two-Spirit / queer Indigenous collective grew to support those on the streets with trauma-informed care for their bodies as well as their spirits.

Pitawanakwat spoke in March 2021 at an encampment in Alexander Park that was threatened by eviction. She reminded people that industrialization has not only commodified the land, but also the people. She explained how the colonial logic of paternalism and harm, rather than care, pervades urban social institutions:

**These are the same institutions that created the reserve system in this country. They are the same systems that create the inflated government bureaucracy on the backs of Indigenous people in this country and the impossible living conditions in reserves. It is the same mechanism that creates a water crisis on reserves, in these communities, and guess where people go? They leave the reserve. And guess where they end up? They end up in the camps, they end up in the cities, they end up on the streets. 60 percent of Indigenous people who live in the city live in poverty.**





**“Amidst this global pandemic, unhoused Indigenous people in this territory are facing a houselessness crisis and violent removal. This tipi stood as a symbol of unconditional love, support, and the unconquered spirit of our people in the face of colonization.”**

**On March 27, Toronto Indigenous Harm Reduction raised a tipi in Toronto as a space for healing, community and ceremony in Allen Gardens, a gathering place for many houseless Indigenous people in the city.**

Toronto Indigenous Harm Reduction. [“Toronto Indigenous Harm Reduction in Solidarity with Indigenous Encampment Residents”](#)  
Yellowhead Institute. 01 April 2021.

Colonial policies force people into urban precarity. Here we see the outcomes, for example, of austerity funding that leaves communities without clean water, as well as the finger-pointing that creates service gaps for First Nations living in cities. Pitawanakwat links this treatment to a vicious cycle of incarceration:

**Look at the criminalization of Indigenous people, because where do you go when you don't fit into those other institutions, when you don't fit into the shelters, when you don't fit into the mental health systems, when you decide to opt out? There's nowhere left to go, so [people are] gonna come here, and then when they want you out of the parks, where do they put you? They're going to put you in jail.**

That's the situation that's happening here. And everyone's going to watch it. The state is going to criminalize people for not having homes. And the reason we come out here to do what we do — we drum and we sing and we practice our cultures — is because many, many of the people in these camps are Indigenous. They speak their languages, they know their songs, they are brilliant knowledge holders. Many are Elders themselves. And we practice our cultures because guess what else is criminalized in this country? Being Indigenous is criminalized. So, if they're going to come in and they're going to arrest everybody, they can do it while we are practising our cultures — just like they've done for hundreds of years in this country.

Indigenous peoples carry their inherent rights with them wherever they go. When they cannot practice their culture in the city, it is no less violent than being banned by the *Indian Act* from holding ceremonies until 1951.

TIHR is one of many grassroots urban movements — self-funded and organized — that blurs the colonial boundaries between on and off-reserve. They work with Indigenous peoples on their homelands or away from home, raising money for masks to send to reserves and Inuit villages throughout the country. They are grounding their care in economies

of redress: not only redistributing resources, but strengthening Indigenous social, cultural, and spiritual institutions and capacity as they do.

Likewise, in the summer of 2020, the Pekiwewin camp in Amiskwaciwâskahikan (Edmonton) was established to create a safe and secure community for the city's houseless. Also led by Indigenous Two-Spirit women and femme folks and working in solidarity with Black, LGBTQ2S and settler allies, the camp was established "as an anti-police violence, emergency relief and prayer camp with a harm reduction approach for house-less people sleeping rough."<sup>116</sup>

When governments slash budgets or deny funding to life-saving harm reduction projects, these Indigenous forms of governance become visible and urgent in their work to re-value the lives of those left behind. As Pekiwewin organizers state:

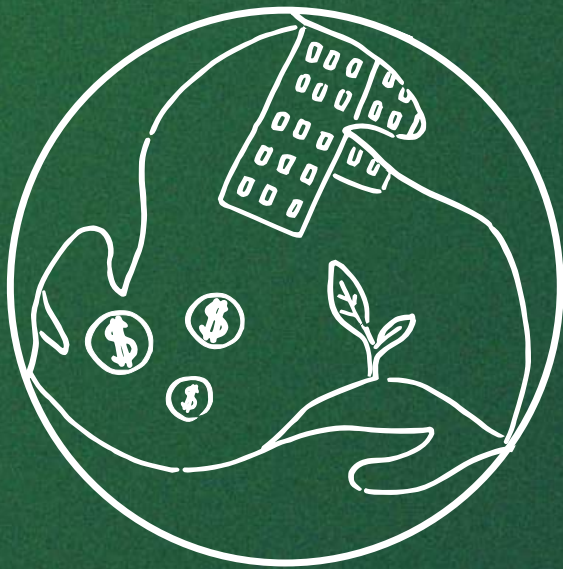
**The Government of Alberta has slashed funding and removed support for Safe Consumption Site (SCS) initiatives, rendering death by overdose a growing problem in an era in which reduction of the harm caused by intersecting barriers such as mental health issues, addiction, and enforced poverty has been proven.**

Pekiwewin camp embraces the practice of care by meeting people in the community where they are at. By safeguarding the dignity that goes hand in hand with human agency and acknowledging the complex systemic onslaught of oppression that community members are up against, Pekiwewin has become home to many. Pekiwewin is Nêhiyawêwin for "in-bound" or "coming home."

These are just two projects among hundreds across the country that show us a glimpse of Indigenous economies of care operating in urban centres.

**In the shadow of industrialization, these Indigenized spaces provide another world for people to inhabit and build up Indigenous knowledge, epistemology, and capacity.**





## Compensation

**TODAY, THE CASE FOR** colonial compensation has been pursued through several kinds of legal and political recourse. For land theft, for example, there is the Specific Claims tribunal. The process involves Canada confirming an outstanding legal obligation for lands taken from a Band. These claims are then compensated as a final solution to the “grievance.”<sup>117</sup> But the government is in a conflict of interest from the start, adjudicating claims made against it in a process it has designed and closely controls. There are caps on compensation and a tedious process that can take decades to resolve.

Besides these problems, according to legal scholar Alison Aho, the underlying issue is that “[i]t is not possible for equitable compensation to fully restore an injured First Nation to the position it would have been in but for the breach because it does not use any Indigenous legal principles.”<sup>118</sup> For compensation to be meaningful, it must fully replace settler mechanisms and processes with Indigenous governance or be “re-envisioned to embody Indigenous teachings, values, and law.” Otherwise, this compensation “will always lack holistic rehabilitation.”<sup>119</sup>

In the case of child welfare, class action lawsuits have dominated the path to compensation. Specifically, both

the Indian Residential School Settlement Agreement and the Sixties Scoop Settlement Agreement financially compensated Indigenous people for their subjection to state violence through child abduction policies. Perhaps the greatest concern about these forms of reparation is that *the harm is still ongoing*. Children continue to be taken from their homes, and incentives remain in place for apprehension to continue. If compensation is to be meaningful, settler governments must signal actual change and a transfer of power.

The First Nations Child and Family Caring Society has recommended a way to do just that in the Spirit Bear Plan.<sup>120</sup> It calls on Canada to cost out the shortfalls to education, health, water, child welfare, and other services for children, youth, and families and propose solutions to address these cumulative needs. It also calls on governments to co-create a plan to end all systemic discrimination and inequalities, “in a short period time-sensitive to children’s best interests, development and distinct community needs.”

Government departments would also have to clean house and do a thorough internal evaluation of the policies and practices that upheld this discriminatory funding gap. These are forms of real compensation for the injustices of systemic deprivation. And they are backed by the findings of the Canadian Human Rights tribunal decision ordering an immediate end to discriminatory funding to First Nations children and families.<sup>121</sup>

### 03. Treaty-based Funding

First Nations have long advocated *direct funding transfers from the Treasury Board of Canada*, removing the Department of Indian Affairs as middle-managers of these funds. This direct funding that a coalition of prairie Treaty Nations proposed would streamline the transfer process considerably and give Bands control over finances, rather than the onerous, bureaucratic line-by-line accounting to which most are currently subject.<sup>122</sup>

Direct funding can be seen as a fulfilment of treaty rights. Governments often overlook the economic component of treaty rights. But as Nehiyaw scholars

Gina Starblanket and Dallas Hunt write, “Treaties were negotiated precisely because our ancestors wanted to ensure that future generations would be able to turn to them in their efforts to maintain a high quality of life.”<sup>123</sup> What this looks like today is the renewal of meaningful treaty relations through nation-to-nation fiscal ties.

Currently, Canada uses contribution agreement (funding) contracts to implement their understanding of treaty obligations. These predetermined formulas violate Treaty Nations’ self-determination by treating these international agreements as surrenders, rather than honouring their original provisions. As the UN Special Rapporteur found in 1999, “In the case of indigenous peoples who concluded treaties or other legal instruments with the European settlers and/or their continuators in the colonization process, the Special Rapporteur has not found any sound legal argument to sustain the argument that they have lost their international juridical status as nations/peoples.”<sup>124</sup>

Direct funding from the Treasury Board is one proposal. Another is *litigation for treaty annuities*. A significant precedent won by the Anishinaabek beneficiaries of the Robinson Huron and Superior Treaties, signed with the Crown in 1850, recognized that the Crown had obligations to align treaty annuities with resource wealth generated by treaty lands. The so-called “augmentation” clause in the treaty was meant to ensure that the treaty was mutually beneficial for both parties. In particular, the Anishinaabek Nations would continue to be sustained by the development of ongoing benefits accrued from their lands by settlers and industry.

Does this precedent, established in the *Restoule vs. Canada* decision,<sup>125</sup> apply to other treaty nations, even if this specific clause does not appear in the written treaty text? Specifically, the “augmentation” clause states that, should the territory, “at any future period produce such an amount as will enable the Government of the Province, without incurring loss, to increase the annuity hereby secured to them, then and in that case the same shall be augmented from time to time.”

This written clause is unique to the Robinson Huron Treaties. But according to a lawyer on the case, the *substance* of the clause is not unique to this treaty. Chris Albinati of Nahwegahbow Corbiere describes this substance as, “sharing the land and wealth that can be generated from harmonious relationships with the land and all living beings that depend on the land.”

All treaties are unique agreements informed by the particular histories, worldviews, laws, and perspectives of the parties to the treaty, regardless of what their written English text reflects. What is required from Indigenous nations is the substantive Indigenous perspective of each treaty group to demonstrate the cultural, legal, and spiritual understandings of what it means to them to share the land.

Finally, Myra Tait (member of Berens River) and scholar Kiera Ladner see potential in an existing form of treaty-based funding, facilitated through the Treaty Lands Entitlement urban land purchase policy. As they write, “given that treaty promises were never fulfilled, particularly those pertaining to per capita land allocations and agricultural economic opportunity, Treaty Nations now look towards modern means of securing this vision. This is a treaty right.”<sup>126</sup> They describe how developing lands in urban centres can create “potential for economic participation and prosperity for future generations,” pointing to success stories like Membertou First Nation in Nova Scotia and Muskeg Cree in Saskatchewan.<sup>127</sup>

But the authors also issue a warning here – they cite Canada’s conduct of *restricting First Nations from purchasing valuable lands* as the poison pill to this policy. They write: “Canada’s constitutional tree can only offer protection and prosperity to settler and Indigenous nations alike when the Crown ceases pouring poison on its roots by denying the spirit and intent of the treaties.”<sup>128</sup> After all, the spirit of the treaties is that Indigenous peoples should benefit, not suffer economically due to settlement.<sup>129</sup>



## 04. Human Rights as a Basis to Dismantle Colonial Fiscal Policy

by Naomi Metallic, Listuguj Mi'gmaq First Nation  
Chancellor's Chair in Aboriginal Law and Policy;  
Assistant Professor, Schulich School of Law

As noted in Part 2, Canadian law has provided few effective pathways to getting that cash back. One area, however, where we are starting to see important changes is in the use of domestic human rights frameworks used to dismantle Canada's discriminatory and dysfunctional colonial fiscal policy.<sup>130</sup> This is in no small part thanks to the tireless efforts of Dr. Cindy Blackstock, who, with the Assembly of First Nations, instituted a historic human rights complaint on the chronic underfunding of First Nations child welfare services (the *Caring Society* case).<sup>131</sup>

A nine-year battle saw Canada attempt to have the complaint struck out, withhold evidence, and even put Dr. Blackstock under surveillance.<sup>132</sup> But eventually, the Canadian Human Rights Tribunal agreed that Canada had been knowingly underfunding First Nations child welfare agencies for over a decade. Evidence cited on this point included an ISC document called, "Explanation on Expenditures of Social Development Programs." The Explanation noted the Department's spending on First Nations social programs was "... limited in scope and not designed to be as effective as they need to be to create positive social change or meet basic needs in some circumstances."<sup>133</sup>

The Tribunal found that Canada's First Nation child welfare agencies funding fell well below that of provincial funding for non-First Nation agencies. But what makes the decision so crucial to the dismantling of Canada's colonial fiscal relations policy is that the Tribunal emphasized while Canada did not meet its own "comparability" standard, that standard in itself is discriminatory. The Tribunal held that domestic human rights law, informed by international law, entitles First Nations children and families to substantive equality: [ISC's] reasonable comparability standard does not ensure substantive equality in the provision of child and family services for First Nations people living on reserve. ... A strategy premised on comparable funding levels, based on the application of standard funding

formulas, is not sufficient to ensure substantive equality in the provision of child and family services to First Nations children and families living on-reserve.<sup>134</sup>

Substantive equality emphasizes the importance of receiving funding and services based on need:

**[H]uman rights principles, both domestically and internationally, require [ISC] to consider the distinct needs and circumstances of First Nations children and families living on-reserve — including their cultural, historical, and geographical needs and circumstances — in order to ensure equality in the provision of child and family services to them.**<sup>135</sup>

While Canada has treated the ruling in the *Caring Society* as relevant only to First Nations Child and Family Services (and even then, it has been slow to fully implement the decision<sup>136</sup>), a human rights-compliant approach mandates a fundamental reorientation to needs-based funding. Canada has also recently committed itself to needs-based funding in two separate pieces of legislation;<sup>137</sup> however, current practices do not appear to be reflective of this change in law.<sup>138</sup> Indigenous groups can seize on these changes to drive broadscale reform.

In terms of dismantling Canada's colonial fiscal policy, Jordan's Principle means that Canada cannot use the excuse of potential provincial funding as a basis for denying or reducing money to Indigenous peoples. Nor can departments within the same level of government shift the blame.(FOOTNOTE - old 135)) Named after Jordan River who died while the federal and provincial governments fought over who had to pay for his medical treatment, Canada must simply cover the costs until the matter is resolved.

The provinces are in the same boat: they have overlapping obligations to provide services to Indigenous peoples, including in the areas of essential and justice services.<sup>139</sup> Neither level of government can continue to use jurisdictional arguments to get out of their obligations.

## 05. Print the Money

In July 2020, the Parliamentary Budget Office released a report that found the top 1 percent of Canadian families hold over a quarter of the wealth in this country.<sup>140</sup> The top 0.5 percent hold over 20 percent – which is \$1.25 trillion. If a 1 percent annual wealth tax was imposed on fortunes over \$20 million, Canada could raise \$70 billion over the next 10 years. This money could cover all the infrastructure deficits on reserves, including water, housing, and community infrastructure (\$30 billion<sup>141</sup>), as well language programs (\$126.6 million per annum<sup>142</sup>), and education funding (\$3 billion annual shortfalls<sup>143</sup>).

One thing became very clear at the onset of the Covid-19 pandemic in early 2020: Canada has always had the capacity to print money when an emergency is declared. The fear of accruing federal debt has been used to rationalize insufficient funding for First Nations (and other critical social programs) year after year, thereby downloading the debt onto Bands.

But unlike Bands, Canada can balance the economy by reorganizing its deficit. Instead of selling it to investors, the Bank of Canada could buy it, interest-free, and move its debt onto its balance sheet, as Japan has done for years.<sup>144</sup> Instead, it continues to “balance the books” at the expense of First Nation well-being.

## 06. Indigenomics

The concept of Indigenomics was coined by Indigenous MBA Carol Anne Hinton, the CEO and Founder of The Indigenomics Institute. The Institute describes Indigenomics as a project “about increasing the role and visibility of Indigenous peoples in the new economy.” At a recent virtual conference organized by the Institute called “Designing our Economies,” held on November 30, 2020, a range of perspectives on Indigenous economies were discussed. Here, we focus on two compelling ideas that bridge the gap between settler and Indigenous economies in ways that aim to nurture Indigenous values and ethics.

Frank Busch is from Nisichawayasihk Cree Nation and the founder and CEO of Nation Fund. He spoke about the importance of Indigenous ownership and control over key assets and infrastructure: “The economic revolution will not be won through the beads and blankets of Impact Benefit Agreements or federal funded through resource revenue sharing.” Nation Fund promotes and provides, instead, sources of responsible low-cost capital to communities. As Busch says, “Indigenous communities must own equity in current and future infrastructure and economic projects in their territories.”

Others spoke to their pride at funding the first Indigenous-run media corporation by two Anishinaabe women, or the importance of community-based infrastructure. Or of the critical role of Friendship Centres, institutions that arose as a response to the need of urban Indigenous peoples to care and provide for one another — where local programs have evolved to reflect community economic development priorities and goals.

Theorizing Indigenous economies, Dara Kelly pushes back against the ways liberal capitalist policies and discussion integrate Indigenous economies into Western systems of knowing. She writes, “The challenge ahead for Indigenous people contesting the foundations of capitalism lies in questioning who benefits from economic success, and who pays the cost of exploited land and resources.”<sup>145</sup> While Canadian policies are a mix of encouragement and barriers to First Nation economic development, the deeper questions involve the underpinning questions about who has the authority to regulate land and water use on these lands.



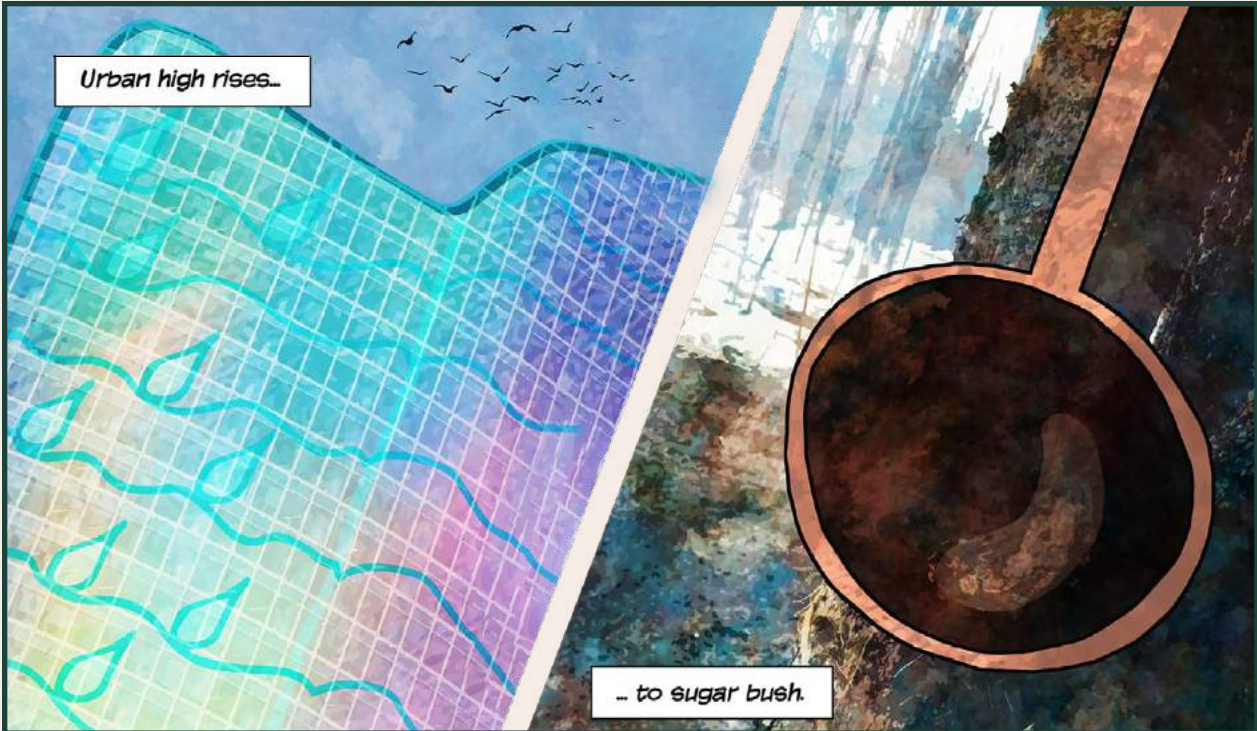
**"Thriving Economies"**  
Written and Illustrated by  
Elizabeth LaPensée



From leaping salmon...



... to vibrant lipstick



Urban high rises...

... to sugar bush.

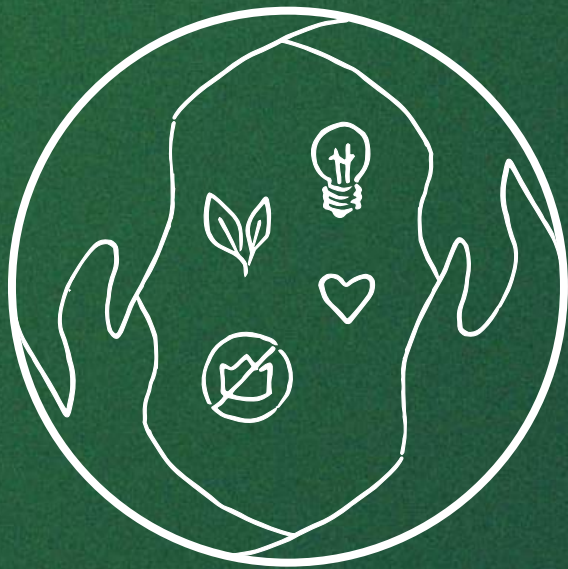


Indigenous economies thrive; dancing rice...



... and Freezing meat. For hopeful futures.





## Restitution

**IN YELLOWKNIVES DENE** Glen Coulthard's article, "For Our Nations to Live, Capitalism Must Die," he asks: "How might we move beyond a resurgent Indigenous politics that seeks to inhibit the destructive effects of capital to one that strives to create Indigenous alternatives to it?"<sup>146</sup> He talks about the importance of blockades, while also casting for a deeper understanding of how Indigenous nations can be rebuilt without relying on "the perpetual exploitation of our lands and labour." He concludes that what is needed is "a massive transformation in the political economy of settler-colonialism."

But for Indigenous economies to challenge settler colonial capitalism, certain conditions must be met. It requires a confrontation against all the legal and political obstacles that block Indigenous access to land. But it also means establishing:

**relations of solidarity and networks of trade and mutual aid with national and transnational communities and organizations that are also struggling against the imposed effects of globalized capital, including other Indigenous nations and national confederacies; urban Indigenous people and organizations; the labour, women's, GBLTQS, and**

**environmental movements, and of course, those racial and ethnic communities that find themselves subject to their own distinct forms of economic, social, and cultural marginalization.**<sup>147</sup>

**In other words, it will take relationships.**

Coulthard cautions against participation in settler colonial capitalism, even in the service of revitalizing Indigenous culture and community, since it hooks people into predatory economies that undermine the deep reciprocity of Indigenous economies. But there is no debate that this choice forces many to face an impossible circumstance: improve their socio-economic conditions through available revenues from extraction and development, or resist and confront the lack of adequate resources to provide for communities — to exercise independence from the state. Some might argue that this does not have to be a black or white decision, but that — as referenced by Jobin in the Introduction — adaptation is an integral aspect of Indigenous values and culture, within which communities can measure these costs and benefits.

When we look to Bolivia and Ecuador — two South American countries that have nationalized their energy economies while constitutionally protecting Indigenous rights — we can see these tensions playing out. The ownership of natural resources, a powerful demand that First Nations could make, allows for the funding of ambitious poverty-reduction projects and social programs.<sup>148</sup> But it also means pursuing resource extraction that can continue to exploit Indigenous lands. This is a hard reality because, as Lalander and Lembke write, Indigenous peoples are not only stewards of the land — they are also citizens calling for socio-economic rights, to which they are entitled. "Such politics always include a question of choices and priorities; a certain degree of compromises and sacrifices of specific rights, interests, and values."<sup>149</sup> Here, it is no different.

## 07. No More Crown Lands

**THE MOST DIRECT FORM** of restitution would address the history and tools of Canadian colonialism discussed in Parts 1 and 2 of this report. It would address the



foundation of Canada's economy in theft, violence, and ongoing fiscal warfare. Instead, despite years of purported progress, there has been "no constitutional reconfiguration of legislative powers to provide for Indigenous law-making in governance."<sup>150</sup>

Yet, "Crown Lands" are based on the legal fiction of the Crown's underlying title to all lands in Canada. As we've seen with just one massive land transfer — Rupert's Land — Indigenous peoples had their territories sold from under them. You cannot sell off an Indigenous nation's territory or responsibilities to their homelands and call it a country, though. It remains a colony — impermanent and uncertain, its sovereignty unperfected.

**What would it look like if Indigenous people drew up land leases and served them to cities, provinces and the federal government? What if Indigenous people came to collect overdue payments and agreed to payment plans to allow the country to catch up on their debts? What if all the colonial infrastructure, financed from the Indian Trust and off Indigenous lands, was now subject to local Indigenous taxation schemes?**

It would create a broad, overarching system that flows down the chain, resuming Indigenous jurisdiction over ancestral homelands.

## 08. The Leverage of Indigenous Lands as Risk

In lieu of a peaceful transition, holding up a mirror to the state's economic vulnerabilities was a strategy honed by the late Secwepemc leader Arthur Manuel. He founded the Indigenous Network on Economies and Trade (INET) with Nicole Schabus, and together, they launched unprecedented attacks on Canada's land theft using human rights, continental, and international trade bodies.

INET sided with the U.S. against Canada, for example, in the longstanding softwood lumber dispute, arguing that Canada benefits from unfair trade subsidies because companies are essentially stealing lumber from Aboriginal title lands. Manuel even tried to get Canada's

sovereign credit rating downgraded by an international securities rating firm. He told SP Global (previously known as Standard & Poor's) that Canada essentially had a bad title and that companies were getting a raw deal.

Manuel premised his work on the idea that there is a latent power in Indigenous lands' value. Ryan Day, Secwepemc economist, describes the cornerstone of this strategy is to leverage the economic risk "created by the uncertain status of land title in the eyes of the investment community."<sup>151</sup> The greater the assertions of inherent rights and proprietary interests Indigenous peoples make, the greater the risk this will create. Litigation is one way to destabilize the illusion of a stable property rights regime in Canada, but Day believes that occupation is one of the strongest. He writes:

**Arguably the most powerful strategy to increase economic uncertainty is the assertion of Indigenous rights and title through the practice of exercising Indigenous lifestyles and practices on the land and regenerating the associated governance structures and mechanisms. As is expressed in *Delgamuukw*: occupation is a sufficient test for aboriginal title. Not only is this important for creation of economic uncertainty for settler governments and proponents but it is an absolute necessity in an authentic Indigenous resurgence movement.**<sup>152</sup>

But Day also warns that governments will try to mitigate this risk by encouraging land-based movements to shift to the boardroom to broker agreements that may ultimately weaken the strength of claim of land defenders.

Another strategy of economic leverage is the *contingent liabilities* analysis that Manuel advanced. Manuel noticed that after the *Delgamuukw* decision came down in 1997, provincial governments were forced to start *accounting* for all Indigenous land claims as liabilities. That is, as money owing or an outstanding bill that is yet to be paid. That is because *Delgamuukw* recognized the property interests in the land held by Indigenous nations that did not enter treaties with the

Crown. In other words, Canada assumes they will have to settle these lands and has to count these lands as a *future cost*.

The key is for Indigenous peoples to coordinate such a strategy. Day writes:

**If Indigenous peoples coordinated an approach to ratings agencies like Standard & Poor's stating that assertions of title by settler governments are in fact false and incompatible with the constitution it would be clear that the contingent liability of settler governments is indeed a fixed liability which would compromise their economic position.<sup>153</sup>**

Put differently, if Indigenous peoples agree not to sell these lands, they become more than a liability — something Canada can pay off in the future — they become a permanent debt that the country owes. But Day warns that splinters in a group's cohesion are weaknesses that can be easily exploited to mitigate this leveraged risk of Aboriginal title.

A fixed cost to governments, therefore, is also an asset to Indigenous peoples who hold underlying title to their lands. What is crucial here is to form alliances across the country with communities representing every kind of relationship with the Crown: modern, historical, and pre-Confederation treaty groups alongside non-treaty nations, involving First Nation, Métis, and Inuit, etc. These alliances will raise the risks for violating Indigenous consent in all its forms.

## **09. Energy, Economics and Climate Change: Kakinaw Ayawin**

**by Mihsakwan James Harper**  
**Sturgeon Lake Cree Nation, Treaty 8**  
**EIT, M.Sc. Renewable Energy**

It is no coincidence that the age of climate change followed an age of aggressive colonization. In many ways, the violent land dispossession of Indigenous peoples disrupted the relationship between the Earth and humanity. Today, our bond with *okâwîmâwaskiy*

(Mother Earth) is strained and though many previous generations have known this, it has only now caught the attention of western scientists and politicians. Under the Paris Agreement, of which the global average temperature increase shall be “well below” two degrees Celsius, many western countries are still on track to global warming past three degrees.<sup>154</sup>

Climate change can be seen as the next challenging chapter following colonization for Indigenous peoples worldwide. For Indigenous peoples who continue to depend on the land and their sacred relationship with it, climate change poses a threat through myriad ecological disasters and losses. In a perpetual saga of dangers to life and survival, the *causes* of climate change (pipeline projects, oil and gas pollution, man-camps contributing to the MMIWG2S crisis)<sup>155</sup> and its *effects* (flooding, melting sea ice, biodiversity loss) have irrevocably and disproportionately taken away the lives and livelihoods of too many Indigenous people. To make matters worse, almost none of the massive profits from the petroleum industry — the foundation of modern Canadian economy — or other exploitative energy projects developed on traditional Indigenous lands, like large-scale hydro, are distributed among Indigenous peoples. This exists as one of the biggest areas of economic discrimination.

The development of energy projects has played a key role in the socioeconomic inequality of Indigenous peoples. This is seen in the missed opportunities of Indigenous people rightfully gaining from any economic development, the insurmountable cost to lives and livelihoods from the disruption of land, water, and wildlife, and in the continued risk of climate change and violence when Indigenous people defend territories.

In the wake of the need to act fast on meaningful climate action comes new opportunities to develop energy projects sustainably and equitably. Renewable energy (such as wind and solar power) paired with energy storage and connected to the existing community grid creates a clean microgrid. Such systems are becoming more affordable, sometimes where the costs per unit of energy are cheaper than conventional coal and natural gas.<sup>156</sup> This means that clean energy could become a reality for more communities. Further, with the government and



regulators slowly but surely moving towards creating investment schemes and adjusting market rules for smaller electricity generators to come online and sell power, project risk decreases significantly. This prompts better access to capital for communities, which is especially important for developing community-owned clean microgrids.

The choice to move towards affordable energy is clear for the 250 Northern and remote communities where diesel generators typically meet electricity needs. At electricity prices near \$0.30 per kWh in many communities across Nunavut and the Northwest Territories,<sup>157</sup> or over twice the national average, affordable electricity can greatly reduce the financial burden for many and relieve subsidy programs that can then go towards other community initiatives. Furthermore, the cost of electricity becomes tied to a renewable resource, like solar and wind, which carry virtually no price and volume risk like petroleum fuels, thereby creating strong energy sovereignty and resilience. Environmentally, reducing the movement and burning of toxic fuels also reduces the risk of spills, contamination, air quality reduction, and noise pollution — all of which have heightened consequences due to the co-location of sensitive ecosystems with remote communities.

By empowering ownership and financing models, remote or grid-connected, community-owned clean energy projects have the potential to give much-needed economic stimulus, provide meaningful long-term financial returns, and bring cost savings to the community.

In 2017, a report from Lumos Clean Energy Advisors<sup>158</sup> surveyed the 152 Indigenous clean energy projects — inclusive of clean microgrids, medium-large scale renewables and hydro, and biomass projects across Canada — all of which have contributed to meaningful economic reconciliation and climate action. Indigenous ownership in such projects averages at 25 percent and is expected to grow with increasing access to affordable capital. Projects have typically held return on investments at around 10 percent or better, which amounts to a projected \$2.5 billion in profit over the next 12 years. The total economic benefit is three to four times larger than this, given the human resources

development, infrastructure improvements, and reinvestments.

Perhaps even more consequential to this movement is the legitimate pathway towards reconciliation and Indigenous empowerment. Generating, distributing, and consuming clean energy all within a community aligns completely with decentralization, interconnectedness, and circular economies. Critical elements of Indigenous economies include: minimizing waste, reciprocity with nature, and equitable access to the sustenance of life.

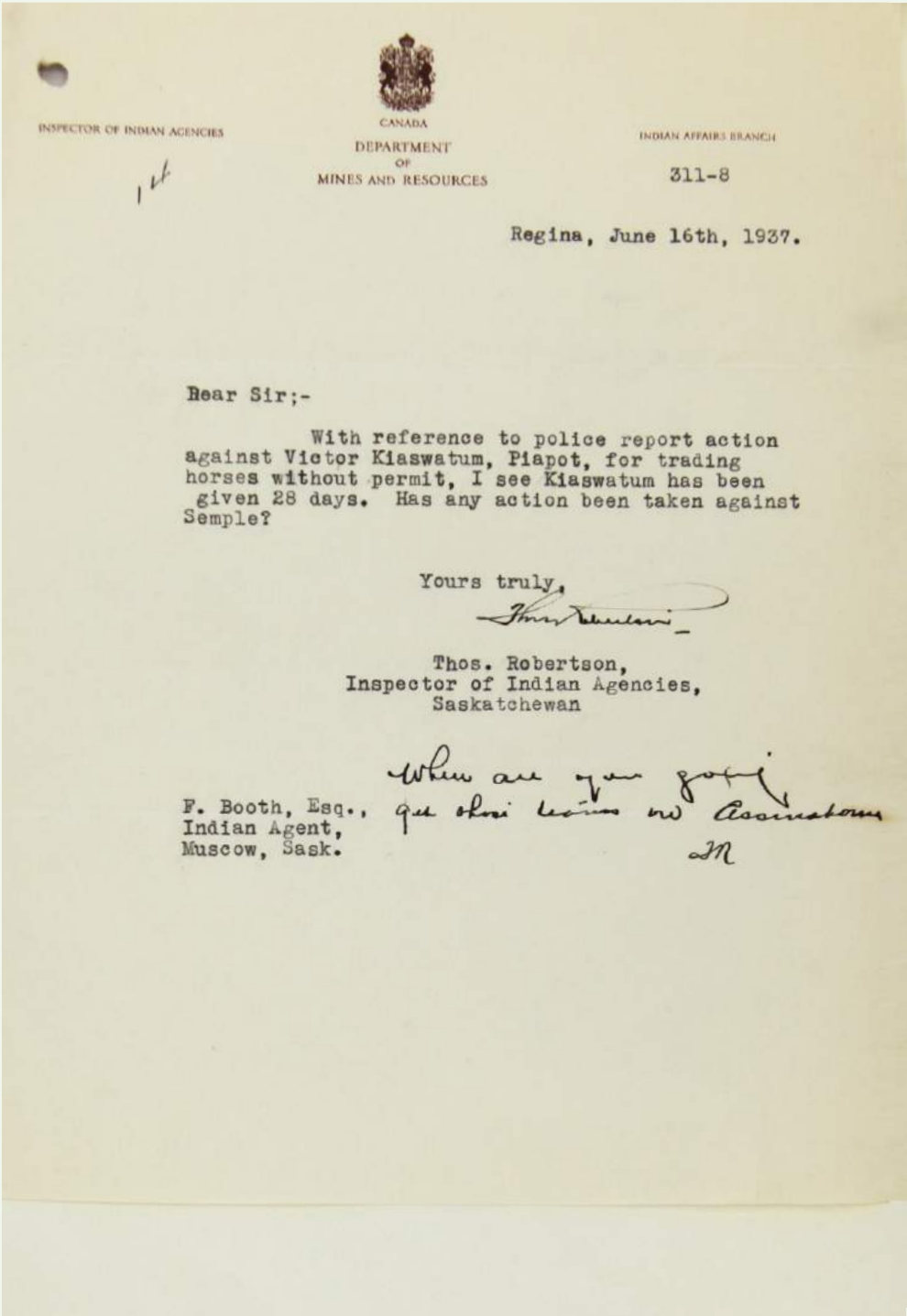
*Kakinaw ayawin* is Nêhiyawêwin for “it’s all around us” — an interpretation of “energy” my kookum gave to me. In describing my studies to her on renewable energy and clean technologies, she couldn’t help but remind me that energy is so much more than the physical — more than sun rays hitting solar panels or the flow of electrons in transmission lines. It is how the land, water, and animals communicate with us, and us with them. This energy guides our relationships with the Earth and with each other. Only when we carry healthy and positive energy will we forge strong and balanced relationships. As soon as Indigenous peoples are empowered in areas like clean energy, the sooner we can build a truly just and sustainable society.

## 10. Youth Perspectives on Abolition

by **Kakeka Thundersky, Winnipeg, Youth Organizer**

The work of youth-led anti-violence organizing is reclaiming, asserting, and maintaining both our space and belonging in our community. It’s ensuring we can show up, survive, and thrive in that space without the threat of violence to ensure our survival. It has and always has been for the children.

Throughout Canada’s history, the RCMP were empowered to steal Indigenous children and incriminate — and even kill — Indigenous people for defending their livelihoods and families. This fact doesn’t stagnate in the past; it’s an ongoing and present issue with the RCMP today. Policing in our communities is violent and detrimental to our safety. They come from outside the community; their mandates are driven by policymakers who don’t have our best interests



INSPECTOR OF INDIAN AGENCIES



CANADA  
DEPARTMENT  
OF  
MINES AND RESOURCES

INDIAN AFFAIRS BRANCH

311-8

Regina, June 16th, 1937.

Bear Sir;-

With reference to police report action against Victor Kiaswatum, Piapot, for trading horses without permit, I see Kiaswatum has been given 28 days. Has any action been taken against Semple?

Yours truly,

Thos. Robertson,  
Inspector of Indian Agencies,  
Saskatchewan

F. Booth, Esq.,  
Indian Agent,  
Muscow, Sask.

*When are you going  
que chose les uns ou Assiniboine  
M*

Police have a long history of maintaining poverty in the west. So tight were the economic reigns on the prairies, when First Nations traded goods without a permit from an Indian Agent or Farm Instructor, they could be arrested. This letter shows a 28-day prison sentence for Victor Kiaswatum Piapot for "trading horses without a permit." Such criminalization of Indigenous participation in the market economy pushed trade underground, into furtive midnight exchanges and wild chases through long prairie grasses. Farm Instructors had no legal training and were often former military soldiers, while Indian Agents were empowered as magistrates – civilians who could administer law; both these authorities used and abused their powers from Manitoba, westward – policing the wide prairies as though it were their personal domain.

Library and Archives Canada; RG10, VOL 9141, FILE 75, 8045



or well-being in mind. Communities know what the community needs — and all communities need capacity and confidence building to establish and maintain safety and protection.

Urban Indigenous perspectives on police abolition are unique and diverse, as they have a variety of lived and intersectional experiences and realities. Living in urban centres, we are often subjected to different forms of systemic obstacles. It is nearly impossible not to struggle with navigating systems in which we are simultaneously over-represented and severely underserved. Each community has different needs and wants. All require a certain level of capacity, and all need resources to meet these needs.

One group we formed to keep each other safe was Aboriginal Youth Opportunities (AYO). Though we have since collectively decided to end the group, AYO was a youth movement from Winnipeg's North End committed to breaking stereotypes and creating opportunities for young urban Indigenous people. We created harm reduction initiatives and developed a solutions lab for Indigenous youth ageing out of care in Winnipeg. We held language classes in coffee shops and met to strategize about anti-violence training to build peace across groups and neighbourhoods.

We know the system is oppressive. We know it jeopardizes the lives and safety of Black and Indigenous People of Colour (BIPOC). We know that we cannot thrive within these systems. Cities and urban centres were built on a foundation of theft. Cities are on stolen land that has ancestral connection and knowledge. Understanding that we have the inherited right to the land and a responsibility to care for and honour it has more authority than any of these settler governments.

The land has descendants that are currently living on it and who have a lineal connection to it, even if they have been displaced. Land Back in the city is actively taking up space and maintaining it through community and asserting our sovereignty. It's simply existing openly. It's breaking norms and the expectation that city life isn't sacred or spiritual because of concrete. Land Back in the city isn't waiting until an opportunity to leave the city comes; it's doing work where you are and making it accessible to others. In the city we can be held back by location: ceremonies and direct actions are oftentimes held outside the urban centre, and we are told we must leave the city to participate in them. These ceremonies aren't accessible without the privileges of transportation or kinship.

**Fighting for sovereignty in the city, free of police and the violence that comes with them, is an act of love. It's an act of love for the community, ourselves and all our relations. The many systems we face and battle within the city were brought here and forced upon us: they are not natural; there is no blood memory in them. They were built by colonialism and they can be burned down. They don't keep us safe, we keep each other safe.**









## CONCLUSION

We have only begun to scratch the surface in this report on the financial and economic aspects of colonization in Canada. We have not examined Canada's imperialistic position in the world or covered in detail numerous regions throughout this country. It would take many more years of research to comprehensively represent the diversity of Indigenous economies on these lands.

What we have tried to show here, instead, is a glimpse of how Canada got its economy through theft, how colonialism has been reframed as fiscal policy, and how Indigenous livelihoods can be protected and thrive even in the face of state deprivations and violence.

The opposite of the "free handouts" stereotypes — the idea that somehow First Nations are pampered and privileged — reveals a much darker reality. In fact, First Nations face a *predatory* environment of interconnected forms of violence, as Pitawatakwat describes in Part 3, due to systemic impoverishment.

First Nations have been denied even a fraction of what they have contributed to this nation's wealth.

**Restoring Indigenous economies requires focusing on the perspectives of those most impacted by colonization and the attacks on Indigenous livelihoods. It means reclaiming the language for "sharing" in dozens of Indigenous tongues. It means recognizing that Indigenous inherent rights do not stop at the boundaries of the reserve. It means holding up the mirror to a beastly self-destructive world and guiding it forward through the fire.**

As we write in the Introduction, this anti-colonial struggle is also an economic one. There is a great deal of money and personal wealth at stake in challenging the colonial relationship in which Canada maintains power by claiming exclusive authority over all underlying title to these lands.

The anti-colonial struggle against this array of corporate and state power is also global. Indigenous people from Canada have aligned themselves for decades with these international movements for freedom. In *The Fourth World*, Secwepemc leader George Manuel describes arranging secret meetings in Ottawa with President Nyere of Tanzania, who led large-scale nationalization projects to bring his people out of devastating poverty post-colonization. Canada sought to keep them apart, lest they share ideas or unite in a political alliance.

Post-colonial countries around the world continue to struggle for economic independence. We should always think critically when we hear the words 'economic development,' because the historical record shows there will be strings attached. These strings can deeply entangle and knot people's freedom into the fortunes of the Wiindigo economy. It must be their choice, but that means there must be alternatives to choose from.

In conclusion, the *Wiindigo* economy — a society built on death — shows why it is settler society that will need First Nation leadership and support to "build back better." This time, the new economy must be built on life.







## Endnotes

- 1 As Arthur Manuel writes in *Unsettling Canada*, the 0.2 percent economy is the tiny land base of all the reserves in Canada put together.
- 2 Walter Rodney, *How Europe Underdeveloped Africa* (London: Bogle-L'Ouverture. Dar-Es-Salaam: Tanzanian Publishing House, 1973).
- 3 George Manuel and Michael Posluns, *The Fourth World: An Indian Reality* (Don Mills: Collier-Macmillan Canada, 1974), 41.
- 4 Dara I. Kelly and Christine R. Woods, "Ethical Indigenous economies," *Engaged Scholar Journal*, 7, no. 1 (Spring 2021).
- 5 Winona LaDuke and Deborah Cowen, "Beyond Wiindigo Infrastructure," *The South Atlantic Quarterly*, 119, no. 2 (April 2020): 244.
- 6 Winona LaDuke, "Traditional Ecological Knowledge and Environmental Futures," *Colorado Journal of International Environmental Law and Politics - Endangered Peoples: Indigenous Rights and the Environment* 5, no. 127 (1994): 127.
- 7 LaDuke and Cowen, "Beyond Wiindigo Infrastructure," 245.
- 8 Shalene Jobin, "Market Citizenship and Indigeneity" in *Creating Indigenous Property: Power, Rights, and Relationships*, Angela Cameron, Sari Graben, Val Napoleon eds. (Toronto: University of Toronto Press, 2020): 109.
- 9 Glen Coulthard. (2013). *For our nations to live, capitalism must die*. Unsettling America. <https://unsettlingamerica.wordpress.com/2013/11/05/for-our-nations-to-live-capitalism-must-die/>
- 10 Gisday Wa and Delgam Uukw, "The Spirit in the Land: The Opening Statement of the Gitksan and Wet'suwet'en Hereditary Chiefs in the Supreme Court of British Columbia" (Gabriola: Reflections, 1990): 33.
- 11 John Borrows, *Frozen Rights in Canada: Constitutional Interpretation and the Trickster*, 22 Am. Indian L. Rev. 37 (1997).
- 12 The Gladstone Court also suggested that on the fiduciary duty part of the analysis — the special obligations owing to First Nations by the Crown — the government wasn't required to give exclusive priority to the commercial right, but only some priority. See also: *Ahousaht Indian Band and Nation v. Canada (Attorney General)* 2018 BCSC 633.
- 13 Regulated in the case law doesn't mean the Crown can do whatever it wants. See: Naomi Metallic and Constance MacIntosh, "Canada's actions around the Mi'kmaq fisheries rest on shaky legal ground," *Policy Options*, November 9, 2020.
- 14 *Delgamuukw v British Columbia* 1997 3 SCR 1010 at para 165.
- 15 Gordon Christie, "Aboriginal Resource and Subsistence Rights after Delgamuukw and Marshall," in *Advancing Aboriginal Claims: Visions, Strategies, Directions*, ed. Kerry Wilkins (Vancouver: UBC Press, 2004), 245. A good example of this is that in *Marshall and Bernard* (2005) — the SCC rejected the treaty right to logging based on the first *Marshall* decision.
- 16 See, for example, the 2009 *Federal Framework for Economic Development from Indian Affairs and Northern Development Canada*, or the cheerleading from right-wing think tanks for Indigenous participation in resource economies: Ravina Bains, "Opportunities for First Nation prosperity through oil and gas development," *Studies in Energy Transportation* (Vancouver: Fraser Institute, November 2013).
- 17 Clifford Atleo, "Between a Rock and a Hard Place: Canada's Carbon Economy and Indigenous Ambivalence" in *Regime of Obstruction: How Corporate Power Blocks Energy Democracy*, ed. William K. Carroll (Athabasca: AU Press, 2021).
- 18 Hayden King and Shiri Pasternak. (2018). *Canada's Emerging Indigenous Rights Framework: A Critical Analysis*. Yellowhead Institute. Toronto, Ryerson University.
- 19 Eva M. Jewell, "Gimaadaasamin, we are accounting for the people: Support for customary governance in Deshkan Ziibiing," (PhD diss., Royal Roads University, 2018).
- 20 Sharon H. Venne, "Understanding Treaty 6: An Indigenous Perspective," in *Aboriginal and Treaty Rights in Canada: Essays on Law, Equality, and Respect for Difference*, ed. Michael Asch (Vancouver: UBC Press, 1997, 2002), 184.
- 21 Tracy Lindberg, "The Doctrine of Discovery in Canada," in *Discovering Indigenous Lands: The Doctrine of Discovery in the English Colonies*, Robert J. Miller, Jacinta Ruru, Larissa Behrendt, and Tracey Lindberg, eds. (Oxford University Press, 2010); Kent McNeil, "Sovereignty and the Aboriginal Nations of Rupert's Land," *Manitoba History*, no. 37 (1999): 2-8.
- 22 Arthur J. Ray, J. R. Miller, and Frank Tough. 2000. *Bounty and benevolence: a history of Saskatchewan treaties*. Montreal: McGill-Queen's University Press, p. 50.
- 23 John Borrows, "Wampum at Niagara: The Royal Proclamation, Canadian Legal History and Self-Government," in *Aboriginal and Treaty Rights in Canada: Essays on Law, Equality and Respect for Difference*, ed. M. Asch. (Vancouver: UBC Press, 1997).
- 24 Rupert's Land Act, 1868, 31-32 Vict., c. 105 (U.K.).
- 25 Regarding Canada's debt and financing of the Red River purchase, see "HOUSE OF COMMONS Friday, May 7, 1889," (Ottawa): Library of Parliament, 1889), 195-223, <https://lop.parl.ca/staticfiles/ParlInfo/Documents/Budgets/En/1869-05-07.pdf>
- 26 For a fuller account of the history of money, state and First Nations in Canada, see Brian Gertler, *Colonialism's Currency: Money, State, and First Nations in Canada, 1820-1950* (Montreal; Kingston: McGill University Press, 2020).
- 27 "Litigation - Six Nations of the Grand River v. Canada and Ontario," Six Nations Lands and Resources, last modified 2008, <http://www.sixnations.ca/LandsResources/lSuSNvCo.htm>
- 28 Angela C. Tozer, "Universal nation: Settler colonialism and the Canadian public debt over Mi'kma'ki, 1820-1873," (PhD diss., McGill University, 2020).

- 29 Peggy Martin-McGuire, First Nation Land Surrenders, Indian Claims Commission, "First Nation Land Surrenders on the Prairies, 1896-1911," (Ottawa: Indian Claims Commission, 1998): 43, <http://publications.gc.ca/site/eng/9.833886/publication.html>.
- 30 Eli Yarhi and T.D. Regehr, "Dominion Lands Act," *Canadian Encyclopedia* (January 30, 2020).
- 31 Martin-McGuire, "First Nation Land Surrenders."
- 32 John S. Galbraith, "Land Policies of the Hudson's Bay Company, 1870-1913," *Canadian Historical Review* XXXII, no. 1 (March 1951).
- 33 Galbraith, "Land Policies of the Hudson's Bay Company."
- 34 Amanda Nettelbeck and Russell Smandych, "Policing Indigenous Peoples on Two Colonial Frontiers: Australia's Mounted Police and Canada's North-West Mounted Police," *The Australian and New Zealand Journal of Criminology* 43, No. 2 (2010): 356-375.
- 35 Gina Starblanket and Dallas Hunt, *Covid-19, The Numbered Treaties & The Politics of Life: A Special Report* (Toronto: Yellowhead Institute, June 2020), 9.
- 36 Miguel Alfonso Martínez, UN. Special Rapporteur on Treaties, Agreements and Other Constructive Arrangements Between States and Indigenous Populations, *Study on treaties, agreements and other constructive arrangements between States and indigenous populations: final report* (Geneva: UN, June 1999), <https://digitallibrary.un.org/record/276353?ln=en>
- 37 With the NRTA, First Nation sport and commercial hunting suddenly fell under provincial authority, while the federal government maintained jurisdiction over First Nations' access to wildlife for food.
- 38 Cole Harris, *The Reluctant Land: Society, Space, and Environment in Canada before Confederation* (Vancouver: UBC Press, 2008).
- 39 David Neufeld, "Our land is our voice: First Nation heritage-making in the Tr'ondëk/Klondike," *International Journal of Heritage Studies* 22, no. 7 (2016): 569.
- 40 Art Manuel, "Colonial Oppression at Elsipogtog: Right to Self-determination," *West Coast Native News*, October 30, 2013, <https://unsettlingamerica.wordpress.com/2013/10/30/colonial-oppression-at-elsipogtog-right-to-self-determination/>
- 41 Brian Gettler, *Colonialism's Currency: Money, State, and First Nations in Canada, 1820-1950* (Montreal; Kingston: McGill University Press, 2020).
- 42 Zebedee Nungak, *Wrestling with Colonialism on Steroids: Quebec Inuit Fight for their Homeland* (Montreal: Vehicule Press, 2017).
- 43 *The Other Side of the Ledger: An Indian View of the Hudson's Bay Company*, directed by Martin Defalco and Willie Dunn (Ottawa: National Film Board, 1972).
- 44 Kara L. Webster, Frederick D. Beall, Irena F. Creed, and David P. Kreutzweiser, "Impacts and prognosis of natural resource development on water and wetlands in Canada's boreal zone," *Environmental Reviews*. 23, no. 1 (2015): 102.
- 45 Brittany Luby, "From Milk-Medicine to Public (Re)Education Programs: An Examination Of Anishinabek Mothers' Responses To Hydroelectric Flooding In the Treaty #3 District, 1900-1975," *CBMH/BCHM* 32, no. 2 (2015): 363-389.
- 46 Brittany Luby, *Dammed: The Politics of Loss and Survival in Anishinaabe Territory* (Winnipeg: University of Manitoba Press, 2020), 49-50.
- 47 Madeline Whetung, "(En)gendering Shoreline Law: Nishnaabeg Relational Politics Along the Trent Severn Waterway," *Global Environmental Politics* 19, no. 3, (August 2019): 25.
- 48 Ryan Heavy Head, "Feeding Sublimity: Embodiment in Blackfoot Experience." (Unpublished Master's thesis, University of Lethbridge, 2005).
- 49 Brian Hubner, "Horse stealing and the borderline: The NWMP and the control of Indian movement, 1874-1900," in *The Mounted Police and Prairie Society, 1873-1919*, ed. W.M. Baker (Regina: University of Regina, Canadian Plains Research Centre, 1998): 53-70.
- 50 Sarah Carter, *Lost Harvests: Prairie Indian Reserve Farmers and Government Policy* (Montreal: McGill-Queen's University Press, 1993).
- 51 Leo G. Waisberg and Tim E. Holzkamm, "A Tendency to Discourage Them from Cultivating': Ojibwa Agriculture and Indian Affairs Administration in Northwestern Ontario," *Ethnohistory* 40, no. 2 (1993): 175-211.
- 52 Martin-McGuire, "First Nation Land Surrenders."
- 53 Cited in Hugh Shewell, *'Enough to Keep them Alive': Indian Welfare in Canada, 1873-1965* (Toronto; Buffalo; London: University of Toronto Press, 2004).
- 54 "Attawapiskat finances put under 3rd-party control," *CBC News*, November 30, 2011, <https://www.cbc.ca/news/canada/attawapiskat-finances-put-under-3rd-party-control-1.989397>
- 55 *CBC News*, "Attawapiskat finances put under 3rd-party control."
- 56 *Attawapiskat First Nation v. Her Majesty the Queen*, 2012 FC 948, at para 21.
- 57 Fiscal Realities Economists, *The True Cost of First Nation Government* (Kamloops, BC, 2001), 10.
- 58 "Fast Fallout: Chief Spence and Idle No More Movement Galvanizes Canadians Around Money Management and Accountability," *Ipsos*, January 15, 2013.
- 59 "Attawapiskat Unrest Continues, Despite De Beers Investment," *CBC News*, February 5, 2013, <https://www.cbc.ca/news/canada/sudbury/attawapiskat-unrest-continues-despite-de-beers-investment-1.1327593>
- 60 Jody Porter, "De Beers Victor mine fails to monitor mercury risk, environmental group says," *CBC News*, December 21, 2015, <https://www.cbc.ca/news/canada/sudbury/de-beers-victor-mine-fails-to-monitor-mercury-risk-environmental-group-says-1.3371451>



- 61 Michelin uncovers two engineering reports in particular: the first report was issued by the Ontario First Nations Technical Services Corporation on March 5, 2005 and the second by the First Nations Engineering Services Ltd on Oct. 13, 2006. See: Ossie Michelin, "De Beers Decision to Dump Sewage into Attawapiskat Played Role in Current Housing Crisis," *APTN National News*, December 12, 2011, <https://www.aptnnews.ca/national-news/de-beers-decision-to-dump-sewage-into-attawapiskat-played-role-in-current-housing-crisis/>
- 62 For a full account of this fiscal warfare at Attawapiskat, see Shiri Pasternak, "The fiscal body of sovereignty: to 'make live' in Indian country," *Settler Colonial Studies* 6, no. 4 (2016): 317-338.
- 63 Special Joint Committee, *Minutes of Proceedings and Evidence* (1947): 367-369, *emphasis added*.
- 64 Special Joint Committee, *Minutes*.
- 65 The original meetings were held between Andrew Paul (Native Brotherhood of British Columbia), Kahnawake Chief Joseph Deslisle (secretary of the United League of Nations of North American Indians), Jules Sioui (administrator, protective committee, Huron Village and later, co-founder of The Indian Nation of North America), and others.
- 66 "Report of Executive Conference," North American Indian Brotherhood (Ottawa, December 1945): 10-12. Cited in John S. Leslie, "Assimilation, Integration or Termination? The Development of Canadian Indian Policy, 1943-1963." (PhD diss., Carleton University, 1999).
- 67 Naomi Metallic, *The Broad Implications of the First Nation Caring Society Decision: Dealing a Death-Blow to the Current System of Program Delivery (CSPD) On-Reserve & Clearing the Path to Self-Government*, (Professional LLM, 2018).
- 68 UBCIC, *A Declaration of Indian Rights: The B.C. Indian Position Paper*, Vancouver, BC, Nov. 17, 1970, p. 8.
- 69 Jean Chrétien, Minister of Indian Affairs. Letter to the Right Honourable Pierre Elliot Trudeau, Prime Minister of Canada, April 30, 1971, 2018.008, Box 2, Folder 5, Fonds - Peter Di Gangi Papers, Ryerson University Archives and Special Collections, Toronto, Ontario, Canada.
- 70 Officially, "A Special Committee of the House of Commons on Indian Self-Government," HOUSE OF COMMONS 40, (Ottawa: Library of Parliament, October 1983), [https://parl.canadiana.ca/view/oop.com/HOC\\_3201\\_22\\_6/1?r=0&s=1](https://parl.canadiana.ca/view/oop.com/HOC_3201_22_6/1?r=0&s=1)
- 71 Canada, Parliament, House of Commons, Special Committee on Indian Self-Government, *Indian Self-Government in Canada: Report of the Special Committee*, 32nd Parl, 1st Sess, No 40 (12 October 1983 and 20 October 1983) (Chair: Keith Penner), 88.
- 72 Penner Report, 89.
- 73 David Munro, Assistant Deputy Minister of Indian Affairs on Indian Consultation and Negotiations, DIAND Memo, April 1, 1970. Cited in Peter MacFarlane and Nicole Shabus, *Whose Land Is It Anyway? A Manual for Decolonization* (Vancouver: Federation of Post-Secondary Educators of BC, 2017), 25.
- 74 Naomi Metallic, "A Human Right to Self-Government over First Nations Child and Family Services and Beyond: Implications of the Caring Society Case," *Journal of Law and Social Policy* 28 (2018): 4-41.
- 75 Metallic, *The Broad Implications of the First Nation Caring Society Decision*.
- 76 Robert Shepherd, "Moving Tenuously Toward Lasting Self-Government for First Nations: Understanding Differences with Respect to Implementing Accountability," (PhD diss., University of Toronto, 2006), 178.
- 77 Peter Di Gangi, *Fiscal Transfers, Programs & Services: The End of the Line? A Brief Survey of Crown-Indian Fiscal Relations*. Prepared by Sicani Research & Advisory Services for the Assembly of First Nations (April 2016), 22.
- 78 Di Gangi, *Fiscal Transfers, Programs & Services*.
- 79 In 1985, DIAND estimated that Bill C-31 implementation would cost \$300 million – by 1989, they had revised their costs upwards to \$2 billion. Between 1985-90, costs for C-31 non-insured health benefits grew from \$2.5 million to \$39 million; post-secondary education costs ballooned, as well. See: Di Gangi, Di Gangi, *Fiscal Transfers, Programs & Services*, 18.
- 80 Michael J. Prince and Frances Abele, "Funding an Aboriginal Order of Government in Canada: Recent Developments in Self-Government and Fiscal Relations," in *Canada: The State of the Federation 1999/2000, Towards a New Mission Statement for Canadian Fiscal Federalism*, ed. Harvey Lazar. (Montreal & Kingston; London & Ithaca: McGill-Queen's University Press, 2000), 337-367.
- 81 Prince and Abele, "Funding an Aboriginal Order of Government in Canada."
- 82 Jordan's Principle secures access for First Nations children to any services they need, when they need them.
- 83 Tom McCarthy, "Sources of Funds, Sources of Frustration," *Northern Public Affairs*. 1, no. 3, (Spring 2013): 26.
- 84 *Teslin Tlingit Council v. Canada (Attorney General)*, 2019, YKSC 3 (CanLII), <http://canlii.ca/t/hx12m>
- 85 Hayden King and Shiri Pasternak, *Canada's Emerging Indigenous Rights Framework: A Critical Analysis*, (Toronto: Yellowhead Institute, 2018).
- 86 Russell A. Evans, "Budgeting Practices in Canadian First Nations Settings: A Study of the Persistence of Arbitrary-set Social Hierarchies," (Paper presented at CPA: Public Sector Accounting Symposium, Ryerson University, Toronto, June 20, 2018).
- 87 "Aboriginal groups say 30 percent cut to project funding coming," *CBC News*, June 6, 2013, <https://www.cbc.ca/news/canada/north/aboriginal-groups-say-30-cut-to-project-funding-coming-1.1340309>
- 88 Kent McNeil, "Fiduciary Obligations and Federal Responsibility for the Aboriginal Peoples" in *Emerging Justice? Essays on Indigenous Rights in Canada and Australia* (Saskatoon: University of Saskatchewan Native Law Centre, 2001), 309.
- 89 National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* Vol. 1a (Canada, 2019), 567.
- 90 Rob Nixon, *Slow Violence and the Environmentalism of the Poor* (Cambridge, MA: Harvard University Press, 2013).

- 91 Sherry Pictou, "Dr. Sherry Pictou on Indigeneity, Feminism, and Resource Extraction," interview by Chase Puentes, *Currents: A Student Blog*, SMEA, February 4, 2021, <https://smea.uw.edu/currents/dr-sherry-pictou-on-indigeneity-feminism-and-resource-extraction/>
- 92 Sarah Hunt, "Embodying Self-Determination: Beyond the Gender Binary," in *Determinants of Indigenous Peoples' Health, Second Edition: Beyond the Social*, Margo Greenwood, Sarah de Leeuw, Nicole Marie Lindsay eds. (Toronto: Canadian Scholars, 2018), 36.
- 93 Canada, Royal Commission on Aboriginal Peoples, *Report of the Royal Commission on Aboriginal Peoples: Restructuring the Relationship*, 2 (Ottawa: Minister of Supply and Services Canada, 1996), 270.
- 94 Penner Report, 101
- 95 Assembly of First Nations and Canada, Memorandum of Understanding on Joint Priorities (Canada, June 1, 2017), <http://www.afn.ca/uploads/files/canada-afn-mou-final-eng.pdf>
- 96 "Budget 2016: Trudeau Liberals blow 2 per cent cap with 'unprecedented' \$8.4 billion investment." *APTN National News*, March 22, 2016, <https://www.aptnnews.ca/national-news/budget-2016-trudeau-liberals-blow-up-2-per-cent-cap-with-unprecedented-8-4-billion-investment/>
- 97 King and Pasternak, *Canada's Emerging Indigenous Rights Framework*.
- 98 2018 Spring Reports of the Auditor General of Canada to the Parliament of Canada, Report 5—Socio-economic Gaps on First Nations Reserves—Indigenous Services Canada, Independent Auditor's Report, [https://www.oag-bvg.gc.ca/internet/English/parl\\_oag\\_201805\\_05\\_e\\_43037.html](https://www.oag-bvg.gc.ca/internet/English/parl_oag_201805_05_e_43037.html)
- 99 2018 Spring Reports of the AGC.
- 100 Chiefs Assembly on Education, "Post-Secondary Education Facts," (Gatineau: Palais de Congrès de Gatineau, 2012), [https://www.afn.ca/uploads/files/events/fact\\_sheet-ccoe-12.pdf](https://www.afn.ca/uploads/files/events/fact_sheet-ccoe-12.pdf)
- 101 The First Nations Post-Secondary Education: Access, Opportunity and Outcomes Panel, "Taking Action for First Nations Post-Secondary Education: Access, Opportunity, and Outcomes Discussion Paper," (Ottawa: Assembly of First Nations, June 2010), [http://education.chiefs-of-ontario.org/upload/documents/resources/pse/taking-action\\_pse.pdf](http://education.chiefs-of-ontario.org/upload/documents/resources/pse/taking-action_pse.pdf)
- 102 For more background on the agreement, see Mi'kmaw Kina'matnewey at <https://kinu.ca/>
- 103 Cindy Blackstock, "The long history of discrimination against First Nations children," *Policy Options*, October 6, 2016.
- 104 See, for example, *Manitoba Metis Federation Inc. v. The Government of Manitoba et al.*, 2018 MBQB 131.
- 105 *Takuhikan c. Procureur général du Québec*, 2019 QCCS 5699.
- 106 *Shiner v. Canada (Attorney General)*, 2017 FC 515.
- 107 Penner Report, 97.
- 108 Eva M. Jewell, "Gimaadaasamin, we are accounting for the people: Support for customary governance in Dëshkan Ziibiing," (PhD diss., Royal Roads University, 2018).
- 109 See also articles 8, 10, 11(2), 28, and 32 of Bill C-15: <https://parl.ca/DocumentViewer/en/43-2/bill/C-15/first-reading>
- 110 Kristie Dotson, "Conceptualizing Epistemic Oppression," *Social Epistemology* 28, no. 2 (2014): 115–138.
- 111 Eva Jewell, Andrea Doucet, Jessica Falk, Susan Fyke, "Social Knowing, Mental Health, and the Importance of Indigenous Resources: A Case Study of Indigenous Employment Engagement in Southwestern Ontario," *CRSP/Revue Canadienne de Politique Sociale* 80 (2020): 10.
- 112 Douglas Sanderson, "Redressing the Right Wrong: The Argument from Corrective Justice," *University of Toronto Law Journal* 62, no. 1 (Winter 2012): 93.
- 113 Sanderson, "Redressing the Right Wrong," 129.
- 114 Matthew Scobie, Bill Lee, and Stewart Smyth, "Grounded accountability and Indigenous self-determination," *Critical Perspectives on Accounting* (May 2020), <https://doi.org/10.1016/j.cpa.2020.102198>
- 115 J.K. Gibson-Graham, Jenny Cameron, and Stephen Healy, *Take back the economy: An ethical guide for transforming our communities* (Minneapolis: University of Minnesota Press, 2013).
- 116 More information on Pekiwevin can be accessed on their website: <https://pekiwevin.com/about>
- 117 Crown Indigenous Relations and Northern Affairs Canada, *The Specific Claims Policy and Process Guide* (Canada, 2010), <https://www.rcaanc-cirnac.gc.ca/eng/1100100030501/1581288705629>
- 118 Alison Aho, "Equitable Compensation As A Tool For Reconciliation: Remedying Breach Of Fiduciary Duty For Indigenous Peoples," *Lakehead Law Journal* 3, no. 2 (2019).
- 119 Aho, "Equitable Compensation as a Tool for Reconciliation," 75.
- 120 See the First Nation Child and Family Caring Society Spirit Bear Plan at <https://fncaringsociety.com/spirit-bear-plan>
- 121 First Nations Child and Family Caring Society of Canada and Assembly of First Nations Complainants - and - Canadian Human Rights Commission - and - Attorney General of Canada (Representing the Minister of Indian Affairs and Northern Development Canada) 2016 CHRT 2 Date: January 26, 2016 File No.: T1340/7008.
- 122 See for example, "Chiefs Call For Treaty Based Funding Arrangements," *Cision*, October 23, 2019.
- 123 Gina Starblanket and Dallas Hunt, *Covid-19, the Numbered Treaties & the Politics of Life* (Toronto: Yellowhead Institute, June 2020), 9.
- 124 265. Miguel Alfonso Martínez, UN. Special Rapporteur on Treaties, Agreements and Other Constructive Arrangements Between States and Indigenous Populations, *Study on treaties, agreements and other constructive arrangements between States and indigenous populations: final report* (Geneva: UN, June 1999), <https://digitalibrary.un.org/record/276353?ln=en>
- 125 *Restoule v. Canada (Attorney General)*, 2018 ONSC 7701.
- 126 Myra J. Tait and Kiera L. Ladner, "Economic Development through Treaty Reparations in New Zealand and Canada," *Canadian Journal of Law and Society / Revue Canadienne Droit et Société* 33, no. 1 (2018): 61–83.
- 127 Tait and Ladner, "Economic Development through Treaty Reparations," 79.
- 128 Tait and Ladner, "Economic Development through Treaty Reparations," 83.
- 129 Michael Asch, *On Being Here to Stay: Treaties and Aboriginal Rights in Canada* (Toronto: University of Toronto Press, 2014), 94.



- 130 For more on this, see Naiomi Metallic, "A Human Right to Self-Government over First Nation Child and Family Services and Beyond: Implications of the Caring Society Case," *Journal of Law and Social Policy* 28, no. 2 (2018).
- 131 *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2016 CHRT 2.
- 132 *First Nations Child and Family Caring Society of Canada and Assembly of First Nations Complainants - and - Canadian Human Rights Commission - and - Attorney General of Canada (Representing the Minister of Indian Affairs and Northern Development Canada)* 2016 CHRT 2 Date: January 26, 2016 File No.: T1340/7008.
- 133 *Caring Society* case at para 268.
- 134 *Caring Society* case at para 465.
- 135 *Ibid.*
- 136 There were several additional non-compliance orders from the Tribunal following the main decision. For a summary, see "Jordan's Principle: Ensuring First Nations Children Receive the Services They Need When They Need Them," (January 2021): [https://fncaringsociety.com/sites/default/files/jordans\\_principle\\_information\\_sheet\\_january\\_2021\\_0.pdf](https://fncaringsociety.com/sites/default/files/jordans_principle_information_sheet_january_2021_0.pdf)
- 137 The preamble of the *Department of Indigenous Services Act*, SC 2019, c 29, s 336 commits the Department to provide needs-based services. The preamble and s. 9(3) of the *An Act respecting First Nations, Inuit and Métis children, youth and families*, SC 2019, c 24, further commit the Department to substantive equality in the provision of child welfare services to Indigenous peoples.
- 138 See, for example, Pamela Palmater, "Canada's shell game on C-92 funding," *The Lawyers Daily*, February 8, 2021, <https://www.thelawyersdaily.ca/articles/24451/canada-s-shell-game-on-c-92-funding-pamela-palmater>
- 139 See *Sumner-Pruden v. Manitoba*, MHRC File No.: 17 LP 10, August 17, 2020; *R v. Sharma*, 2020 ONCA 478; and *R. v. Turtle*, 2020 ONCJ 429.
- 140 PBO, "Net wealth tax on Canadian resident economic families," July 8, 2020, [https://www.pbo-dpb.gc.ca/web/default/files/Documents/Reports/RP-2021-017-M/RP-2021-017-M\\_en.pdf](https://www.pbo-dpb.gc.ca/web/default/files/Documents/Reports/RP-2021-017-M/RP-2021-017-M_en.pdf)
- 141 Canadian Council for Public-Private Partnerships, "P3's: Bridging the First Nations Infrastructure Gap," (Toronto, 2016), [https://www.pppcouncil.ca/web/P3\\_Knowledge\\_Centre/Research/P3\\_s\\_Bridging\\_the\\_First\\_Nations\\_Infrastructure\\_Gap.aspx?WebsiteKey=712ad751-6689-4d4a-aa17-e9f993740a89](https://www.pppcouncil.ca/web/P3_Knowledge_Centre/Research/P3_s_Bridging_the_First_Nations_Infrastructure_Gap.aspx?WebsiteKey=712ad751-6689-4d4a-aa17-e9f993740a89)
- 142 First Nations Education Council (FNEC), *Paper on First Nations Education Funding* (February 2009), 22.
- 143 PBO, "Federal Spending on Primary and Secondary Education on First Nations Reserves," December 6, 2016. [https://www.pbo-dpb.gc.ca/en/blog/news/First\\_Nations\\_Education](https://www.pbo-dpb.gc.ca/en/blog/news/First_Nations_Education)
- 144 Stephanie Kelton, *The Deficit Myth: Modern Monetary Theory and the Birth of the People's Economy* (New York: Public Affairs, 2020).
- 145 Dara I. Kelly, "Feed the People and You Will Never Go Hungry: Illuminating Coast Salish Economy of Affection," (PhD diss., University of Auckland, 2017), 107.
- 146 Glen Coulthard, "For Our Nations to Live, Capitalism Must Die," *Unsettling America: Decolonization in Theory & Practice*, November 5, 2013. <https://unsettlingamerica.wordpress.com/2013/11/05/for-our-nations-to-live-capitalism-must-die/>
- 147 Coulthard, "For Our Nations to Live."
- 148 Murat Arse, Carlos Mena, Lorenzo Pellegrini, and Isabella Radhuber, "Property rights, nationalisation and extractive industries in Bolivia and Ecuador," in *Conflicts over natural resources in the global south – Conceptual approaches* (Boca Raton: CRC Press, 2017)
- 149 Rickard Lalander and Magnus Lembke, "The Andean Catch-22: ethnicity, class and resource governance in Bolivia and Ecuador," *Globalizations* 15, no. 5 (2018): 650.
- 150 Mary Eberts, "Not Empty of Laws: Indigenous Law-Making and the Canadian State," in *Decolonizing Law: Indigenous, Third World and Settler Perspectives* Sujith Xavier, Amaya Alvez, Jeffrey Hewitt, Amar Bhatia, Beverley Jacobs, Valerie Waboose, eds.(Milton Park, Abingdon-on-Thames, Oxfordshire: Routledge UK, forthcoming May 2021)
- 151 Ryan Day, "Economic Leverage: Reviving Indigenous Economic Governance," (Master's thesis, University of Victoria 2013), 27
- 152 Day, "Economic Leverage," 32.
- 153 Day, "Economic Leverage," 41, *emphasis added*.
- 154 As of September 21, 2020, Canada's climate action plan is considered "insufficient." See: "Canada." Climate Action Tracker, accessed April 15, 2021, <https://climateactiontracker.org/countries/canada/>
- 155 Kyle Edwards, "MMIWG's findings on 'man camps' are a good place for government to get started," *Macleans*, June 3, 2019, <https://www.macleans.ca/news/canada/mmiwgs-findings-on-man-camps-are-a-good-place-for-government-to-get-started/>
- 156 Lazard, "Lazard's Levelized Cost of Energy Analysis - Version 13.0," (New York, 2019).
- 157 Dave Lovekin and Dylan Heerema, "The True Cost of Energy in Remote Communities: Understanding diesel electricity generation terms and economics," (Pembina Institute: Toronto, March 2019).
- 158 Cara Sanders, "Powering Reconciliation: A Survey of Indigenous Participation in Canada's Growing Clean Energy Economy," (Ottawa: Lumos Clean Energy Advisors, 2017).

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