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Looking into the Empty Box:

A Study of the Formation of Indigenous Subjects in
Liberal Policy Settings through the Case of the European
Union's Sealskin Ban

Major Research Paper

Professor Jonathan Paquette

Alexandra Harris

5351781

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Abstract

The objective of this MRP is to unravel the pattern of policy decisions made regarding Indigenous peoples which enforces a certain definition of Indigeneity that does not ring true and is often damaging to Indigenous communities. Indigeneity in public policy is multidimensional because it can be a category that affirms rights according to pre-colonial status, but can also be utilized as a modern mode of self-determination. However, the development of public policy regarding Indigenous peoples is formulated within hegemonic arenas in which Indigenous peoples must represent themselves through static and limiting terminology. Thus, because policy target groups are the constructs of limiting stereotypes, public policy is experiencing a tension between Indigeneity as a fluid concept and the prevailing understanding of Indigenous rights having to be tied to a fixed notion of tradition and the pre-colonial. In public policy, many researchers are interested in contextualizing the ideas and relationships upon which policies are developed. This MRP employs themes of governmentality, subjectivity and discourse analysis in order to provide some context to challenges in public policy concerning Indigenous peoples. Building on the case of the European Union's sealskin ban, this research attempts to draw out the consequences of policy rigidity. We observe through this case that Inuit sense of traditional culture in a contemporary context clashes with that of the European Union, creating a policy that has been both economically and culturally devastating for northern Inuit communities.

Key terms: Governmentality; Decision-making arenas; Inuit, Indigenous Policy, Policymaking; Liberal; Modern; Self-determination; Subject; Subjectivity; Target groups; Traditional.

PART I: Introduction

If, as some anthropologists now put it, culture is always invented (see Wagner 1981), if invention always opens up the possibilities for difference, then it should also be clear that the conditions of invention are no longer what they once were [...] More precisely, even if it is true that new cultural forms are being continuously invented in different societies, these societies now live in a single, shared world, a world brought into being by European conquest
(Asad, 1992, 333-334)

As a point of departure, the above quote by anthropologist Talal Asad initiates the entangled concepts of tradition and modernity investigated within this MRP. As Asad puts forward, the expansion of European civilization through conquest and colonialism has created a trajectory of modern development to which all societies are measured (1992, 334). However, this trajectory towards modernity is complicated (among other things) by the assertion of self-determination by Indigenous peoples around the world.

As a category of identity, Indigeneity in public policy and in international arenas is multidimensional because it can be a category that affirms rights according to pre-colonial status, but can also be engaged as a modern mode of self-determination. The category of Indigeneity is also utilized with the knowledge that it is of European origins and enforces a dichotomy of the European settler and Indigenous “other” (Eudaily, 2004, 2). Furthermore, policies regarding Indigenous peoples are formulated within liberal hegemonic arenas in which Indigenous peoples must represent themselves through static and limiting terminology. Put simply, there are several paradoxes of identity and development at stake that can be condensed into several juxtapositions such as modern/traditional, colonized/pre-colonial, cash economy/subsistence economy and self-determination/Western supremacy (Lindroth, 2011). These opposing categories have become obstacles for Indigenous peoples in the realm of policymaking.

Policies concerning Indigenous peoples involve standard public policy objectives, such as land tenure, education and health. However, Indigenous policies must also be studied and created with an understanding of the unique circumstances and governmental relations experienced by a particular Indigenous community and identity. As Schneider and Ingram (1993) have argued, the choice of policy techniques deployed by governments are chosen based on the characterizations of their target groups. Cultural characterizations of a group determine whether the policy techniques in place will be positive, or negative, as well as whether or not governments will encourage their political participation (Schneider and Ingram, 1993, 334). Hence, “[p]olicy sends messages about what government is supposed to do, which citizens are deserving (and which are not), and what kinds of attitudes and participatory patterns are appropriate in a democratic society” (Schneider and Ingram, 1993, 335). For Indigenous peoples, self-determination and access to decision-making arenas have been limited due to Eurocentric notions of Indigenous cultural backwardness in the shadow of liberal statist modernity. Accordingly, tied to the colonizer-colonized dichotomy, the ability for Indigenous peoples to participate in a liberal society is heavily regulated by the state.

Thus policymakers must navigate limiting categories—between Indigeneity as a fluid concept relating to the economic and social realities of contemporary Indigenous peoples, and the prevailing understanding of Indigenous rights necessarily tied to a fixed notion of tradition and the pre-colonial. In recent years, Indigenous policies have shown that there is a pattern of decisions and a set course of action based on an understanding of Indigeneity that is rooted in notions of a static culture. In other words, within liberal decision-making forums, Indigenous peoples’ rights are relegated to their pre-colonial claim to land or certain traditions; a definition that does not encompass change or “development.” Accordingly, the objective of this MRP is to

unravel the pattern of policy decisions made regarding Indigenous peoples which enforces a certain definition of Indigeneity that does not ring true and is often damaging to Indigenous communities.

In order to explore the conceptual field upon which Indigenous peoples are placed as either inside or outside of the political decision-making arena, the literature review in Part II engages with written works on the production of the political subjects and the application of said practices on colonized peoples. The anthropology and policy literature deployed considers key concepts in Indigenous characterizations and categorizations as well as the liberal political techniques with which Indigenous peoples must engage. It is also of note that the use of the term “liberal” within the context of this MRP refers to subjectivities and power relations emerging from the industrial West, as employed in the works of Michel Foucault (Eudaily, 2004, 2).

Part III of this MRP is the theoretical framework, which introduces the case of the European Union’s ongoing sealskin ban and its consequences for Canadian Inuit. Laid out in Part III are the discursive analytical tools through which the European Union’s decision-making process will be studied. Using the analytical tools identified in the theoretical framework, this MRP sets out to explain how the exemption of Inuit from the sealskin ban has come to be called an “empty box.”

Part IV presents the historical context for the case. This chapter addresses the unique position of the Inuit and their relationship with colonial forces. It provides a description of resettlement in the North, along with a description of changes to Inuit sealing practices, a detailed summary of the European Union’s ban as well as its economic and social impact on Inuit communities.

Part V delves into a discursive analysis of the European Parliamentary debates concerning the sealskin ban to underline liberal normative modes of decision-making at play. The analysis of the debates will advance an explanation for the ineptitude of Western states to incorporate an appreciation for traditional Indigenous culture as both distinctly Indigenous and indelibly impacted by this “shared world, a world brought into being by European conquest” (Asad, 1992: 334). In addition, this chapter utilizes notions of subjectivity and self-formation in order to highlight Inuit agency. In doing so, Part V will underline the significance of subjectification in current policymaking discourse in addition to subjectivation as self-formation/resistance.

Part VI is the conclusion in which the case study is summarized and the major themes included in this MRP are reviewed. Additionally, in this final chapter, the concept of target populations is revisited in order to draw some conclusion regarding the formulation of policies concerning Indigenous peoples.

PART II: Literature Review

Within the anthropological literature covered in this chapter, the assertion and affirmation of Indigenous right to self-determination in government and international courts is articulated as a paradox. For Aikau and Spencer (2007), the crux of this paradox is the term Indigeneity itself, as a category that is both a contemporary political entity and yet refers to primordial land and cultural ties of traditional peoples. As Williams (1990) explains, the contemporary international legal discourse in Indigenous rights has emerged in response to the consciousness-raising efforts of Indigenous peoples in international human rights forums of the last thirty years (665). The right to self-determination is not in question within this literature; the quagmire lies in the liberal Western arenas in which Indigenous peoples come to assert their rights. As an Indigenous activist stated at the UN's sixth Permanent forum for Indigenous issues: "[w]e're conforming to the UN, but the UN is not conforming to us" (15 May 2007, pers. comm. quoted from Lindroth, 2011, 549). Within policy literature concerned with Indigenous issues, the forums in which Indigenous peoples assert their rights are criticized for enforcing top-down policymaking processes. The state institutions are largely closed to fluid ideas of identity and knowledge. As Frances Abele puts it, "[t]he institutions through which these decisions are made are built for a different purpose, and many of them are explicitly designed to exclude moral or philosophical considerations (2006, 237). Because institutions maintain top-down forms of power relations, Indigenous peoples must legitimize themselves based on hegemonic forms of decision-making (Abele, 2006, 240). Hankivsky and Cormier (2011) state that: "policy is not neutral as it is not experienced in the same way by all populations" (218). One-size-fits all Eurocentric ideas are not always applicable, particularly in instances where the same hegemonic ideas created the

problems. They continue to be the primary arena in which Indigenous issues are decided (Fleras and Maaka, 2009, p. 13).

Criterial and Relational Categories of Indigeneity

We find within the literature discussed in this chapter an attempt to grapple with what Francesca Merlan (2009) calls the “criterial” and the “relational” definitions of Indigeneity. The criterial implies a kind of intrinsic set of characteristics such as self-recognition as “other” and distinct from those currently inhabiting ancestral land (2009: 305). Relational categorizations are based on the idea that: “Indigenous peoples are defined as much by their relations with the state as by any intrinsic characteristics that they may possess” (Maybury-Lewis’s, 1997, 54 as cited in Merlan, 2009, 305). As Indigenous status often comes with a set of criteria, it is useful to highlight the cultural and social implications which Indigeneity in policy often generate: “crucial in all policy practice is framing, specifically what and who is actually included, and what and who is ignored and excluded” (Gasper and Anthorpe, 1996, 6). While declaration of pre-colonial ties to land and culture is often at the heart of Indigenous self-determination, the literature discussed in this chapter also presents the points of tension within hegemonic legalist systems that center Western modes of regulation, relegating Indigenous participants as contributory or secondary.

Criterial definitions “propose some set of criteria, or conditions, that enable identification of the “Indigenous” as a global “kind”” (Merlan, 2009, 305). As Merlan points out, these types of definitions are most often utilized in international forums such as the United Nations Permanent Forum on Indigenous Issues. Ronald Niezen (2002) describes the international Indigenous movement as one that speaks as a singular voice against state-infringements on Indigenous

rights. Niezen argues that the term "Indigenous peoples" is a tool utilized to clarify a shared history and the affirmations of particular rights: "[i]t affirms above all local claims of difference, using such concepts as treaty rights, regional autonomy, and self-determination" (2008, 216). Criterial definitions of Indigeneity are umbrella definitions, meant to include many peoples in international forums.

Criterial definitions can also be problematic. As is evidenced in policy literature, unifying categories have equalizing effects that are created to suit state forms of regulation. Top-down definitions of Indigeneity impose the cultural biases of the hegemonic society upon the group in question. As articulated by James Anaya (1996), during the nineteenth and early twentieth century, Great Britain engineered special administrative regimes in order to alter the cultural and social patterns on Indigenous peoples to come "in line with European conceptions of civilized behaviour" (24). These methods were premised on the notion that of Indigenous inferiority. Similarly McGrath and Stevenson (1996) have illustrated, the original Canadian *Indian Act* of 1876 created a universally applied method of determining status that defined "Indian" status as hereditary via paternal lineage or through marriage to a man with "Indian" status. Accordingly, the diversity in Aboriginal lineage systems were replaced (McGrath and Stevenson, 1996, 41). The implications of these regulations for Indigenous peoples today play out in a myriad of ways. In particular, the loss of status for generations of women and their children has resulted in the exclusion of Indigenous peoples from band membership and state remuneration. According to Lascoumes and Legalès (2007), although policy instruments are originally utilized to reconcile a particular issue at a specific place and time, they continue to be employed in varied instances: "every instrument has a history, of which it remains the bearer, and that its properties are indissociable from the aims attributed to it [...] it will be mobilized by policies that are very

different in their form and their basis (Lascoumes and Legalès, 2007, 6). While the criterial is useful as an umbrella term in an international context, Indigeneity also has a long history of state categorizing and regulations.

The relational definitions of Indigenous peoples imply an entanglement of identity and a dependence on the juxtaposition of the modern and traditional. Frank Hirtz (2003) illustrates the methods in which Indigenous peoples in the Philippines come to implement liberal political forms of organization in order to have their traditions recognized by the state. Hirtz argues that the legal systems, NGO partnerships and methods of institutionalizing local government evoke a reconstruction of traditional, which incorporates new forms of organization (2003: 901). For Hirtz, meaning is derived from the dichotomy of the modern and the traditional:

[m]odernity needs the contrasting concept of Indigeneity and tradition, whereas traditional societies in pre-modern or pre-colonial times did not need to establish their ‘otherness’ in opposition to modernity or their own history. In other words, through the very process of being recognized as ‘Indigenous’, these groups enter the realms of modernity (2008: 889) Said differently, for Hirtz, in engaging with NGOs and the state, Indigenous peoples are thusly transforming traditional modes of organization into something compatible with modernity.

The relational, as it is utilized in sociology is a useful concept as it sidesteps some of the dualism rooted in criterial definitions which assume an intrinsic difference. While criterial definitions are key in asserting rights based on Indigenous pre-colonial status, this the traditional/modern dichotomy is also linked to static categorizations. To elaborate, relational theory as it is utilized in sociology underscores the “interdependence in antagonism” that is at the root of relational definitions of Indigeneity (Norbert Elias as cited by Kaspersen and Gabriel, 2013, 56). The interdependence in antagonism is the result of groups of people interacting with

each other and defining themselves as a result of these interactions; in acclimation to, or in juxtaposition of one another. As Dépelteau and Powell explain, relational sociology looks at relationships and individuals as open to fluid processes of identity making (2013, 2). According to Norbert Elias, “since people are more or less dependent on each other, first by nature and then through education, socialization, and socially generated reciprocal needs, they exist, one might venture to say, only as pluralities, only in figurations” (as cited by Kaspersen and Gabriel, 2013, 58). This understanding of the relational expands on the categorizations of Indigenous as either a pre-determined identity or in relation to the state. Instead, the relational as it is used in sociology presents the expansive and evolving impact of relationships. In this view, the modern and the Indigenous thus do not have a predetermined relationship, but one which is invariably expanding.

Governmentality and Colonialism

As the literature below will indicate, the modern/traditional dichotomy within liberal states presents the impact of categorization on decisionmaking bodies. Governmentality, a term introduced by Michel Foucault and presented in his 1978 lecture at the College de France, provides a conceptual guide for the process of developing to colonial subject. While Foucault’s piece did not touch on the colonial subject, there is a relevant series of texts that mobilize governmentality as an analytical tool.

According to Pierre Lascoumes (2004), Foucault did not understand the State to be a universal condition, but a distinct result of historical and cultural developments resulting from Western Europe, “Michel Foucault veut caractériser la formation d’une forme de rationalité politique qui se constitue au cours du XVIIe siècle et prend une forme aboutie au XVIIIe siècle.

Elle succède à l'État de justice du Moyen Âge et à ce qu'il nomme l'État administratif des XVe et XVIe siècles" (5). Foucault's focus within his lecture of governmentality was the transformation of governmental power that moves beyond the Machiavellian to the advancement of bureaucratic institutions through which individuals learn to conduct themselves as subjects (Gordon, 1991). As a result, Foucault argued for a study of power and politics in relation to specific contexts, and for Foucault, that was Europe: "[i]l n'envisage pas l'État comme « une sorte d'universel politique » dont il faudrait analyser en lui-même la nature, la structure et les fonctions et à partir de là déduire l'ensemble des caractères de chaque formation sociale" (Lascoumes, 2004, 4). Foucault used the term governmentality to describe the governmental forms, techniques and practices that create the conception—or mentality—of the subject that recognizes the state to be necessary for the protection of individual freedoms (Gordon, 1991: 4). It refers to the mentality of government, in regards to how to govern and what is governable (Dean, 2010, 50). Governmentality involves explicit and covert techniques to communicate its purpose to the welfare of the population, and not to its own ends (Foucault, 1978/1991, 100). For Foucault, power is not tangible, but may be studied through the techniques of government:

[L]'État ce n'est pas un universel ; l'État ce n'est pas en lui-même une source autonome de pouvoir ; l'État ce n'est rien d'autres que des faits : le profil, la découpe mobile d'une perpétuelle étatisation ou de perpétuelles étatisations, de transactions incessantes qui modifient, qui déplacent, qui bouleversent, qui font glisser insidieusement, peu importe, les financements, les modalités d'investissements, les centres de décision, les formes et les types de contrôles, les rapports entre pouvoirs locaux et autorité centrale, etc. L'État ce n'est rien d'autre que l'effet mobile d'un régime de gouvernementalité multiple (Foucault 1978 as cited by Laborier and Lascoumes, 2005, 4).

Accordingly, the platform of the liberal state is understood as the construct of governmental production, the results of a particular strand of social and political thinking that originates in Europe.

Foucault problematizes “modern” liberal notions of freedom and autonomy, deducing that individual autonomy and liberty, as it is understood in liberal democracies, is the product of state influence, “in the modern-political rationality in which power works not in spite of but through [...] the construction of a subjectivity normatively experienced as the source of free will and rational, autonomous agency” (Scott, 1995: 201). Similarly Asad (1992) has written about the governmentality in relation to subject, indicating that the pre-modern and modern are differentiated in part due to the modern state’s assumptions about the equal citizen. He adds that “the crucial difference is that the law becomes a means for creating conditions in which equal citizens can do certain things as “free agents.” This change implies a deliberate transformation of subjects from one kind of person to another” (Asad, 336, 1992). Hence, there is a recognition here that subjects have the ability to engage in state relations. Of importance here is the mode of subjectification within a colonial setting. Mitchell Dean asserts that the process of creating the subject is one of categorization. As Dean explains:

[*governments*] elicit, promote, facilitate, foster and attribute various capacities, qualities and statuses to particular agents. They are successful to the extent that these agents come to experience themselves through such capacities (e.g. of rational decision-making), qualities (e.g. as having a sexuality) and statuses (e.g. as being an active citizen). Much of the problem of government here is less one of identity than one of ‘identification’ (2010, 44).

In other words, state subjects must have the capacity to recognize themselves as subjects to the regulation of the state. Within a colonial setting this involves having Indigenous peoples

recognize the state as a paternalistic force, which is done by enforcing statist regulations. Likewise, on governmentality Tania Murray Li (2007) writes: “government is the attempt to shape human conduct by calculated means. Distinct from discipline, which seeks to reform designated groups through detailed supervision in confined quarters (prisons, asylums, schools), the concern of government is the wellbeing of populations at large” (275). The colonial processes in the Americas to assimilate Indigenous peoples through conversion to Christianity, the enforcement of Western modes of economic production and land tenure, contributes to the production of the subject who adheres to the notion of the developed society and of a state that protects their individual freedoms. The concern of the modern power is thus in disabling non-modern forms of life and to develop a distinctive governing effect on conduct (Scott, 1995: 204).

The Modernizing Trajectory of the Colonial Subject

Literature within this section regards colonial-Indigenous relations as a proliferation of modernity through all channels, rather than a kind of dropping-in to modernity through legal institutions as articulated by Hirtz. The dominance of Western institutions and regulative forms reflects a larger normative trajectory of development, a relational collocation places Indigenous self-determination as something to be debated in liberal legalistic forums. Talal Asad’s (1992) article “Conscripts of Modernity” problematizes the notion of cultural change, by arguing that while cultures are always in flux, the influence of European conquest has created a particular cultural trajectory:

Within the modern world that has come into being, changes have taken place as the effect of dominant political power by which new possibilities are constructed and old ones destroyed.

The changes do not reflect a simple expansion of the range of individual choice, but the creation of conditions in which only new (i.e., modern) choices can be made. (337).

Asad (1996) contends that the efforts of the colonial state to supplant Indigenous ways of life was not simply to impose a moral code, but to develop, or to create subjects. As stated by Asad, “the desire to impose what they considered civilized standards of justice and humanity on a subject population—that is, the desire to create new human subjects” (1091). The unique characteristic of colonialism is the “destruction and reconstruction of colonial space” as a means of developing the colonial subject (Scott, 1995, 204). This involves a formation of a mature subject, capable of participating in liberal society (Dean, 2010, 43). Within the modern colonial and postcolonial state, the subjects must be reformulated and the social fields in which they act and are acted upon must be reorganized (Asad, 1992, 337).

In the case of the non-liberal subject, removal of children from their homes and traditional forms of education, to be placed into state and church run schools was a method of instilling these modern virtues (Kelm, 1996; Scott 1995). The transformation of the “non-Western” into the recognizable subject through state practices of regulation, shaping and remodeling configures with the modernizing transformation, one who recognized the modern state of the “high truth” (Asad, 1992, 345).

Part II: Theoretical Framework

The European Union Sealskin Ban: A Case Study

In 1983, the European Union (EU) (then called the European Communities) identified moral objections among large sections of the general public as the main purpose for a ban on harp and hooded seal pup products within member states. In spite of their exemption from the ban, the subsequent crash in the sealskin market has caused extensive economic and social hardship for Inuit. This decision was based on the perception that Inuit, as a traditional society, were independent from international trade and would, therefore, be unaffected by the ban. Without including the Inuit input within the debate, the EU failed to recognize that Inuit hunting could not continue without an income because Inuit, as a people living in the modern world, needed to make money to support themselves as well as the hunt. To quote Terry Audla, president of Canada's national Inuit group Inuit Tapiriit Kanatami, “[*Inuit have*] always said that the exemption itself was an empty box because we share the same market dynamic as the East Coast sealers” (2014, as quoted by CBC News). Like the sealers off the coast of Newfoundland, Inuit are modern peoples incorporated in contemporary modes of economic production. The incapacity of the EU to acknowledge these concerns is reflected in the renewal of the ban in 1985 and again in 2009.

Through the experience of Canadian Inuit, this MRP investigates how cultural categorizations formulate Indigenous subjects in liberal decision-making arenas. As articulated by Vine Deloria Jr., “Indians must be redefined in terms that white men will accept, even if that means re-Indianizing them according to a white man's idea of what they were like in the past and

should logically become in the future” (1988, 92). In this way static categorizations of Indigenous peoples comes into conflict with their lived realities.

Methods of Analysis

Discourse Analysis

This MRP has a particular focus on the language of labelling and defining in policy (Sutton, 1999, 6). As we have seen in the literature review, Indigeneity appears to be a loaded term, often rooted in colonial nation building projects. The term also has powerful links to Indigenous self-determination and emancipatory movements. Hence, when looking at terminology in the discourse, it is important to understand where the policy was based, so as to pin down a policy rationale.

Policy discourse analysis, as discussed by Vivien Schmidt in her overview of discursive institutionalism (DI), provides a method of analysis that addresses the representation of ideas expressed in the policy-making process (2008, 306). Of importance is the target of communication in policy discourse and in what institutional context these discussions are taking place. Like ideational theory, policy discourse analysis evaluates the implicit and explicit ideas in order to explain their political actions (Chadwick, 2000, 283). As stressed by Schmidt, “by using the term discourse, we can simultaneously indicate the ideas represented in the discourse (which may come in a variety of forms as well as content) and the interactive processes by which ideas are conveyed (which may be carried by different agents in different spheres)” (2008, 309). Of importance to discourse analysis is the uncovering of political philosophies. According to Schmidt, “[n]ormative ideas [...] attach values to political action and serve to legitimate the policies in a program through reference to their appropriateness” (2008, 307). Hence, by

studying the discourse of policy decision-making, we find the underlying assumptions at play in policies.

In order to pull out the knots in liberal forms of decision-making concerning Inuit in this case, the European Union's Parliamentary debates will be employed to gain insight into ideas that factored into the policy. By looking at the debates of the European Union, we find the cultural hierarchies at play in choices made by Parliamentary members.

Where there are Subjects, there is Subjectivity

Subjectivity is an important concept for this case because it encompasses both the process of colonial dominance as well as the production of the subject. In this way, we uncover the processes of subjectivation through which Indigenous peoples enter into liberal fields of decision-making in order to resist limiting categorizations.

The title of this section is a (albeit an obvious) play on Foucault's famous line from *The History of Sexuality Vol. 1* (1976/1978) "where there is power, there is resistance." An examination of strictly the subjectification of Indigenous peoples through techniques of domination and assimilation excludes the process of self-formation and resistance. As Marjo Lindroth (2011) has demonstrated, subjectivity involves both a submission to power, and also resistance to it:

subjectivity is the precondition of agency: after all, one cannot have the capacity to act without having the ability or capacity to deliberate, that is, without being a thinking subjectivity.' For Foucault, subjectivity is a dualistic concept including not only subjectification in the sense of identity construction, that is, becoming a subject, but also being subject to power relations. Thus, power is a condition for the possibility of individual subjectivity (Lindroth, 2011, 547).

While Western liberal norms are the fields upon which Indigenous rights are often articulated, Indigenous peoples are also participating in and subverting this top-down power dynamic. In her study of the UN's Permanent Forum for Indigenous Issues (PF), Lindroth (2011) maintains that Indigenous resistance can be articulated even in the hegemonic arenas:

the Foucauldian approach to power and the human subject always views power as realized through the capacities of the active subject and its forms of subjectivity. If individuals and groups have the ability to exercise their own capacities autonomously, they will oppose limits that prevent them from doing so. Indigenous peoples are capable of this kind of autonomy within the power struggles of the PF, where they are not only subjected to the mechanisms of power but become subjects capable of resistant acts (548).

The subject position of Indigenous peoples as plaintiff also situates them in the position of actor, acquiring the tools of the political arena and the increased recognition of Indigenous rights to put pressure on states (Lindroth, 2011, 552).

Participation in Western arenas has also increasingly incorporated the language of participatory governance which includes boosted dialogue with stakeholders. As Fleras and Maaka assert: "viewed from an engaged governance perspective, policymaking is no longer simply seen as a public intervention in the social or economic sphere, but rather as a complex interaction among a wide variety of both public and private (non governmental) actors" (2009, 3). Indigenous governance is understood as a window to seize greater political opportunities and resistance to marginalization and displacement (Tomiak, 2011, 5). Fleras and Maaka's propose the Indigenous Grounded Analysis (IGA) approach to policy which emphasizes engagement, interdependence, co-operation, reconciliation and power sharing, rather than looking at policy as necessarily implemented from above (2009, 10). The basic conception of Indigenous

policymaking has moved beyond a conception of Indigenous peoples as having “problems” to a people with rights (Fleras and Maaka, 2009, 1). The IGA framework as a policy model is created to offset systemic information-processing biases by ensuring that Indigenous peoples become a part of creation and interpretation of policymaking. Fleras and Maaka posit that this goes beyond design and content towards shaping the outcomes of policy with Indigenous stakeholder input (2009, 2). A key element of IGA is the promotion of participatory policymaking principles of free, prior and informed consent in all policy matters concerning Indigenous peoples; i.e. to consult and accommodate (Fleras and Maaka, 2009, 11). The Indigenous model of policymaking which asserts the primary significance of self-determination is at odds with the state-centered model which defines self-determination in ways that reflect, reinforce and advance state interests over those of Indigenous peoples (Fleras and Maaka, 2009, 12). Despite the impact of Indigenous policy-making practices, self-determination within a statist agenda promotes self-sufficiency for Indigenous peoples only so far as it does not challenge state sovereignty (2009, 12). Thus, there remains a tension between predominance of liberal Western courts and Indigenous participation in policymaking.

The reading of policy discourse in this paper has taken on a historical lens in order to determine from what ideational threads conceptions of Indigeneity are woven (Sutton, 1999, p. 6). Thus, before delving into an analysis of the ban, the historical experience of Inuit-state relations in the North are summarized in order to magnify the intricacies of Inuit traditional and contemporary life.

Part III: Historical Context

This section, focusing on Inuit life prior to the ban, is relevant to the EU sealskin ban case in two major ways. Firstly, a description of Inuit hunting practices pre- and post-resettlement underlines the changes to “traditional” sealing that are not included within the European Union’s discourse regarding the seal hunt. Secondly, the history of government-Inuit relations provides a primary example of subject formulation within liberal statist policies. We see in this case the process in which the Canadian government came to recognize Inuit as subjects.

Pre-Resettlement

Before the 1950s, Inuit lived in small, dispersed hunting camps in coastal areas, “the organization of camp life [...] entailed a series of more-or-less predictable moves within the local area, by dog team or boat, in response to the seasonal migration of animals” (Rigby et. al, 2000, 97). Inuit hunting was organized around seasonal changes that made certain foods available, however many food sources were (and continue to be) available year round such as fish, caribou and seal (Fletcher, 2004, 61). Despite the late arrival of government administration in the North, Inuit contact with Europeans first began taking place about 800 years ago when Norse explorers first visited Labrador and Newfoundland (Burch and Fletcher, 2004, 49). Since that point onward, there have been multiple waves of European traders corresponding to periods of economic highs and lulls in the fur trade. Inuit became dependent on the commercial Arctic fur trade during the early twentieth century due to the boom in the fur trade (Miller, 2000, 296). This long-term trade partnership brought on Inuit dependence of Europeans and foreign goods,

which caused mass starvation during downturns in the fur trade, particularly during the 1930s (Bonesteel, 2006, 8).

The long presence of whaling, mining, fur trading and missionary work in the North in comparison to the late entrance of the federal government illustrated the reluctance of the Canadian state to become involved in a relationship with Inuit (Miller, 2000, 299). For the government, the recognition of an Inuit as an “Indian tribe,” involved enveloping them into the government’s administration of Indian people. Within the 1867 Indian Act, treaty-Indians became ‘wards of the state’ under governmental protection until such time that they were assimilated into Canadian society (Fiske, 2008, 339). Inuit were not included in the original Act, however, the United Kingdom had transferred responsibility of the North over to Canada in the *British North America Act 1867*. That territory now recognized as Canada includes “everything north of the treeline from Yukon to Labrador and the north shore of the St. Lawrence River” (Burch and Fletcher, 2004, 56). Nonetheless, little interest was shown towards ownership as that would result in increased responsibilities on the part of the government as paternal guardians of Indigenous peoples (Miller, 2000, 299). As then deputy minister of Indian Affairs Frank Oliver maintained, Inuit were ‘best left Indians’ from a federal fiscal perspective (as cited in Miller, 2000, 299).

In the wake of increasing accounts of starvation in the North during the 1930s, the government augmented aid within the territories. However, the question of responsibility over Inuit in Quebec was debated between the province and the Federal government. Because Inuit were not included in the original 1876 Indian Act, the federal government attempted to evade liability by arguing that relief should be a provincial responsibility, even so the supreme court sided with Quebec (Miller, 2000, 301). In 1937, the Supreme Court of Canada determined that

the Federal government should be held accountable, but despite this the government argued that Inuit were not “Indians” and therefore not included under the *Indian Act*:

[o]n 5 April 1939, the Supreme Court pronounced their judgement on *Re Eskimo* in agreement with Quebec. The Supreme Court stated that, constitutionally, Inuit were classified as Indians in Canada. The decision was based on the historic description of “Esquimaux” [Inuit] as an “Indian tribe” in numerous documents dating from 1760 to Confederation (Bonesteel, 2006, 25).

Correspondingly, Inuit became the responsibility of the Canadian government. However, the Hudson Bay Company remained the authority in the north until after the Second World War.

Resettlement of Inuit 1950-1970s

According to Fletcher (2004), the “Canadianization” of the North did not begin in earnest until after the Second World War:

[t]he nation had barely worked out where it stood in the world when the world crowded in on it. Americans had strategic claims to positions of the Arctic Archipelago, Danes were looking across Baffin Strait to Ellesmere Island, and Russians suddenly were capable of attacking the West by coming over Arctic Canada. Perhaps the most significant event in the ongoing relationship between the state and Inuit occurred when the US built radar bases across the North. In the process, Canada’s Arctic peoples came to be seen by the world (68).

While the rest of North America had seen an economic boom post-WWII, Inuit had maintained migratory hunt camps, dressed in skins and had little to no interactions with the state. This changed with the increase of Southerners living in the North resulting in greater information about issues of health and education amongst Inuit. Poignantly, Fletcher notes that the Canadian

national confidence was threatened by: “the absence in Canada of knowledge about its own territory, and by the apparent indifference of Inuit to material prosperity” (2004, 68). Therefore, in order to establish Canada’s sovereignty in the territory the “outdated” peoples of the North were seen to require an update via state-administered social programming (Fletcher, 2004, 68).

With the advent of increased Euro-Canadian settlement in the north, came reports of illness, starvation due to game shortages and “imminent extinction” of Inuit (Mancini Bilson & Bilson, 200, 6). From the 1950s to 1970s, the Canadian government began a project of relocation in which Canadian Inuit communities would be settled in larger camps to facilitate the provision of education and healthcare (Damas, 2004, 3; Mancino Bilson & Bilson, 2007, 157).

It is within this timeframe that processes of governmentality and subjectification become most prominently realized. What we find in this sweeping recounting of Inuit-Canadian relations is the imposition of identity and jurisdiction, “turning the culture of one community into the culture of a jurisdiction to which all citizens must adapt to participate in public discourse” (Asch, 2007, 282) According to the government’s plan of action, Inuit were to remain in the settlements and take up wage-employment, abandoning their traditional communities and hunting technology such as the dog team (Mancini Bilson, 2006, 73). In the early 1960s, the government requested that Inuit choose surnames in order to register them for national statistics (Bonesteel, 39).

Within Inuit communities, such as Grise Fiord, Quebec, the motivation of the Canadian government has been challenged. Inuit leaders question whether Inuit were exploited for strategic reasons (Miller, 2004, 303). In a radio interview for CBC’s *Definitely Not the Opera*, Inuit musician Lucie Idlout, stated that her community of Grise Fiord became overcrowded by resettled Inuit in order to mark Canadian territory: “[t]he sad story is that we were basically

human flagpoles, so the Canadian government could assert sovereignty over the high arctic” (as quoted by Friesen, 2014). The process created a Canadian administered community for Canadians in the north. The resettlement process can be analyzed as a technique of governmentality: “they may operate on population in the aggregate, or on subgroups divided by gender, location, age, income or race, each with characteristic deficiencies that serve as points of entry for corrective interventions” (Li, 2007, 276). Through the auspices of social policy, the government of Canada began to establish settlements for Inuit, who, until the 1960s, had been primarily unaccounted for. As put forward by Eudaily, the welfare liberalism is performed in a way that employs a language of rights which “on the one hand, [...] was to be vested in representative institutions supposedly by a social contract, yet continues to be expressed in the form of sovereignty” (2004, 39). The process of modernizing Inuit communities can also be interpreted as a method through which the government established its sovereignty in the North.

Impact of Resettlement of the Seal Hunt

Resettlement brought on several issues for hunting. Living in settlements meant that there was a larger population of hunters exploiting the game within the surrounding area (Wenzel, 1996: 134). In the early days of resettlement, Inuit often lacked the formal education demanded of wage-work, thus employment often went to the Euro-Canadian population living in the area (Wenzel, 1996: 134). Additionally, the authority of camp leaders was displaced in resettled communities by the governmental administrators (Rigby et. al., 2000, 102).

Borré (1991) identified that a major issue with resettlement life was essential food animal shortages such as the ringed seal. By living in settlements, Inuit were far removed from their traditional hunting grounds. Store-bought foods were (and continue to be) exorbitantly priced in

the north because they have to be shipped from the south to the Arctic, a process which raises prices on produce that is often spoiled on arrival. Store-bought food often exceeded the annual income of Inuit both with and without social-aid (Borré, 1991, 50). For Inuit, there is a marked difference between the health benefits of store bought and hunted foods or “country foods” (as they will hitherto be referred). Anthropological literature often emphasizes the cultural and socioeconomic significance of country foods (Duhaime et. al., 2002, 93). In her study of the Clyde River community, Borré found that Inuit identified a correlation between eating country foods with physical and mental health (1991, 54). More specifically, seal blood is recognized by Inuit to correlate with the energy needed to survive in the north. Conversely, store-bought meats have no blood and the high level of simple carbohydrates is associated with the high glucose levels of younger generations contributing to symptoms of nausea, depression, headaches and weakness (Fletcher, 2004, 59; Borre, 1991, 57).

Inuit became involved in the system of cash-economy, selling hunted pelts primarily to the Hudson’s Bay Company in order to procure food, clothing and housing. Thus, “the ringed seal not only held its original subsistence value, but within a changed demographic and technological situation, [...] it also became the main cash-producing commodity available locally to Inuit, if only because of its temporal and quantitative availability” (Wenzel, 1987, 197). In the early 1960's, Norwegian developments in the tanning process brought about higher economic prosperity by boosting fur sales in southern and European markets (Wenzel, 1996: 134). However, the high density of hunters in a single settlement was an issue. The snowmobile became necessary in order for hunters to reach less densely hunted areas faster (Wenzel, 1996: 135). As Condon et. al explain “[t]he introduction of snowmobiles in the early 1970s not only increased Inuit dependence upon southern technology, but also profoundly altered hunting and

trapping strategies” (1995, 35). The seal provided quality meat to the hunter’s family and the sale of sealskins enabled them to afford fuel for their snowmobiles (Wenzel, 1996: 135).

The Sealskin Ban

The Anti-Sealing Campaign

Coinciding with an increase in the sealskin market were public concerns for seal populations. Various animal-protection organizations voiced the need to regulate and establish quotas for the industrial hunt (RCSSRb, 1986, 66). The major thrust for what amounted to be an anti-sealing campaign began in 1964 when the Radio-Canada Télé aired Artek Films’ documentary title *Les Phoques de la Banquise* which contained footage of Newfoundland sealers torturing a live seal (Barry, 2005, 16). A massive letter writing campaign and an international boycott of seal products demanding the abolishment of the seal hunt was organized by the Society for the Prevention of Cruelty to Animals and the International Fund for Animal Welfare (IFAW) (RCSSRb, 1986, 66).

The same year as the release of the documentary, the Canadian government issued the *New Canadian Seal Protection Regulations* (1964), which brought the Atlantic seal hunt under a quota system (Government of Canada, 1964, 749; RCSSRb, 1986, 178). These regulations determined both the amount of seals that could be killed in addition to the method of killing. Despite Canadian regulations, by the mid-1970s, the anti-sealing campaign shifted focus from conservation to one of morality (Wenzel, 1991, 47). The campaign on the IFAW and Greenpeace centered on an appeal to emotion, by utilizing images of bludgeoned seal pups and describing the hunt as the murder of “innocent baby seals” (RCSSRb, 1986, 70).

The letter writing campaign to the European Union's Committee on the Environment, Public Health and Consumer Protection was extremely successful. During a 1982 EU parliamentary debate, Kenneth Collins, a Socialist Group representative stated that the EU had received fewer letters for a debate on hunger, torture than it had on the sealing issue (OJEC, 1982, 186). Established in 1957 to create a closer economic union amongst European countries, the EU was an important target for the anti-sealing campaign during the early 1980s because 75% of seal products were sold in EU member countries (OJEC, 1982, 185). The anti-sealing campaign pushed forward eventually successfully lobbying the European Union to implement a ban on the import of sealskin products (RCSSRa, 1986, 109).

The Impact of the Ban

The Government of Nunavut has estimated that the worldwide price of sealskin products has been halved as a result of the EU ban (Rogers and Scobie, 2015, 77). The ban lowered the price of furs, resulting in a significant drop in hunting:

in 1980-81 (the fur trading statistics are compiled on a July 1-June 30 basis), the sale of ringed sealskins through the Hudson's Bay Company in Clyde accounted for 3377 ringed sealskins from 90 Inuit with a value of \$53 516.00, while at the Cooperative at Holman Island 65 Inuit sold 5702 pelts totalling \$110 591.00. Two years later, during the 1982-83 fur year, the same communities produced 1238 (Clyde River) and approximately 1500 (Holman Island data based on 70 percent of the hunter population) ringed seal pelts, totalling \$12 587.50 and \$24 891.50 respectively (Wenzel, 1991, 48).

During the early 1990s the prices had "fallen to between four and six dollars a pelt, a sum considered hardly worth the time and effort to prepare the skins for sale" (Borré, 1991, 50).

The ban has impeded on the ability of Inuit to hunt due to the rising cost of harvesting which includes both the time and fuel expenses involved (Wenzel, 1986, 206). According to George Wenzel (1986), unemployment is a barrier to the hunt, and for those hunters who are able to enter into wage work it is difficult to find the time (206). The ban cost many Inuit their livelihoods and many Inuit families have turned to social aid in order to support themselves and the results have been dire. According to Pelly (1992), “with the collapse of the sealskin market, social assistance payments to Canadian Inuit have risen dramatically, as have rates of suicide, domestic violence, and substance abuse” (113).

The Council of Canadian Academies has touted the increased cost of hunting as a contributing factor to the disturbingly high issues of hunger in the North (Rogers and Scobies, 2015, 76). Access to food is also a weighty issue in the North, exacerbated by the ban that resulted in both a shortage of “country foods” and income. Rogers and Scobie (2015) indicate that, “in 2012 the UN Special Rapporteur on the Right to Food declared that 70 percent of Nunavut households with Inuit preschool children are food insecure” (76). The entrenchment of Inuit livelihood within the industrial hunt has been unveiled in the subsequent losses within Northern communities. Folded into the economic instability of post-ban Inuit life are the social and cultural ramifications.

While the 1983 and 1985 bans excluded Inuit based on the small size and traditional significance of the hunt, the hunt and its cultural value has been severely threatened as a result of it. Tester and Irniq (2008) have established that Inuit cosmology and values have been altered. This is because Inuit hunting is a significant factor in the production of cultural values and practices. Tester and Irniq state that regulations on hunting have impacted “the strength of relationships between animals and Inuit that established and maintained Inuit identity in a

modern world” (2008, 52) Like youth in southern sealing communities, the number of young Inuit participating in the hunt has decreased as a result of a lack of training and the inability to acquire the funds necessary to purchase hunting equipment (Condon et. al., 1995, 32).

Writing about the status of Inuit communities post the sealskin ban, Mancini Bilson and Bilson (2007) have argued that the youth of Inuit communities feel that they lack purpose and thusly turn to substance abuse and suicide in order to deal with feelings of marginality and uselessness (192). Similarly, in a study of Quataq, Nunavik, Louis-Jacques Dorais has also described the social malaise resulting from the sense of purposelessness amongst young people: “caught between the life on the land, about which they do not know enough, and the modern labour market, whose doors seem reluctant to open to them, many youth have developed a feeling of being totally useless” (1997, 69). Additionally, the lack of employment for Inuit men has resulted in the devaluation of the male role as well as a high rate of domestic violence (Mancini Bilson, 2006, 70). The role of women has changed significantly as a result of resettlement and the loss of income from seal hunting. By the late 1990s, Inuit women were becoming the main provider for their families, adapting better to a formal school system and wage employment (Mancini Bilson, 2006, 74). Women not only maintain their traditional domestic role, but also take on the task of bread winner within their family: “often young women find decent jobs while their brothers drop out of school and seek satisfaction in occasional hunting. Now the roles in a wage employment, consumer economy are reversing” (Mancini Bilson and Bilson, 2007, 208). While the shift in gendered roles is not itself troubling, the gender imbalance in employment has had consequences. The Canadian Panel on Violence against Women (1993) found that men were more likely to become violent against their female partners when they viewed them as a dominant force (Mancini Bilson, 2006, 75).

In brief, the implications of the ban have manifested themselves across the social and economic aspects of Inuit activity. Invested in the industrial hunt, Inuit life has been uprooted by the EU sealskin ban.

PART V: Analysis of The European Union Debate and the Sealskin Ban

Within this chapter, it will firstly be argued that the EU lacked consultation with Inuit throughout their decision-making process. Secondly, the EU's ineptitude to sufficiently recognize the ban's impact on Inuit communities will be associated with the conceptual construction of modern subjects within the debate. It will be shown that Inuit were not recognized as accountable to the EU's regulations, in part because they were not considered modern. Lastly, while the EU failed to recognize the contemporary realities of Inuit communities, Inuit have incorporated the liberal modes of organization which they had been excluded from, in order to resist the EU's regulations.

Inuit Input During the Original EU Debates

The rationalities of governmentality are not fixed or universal (Lascoumes, 2004, 4; McKee, 2009, 5). Rather governmentality is a method of problematizing life. These problems and their modes of regulations are constructions of a particular time and place with a unique form of knowledge, or *episteme*, "in any given culture and at any given moment, there is always only one *episteme* that defines the conditions of possibility of all knowledge, whether expressed in a theory or silently invested in a practice" (Foucault, 1966/1989, 168). Accordingly, policies themselves are artefacts regarding notions of truth and appropriate conduct (McKee, 2009, 5). In the case of Indigenous encounters with "postcolonial" decision-making bodies, all decisions are filtered through dominant forms of organization in a world shaped by European colonial rule. Thus, "the liberal state becomes a primary site of culture, and a powerful actor in world affairs" (Asch, 2007, 282). The sealskin ban depicts the layered notions of moral truths and social

hierarchy within European forms of decision-making. While EU parliamentary members elude to Inuit concerns, discourse is relegated to those appropriate decision-making bodies.

During the early 1980s when the sealskin ban was first debated, consideration for the impact of the ban on Inuit was deliberated between EU parliamentary members with no Inuit representation. The Canadian *Report of the Royal Commission: Sealing Industry in Canada vol 1 and vol 2* (RCSSR) provides a breakdown of the European decision-making bodies at play:

For the seal question, the ministers involved were normally those responsible for environmental matters, and hence that Council is sometimes called the "Environment Council" [...] The ban on the import of products of harp and hooded seal pups exists in the form of a Council Directive. A directive is legally binding on all member states, but each state is at liberty to determine by what means it is enforced in its own territory (RCSSRb, 1986, 105-106).

At the time of the original committee meetings concerning the ban there were ten EU member states: Germany, France, Italy, the United Kingdom, Belgium, Greece, the Netherlands, Denmark, Ireland and Luxembourg (RCSSRb, 1986). As will be demonstrated in this chapter, rather than engage in a dialogue with Inuit, the EU discussed these issues without Inuit representation. Fleras and Maaka (2009) describe this as a process in which

Indigenous peoples concerns and aspirations are either ignored or suppressed; or, alternatively, they are refracted through the prism of a Eurocentric policymaking lens, thus negating how Indigenous peoples rights constitute a sui generis class of political rights in their own right. Their voices and philosophical perspectives are dismissed as well, despite distinctive ways of understanding and responding to reality (13).

The term reality should be underlined. Reality for Inuit as depicted within the EU sealskin debates is entangled with notions of static culture and pre-modern forms of economy that do not ring true to Inuit life in resettled communities. Therefore, within this section the dominant forms of regulations within the EU will be explored in order to draw out the prevailing notions of liberal Western superiority at play in the decision making process.

The first motion for a resolution of the trade of seal products within the EU took place in April of 1980 (RCSSRb, 1986, 124). In May of 1980, the representative of the Netherlands Mrs. J.R.H. Maij-Weggen was made rapporteur of the committee (RCSSRb, 1986, 124). The Environment, Public Health and Consumer Protection Committee of the EU conducted a report on the international state of sealing commonly known as the *Maij-Weggen Report* which was drawn up to inform members of the Council of Ministers about the details of the seal hunt. Within the report, a distinction is made between the industrial seal hunt and the Inuit traditional hunt, “we are not complaining about the hunting practices of the traditional hunting peoples of the north; what we have in mind is the mass industrialized hunt which goes on for between 4 and 5 weeks in each year in Newfoundland, around Jan Mayen and in the White Sea.” (OJEC, 1982, 184). Mrs. Maij-Weggen goes on to assert:

[that the committee felt it] must respect the traditional practices of the Eskimo populations, given that the livelihoods of these people in Greenland and Canada depend entirely on hunting [*and*] should therefore like to call on the Commission to enter into consultations with representatives of the Eskimo population and give them the chance to give voice to their concerns in Brussels (OJEC, 1982, 184)

Despite this unique instance of a demand for Inuit input, for the most part, Inuit were represented by Mr. Ellemann-Jensen, President in Office of the Council and a representative of Denmark, who spoke on behalf of the Inuit of Greenland.

In a 1982 telegram opposing the *Maij-Weggen Report* was sent to the European Parliament by Inuit Tapiriit Kanatami (ITK), a national organization which represented Inuit regions in Canada, requesting an opportunity to express its views to the committee (RCSSRb, 1986, 126). The Canadian Ambassador to the EU also presented a letter containing opposition, within which: “[t]he Minister of Renewable Resources of the Northwest Territories, himself an Inuit, described the social and economic context of the hunt in Canada's North and sought consideration for excluding NWT sealskins and products from the proposed ban” (RCSSRb, 1986, 125-6). Other than these interjections, Inuit were not consulted in the productions of the ban.

During the 1982 EU debate session, Mr. Ellemann-Jensen noted that: “if the worst comes to the worst, it may mean the disappearance of a vital source of income in the small societies in question” (OJEC, 1982, 156). Similarly, council member Mr. Moreland asserted that the remote communities in Canada reliant on sealing for subsistence would be economically devastated by the ban. To these concerns, members of the Council, including Mr. Ellemann-Jensen, concluded that the exclusion of Inuit products from the ban would protect peoples living in polar regions (OJEC, 1982, 156). The opinions expressed by French representative Mr. Chambeiron during a 1982 debate best sums up the ultimate logic behind the disregard for sinking the hunt:

in the case of seals, leaving aside the reasonable ‘needs’ of the local populations who are obliged to hunt the seal for lack of any alternative employment, it is not obvious that others – and in this instance we Europeans – have any ‘need’ that justifies a massive seal hunt on an

industrial scale that effectively constitutes a threat to the very survival of the species (OJEC, 1982, 187).

By focusing on the traditional as a singular aspect of Inuit identity, the EU created a false classification which did “not reflect lived realities” (Hankivsky and Cormier, 2011, 218). The connection between the sale of seal pelts within the larger economy of the industrial hunt and the ability of Inuit to perform the hunt is lost within the EU debates. In the process of developing the anti-sealing ban, the EU formulation of “traditional” peoples limited their understanding of how the ban would impact Inuit. While lip-service was paid to Inuit, the dominance and Eurocentric values at play in this decision making process were “embedded with racialized notions about what is normal, desirable or acceptable within policy design [...] rarely aware of the systemic consequences that privileges some and disempower others” (Fleras and Maaka, 2009, 4). This case represents the paternalistic character of liberal policymaking in which the Indigenous subject is considered unable to represent themselves within modern decision-making arenas. Characterized as traditional and pre-modern, Inuit were labeled by the decision-making process as out of the reach of modernity. Consequently, Inuit concerns were understood as illegitimate and insignificant to the EU.

Subjectivation and the Exclusion of Inuit

The focus of the EU was to placate the demands of the public campaign against sealing, narrowing their lens of responsibility to the European public. As a target population, sealers were characterized as barbaric industrial hunters on the one hand, and Indigenous self-sufficient hunters on the other. As Schneider and Ingram explain, officials may be led to make finer and finer distinctions, thereby subdividing a particular group into those who are deserving and those

who are not” (1993, 336). Using the language of target populations, industrial sealers are understood to be controversial, in that they have agency and are employing in way that were characterized as immoral by the public anti-sealing campaign. Accordingly, the ban reflects the public perception of industrial hunters as negatively constructed (1993, 337). Conversely, Inuit agency is understood as so weak within EU debates that they were spoken on behalf of by European representatives. However, as will be illustrated, they were also positively constructed as outside of modernity and therefore, excluded from the ban.

The “traditional” and industrial dichotomy put forward by the ban will be deconstructed through the lens of subjectivity and subjecthood. The formulation of traditional, in this case juxtaposes the industrial hunt practiced by non-Inuit, Euro-Canadian and Greenlandic hunters. Unlike Inuit, non-Indigenous hunters were subject to discourse regarding the barbarism of the hunt, in reference to the clubbing of seals, acts of torture and skinning alive, all of which were either regulated (referring to clubbing) or prohibited (referring to the latter two) within Canada since the mid 1960s. During the 1982 debate, Italian representative Mr. Ghergo stated that although uncommon, there were documented cases of the torture of seal pups (OJEC, 1982, 187). Mr. Muntigh, a council member of the Netherlands provided the following graphic description: “[h]owever little agreement there may be on this point, one thing is sure in any case, and that is that, before the eyes of its mother, the pup has its brains clubbed in, and is skinned and left to bleed before being dragged away. And that, Mr President, is, in *my* view, a barbaric form of treatment” (OJEC, 1982, 190).¹ There is a significant amount of emphasis within the debate on issues of morality, as one parliament member stated “the most barbaric aspect of all [...] is the method of slaughter. It is revolting and repulsive, it is degrading and dehumanizing” (OJEC,

¹ One may be left a bit nauseated after reading such descriptions, however, at play is a level of hypocrisy that cannot go unnoticed regarding the farming of calves and lambs, but of course, this is besides the point.

1982, 211). Likewise, the Maij-Weggen Report was concluded by endorsing the ban as a result of the perceived “threat to the [seal] species and the barbaric hunting methods employed” (Maij-Weggen, 1982, 22). Congruently, the EU members recognized the decision as one of lasting impact. In the words of one council member: “Europe is making decisions that reflect basic civilized values and there is no reason why these decisions and the resulting commitment should only concern the major themes of history” (OJEC, 1982, 187).

The sealskin ban is not strictly limited to the right of European member states to purchase and fund the hunt, it is also an effort to alter the activities of hunters as is demonstrated in the 1985 EU report. The report on community trade in seal products notes that the hunting of seal pups has declined as a result of the ban and therefore, “in order to guarantee that the original intention has a lasting impact in the future, it will be essential to maintain the appropriate inducements, viz. the import ban on products” (European Communities, 1985, 9). The EU therefore is interpreting its role to be implicated in the adjustment of behaviour. Here, we see an attempt to transform the “immoral” into the moral through this international policy. Layered within the EU’s decision is a focus of the recognizable modern subject, the European and Newfoundland hunters. Conversely, the realities for Inuit are primarily imagined by EU members, understood to be far removed from modern modes of economic exchange.

As Dean (1991) explains, the liberal form of governmentality involves the cooperation of the ‘free subject’ capable of participation within the political sphere. However, this also involves the division of peoples into recognizable subjects and others:

those practices and rationalities that will divide populations and exclude certain categories from the status of the autonomous and rational person. The second is the way in which the free subject of liberalism is divided against him or herself in so far as the condition of a

mature and responsible use of freedom entails a domination of aspects of the self. As stated by Foucault (1982) “the subject is either divided inside himself or divided from others. This process objectifies him” (Dean, 1991, 156).

In the case of the EU ban, the industrial modern form of hunting grants the kinds of regulatory power exhibited here. Whereas the Inuit are “othered,” and consequently excluded from regulation and participation.

A clear shift in the 1985 revised ban, in which the exclusion of Inuit seal hunting becomes probationary, indicated the categorical juxtapositions of modern and traditional by EU Parliamentary members. As the 1985 ban dictates: “although the Inuit’s traditional hunting is in itself compatible with a constant increase in the harp and hooded seal populations, doubts still exist on the effects of non-traditional hunting on the conservation of those species” (OJEC, 1985, 129). The tone of this ban, is evidently more sceptical of Inuit “non-traditional” hunting. Thus the exclusion of Inuit is tied to a division, in which “special rights” are limited to their perceived pre-colonial static culture (Hirtz, 2003, 909). This emphasis on the dichotomy between the traditional and the industrial is problematic because it is not an Inuit definition of their own hunt. Primarily, the traditional is understood here to refer to a kind of pre-colonial form of social organization, a criterial definition, associating Inuit to a form of economy which pre-dates European contact.

Subjectivities as Resistance

As Kim McKee (2009) explains, by focusing on the perspective of the governors alone we fail to account for resistance: “this top-down discursive approach neglects that subjection is neither a smooth nor complete project; rather one inherently characterised by conflict,

contestation and instability” (12-13). The previous section argued that Inuit were not included within the EU debates as a result of Eurocentric notions of Indigeneity that enforced a pre-modern characterization of Inuit traditional life which was accordingly understood as outside of the liberal domain of the EU. Tester and Irniq (2008) account for the lack of Inuit resistance to the 1983 and 1985 bans as the residual impacts of colonial power dynamics, “[i]n the late 1970s and early 1980s, Inuit were still very much afraid of their “colonial bosses” and kiumajut ‘talking back’ to those who claimed authority was, for many, a new and challenging idea. This was a form of resistance uncomfortable to many Inuit” (53). In this chapter, it will be argued that the decades following the sealskin ban present a form of resistance through the subjective space of liberal governmental organizations.

There is a conceptual link between governmental and ethical subjection. Foucault’s notion of the ‘free subject’ includes a conception of freedom as a qualifier which enables one to be subject to others or oneself (Dean, 1994, 197). For both Foucault’s governmental subject and ethical subject, there is an emphasis of the agency of the individual in taking on these modes of subjection (1994, 197). For contemporary Indigenous peoples, descending into the liberal arenas of decision-making is a necessary method of self-determination in order to have their rights recognized by liberal states and international powers.

Using the categories of ethical subjection, this chapter will place a spotlight on Inuit engagement with liberal forms of political participation. Foucault’s practices of the ethical subject as described in a *History of Sexuality Vol 2: The Use of Pleasure* (1984/1990) are utilized here in order draw out Inuit agency within this case. The categories four modes of subjectivity; the determination of the ethical substance, mode of subjectification, ethical work and the telos of the ethical subject, provide an analytic method to study Inuit resistance against EU regulations.

As argued by Lindroth (2011), by entering into the arenas of liberal decisionmaking, Indigenous peoples demonstrate defiance against the regulatory bodies which often create the parameters in which they must define themselves.

Determination of the Ethical Substance

In the span of the EU debates and subsequent bans, Inuit have experienced an incursion on their ability to determine the status of their own cultural and economic practices. Within the liberal domain of the European Parliament, the substance on trial is the modern industrial hunt, however swept along with it were the Inuit. The “ethical substance” as it will be used here, does not refer to the kinds of physical or spiritual concerns conveyed by Foucault, rather, it is employed in order to detangle Inuit engagement in a way that does not lose the agency of Inuit in the decision making process. As Foucault explains, “the *determination of the ethical substance*; that is, the way in which the individual has to constitute this or that part of himself as the prime material of his moral conduct” (26) Within this case, the “Indigenous” element of Inuit life is placed in conflict with liberal modes of organization. For example, while the Inuit worldview does not dichotomize animals and humans, in the EU case, Inuit have found themselves positioned counter animal rights (Fletcher, 2000, 58). This is the result of the decisionmaking process of the EU which has made the choice to sacrifice the sealing economy for the welfare of seals.

Primarily, the EU is focused on the traditional aspect of Inuit, that which excludes them from the industrial hunt. However, as Inuit lawyer and artist Aaju Peter explains, Inuit recognize that at the heart of the EU’s dismissal of Inuit concerns is the EU’s refusal to understand Inuit involvement in the international commercial sealskin market:

The development of this ban arises out of the sort of thinking evident in the reactions described above [*referring to the anti-sealing campaign and the language of “barbarism associated with it*], and was done without consultations with Inuit. We remember the devastating effects of the 1983 ban on white-coats [...] Even with an Inuit exemption, the effect of a ban on seal-products will render the price of sealskins so low as to make it virtually pointless for seal hunters to sell them (2010, 7).

Hence, at stake here is the ability for Inuit to participate in the forms of economic trade and production relegated to modern peoples by the EU.

Mode of Subjectification:

For Foucault, the mode of subjection, is the way an individual comes to recognize the rule and their obligation to it (1984/1990, 27). According to Tester and Irniq, colonial regulation and international experience has lead to Inuit developing forms of administrative organization which involved Inuit institutions and liberal bureaucratic practices to develop government and non-government organizations such as the Nunavut territorial government, the hunters and trappers’ associations, settlement council and Inuit Tapiriit Kanatami” (2008, 57). The Nunavut government has taken on Euro-Canadian bureaucratic structures, with top-down organizations and an emphasis on academic credentials and merit, often associated with a Weberian bureaucracy (2008, 57). In order to raise awareness of the impacts of the EU sealskin ban, the government of Nunavut produced the film *Waiting At the Edge* (2000) which presents the maintenance of seal hunting despite financial difficulties. Additionally, a publication entitled *Seals and Nunavut* was distributed across Canada in order to promote consciousness of Inuit cultural practices and the impact of the sealskin ban (Government of Nunavut, 2000, 3). To

encourage greater awareness in Europe, these works have been translated in French, English and German (Peter, 2010).

The Inuit Circumpolar Conference (ICC), created by Inuit in the early 1970s, is an organization of arctic peoples from Canada, Alaska, Greenland and Russia that advocated Inuit and human rights as well as environmental protection (Abele and Rondon, 2007, 46; Steelbone, 47). Although founded prior to the ban, the ICC has been a source of Inuit resistance counter EU decision making.

Hence, in recognizing the their self-determination depends on participation in bureaucratized decision-making bodies, Inuit have come to understand themselves as subjects of liberal rule. In place of passivity to statist regulation, Inuit resist being spoken for by participating in liberal decision-making arenas.

Ethical Work: Participation in the Liberal Court System

Ethical work is utilized here to interpret the resistance of Inuit toward EU regulations. According to Foucault, ethical work is that which one performs on oneself, “not only in order to bring one's conduct into compliance with a given rule, but to attempt to transform oneself into the ethical subject of one's behavior” (1984/1990, 27). For Inuit, the process of complying with EU Parliamentary forms of decision making required entering into discourse with the EU utilizing liberal styles of engagement, particularly the lawsuit.

2009 brought with it the renewal of the EU ban on sealskins, expanding it to all commercial seal products. While the 1983 and 1985 bans covered only harp and hooded seal pelts, the aim of the 2009 ban was steered towards the remaining Canadian sealing industry (Rogers and Scobie, 2015, 74). In January of 2010, Inuit Tapiriit Kanatami (ITK) commenced a lawsuit in the European General Court to overturn the European Union’s pending seal ban

regulation” (Peter, 2010, 6) At the 2010 Inuit Circumpolar Conference, ITK member Mary Simon made the following comment about the exemption of Inuit from the ban:

as far as we are concerned the exemption on seal products is an empty box. The way it has been presented won't work for us. We were already affected by the ban in the early 1980s. To us it's not just an economic issue, it's a moral issue. I don't think there is anyone in any country that should tell us how to live. The EU has falsely decided that we can hunt seals, but that we should only hunt them traditionally. We don't know what that means. We live in the modern world (as quoted by Peter, 2010, 6)

Simon when on to comment on the selective moral evaluation placed on Inuit by the EU considering its promotion of massive agri-business including the industrial raising and slaughtering of animals (as quoted by Peter, 2010, 6). According to Peter (2010), the main legal argument put for by ITK was the EU's jurisdiction over the market: “The purpose of the seal ban is not to improve the market and facilitate trade, but rather the opposite, to prohibit trade in seal products. Its real aim is animal welfare, which is not within the EU's jurisdiction” (6). In 2013, ITK refuted the legality of the ban “on the grounds that its objective — the protection of animal welfare — was not an exclusive competence of the EU” (Reuters, 2015). Inuit representatives argued that the ban limits their economic development “the regulation does not recognize the fact that Inuit are not frozen in time, but must pursue economic opportunities just like everyone else in Canada or Europe” (Peter, 2010, 7). Long-term concerns regarding the ban include the lack of sales at fur auctions, the impact on hunting and the loss of income for Inuit families. In 2014, Canada and Norway brought the case to the World Trade Organization (WTO) which upheld the EU ban (European Commission, 2015). In 2014, National leader and president of ITK Terry Audla wrote that:

Inuit rely on the Canadian East Coast seal hunt for its shared market dynamics and the opportunity to sell seal pelts at fair market value. Activists have known (but never acknowledged because it's bad for business) that their campaigns to make sealing evil and seal products untouchable have negatively impacted us along with other remote, coastal communities who have few other economic opportunities. [...] All we want is a means for survival and an economic generator that incorporates our deep respect for the land and sea and the wildlife with which we share it” (as quoted by Rogers and Scobie, 2015, 76)

In the fall of 2015, another Inuit appeal was rejected by the Luxembourg-based European Court of Justice (Reuters, 2015).

Withal, Inuit have gained some ground in relation to the EU’s recognition of the ban’s impact. Although the WTO upheld the ban, it also found that Canadian Inuit products were less favourably treated than those from Greenland and that: “the EU had failed to design the legislation to prevent arbitrary discrimination and should have made more efforts to encourage Canadian Inuit to use the exception” (European Commission, 2015). This is the result of a request by the Canadian government to review the treatment of Canadian sealskin products which involved unnecessary measures and unequal access to suppliers (World Trade Organization, 2011). In October 2015, the EU enacted new legislation and detailed rules of the exemptions laid out which “allow, under specific conditions, for the placing on the market of seal products which results from hunts conducted by Inuit and other Indigenous communities” (OJEU, 2015, 271). Although this win is somewhat muted by the fact that sealers lost their case to remove the ban entirely, the recognition by the EU that more needs to be done to promote Inuit products is evidence that Inuit are gaining some ground in terms of recognition as participants, for better or worse, in the modern industrial trade. In sum, “ethical work” for Inuit is

exemplified in ITK's employment of modern decision making bodies such as the WTO to gain the recognition of the EU and to reverse the ban.

Telos of the Ethical Subject: "Sealfies," Selfies and Self-Formation

This category is quite challenging, because it implies submission to rule in a way that this author is not entirely comfortable with in relation to this case. As Foucault details, the ethical subject involves an action that is "moral in its circumstantial integration and by virtue of the place it occupies in a pattern of conduct" (1984/1990, 27). In other words, it is the ethical self embodied, or in this case, the liberal subject. Morality as it is used in this MRP does not refer to liberal norms of conduct as the highest truth; rather it is used here to refer to the rule of modern conduct upon which Inuit have had to justify their culture and way of life. Inuit, like all Indigenous peoples, have been swept along by the dominance of statist and international regulations. That said, Inuit have resisted European liberal dominance by developing their own organizations (such as ITK and the Circumpolar Conference) to combat the imposition of static and exclusionary characterizations in policymaking.

An exemplary indication of Inuit resistance can be taken from Roger and Scobie's (2015) study on Inuit use of social media as a method to assert their own representation of the seal hunt. As Rogers and Scobie argue, the social media photo trend of Inuit and supporters wearing sealskin clothing, sitting and standing by a freshly killed seal—dubbed the "sealfie"—is a counteraction to the anti-sealing campaign (2015, 70). Rogers and Scobie have found that social media enables Inuit to control the information about them to assert their own identity (2015, 17).

At the 2014 Oscars, host Ellen Degeneres posted a photo of herself and a group of celebrities, which was sponsored by Samsung. For every "re-tweet" of the photo on the social media site Twitter, the Samsung donated a dollar to the Human Society of the United States

which was subsequently promoting its annual anti-sealing campaign (Rogers and Scobie, 2015, 71). This is made more poignant by Degeneres' own statement in which she called the sealhunt "one of the most atrocious and inhumane acts against animals allowed by any government" (as cited by Rogers and Scobie, 2015, 71-72). In response, Inuit "sealfies" employ images of Inuit often in seal furs posting what is often associated with "pre-modern" imaginings of Inuit. As Rogers and Scobie explain,

presented in forms in which non-Inuit viewers expect to see the Inuit, the presence of fur, meat, and freshly harvested seals are both consistent with the 'primitivisation' of the Inuit and interrupt historical attempts to marginalize their participation in the debate. The Inuit "use the construct of primitivism in their political efforts" (Prins, 2002: 60) through the use of photographs and text via social media in order to advance awareness of their resilience in maintaining their identity and practices.

The implementation of modern modes a representation is a method in which the Inuit reject the culturally static forms of life allotted to them. In posting photos of themselves on social media with seals, Inuit are asserting themselves as people in the modern world. Simultaneously, Inuit are defiantly refusing the imposition of European conceptions of moral actions by modern peoples.

PART VI: Conclusion

Inuit-colonial history reveals the intricate relationship of Inuit to settlement communities and cash-economies. As this MRP has illustrated, due to resettlement, sealing could no longer exist for Inuit without the incorporation of modern technologies such as the snowmobile and the commercial sale of sealskin pelts. Nonetheless, during the 1980s, Inuit failed to have their dependence on the industrial sealskin hunt recognized. Entangled in this case are paradoxes of the Indigenous/colonial, the traditional/modern and the subject/other. For the European Union, Inuit were not a part of the modern world or industrial hunt because they were a traditional people. However, the modern world is no longer sequestered to “enlightened” liberal states, but is the stage upon which all communities engage. To return to Asad’s quote from the beginning of this paper, “societies now live in a single, shared world, a world brought into being by European conquest.” In face of this, Inuit communities, exempt by the sealskin ban for their cultural difference, are left with economically devastated communities and the auspice of protection in the form of an empty box.

Withal, Inuit are utilizing the very mode of liberal organization they have been excluded from. Inuit have engaged their own traditional organizations in bureaucratic and legislative modes in order to resist EU regulation. We find here, Indigenous performance of subjectification as a means of representing and defending both traditional practices as well as their contemporary economic and social wellbeing.

This MRP has explored the conceptual threads of the EU sealskin ban in order to provide insight into the harmful patterns of policy decision-making which incorporate and reproduce static categorizations of Indigeneity. As has been demonstrated in the above pages, cultural constructions based in colonial notions of the modern subject have relegated “traditional”

peoples to limited space within decision-making arenas. Beyond this, however, is the ability for constructed groups to access public participation. Public outcry concerning the sealing industry was heavily cited within the EU Parliamentary debates as the primary factor for the sealskin ban. On the surface, one can point to the fact that the EU concerns European citizens, and therefore if a significant segment of the population demands a ban on sealskin products, the government should provide. These are of course the rules of majority or populist democracy (Majone, 1997, 159). That said, this MRP has demonstrated that the EU regulations reached beyond the realm of European nations to small communities in Northern Canada, not to mention the East Coast and Greenland. Considering that before the ban the majority of sealskin products were imported by European countries, there is no excluding European liability in the sealskin industry. To that end, the sealskin case illustrates the tyranny of liberalist values which stratify political intervention based on hierarchies of the target populations involved. One could argue that while meat production in Europe has yet to face the lobbying power of the anti-sealing campaign, the sealing industry was the target of “the judicial, executive and administrative functions from representative assemblies and from fickle mass opinion” (Majone, 1997, 160). As Schneider and Ingram have underlined, governments employ characterizations of target populations in policymaking that they believe prevail among segments of the population important to them, “the rationale behind policies targeting powerful groups will commonly feature the group’s instrumental links to achievement of important public purposes” (Schneider & Ingram, 1993, 339). For the EU, animal rights lobbyists displayed greater political power than the lower income and geographically distant Greenlandic and Canadian sealers. Hence, the process of neutral one-size-fits-all policymaking is thus muting the voices of Indigenous peoples within a larger hegemonic structure of power. Rather than employ Eurocentric modes of decision-making as

neutral ground, Indigenous policymaking requires a reimagining. As Fleras and Maaka suggest, the bedrock for legislative, policy and administrative measures involving Indigenous peoples should begin with principles of consultation and accommodation (2009, 11). By centering Indigenous self-determination within policymaking, policies may be grounded in broader understandings of Indigenous identities and lived realities, and in doing so, go beyond reducing participatory inequality to improve equality (Fleras and Maaka, 2009,12).

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