

“LEGALIZING” THE GREAT BEAR RAINFOREST AGREEMENTS: COLONIAL ADAPTATIONS TOWARD RECONCILIATION AND CONSERVATION

*Deborah Curran**

The Great Bear Rainforest (GBR) agreements are heralded as one of the most important conservation initiatives in the world. They are intended to result in the protection of eighty-five per cent of the coastal temperate rainforest landscape on the British Columbia coast and to see seventy percent of the rainforest returned to old-growth forest. A clear terrestrial environmental success, the negotiation process and agreements are equally important for their enlivenment of Aboriginal rights and the governance authority of the Indigenous communities of the central and north coasts within a colonial law context. After stakeholders wrangled largely over the details of ecosystem-based management, First Nations and the provincial government engaged in government-to-government negotiations that are yielding agreement on the exercise of Aboriginal rights across an intact landscape, funding and priority access for First Nations' ventures as part of a conservation economy, and enhanced roles in decision making. In the absence of treaties and in a common law Aboriginal rights and title context, these agreements are a robust example of the movement toward reconciliation. The purpose of this article is to describe how the protection of the GBR and the expression of Aboriginal rights in that process has manifested in colonial law, and to examine these agreements in the context of reconciliation in Canada. While unique and ongoing, as all reconciliation efforts will be, the GBR agreements locate land-based protection and governance at their core. As an applied, ongoing initiative, these agreements give life to the concepts of joint decision making and underscore the nation- and place-specific context of any reconciliation process that must adapt over time.

Les accords de la forêt pluviale de Great Bear sont perçus comme certaines des initiatives de conservation les plus importantes dans le monde. Ils cherchent à protéger 85% des forêts tempérées côtières en Colombie-Britannique, et retourner 75% de cette végétation à des forêts anciennes. Les accords jouent également un rôle important dans la préservation des droits autochtones et la gouvernance des communautés autochtones au long des côtes centrales et nordiques dans un contexte colonial. Après des débats entre diverses parties prenantes sur les détails d'une gestion basée sur l'écosystème, les Premières Nations et le gouvernement provincial ont commencé des négociations intergouvernementales sur l'exercice des droits autochtones à travers un paysage intact, le financement et la priorité d'accès pour les initiatives des Premières Nations dans le cadre de l'économie de conservation, et des rôles plus étendus dans la prise de décisions. En l'absence d'un traité, et dans le contexte des droits et titres autochtones en *common law*, ces accords sont un exemple solide d'un mouvement vers la réconciliation. Le but de cet article est de décrire comment la protection de la forêt pluviale de Great Bear et l'expression des droits autochtones dans ce processus se manifestent dans le droit colonial, et d'examiner ces accords dans le contexte de la réconciliation au Canada. Bien que les efforts de réconciliation soient en cours, ces accords maintiennent la protection et la gouvernance basées sur les terres. Cette initiative illustre le concept de prise de décisions conjointes et souligne le contexte spécifique aux différentes Nations et à divers endroits auquel il faut s'adapter dans un processus de réconciliation.

* Deborah Curran is an Associate Professor in the School of Environmental Studies and Faculty of Law at the University of Victoria, and the Acting Executive Director of the Environmental Law Centre. Much of the research for this article occurred while I held the position of Hakai Professor of Environmental Law and Sustainability. As part of this role, I taught a twelve-day field course annually from 2011 to 2015 on the central coast in Wuikinuxv and Heiltsuk Nation territories at the Hakai Institute on Calvert Island. I had the honour of speaking with many staff and members of Coastal First Nations, as well as colonial decision makers, such as Fisheries officers and Parks supervisors, about the Great Bear Rainforest (GBR) agreements and how they were operating in practice. Thanks to the Tula Foundation for the funding to teach the field course and to complete this research. Special thanks to Jennifer Walkus of the Wuikinuxv Fisheries Department, Kelly Brown of the Heiltsuk Integrated Resource Management Department, Jess Housty of the Heiltsuk Tribal Council, Steve Hodgson and Bree Matthewman of the British Columbia Ministry of Environment, Valerie Langer of Stand, Gary Wouters of Coastal First Nations and Merv Child of the Nanwakolas Council for ongoing discussions about the impact of the GBR agreements. Thanks also to John Borrows, Bradley Bryan, Valerie Langer, and Kara Shaw for their comments on drafts of this paper.