

Review of Graham White, *Indigenous Empowerment through Co-management: Land Claims Boards, Wildlife Management, and Environmental Regulation* (UBC Press: 2020)

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For several decades, Indigenous communities in Canada have been engaged in developing and implementing co-management regimes with federal, provincial, and territorial governments.¹ Such regimes are in place across the country, most prevalent in Canada's three northern territories where comprehensive land claims agreements are in place.² These treaty-based arrangements create institutions and frameworks for the collaborative governance of natural resources, and they are typically touted as a way to uphold and implement the rights and interests of Indigenous communities with respect to land-use planning, resource development, and renewable resources.³ The reach of co-management regimes is significant given that these land claims agreements – also referred to as modern treaties – cover more than 40 percent of Canada's land mass.⁴ Additional modern treaties, self-government agreements, and associated co-management regimes continue to be negotiated,⁵ leading to the increased importance of co-management boards in the years to come.

Into this context arrives Graham White's recent book, entitled *Indigenous Empowerment through Co-management: Land Claims Boards, Wildlife Management, and Environmental Regulation*. This book is a significant and invaluable contribution to a field

that is comprised of a complicated tapestry of modern treaty contexts that may at first blush appear similar but are actually vastly different. Co-management has been the subject of scholarly attention for many years in Canada; however, perspectives vary widely with respect to its appropriateness and effectiveness.⁶ White's book is a bold project that tackles the complexities, sensitivities, and diverse contexts of co-management head-on.

White approaches the co-management experience through a broad primary research question: Do boards established by land claims agreements enable Indigenous peoples to exercise substantial influence over the land and wildlife policies so crucial to them?⁷ In engaging in this analysis and answering the question, White draws on his decades of scholarly and practical experience with land claims agreements, including many different co-management regimes and associated organizations and individuals. His expert knowledge on the subject and direct interaction with co-management boards is apparent throughout the book. Detailed examples and anecdotes bring his analysis to life.

The book is structured as nine chapters spilt into three parts. Part I, entitled "What are Land Claims-Based Co-Management Boards?", takes a primarily descriptive approach. In the first chapter, White thoroughly introduces the subject matter through an accessible account of existing co-management regimes and the associated literature. This context provides a helpful grounding for the more detailed content in subsequent chapters. Chapter one also presents and discusses the book's central question. In doing so, White includes important acknowledgements of the nuances and complexities inherent in making claims around whether co-management boards enable Indigenous peoples to exercise substantial influence over land and wildlife policies; surprisingly, however, he frames the question in multiple ways, most often in binary terms. This set-up and his later discussion in response to the question would be better served by a clearer statement of the core question and by avoiding a binary, yes-or-no framing. Put another way, perhaps a more appropriate articulation would have been "to what extent have co-management boards ...". Nevertheless, the thrust of this central question (in its multiple forms) is sufficiently pointed to guide White's ensuing analysis, particularly given that he returns to this question periodically and then in an in-depth manner in the final chapter of the book.

Chapter two accomplishes the challenging but highly important task of providing a bird's-eye view of the three territorial governments and many Indigenous organizations and governments across the North. In doing so, White demonstrates a depth of knowledge held by very few regarding the devolution of government powers to the territories and the complicated formal decision-making arrangements in land claims contexts. He also points out important differences across territorial governments, explaining, for example, that both the Northwest Territories (NWT) and Nunavut operate on a consensus government approach rather than the party system that is present in the Yukon. White also engages in a helpful discussion of the implementation regime that supports these modern treaties, including the work of

implementation committees, the role of implementation contracts and plans, and the friction inherent in such work. This is a type of scholarly account that is not found elsewhere in the literature, and is thus a valuable contribution. The second half of the chapter offers a sophisticated discussion of the different types of boards, including impressively detailed descriptions of their mandates, jurisdictions, compositions, structures, and organizational elements (such as compensation, staff, and location). This content, including nuanced points such as the lack of female appointees to boards,⁸ will be of interest to academics and professionals operating in this area.

While White's descriptions of territorial governments, boards, and associated context are, for the most part, quite thorough, his account of Indigenous governments and organizations is disappointingly short and thin on detail. It is delivered with sensitivity to the context, but would benefit from more information about these important organizations and governments. White dedicates only one paragraph to describing treaty implementation activities,⁹ when in practice these organizations function like governments with incredibly broad roles and responsibilities in the modern nation-to-nation, government-to-government context. This chapter would also be stronger with a more nuanced discussion of the different character or legal personalities of modern treaties. Similarly, White's presentation of the basic anatomy of a modern treaty is relatively thin. It would be more helpful if it had included more detail regarding the significant rights and duties that flow from the agreements.¹⁰ Finally, the discussion in chapter two is weighted toward the NWT and Nunavut contexts, with insufficient attention paid to Yukon in some places. Nevertheless, it would be impossible to cover every aspect and nuance exhaustively, and White's contributions in Part I are thorough and laudable.

Part II of the book, entitled "Specific Land Claims Boards", is also descriptive in nature, taking a case study approach that dives deeply into particular co-management board examples from Yukon, NWT, and Nunavut. Chapters 3 and 4 are devoted to wildlife management boards, namely the Yukon Fish and Wildlife Management Board (YFWMB) and the Nunavut Wildlife Management Board (NWMB). Chapters 5 and 6 are focused on the Mackenzie Valley Environmental Impact Review Board (MVEIRB), and the Mackenzie Valley Land and Water Board (MVLWB). In selecting and discussing these four specific boards, White covers all three territories, and most modern treaty contexts. He also covers a diversity of co-management board types, which builds on his earlier discussion of different types of boards in Part I.

For each of the specific examples in Part II, White provides an in-depth, highly contextualized account of the specific boards and the land claims agreement contexts in which they exist. For example, in relation to the NWMB, White describes the land claim negotiations that led to the creation of the Board, including details such as the integration of Inuit Qaujimatugangit (i.e., traditional Inuit ways and knowledge),¹¹ and Inuit concerns over the government retaining ultimate responsibility for wildlife

management. White also meticulously lays out technical details about the NWMB, such as its organizational structure, functions, and activities. In doing so, White helpfully situates the NWMB's role and activities within the broader landscape of federal and territorial law, policy, and institutions (e.g., in relation to Fisheries and Oceans Canada and the federal Species at Risk Act).¹² Perhaps most salient to the book's central question is White's evaluation of the NWMB's independence and the extent to which Inuit exercise influence on wildlife management through the Board. His assessment that Inuit "unquestionably exert significant influence" is well-supported by his analysis,¹³ including his discussion of "contentious issues" in the preceding pages.

White's presentation and discussion of other specific boards in Chapters 4 and 5 are equally thorough and thoughtful. In his account of the YFWMB, for example, he adeptly comments on the complex Yukon Final Umbrella Agreement context before setting out technical, institutional, and political details. He also builds on the preceding chapter by identifying differences between the YFWMB and the NWMB.¹⁴ Similarly, in his detailed discussion of the MVEIRB and the MVLWB, White presents the underlying land claim regimes and the Mackenzie Valley Resource Management Act (MVRMA), which is a core feature of those regimes. Through his presentation of these two boards and the Mackenzie Valley resource management process, White covers a critical feature in land claims contexts – regulation and decision making with respect to proposed projects and activities in land claims regions. He once again brings this context to life with a tremendous amount of detail and nuance.

Chapter 6 is slightly different in kind, focusing on a contentious federal government initiative to make changes to the MVRMA and associated regional boards. This chapter provides valuable insights on two levels. First, it is a robust retrospective account of this specific failed attempt to amend the regime and the very strong objections of Indigenous land claims parties in the Mackenzie Valley. Second, it provides a view into the controversies that have surrounded many co-management regimes, particularly in terms of industry criticisms and Crown-Indigenous relations. With this chapter, White makes clear that implementation of modern treaties and associated co-management regimes is far from smooth and simple. If there is a weakness in Part II, it is that White's shifting formulations of the primary research question might leave readers confused as to how to interpret his chapter conclusions; however, he comprehensively addresses any confusion in his synthesis commentary in the final chapter of the book.

Part III, entitled "A Review of the Key Issues", takes a more analytical approach, including normative commentary and reflections in response to the book's primary research question. In Chapter 7, White engages directly with the thorny issue of board independence; he explains institutional aspects such as appointments, staffing, and resourcing, and then integrates these details with his analysis of actual and potential challenges to board or board member independence. While noting the

absence of scientific data, he concludes by noting that threats to independence are infrequent but consequential when they do arise.¹⁵

In an equally adept and ambitious fashion, White engages in a detailed analysis of traditional knowledge in relation to co-management boards in Chapter 8. His plain-language, example-based approach makes this complicated topic accessible. This includes his insightful observation that the boards can be seen as an instance of “culture clash” between Indigenous ways and knowledge and the boards “Euro-Canadian legal bureaucratic model”.¹⁶ White eloquently lays out different examples and features of co-management arrangements that support this view, ultimately – and colourfully – concluding that “the snowmobile’s gas tank may be seen as half-full or half-empty” given that there have been successes in incorporating traditional knowledge but the western-based bureaucratic nature of the boards constrains what such efforts can accomplish.¹⁷

Finally, in Chapter 9 White revisits and focuses entirely on his primary research question formulated in this chapter in the following way: “[D]o Indigenous peoples exercise substantial influence over wildlife and environmental decisions through the co-management boards established under the Northern comprehensive land claims?”¹⁸ This is a welcome synthesis and extension of his commentary in the preceding chapters, which often touches on this core question, but not directly. White’s ultimate conclusion is that “Indigenous peoples can and do wield significant influence”,¹⁹ and he substantiates his argument with a relatively robust discussion that draws on existing literature (including critiques), data about the boards, and his insights from dozens of interviews and discussions with Indigenous board members and observations of many board meetings.²⁰

It is hard to criticize White’s approach to answering his core question given the complexity of the subject matter and the quality and quantity of information he presents. However, his revisiting of the notion of treaty federalism, which he briefly set out and identified as a useful lens in the first chapter,²¹ comes across as incomplete. The commentary that White does offer is enticing, such as noting that most treaty federalism scholarship has focused on historic treaties and that the co-management board examples can be regarded as an important instance of treaty federalism. Unfortunately, White does not go far with this line of analysis. This aspect of the book would be stronger if treaty federalism were integrated more deeply into his return to the book’s central research question and other parts of the book. In doing so, the analysis would also benefit from commentary that acknowledges and integrates quickly evolving law, policy and institutions pertaining to the revitalization of Indigenous laws and governance, as well as recent developments in Indigenous self-government arrangements.²²

Overall, *Indigenous Empowerment through Co-management: Land Claims Boards, Wildlife Management, and Environmental Regulation* is a balanced, accessible, and honest discussion of this very complex realm of Crown-Indigenous relations and institutions. The book is exceptionally well researched and clearly communicated by

one of Canada's leading experts on the topic. It ought to be at the top of the reading list for all academics, practitioners, and government officials with an interest in modern treaties.

NOTES

1. See Terry Fenge, "Negotiation and Implementation of Modern Treaties between Aboriginal Peoples and the Crown in Right of Canada" in Terry Fenge & Jim Aldridge, eds, *Keeping Promises. The Royal Proclamation of 1763, Aboriginal Rights, and Treaties in Canada* (Montreal & Kingston: McGill-Queen's University Press, 2015), 105–108 (for a general discussion).
2. Ibid. See also Douglas Clark & Jocelyn Joe-Strack, "Keeping the "Co" in the Co-Management of Northern Resources", *Northern Public Affairs* 5:1 (April 2017): 71, online: <http://www.northernpublicaffairs.ca/index/wp-content/uploads/2017/04/npa_5_1_april_2017_pg71-74.pdf>.
3. David C Natcher, Susan Davis & Clifford G Hickey, "Co-Management: Managing Relationships, Not Resources" *Human Organization* 64, 3 (2005): 240.
4. *Supra* note 1. See also "What is a Modern Treaty?", online: *Land Claims Agreements Coalition* <<https://landclaimcoalition.ca/modern-treaty/>>.
5. Crown-Indigenous Relations and Northern Affairs Canada, "Comprehensive Claims" (13 July 2015), online: *Government of Canada* <<https://www.rcaanc-cirnac.gc.ca/eng/1100100030577/1551196153650>> [CIRNAC 2015]. See also Crown-Indigenous Relations and Northern Affairs Canada, *Implementation of Modern Treaties and Self-Government Agreements* (Provisional Annual Report) (Ottawa: CIRNAC, 2019), online: *Government of Canada* <<https://www.rcaanc-cirnac.gc.ca/eng/1573225148041/1573225175098>>.
6. See e.g. Natcher et al, *supra* note 2; Thierry Rodon, *En partenariat avec l'État. Les expériences de cogestion des Autochtones du Canada* (Quebec City: Presses de l'Université Laval, 2003); Thierry Rodon, "Co-Management and Self-Determination in Nunavut" *Polar Geography* 22, 2 (1998): 119; Hayden King, "Give it up: Land and Resource Management in the Canadian North: Illusions of Indigenous Power and Inclusion" in Thomas Berger, Steven A Kennett & Hayden King, eds., *Canada's North: What's the Plan?* (Ottawa: Conference Board of Canada, 2010), 75; Graham White, "'Not the Almighty': Evaluating Aboriginal Influence in Northern Land-Claim Boards" *Arctic* 61, 1 (2008): 71; Hayden King, "Governance: Co-Managing the Future? Indigenous Peoples and Land Use Planning in the North," *Northern Public Affairs* 1 (Special Issue) (2018), online: <<http://www.northernpublicaffairs.ca/index/vol-1-special-issue-2013/governance-co-managing-the-future-indigenous-peoples-and-land-use-planning-in-the-north/>>; Paul Nadasdy, "The Anti-Politics of TEK: The Institutionalization of Co-Management Discourse and Practice" *Anthropologica* 47, 2 (2005): 215.
7. Graham White, *Indigenous Empowerment through Co-management: Land Claims Boards, Wildlife Management, and Environmental Regulation* (Vancouver: UBC Press, 2020), 16.
8. Ibid., 44.
9. Ibid., 29.
10. Ibid., 32–33.
11. Ibid., 58, 77–78.
12. Ibid., 68.
13. Ibid., 96–97.
14. See e.g. *ibid.*, 99.
15. Ibid., 264–265.

16. *Ibid.*, 284.
17. *Ibid.*, 296.
18. *Ibid.*, 297.
19. *Ibid.*, 321.
20. *Ibid.*, 309.
21. *Ibid.*, 9–10.
22. See e.g. Brenda Gunn, “Bringing Together International, Indigenous and Constitutional Law” in John Borrows et al., eds., *Braiding Legal Orders* (Waterloo: CIGC, 2019), 135. See generally, John Borrows et al., eds., *Braiding Legal Orders* (Waterloo: CIGC, 2019).