

Are Indigenous-led Coalitions Redefining Politics of Hydrocarbon Governance in Canada?

Abstract:

State-society relations are at the core of extractive politics. In countries with strong property rights regimes, the right holders have an opportunity to shape the development of new projects on their lands and use coalition-building strategies to challenge or reshape specific projects. This may lead to the emergence of pro/anti-development coalitions. In Canada, coalition-building is used as a tool to support or challenge specific extractive projects along the lines of existing institutions. Cognizant of these dynamics, my paper examines the following questions: a) what mechanisms are employed by individual coalitions to promote/hinder extractive projects?; and b) how are these coalitions impacting resource governance and policies? To answer these questions, I examine a case study of liquefied natural gas development in British Columbia. Based on the findings from this case, I argue that Indigenous groups can modify extractive projects by engaging in coalition-building and by utilizing existing institutional mechanisms to support their goals. This, in turn, shapes provincial government's policy on the LNG industry.

Keywords: British Columbia, coalition politics, extractive industries, governance, indigenous politics, liquefied natural gas, institutions, state-society relations.

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Introduction:

State-society relations are at the core of extractive politics around the world. The dynamics behind these relations are changing over time as institutions evolve and respond to the concerns of groups impacted by the extractive development. In countries with strong property rights regimes, the right holders have an opportunity to shape the development of new projects on their lands and use coalition-building strategies to challenge or reshape specific projects. The nature of these coalitions has been treated by the literature in terms of the static binaries, where pro-developmental coalitions are usually championed by corporate actors and governments, while Indigenous groups ally with civil society to resist resource extraction (Preston 2013; Rodon 2018). I propose that this binary view does not correctly depict the nature of the extractive politics in Canada as it does not capture the complexity of alliances that emerge. Cognizant of this complexity, I argue that we need to account for the distribution of decision-making power (or ‘voice’) in the existing institutional system that allows individual groups to shape the extractive projects in Canada. In examining the complexity produced by the existing institutional arrangements, I focus on two core questions: a) what mechanisms are employed by coalitions to promote/hinder extractive project?; and, b) how do coalitions impact resource governance?

These questions are becoming increasingly salient in the case of the nascent liquefied natural gas (LNG) industry in the province of British Columbia. The LNG industry provides an interesting case because its development has occurred within the last five years, which coincided with the “renaissance” of Indigenous politics in Canada under the Liberal leadership. At this time, it is important to consider institutional evolution and the gaps in the existing institutional mechanisms regarding Indigenous participation in the extractive industry.

This paper uses a process-tracing approach to analyze the impact of Indigenous politics on the development of the LNG Canada project by focusing on Indigenous-led coalitions and movements. More specifically, this paper looks at the existing and emerging domestic institutional mechanisms, embedded in legal statutes and other regulatory bodies. It also considers global initiatives related to Indigenous governance of natural resources, such as the Free, Prior, and Informed Consent (FPIC) that has been codified in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). These institutions will be considered in light of the initiatives organized by Indigenous groups to shape extractive projects. Ultimately, the paper argues that Indigenous groups use existing institutions to shape extractive projects where possible. In extractive projects where this possibility ceases to exist, Indigenous groups expose regulatory gaps by building coalitions with civil society to challenge extractive projects.

Focusing on recent developments in Indigenous governance of natural resources, this paper begins by reviewing the existing literature on the topic of Indigenous groups’ relations with the extractive industry and situate it within the Canadian context. The second part of this paper outlines the utility of a process-tracing method used to analyze the role of Indigenous

groups in extractive politics. Subsequently, this paper outlines domestic and international mechanisms that can be used by Indigenous groups to engage with extractive projects. The fourth part of this paper will examine the LNG sector in British Columbia by focusing on the case of LNG Canada to showcase coalitions developed by Indigenous groups in support and against the project. Before concluding, this paper turns to findings and discusses the institutional changes that may impact the future of Indigenous participation in the extractive projects in Canada.

Literature Review

Scholarship examining the role of Indigenous groups in the development of extractive projects has been focused on the constraints that these groups face in the neoliberal age (Sawyer and Gomez 2012; Hall 2013; Kulchyski and Bernauer 2014; Cameron and Levitan 2014). Scholars have proposed that neoliberalism defines the “space of contestation” for extractive projects (Sawyer and Gomez 2012); in other words, the ideology of neoliberalism that dominates the political, social, and economic bargains in any given society shapes the ability of Indigenous groups to participate in the negotiation of extractive projects (Preston 2013; Kulchyski and Bernauer 2014; Wesley and MacCallum 2014). Taking a broad picture of the Indigenous stance on development, scholars have proposed that Indigenous groups are generally opposed to development (Rodon 2018; Preston 2013) and encouraged grassroots resistance to improve Indigenous representation (Kulchyski and Bernauer 2014). Such depiction misses the complexity of Indigenous politics on the ground, where Indigenous groups can simultaneously support and resist extractive projects.

A new wave of scholarship, to which I am contributing, proposes that Indigenous groups have an agency to mobilize their interests either in support or against extractive projects (Papillon and Rodon 2017; Claeys and Delgado Pugley 2017; Wanvik and Caine 2017). This strand of literature argues that Indigenous groups are becoming more involved in managing extractive projects on their lands through Impact and Benefit Agreements (IBAs) (Craik, Gardner, and McCarthy 2017; Rodon 2018) and increasingly appeal to the principles of FPIC to shape extractive activities on their lands (Pereira and Gough 2013; Szablowski 2010; Papillon and Rodon 2017). IBAs along with the FPIC principles may be used by Indigenous groups to modify proposed extractive projects by cooperating with the state and industry. While this mechanism promotes collaboration in support of development, these agreements may have setbacks for Indigenous groups, given their secretive nature coupled with a set of restrictive conditions that may perpetuate existing inequalities and cleavages (Hitch and Fidler 2007; Cameron and Levitan 2014). I expand on this literature to propose that while neoliberalism remains the space of contestation for extractive projects, which may perpetuate existing inequalities in the system, the current system can also be leveraged by Indigenous groups to challenge these projects.

From the perspective of the new institutionalist theory, I propose that Indigenous groups in Canada can use the existing institutional mechanisms for their benefit. To examine this proposition, I analyze mobilization and coalition-building strategies used by Indigenous groups to advance their interests in the LNG Canada project. I propose that we should avoid the stark

binaries in our research, where we inherently assume that Indigenous groups are anti-development; instead, scholars should examine how Indigenous groups appeal to institutional mechanisms and adjust their coalition-building strategies to pursue different goals in extractive industries. Finally, I propose that Indigenous groups' strategies will depend on their ability to leverage existing institutions, where the existence of regulatory gaps will incentivize institution building.

Methodology and Theory

Any questions regarding Indigenous politics in the extractive sector are context and sector-specific and are thus best analyzed by using qualitative methodology focused on case studies. Since this research paper aims to identify a set of mechanisms used by specific coalitions to influence extractive projects, a process tracing approach is selected for this task. This approach has been popularized in the works of Collier (2011) and Bennett and George (2005) to study causal processes that link cause to the outcome. More specifically, this paper focuses on a specific category of process-tracing identified by Beach and Pedersen (2019, 11 and 286) as an “explaining-outcome process-tracing”, which seeks to establish a “sufficient explanation of the outcome”. The outcome of interest, in this case, is related to the coalition-building strategies that Indigenous groups can use to influence specific extractive projects. In addition, this process allows me to examine the evolution of institutional mechanisms facilitating Indigenous participation in the governance of extractive projects over time.

Although there is opposition from Indigenous research communities about using ‘Western-centric’ methods to explain Indigenous politics (Chilisa 2011), process-tracing is a valuable addition to the study of contentious politics¹ and coalition-building processes. The main benefit of this approach is its flexibility in data generation and interpretation. For this research, I analyzed legal documents, articles in the media, policy statements, corporate press releases, Indigenous statements, and other relevant primary and secondary sources. The multiplicity of sources and voices that I have included in my research allowed me to engage in triangulation – defined by Wood (2009) as a research strategy to enhance reliability using multiple data-generation techniques to obtain a complete picture of the events.

Since the task of this paper is to examine the mechanisms employed by Indigenous groups to shape extractive projects within the existing institutions and to account for institutional evolution over time, a process-tracing approach is best equipped to capture any changes associated with evolution in practices and norms within and across countries. When process-tracing approach is used to examine case studies, it enables an in-depth analysis of coalition-building dynamics employed by the Indigenous groups. In combination with a new institutionalist theory, my paper provides a more nuanced argument by identifying a co-existence of pro-developmental and anti-developmental movements led by Indigenous groups in the Canadian LNG industry. I theorize that the nature and dynamics of these coalitions will be shaped by the existing institutional arrangements that delegate the dynamics of power and

¹ Here contentious politics refers to Tarrow's (2011) definition, where “ordinary people...join forces in confrontation with elites, authorities, and opponents” (6).

inclusiveness (or “voice”), where excluded groups create a set of diverse coalitions and mobilize different mechanisms to challenge extractive projects within the neoliberal space of contestation.

Charting the Indigenous Rights to Land; or how are indigenous groups shaping and being shaped by the Institutional System?

The neoliberal space of contestation is regulated by the Canadian legal system. Under this system, adopted by the settler-colonial administration, Indigenous rights have become codified into a coherent institutional body that provides Indigenous nations with an avenue to challenge extractive projects that infringe on their title. The title was first recognized by the Supreme Court of Canada in 1973 under the *Calder v British Columbia* (1973) case and reaffirmed under Section 32 of the Canadian Constitution Act of 1982. This section of the Canadian constitution acknowledged and reaffirmed “[t]he existing aboriginal and treaty rights” (Constitution Act 1982, Section 35-1). As the Supreme Court later clarified in its resolutions, the Aboriginal title gives First Nations’ communities “the right to exclusive use and occupation of the land held pursuant to that title” (*Delgamuukw v British Columbia* 1997). While these cases outlined guarantees to Indigenous groups, a specific mechanism for Indigenous participation in the governance of their land did not emerge until 2004. In the landmark case of *Haida Nation v British Columbia* (2004), the Supreme Court of Canada has noted that the Canadian government has a duty to consult and accommodate Indigenous groups, whose interests may be negatively affected.

The evolution of Canadian Indigenous rights in the late 1990s and early 2000s coincided with a negotiation of the UNDRIP at the General Assembly during the first *International Decade of the World’s Indigenous People*, which lasted from 1995-2004 (UN – Indigenous People). In 2007, the General Assembly adopted the UNDRIP. The UNDRIP recognized Indigenous groups’ historic rights to land and provided Indigenous groups with a mechanism to challenge extractive projects – better known as FPIC. Despite growing support at the level of the global community for Indigenous rights, Canada did not recognize the UNDRIP until 2010. Nonetheless, it has developed a consultation and accommodation mechanism, similar to the FPIC, in the case of *Haida v British Columbia* (2004). The consultation and accommodation process, like the FPIC, can be used by Indigenous groups to initiate legal proceedings against extractive projects that they do not support. However, the implementation of these mechanisms remains imperfect in practice. According to legal experts at Blakes, Millen and Adkins (2018, 5), Canadian federal and provincial governments treat FPIC “as an objective rather than outcome” meaning that the groups are not given a veto over specific projects but rather obtain “a right...to participate in decision making that affects their land and resources”. But, it may develop into a veto power over time, if the court provides a legal precedent for this (Millen and Adkins 2018, 8).

Based on the current system of governance with codified laws outlining Indigenous ability to shape the extractive projects, one may conclude that there are legal avenues for Indigenous groups to stall the projects and increase their operating costs (Sarson 2018). Indigenous groups may stall a project by demanding a more thorough consultation or appeal to courts when consultation and accommodation has not been carried out to their satisfaction. Another option for Indigenous groups is to use the consultation and accommodation clause to negotiate the terms of extractive projects.

Since the consultation and accommodation mechanism rests on the transactional terms, it requires well developed entrepreneurial and negotiating skills on the part of Indigenous groups. IBAs', which emerged around the 1970s in Canada (Prno 2007), are negotiated between Indigenous groups and the state. Sometimes corporations may undertake IBAs as the state may choose to delegate the duty to consult and accommodate to corporate actors (Terry, Helbronner, and Lax 2015). While IBAs may benefit Indigenous groups (Caine and Krogman 2010), scholars highlight that they primarily benefit corporations (Cameron and Levitan 2014). Thus, IBAs may not serve the needs of every single group, especially those opposed to the extraction on their territory.

This institutional set up enshrines consultation and accommodation with Indigenous groups in exchange for resource development into a neo-liberal bargain for the exploitation of natural resources. At times these bargains fail to satisfy the interests of Indigenous groups, while at others these bargains provide mutually agreeable solutions. Ultimately, the nature of the current institutional system influences coalition-building strategies employed by Indigenous groups to attain their goals. Based on the existing institutional structure, we can identify two types of coalitions those in support of development and those against it. In the anti-development coalition, one usually finds movements led by indigenous-environmental groups that are often supported by the broader society. In the pro-development coalition, one may find a corporate-state coalition that has been a hallmark of the neoliberal era of resource extraction. However, over time the contours of the pro-development coalitions expanded to include corporate-civil society coalitions and corporate-indigenous coalitions. The corporate-indigenous coalition emerged on the basis of the consultation and accommodation system as part of the IBAs. Ultimately, the pro and anti-development coalitions co-exist under one space and compete for a 'voice' (or the right to represent the specific Indigenous groups) under the current institutional arrangement, as I will demonstrate in the case of British Columbia's LNG industry.

LNG industry in British Columbia

In the mid-2000s, British Columbia's provincial government announced an ambitious plan to develop the LNG industry. The province set a target to have three operational LNG facilities in the *British Columbia's Jobs Plan* by 2020 (Ministry of Energy, Mines, and Natural Gas 2013). Prior to this plan, the province had no LNG infrastructure in place. Domestic and international companies submitted 19 proposals to develop British Columbia's LNG sector. As part of these proposals, they anticipated to construct new liquefaction plants and pipelines to carry natural gas from the source to the plant. All of these proposals involved greenfield investment, where companies construct new facilities. This type of investment requires companies to acquire licences to construct new infrastructure and facilities for the plant. In democratic countries, with multiple stakeholders – or groups that can intervene in the extractive projects - greenfield investment is complicated by political, social, and economic factors (Ufimtseva 2019). These factors shape which of the proposed extractive projects proceed and which fail to materialize.

As noted earlier, corporate players proposed 19 large LNG projects along the provincial coast. As table 1 indicates, out of these 19 projects only three obtained approval from the

government to proceed, four projects were shelved, two were under review process, and ten were still at the proposal stage at the time of writing. Two of the three large-scale projects that have obtained government support – LNG Canada and Woodfibre LNG - are under construction as of 2018/2019. The number of LNG plants can expand in the future with multiple other projects in the pipeline, including Kitimat LNG. However, seeing that several projects have failed to proceed, one begins to wonder why only some succeeded? I propose that the success/failure of these projects will depend on stakeholder politics in the province. For the purposes of this paper, I will turn my attention to coalition politics and institutional mechanisms employed by Indigenous groups to influence LNG projects in the province by focusing on the LNG Canada project.

Proposed (Not Submitted)	Proposed (shelved)	Pre-application / Re-view Stage	Approved
1. Canada Steward Energy Project	1. Triton LNG	1. Grassy Point LNG	1. Kitimat LNG
2. Cedar LNG	2. Pacific NorthWest LNG	2. WCC LNG Ltd.	2. LNG Canada
3. Discovery LNG	3. Aurora LNG	3. WesPac	3. Woodfibre LNG
4. Kitsault Energy Project			
5. NewTimes Energy LNG			
6. Niga'a LNG			
7. Orca LNG			
8. Steelhead LNG: Malahat LNG			
9. Steelhead LNG: Sarita LNG			
10. Watson Island LNG			

Table 1: Proposed LNG projects in BC as of 2018

Before examining the responses of Indigenous groups to a specific project, it is important to note that LNG development is backed by a set of state-corporate coalition. From the perspective of the state, British Columbia's provincial government appears to be generally supportive of the LNG industry. Under the leadership of Premier Christy Clark, the government has announced that the LNG industry was its "key priority" (Environmental Assessment Office 2015). In *British Columbia's Natural Gas Strategy* policymakers have stipulated a goal to turn the province into "a global leader" in the LNG industry (British Columbia's Ministry of Energy and Mines 2012). The province has also cut down on the regulatory red-tape by modernizing the *Oil and Gas Activities Act*, negotiating IBAs with Indigenous groups, and streamlining the environmental review process by signing the *Canadian Environmental Assessment Act* in 2012. The latter minimizes the role of the federal government in the development of the LNG industry in the province. All of these activities aligned the province closer to the industry actors in the LNG sector.

Corporate actors have likewise been very enthusiastic about the potential of the nascent LNG industry in British Columbia. As noted earlier, corporate actors proposed 19 individual LNG plans for the province. Businesses have also united to form a *BC LNG Alliance* in support

of the development of the LNG industry in the province. The industry is backed by multiple players along the supply chain, including natural gas producers, pipeline companies, operators of natural gas liquefaction facilities, transportation companies, and downstream LNG buyers (Blyschak 2016). In general, the industry has been very proactive in establishing close relations with the provincial government and building a state-corporate coalition to jumpstart the LNG industry in the province.

Under the New Democratic Party-Green Party leadership, state-corporate coalition remains supportive of the LNG development. The new political leadership in the province appeared to be more critical of the industry in the beginning, given that the Green party remains opposed to the LNG development. However, the NDP leaders, which holds a majority of seats in the coalition, outlined a set of political conditions that industry players must meet to obtain political support. As part of these conditions, businesses should extend corporate guarantees to provide local employment and training, outline provisions for a fair share of profits to the province, maintain operations in an environmentally-friendly manner, and engage with Indigenous groups (Bailey 2017). In 2018, the new premier of British Columbia, John Horgan, has reemphasized his commitment to the LNG industry provided that it meets environmental standards and supports local economic development (Shaw 2018; Office of the Premier of British Columbia 2018).

The state-corporate coalition is driven by capital gains that can be obtained from selling LNG in the energy market. In a way, this coalition is driven by neoliberal principles of the market economy, where the core task is to achieve profit from the economic activity. The objective of the state and companies to attain this profit is, however, grounded in different principles. For the provincial government, these profits are a gateway to support its programs and plans in part to support the public good. For the companies, the profits are for private and not public gain as they will be re-distributed amongst their shareholders and employees. Despite being driven by different incentives, the two parties have developed institutionalized mechanisms to engage with Indigenous groups. Mechanisms, such as IBAs, govern the entry of Indigenous groups into the negotiation of extractive projects with the state and corporate actors. This is broadly premised on a state-society bargain that has emerged in the neoliberal society and which can, at times, run counter to the interests of other stakeholders in the society, such as Indigenous groups as I will explore in the case of LNG Canada.

LNG Canada Case study

The LNG Canada project is illustrative of the complexity of Indigenous groups' interaction with extractive projects in the province. The project is a joint venture managed by a joint venture of companies² under Shell's leadership. As part of this project, the proponents will repurpose an existing Methanex methanol facility that closed in 2005 to construct the LNG plant (Stantec Consulting Ltd. 2013). This plant will be located in Kitimat, British Columbia, the traditional territory of the Haisla Nation. This LNG plant will be supplied with natural gas through a new pipeline infrastructure – the Coastal GasLink pipeline - that will be constructed by the TransCanada Corporation. In the proposals, the proponents of the project estimated that the

² Shell with 40%, Petronas with 25%, PetroChina with 15% Mitsubishi with 15%, and KOGAS with 5%.

project will create over 5500 temporary and around 400 permanent positions (Stantec Consulting Ltd. 2013). The plan was approved by the province and in 2018 the proponents of LNG Canada made a final investment decision.

On the ground, the project is a manifestation of the complex co-existence of the pro and anti-development coalitions led by Indigenous groups. Indigenous engagement through the process of consultation and accommodation has been a central element of LNG Canada's proposal. The developers identified eight Indigenous groups that may be adversely affected by the LNG Canada plant. The report lists Haisla, Gitxaala, Gitga'at, Lax Kw'alaams, Metlakatla, Kitselas, Haida, Kitsumkalum, Métis Nation of BC as the eight Indigenous groups that will need to be consulted and accommodated before the start of the project (Stantec Consulting Ltd. 2013). The owners of the projects initiated a consultation process with these Indigenous groups in 2010 (Stantec Consulting Ltd. 2013). In the aftermath of these negotiations, LNG Canada's CEO, Andy Calitz (2019), announced that the LNG Canada plant is supported by the Haisla Nation, Gitga'at First Nation, Gitxaala Nation, Kitselas First Nation, and Kitsumkaum First Nation. Caliz (2019) also highlighted that the Coastal GasLink pipeline has obtained the support of 20 Indigenous groups, including the Wet'suwet'en First Nation.

The emergence of an indigenous-corporate coalition

At first glance, it appears that the project has built successful coalitions with Indigenous groups. Indigenous-corporate coalitions that emerged championed pro-development interests. We can see this from the supportive comments made by Haisla's leadership. In a press release the Chief Councilor of the Haisla Nation, Crystal Smith, noted that the Haisla support the development of LNG Canada because they have a voice in the project (Eagland 2018). This voice can be linked with the process of consultation and accommodation that LNG Canada embarked upon after it announced the project. Commenting on this process, the Deputy Chief Councilor and Chair of the Executive Committee of the Haisla Nation, Brenda Duncan, has noted that the proponents of the LNG Canada have made the Haisla group feel "as stewards of this land and as the landlords" (Eagland 2018). Thus, it was not surprising that Haisla, along with Gitga'at (2015), were among the first groups to release supportive statements regarding the LNG Canada project. Both groups have signed the IBAs with the province and proponents of the plant and the pipeline. In this case, Indigenous groups used the neoliberal logic of the market to obtain benefits from resource extraction.

The corporate-indigenous pro-developmental alliance that has emerged contradicts with the general narrative that Indigenous groups are generally against hydrocarbon development on their territory. Instead, it demonstrates that some Indigenous groups, which feel included and engaged in the development of the project, will support extractive projects. Indigenous-corporate alliance may be surprising to some. Especially, as pro-developmental coalitions between Indigenous and corporate actors are often missed in the media's narrative as they are overshadowed by the voices representing the coalition between environmental and Indigenous groups fighting against extractive development (Buffalo 2018). However, as Karen Ogen-Toews, a former chief of the Wet'suwet'en First Nation, notes in an interview with Cattaneo (2017), Indigenous groups' partnerships with environmentalists are becoming strained given that the environmentalists are overstating the opposition to the LNG projects. However, for Indigenous

groups that do not have a voice in determining the fate of extractive projects, environmental and other civil society groups remain a preferred alliance option.

Opposing the Development of LNG Infrastructure; The story of the Wet'suwet'en

Some of the members of the Wet'suwet'en group fit into the earlier description as segments of the groups led by the hereditary leaders struggle to regain their voice in the governance of the LNG Canada plant. Complex coalition politics at play in this group, which seeks to build on domestic and international frameworks and alliances to champion their anti-development cause. They seek to build alliances and pursue institutional recourse to obtain a voice in the governance of the proposed pipeline project crossing their territory. The group needs to balance domestic constraints that inhibit their participation in the dialogue by leveraging existing mechanisms and by building powerful alliances. This section begins by discussing institutional constraints on the Wet'suwet'en ability to shape extractive projects in Canada. Subsequently, it examines strategies employed by Wet'suwet'en hereditary leaders to challenge these constraints by building and mobilizing domestic and international alliances.

In the case of the Wet'suwet'en Nation we can observe a clash between traditional institutions developed by the Indigenous groups and the current administrative system developed by the Canadian Crown. This inconsistency is acknowledged by the political leaders at the federal level. In an interview with the press, the Minister of Crown-Indigenous Relations, Carolyn Bennett, noted a tension between the two systems of governance – the hereditary versus the elected leadership (The Canadian Press 2019b; Smart 2019b). While the hereditary system was established prior to settler-colonialism, elected membership emerged from the Indian Act. Since the Act prioritized elected leadership, it undermined the role of hereditary leaders in the consultation and accommodation process. In this case, the question of representation becomes of paramount importance in terms of who has the right to decide regarding the IBAs. In the case of the Coastal GasLink pipeline, the signatories of the IBAs were the elected leaders, not the hereditary ones.

Since the hereditary leaders of the Wet'suwet'en Nation were not the signatories of the IBAs, a division emerged between the members of the Wet'suwet'en Nation. Those that supported the Coastal GasLink pipeline have aligned themselves with the decision of the elected chiefs, who have signed the IBAs. The elected chiefs and their followers may have felt that their voices were recognized by corporate actors and the state after they joined the pro-development coalition. However, others in the Wet'suwet'en Nation felt disenfranchised by the IBAs that were signed between a state-corporate led coalition and segments of their group. This disenfranchisement provides an incentive for internal mobilization.

The clans within the Wet'suwet'en Nation have decided to stage peaceful protests in the camps that they built along the proposed Coastal GasLink pipeline, depicted in figure 1. These anti-development protests occurred at the Unist'ot'en Camp and Gidimt'en Checkpoint (Cruikshank and Seucharan 2019). Both of these were supported by the hereditary leaders of the Wet'suwet'en Nation (Cruikshank and Seucharan 2019). These protests are not just a mechanism to demonstrate opposition against a specific LNG project – in this case, Coastal

GasLink pipeline – they are also an attempt to showcase gaps in the regulatory system that inhibit Indigenous groups from fully engaging in shaping extractive projects.

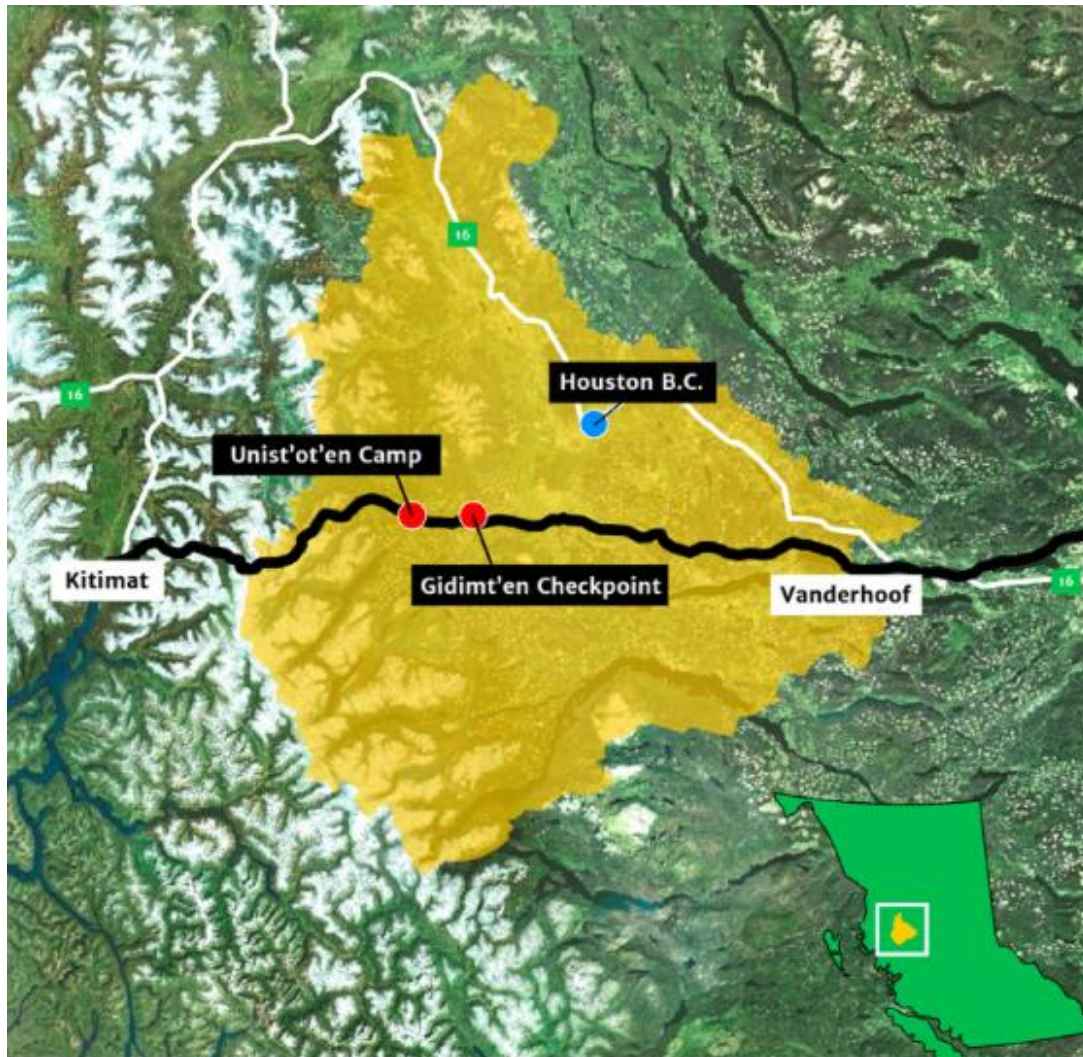


figure 1: Coastal GasLink pipeline crossing Wet'suwet'en territory in yellow (Cruikshank and Seucharan 2019)

The peaceful protests staged by the Wet'suwet'en clans have percolated to the civil society level. The largest wave of sympathy for the movement occurred after the RCMP forces have imprisoned 14 peaceful protesters at the Unist'ot'en camp checkpoint (Bellrichards 2019; Snelgrove 2018). The Wet'suwet'en Nation has reinterpreted this act as a violation of human rights and as an "act of war" by the state and companies against the clans (Smart 2019b). In support of the Wet'suwet'en resistance, environmental groups and other civil society actors have gathered across 70 cities around the globe to protest the arrests of the Wet'suwet'en people (Unist'ot'en 2019). Media have captured protests in large and small cities alike, like Calgary (The Canadian Press 2019a) and Nanaimo (Bush 2019). Additionally, environmental groups, including the Sierra Club of BC (2019), have made official statements in support of the Wet'suwet'en Nation and offered resources, such as petitions, that can be used to mobilize the broader public. Domestic alliances with civil society groups supported the Wet'suwet'en call for

the recognition of Indigenous title and rights that the group exercises on the territory outlined in the Delgamuukw case³ (1974).

In addition to domestic alliances, Indigenous groups can reach out and form alliances with international organizations in hopes to alter domestic hydrocarbon politics. Indigenous activism at the United Nations and the World Trade Organizations has played an important role in shaping extractive politics around the world (Davis 2012; Sawyer and Gomez 2012). Given the historical importance of international organizations in shaping domestic politics, Wet'suwet'en hereditary chiefs have brought their case against the Coastal GasLink pipeline to the United Nations' General Assembly. In April 2019, the hereditary leaders have noted that their Indigenous title and human rights are being violated by the development of pipelines that cross their territories and uproot peaceful protesters. One of the Wet'suwet'en hereditary chiefs, Chief Na'moks argued that state-corporate alliance has again "superseded the rights of Indigenous people on our lands and territories" (Bellrichard 2019). The hereditary leaders also argued that the state-industry coalition is disregarding Wet'suwet'en law and system of governance (Bellrichard 2019). Ultimately, Chief Na'Moks called on the Canadian government to recognize human rights stipulated under the UNDRIP and FPIC (Bellrichard 2019).

Since Canada is a signatory to the UNDRIP and accepted the principles of FPIC, the Canadian government seeks to adopt these initiatives in practices. However, their implementation remains imperfect. Nonetheless, the Wet'suwet-en-led protests and resistance against the LNG Canada has been heard by the provincial leadership and may lead to institutional innovation in favour of Indigenous groups. Premier Horgan has met with the Wet'suwet'en hereditary chiefs in February 2019 to discuss the potential for reconciliation. The meeting resulted in a statement released on February 7, 2019, which has reaffirmed Wet'suwet'en right and title to the land that they occupy. The statement has also reassured the Wet'suwet'en and others that the province will comply with UNDRIP and FPIC (Office of the Premier of British Columbia 2019). Ultimately, the statement has reaffirmed that Wet'suwet'en group has a right to "self-determination and self-governance". While the statement is very progressive in language, it does not outline specific activities that will be taken to ensure that hereditary leaders will regain their voice. Furthermore, the statement does not elaborate on the LNG Canada and Coastal GasLink pipeline.

The Indigenous-led coalition building strategies serve as external shocks that puncture the equilibrium of institutional stability. Or in the words of Capoccia and Kelemen (2007), they create 'critical junctures' that enable institutional innovation as they disrupt the status quo and path dependence. History provides multiple examples of successful Indigenous-led movements that have enhanced Indigenous voice in the extractive industries. Some of them can be easily found in legal cases, where Indigenous groups have successfully defended their title and rights. The Delgamuukw case (1974) being just one example. Civil society-indigenous coalitions have also stimulated changes at the global level, including the adoption of the UNDRIP and FPIC. While it is too early to judge whether the Wet'suwet'en protests will result in institutional innovation or reshape the future of the LNG Canada, it is clear that they have stimulated

³ The Delgamuukw case (1974) has concluded that the Wet'suwet'en have the jurisdictional right over the territory.

movement in the direction of change that may impact future governance of hydrocarbon projects passing through their territory.

Conclusion:

Indigenous politics surrounding the LNG Canada project reveal that the majority of the Indigenous groups were able to use the existing institutions to obtain benefits, with the exception of the Wet'suw't'en First Nation. As I have argued in this paper, Indigenous groups that are granted a voice through the consultation and accommodation process in the LNG sector have used their entrepreneurial skills to obtain benefits to their communities from the proposed plant. There are other projects, not discussed in this paper, where Indigenous groups have used the consultation and accommodation platform to stall the projects by pursuing a legal action against LNG plants that did not meet their standards of accommodation leading to a demise of some of the proposed projects, such as the Pacific NorthWest LNG (Ufimtseva 2019). Other groups that were not able to exercise their voice, resorted to peaceful protests and alliance building mechanisms to advance their cause. The struggle of the Wet'suw't'en hereditary leaders for recognition of their rights to the land remains unresolved under the current system, which is rapidly changing across the federal and provincial levels of government.

At the federal level, there are several initiatives, as part of the reconciliation platform, to help Indigenous groups improve their self-governance capacity (Smart 2019a). In addition to the self-governance initiative, there are two bills - Bill C-69 and Bill C-262 - that may change the existing dynamics of Indigenous groups' participation in the evaluation of extractive projects. Both bills, which are currently under consideration in the Senate, seek to expand the influence of Indigenous groups over extractive projects. Bill C-69, sponsored by Catherine McKenna⁴, will change the conditions of Indigenous consent, jurisdiction, and governance over natural resources. Similarly, Bill C-262, sponsored by the Indigenous MP, Romeo Saganash, seeks to ensure that the Canadian legal system is consistent with the provisions of UNDRIP.

In British Columbia, the provincial government has indicated its commitment to IBAs and FPIC under the auspices of UNDRIP. Although the government-indigenous engagement at the provincial level appears to be governed by the international best practices (codified in UNDRIP), questions arise regarding the implementation of these principles in practice (Palmer 2019). Furthermore, principles noted in the FPIC may not provide Indigenous groups with the veto power to stop the projects (Millen and Adkins, 2018). Still, as I have demonstrated in this paper, the provincial leadership has been pro-actively engaged with the Wet'suw't'en Nation. In the aftermath of the peaceful protests led by the Wet'suw't'en and supported by civil society across Canada, the provincial government has indicated its interest to create an institutional mechanism to include Wet'suw't'en's voices in the local governance.

I propose that the institutional evolution was motivated by the concerns about inclusion and representation of Indigenous voices in the extractive projects. In this paper, it was illustrated by the calls made by the Wet'suw't'en hereditary leaders. Since, the points of Indigenous engagement and contact are dictated by the industry actors and the state, as they negotiate IBAs

⁴ a Minister of Environment and Climate Change in the Justin Trudeau's cabinet

under the neoliberal terms, Indigenous groups have a limited veto power under the current institutional system. Still, legal avenues can be utilized by indigenous groups to extract benefits from specific projects and to mitigate negative impacts of natural resource exploitation on Indigenous communities. The question that needs to be resolved by a set of new rules and regulations should be linked to the issue of inclusion and exclusion of specific groups from the negotiations. Future research looking at this question may discover different approaches to hydrocarbon governance on the basis of their integration into the current system of governance. These dynamics may be best mapped by a quantitative study looking at the trends of exclusion-inclusion of indigenous groups in the negotiations and analyzing the ability of Indigenous groups to negotiate agreements with the state or corporate players.

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