

*Struggles in Reconciliation -  
Canadian Environmental  
Decision Making: Some  
Exploratory Thoughts*

Byron Williams, Director, Public Interest Law Centre

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# Underlying Message

- Indigenous laws and world views regarding the environment have existed for thousands of years
- But Western laws have driven Canadian resource management and environmental decision making
- While Indigenous laws and world views continue to exist, Canadian environmental decision making has often sought to squeeze Indigenous people into our rules and processes
- To restore balance Indigenous laws and worldviews must be placed on an equal footing

# Objective

Canadians rejected the prior Federal Government's path in 2015

So what next?

- Identify one legislative and one regulatory effort to create greater space for Indigenous World Views
- Highlight a perspective that seeks to have Indigenous World Views and Laws recognized on an equal footing with Western environmental and legal traditions

**An Imperfect Messenger from a Western World View**

# Integrating Indigenous world views in western processes: A Legislative Example from the NWT

- Regulatory regime result of negotiations and land claim agreements between the Federal Government and First Nations (*ie Mackenzie Valley Resource Management Act and Waters Act*).
- Co-management system between governments and Indigenous groups - radically different from most models in other parts of Canada.
- Includes:
  - agreement to compensate the First Nation for any loss or damage or determination of compensation prior to the issuance of a license
  - express recognition of the need to integrate Western and traditional knowledge;
- Provision for cumulative effects monitoring explicitly refers to the integration of Western scientific knowledge and traditional knowledge.
- Boards must consider “the importance of conservation to the well being and the way of life of Aboriginal peoples of Canada... and any traditional knowledge and scientific knowledge that is made available.”
- Express protection for Aboriginal water rights including the use for traditional heritage, cultural and spiritual purposes.

# Integrating Indigenous world views in western processes: An Example from Manitoba – Two Path Assessment

- \$7 Billion hydro-electric generating station on the highly compromised Nelson River system.
- Three Cree Nations “partner” with MB Hydro.
- In one (assessment) track, the Keeyask Cree Nations (KCNs) conducted their own assessments of the Project based on their Cree worldview and their 50 years of experience with hydroelectric development.

Manitoba CEC, *Report on Public Hearing, Keeyask Generation Project*, 2014, p. 39

- In the other track, the Partnership, including the KCNs and Manitoba Hydro working with the various consultants hired to conduct technical studies, carried out what was termed a “regulatory assessment.”

Manitoba CEC, *Report on Public Hearing, Keeyask Generation Project*, 2014, p. 39

- One of the principles in the assessment of the Keeyask Generation Project was that technical science and Aboriginal traditional knowledge (ATK) would both be employed and their conclusions given equal weight.

Manitoba CEC, *Report on Public Hearing, Keeyask Generation Project*, 2014

# Was the Cree World View Dismissed in the Keeyask Assessment?

- In these hearings, it has been maintained that the Cree worldview is equal to Western science. However, the Cree are still not given credit for maintaining the environment for 5,000 years. We are aware that Manitoba Hydro is not the only contributor to the condition of the water; still, it has contributed a major portion to its condition and continues to do so.
- The indigenous people did have a governance structure that was unlike the western model and if the Europeans recognised it, it was dismissed, much the same way the indigenous worldview is dismissed today.

Mr. Reg Nepinak, CEC Panel Member cited in Manitoba CEC,  
*Report on Public Hearing, Keeyask Generation Project*, 2014, p.160

- **Has the power relationship shifted?**
- **If not, have things really changed?**

# Nation to Nation Relationships: Are we looking at the leaves without getting to the roots of Indigenous World Views?



The leaves = law

The branches = legal traditions

The trunk = constitutional order

The roots = stories we tell

*Source: Aaron Mills*



# Reconciliation and Relationships

- *Law is not an external system. It is a way of life for Indigenous people. The deep challenge of reconciliation is fear and ignorance. Before you can learn about Indigenous people you have to learn how to learn. You have to be in a relationship with us.*

Aaron Mills, PhD Candidate U Vic Law, Couchiching First Nation,  
Pitblado Lectures, Winnipeg, Manitoba, November 5, 2016,

- *Our focus needs to change from regulation to relationships*

Diana Kwan, Justice Canada,  
Pitblado Lectures, Winnipeg, Manitoba, November 5, 2016

# An Example of Indigenous Environmental Laws

- With the exception of the human being, all of the other living beings of creation have continued to follow their Original Instructions and live in balance and harmony with Natural Laws. It is only the human being that has severed its natural connection to Mother Earth and lost its connection to her Natural Laws.
- We make an invitation to the whole human family, and all the children, **to come to our lodges** so we can teach them to love the land, connect to the land, and take care of the land

Ogichi Tibakonigaywin, Kihche Othasowewin, Tako Wakan:  
The Great Binding Law  
Written at Turtle Lodge, Sagkeeng First Nation, 2015

# Dare we?

- Go to lodges – listen and hear
- Recognize both systems of law as equal
- Enable appropriate processes for environmental decision making for both systems
- Talk about how they relate to one another in practice

- Make Space for Me to Exist **as Me** in Your Space

*Tanya Cappo, Activist and Lawyer  
from Sturgeon Lake Cree Nation,  
November 5, 2016, Pitblado Lectures*

*Sharing Indigenous Knowledge  
on Survival in Times of Climate  
Change: Gathering of  
Knowledge Keepers and Youth*

November 18, 2016, 9:30 – 4:00

Turtle Lodge, Sagkeeng First Nation

Comments are those of Byron Williams,  
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and may not represent the perspective of any  
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