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Claiming Space to Claim for Justice: the Indigenous Peoples' Geographical Agenda

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UMR 5319 Passages

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"I believe it is in the Indigenous context that spatial justice is most closely tied to social justice.

That is because of land"

Waziyatawin Angela Wilson¹

Justice may be defined as a set of moral values, rules, practices, and social institutions that enforce what a society considers to be "fair" and "good". For most Indigenous peoples, this inclusive concept is part of a holistic approach. Justice thus concerns the whole world, living and non-living, and its balance must be maintained or restored. U.S. American Indians often summarise this conceptualisation in the expression "all my relations" (all the beings and things to which I am related), and understand justice as a process for healing and rebalancing relationships in the world (LaDuke, 1999; Whiteman, 2009).

If healing and restoring balance are needed, it is because Indigenous peoples, as a category of thought and action, were born out of a destructive and, consequently, founding injustice: the dispossession of their lands and rights – in the context of either European or other types of colonisation. So the issue of justice is significant, in both their speech and that of militants who stand at their side, as in the field of Indigenous Peoples' Studies, crystallising a conflict of legitimacy between Indigenous and non-Indigenous peoples, which still persists today. The latter, who, as the historically dominant peoples, had the law on their side, since they had the power to issue laws, consider it was legitimate, or legal, to take over lands where Indigenous peoples lived. The former, in contrast, consider it theft and, therefore, feel that their demands for compensation are legitimate, despite the fact that the law fails to recognise the injustices they denounce. Thus, in an indigenous context, as elsewhere, "The notion of a 'right to' or 'right of' is not necessarily linked with justice: it is more often associated with a *feeling* of injustice" (Landy, Moreau, 2015). Furthermore, for Indigenous peoples, justice and spatial justice are closely linked, due to the importance of the land in their daily lives and for their long-term survival as a community.

However, as one of our Innu research partner told us: "Spatial justice, it doesn't mean anything to us"². On the contrary, the issue of rights related to land was immediately meaningful to her. Spatial justice is, first and foremost, a scientific concept and an analytical category used to understand and explain social realities³. As such, it is not necessarily part of the vocabulary used by Indigenous peoples themselves. It is, perhaps, for this reason that, to our knowledge, the spatial justice angle of Indigenous peoples' issues has received very little attention from researchers, either in social sciences (including geography) or law. Existing work focuses more on the issues of rights, identity, knowledge, experienced and perceived space, cultural transformations, economic development, education, political and economic

¹ Sioux Dakota historian and activist (cited in Brown *et al.*, 2007, p. 20).

² The Innuatsh are Innu people from the west bank of Lake Saint-Jean (Quebec).

³ Understood as a "spatial approach to social justice", according to Philippe Gervais Lambony and Frédéric Dufaux, it "repositions space at the heart of our reflection on contemporary societies" (2009, p. 11).

emancipation, the land claims processes, health and welfare, and social and societal difficulties in a context of marginalisation. The responses (around fifteen) received following our Call for papers confirmed the heuristic value of this type of approach. However, as in other fields of study already explored by *Justice spatiale/Spatial Justice*, in the area of Indigenous Peoples' Studies, this value is in contrast to the uncertainty surrounding it (see the journal's homepage: "Who's who?", May 2009 - <http://www.jssj.org/qui-sommes-nous>).

The objective of this journal's issue is, therefore, to elucidate the claims of Indigenous peoples by approaching them through the prism of spatial justice. Also, we hope to contribute to the long-term reflections developed by the journal on the concept of spatial justice, by examining the meaning it may have for Indigenous peoples. The contributions collected here deal with South Africa, Bolivia, Brazil, Canada (particularly Quebec, but also the Vancouver area), the United States (including the Hawaii archipelago), Mexico, India, and New Zealand, as well as the particular spaces represented by the UN bodies in Geneva and New York. They thus cover all of the continents concerned by the struggles of Indigenous peoples, with, however, a majority of papers discussing Indigenous issues in the Americas. This certainly explains why the issues raised in this collection are very often linked to prior occupation and dispossession of land by European governments in the context of colonisation of territory considered "new", "empty", and, therefore, ripe for the taking.

"Indigenous peoples" and "indigenoussness"

The term "Indigenous peoples" originated in the Americas in the 1970s, in the wake of the mobilisation of Native Americans and their emergence on the international stage. Emphasising their prior presence on the continent compared to the European newcomers and speaking out against political oppression, social discrimination, and the process of land-grabbing and territorial dispossession to which they had been subjected for several centuries, American Indians claimed their status as political subjects within the states they have been incorporated into. They also claimed the recognition of community and cultural rights, extending beyond simple individual rights to citizenship. They were rapidly followed in this approach by the peoples of Oceania and the Sami of Fennoscandia. Together, they were the spearhead of the United Nations (UN) Working Group on Indigenous Populations, set up in 1982. Pierrette Birraux's testimonial, in the *Public Space* section of this issue, sheds light on the motivations and internal organisation of this veritable international forum for Indigenous peoples.

Until now, the main success of this Group has been the *Declaration on the Rights of Indigenous Peoples*, adopted by the UN General Assembly in 2007 (resolution 61/295). In the wake of the International Labour Organization (ILO) conventions n° 107 (1957) and n° 169 (1989), this text enshrined international recognition for Indigenous peoples. A unique relationship with the land, territory, and its resources, its importance for the survival of Indigenous societies, as well as both the spiritual and material substructure of their cultural identities has been recognised by the UN and the ILO. It was retained as a key criterion for distinguishing Indigenous peoples from other cultural or political minorities (Daes, 2001).

Rather than a strict definition or a list of Indigenous peoples, the Working group preferred a set of criteria that do not necessarily all have to be met; their relevance is left up to the appreciation of each People concerned. This choice has resulted in a certain fuzziness, sometimes interpreted as a weakness of the category "Indigenous peoples", particularly in Asian and African contexts, where the concept of prior occupation is controversial. The fact that the concept is thus more political than analytical is fully accepted by the authors of the 2007 Declaration, as well as the editors of this issue.

During the movement to assert the rights of Indigenous peoples on an international level, the term "autochtonie" (indigenoussness) emerged in French-speaking academic circles to express the idea that, in addition to a shared experience during the period of marginalisation and discrimination, these Peoples have a common identity and cultural characteristics that distinguish them from other societies. Françoise Morin suggested that the *Working Group on Indigenous Populations* offered an opportunity to build a pan-Indigenous identity, that would form a basis for the concept of indigenoussness (see Morin, 1994 – among others). As we shall see in several papers in this issue, although it has been widely explored by French-speaking researchers, this concept is far from being unanimously accepted among those concerned and their supporters. In particular, it is criticised for tending to essentialize these Peoples and ignore their differences (see: Pierrette Birraux *infra*). The stakes in this epistemological controversy are political. Gathering very different Peoples under a single identity runs the risk of denying, on the one hand, the historicity of Indigenous peoples and, on the other hand, the importance of local contexts that led to their "production" and on which their struggles focus today.

In addition, in the French context, the "Indigenous peoples" concept has prospered since the beginning of 21st century in certain militant circles marked by identitarian withdrawal and the rejection of outsiders. These groups, on the extreme right of the political spectrum, have adopted this term to describe themselves as the victims of immigration that, in their opinion, threatens their identity as "native-born" French people. This ideological exploitation offers a remarkable example of misappropriation, which it is easy to unmask as soon as one makes the effort to read the *Declaration on the Rights of Indigenous Peoples*. However, among French intellectuals and academics, it has shed a certain discredit on the claims of peoples who have suffered dispossession, discrimination, and stigmatisation over a long period of time. These negative reactions are all the stronger as they also feed on researchers' attachment to a "Republican" model, which mistrusts special identities in the name of universalist principles.

These criticisms are based on an understanding of this concept originating from the etymological meaning of the French word "*autochtone*" (indigenous): "born in the land where s/he lives", "who is from here". They ignore the context in which this term was chosen rather than any other. In fact, the concept developed in an international dialogue, rather than in purely French, or even French-speaking, circles. The aim was to break away from the derogatory, stigmatising terms that were previously in common usage: "natives", "savages", "primitives", etc. In contrast to these terms, with their highly-negative connotations, the adjective "*autochtone*" (indigenous), which was hardly ever used in the past, seemed a more neutral, or even positive option for the French versions of international texts aimed at supporting emancipation for these peoples. Relying on its etymological meaning to claim its inanity amounts to turning inwards towards a purely French situation, whereas the issue of Indigenous peoples exists on a global scale and calls for a critical review of the history of the Europeans in their relations with the rest of the world.

From international recognition to recovering rights on a national level

While those who identify themselves as Indigenous peoples have obtained a degree of international recognition in recent decades, and increasing numbers of them have adopted a "globalising" rhetoric that gives them a presence on the world stage, their struggles actually take place on national and local levels, rather than at the United Nations. Beyond the specific features of each of these struggles, they nevertheless share a common objective: obtaining certain forms of autonomy (in education, culture, the economy, land and resource management, etc.) – but rarely secession. In other words, the aim is to obtain the right to self-determination in certain spaces. These struggles also focus on the recognition of

Indigenous peoples as historical subjects within the nation-states that now encompass them, with the aim of enabling them to participate in decisions concerning regional development, the control and use of natural resources, or any other action on their historical lands, whatever the present legal status of the land concerned (state-owned, Indigenous or non-Indigenous private or community property).

These demands are particularly strong in the Americas and Oceania (mainly Australia and New Zealand). In those areas, the construction of the "Indigenous" category by colonial conquest was marked by a strict policy of negation and containment (see, in particular, the case of reservations in North America: Harris, 2002). At different times in history, and also sometimes simultaneously, this took the form of political and/or spatial separation, and/or forced assimilation, which continued until relatively recently (1960s or 1970s, depending on the country).

The outcome of these claims varies from one country to another. As emphasised by Irène Bellier, some Indigenous peoples were recognised specific rights by historical treaties or modern agreements (e.g. in Canada), while the existence of others has recently (in the early 1990s) been enshrined in the political constitutions of various countries, notably around a dozen in Latin America. In Asia and Africa, however, most "minority peoples" remain in situations where they have no rights, face discrimination and marginalisation, and are targeted by assimilation policies, leading to forms of enforced social invisibility, as well as physical elimination (Bellier, 2006, p. 105). On the grounds of their social, economic, and political marginalisation, their relationship with a specific territory that gives them a different vision of the world and, therefore, their cultural identity, distinct from that of the majority society, these peoples may call themselves Indigenous peoples. This identification constitutes a political resource that they can use to present their claims on an international level, in order to obtain recognition and support, which they can then mobilise on a national level.

The Law, the State, and Indigenous peoples

Historically, dispossession and spoliation occurred through direct, often violent, confrontation, as well as through "spatial technologies of power" (Sandercock, 2004, p. 118) and "colonial technologies" (Matunga, 2013, p. 7): surveying, place-naming and naming, cartography, procedures of regional planning, private property rights / private property rights. Today, in the states they depend on and where they live, Indigenous peoples have to cope with these laws and legal systems developed by other societies, with which they have an unequal, colonial-type, power relationship.

The mobilisation of Indigenous peoples on the national and international stage since the 1970s has attempted to reverse this balance of power, mainly in two ways. Firstly, by organising public actions: protest marches, blocking roads or bridges, actually or symbolically occupying land, etc. Secondly, by taking legal action in the courts in specific cases of dispossession and/or discrimination. This has led to a trend towards seeking legal reparation for the claims of Indigenous peoples in many countries, often bringing before the courts issues that would really require political solutions (Tremblay, 2000). Legal proceedings are, however, complex and expensive and cases do not always have positive outcomes - far from it, as the laws under which Indigenous peoples claim some form of reparation were not usually written with the aim of protecting, but rather of dispossessing them. These difficulties are described in contributions by Etienne Rivard, on the cases brought by the Métis in Quebec, and June Lorenzo, on those of the Pueblos Laguna in Arizona.

Furthermore, some Indigenous Nations, in Canada, the United States, New Zealand, and Australia, have gone to the courts to take advantage of the possibilities of common law, characteristic of the former

British colonies. Some have obtained recognition of rights based on treaties or other historical agreements, signed on a Nation to Nation basis, between Indigenous peoples and European colonial powers or new states. Thus, in some cases, they have managed to legitimise their sovereignty, their status as subjects in international law, and their right to self-determination in certain areas of competency within the countries concerned (Schulte-Tenckhoff, 1998; Gilbert, 2007, p. 585; Porter, 2010, p. 22-23).

Situations vary considerably from one region and people to another, even within the same state. Thus, in New Zealand, the 1975 *Treaty of Waitangi Act* recognised the treaty of Waitangi, signed in 1840 by most of the Māori iwis and the British Crown, giving it official status in New Zealand legislation. The law confirmed the treaty's legal validity, which enables Māori to bring cases before a court set up solely for this purpose – the *Waitangi Tribunal* – for any treaty violation committed by the *Pakeha* (British then New Zealand) authorities since 1840. In Canada, the situation is less clear. Some Innu First Nations in Quebec have been negotiating their land claims for nearly forty years and the outcome is still uncertain (see the interview with H  l  ne Boivin in the *Public Space* section of this issue), while the Inuit have obtained a certain level of autonomy and the right to joint-management of the resources on their historic lands (northern parts of Newfoundland, Labrador, and Quebec provinces and of the Northwest Territories, as well as the whole of the Nunavut territory). In contrast, in Chile and Argentina, the Mapuche, who also signed many treaties with the Spanish Crown throughout the 17th to 19th century, have not yet managed to obtain their recognition, either politically or in the courts, despite the tremendous efforts of militants, intellectuals, and Mapuche lawyers since the 1980s (Marim  n, 2002; Schulte-Tenckhoff, 1994).

As for France, the National Consultative Commission on Human Rights (*Commission Nationale Consultative des Droits de l'Homme - CNCDH*) issued a press release on 23 February 2017 on the specific situation of Indigenous peoples in overseas territories (particularly the Kanaks, in New Caledonia, and the Amerindians, in French Guyana), calling on the government to clarify its position in favour of recognising these peoples.

Faced with violations of their rights and in view of the difficulty, or even impossibility, of obtaining a fair hearing in the national courts, many Indigenous peoples have now turned to international justice. It is important to here mention the key role played by the Interamerican Human Rights Commission (IACHR) in historic rulings, such as the *Mayagna (Sumo) Awas Tingni Community versus the state of Nicaragua*, handed down in 2001. The IACHR courts recognised community rights to ownership of the Awas Tingni lands and gave them precedence over rights granted by the state. In doing this, they agreed to consider property not as a legal title but as a culturally-proven occupation, thus recognising the "ancestral" and "timeless" nature of this occupation, based on a traditional way of life. They also ruled that the absence of stable human settlements did not cast doubt on the continuous, historic occupation of the territory by nomadic societies (Hale, 2005). Even if the implementation of this ruling has proved to be problematic, meeting resistance from some local and national stakeholders (*ibid.*), it constituted a significant, unprecedented gesture by an international body towards the cultural and community rights of Indigenous peoples and the recognition of ancestral ownership (del Toro Huerta, 2010; Aguilar Cavallo, 2005).

Finally, justice should be considered as the application of a set of laws, which also resembles justice as practised by Indigenous peoples themselves. Some Latin American countries, like Bolivia and Colombia, recognise forms of "legal plurality" and accept the existence of a "normative diversity". Indigenous peoples have thus obtained the right to administer certain forms of customary justice within specific territorial units (Barrera, 2011; Van Cott, 2000). Experiments are also in progress in Canada for cases of

petty crime, particularly in the context of proceedings in Nunavut and in the Northwest Territories, where a majority of the population is Indigenous (Inuit in Nunavut, First Nations and Inuit in the Northwest Territories). It is noteworthy that these forms of symbolic and legal recognition of community and cultural rights of Indigenous peoples, and of their identities, rose in the context of the multiculturalist policies introduced in many countries in the Americas and in Oceania, starting in the 1970s.

In all cases, irrespective of the level at which justice is obtained, on the one hand, it involves redistributive justice, aimed at dealing with inequality and social discrimination, and promoting fairness for Indigenous peoples in terms of economic opportunities (access to certain jobs, housing benefits, study grants and fellowships, etc.). On the other hand, justice involves the recognition of the Other and covers issues such as spatial representation, territorial identities, and spatial practices.

Three key questions emerge from the nine papers published here (six articles and three testimonials in the *Public Space* section). Firstly, the status of space in land claims is less obvious than it may initially appear. Is it the *object*, the *subject*, or the *mediator* in the justice that is sought? Secondly, Indigenous peoples, as cultural and/or political minorities, have no other choice than to abide to the judicial system of the majority society to seek justice. This raises the problem of a mismatch between two, radically different, ontologies. Finally, the struggles of Indigenous peoples lead to a reflection on the possible forms of compensation for wrongs suffered over a long, or very long, period of time.

Is space the object, the mediator, or the subject of justice?

For Indigenous peoples, does space – more specifically the land or territory – constitute the *goal* of calls for justice? Or is it rather a *means* for obtaining justice? In other words, do claims for justice focus on land and territory because they are considered essential for the cultural and physical survival of the group? In this case, space is the actual *object* of the claims. Or is it because they embody the immaterial aspects, i.e. dispossession, stigmatisation, relegation, and debasement suffered by Indigenous peoples? In this case, space is a *mediator*, used to obtain justice. Or, finally, on the contrary, is space the *subject* of the justice sought? In other words, is the aim to obtain justice *for* space?

Space as object. At first sight, the claims of Indigenous peoples clearly seem to focus on places where the recovery of the property and/or sovereignty of a community – or, more rarely, an individual – is claimed in the name of justice. Thus, Benjamin Leclère reports on the initiatives launched by the Ohlones, the first inhabitants of San Francisco Bay, to obtain a land grant of a few hectares within what has now become a vast urban area. This is also the issue for the Tacana (Bolivian Amazon) mentioned by Laetitia Perrier Bruslé, and the Métis of Quebec⁴, whose efforts in the Provincial courts are analysed by Etienne Rivard. Hélène Boivin gives a detailed account of the situation of the Ilnu of Mashteuiatsh, describing all the stages in this type of process and the difficulties involved.

Space as mediator. The very title of our Call for papers suggested that authors look beyond the obvious facts of territorial claims and investigate the type and scope of justice claimed by Indigenous peoples when they demand compensation for land and/or territories that have been taken away from them. Our initial hypothesis was that, beyond obtaining ownership or sovereignty over their own land, the issue was also, or even above all, the full recognition of their existence, their cultural differences, and their citizenship in the countries where they live today. In other words, we hypothesised that the struggle for land and territory was also a symbolic struggle for decolonisation of ways of being in the world or "modes

⁴ The Métis, of mixed Native American/Euro-Canadian – most frequently French-Canadian – heritage are recognised by the state as one of the Indigenous peoples of Canada.

of integration in the universe" (Savard, 1980, p. 29). This is clearly the case with the American Indians who live in the San Francisco Bay area but, unlike the Ohlones, were not originally from there (Leclère), as well as with the Māori who live in the Wellington urban area and First Nations living now in the Vancouver area (Puketapu-Dentice *et al.*). Indigenous peoples who live in or around National parks on the outskirts of Mumbai and Cape Town also share a similar perspective and seek similar goals (Landy *et al.*). Indeed, all these authors show that the objective of these communities who live in very large cities or in their vicinity is, above all, to ensure that their knowledge, values, aspirations, and, in short, their presence, are taken into account in urban planning and development. All thus claim their right to "be Indigenous peoples in the city". In these cases, space plays the role of a mediator, and spatial justice is a means for achieving a fairer world.

Space as subject. Two other contributions in this issue, however, present a completely different approach, putting forward a biocentric world view, where spaces and places are seen as the subjects who should receive justice. In her interview, Hawaiian cartographer and geographer Renee Pualani Louis states:

« It is not all about doing everything for man, it is about doing everything for everything. So it's considering all processes are important. All animals, all... whatever is in the world is important. And considering that they are intelligent ».

For her, the aim is, above all, to claim justice *for* the land and *for* its places, an interpretation based on the holistic view mentioned above. June Lorenzo, a Pueblo Laguna lawyer involved in the field of Indigenous peoples' rights, whose contribution in this issue deals with the recognition of sacred sites by the Federal government and the state of Arizona in the United States, emphasises the agency of space. On the basis of the theories put forward by Edward Soja and Indigenous theoretical perspectives, she suggests that space constitutes a force that impacts social intervention and, consequently, social justice as well. While this approach may seem to echo the actor-network theories postulated by Bruno Latour and also Michel Callon, it is, however, based on conceptualisations specific to the ontologies of Indigenous peoples, particularly concerning the place of non-humans. From this perspective, where space is the subject to which justice must be done, it is impossible to give up the claims, as it is the responsibility of humans to restore the balance upset by other humans and to act *on behalf of* the territory, especially its sacred sites.

Obtaining justice by adopting the other party's terms

The interview with Hélène Boivin reviews all the stages and difficulties in the territorial negotiation launched by some Innu First Nations in Quebec with the Quebec and Canadian governments nearly forty years ago. In particular, it reveals how the Pekuakamiulnuatsh (Innu First Nation from Mashteuiatsh) were forced to adopt a "modern grammar" of land (Gros, Dumoulin Kervran, 2011, p. 31) before they could hope to be heard. To ensure the success of their claims, they had no other choice but to formulate them in terms of the legitimisation categories established by the majority society (Albert, 1997). The latter thus imposes, through its laws and courts, its own ontologies and territorial ideologies, as well as its own categories.

One of the major difficulties faced by Indigenous peoples who take their claims to court is what Étienne Rivard, in his paper calls the "documentary burden" or the obligation for the plaintiffs to prove their long-term occupation of the land or territories of which they claim to recover the use, enjoyment, and/or ownership, in order to obtain justice. How can they do that when they were dispossessed a long time ago and they only have oral memories, handed down from generation to generation, to prove their ancestral presence in places where they are no longer allowed to go, when the courts always give

preference to written documents? How can they show that the link has not disappeared despite these obstacles? June Lorenzo also emphasises these difficulties, which are particularly acute in cases concerning the recognition of sacred sites. What can be done when the land has undergone sweeping transformations due to the cumulative impacts of colonisation, intensive exploitation of natural resources, and industrial development (Desbiens 2013/2015; Desbiens, Hirt, Pekuakamiulnuatsh Takuhikan, 2015)?

In a broader view, the cultural identification modes of Indigenous peoples are being built in a context where the overall balance of power is against them and subjects them to many identity projections. Laetitia Perrier Bruslé's paper, based on the Bolivian case, thus highlights the authenticity requirements to which Indigenous peoples are subjected, which coincide with a certain conception of the non-Indigenous society concerning the relationship between Indigenous peoples, their lands, and the environment. Frédéric Landy *et al.* describe the same type of process in Mexico. Indigenous peoples are subjected to standardisation and stereotyping of their identities. To achieve recognition, you have to conform to a model of yourself built by others. Benjamin Leclère shows that the spatial justice applied to Indigenous peoples is strongly linked and restricted to specific spaces where the majority society seeks to assign them. In North America, it is difficult for urban Native Americans to obtain recognition for their identity and rights to the city as Indigenous peoples. As Leclère suggested, the dominant imagination associates indigenusness with rural life and perceives the city as a space belonging to colonisers and "civilisation", where there is no room for Indigenous peoples, unless they assimilate into the majority society. Indeed, the same situation has been observed in Australia, where Aboriginal identity is recognised... as long as they stay in the bush. In other words, spatial justice for Indigenous peoples also implies the right to visibility, both where the signs of their former presence have been erased and where it is not expected. Yet, Kara Puketapu-Dentice *et. al.* clearly show that Indigenous peoples are perfectly capable of creating spaces fit to their values in non-traditional places such as urban settings. This issue of visibility brings us to one of the five faces of oppression, identified by Iris Marion Young: cultural imperialism, where the dominant group makes the dominated group invisible (Young, 1990; Gervais-Lambony, Dufaux, 2009).

How far can claims for justice go? What does demanding reparation really mean?

The issue of compensation is mentioned on many occasions in the texts in this collection, as it is an underlying issue in demands for spatial justice.

This issue is of relatively little importance to Indigenous peoples in Africa and Asia. For them, justice means, above all, obtaining the right to continue to maintain a way of life that has been marginalised or discriminated against (nomadic, hunting, fishing, gathering, etc.), often on lands where they have lived for a very long time. In those cases, the main aim is to keep and defend lands that are threatened with intrusion by third parties. The situation is different for Indigenous peoples in the Americas and Oceania, or even Fennoscandia and Siberia, who justify their claims on the grounds of the *principle of prior occupation*, i.e. the fact that they were the first inhabitants of a country, or even a continent. The major issue for these peoples is to obtain compensation from governments for harm suffered during several centuries of colonial domination, particularly for land stolen from them. They feel that an official recognition of these wrongs, which is already difficult enough to obtain, is not enough.

But what does reparation mean, in practical terms? And how far should it go? This is certainly the thorniest issue related to spatial justice for Indigenous peoples. The Wahpetunwan Dakota Waziyatawin researcher, Angela Wilson, describes the problem in very clear terms:

“(..) spatial justice for Indigenous peoples would require a return of that stolen land. Anything less will always be a compromise of justice, but it is difficult to imagine the return of every inch of land. I really believe that (non-Native) Americans would be perfectly willing to completely exterminate all of us before agreeing to return to their various countries of ancestral origin and hand our lands back to us. So the question that immediately emerges is: how much land needs to be returned for there to be some semblance of spatial justice? Few Indigenous people believe that we have been treated justly or that what we currently have in terms of land-base represents a just solution. But there is little to no agreement about what a just land dispersal might look like, because this is a question that few of us have allowed ourselves to contemplate. We have allowed the forces of colonialism to impact the parameters of our vision regarding justice and, as a consequence, most of us have difficulty imagining a future not prescribed by current boundaries.” (Interview with Wilson in Brown *et al.*, 2007, p. 20)

The vast majority of Indigenous peoples who have been dispossessed do not aspire to full recovery of their lands, as Renee Pualani Louis heartfelt comment in her interview with us exemplifies. Indeed, it would be illusory in view of the size of the territories concerned, the sweeping changes imposed on them by the colonisation process, and the fact that the Indigenous populations have, with rare exceptions, become demographic minorities on their own lands.

What form can compensation take in that case? Is there a time limit on compensation for lost lands? This thorny issue has led to intense disputes between the parties concerned. In her posthumous book, Iris Marion Young offered avenues for reflection based on examples from American Indigenous peoples and from the descendants of black slaves. Her work suggested that it was possible to demand compensation while the victims and perpetrators were still alive (Young, 2011, especially p. 173). It would be reasonable, for example, to imagine that companies would pay financial compensation to Indigenous communities in cases of exploitation of the natural resources on their lands; or even to the victims of Residential schools, as the Canadian Federal government recently did⁵. According to Young, however, the situation changes when it is difficult to demonstrate a direct link between the injured and guilty parties, as the situation extends over several centuries and the individuals directly concerned have died. In this case, it is very complicated, and often unproductive, to apportion blame to specific actors. Determining a fair amount for compensation is also highly problematic. This brings us back to the question raised by Wilson: how much land should be returned for justice to be satisfied? This is why Young suggested it would be better to develop a sense of collective responsibility and historical memory to promote change and foster improved relations between groups:

“The mere unchangeability of historic injustice, however, generates a present responsibility to *deal with* it as memory. We are responsible in the present for how we narrate the past. How individuals and groups in the society decide to tell the story of past injustice and its connection to or break with the present says much about how members of the society relate to one another now and whether and how they can fashion a more just future. A society aiming to transform present structures of injustice requires a reconstitution of its historical imaginary, and the process of such reconstitution involves political contest, debate, and the acknowledgment of diverse perspectives on the stories and the stakes.” (Young, 2011, p. 182)

Compensation should thus be envisaged in three stages: an initial stage for recognition of the injustice suffered, a second stage, interrogating the historical narrative that legitimised the injustice and prevented reparation, and a third stage that consists of modifying the official historical narrative. In

⁵ Residential schools where generations of Canada First Nations and Inuit were sent, often by force, between the 1920s and 1970s, to receive an education and participate in extra-curricular activities with assimilationist aims. These schools were known for abuses of all types, including sexual, officially recognised in the findings of the Truth and Reconciliation Commission (2008-2015).

Canada, in the case of residential schools, the work of the Truth and Reconciliation Commission followed these three stages to produce a result that was globally considered satisfactory by the victims.

Furthermore, this construction of a historical narrative, taking into account the "vision of the vanquished", to quote the title of a pioneering work by Nathan Wachtel (1992 [1971]), does not eliminate the possibility of the necessary recovery of at least part of the disputed land. Indeed, the recovery of control over space and time is vital to redress a situation that was fundamentally deteriorated by colonisation (Hirt, 2017). In practice, demands often concern the extension of Indigenous peoples' lands that have become too small to sustain the group, or to be considered as community land. In addition, in the United States, some tribes, frustrated by inadequate compensation policies, have chosen to buy back some of their land with their own money. In particular, this approach has been chosen by some of the tribes who derive important income from casinos and other gaming activities that they have opened on their own lands. Some of the money is reinvested in land, thus promoting a veritable decolonisation process (Leclère in this issue; Treuer 2014). Waziyatawin Angela Wilson feels, however, that buying back land is "a remedy that hardly suggests some kind of justice" (Wilson, in Brown *et al.*, 2007, p. 22).

To conclude

Analysing the struggles of Indigenous peoples through the prism of spatial justice clarifies the extent of their demands for recognition and the issues at stake, as well as achieving a clearer understanding of the positions of those who, despite their status as the vanquished in history, have refused to vanish. The responses received to our Call for papers are indicative of both the interest in the type of approach *Justice spatiale/Spatial Justice* offers and its novelty in the field of Indigenous Peoples Studies. We hope we have opened up a fruitful area of research, reflection and action.

This issue includes six papers in the *Focus* section, four written by geographers, one by urban and rural developers, and one by an Indigenous lawyer. It also includes three testimonials in the *Public Space* section, one from a Swiss geographer who has been working for the recognition of Indigenous peoples' rights for several decades, and two from Indigenous women engaged in Indigenous struggles, one as cartographer and geographer operating from Hawai'i, and one from an Ilnu leader, coordinator for Governmental and strategic affairs in her community. We had hoped for a greater contribution from lawyers, but their framework is probably too distant from our own for our encounter to be a real possibility, for the moment at least. We need, however, to work closely with them to take the analyses sketched out in this collection to a deeper level.

It is also regrettable that little space is devoted here to the situations of Indigenous peoples in Africa and Asia. This reflects the very sparse research output on these peoples. The absence of Australia, however, seems to be more the result of the mysterious ways through which Calls for papers circulate, or not. The dearth of Latin-American authors is certainly due to the fact that they operate in a different linguistic universe. Our Call for papers definitely circulated in South America, but only one proposal was received, and eventually not selected.

Readers may also be surprised not to find any paper on Indigenous cartographies, despite the fact that maps, the quintessential tools of colonisation, have been appropriated for several decades by Indigenous peoples to claim their rights to the land and challenge the dominant geographical imagination, as well as influence public policies on land use. This absence of contributions discussing counter-mapping is probably due to the fact that the key points on this matter have already been covered, as shown by the large body of existing literature on the subject, particularly in English (see for

example Louis *et al.* eds., 2012). But further work is required to explore the parallels between counter-mapping and the mobilisation by Indigenous peoples of the legal tools of the majority society to oblige its courts to give justice to its victims. This suggests the existence of two complementary forms of spatial reconquest.

Finally, our Call for papers also encouraged contributions examining the conditions for establishing fair relations between the academic world and Indigenous peoples. Indeed, Indigenous peoples no longer accept the position of simple research "objects"; they demand to be recognised as subjects and play an active part in designing and running projects (see, for example: Collignon, 2010). These questions are implied in this issue, but they would certainly deserve to be the main topic of a future journal issue. As emphasised by Renee Pualani Louis in the *Public Space* section when she reflects on the *Indigenous Peoples Specialty Group* of the American Association of Geographers; academic space is one of the spaces left for Indigenous peoples to conquer.

To quote this paper

Irène Hirt, Béatrice Collignon, « Quand les peuples autochtones mobilisent l'espace pour réclamer justice » ["Claiming Space to Claim for Justice: the Indigenous Peoples' Geographical Agenda", translation : Christine Rychlewski], **justice spatiale | spatial justice**, n° 11 mars 2017 | march 2017, <http://www.jssj.org>.

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As editors of this issue, we would particularly like to thank Janine Debanné, Professor of Architecture at Carleton University (Ottawa, Canada), for her valuable help in translating the Call for papers.

Furthermore, the death of Erica-Irene Daes, Doctor of Laws at the University of Athens, on 22 February 2017, reminds us of the significant commitment of academics to the international recognition of Indigenous peoples. As chair and special rapporteur of the United Nations Working Group on Indigenous Populations from 1984 to 2001, she played a key role in drafting the *Declaration on the Rights of Indigenous Peoples* and its adoption by the UN General Assembly exactly ten years ago.

References

- AGUILAR CAVALLO, Gonzalo**, 2005, "El Título Indígena Y Su Aplicabilidad En El Derecho Chileno", *Ius et Praxis*, vol. 11, n° 1, 269-295.
- ALBERT, Bruce**, 1997, "Territorialité, ethnopolitique et développement : à propos du mouvement indien en Amazonie brésilienne", *Cahiers des Amériques Latines*, n° 23, 177-210.
- BARRERA, Anna**, 2011, "Turning Legal Pluralism into State-Sanctioned Law: Assessing the Implications of the New Constitutions and Laws in Bolivia and Ecuador", *Giga working papers*. Hamburg: GIGA (German Institute of Global and Area Studies).
- BELLIER, Irène**, 2006, "Identité globalisée et droits collectifs: les enjeux des peuples autochtones dans la constellation onusienne", *Autrepart*, vol. 38, n° 2, 99-118.

- BROWN, Nicholas, GRIFFIS, Ryan, HAMILTON, Kevin, IRISH, Sharon, et KANOUSE, Sarah**, 2007, "What makes justice spatial? What makes spaces just? Three interviews on the concept of spatial justice", *Critical planning*, n° 14, 7-28 [entretien avec Waziyatawin Angela Wilson, p. 15-22].
- COLLIGNON, Béatrice**, 2010, "L'éthique et le terrain", *L'information géographique*, dossier "Le terrain", vol. 74, n° 1, 63-83.
- Commission de vérité et réconciliation du Canada**, 2015, *Honorer la vérité, réconcilier pour l'avenir - rapport final de la Commission de vérité et réconciliation*. Winnipeg : University of Manitoba Press. Consultable en ligne : www.trc.ca/websites/trcinstitution/index.php?p=891 / **Truth and Reconciliation Commission of Canada**, 2015, *Honoring the truth, reconciling for the future, summary of the final report of the Truth and Reconciliation Commission of Canada*. Winnipeg: University of Manitoba Press. Available at: <http://www.trc.ca/websites/trcinstitution/index.php?p=890>
- Commission Nationale Consultative des Droits de l'Homme (CNCDH)**, 2017, *Vers une égalité réelle pour les deux peuples autochtones français, les Amérindiens de Guyane et les Kanak de Nouvelle-Calédonie*. Communiqué de presse. Consultable en ligne : http://www.cncdh.fr/sites/default/files/170223_cp_avis_peuples_autochtones_en_outre-mer.pdf
- DAES, Erica-Irène**, 2001, *Les peuples autochtones et leur relation à la terre. Document de travail final établi par le Rapporteur spécial, Mme Erica-Irène A. Daes*, E/CN.4/Sub.2/2001/21. New York : Nations-Unies.
- del TORO HUERTA, Mauricio Iván**, 2010, "El derecho de propiedad colectiva de los miembros de comunidades y pueblos indígenas en la jurisprudencia de la Corte Interamericana de Derechos Humanos", *Anuario mexicano de derecho internacional*, vol. 10, 49-95.
- DESBIEANS, Caroline, HIRT, Irène, PEKUAKAMIULNUATSH TAKUHIKAN**, 2015, "Développement industriel et négociations territoriales au Canada : défis et enjeux d'une nouvelle forme de traité", in Bellier, I. (ed.), *Terres, territoires, ressources politiques, pratiques et droits des peuples autochtones*, 191-208. Paris : l'Harmattan.
- DESBIEANS, Caroline**, 2013, *Power from the North: territory, identity and the culture of hydroelectricity in Quebec*. Vancouver : UBC Press / 2015, *Puissance Nord : territoire, identité et paysages de l'hydroélectricité au Québec*. Québec : Presses de l'Université Laval [traduction en français par Geneviève Deschamps].
- GERVAIS-LAMBONY, Philippe, DUFAUX, Frédéric**, 2009, "Justice... spatiale !", *Annales de géographie*, vol. 665-666, n° 1, 3-15.
- GILBERT, Jérémie**, 2007, "Historical Indigenous Peoples' Land Claims: A Comparative and International Approach to the Common Law Doctrine on Indigenous Title", *The International and Comparative Law Quarterly*, vol. 56, n° 3, 583-611.
- GROS, Christian, DUMOULIN KERVRAN, David** (eds), 2011, *Le multiculturalisme "au concret": un modèle latino-américain*. Paris : Presses Sorbonne Nouvelle.
- HALE, Charles R**, 2005, "Neoliberal Multiculturalism. The Remaking of Cultural Rights and Racial Dominance in Central America", *PoLAR: Political and Legal Anthropology Review*, vol. 28, n° 1, 10-27.
- HARRIS, Cole**, 2002, *Making Native Space: Colonialism, Resistance, and Reserves in British Columbia*. Vancouver: UBC Press.
- HIRT, Irène**, 2017, "Enjeux de territoires, enjeux de savoirs. Jalons théoriques pour une interprétation transversale des reterritorisations autochtones dans les Amériques", *Tsantsa. Revue de la Société Suisse d'Ethnologie*, n° 22, 26-36.
- LADUKE, Winona**, 1999, *All Our Relations: Native Struggles for Land and Life*. Cambridge (MA): South End Press.
- LANDY, Frédéric, MOREAU, Sophie**, 2015, "Le droit au village/The Right to the Village", *Justice spatiale | Spatial Justice*, n° 7 : <http://www.jssj.org/article/le-droit-au-village>
- LOUIS, Renee Pualani, JOHNSON, Jay J., HADI PRAMONO, Alberto** (eds), 2012, *Cartographica: The International Journal for Geographic Information and Geovisualization*, vol. 47, n° 2. Special issue: *Indigenous Cartographies and Counter-Mapping*.
- MARIMÁN, Pablo**, 2002, *Parlamento y Territorio Mapuche*. Temuco, Concepción: Instituto de Estudios Indígenas, UFRO/Escaparates.
- MATUNGA, Hirini**, 2013, "Theorizing Indigenous Planning", in Walker, R., Jojola, T., Natcher, D. (eds), *Reclaiming Indigenous Planning*. Montreal, Kingston: McGill-Queen's University Press, 3-32.
- MORIN, Françoise**, 1994, "De l'Ethnie à l'Autochtonie. Stratégies Politiques Amérindiennes", *Caravelle*, n° 63, 161-73.

- Organisation des Nations Unies**, 2007, *Déclaration des Nations Unies sur les droits des peuples autochtones*. Consultable en ligne : http://www.un.org/esa/socdev/unpfii/documents/DRIPS_fr.pdf / **United Nations**, 2007, *United Nations Declaration on the Rights of Indigenous Peoples*. Available at: http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf
- Organisation Internationale du Travail**, 1989, *Convention (n° 169) relative aux peuples indigènes et tribaux*. Consultable en ligne : http://www.ilo.org/dyn/normlex/fr/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312314/ / **International Labour Organisation**, 1989, *Indigenous and Tribal Peoples Convention (n° 169)*. Available at: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312314
- Organisation Internationale du Travail**, 1957, *Convention (n° 107) relative aux populations autochtones et tribales*. Consultable en ligne : http://www.ilo.org/dyn/normlex/fr/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C107/ / **International Labour Organisation**, 1957, *Indigenous and Tribal Populations Convention, 1957 (No. 107)*. Available at: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C107
- PORTER, Libby**, 2010, *Unlearning the colonial cultures of planning*. Farnham (UK): Ashgate.
- SANDERCOCK, Leonie**, 2004, "Commentary: Indigenous Planning and the Burden of Colonialism", *Planning Theory & Practice*, vol. 5, n° 1, 118-124.
- SAVARD, Rémi**, 1980, "Le sol américain : propriété privée ou Terre-Mère. En deçà et au-delà des conflits territoriaux entre autochtones et blancs au Canada", *Anthropologie et Sociétés*, vol. 4, n° 3, 29-44.
- SCHULTE-TENCKHOFF, Isabelle**, 1994, "Traités, parlements et le statut des nations amérindiennes", *Caravelle*, n° 63, 175-91.
- SCHULTE-TENCKHOFF, Isabelle**, 1998, "Reassessing the Paradigm of Domestication: The Problematic of Indigenous Treaties", *Review of Constitutional Studies*, vol. 4, n° 2, 239-289.
- TREUER, David**, 2012, *Rez Life: An Indian's Journey Through Reservation Life*. New York: Grove/Atlantic, Inc. / 2014, *Indian roads. Un voyage dans l'Amérique indienne*. Paris : Albin Michel [traduction en français par trad. par D. Laruelle].
- TREMBLAY, Jean-François**, 2000, "L'autonomie gouvernementale autochtone, le droit et le politique, ou la difficulté d'établir des normes en la matière", *Politique et Sociétés*, vol. 19, n° 2-3, 133-151.
- VAN COTT, Donna Lee**, 2000, "A Political Analysis of Legal Pluralism in Bolivia and Colombia", *Journal of Latin American Studies*, vol. 32, n° 1, 207-234.
- WACHTEL, Nathan**, 1992 [1971], *La vision des vaincus: les Indiens du Pérou devant la Conquête espagnole 1530 – 1570*. Paris: Gallimard.
- WHITEMAN, Gail**, 2009, "All My Relations: Understanding Perceptions of Justice and Conflict between Companies and Indigenous Peoples", *Organization Studies*, vol. 30, n° 1, 101-120.
- YOUNG, Iris Marion**, 1990, *Justice and the politics of difference*. Princeton: Princeton University Press.
- YOUNG, Iris Marion**, 2011, *Responsibility for Justice*. Oxford/New York: Oxford University Press - Oxford political philosophy.