

FIRST NATIONS STRATEGIC BULLETIN

BULLETIN OF THE FIRST NATIONS STRATEGIC POLICY COUNSEL

Human Rights: *Recognition and Coexistence of Aboriginal Land Rights in Canada*



Secwepemc men defending Skwelkwek'welt (Sun Peaks) from Ski Resort expansion on Secwepemc territory. (Photo courtesy of INET)

By Arthur Manuel, INET

In order to better understand the federal **Comprehensive Claims Policy**, the **British Columbia Treaty Process**, **Negotiation Loan Funding**, the **Agreements-in-Principles** and the **3 initialed Final Agreements** of the **Lheidli T'enneh**, **Tsawwassen** and **Maa-nulth**, it is important to know that regardless of wherever you go there will always be collaborators who will let Human Rights violations happen.

The Federal Comprehensive Claims Policy should not only be rejected based on the "**common law**" recognition of Aboriginal Title, but also from the Human Rights perspective, where a number of **UN Human Rights Bodies** have clearly spelled out their **objections in their Concluding Observations and Recommendations regarding Canada**.

Indigenous Land Rights or Aboriginal Title, are part of our inherent rights, and our right to self-determination, that cannot be denied by Canada, because it is also recognized at the international

level. In fact the right to self-determination and Aboriginal Title are at the core of the international relationship that exists between Indigenous Peoples and Canada. These rights have been recognized and clearly considered in the opinions of United Nations Human Rights Bodies responsible for the "**Convention on the Elimination of All Forms of Racial Discrimination**" (CERD), the "**International Covenant on Civil and Political Rights**" (ICCPR) and the "**International Covenant of Economic, Social and Cultural Rights**" (ICESCR).

The "**Committee on the Elimination of Racial Discrimination**" in August 2002 said:

*"330. The Committee expresses concern about the difficulties which may be encountered by Aboriginal peoples before the courts in establishing Aboriginal title over land. The Committee notes in this connection that to date no Aboriginal group has proven Aboriginal title, and recommends that the State party examine ways and means to facilitate the establishment of proof of Aboriginal title over land in procedures before the courts."*¹

The Canadian government or State Party has not followed up on the Concerns and Recommendations that Canada "**examine ways and means to facilitate the establishment of proof of Aboriginal title over land in procedures before the courts**". In addition the Committee clearly drew the link between economic marginalization and ongoing dispossession of our lands as being the main source of impoverishment we suffer. The non-recognition or extinguishment of Aboriginal title violates our Human Rights and attacks our

Special points of interest:

- **Canada Ignores UN Bodies & Violates Human Rights of Indigenous Peoples**
- **Six Nations Still Holding Their Ground**
- **Struggle for Indigenous Decolonization a Personal Choice**

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RCMP arrest Secwepemc person at Skwekwek'welt (Sun Peaks) to remove them from Secwepemc land.

“The international community has told Canada that extinguishment of Indigenous land rights is a violation of the Human Rights of Indigenous Peoples”



Secwepemec men at Skwelkwek'welt encampment.

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Human Dignity as Indigenous Peoples.

“331. The Committee views with concern the direct connection between Aboriginal economic marginalization and the ongoing dispossession of Aboriginal people from their land, as recognized by the Royal Commission. The Committee notes with appreciation the assurance given by the delegation that Canada would no longer require a reference to extinguishment of surrendered land and resource rights in any land claim agreements. The Committee requests that in the next periodic report, information be provided on the significance and consequences of limitations imposed on the use by Aboriginal people of their land.”²

In addition, CERD expressed appreciation that Canada will no longer “**require a reference to extinguishment of surrendered land and resource rights in any land claims agreements**”. Yet this and other committees shared the concern that the end effect of current policies would still de facto be extinguishment. Extinguishment is the only legal technique that Canada has to finally confirm that Canada and the provinces have 100% power or jurisdiction over our land and our resources. The only peoples who can give this 100% power or jurisdiction to Canada is us, the Indigenous Peoples ourselves, by signing on to the so-called modern treaty arrangements. In international terms this would be called giving our free prior informed consent to a land agreement with Canada. The international community has told Canada that extinguishment of Indigenous land rights is a violation of the Human Rights of Indigenous Peoples and are concerned this continues to be the ultimate outcome of existing land claims policies and all agreements resulting from them in Canada.

The next UN Committee hearing a report on Canada was the **United Nations International Human Rights Committee** in April 2006 and again they expressed concern with regard to Canada’s Periodic Report on International Covenant on Civil and Political Rights on the “**establishment of alternative policies to extinguishment of inherent aboriginal rights in modern treaties**”.

“8. The Committee, while noting with interest Canada’s undertakings towards the establishment of alternative policies to extinguishment of Inherent Aboriginal Rights in modern Treaties, remains concerned that these alternatives may in practice amount to extinguishment of Aboriginal Rights (arts. 1 and 27).

The State party should re-examine its policy and practices to ensure they do not result in extinguishment of inherent aboriginal rights. The Committee would also like to receive more detailed information on the comprehensive land claims agreement that Canada is currently negotiating with the Innu people of Quebec and Labrador, in particular regarding its compliance with the Covenant.”³

The **Human Rights Committee** actually asked Canada to “**re-examine its policy and practices to ensure they do not result in extinguishment of inherent aboriginal rights**”. The **International Committee on Economic, Social and Cultural Rights** also picked up on this concern in their Concluding Observations in May 2006, new approaches do not differ much from extinguishment.

“16. The Committee, while noting that the State party has withdrawn, since 1998, the requirement for an express reference to extinguishment of Aboriginal rights and titles either in a comprehensive claim agreement or in the settlement legislation ratifying the agreement, remains concerned that the new approaches, namely the “modified rights model” and the “non-assertion model”, do not differ much from the extinguishment and surrender approach. It further regrets not having received detailed information on other approaches based on recognition and coexistence of rights, which are currently

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under study."⁴

In fact the Committee clearly identified the "**modified rights model**" and the "**non-assertion model**" as being the same as the extinguishment, or so-called cede and surrender approach. Furthermore the Committee commented that it regretted the fact that Canada did not provide any detailed information on "**other approaches based on recognition and coexistence of rights**". Of course Canada skirted the issue and did not provide any substantive response because as a matter of fact Canada has no policies or other approaches based on the recognition of Aboriginal Title and Rights.

The most recent UN Committee to hear a report on Canada, the **Committee on Economic, Social and Cultural Rights**, reasserted the recommendation of the United Nations International Human Rights Committee that Canada re-examine their existing federal Comprehensive Land Claims Policy to "**ensure that policies and practices do not result in extinguishment of those rights and titles**".

"37. The Committee urges the State party to re-examine its policies and practices towards the inherent rights and titles of Aboriginal peoples, to ensure that policies and practices do not result in extinguishment of those rights and titles."⁵

The extinguishment policy, the federal Comprehensive Land Claims Policy, has always been the reason why some Indigenous Peoples have decided not to negotiate under the British Columbia Treaty Process. In fact the **Assembly of First Nations (AFN), Delgamuukw Implementation Strategic Committee (DISC)** worked very hard to get the Canadian government to review this policy but **Robert Nault, Minister of Indian Affairs** stated in a letter to the **Interior Alliance** in December 2000 that "**the Comprehensive Claims Policy is sufficiently flexible to accommodate the concerns of First Nations. Accordingly, a major review of the policy at the national level is not contemplated at this time.**"

More recently, the federal government has indicated they would reconsider this position but they are contemplating only including groups that are negotiating to participate in this review. This would be very prejudicial to those Indigenous Peoples who have decided out of principle not to negotiate with the federal government because of the extinguishment policy. Any review if it is to be legitimate and genuine re-examination of the Comprehensive Land Claims Policy must include the Indigenous Peoples who have decided - out of principle - not to negotiate with Canada because the existing extinguishment policy violates our Human Rights as Indigenous Peoples.

Canada spends a lot of time educating Canadians and the world about Human Rights but is very abrasively silent when it comes to the Human Rights of Indigenous Peoples in Canada. Canada tries to ignore the Human Rights of Indigenous Peoples. Canada tries to unilaterally assimilate Indigenous Peoples Human Rights inside the Human Rights of the Canadian settler population. But the international Treaties, such as the UN Covenants and Conventions, the judicial recognition of Aboriginal title and the intervention of international Human Rights Bodies have stopped Canada from forcefully making Indigenous Peoples virtual settlers.

Canada spends a lot of time and money to make sure that Canadians and the World do not realize how their policies violate the Human Rights of Indigenous Peoples. The formal education system lacks any credibility in telling Canadians about the legitimate history of the very indigenous peoples that Canada is trying to assimilate. This means that our peoples' Human Rights are being deliberately left out of the Human Rights landscape of Canada. This makes it easier for Canada to extinguish our land rights and makes our peoples landless.

Canada continues to ignore the recommendations by the International Human Rights Bod-



Art Manuel and Elder Irene Billy with Secwepemc youth at Skwelkwek'welt (Sun Peaks)

"Canada tries to unilaterally assimilate Indigenous Peoples Human Rights inside the Human Rights of the Canadian settler population"



Secwepemc Elder, Irene Billy, being arrested by RCMP for defending her land rights at Swelkwek'welt (Sun Peaks).

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RCMP confront Secwepemc man at Skwekwek'welt (Sun Peaks).

“Canada and British Columbia governments have lent millions of dollars for negotiations to Indigenous groups, with the condition that the final outcome be the extinguishment of Aboriginal Title under the Modified Rights Model”



RCMP prepare to remove Secwepemc from Skwekwek'welt (Sun Peaks).

ies when they deliberately and systemically violate the Human Rights of Indigenous Peoples by pursuing the “**Modified Rights Model**” of extinguishing Indigenous land rights. The **Leheidli T’enneh**, **Tsawwassen** and the **Maa-nulth Final Agreements** clearly in their own wording describe the extinguishment of Indigenous land rights by modifying them to be “**estates in fee simple**”.

Fee Simple Conversion Model

Lheidli T’enneh

For greater certainty, the aboriginal title of Lheidli T’enneh anywhere that it existed in Canada before the Effective Date, including its attributes and geographic extent, is **modified** and continues as the estates in **fee simple** to those areas identified in this Agreement as Lheidli T’enneh Lands and Lheidli T’enneh-owned private fee simple lands described in Appendix H.6

Tsawwassen

For greater certainty, the aboriginal title of Tsawwassen First Nation anywhere that it existed in Canada before the Effective Date, including its attributes and geographic extent, is **modified** and continues as modified as the estates in **fee simple** to those areas identified in this Agreement as Tsawwassen Lands and Other Tsawwassen Lands.7

Maa-nulth

1.11.4 For greater certainty, the aboriginal title of each Maa-nulth First Nation anywhere that it existed before the Effective Date, including its attributes and geographic extent, is **modified** and continues as modified as the estates in **fee simple** to those areas identified in this Agreement as the Maa-nulth First Nation Lands and Other Maa-nulth First Nation Lands of that Maa-nulth First Nation.8

This means that Canada is deliberately violating the Human Rights of Indigenous Peoples by not following the Recommendations of the Human Rights Bodies by continuing to try to extinguish Aboriginal Title and by not reviewing their existing policy to make sure that the **federal Comprehensive Land Claims Policy** does not extinguish Aboriginal Title.

In fact, Indigenous groups that participate in negotiating under the **British Columbia Treaty Process**, under the existing federal Comprehensive Land Claims Policy are complicit in the violation of the Human Rights of Indigenous Peoples. They are caught in a conflict of interest, because they have been borrowing money under the **Negotiation Loan Funding**, which has paid for their lawyers and own salaries, while Indigenous Peoples will have to pay the price through the extinguishment of their Aboriginal Title. When viewing the above Human Rights Recommendations from a global perspective and looking at the lack of their implementation, it becomes evident that there is “**high level of corruption**” in the current processes. Canada’s current policies violate our human rights as Indigenous Peoples and the international recommendations and court decisions that call for recognition of our land rights and coexistence between Indigenous Peoples and settlers.

In fact, Canada and British Columbia governments have lent millions of dollars for negotiations to Indigenous groups, with the condition that the final outcome be the extinguishment of Aboriginal Title under the Modified Rights Model. The Negotiation Loans are to be repaid from the top of the settlement. This means that the average Indigenous person does not even know that this is happening and the existing federal Comprehensive Land Claims Policy and the British Columbia Treaty Process is a rigged deck and Canada will win 100% control over Indigenous land and resources. It is corrupt because our Human Rights and Human Dignity will be violated under this process and International Human Rights Recommendations have clearly instructed Canada to not extinguish Aboriginal land rights.

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The underlying corruption, enshrined in the federal Comprehensive Land Claims Policy, leads to our continued impoverishment caused by the non-recognition of Aboriginal Title. The impoverishment experienced by indigenous peoples because of the non-recognition of Aboriginal Title is a Human Rights violation. We are poor not because our land is poor but because the federal government does not implement our judicially recognized collective proprietary rights as Indigenous Peoples. The poverty created by this non-recognition, and human rights violation is now being used to force our elected leadership to negotiate on land rights under the condition that our land rights will be terminated at the end of the negotiation process.

The corruption of our Human Rights must be fought all the way from the ground to the highest level of government. If we do not fight this corruption then the Human Dignity of our future generations will always be lost in the kind poverty we have experienced. Indigenous peoples, the poverty stricken, the unemployed, the traditional land users and the Human Rights Activists are the only ones who can take on this fight. The federal government will try and buy off and co-opt our leadership to justify extinguishment of our land rights under the modified rights model. They will continue to hand out money and they will invoke the liabilities under the existing loans to put pressure on the leadership that has been benefiting from these monies for over a decade. Human Rights of the Indigenous Peoples are the responsibility of all the people, especially the grassroots people. We are the only force that is responsible for our well being. The nature of Human Rights is that they belong to the people and in the case of our land rights, they are collectively held by our people. That is the essence of self-determination. No consultant, no lawyer, no leader can feel the pain you suffer when you feel your Human Dignity being violated as you watch your children go in need as Canadians and British Columbians take the wealth and profit from your territory and you only get a welfare cheque.

This kind of corruption of our Human Rights must be fought to the land is at stake. We have forced the Canadian and British Columbia to the international level and it is up to us to keep pushing these governments to address our right to coexist as peoples based on the recognition of our Human Rights and Human Dignity. We need to stand up to the Canadian and British Columbia government and tell them just because they do not recognize our Aboriginal Title; they have no right to extinguish our Aboriginal Title. This means that our Aboriginal Title is like Crown Title in that Aboriginal Title continues to exist despite the fact it is being ignored and even violated because it is a fundamental Human Right of us, the Indigenous Peoples. Aboriginal title is a fundamental form of "**radical title**" which exists despite the assertion of sovereignty by past colonial governments, it exists under every piece of land, even land held by individual settlers and we should be getting part of the monies governments collect from these lands.

It is critical for Indigenous Peoples to see the connection between our Land Rights and our Human Rights and Human Dignity as Indigenous Peoples. It is this connection that the existing federal Comprehensive Claims Policy wants to extinguish. They want to see our fundamental rights limited to the paper of the final agreements so they can continue to enjoy the abundant economies they enjoyed up to now asserting exclusive jurisdiction over our lands. Fee simple is just a private white settler approach of economically controlling our land, but fee simple is also subject to Canada and British Columbia governments' exclusive control if taxes are not paid. It is this kind of property right that the federal Comprehensive Land Claims Policy wants to modify Aboriginal Title too and is the kind of property the **Nisga'a Final Agreement** accepted. This means that even reserve lands will no longer be inalienable, they will be privatized and can be put on the market like settler land and if you fail to pay your property taxes the government will take your plot of land.

Canadians need to realize that there are some very serious Human Rights issues centered on the failure of Canada to follow the above international recommendations. We as Indige-



L to R: Chief Mike Retasket, Chief Robert Shintah, Chief Stewart Phillip, UBCIC Executive at Kelowna FMM. (Photo by R. Diabo)

"The poverty created by this non-recognition, and human rights violation is now being used to force our elected leadership to negotiate on land rights under the condition that our land rights will be terminated at the end of the negotiation process"



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Protester at Caledonia.

“**Oka, Ipperwash, Gustafson Lake, Sutikalh, Sun Peaks, Cheam and Caledonia** are all examples of how the Canadian government’s existing Indigenous land policies have failed”



Canadian Army on Kahnawake, Mohawk territory, 1990. (Photo by Linda Dawn Hammond)

nous Peoples know that if we do not stand up for our land rights, Canada and the provinces will use the argument that we have slept on our rights. Therefore, Indigenous Human Rights Activists have challenged the federal and provincial policies to not recognize our Aboriginal Title and develop our lands and resources without our consent. Injunctive relief based on the balance of Convenience, police and military forces, politicization and criminalization have and continue to be used to legitimize the violation of our Human Rights to Our Land.

Oka, Ipperwash, Gustafson Lake, Sutikalh, Sun Peaks, Cheam and Caledonia are all examples of how the Canadian government’s existing Indigenous land policies have failed and how Canada offers no Human Rights Security to Indigenous Peoples. In fact, Canada has criminalized thousands of Indigenous Human Rights Activists. The lack of Human Rights Security in Canada causes the majority of Indigenous Peoples to be impoverished on existing Indian Reserves while Canada and the provinces enjoy 100% control over our land and our resources for their exclusive economic benefit. This is the essence of the Human Rights violation that the international community is telling Canada to rectify by no longer extinguishing Aboriginal Title. Extinguishment of Aboriginal Title will forever impoverish us as peoples. Like our Elders say, everything comes from the land and the land is ours. This we cannot deny or walk away from it, we are only indigenous peoples in our own land.

Canada must be held accountable for not following the Recommendations made by the above Human Rights Bodies especially since Canada is a member of the **United Nations Human Rights Council**. Canada needs to clean up its own backyard before they can legitimately be a member of the UN Human Rights Council in good standing. International observation is needed in order to help level the playing field between Indigenous Peoples and Canada. This does not really balance the forces but it does put in context that we are fighting for the recognition of the Human Rights of Indigenous Peoples and that Canada is violating our Human Rights as Indigenous Peoples.

It is the exclusive use of Our Land and Our Resources that is the foundation for the high level of Human Rights that Canadians and British Columbians enjoy. It is not recognizing the freedom of Indigenous Peoples to freely dispose and enjoy their Aboriginal Title that benefits Canadians and British Columbians and impoverishes us. This must stop. We must develop a mutual respect for each others Human Rights and find a way to recognize and develop mutually acceptable ways that our Human Rights can coexist.

Indigenous Peoples, especially the poor and dispossessed, the landless, especially our youth need to look deeply into our deprivation not in terms cashing-in from the system but in terms of fighting for our Human Rights. We must not just think about quick fixes but we need to think of our future generations. We have gone through a lot. The last 500 years in the Americas, and only over one hundred years in British Columbia, have seen the depletion of our resources and destruction of the ecological biodiversity of our territories; we have an obligation to help address these problems. Recognition of our proprietary rights as Indigenous Peoples goes well beyond addressing our Human Rights and addressing our economic relationship to our land, but also the conservation of our environment. The existing domestic policy precludes this kind of harmony between Indigenous Peoples and settlers and undermines any kind of maturity that can be grown from the coexistence of Indigenous Peoples and settlers.

Indigenous Peoples need to stand up for their Human Rights and Canada must follow the Recommendations given them by the International Human Rights Bodies, if we are to fully lay to rest the existing problems the federal Comprehensive Land Claims Policy and the British Columbia Treaty Process create for our people on the ground and for our future generations.

‘Human Rights’ conclusion from page 6

ENDNOTES:

1. United Nations, Office of the High Commissioner for Human Rights, Concluding Observations of the Committee on the Elimination of Racial Discrimination: Canada.01/11/2002. A/57/18, paras.315-343 (Concluding Observations/Comments) CERD, Committee on the Elimination of Racial Discrimination, Sixty-first Session (5-23 August 200) Canada
2. Supra
3. United Nations, International Covenant on Civil and Political Rights, CCPR/C/CAN/CO/5, 20 April 2006, Human Rights Committee, Eighty-fifth Session, Consideration of Reports Submitted by States Parties Under Article 40 of the Covenant, Concluding Observations of the Human Rights Committee, Canada.
4. United Nations, Economic and Social Council, General, E/C.12/CAN/CO/4, E/C.12/CAN/CO/5 22 May 2006, Committee on Economic, Social and Cultural Rights, Thirty-sixth Session, Geneva, 1-19 May 2006, Consideration of Reports Submitted by States Parties Under Articles 16 and 17 of the Covenant, Concluding Observations of the Committee on Economic, Social and Cultural Rights, Canada
5. Supra
6. Lheidli T'enneh Final Agreement, October 29, 2006, Chapter 2 – General Provisions , Certainty, Exhaustively Sets Out Rights
7. Tsawwassen First Nation Final Agreement, December 8, 2006, Chapter 2 – General Provisions, Section 35 Rights of Tsawwassen First Nations,
8. Maa-nulth First Nations Final Agreement, December 9, 2006, Chapter 1, General Provisions, Certainty, Modification.

[NOTE: To contact Arthur Manuel, Spokesperson, Indigenous Network on Economies and Trade (INET), you can e-mail him at: amanuel@telus.net]



“Indigenous Peoples need to stand up for their Human Rights”



Arthur Manuel (2nd from Left), INET spokesperson, participating in the World Social Forum in Nairobi, Kenya, Africa, January 23, 2007. (Photo courtesy of INET)

Gaining Ground: Six Nations Reclamation



Janie Jamison, spokesperson, Kanenhsatón (Caledonia)



A Mohawk warrior flag flies from a lone tree on the site that was slotted for subdivisions before the Six Nations blockade began last February. (Photo by Zainab Anadahy)

By Hillary Bain Lindsay

"A monumental year" for the people of Six Nations.

On January 1, 2007, the people of Six Nations arrived at their Council House, and walked inside.

The event did not make media headlines, but the significance of the day was not lost on those crowded into the long line of cars, bearing Iroquois Confederacy and Unity flags, that lead up to the Council House.

"Even before Canada declared itself a country, we had a meeting place down here for traditional governance," says **Janie Jamison**, one of the spokespeople for Six Nations. For generations, Chiefs representing the Confederacy Council gathered in the Council House to make decisions by consensus, a process often called the oldest participatory democracy on Earth.

In 1924, however, Canada instated the **Indian Act** and the **RCMP** raided the Council House, removing the traditional chiefs and clan mothers. In its place the band council system was set up, acting as an arm of the Canadian government.

For Jamison, who has never seen herself as Canadian, destroying the traditional government and imposing a new one was Canada's way of declaring that her culture, her nation, her people **"no longer existed."**

"What people don't understand is that we weren't defeated at that point," says Jamison. **"Our traditional government went underground."** For decades it continued to operate, unrecognized by the federal government. In 1959 an attempt was made to take back the Council House, remove the band council and reinstate the traditional governance system. The RCMP moved in again. **"Men, women and children were beaten,"** says Jamison. **"Our people weren't successful then."**

But on New Year's Day, **"Eighty years after being told we don't exist,"** says Jamison, **"here we are."**

The people of Six Nations made their existence difficult to ignore starting February 28, 2006, when a blockade set up near Caledonia, Ontario, halted the construction of a subdivision that many said was being built on unceded Six Nations' territory. Almost a year later, the people of Six Nations are holding their ground and, according to spokesperson **Hazel Hill**, making **"leaps and bounds"** towards the reinstatement of their traditional government.

The first leap came shortly after April 20, 2006, when the **Ontario Provincial Police (OPP)** performed a pre-dawn raid on the blockade site. The raid, meant to clear the site of protesters, backfired when hundreds of Six Nations' people and their supporters peacefully took back the site within a few hours. The resolve and determination of those holding the site was strengthened, and media coverage of the raid ensured that people across the country and around the world knew about the standoff.

Shortly after the police raid, the Six Nations' band council, which had previously refused to support the blockade (though it did support the land claim), endorsed the leadership of the Confederacy Chiefs.

The move was significant. **"Eighty to eighty-five per cent of [Six Nations] people support the traditional government,"** says Hill. For the first time, the leadership that had always been recognized by the people of Six Nations would be the leadership that government would be forced to negotiate with.

"the band council system was set up, acting as an arm of the Canadian government"



'Gaining Ground' conclusion from page 8

Another leap came when – after months of calling the standoff a provincial matter – the federal government came to the table. ***"It's the first time the federal government has sat down with the traditional government,"*** Barbara MacDougal, Canada's representative at negotiations, told the CBC in September 2006, adding that it was a ***"tremendous breakthrough."***

The breakthrough may have been spurred on by Six Nations representative **Doreen Silversmith** when she spoke to the **United Nations' Permanent Forum on Indigenous People** in Geneva, Switzerland, on May 1, 2006. Referring to the raid, Silversmith said, ***"Canada has clearly portrayed the message that 'might is right.' When a situation of ownership is challenged, their laws allow them to continue to reap the benefits of our Land, destroy our environment, and clearly ignore the truth of the Onkwehonweh [First People] ... who hold title to the Land."*** At the end of her speech, she called on the international community to intervene at Six Nations. ***"The Onkwehonweh require your assistance, with respect to our Law, our Treaties, including the Two Row Wampum, and in effect, the Authority with respect to our Land, Our Law and Our People."***

"To have the confederacy recognized at the international level for the traditional government that they are, that they always were, and always will be," was important says Jamison. She feels that recognition from the United Nations forced Canadians to appreciate the legitimacy of their struggle. ***"We aren't making these things up,"*** she says. ***"We are a government of people, a nation of sovereignty."*** This, she says, is something Canada is going to have to deal with.

Jamison has been living with the legacy of Canada's denial for too long, she says. ***"My family has had too many things stolen from them."*** And she's not just talking about land. ***"When I was three years old, I was home alone with my mom and she shot herself-. She was a victim of residential school system,"*** says Jamison. Her aunt was one of the thousands of native women in Canada who have gone missing; her raped and brutalized body found later. Jamison's sister was put in an orphanage at birth and remained there until she was two. ***"She could have ended up on a pig farm like so many others, but somehow she made it back to us,"*** she says. ***And finally, a year and a half ago, her 17-year-old son crashed his car while he was driving drunk. "We watched him die a slow death after his car rolled. He died last April."***

Her family isn't just the victim of bad luck, says Jamison, but of deliberate government policies that have driven so many of her people to despair and death. ***"That's why I made that decision to take that stand. No more. No more to make us become something that we never will be"*** she says. ***"We need to learn truth, acceptance and understanding to be able to coexist together."***

For Jamison, that starts with ***"Canada finally taking responsibility for what they've done and starting to pay back some of the money they owe our people."*** These are ***"not handouts"*** emphasizes Jamison, but payments that are owed to the Six Nations from lease agreements that were never honoured. In terms of the piece of land at the heart of the dispute today: it's not for sale.

"We've always said we're not selling that land," says Jamison.

This doesn't mean that those living on the land now will have to move says Hill – though she notes that her people have been forced to relocate many times in their history. ***"But we're not going to do it to them,"*** says Hill. ***"There's a lot of that land that's undeveloped, unceded. There's a mechanism for returning that."***

"To me, it's about continuing what we've started," she says. ***"This isn't just about Six Nations or that little piece of land. This is about sovereignty and the unity of the Original People of the land that have a right to live in harmony. To have clean air and green grass where you don't have to live with landfills and concrete everywhere you look."***

We need homes, says Hill, ***"but not concrete jungles. There's a difference."***

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"We are a government of people, a nation of sovereignty."

This, she says, is something Canada is going to have to deal with"



Caledonia after OPP raid April 20, 2006.

Pathways to an Ethic of Struggle



Taiaiake Alfred with arm raised as Billy Two Rivers look on during a meeting.

“you can’t understand the impact of these powerful forces of disconnection upon our people until you work within this system and try to make change”

By Taiaiake Alfred

My discovery of what colonization really is took a long time in coming. It took a long time because you can’t understand the impact of these powerful forces of disconnection upon our people until you work within this system and try to make change. That’s the reason why this understanding is the sum of my own political experience, my lived experience. But it took a really intense effort over the past ten or twelve years to come to an intellectual understanding of it, and really to find a way to articulate it.

Lack of Self-Government?

In my first book, I wrote that the problem was a lack of self-government. Back then, that’s the way the problem of colonization was defined. It’s still the dominant discourse in Native communities.

But from the personal perspective of a person from **Kahnawake** and a person who has travelled and talked to a lot of Native people who still have a commitment to our ancestors’ objectives and to the values and principles of living like an indigenous person in a modern era what I found was this: Self-government isn’t enough. In fact, it is a kind of Trojan horse for capitalism, consumerism, individualism.

So, in my own path, I shifted political affiliations. I had managed to work my way up from a measly researcher/coffee go-getter

for guys like **Billy Two Rivers** and **Joe Norton**, guys who I still really respect and learned a lot from. I worked my way up to senior advisor on land and governance, and I had started taking on a lot more responsibility. But when you come to the realization that it’s taking you in a direction not consistent with the direction that your ancestors would have you go you have a choice to make and it’s this: Do I embark on a different pathway? Or do I remain on this pathway, but compromise my idea of what it is to be a Mohawk?

Now, anybody who knows the language, the ceremonies, the teachings anybody who has heard traditional elders talk about what it is to be a Native person they are all very, very clear about your responsibilities, your roles, your relationship to the land, your relationship to one another. Those lessons are so, so profound and so clear when you hear them, and they are taught to us over and over and over again. So, when you are on this pathway, you find yourself coming to the point where you have to give up what you’ve accomplished your position, your salary, your consulting fees.

And you have to re-imagine what the elders would have wanted you to do.

Heeding the Voices of the Ancestors

So, I titled my next book, **Heeding the Voices of Our Ancestors**. This was because I found myself reinterpreting the voices of my ancestors rather than heeding the voices of the ancestors. I figured it’s time to get out of that business.

Luckily for me, I had a day job, teaching in a university. I realized that teaching affords a person a lot of insulation in terms of freedom of movement and thought. You have a job and you have a means to sustain yourself that’s not dependent upon the political structure that you’re working with at any one time. So, taking advantage of that shifted directions a little bit.

The book was an exploration of what it would be to be a traditional leader today. I really took my task seriously, saying to myself: “**If I listen to all the teachings, if I**



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listen for hours and hours and if I read as much as I can, and if I put as much intellectual energy as I have and try and understand what it is to be, in our language, a chief which literally translates as 'a good man' how would I do that today?"

And what I found it involves is a traditional ceremony from the Mohawk, from the Iroquois culture actually, Haudenosaunee culture. It's the condolence ceremony when a chief passes away or a clan mother passes away. A new one is raised up and there's a whole cycle of ceremonies where different elements of leadership are brought to this person. This is all done through songs, teaching and speeches.

A Revival of Traditional Forms of Government

Of course, that led me to a second level: It isn't enough just to have space; you need to fill it up with something Indigenous. The answer I came to is, that what we need to do is this: We need to revive our traditional forms of government. We need to raise up the long house again, so to speak; we need to raise up those chiefs, those clan mothers; we need to rebuild the long house. We need to restore our traditional forms of government. It's a dominant theme in Native communities that traditional government is the antidote to the corruption, to the abuse of power, to the disempowerment of our communities.

But there's a fundamental problem there, too. The fundamental problem is that our people are not the same as they were a hundred or two hundred years ago, when these traditional governments were functioning in their full power and their full capacity. In saying this, I am not pointing fingers. I'm more looking in the mirror and looking at my family, my friends and everybody I know. I don't think anybody would disagree that our people collectively today have been weakened by colonization. Our language, our culture, our understanding of history, our sense of trust, our wholeness, our relationships, the power that we possess as individuals and as family, the ability to work together, the unity that we had that is the foundation of everything for our people our understanding of our relationship to nature, our communication with the spirit world.

In all these ways we really have lost a lot.

Yet the systems of government that we're trying to bring forward and raise up again as traditional forms of government are crucially dependent on the very things we lack today. So, it's not enough to call for traditional government. It started to dawn on me that the problem really is the way we have been de-cultured as a people. We've been disconnected from who we are as a people, from the sources of our strength and our very survival: land, culture, community. Those things have been broken, or nearly so, by colonization.

In my view, that's really the root of the problem. Colonization is a process of disconnecting us from our responsibilities to each other and our respect for one another, our responsibilities and our respect for the land, and our responsibilities and respect for the culture. It's that simple and that profound. It took me fifteen years to work it through. I went through the educational system and the political system. Some people might say, you should have just opened your ears and listened when the elders told you that to begin with. But I was 24, and I didn't really listen that well. I had to learn from experience and go down those other pathways to figure out what the problem was.

Modernity and Aboriginal Identity

The eventual solution the one with integrity for our people is one that allows us to remain Indigenous and still engaged with modern society. That's the hope.

All the other pathways laid out before us offer liberation but with a fundamental flaw. The fundamental flaw in each one, whether it's the logic of the economics of individual prop-



Canadian House of Commons

“Colonization is a process of disconnecting us from our responsibilities to each other and our respect for one another, our responsibilities and our respect for the land, and our responsibilities and respect for the culture”





Defending against an OPP raid at Caledonia.

“All the struggles we have had have been defensive: from the seventies through **Oka** to today, with **Caledonia** and **West Coast Warriors**”



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erty rights or legal rights or physical destruction of the white man is that, when you embark on a struggle, there is a connection between the means you use in the struggle and the ends that you achieve when the struggle is over.

For example, suppose we decide that we’re going to liberate ourselves from colonization by developing economically: We don’t have the kind of incomes and bank accounts and jobs and houses that everybody else in society has. We don’t have as much access to medical care. If we conceptualize that as the problem and then develop a political strategy and organizations on that basis, the inherent logic, here, is that we will develop inside the economic and political system that we’re struggling against.

I’m not saying that we shouldn’t have houses and medicine and jobs and all that goes with that. But if we conceptualize the struggle in this way, it means a struggle framed within the political and economic system of capitalism. That’s the system we operate in, so if we are successful in generating income and revenue and wealth, we will have set up capitalist structures to do it. We will have become capitalists. Now, that’s good or bad, depending on what end of the political spectrum you’re sitting on. But what I can say with certainty is this: It’s not consistent with the vision of the ancestors. Our ancestors did not live and die and fight and bleed to have us become capitalists.

The same can be said for legal reform. The concept of Aboriginal rights and title, I would argue, is just as flawed as the global capitalist economic development model. If we conceptualize the struggle as one of accessing gaming rights and entitlement within the constitutional structure of Canada, or if we conceptualize the struggle more broadly as a deficit of rights and we therefore structure our program, our political movement and our whole attitude and understanding of the world as gaining access to rights, gaining recognition the most that can happen is recognition within that legal system.

This is something we will never achieve anyway, having been denied again and again the fundamental recognition of our nationhood and our rights as people. But even if it did happen, what is the gain of being validated for our status as first persons within the country of Canada? Some people would say, “**How can you be against this? You live in Canada. The best thing that you could hope for is to be a citizen plus have other entitlements.**” Well, recall what the vast majority of elders from all nations said in 1957 when citizenship for Native people was brought in: They said, “**We’re not Canadian citizens, we’re in a relationship with Canada, we’re allies, we’re friends, we’re partners, we’re all kinds of things, but we are first and foremost Mohawk, Cree, Dene. We’re members of our own nations.**”

That’s the trap of the legalism path. It does away with the notion of indigenous nationhood, which our very existence is founded on.

The Necessity of Self-Defense

I can spend less time on the analysis of armed struggle, since here in North America it’s a non-existent feature. All the struggles we have had have been defensive: from the seventies through **Oka** to today, with **Caledonia** and **West Coast Warriors**. I don’t think anybody can point to an example where a Native group has used violent force as an offensive tactic. The benchmark is **Oka**, and yes we had weapons. We were defending our own lives and our homes. There were military forces and paramilitary forces on our reserve with the full range of weapons they have in Middle East conflicts today. That’s when the people stood up and defended themselves.

Having said that, in my view there’s just as much justification here as anywhere in the world for raging violence. The crimes against us are just as huge. If we were undisciplined, if we were so de-cultured as to not have any connection to the values of our ancestors, and if we didn’t have the spirit that keeps us grounded in who we are, we might have waged a

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violent campaign to seek our liberation. But our people haven't done that.

In other parts of the world, they have. And it's an option up here for those not into wearing a suit and starting a casino, or not into wearing a suit and entering law school, or not into being a professor or a writer. There's a segment in every society that is drawn to the more action-oriented approach. But here, again, there's the question of means and ends. Using violence as a means of struggling against violence means you've constructed a personality, a political culture, a society that's dominated by the use of coercion and violence at the cultural level and at the state level. This is as inconsistent with the teachings and values of our ancestors as the other pathways are.

Nonetheless, I believe struggle is a necessity, in whatever way each of us chooses to struggle against the forces that keep us from experiencing the freedom that is our right, in our own homelands.

Original Peoples and Newcomers

"When it comes to confronting our imperial realities some of us want to reform colonial law and policy, to dull that monster's teeth so that we can't be ripped apart so easily. Some of us believe in reconciliation, forgetting that the monster has a genocidal appetite, a taste for our blood and would sooner tear us apart than lick our hands. I think that the only thing that has changed since our ancestors first declared war on the invaders is that some of us have lost heart against history and against those that would submit to it. I am with the warriors who want to beat the beast into bloody submission and teach it to behave."

That's a quote from my book, **Wasase: Indigenous Pathways of Action and Freedom**. For me, then, a true warrior is a person, male or female, Native or non-Native, from any time in history, any segment of society, who has managed to find that place inside themselves that has integrity, that has managed to generate power and confidence, and then to emanate that power and that confidence and to dedicate themselves to the betterment of their people and to the advancement of the fundamental values of unity, and freedom and justice and all of these things that all of our cultures share as end objectives.

How do we carry that forward? It does not matter if one is a warrior standing on a barricade, a language instructor, a person involved in an Aboriginal organization, trying to bring health and healing to their people, a doctor, a lawyer, a professor, a writer, a magazine publisher: How do we take that warrior ethic and to put it into practice?

We're living in a country that is defined in a colonial relationship between the newcomer peoples and the peoples who are the original peoples of this land. And we can't get to a solution that means anything in the long term without addressing that in a fundamental way. White people stole their land and haven't given it back yet. White society has yet to acknowledge the initial crimes that were committed against our people. There is a fundamental injustice in the relationship between Native and non-Native people in this country.

It sounds like a direct challenge to non-Native people. It sounds like a challenge to say, ***"You are all responsible for the problems because you are the colonizer. You are the colonizer, you stole our land."*** Well, yes, that's the fundamental premise. But it's also a challenge. It's a challenge for our people, as well, to think of themselves as being in a colonial relationship, to think of themselves as having a responsibility to confront that primary injustice rather than the symptoms. It's a challenge: to move beyond constructing a politics, and a set of organizations that deal with one or another of the surface levels of the problem, and instead to get at the fundamentals.

And so, it's a challenge all the way around. It's a challenge for non-Native people to accept the relationship for what it is, and it's a challenge for Native people to accept the responsi-



Jacques Cartier,
French explorer.

"White society has yet to acknowledge the initial crimes that were committed against our people. There is a fundamental injustice in the relationship between Native and non-Native people in this country"



John Cabot, British explorer.

Advancing the Right of First Nations to Information



The First Nations Strategic Policy Counsel is a collection of individuals who are practitioners in either First Nations policy or law. We are not a formal organization, just a network of concerned individuals.

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bility and the onus of action to actually address the fundamentals, as well.

This is not about pointing fingers. It's about looking at colonization as being inside of us instead of outside of us. We must recognize that colonization is there all around us; our world is structured by history. In our thinking and acting each one of us is making a choice based on whether or not we are committed to undermining history, undermining colonialism, whether we are cooperating with it in a sort of complicit-but-not-active way, or whether we've taken an active role in perpetuating it and further entrenching it.

It is time for our people to live again and to make a living commitment to meaningful change in our lives and to transforming society by recreating our existences, regenerating our cultures and surging against the forces that keep us bound to our colonial past. This is a path of struggle that has been laid out by our elders and our ancestors. It's our turn, now.

This article is a transcription of an address given by Taiaiake Alfred at the Vancouver Public Library on December 7, 2005. It was recorded by the Necessary Voices Society and is available for download at <http://www.canadianvoices.org>

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