
Thematic Section

Consent, Collaboration, Treaty: Toward Anti-Colonial Praxis in Indigenous–Settler Research Relations

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Introduction

The contributors to this thematic section issue explore the contours of research praxes for anthropologists, and other engaged scholars, committed to strengthening anti-colonial and decolonial engagement in settler–Indigenous encounters.¹ Animating these articles are three quite charged, and increasingly explicit features of research engagement in such encounters: first, seeking the *consent* of Indigenous peoples we engage *as peoples*; second, advancing respectful *collaborative* research relations *as persons*; and, third, taking seriously the over-arching idea and practice of *treaty* as a guide to acting honourably together *as researchers, persons and peoples*. These explorations are offered in response to our shared, empirical understandings that settler–Indigenous relations are still dogged by the unrelenting double problem of colonial dispossession/colonial imposition, and in response to the rising currents of decolonial action through mutual engagement and alliance-building between Indigenous and settler peoples—Idle No More being but one prominent example of such engagement.²

The four articles in this series offer examples of how these three modes of engagement are woven into thinking, praxis and the lived interchanges between Indigenous and settler peoples. Spurred by interrogation of these practices, we also see how this leads to the obligation to position oneself, as researcher and person, whether settler or Indigenous, in relation to the facts of the political milieu of our moment and their antecedent histories. Emma Feltes, Joshua J. Smith and Brian Noble write from the stance of settler Canadian anthropologists, and Sherry M. Pictou, who is Mi'kmaq of L'sitku, writes from the stance of an Indigenous resurgence scholar.

In this introduction, I situate the four articles in relation to several contexts of research and thinking, starting from a key challenge raised by Michael Asch (2001), whose subsequent, incisive commentary also concludes

this series. I also locate the papers in regard to the rise of what I call the *collaborative ethos* in anthropological research, and how practices of consent and treaty become activated in relation to this ethos.

As will become evident, there is an abiding interest to plumb the possibilities of what it means to live, act and undertake research together as “treaty people,” while recalling, as Sherry M. Pictou carefully and rightly does in her contribution, the need to be wary of, and differentiate such action from, what takes place in official, contemporary “treaty” negotiations, which are prone to subordinating Indigenous peoples’ autonomy, authority and lands to the economic and political powers of the sovereign state (Coulthard 2014; see Scott 2011). The alternative ideas and praxes of treaty discussed in these articles are drawn from historic and lived precedents among Indigenous peoples and settler society relations, and from the direct involvement of the contributors as engaged decolonial researchers.

“Finding a Place to Stand”

Our important starting point is Michael Asch’s prescient challenge, made a decade and a half ago during his 2001 Weaver–Tremblay address; that is, the matter of morally and ethically “finding a place to stand” within the complex milieu of settler–Indigenous political engagement, especially in Canada (Asch 2001). This is a challenge with which Asch himself has long been contending; indeed, some 30 years before receiving the Weaver–Tremblay Award, he began undertaking research closely and respectfully with the Dene. This continued throughout the 1970s and 1980s, when Asch was invited by the Dene to bring to bear his anthropological expertise, as the Dene sought to have their historic treaty-sourced consent and land-sharing principles honoured in the face of the proposed massive-scale pipeline development along the McKenzie River Basin. The very idea of *finding a place to stand, as an anthropologist*, in the relations between the Crown and the Dene would, for Asch, necessarily invoke all three of the practices we grapple with here: consent, collaboration, treaty. It has also caused him to reflect deeply on the intellectual histories of anthropology in settler society milieus, which have alternately foregrounded, or lost sight of, colonial and decolonial engagement.

Each of the contributors provides direct or indirect responses to Asch’s (2001) call in the face of colonialism that “we do not need to keep silent and remain on the sidelines. We can enter the conversation with respect and with dignity. We can find a place to stand” (206). As Asch indicated then, and as he has developed more fully in his recent book *On Being Here to Stay* (Asch

2014), one of the most viable entry points into these conversations is through the door of honourable treaty relationships—a matter I take up in the concluding sections of the article that I contribute to this series.³

Given his germinal contribution to thinking and practice in Canadian anthropology—and more widely to political philosophy, intellectual history, and legal studies—we are most fortunate to have Michael Asch’s closing commentary on this series of articles, thus allowing him to expand upon his thinking since presenting the Weaver–Tremblay address. Here, he returns us to the too-often forgotten currents in the longer history of anthropology, of taking an active professional stance in seeking just political relations with Indigenous peoples in settler state societies. In this he forcefully reminds us how we are all politically located in historical currents of anthropological thought and practice. By example, he adds careful nuance to the political–disciplinary orientations of Boas’s historical particularism and Radcliffe-Brown’s structural functionalism. Both, he argues, provide in-built responses to the problematic of colonialist intellectual tendencies within cultural evolutionist theory and, arguably, its direct inheritors of universalizing evolutionary thought. Going one step further, he gives us a clearer view here of how “colonialism was (and still is) the handmaiden of 19th century cultural evolutionary theory,” as opposed to anthropological approaches that have moved strongly away from such universalizing theory. Thus, Asch brings a much-needed corrective to the totalizing indictment of anthropology as the “handmaiden of colonialism,” and affirms that there have been anthropologists in the past, as there are in the present, who have found decolonial places to stand.

In the articles that follow and in Asch’s rejoinder, we see clearly how we stand in, contribute to or redirect the currents of these disciplinary histories in relation to colonial impulses, and we begin to explore ever stronger ways to advance anti-colonial and decolonial research praxes.

Inter-Peoples Consent and the Rising Ethos of Collaborative Research

A second major impetus for bringing this particular inter-generational group of scholars together, has been the association of several colleagues with the project Intellectual Property Issues in Cultural Heritage (IPinCH), funded under SSHRC’s Multi-Collaborative Research Initiative.⁴ The key word to note here is *collaborative*. Assembling Indigenous peoples from across and beyond North America together with a diverse array of engaged scholars from anthropology, archaeology, ethics, ethnobotany, Indigenous studies, law and museum studies,

the project has, at its core, a series of “community-based” collaborative case studies. These studies have sought to mobilize respectful research engagements between Indigenous communities, their knowledge-holders and these various scholars in understanding the limits and possibilities of property relations (and alternative practices) as the means for protecting or exchanging Indigenous knowledges. Several of us have engaged fruitfully with IPinCH and have similarly come to address concerns around consent and treaty, as well as collaboration. While the articles do not specifically examine cases within IPinCH, the support, debates, commitments and explorations from the IPinCH collective have been pivotal in helping us to speak to, understand and engage the very questions of decolonial practice we are challenged with in this series.

Many of the questions we speak to here were raised in an IPinCH workshop held in Vancouver in the fall of 2011, addressing the practice of “inter-peoples consent.”⁷⁵ Indeed, taking up the conditions of “knowledge ownership” between Indigenous and non-Indigenous researchers and publics has necessitated a consideration of consent in knowledge relations; again, something that the IPinCH collective agreed could fruitfully be understood through collaborative research. But moving the discussion from consent between individuals, to consent between peoples, posed new challenges.

In this workshop, Secwepemc leader Arthur Manuel spoke of how Indigenous peoples in their lands within British Columbia, having never ceded either title or their sovereign status, understood the persistence and integrity of their territorial authority, autonomy and laws, but continued to seek settler Canadian respect and responsiveness to seek Indigenous peoples’ consent, which had otherwise been elusive. Michael Asch then demonstrated that such a political relationship around inter-peoples consenting relations, as sought by Arthur Manuel, did in fact have its antecedents in settler-Indigenous political histories, especially in the original thinking of those key crafters who underwrote the land-sharing treaties of the 19th century. Among others, Asch pointed to Canada’s third governor general, Lord Dufferin, who spoke to the need for settler governments to obtain Indigenous peoples’ consent through treaties to allow settlement upon Indigenous lands; thus, Dufferin asked of legislators that “before we touch an acre we make a treaty with the chiefs representing the bands . . . but not until then do we consider that we are entitled to deal with a single acre” (Asch 2014:8). In this, Dufferin was also seeking to promote a relationship of mutual care, respect and consent between settler and Indigenous peoples and between their respective systems of authority.

In her presentation at the IPinCH workshop, Emma Feltes provided a precise case that offered guidance on how such a treaty-based relationship could develop; that is, the 1910 Laurier Memorial, a document signed by the Interior Chiefs of British Columbia and presented to then Prime Minister Sir Wilfred Laurier. Feltes writes in her article that this document presents “a different model of relations based in Indigenous law, reciprocity and shared jurisdiction. It graciously welcomes the newcomers to live together on their territory and, further, to share responsibility for it, pending that newcomers would respect Indigenous title and legal authority,” so that both peoples could, in the chiefs’ words, “help each other to be great and good.” Such a treaty-oriented model of living together reaches well beyond the more at-hand, though helpful, matter of respectful collaboration in research relations.

However, in this same workshop concerns came to the fore when a call was made to activate Indigenous peoples’ free, prior and informed consent (FPIC), as understood in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) as a requisite protocol for continuing with the workshop. This call challenged many participating in the IPinCH workshop in unexpected ways. Where most who gathered there had long been working to build deeply respectful relations through collaborative research partnering, suddenly introducing the demand to respond fully to the authority and consent of the entire Indigenous political community was jarring. Without question, and in Anna Tsing’s (2005) terms, this was a moment of “friction” within the IPinCH collective.

From where I stood, this friction was underwritten by the very problem of *coloniality*, a term I seek to give shape to in my article below. I point to how coloniality works by way of oppositional encounters that are difficult to reconcile; and, second, how coloniality works as apparatus or milieu imposing coordinates of potentially divisive thought upon us, thereby conditioning and often disrupting the possibility of our working together as peoples. Here we were locked into a complex political milieu of conflicting perspectives, differential senses of authority and consent, the colonial politics of “recognition” that Coulthard (2014) speaks to—all of this combining to threaten otherwise good relations, displacing hopeful gestures to engage fully as peoples, as politics, as persons. It struck me then, that coming to a full resolution on how these multiple practices could intersect in the most generative way, in conditions of coloniality, would require slow, sensitive, extensive, long-term, indeed, inter-generational engagement. It is that engagement we speak to in our articles below (see Nicholas 2014).

Still, it was the embracing of the collaborative ethos by the IPinCH collective that brought this vital challenge to the fore. The very move by IPinCH to design a project so strongly around collaborative research relations comes out of historical shifts in the Canadian research milieu. Specifically, since at least the early 2000s, we have witnessed an ever-widening shift in ethical commitments to forming research partnerships and collaborations between university-based researchers and Indigenous communities. This is usually argued as a helpful means of redressing power relations in the assembling and production of knowledge either about or concerning Indigenous peoples. In fact, each of the papers in this section gestures to the mounting literature on collaborative research and community-based participatory research (CBPR) models, which are linked in turn to a shifting formal research ethics regime (see Castleden et al. 2012).

Significant modifications, for instance, to Canada's *Tri-Council Policy Statement on Ethical Conduct for Research Involving Humans* (TCPS; Canadian Institutes of Health Research et al. 2010) have underscored the call for collaborative research and "community engagement," though not peoples' consent. This is especially evident in chapter 9 of the TCPS, "Research Involving First Nations, Inuit and Métis peoples of Canada."⁶ In that chapter, one is struck by how, rather than addressing peoples' consent or treaty relationships, the TCPS restricts discussion to the more generic principles of building "reciprocal, trusting relationships," achieved especially by means of collaborative research partnerships. Despite the long and practically unwavering history of calls by Indigenous peoples in Canada to honour treaty relationships—from Harold Cardinal's *Unjust Society* to the Royal Commission on Aboriginal Peoples to *Idle No More*—the TCPS has remained virtually silent on peoples' consent or on treaty obligations. Instead, the TCPS defaults to understandings that oversight of ethical research relations are to be subsumed jurisdictionally by the Canadian state, if with some limited acknowledgement of First Nations communities or their ethics protocols where they might exist.

This deeper structural bracing up of the shift to the collaborative ethos in Canada has also been advanced through the federal government's Tri-Council research-funding regime that now, by policy and program, preponderantly favours and supports partnerships, multi-collaborative initiatives, community-university alliances and the like.

In synchrony with all of this, as Josh Smith discusses here, there has been a burgeoning discussion across the discipline of anthropology, in Canada and the

United States around collaborative ethnography.⁷ It is touted as a new, ethically-robust mode of research praxis, meant to limit the ravages of anthropological writing-over of Indigenous lives and worlds, by granting joint authorship and recognition of dialogue and co-production of knowledge by anthropologist and erstwhile "subject" together. Dialogue then becomes the generator of robust knowledge and hopeful common cause. As Deborah Bird Rose (2005) remarked, "In our postcolonial and/or decolonizing societies, dialogue is a source of creative action. Collaborative, dialogical research is a search for common ground, knowledge sharing and moral action" (100). The consequent and more complex question, explored here by Joshua J. Smith in his detailed reflection on Sol Tax's action anthropology, is how to move such dialogue toward an "uncompromising politic centred on a value of self-determination through 'mutual obligation.'"

Toward Decolonial Collaboration and Consent: Treaty Modes of Relations

It is the expression and enacting of such a decolonial ethics of inter-peoples' mutual and reciprocal obligation that each of the contributors here work to achieve.

Emma Feltes's discussion of her personal-political involvements with the 1910 Laurier Memorial indicates that reciprocity and sharing in relations are both historically salient and yet persistent modalities for undertaking research with our partners. Taking this seriously, she asks of herself and of others, just "who exactly is responsible to resolve the unjust relationship between Indigenous peoples and settler Canada?" Pressing us all into action and mobilizing the principle of reciprocity, she argues that "to defer the broader project of anti-colonialism to Indigenous peoples alone is no exercise of shared jurisdiction and responsibility, those principles the Laurier Memorial makes so clear." This prompts us to consider the model of sharing and reciprocity in the memorial as between peoples and, moreover, as in the work of treaty relations.

In my own contribution, I take up and offer a description of the very conditions of coloniality (in part after the thinking of Latin American decolonial scholars) that we engage when manoeuvring through everyday epistemic and political obstacles encountered in research relations. I then contour the workings of coloniality in relation to my anthropological encounters, with special attention to an environmental inventory planned with Nunavut, to trace the ease with which we can become ensnared by these workings. The proposition of honourable relations, in treaty and in everyday life, is then offered as an antidote, a means for enacting "social and

political arrangements where promises are kept and obligations fulfilled with others at every register of action, not merely as different folks with different cultures but also as collectives of actors constituting two polities.” I lay out three aspects of practising this decolonial ethic in relation to what I call “the treaty turn”: first, is to name the milieu of coloniality; second, is to conjoin the inter-political and the inter-cultural (or inter-personal); and, third, is to act with conviction to foreground that which is most evident as just relations.

Sherry M. Pictou offers a crucial hesitation from her Mi’kmaq political location, addressing how poorly the agents of the capitalist state hegemon have been in opening to the fuller sense of peoples’ inter-political relations. She considers this by reflecting upon her life-long engagement around advancing sustainable fishing livelihoods for the Mi’kmaq, locally and internationally, and decidedly in avoiding capitulation to state jurisdiction “based on privatization and corporatization.” Her precaution, familiar from many Indigenous peoples, is one that settler anthropologists must heed, against backdrop histories of broken promises, which have continued largely unabated and intensified since the late 19th century, when the oppressions of the Indian Act became core to the institutional order of Canada’s official relation with Aboriginal people.

Pictou’s hope, not unlike the settler anthropologists writing here, comes from a place of profound on the ground experience of reciprocal relations, respect and mutual obligation between Mi’kmaq and settler folks she has known, worked alongside and shared with. She speaks to the power in what James Tully refers to as “small ‘t’ treaty” relations, those inter-cultural and inter-personal engagements that “open up the possibility for transforming the political/knowledge economy driving current formal or ‘official’ treaty negotiations.” It is through such shared engagements, she contends, that we find the possibility to “regenerate and build mutual treaty relationships.” Finally, Joshua J. Smith reminds us how collaborative research has to be considered within the “coloniality of the ‘recognition’ paradigm”—that is, a recalcitrant colonizing paradigm that seeks to secure the settler state as the supreme authority over Indigenous lives and societies. He then rigorously lays out a remedy in pursuing the project of action anthropology originally set forth by Sol Tax, as an alternative to simple collaboration. Basing much of his examination on Tax’s personal notes and his positioning between local Indigenous and settler communities, Smith then explores “the relational aspects of action anthropology, which remain unnoticed, undocumented and, in some cases, written out

of the discipline’s history.” It is these politically relational approaches which constitute what Smith calls the true “spirit and intent” of Tax’s conception and praxis of action anthropology. A further decolonial consequence of taking such action is the faithful re-telling of our histories together and in relationship, in ever more robust ways. This action then ricochets upon each of us, both settler and Indigenous—as anthropologists, too—in the way we know ourselves as relational, self-determining persons, a point Smith brings home writing how “knowing our traditions, through storied practice and shared histories beyond the control and logic of the state, helps us to know ourselves.”

We find all these articles return to a nuanced understanding of what it might mean to undertake research as a form of treaty praxis, through and beyond collaboration and inter-peoples’ consent.

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As a final point, on the basis of what is presented here, we can readily claim that all three modes of practice—consent, collaboration, treaty—are coming into a rich and intensive coordination, in part, because they all acknowledge the problem that colonial imposition still poses and, in part, because their premises are becoming more and more explicit in everyday research engagements.

In this moment of profound settler–Indigenous reflection on our shared colonial legacies, hearkened in the “calls to action” of the Truth and Reconciliation Commission’s final report (TRC 2015), we would do well to take these intersecting modes of practice all the more seriously. More than just “good to think with,” the variant and connected practices of consent, collaboration and treaty are ones that we have known and embraced in many quarters of Canadian anthropology. A common “call to action,” if you like, underlying all the papers is that we engage these practices for the liberatory relations they potentially create, a regenerating of active research relations that answer the challenge of land dispossession and statist impositions, while building out to just political relations between Indigenous and settler peoples, *tout court*.

The burning question I am left with from the articles—and from Asch’s potent reminders of anthropology’s deep and enduring tradition of engaging colonialism over the longer history of the discipline—is whether and how we might generate a *treaty mode of collaboration*, a *treaty mode of consenting relations between peoples*, a *treaty mode of anthropological research*. In striving for a positive response to these

questions lies the promise of transforming this vital conversation into lived relations between peoples and, as Michael Asch has asked of us all, doing so with dignity and respect.

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Notes

- 1 We wish to express our gratitude to the several anonymous reviewers of the papers included in this series, for their helpful critiques and suggestions. Our sincere thanks also to the editorial team at *Anthropologica*, and most notably Naomi MacPherson, whose patience and care has been monumental. I am also grateful for the support provided over the last several years through the SSHRC supported MCRI project *Intellectual Property Issues in Cultural Heritage: Theory, Practice, Policy, Ethics* (IPinCH) and in particular must thank its outstanding, tireless Director, Dr. George Nicholas who made so much space within IPinCH for several of us to carry out many of the complicated and tricky research discussions captured in this series.
- 2 The term “settler” is being used both in the general sense to take in all who have arrived in what is now known as Canada, onto lands of the many different indigenous peoples here, and also in the specific sense of signalling the intention to “settle”; that is, to arrive and to stay and to live in communities established here already or established anew. I acknowledge the heterogeneity of so many positions of newcomers historically, some of whom were brought here under conditions of duress (as for example, from slaves arriving in the pre-20th century slave trade, to refugees and asylum seekers fleeing oppressive regimes). As noted in the article by Noble, the presence of newcomers, settlers, on indigenous lands is made problematic by the obdurate procedures of coloniality, not necessarily by the intention of all settlers themselves or ourselves, as the case may be.
- 3 His volume (2014) arguably offers the most poignant and sophisticated statements on the power and potential carried forward through honourable treaty relations.
- 4 For insight into the scope of engaged scholarly approaches advanced through IPinCH, see Nicholas 2014. See IPinCH 2015 for information including the many community-based case studies and their methodological approaches.
- 5 See Noble et al. 2015 for an overview of the workshop “Inter-Peoples Consent Practices and Free Prior Informed Consent (FPIC).”
- 6 The term *collaboration* appears 20 times in the current version of the TCPS, 12 of those occurrences appearing in chapter 9. Canadian Institutes of Health Research et al. 2010.
- 7 See Lyons 2011; Lassiter 2008, 2005; Rappaport 2008; and, earlier, Warry 1990; Stull and Schensul 1987.

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