

CASE STUDY #7 by B. Lickerman

ST'ALAA KUN

When the Kunst' aa guu – Kunst' aayah Reconciliation Protocol was signed in 2009, a new era of Crown & Haida relations was supposedly ushered in. The question of Title on Haida Gwaii was not settled – the two parties agreed to disagree on the issue – in favor of a near term agreement to protect and co-manage the land to ensure its continuity for future generations. 2018: when a group of Land Protectors from Gaaw (New and Old Masset, communities on the north shore of Graham Island) stood at Collison Point, they let the world know that, in the years since Kunst' aa guu – Kunst' aayah, something had changed. Or perhaps, in those years, nothing at all had changed – and that was the problem.

I first set foot on Haida Gwaii nearly six months later, a guest uninvited – like so many other visitors to those islands – but welcomed by the Gaaw community nonetheless. Collison Point was still at the forefront of community consciousness and, through conversation, the Land Protectors made their stance perfectly clear: If the agreements, co-managements and hand-shaking between the Council of the Haida Nation and the Crown allows these clear cuts to continue, then these agreements aren't working. The agreements speak a language



PACIFIC OCEAN

DAILY IMPACTS

STRUCTURES/INSTITUTIONS

ROOT CAUSE IDEOLOGIES



ROOT CAUSE ANALYSIS of St'ala'a Kun

From Perera's "Ineqaulitree," used here with appreciation. Leaves represent daily impacts (Perera's "everyday symptoms"), the trunk represents structure and institutions, and roots represent root cause ideologies.

of carbon offsets, forest tenures and Allowable Annual Cut . The Land Protectors talk about restoration of the land, which cannot meaningfully happen while industry continues reap their benefits .

Barges loaded with trees left Haida Gwaii every day at the height of clear cut logging, out the inlet past Masset on one side and Collison Point on the other. This visual is exquisitely captured by Haida Gwaii poet Towustasin , where the barge is seen slowly passing by the Old Masset cemetery, carrying cedar integral to the island's ecosystem off island to be milled, processed and sold as timber, as commodity. Since Kunst'aa guu – Kunst' aayah, the barges have become less frequent and now pass silently into the sea under the cover of night. Their harsh white lights can still be seen from shore, where, in the darkness, the imagination fills in the rest.

Much of the on-island controversy over logging Collison Point has centered around the two communities of Gaaw and Port Clements, a single industry logging town at south end of Masset inlet. While the Land Protectors make it clear that their stand against the clear cuts is against the ethics and practice of off-island logging companies such

as Husby and the industrial norms set by the province of british columbia, their stand has a direct, tangible, local impact. With a majority of Husby's logging staff living on the island and integral to settler communities such as Port Clements and New Masset, the blockade and work suspension has given rise to localized tensions. In a stand against logging practices in 1985 at Athlii Gwaii – a stand which laid the groundwork for Kunst' aa guu – Kunst' aayah and is integral to the standards by which forestry operates on the islands today -- similar inter-community tensions arose. The feast hosted by those standing the line in 1985 for the local loggers went a long way towards repairing the community rifts present in an ideological/ material dispute that goes beyond the laborers themselves. In the words of Kuuyaa Jeffery Gibbs, this Logger's Feast was "a real gesture of compassion, diplomacy and reconciliation" . This recognition that impacts of these issues affect everyone, in different ways, lends a solidarity to the movement that aims towards a collective future for all community members, a future that does not necessarily imply the presence of industry.

Kunst' aa guu – Kunst' aayah provides the foundation for understanding the position of

...the bc supreme court...is far from a neutral arbiter...

the Land Defenders, but it is far from the only force complicating the issue. At the core of the agreement, the Council of the Haida Nation and the canadian government recognize a disagreement. The question of who the land belongs to remains legally ambiguous, at least in canada's eyes. Necessary to understanding the injunction process and outcome in the case of Collison Point is an understanding that the bc supreme court – the legal body which ruled on the injunctions – is far from a neutral arbiter. As long as they claim their legal jurisdiction on unceded land, the bc supreme court owes its existence to the very same colonial structures and institutions as Husby does. Thus, to rule against Husby in this case would be an act of legal paradox – the supreme courts would effectively be undermining their own legal right to rule on the case at all. Kunst' aa guu – Kunst' aayah preserves an ambiguity on the issue of legal jurisdiction and Aboriginal Title, which allows the supreme court a de facto jurisdiction. In this, the Reconciliation Protocol is

not radical. In fact, it explicitly allows violent institutions such as the bc provincial government, bc supreme court and rcmp to continue operating on these territories in question.

While these agreements made in efforts of reconciliation do afford the Haida Nation very realizable negotiating power and management over their lands that is necessary to continue stewarding it beyond seven generations, the terms agreed to are ultimately the work of a machine sputtering on its last legs, a machine struggling to stay afloat. Settler colonialism and westward expansion were driven by a radical refusal to acknowledge Indigenous approaches to understanding the land that was being stolen. In its stead, a myth was constructed on the assumption that white folks have a natural right to the land as long as they can turn a profit from it. This myth necessitates the continued presence of industry on these territories and continues to rear its ugly head in the clear cuts at Collison Point. Perhaps the Council of the Haida Nation understands that this cannot sustain the colonial machine indefinitely. Kunst' aa guu – Kunst' aayah does, after all, leave the legal landscape open for more radical change and does not fetter the Haida Nation to continued allowance of either these specific forestry practices

on their territory or forestry practices at all.

Recognizing my privilege to live and learn with those folks for whom resistance is not a choice begins with a recognition of my complicity in the violent ideologies that create the need for that selfsame resistance. As an uninvited guest on the islands of the Haida, I take the words of Jisgang Nika Collison to heart: “leave your assumptions at the door and, when you leave, take only those you need.” I occupy a position of immense institutional privilege in a society where children are taught not to question the need for capitalist enterprise, taught to take for granted the land they live upon, taught that ‘law and order’ does not discriminate and can be applied universally. What baggage – ideological or otherwise – I bring with me to life on the island is grounded elsewhere and its purpose on these island should be in its interrogation. Leaving Haida Gwaii, I bring these voices with me. The stand of a people in the face of an apocalyptically dominating force, but a force that cannot sustain itself forever upon the violent myths it has constructed to justify its presence on lands where it does not belong.

These interventions have been taking place throughout the two hundred and fifty years since Europeans first came to Haida Gwaii, for the most part unrecognized by off island interests until the blockade at Athlii Gwaii in 1985. This month-long stand resulted in a substantial shift on the part of the government, a recognition that change needed to happen, that the current relationship was not sustainable. As a result, the South Moresby Agreement, Gwaii Haanas Agreement and Kunst' aa guu – Kunst' aayah Reconciliation Protocol designated territory south of Graham Island as an area co-managed between the BC government and the Council of the Haida Nation and established pathways toward reconciliation that would be focused around well-being and joint decision making when it came to ‘land management’ and human-natural relationships. While these agreements provided a foundation for a reconciliatory approach to land and relationship between these distinct political bodies, Kunst' aa guu – Kunst' aayah situated itself around a disagreement on the question of title that allows canada to continue disrupting Haida who work towards better climate futures.

One such future is embodied by a group of Land Protectors

As far back as we can remember we can claim that the Islands fairly belong to us and as far back as we can remember there was never any treaty with respect to this land, between the Government and the Indians. ... No nation ever came and fought us for them and won them from us.

Amos Russ

from the northern community of Masset, who took a stand in early 2018 in opposition to logging and forest practices that continued to threaten the old growth trees at St'alaá Kun, which sits outside the areas protected in those various agreements.

Actions towards a better climate future, such as the St'alaá Kun blockade, reaffirm a relationship between the Haida and their islands that has existed in spite of, adapted around and resisted the ongoing violence of canadian colonialism. Since the advent of colonialism on these islands, this relationship has been intervened upon by the violent dispossession, disrespect and non-consensual intrusion of the colonial canadian state. In 1913, in the face of the McKenna-McBride commission, a misguided effort of the canadian government to settle

disputes over allocated reserve sizes, Haida representatives affirmed their longstanding connections to their land. Speaking in Skidegate, Amos Russ states, “As far back as we can remember we can claim that the Islands fairly belong to us and as far back as we can remember there was never any treaty with respect to this land, between the Government and the Indians. ... No nation ever came and fought us for them and won them from us,” an affirmation which the commission chairman refuses to acknowledge. One hundred years later, when the BC Supreme court threw out the Land Protectors' 2018 injunction against the TFL-holding Husby corporation for clear cutting at St'alaá Kun, their dismissal became yet another in this arduous and embittered history.

The Haida Gwaii Land Protectors make their stand for

a better future, and, through the (re)occupation of their territory, they imagine this future into their present action. Nishnaabeg writer, musician and academic Leanne Simpson speaks to the implications Indigenous embodied action has on the future, writing “The generative and emergent qualities of living in our bodies as political orders represent the small and first steps of aligning oneself and one's life in the present with the visions of an Indigenous future that are radically decoupled from the domination of colonialism”. Through Simpson's framework, the work of the Land Protectors is not just that of opposing yet another logging operation on their territory, it is an act of bringing a better future into the present.

One such tangible future is to have all of Haida Gwaii designated as a UNESCO biosphere, thus protecting it from all logging, ethical or otherwise. Land Protector Kuuyang Lisa White grounds this future in canada's promise to protect 17% of its land base by 2020, saying “why can't we be on that list? Haida Gwaii has given enough.” Indeed, at just over a million hectares, Haida Gwaii's area is nearly one tenth the size of the Tsá Tué Biosphere Reserve in the Northwest Territories designated just two years ago. This future would

guarantee the survival of Haida Gwaii's forests and enable the Council of the Haida Nation to direct its efforts towards restoring the ecosystems, rather than spending time and money buying back land from the government and industries that stole and continue to profit from it. As White articulates, "Those funds should be used for restoration. They shouldn't be used to buy our own land, our own trees.."

Any imagining of a future on Haida Gwaii cannot leave the question of title, who has the right to decide how the land is treated, unaddressed. Kunst' aa guu – Kunst' aayah provides the foundation for a shared future of reconciliation that addresses some concerns in the relationship between Canada and the Haida Nation, but it is far from a comprehensive long-term solution. The work of groups such as the Land Protectors are tangible, embodied imaginings of a potential future which moves towards a more sustainable relationship between the land and those who live on it. If that is a future that government and industry wish to have a part in, then they must confirm the right of the Haida Nation to govern Haida Gwaii how they see fit. In doing so, government and industry must support community driven initiatives, such as the Haida Gwaii Land Protectors, according to the laws grounded in Haida Gwaii, Ad kyaanang (ask first, act with consent), Tllyahda (make things right), Gina 'waadluxan gud ad kwaagid (everything depends on everything else) and Yaahgudang (respect).

TIMELINE of St'ala'a Kun

Events related to climate, race, and St'ala'a Kun based on the opening activity of Conversations.

~30 000 years ago
Glaciation of North America; parts of Haida Gwaii remain unglaciated

12 500 years ago
Ts'ahl *Lodgepole Pine* appears, the first post-glaciation tree.

6500 years ago
Ts'uu *Red Cedar* joins Ts'ahl, Spruce and Hemlock to form first old growth forests.

1493
Christopher Columbus returns to Spain, reporting on his first trans-atlantic voyage

1774
Juan Perez and the crew of the SV Santiago are found of K'iis Gwaay, beginning extensive trade relations between Haida and European visitors.

1858
The British Columbia Act establishes 'British Columbia'

1862
Smallpox hits the Northwest Coast. Intentional inoculations reduce Haida population from ~30,000 to 600 by the turn of the next century.

1913
McKenna-McBride Royal Commission visit Haida Gwaii and hear affirmations of the Haida Nation's rights and title to their islands.

1892
Government of Canada and the Church formalize a partnership that will lead to the establishment of Residential Schools across Canada with the purpose of assimilating and enfranchising Indigenous peoples.

1885
BC issues first timber license

1884
Amendment to Indian Act bans the potlatch, criminalizing the legal, social and economic systems of Northwest Coast Indigenous groups.

1876
Indian Act consolidates all existing laws relating to Indigenous Peoples.

1867
British North America Act, later re-named the Constitution Act, creates Canada as we now know it. Section 91 (24) 'gives' Canada parliamentary authority over 'Indians and Indian Reserves.'

1865
Land Ordinance introduces policy pathway to harvest timber without alienating land from the Crown – this constitutes the basis of the tenure system still in practice today that preserves public ownership of lands.

1919
The Allied Tribes of BC, an organization of Indigenous Nations across BC, reject the findings of the McKenna-McBride commission.

1927
Indian Act is further amended, criminalizing Indigenous peoples seeking legal council or funds to pursue Aboriginal Title claims.

1943
BC forest industry reaches its limit of timber supply.

1969
The Indians of All Tribes (IAT) begins occupation of Alcatraz Island, citing the 1868 Treaty of Fort Laramie as legal justification of their occupation.

1970
Indigenous organizations respond to Trudeau's White Paper, a wholesale policy of assimilating Indigenous peoples into Canada's body politic, with the Red Paper, a wholesale denunciation of such assimilatory politics

1973
Calder v British Columbia decision recognizes the existence of Aboriginal title in principle.

1976
Canada adopts and ratifies a comprehensive land claims policy to settle vast amounts of unceded territory over which Canada has presumed sovereignty, territory which includes Haida Gwaii.

1980
The Haida Nation files a land claim with Canada.

1982
The Canadian Constitution Act is passed. It includes Section 35, which recognizes and affirms existing Aboriginal and Treaty rights.

2002
Asubpeeschoseewagong Anishinabek Grassy Narrows First Nation sets up blockade against clear cut logging in their territory. Still around today, the Grassy Narrows blockade is the longest contiguous blockade on Turtle Island in recent memory.

1997
In the Delgamuukw decision, the Supreme Court of Canada acknowledges the continued existence of Aboriginal Title.

1996
Canada's last federally funded Residential School is closed.

1990
Canadian military called in to suppress a blockade of Kanehsata'kehrónon near the town of Oka, Quebec

1987
Haida host a Loggers Feast at Lyell Island for Frank Beban and the workers affected by the work stoppage and blockade.

1985
The Haida blockade of Lyell Island begins in opposition to clear cut logging of the Gwaii Haanas heritage site.

November 16:
First Haida Elders Chief Gaahlaay, Watson Pryce; Jaadsangkinghliiyas, Ada Yovanovich; and Kamee, Ethel Jones, arrested at Athlī Gwaii.

2004
Haida Nation v. British Columbia decision establishes the duty to consult and accommodate Aboriginal peoples in Canadian Law.

2005
Islands Spirit Rising stand against continued logging on Haida Gwaii results in Masset and Port Clements communities signing a protocol agreement.

2009
Kunst'aa guu – Kunst' aayah Reconciliation Protocol is signed by the Haida Nation and the BC government.

2010
The name 'Queen Charlotte Islands' is respectfully given back to the Crown. The islands are once again named Haida Gwaii.

2016
Enbridge Northern Gateway Pipeline project is shut down, due in large part to Indigenous resistance and intervention along the proposed pipeway. Later this year, Canada approves Kinder Morgan's Trans-Mountain Expansion project; NODAPL grassroots movements start in opposition to the Dakota Access Pipeline near the Standing Rock Reservation.

2017
BC approves the Site-C Dam proposal

2018
Canada passes Romeo Saganash's bill C-262, bringing UNDRIP into Canadian Law. Liberal and Conservatives immediately vote that UNDRIP should not be applied to the Trans-Mountain project.

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