

Indigenous constitutionalism(s) in Québec: the current situation and possible lines of approach



PRESENTED BY

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The *Tan tshe eishi nashekanitsh ka ui pukuhutishuanuatsh Pekuakamiulnuatsh* research project – working towards a constitution for the *Pekuakamiulnuatsh*

Professor Doris Farget here presents work she has completed in partnership with Nicolas Houde, Professor of political science at UQAM; Gabrielle Paul, a political science student at Université de Montréal and a member of the Pekuakamiulnuatsh First Nation of Mashteuiatsh; and their research partner, the Direction Soutien à la gouvernance de Pekuakamiulnuatsh Takuhikan. In the spring of 2019, the Pekuakamiulnuatsh (Mashteuiatsh) began a new process to set up their own constitutional order, based on their right to self-determination. A constitutional commission, the Commission Tipelimitishun, was created and charged with consulting the Pekuakamiulnuatsh, drawing up a draft constitution, and supervising a referendum. The process was part of a broader drive to give concrete effect to the political autonomy of the Pekuakamiulnuatsh by developing instruments for governance and for the indigenization of internal legal and political institutions. The mandate of the research team was to document and analyze stories from the oral and written archives of the First Nation to support the constitutional project, and to train members to conduct research.

The work of John Borrows and the Victoria School as an “inspiration”

Doris Farget emphasizes the influence that the work of John Borrows, but also of other authors such as Val Napoleon, Aaron Mills and Hadley Friedland, has had on the research focus of the team she represents. All these authors describe the fracture caused by colonialism and call for the resurgence of Indigenous legal traditions by highlighting the legal culture present in First Nations stories, knowledge and practices. The idea is echoed in the work of anthropologists Sylvie Vincent and Rémi Savard in the Innu community. Like the Victoria School, the team to which Doris Farget belongs promotes participatory and partnership-based research with the community and its members to co-design the project and coanalyze the results obtained. The work of the authors mentioned above provides a methodological framework that “guides the mapping of oral and written stories, provides tools to identify legal standards and categories, guides the analysis of the normative context and identifies contemporary meaning.”

Elements of the local research context

Next, Doris Farget summarizes the historical, political, socio-demographic and linguistic context for the project. The Pekuakamiulnuatsh occupied a vast ancestral territory, the Nitassinan, but in a region where colonization intensified as early as the first half of the 19th century, leading to fractures. At the political level, Québec, itself engaged in an affirmative process, denies its imperialist stance towards the Indigenous peoples. The community of Mashteuiatsh historically constituted a meeting-place for several nations, including the Atikamekw, Eeyou, Wabanaki and Wolastoqiyik. As a result, the community today is polyphonic. French is the most common language, but several Indigenous languages are also spoken, including Nehlueun, Cree, Atikamekw and Inuktitut.

Possible lines of approach to the revitalization of Indigenous legal traditions in Québec

Last, Doris Farget introduces a number of questions about access to language and stories, the role of research in revitalizing legal traditions, and the legitimacy of the stories selected. The “polyphonic” context specific to this First Nation poses the challenge of identifying stories that unite, and actors that can state the oral tradition. There are some sources of tension and internal power relationships that can influence partnership-based research. Doris Farget and her team question the role played by researchers in this context, and on the possibility of adopting a critical stance with respect to Indigenous legal traditions “while taking the standpoint of the researcher into account”. Given that the project is in its infancy, the challenges identified by the team remain open.