
Thematic Section

A Brief Introduction to the Eeyou Traditional System of Governance of Hunting Territories (Traditional Eeyou *Indoh-hoh Istchee* Governance)

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In my society and to my people, I am Philip Awashish, an Eeyou member of the Eeyou Nation of Mistissini, Eeyou Istchee. In your society, I am a member of the Cree band of Mistissini, in the James Bay Territory of Northern Quebec.

The people known to you as the “Crees of James Bay” call themselves “Eeyou of Eeyou Istchee,” or “the people of Eeyou land.” Since contact with other peoples, nations and governments over the past five centuries or so, we have been designated as “Indians,” “Crees” and other labels. We cannot, in the Eeyou language, even say the word “Cree” because the letter “r” does not exist in our language. Nobody has bothered, in a formal manner, to ask us what or who we call ourselves. We have a right to self-identification, and so we call ourselves “Eeyou of Eeyou Istchee.” We are presently a population of about eighteen thousand, living in ten communities located inland and along the eastern coast of the Hudson and James Bays, that is, on the Quebec side. We are beneficiaries of the 1975 James Bay and Northern Quebec Agreement (JBNQA) – the first Canadian modern-day treaty.

Our historical and traditional territory that we, the Eeyou, call “Eeyou Istchee” has been known as part of the New World, Rupert’s Land, the James Bay Territory – all territorial names from the colonial and Eurocentric history of Canada. Eeyou believe that *Chisaaminituu* – the Great Spirit – has given them a portion of the Earth as their homeland. We, the Eeyou, call our traditional and historical territory “Eeyou Istchee,” which means “Eeyou land.” It is the land of our ancestors, who named its geographical features. Eeyou Istchee is the foundation of our identity, governance, history, heritage, culture and way of life, spirituality and Eeyou *Eedouwin* (Eeyou way of doing things). It is the Eeyou homeland of yesterday, today and tomorrow.

Eeyou Istchee is the totality of the Eeyou communal and family hunting territories. Consequently, the people

of Eeyou Istchee consider themselves as the guardians, stewards and custodians of Eeyou Istchee.

For us, as a nation and a people with its own homeland, there is no more basic principle than a people’s right to govern themselves and their territories in accordance with their laws, traditions, customs, practices, values and aspirations. Therefore, we have an inherent right to Eeyou governance. This right is inherent in the sense that it finds its ultimate origins in the collective lives, traditions and history of the Eeyou of Eeyou Istchee rather than in the Crown or the Parliament of Canada. Consequently, we consider ourselves as a self-governing people who were, before contact with Europeans, fully independent and an organised society occupying and governing our homeland as our forefathers had done for centuries. Although this self-governing status was greatly diminished by the encroachment of outside governing authorities and regimes, it has managed to survive in an attenuated form.

Eeyou values are the building blocks for the ethical principles that form the basis of Eeyou law. Consequently, the law flows from Eeyou values and principles. In addition, the culture may be defined simply as the way of life adopted by Eeyou. In fact, Eeyou describe Eeyou culture as “Eeyou pimaat-seewun” (Eeyou way of life). For the Eeyou, culture is determined and shaped by Eeyou *Eedouwin* and encompasses the complex whole of beliefs, values, principles, practices, institutions, attitudes, morals, customs, traditions and knowledge of Eeyou. These elements influence the determination of Eeyou law, which originates from the political, economic, spiritual and social values and principles held, expressed and enunciated through the teachings of Eeyou elders, customs, traditions and practices.

The evolution of the law, with its prescribed customs, traditions and practices, has engaged Eeyou in ways that fully recognise both the value of the person and personal experience as central to the formulation of Eeyou life and spirituality. Like other contemporary peoples, the Eeyou

are constantly reworking their institutions to contend with new circumstances and demands. In doing so, they freely borrow and adapt cultural traits they find useful and appealing.

In this regard, Eeyou law can be viewed as a continuing process of attempting to resolve the problems of a changing society rather than as a set of rules. It is not the mindless reproduction of outmoded practices that makes an effective Eeyou law and a vigorous tradition, but a strong connection with the living past, especially a strong and living connection with Eeyou Istchee, the land. Therefore, as a nation and as a people, the Eeyou have established customary law respecting the use, occupation and governance of Eeyou Istchee.

What is the Eeyou law respecting the use, occupation and governance of Eeyou Istchee?

First, the Eeyou established and implemented the system of *Indoh-hoh Istchee* – units that are Eeyou family hunting territories – as part of the land tenure system. Presently there are about three hundred *Indoh-hoh Istchee* throughout Eeyou Istchee. The *Indoh-hoh Istchee* system predated the trapline system, which came into existence for managing the harvesting of fur-bearing animals. In fact, the organisational plan of the government of Quebec respecting its beaver preserves and registered traplines, begun in the 1940s, reflects elements of the Eeyou *Indoh-hoh Istchee* system. Therefore, one should not consider the registered trapline system as the same or replacing the Eeyou *Indoh-hoh Istchee* system. The registered trapline system is a tool for the management of fur-bearing animals by the government of Quebec. Before the existence of the JBNQA, registered traplines were licensed under the Fish and Game Act of Quebec.

The James Bay and Northern Quebec Agreement¹ is a modern-day treaty that was signed in 1975 by the “Crees of James Bay,” the Inuit of Northern Quebec, the governments of Canada and Quebec and certain Crown corporations to settle the land claims, rights and interests of the Crees and Inuit of Northern Quebec and the dispute over the construction, operation and maintenance of the James Bay Hydroelectric Development Project, an immense undertaking establishing a series of dams and generating stations along the La Grande River.

The JBNQA recognises the continuity of the system of “Cree traplines.” As such, the *Indoh-hoh Istchee* system is the “Cree trapline” system sanctioned by the JBNQA. In fact, paragraph 24.1.9 of subsection 24.1 of section 24 of the JBNQA defines a Cree trapline as “an area where harvesting activities are by tradition carried on under the supervision of a Cree tallyman.” The Cree

traplines incorporated by the agreement is intended to reflect the *Indoh-hoh Istchee* as determined and established by Eeyou customary law and traditions. In the 1972–73 court proceedings that led to a court recognition of Eeyou rights to their land, the Eeyou hunters and Eeyou *Indoh-hoh Oujemaaou* (Cree hunting bosses, also called “tallymen”) played fundamental and significant roles in describing Eeyou use, occupation and governance of the hunting territories, or *Indoh-hoh Istchee*. The court recognition of Eeyou rights led to the negotiation and signing of the James Bay and Northern Quebec Agreement.

Second, to determine the exercise of governance and authority for each *Indoh-hoh Istchee*, Eeyou established and implemented the system of *Indoh-hoh Istchee Ouje-Maaooch*, or *Indoh-hoh Ouje-Maaooch* (hereafter referred to as *Indoh-hoh Oujemaaou*). The *Indoh-hoh Oujemaaou* is generally referred to as the “Cree tallyman” in the JBNQA. The family unit of each *Indoh-hoh Istchee* determines the *Indoh-hoh Oujemaaou*, who is then recognised and acknowledged by the Eeyou members of the community as such.

Accordingly, paragraph 24.1.8 defines a Cree tallyman as “a Cree person recognized by a Cree community as responsible for the supervision of harvesting activity on a Cree trapline.” However, according to Eeyou customary law and traditions, the *Indoh-hoh Oujemaaou* has more than supervisory roles and functions. In general, the *Indoh-hoh Oujemaaou* has the authority and responsibility for proper stewardship, guardianship and custodianship of the *Indoh-hoh Istchee*. As such, the term “tallyman” is a misnomer because the Eeyou *Indoh-hoh Oujemaaou* do not tally animals but govern their respective hunting territories. In accordance with and subject to customary law and traditions, the duties and responsibilities of the *Indoh-hoh Oujemaaou* include but are not limited to the following:

- (a) management and conservation of wildlife and other natural resources;
- (b) control of access to *Indoh-hoh Istchee* (consent, permission and authorisation of the *Indoh-hoh Oujemaaou* concerned are required);
- (c) determination of the delineation and limits of *Indoh-hoh Istchee*;
- (d) resolution of territorial disputes respecting limits of *Indoh-hoh Istchee*;
- (e) maintenance of the territorial integrity of *Indoh-hoh Istchee*;
- (f) determination of names of places and sites within *Indoh-hoh Istchee*;

- (g) transfers of portions or entirety of *Indoh-hoh Istchee* by transfer agreement or inheritance;
- (h) sharing its history, information and traditional knowledge;
- (i) respect, maintenance and transmission of Eeyou *Eedouwin* (Eeyou way of doing things);
- (j) sharing of wildlife resources to ensure survival;
- (k) application and enforcement of customary practices and rules respecting life and activities within *Indoh-hoh Istchee*; and
- (l) political representation.

In addition, the Weenbekou Eeyou (coastal Eeyou) have established the system of *Paasd-heejeh Oujemaou* specifically for the purposes of goose hunting management within their respective *Indoh-hoh Istchee*. The *Paasd-heejeh Oujemaou* is ordinarily the same individual Eeyou who is the *Indoh-hoh Oujemaou*, or *Indoh-hoh Istchee Oujemaou*.

In summary, “Eeyou Istchee” means “land of the Crees” and is the traditional and historical territory of the Eeyou people. Eeyou Istchee consists of about three hundred hunting territories, and each is governed by at least one Eeyou *Indoh-hoh Oujemaou*, or “Cree tallyman.” As a direct result of the implementation of the JBNQA and its related agreements, the institutions of land and resource development, governance and management have drastically changed the social, political and economic landscape of Eeyou Istchee. The Cree Nation Government presently has an important role in these institutions. The *Indoh-hoh Oujemaou*, through the Cree Trappers Association, will collaborate with the Cree Nation Government in the evolution of laws and policies relating to land and natural resource management.

Section 30 of the JBNQA (describing the Cree Hunters and Trappers Income Security Program) and the third chapter (regarding forestry regimes) of the Agreement Concerning a New Relationship between the Government of Quebec and the Crees of Quebec² clearly enhance the authority of the *Indoh-hoh Oujemaou*. Under the income security program, the status of the *Indoh-hoh Istchee* as a “near” or “far” harvesting territory can be changed only through the collaboration of the *Indoh-hoh Oujemaou* concerned. Furthermore, pursuant to the terms and provisions of the New Relationship Agreement, *Indoh-hoh Istchee* will be used as a basis for delimiting the territorial reference units for the management of the adapted forestry regime. Sites of special interest to Eeyou are and will be identified and mapped by Eeyou in cooperation with Quebec. No forest management activities may be undertaken in these areas unless the *Indoh-hoh Oujemaou* agrees otherwise.

In addition, Eeyou have, by customary law, traditions and practices, established rules and practices for a code of conduct for harvesting activities (hunting, fishing, trapping and related activities) throughout Eeyou Istchee and within *Indoh-hoh Istchee*. However, the development and evolution of Eeyou law has, so far, remained within the realm of oral tradition. Eeyou legal traditions are strong and dynamic and are transmitted from one generation to another. Tradition dies without such transmission and reception. The Eeyou are presently engaged in an exercise to put Eeyou law into written words. Consequently, the Eeyou communities have adopted and approved the written *Eeyou Indoh-hoh Weeshou-Wehwun (Traditional Eeyou Hunting Law)*. The purpose of the present exercise of putting Eeyou law into written words is to primarily protect and ensure the maintenance and continuance of Eeyou traditions, customs and practices and to promote basic understanding and appreciation of these traditions, customs and practices.

It has been said that Eeyou law encompasses Eeyou philosophy and Eeyou spirituality. Therefore, it is intended that the present exercise of putting Eeyou law into written words will respect any restrictions on the revelation of sacred knowledge and the exposure of knowledge intended for Eeyou themselves. It is recognised that such knowledge remains within the realm of oral tradition.

The present Eeyou traditional governance, occupation and use of Eeyou *Indoh-hoh Istchee* are dependent on the existence and application of Eeyou law, which has become the source of Eeyou rights. Moreover, in recognition of Eeyou law and rights, section 24 of the JBNQA provides for the continuity of an Eeyou legal relationship with the *Indoh-hoh Istchee* of Eeyou Istchee. In this way, the present Eeyou traditional governance, occupation and use of Eeyou *Indoh-hoh Istchee* attest to the continued existence and application of Eeyou law, which maintains and protects the special and unique bond between Eeyou and their traditional lands. After all, Eeyou Istchee is essential and central for the *meeyou pimaat-tahseewin*, or holistic well-being of Eeyou. The centrality of Eeyou Istchee forms the foundation of Eeyou governance, culture, identity, history, spirituality and the Eeyou way of life. This unique and special relationship between Eeyou and Eeyou Istchee makes Eeyou a distinct society and is part of the essence of “being Eeyou.”

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Notes

- 1 James Bay and Northern Quebec Agreement, 1975, Quebec: Government of Quebec, <http://www.gcc.ca/pdf/LEG000000006.pdf>.
- 2 Secrétariat aux affaires autochtones du Québec, 2002, Agreement Concerning a New Relationship between the Government of Quebec and the Crees of Quebec, Quebec: Ministère du Conseil exécutif, http://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/agrnr_1100100031945_eng.pdf.

References

- Cree Trappers Association. 2009. *Eeyou Indoh-hoh Weeshou-Wehwun / Traditional Eeyou Hunting Law*. Eastmain: Cree Trappers Association. http://creetrappers.ca/wp-content/uploads/2014/02/CTA_EEYOU_HUNTING_LAW.PDF.
- James Bay and Northern Quebec Agreement, 1975, <http://www.gcc.ca/pdf/LEG000000006.pdf>
- Secrétariat aux affaires autochtones du Québec. Agreement Concerning a New Relationship between the Government of Quebec and the Crees of Quebec, 2002, http://www.aadncaandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/agrnr_1100100031945_eng.pdf
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