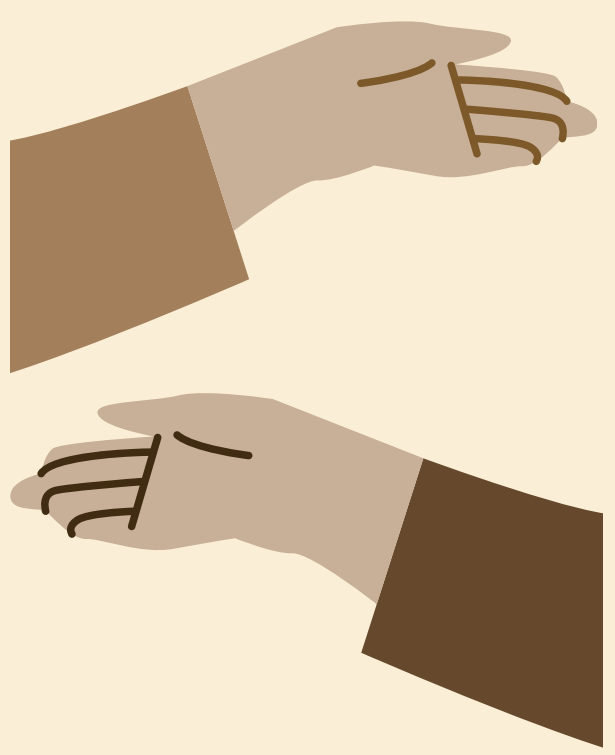


INDIGENOUS CONCEPTS OF LAW

Unceded: Aboriginal Peoples' relationship to the land

PEACE & FRIENDSHIP TREATIES



Within Aboriginal perspectives, these treaties bring all the signatories together as though related, and treats treaty-making like forming kin-based relationships. For example, the Mi'kmaq word for treaty is *Angugamwe'l*, which means "adding to our relations."

Some Indigenous peoples preferred to treat peace treaties with the colonialists as an agreement to keep a peaceful but respectful distance.

The Europeans viewed the treaties as commercial agreements and as the transfer of ownership and title to land.



Indigenous understandings of land and resource use are fundamentally different from a Western understandings of exploiting natural resources.

Key Principles of Indigenous Worldview

- **Interconnectedness** of humans with all living species
- **Caretaking** of land and resources (not ownership)
- **Communal** enjoyment and responsibility

RESTORATIVE JUSTICE

- While Indigenous systems of justice vary, there are some dominant values such as:
 - **Restoration**
 - **Consensus**
 - **Respect**

STORYTELLING : ETHICAL INDIGENOUS PERSPECTIVES

- Storytelling is a method of non-interference that allows elders to give advice to young people without directly telling them what to do.
- This requires individuals to derive their own meaning from the stories based on their experience and strengthens the connection to the outcomes or lessons.

COLONIAL LAW

& INDIGENOUS PEOPLES

Dispossession, displacement and disconnection from indigenous lands

THE FIRST TREATY : GUSMEÑTA: 1613

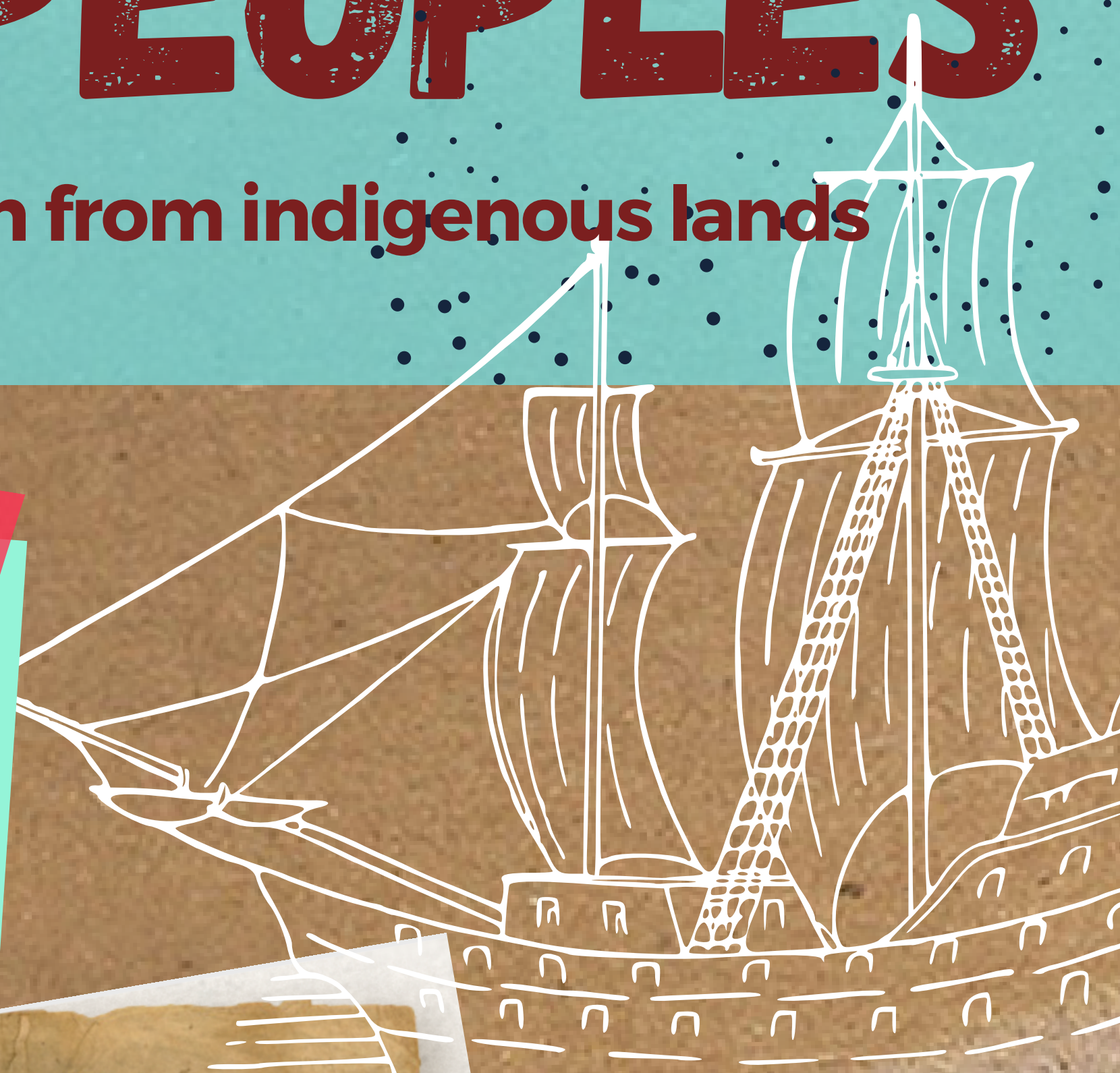
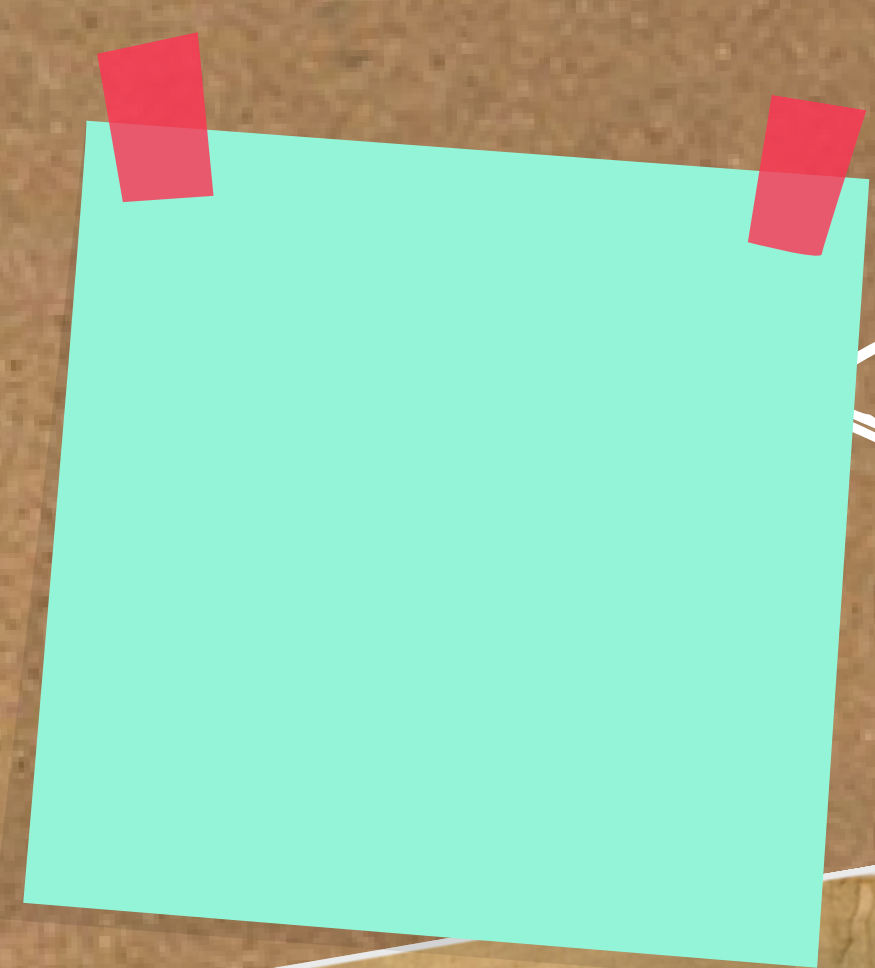
- An agreement between the Dutch colonial officials and Haudenosaunee leaders
- Gusweñta is a two row wampum belt that symbolized and recorded the agreement.
- The two rows represent two vessels that embody the two peoples, their lifeways, and travelling side-by-side as equals down the river of life.

ROYAL PROCLAMATION: 1763

- Issued by British Crown after its 7 year war with the French
 - Recognized that Indigenous people had inhabited the land for centuries prior to the arrival of the French and British settlers.
 - Acknowledged that it wanted to prevent further "Frauds and Abuses" of unceded territory.
- Although Canadian courts and Indigenous peoples disagree with what Indigenous rights are under Sec. 35 of the Constitution Act of 1982, the latter provisions reaffirm the Proclamation's validity.

SETTLER INCURSION INTO INDIGENOUS TERRITORY: BROKEN PROMISES

- Despite the rhetoric of the proclamation, the British embarked on solidifying their claim over the territory (under the threat of American expansion) by bringing in settlers.
- Between 1776 and 1884, the arrival of new settlers gave rise to many land disputes. By 1867, the passage of the British North America Act allowed lower Canada to ignore the Royal Proclamation guidelines, which guaranteed the Indigenous peoples' free trade.



The Royal Proclamation of 1763 (courtesy Library and Archives Canada/13-26/no. 1386632).

Conflicts between warring Western powers (Britain versus France, and later Britain versus the new American Republic) had a huge impact on Aboriginal peoples' displacement. Over a period of time, different alliances were formed and saw indigenous peoples fighting alongside the British against American expansion.

However, the British embarked on a more aggressive Westward territorial expansion following confederation in 1867, in an immigration and settlement boom.

"CIVILIZATION"

- In the 18th century, Europeans sought to differentiate themselves from the rest of the world. Societies different from the West were adjudged as "primitive" and backward."
- The law reflected this bias and by 1851, only groups with a settled government (according to colonial standards) could hold title to land.
- This effectively excluded indigenous peoples from land ownership - including the Haudenosaunee who already had an established agricultural presence.

• The 1876 Indian Act adopted a policy of assimilation and undermined indigenous identity and culture.

• It abolished Indigenous governance, banned indigenous cultural practices like the 'Potlatch' - a tradition of sharing and gift-giving.

• This mindset would continue to influence the state's treatment of indigenous peoples into the 20th century. The last Indian residential school, located in Saskatchewan, closed in 1996.



CAROLINA S. RUIZ (2020)

INDIGENOUS PEOPLES & SOCIAL JUSTICE

Grassroots Resistance



Indigenous peoples defend Earth's biodiversity—but they're in danger. Comprising less than 5% of the world's population, indigenous people protect 80% of global biodiversity.

GLEB RAYGORODETSKY,
National Geographic, 2018



THE OKA CRISIS: 1990

Following the announcement of a golf course development project by the mayor of Oka, Quebec on reserve land which was also a traditional burial ground, without the prior consultation or consent of the Mohawk people, the community set up a protest camp on a portion of the property in the spring of 1990. Other indigenous peoples from different reserves joined the protest and supported a blockade. The standoff between the police, military and the protestors lasted for 78 days.

Women elders had a lead role in the protest and were said to have been instrumental in avoiding confrontation. The protest gained worldwide attention. Both the police and the army were called in to disperse the protest, but the event is generally acknowledged to have been a catalyst for the resurgence of indigenous identity and resistance movements in Canada.



SOCIAL AND ENVIRONMENTAL ACTIVISM

- In 2012, Idle No More, a grassroots indigenous protest movement was formed by 4 women.
- It was initially a response to Bill C 45 that was set to amend the following laws without having consulted indigenous peoples:
 - Indian Act.
 - Navigation Protection Act (former Navigable Waters Protection Act).
 - Environmental Assessment Act.
- Since then, the movement has grown into a Canada-wide movement that supports Indigenous Rights and organizes against projects that threaten the environment, such as the XL Keystone Pipeline that will stretch from Alberta and Saskatchewan to Texas, as well as the CGL Pipeline that will run from Dawson Creek, Alberta to Kitimat, British Columbia.



CAROLINA S. RUIZ (2020)