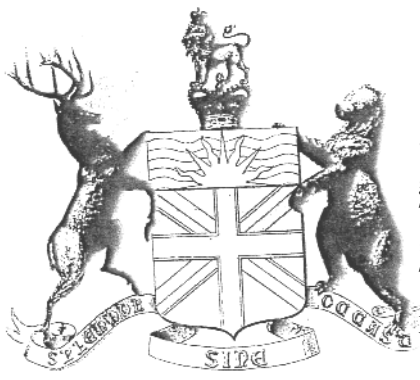
The BC Treaty Negotiating Times

Summer 2007



"... as long as the rivers flow, the sun shines, and the grasses grow, we will live in peace together..." There have been many treaties such as this, shown in the 1857 Coat of Arms of BC at left. The agreement with the Secwepmc was later inverted to make the present day BC flag. What is the spirit and intent of *modern day treaties*?

3 Final Agreements.

One down, two up in the air.

The BC Treaty Commission has produced three deals at once, with Maa-nulth, a five-community table on Vancouver Island, with Tsawassen, and with Lheidli T'enneh near Prince George. Do they look like good deals?

Pages 3, 4, 5

Chief of the BC TC's Pro-Treaty Tour

The Honourable Steven Point - no neutral commission here.

Commissioner Point delivers a "treaty or bust" presentation, giving unrealistic statements about the meaning of a Final Agreement in black and white, and no time for questions.

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Top Negotiators Say:

"There are no negotiations going on." - Robert Morales, Chair of the First Nations Summit Chief Negotiators forum

The First Nations Unity Protocol Agreement has united all-but-one of the 47 treaty tables. Government negotiators won't touch governance, taxation, loss of Indian Status.

Page 15

Fisheries and Math

If BC treats all equal to Lheidli T'enneh, 102% of Annual Allowable Fraser sockeye will go to treaty bands.

Agreements outside the treaty process have also developed: the DFO is negotiating commercial fisheries on a dying river.

Page 10

Status, Health, Tax Benefits to be released

Core Provisions of every treaty place fiscal responsibility with the First Nation.

With a Final Agreement, people will pay tax to their First Nation government. There will be no reservation, only lands held in fee simple title, open to the free market.

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Lheidli Tenneh: "No"

The first Final Agreement reached through the BC Treaty Commission fails even a 51% approval criteria for ratification.

On October 29, 2006 the Lheidli T'enneh became the first First Nation to reach a Final Agreement. On April 30, 2007, the membership rejected it. Now members are being offered cash togo back and vote it in.

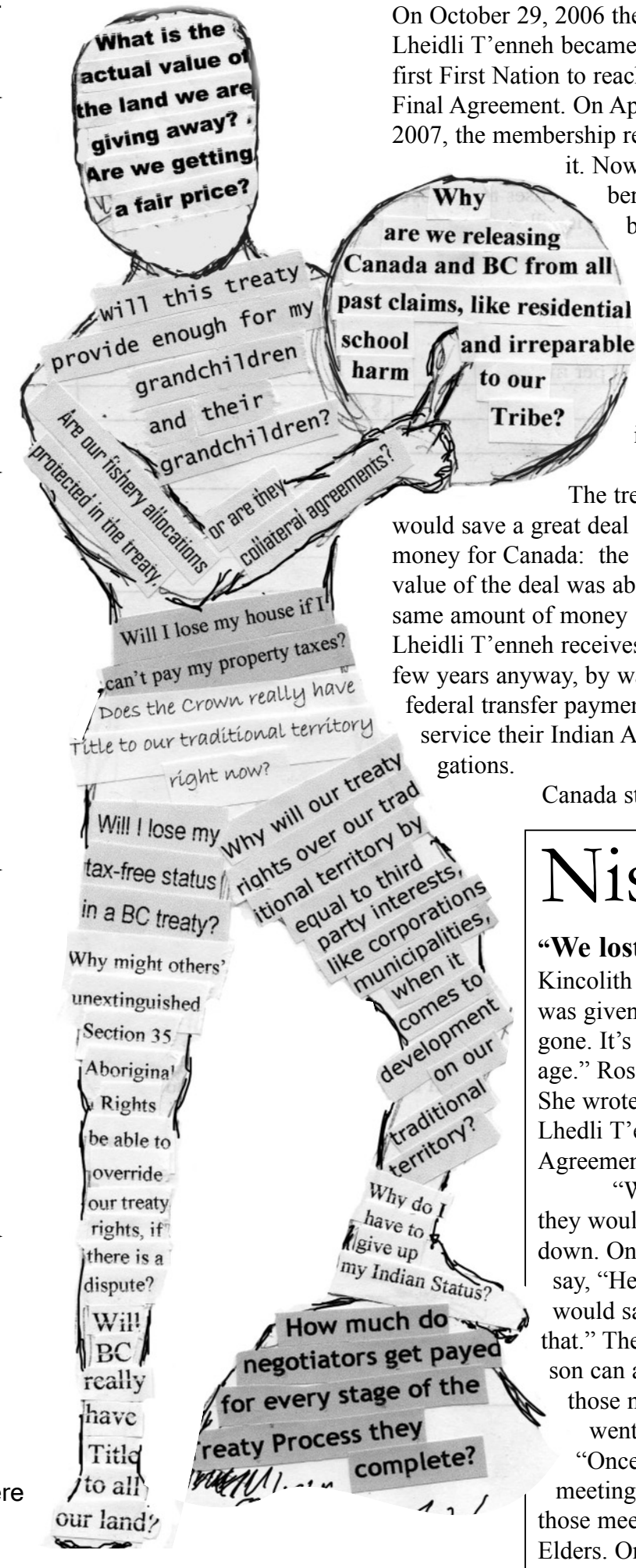
The treaty would save a great deal of money for Canada: the cash value of the deal was about the same amount of money the Lheidli T'enneh receives in a few years anyway, by way of federal transfer payments to service their Indian Act obligations.

Canada stood to be released from their current fiduciary obligation to the people, and the numerous liabilities they must hold for past transgressions, and to own a vast territory, which currently belongs to the Lheidli T'enneh outright. The land to be ceded is worth more as real estate or even timber than many times the cash value of the treaty.

The money offered was $12.1m one-time transfer, $13.2m over ten years, $1.8m a year ongoing (like a municipal transfer) $3m one-time (fisheries), and $400k a year, for 50 years, to increase in accordance with inflation (for a side deal in timber and gravel)

Negotiator Mike Bozoki said that there is no business or investment projections, but they "do have a Development Corporation."

See Quaw statement page 5
See 'Bribes' page 14



Nisga'a Now

"We lost our aboriginal title.

Kincolith lost 100% of their ancestral lands. 8% was given back in fee simple title. Our Status is gone. It's taken quite a bit of our dental coverage." Rose Doolan lives in Kincolith, Nisga'a. She wrote letters of support when she heard the Lhedli T'enneh had voted against their Final Agreement.

"Whenever we asked questions about it, they would shut us up. They would tell us to sit down. One person would answer the question and say, "He'll answer the question." Then that one would say, "Oh, someone is going to answer that." Then another one would say, "Oh, that person can answer that question." We came out of those meetings more confused than when we went in.

"Once they drummed out Mercy Thomas in a meeting in Terrace. We want to speak out at those meetings, but we don't want to upset our Elders. One of young men went to a meeting and he raised a bit of a ruckus, *Contd pg 3.*

Aboriginal Title... in no uncertain terms

In this Issue:

Many times and in many ways, the Tribes of the Interior and the Coast have made their position clear to Canada and BC. Any failure to understand Aboriginal Title can only lie in the hearts and minds of men and women in the colonial government.

"You know how the BC Government has laid claim to all our tribal territories, and has practically taken possession of same without treaty, and without payment. You know how they also claim the reservations, nominally set apart for us. Premier McBride, speaking for the BC Government, said "We Indians had no right or title to the unsurrendered lands of the province." We can not possibly have rights in any surrendered lands, because in the first place they would not be ours if we surrendered them, and, secondly we have never surrendered any lands."
To the Honourable Frank Oliver, Minister of the Interior, Ottawa. Signed by 180 Chiefs of the Shuswap, Thompson, Stalo, Okanagan, Lillooet, Chilcotin, Carrier, Tahltan Tribes, May 10, 1911.

"The whites made a government in Victoria—perhaps the queen made it. We have heard it stated both ways. Their chiefs dwelt there. At this time they did not deny the Indian tribes owned the whole country and everything in it. They told us we did.
...They have taken possession of all the Indian country and claim it as their own. Just the same as taking the "house" or "ranch" and, therefore, the life of every Indian tribe into their possession. They have never consulted us in any of these matters, nor made any agreement, "nor" signed "any" papers with us. They say the Indians know nothing, and own nothing, yet their power and wealth has come from our belongings. The queen's law which we believe guaranteed us our rights, the B.C. government has trampled underfoot. This is how our guests have treated us—the brothers we received hospitably in our house.

After a time ... they set aside many small reservations for us here and there over the country. This was their proposal not ours, and we never accepted these reservations as settlement for anything, nor did we sign any papers or make any treaties about same."

"The queen's law which we believe guaranteed us our rights, the B.C. government has trampled underfoot."

Memorial to Sir Wilfred Laurier, Premier of the Dominion of Canada. From the Chiefs of the Shuswap, Okanagan and Couteau Tribes of British Columbia. August 25, 1910.

"They talk about the treatying, but in my mind,

it's to legitimize the theft of our land

and I'm not about to help them legitimize that.
I think that they only treaty because they want to continue the colonization of the people that were here originally.
I think that we have to begin to organize in a different way, because they haven't honoured the treaty.
I believe that Haida-Gwaii belongs to the Haida people and will always belong to the Haida people, and we can't compromise even an inch of it.

We can talk about how we can live together from there.

-Lavina White, Haida

Modified Rights = Extinguishment

Canada needs Indians to consent to their own extinguishment.
To "modify" their rights to the point of being regular Canadian citizens.
After 150 years of different legislative approaches, the BC Treaty Commission has arrived on the doorstep of delivering the land: a way for the indigenous holders of Title to sign it over.

In 1857, the Act for the Gradual Civilization of the Indian Tribes in the Canadas was introduced by Britain. At that time, ten years before Canadian confederation, the Act was intended to legislate the separation of Natives from the land. An Indian living on his traditional territory, in his own right, was the only thing preventing the British, and now Canada, from usurping jurisdiction over his land.

Indian Act of 1876 wrote that all Indians were to be "wards" of the federal government; it authorized the forced removal of children to Residential Schools and managed Indian Affairs directly: It went gave instructions as to how a person's estate would be dealt with at their death. Amendments to the Act made new ways to criminalize people: in 1884, until 1951, the potlatch was banned. Maybe "good citizens" isn't really what the New Canadians wanted Natives to become. Maybe "cooperative with industry," or "resource extraction based businessmen," is more to the point.

"During the 1920's the Allied Tribes petitioned Parliament to have their case sent to the Judicial Committee of the Privy Council in London.
In response, Parliament amended the Indian Act to make it illegal for aboriginal people to raise funds to pursue land claims, thereby preventing land claims activity. This restriction was eventually lifted in 1951." - BCTC website.

The 1969 White Paper Policy sought to release the federal government from the responsibilities they had been charged with in the Indian Act. The Trudeau government attempted to make Indians regular Canadian citizens through legislation. Treaties would be retired, any claim to land would not be heard, and provinces would accept Indians as new applicants to their service programs, abandoned by the federal government. Needless to say, owing to the Indians of

Nisga'a Poverty After 7 Years

Continued from front page:

and the Elders were upset with that, but he had a message to bring, and they wouldn't listen to us.

They payed the Elders $350 a day to sit in those meetings and keep quiet. After the treaty was signed, and they payed them the $15,000 that was promised, they dumped them. We have been sitting in on our Elders' meetings, and they're not doing too well.

They're preparing for 2012 when they're going to start taxing us. I don't know how they're going to do that, because the majority of people here are not working. They have $185 a month. It's like that in all four villages. There's only a few that aren't like that, and they work for the Lisims Government. Some of them that work there now were against the treaty, but then they get these huge cheques, they've got jobs, and they say, 'I'm getting $4,000 a month,' and they say, 'this is OK.' I know they're going to run out of money before time.

They have started selling off rights to the land. They are forging Elders' signatures to sell ancestral lands. They were handing out certificates to our Elders for 1,500 shares. It's the Nass Valley Gateway Project, and Mineral Hill Industries. That's going to come to nothing, $300 or less after the broker's fees. Men were here about a month ago, handing out shares. My husband just turned 65 years old. A lady from New Aiyansh brought my husband's 1500 shares and his certificate and the packages and said, "Don't worry about signing these, we already signed them for you." They're mining in Chief James Mountain's homelands, and others have interests there.

Last year all our young men left to go to Alberta for work. With this treaty we were supposed to become self-sufficient. Our Chief Councilor has stated in public that the government would not tax poverty. So I wasn't sure if this is the vision they have for us? To keep us in poverty?

In 2012 they will start the house tax. They didn't explain that to the people, they just flashed around how much the Elders were going to get and how well-off we were all going to be.

When they gave the books to the people, for the Final Agreement, the people couldn't understand most of the words in there. Some people didn't receive theirs until two weeks before the assembly. We didn't get ours until we got there.

A lot of the people who voted for it, they thought it was going to be a real good treaty. They're just finding out now that they're losing their identity as Status Indians. They're just finding out now that they'll have to pay taxes on their own houses." *April, 2007*

= Same Old Story

the Plains' 1970 Red Paper Policy, and hard political work, it didn't work out for the feds.

1976 Comprehensive Claims Policy
establishes the way for natives to apply to Canada to make land claims. It is based on the policies of the 1969 White Paper, and continues largely unchanged to this day as the basis for BC treaties.

In 1995, Defenders of Gustafsen Lake
"stand-off" again appealed to the Rule of Law, petitioning the Queen and applying to the Governor General for a third-party, independent tribunal on the legal status of the land. At the time, Ujjal Dossanjh was BC's Attorney General, and stonewalled the application that he should have passed on to the Governor General of Canada, as was his sworn responsibility. At the same time, Mr Dossanjh was also Minister responsible for Human Rights. The appeal was never forwarded, and again the army took action.

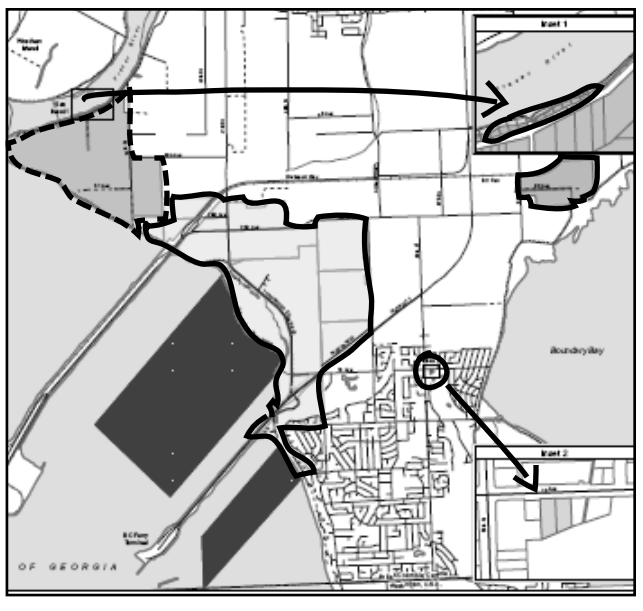
Today we see treaties being finalized with BC and Canada, agreements which accomplish what Canada could never do on its own: the consensual separation of the Indian from the land. Traditional territories could become fee-simple parcels of real estate. The hated Indian Act is being weighed against BC treaty processes: Native people have the option to sign themselves out of the Indian Act, relinquishing all claims on Canada and the Crown of England. The process has been called "extinguishment with consent," and has been criticized by United Nations committees, since it requires that the newly branded "First Nations," a term developed, some say, by the Justice Department to enable making treaties with Bands, sign over all their lands.

This time, if the First Nations give their final consent, the bond with the earth will be cut at the bottom of a voting card for a Final Agreement.

"Canada has not significantly changed its approach on extinguishment and refusal to recognize aboriginal rights and title. Canada refuses to negotiate treaties based on recognition of aboriginal rights and title. Instead it brings a long list of fixed bottom line positions to the table. We ask how that can be considered negotiating."
- Robert Morales, Chief Negotiators' representative to the First Nations Summit, in a submission to the UN's Committee for Elimination of Racial Discrimination, Feb. 2007

Tsawassen offered 0.2% of traditional territory

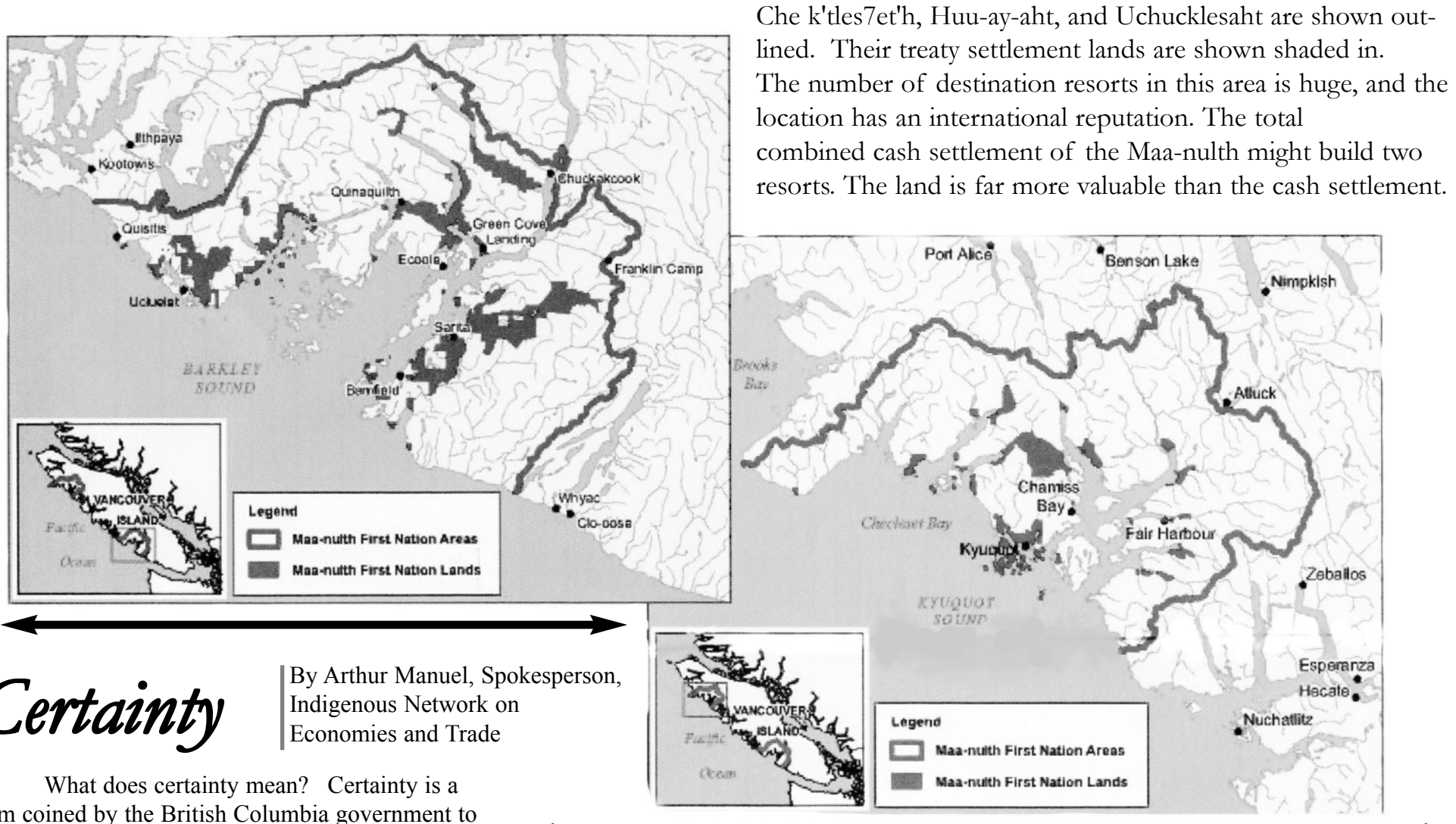
The map above shows Tsawassen's traditional territory outlined. The little square is the map below. It shows all the Tsawassen Settlement lands outlined. In the bottom right, there are the "Beach Grove lands" (two lots in a suburban city block.) It's hard to see the strip of land on the south bank of the Fraser River, it is a few city blocks long. The squares in the water represent "water lots." A water lot is "land" covered by water at some time. The map also shows, top left, "right of first refusal" lands, outlined with a dotted line, which are lands Tsawassen may buy first, if the owner sells it at some point in the next 80 years.



We are afraid if we part with any more of our lands the white people will not let us keep as much as will be sufficient to bury our dead.
- Doublehead, Creek Chief

Maa-nulth 5 consider relinquishing billions in lands suited for tourism

The combined Territories of the Ucluelet, Toquaht, Ka'yu'k't'h Che k'tles7et'h, Huu-ay-aht, and Uchucklesaht are shown outlined. Their treaty settlement lands are shown shaded in. The number of destination resorts in this area is huge, and the location has an international reputation. The total combined cash settlement of the Maa-nulth might build two resorts. The land is far more valuable than the cash settlement.



Certainty

By Arthur Manuel, Spokesperson, Indigenous Network on Economies and Trade

What does certainty mean? Certainty is a term coined by the British Columbia government to express their concern that they are no longer 100% in control of your traditional territory. They know that judicial recognition of aboriginal title has resulted in unknown contingent liabilities being established against all economic interests in British Columbia. This has caused what BC calls "uncertainty." They want the modern treaties under the British Columbia Treaty Process to totally remove that uncertainty and extinguish our Aboriginal Title in accordance with the modified rights model as defined by the Nisga'a Final Agreement.

There are two different points-of-view on certainty. There is our point of view which is expressed in our understanding between us and traditional territories. And there is the Canadian and British Columbia governments point-of-view which means that the Canadian and British Columbia have 100% certainty over our Aboriginal Title lands. The Supreme Court of Canada Delgamuukw decision recognized Aboriginal Title as a collective property right over all unsettled land in British Columbia.

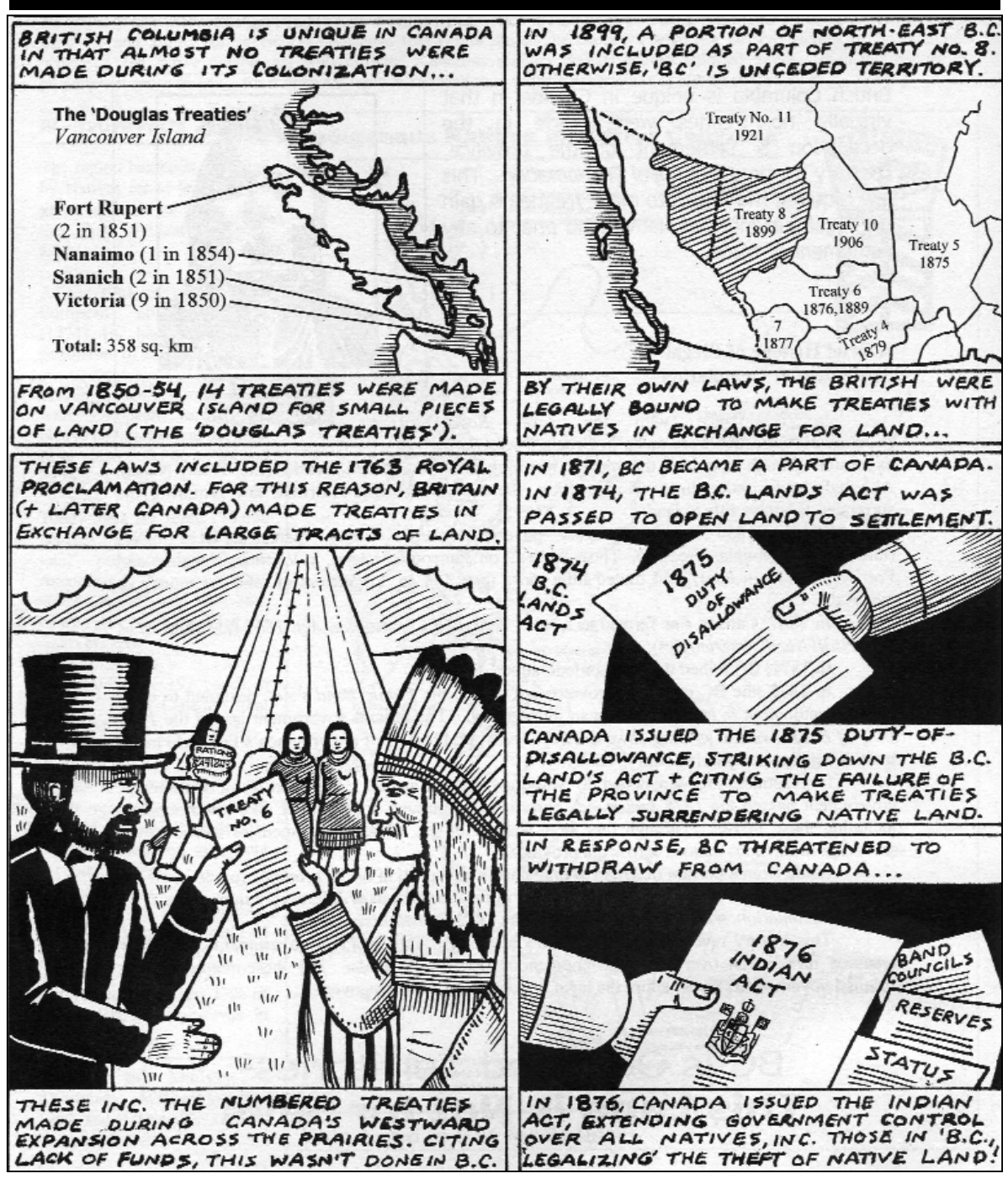
Aboriginal Title is the only judicially recognized and constitutionally protected property right in Canada. But needless to say we have not benefitted from this legal and constitutional fact. The real problem is that the federal and provincial governments do not recognize our legal and constitutionally property right.

The federal and provincial governments have been trying to maintain their certainty over our land using the federal Comprehensive Land Claims Policy. Canada and British Columbia use the Comprehensive Land Claims Policy as the mechanism or machinery that tells outside investors in British Columbia that they have us Indians under control. The Land Claims Policy is a controlling mechanism gets legitimacy through our participation.

Continued on page 14

Stolen Land

by Gord Hill, Kwakwaka'wakw



From the Lheidli T'enneh territory,
prior to a ratification vote:

Statement from The Quaw Family On The proposed Treaty with Canada and the Province of British Columbia March 17, 2007: "THE QUAW FAMILY WILL VOTE NO"

"We have a number of problems with the proposed agreement with Canada and British Columbia that is leading to a ratification vote to a final treaty.

First off, the family of Quaw will not ratify the Treaty because it will not re-establish for the Lheit-Lit'en a quality way-oflife.
The backdrop to what we are saying is the years and years of oppression and degradation of the Lheit-Lit'en way-of-life by the majority society and the lack of proper retribution for that loss.
The LLTN are a separate and distinct race of peoples that have survived throughout time immemorial and are negotiating a treaty based upon this. Our ancestors have left us the land and resources upon it as a legacy to ensure and perpetuate the Lheit-Lit'en way of life. Our Traditional Territory is 4,533,616 hectares of land that our ancestors practiced their way of life, practiced their ceremonies upon and defended against all peoples.

Upon the acceptance of our tribe to negotiate a treaty, inherent in that acceptance is the traditional form of Governance of the Lheit-Lit'ens. That form of Governance is the Potlatch system composed of the Keyoh Whudu-Chun, Nay-Yun, the Azah-Neh, and the people. Each family has their own lands allocated to them under the Potlatch and those lands took on the identity of those families.

The Aboriginal right to the Traditional territories came under attack by the Colonial Governments but that right has stood and still stands today. There have been myriad of court cases by Canada's indigenous peoples, that has challenged Canada on their position of attempting to extinguish our Aboriginal right, and that right is still there.

The LLTN must recall the treatment our peoples have been exposed to since the non-native has come to our lands. We must remember we were and still are subjected by the Government of Canada and its enforcement arm is, and continue to be, the Indian Act of Canada. We became WARDS of the Government and not our own people. We were captured and placed on plots of land where the Federal Government of Canada could plan our demise where eventually our people can be assimilated into the majority society. In addition to this, our rights, our form of freedom, our institutions were taken away. To further brainwash our people they took our children away and put them into Residential Schools to further the integration process. There is a price to all of this and that price we have paid and continue to pay. Has any of this been discussed in the treaty negotiations? If it has not, why hasn't it been discussed?

The Lheit-Lit'en has an Aboriginal Right and should the Treaty survive the ratification vote, it will extinguish those rights. In effect, our tribe is extinguishing our own freedom, our own inherent Aboriginal Right, not the white society; our people are doing this now.

We are not against a Treaty, we are against the content of the present Treaty and will vote "NO" for numerous reasons, (*including)...*
- Where is the future vision?
- Where is the community blueprint?
- When does the council forecast we will be self-sufficient?

On July 29, 1996 a document was tabled with the Chief and Council that outlined what the family of Quaw desires out of the Treaty Making process. The government chief and council accepted the document and brought it to a general meeting where the document was accepted. It is a legal binding document under the Indian Act of Canada and has not been addressed yet. ...The family of Quaw has not been approached on settling their claim to their traditional territory. *(excerpts from longer letter)*

Comparing BC First Nations' Land Claim offers, February 2006

Data from BC Government websites, in some cases a little off, but you can see the pattern.

First Nation	Territory (hectares, estimated)	Settlement Lands (in hectares)	Population	Settlement Capital Dollars	Territory Land Value @$1200/acre -Urban land times 1,000	Settlement Land - Percent of Territory	Territory (hectares per person)	Settlement (hectares per person)	Territory Land Value (dollars per person)	Settlement Capital (dollars per person)
In-SHUCKch	473 thousand	14,000	904	$21 million	$1.3 billion	3%	578.5 ha	16.5	$1.5 million	$23,000
Nisga	2.5 million	201,900	5,500	$196 million	$7.4 billion	8.1%	455 ha	36.7	$1.3 million	$35,655
L'heidli T'enneh	4.6 million	4,027	210	$12.8 million	$13.6 billion	0.1%	21,905	19.2	$64 million	$60,952
Tsawwassen	170 thousand	365	250	$10 million	$503 million	0.2%	680	1.5	$2 million	$40,400
Maa-Nulth	378 thousand	20,900	1,928	$58 million	$1.1 billion	5.5%	196	10.8	$581,116	$30,290
Ucluelet	49 thousand	4,900	607	$15.7 million	$145 million	10.0%	81	8.1	$239,269	$25,865
Toquaht	40 thousand	1,300	116	$3.7 million	$118.5 million	3.3%	345	11.2	$1 million	$31,897
Huu-ay-aht	87 thousand	6,500	565	$18.3 million	$258 million	7.5%	154	11.5	$456,404	$32,389

Core Provisions of All Final Agreements

are exactly the same
on the following points:

These Core Provisions are identical to the Nisga'a, and are part of every Final Agreement or Agreement in Principle to date. The only thing that has changed from the Nisga'a template is that current offers show less cash and less land.

Glossary of treaty related terms, BCTC website:

certainty provisions:
treaty provisions designed to clearly define the authorities, rights and responsibilities for all parties to the treaty. See also extinguishment.

extinguishment:
term used to describe the cessation or surrender of aboriginal rights to lands and resources in exchange for rights granted in a treaty.
To date, Canada has required full or partial extinguishment to conclude treaties.

Elimination of Tax Exemption:

"Section 87 of the *Indian Act will have no application to (X First Nation) citizens."*

Section 87 of the Indian Act reads:

87. (1) Notwithstanding any other Act of Parliament or any Act of the legislature of a province, but subject to section 83, the following property is exempt from taxation, namely,
(a) the interest of an Indian or a band in reserve lands or surrendered lands; and
(b) the personal property of an Indian or a band situated on a reserve.

Termination of Reserves:

There are no "lands reserved for the Indians" within the meaning of the *Constitution Act, 1867* for the (X First Nation), and there are no "reserves" as defined in the *Indian Act* for the use and benefit of a (X First Nation) Village, or an Indian band referred to in the *Indian Act* Transition Chapter, and, for greater certainty, (X First Nation) Lands and (X First NAtion) Fee Simple Lands are not "lands reserved for the Indians" within the meaning of the *Constitution Act, 1867,* and are not "reserves" as defined in the *Indian Act.*

Release of Past Claims:

The (X First Nation) releases Canada, British Columbia and all other persons from all claims, demands, actions, or proceedings, of whatever kind, adn whether known or unknown, that the (X First Nation) ever had, now has or may have in the future, relating to or arising from any act, or omission, before the effective date that may have affected or infringed any aboriginal rights, including aboriginal title, in Canada of the (X First Nation)

Fee Simple Title:

For greater certainty, the aboriginal title of the (X First Nation) anywhere that it existed in Canada before the effective date is modified and continues as the estates in fee simple to those areas identified in this Agreement as (X First Nation) lands or (X First Nation) Fee Simple Lands.

Modification of Rights:

Notwithstanding the common law, as a result of this Agreement and the settlement legislation, the aboriginal rights, including aboriginal title, of the (X First Nation), as they existed anywhere in Canada before the effective date, including their attributes and geographic extent, are modified, as set out in this Agreement.

Section 35 Rights:

this Agreement exhaustively sets out (X First Nation) section 35 rights, the geographical extent of those rights, and the limitations to those rights, to which the Parties have agreed, and those rights are:
a. the aboriginal rights, including aboriginal title, as modified by this Agreement, in Canada of the (X First Nation) and its people in and to (X First Nation) Lands and other lands and resources in Canada;
b. the jurisdictions, authorities, and rights of (X First Nation) Government; and
the other (X First Nation) section 35 rights.

Application of Constitution of Canada:

this Agreement does not alter the Constitution of Canada, including:
a) the distribution of powers between Canada and British Columbia

Bands Dissolved:

On the Effective Date, that X Indian Band
a) will be dissolved

Tim Koepke's comments here explain why Canada needs First Nations to sign off on these "modifications" of rights:

"I can't imagine what legislation Canada or BC could introduce that could override a Section 35 aboriginal right. You can't bring in legislation that overrides the Constitution.

In treaty they are choosing to replace existing and undefined Section 35 aboriginal rights with defined treaty rights: an agreement negotiated by the three parties can be brought into effect by the three governments to the extent their rights are modified.

Section 35 guarantees "aboriginal and treaty rights" so the treaties will be protected under Section 35. We use the word land claims agreement final agreement and treaty interchangeably."

Tim Koepke is a Federal Negotiator for many treaty tables in the BC treaty process.

The government demands that treaty First Nations return 50 per cent of their revenues once they achieve certain levels of income.

Economic Development Officers involved in the BC Treaty process have noticed that this creates no incentive for them to become self-sufficient.

According to David Mannix, EDO with Snuneymux First Nation, treaty First Nations must pay substantially for their own health, social, education and employment programs, without a commitment of long-term government funding to support them.

Eric Denhoff, chief negotiator for Indian and Northern Affairs Canada, said after treaties are signed it's "only fair" that First Nations should be expected to contribute to the provision of services.

Treaty Making in the Spirit of Co-existence:

An Alternative to Extinguishment

Royal Commission on Aboriginal Peoples - Ottawa: Canada Communication Group, 1995

The Report States:

"... blanket forms of extinguishment run counter to the spirit of the *Royal Proclamation of 1763*, thought by many and described by one jurist as "a fundamental document upon which any just interpretation of original rights rests". Federal policy also is inconsistent with the fact that existing Aboriginal rights are constitutionally recognised and affirmed by s. 35(1) of the *Constitution Act, 1982*. Federal policy may also breach fiduciary obligations owed to Aboriginal peoples by the Federal Government.

The Royal Commission on Aboriginal Peoples therefore recommends that the Federal Government adopt a new approach in its comprehensive claims negotiations with Aboriginal peoples, that is, one based on the concepts of co-existence and mutual recognition.

In particular, the Commission recommends that the Federal Government not seek to obtain blanket extinguishment of Aboriginal land rights in exchange for rights or other benefits contained in comprehensive agreements.

The Commission also recommends that the Federal Government not require partial extinguishment of Aboriginal land rights as a precondition for negotiating comprehensive agreements, and that parties resort to partial extinguishment in the last resort, only after a careful and exhaustive analysis of alternative options.

Instead of extinguishing Aboriginal rights, a comprehensive agreement ought to serve as an instrument of co-existence and mutual recognition. ... Negotiations ought to be aimed at Crown recognition of Aboriginal rights with respect to land and governance over part of the claim area; ... Aboriginal rights not recognised by an agreement would not be extinguished...

Aboriginal rights recognised by an agreement ought to be worded to permit their evolution in light of favourable legal developments. Aboriginal rights not recognised by the agreement also ought to be permitted to evolve in light of future legal developments.

The Report also recommends that negotiations ought to be premised on reaching agreements that recognise an inherent right of self-government.

The Report expresses the view that a policy that recognises and affirms Aboriginal rights and emphasises co-existence, mutual recognition, and shared ownership and jurisdiction is to be preferred over current federal extinguishment policy.

Chief David Luggi
of the Carrier Sekani Tribal Council,
on why his people voted to get out
of the BC treaty process:
"The BCTC inviolves no recognition
of our rights. Also the process
involves surrendering title. That's the
centre piece behind the many many
reasons for the pull-out."
"I call it the BCTC Death Row."

"Extinguishment of anyone's rights is not an option. Replacing the term "extinguishment" with the term "certainty" or other similar terms is not sufficient if there is no underlying change in policy. for anyone's rights to be extinguished for all time strikes us as being completely unreasonable. The federal study that was commissioned to review extinguishment as a policy recommended that it was not a wise policy and that it not be followed.

Our concern is that the principle of extinguishment might be carried forward under a different name.

We should not expect anyone to sign a document concerning their rights that we would not be willing to sign concerning our own rights.."

Sarah Chandler, member of the Canadian Friends Service Committee, and the Quaker committee for native concerns. Speaking to the Select Standing Committee on Aboriginal Affairs, Lillooet, November 14, 1996.

Extinguishment : Policy, not Law

Initialled August 4, 1998, the Nisga'a deal, and every other BC Treaty Commission Agreement to come so far, extinguishes Aboriginal Title by the "Modified Rights Model," as per the federal government's policy on Comprehensive Land Claims:

Modified:
means that it is changed from what it is now, and has always been, to be *only* the exact rights specifically written out in the treaty,
no more and no less.
That is to say, all that remains of Nisga'a title and rights is the Nisga'a Final Agreement,
under the powers of the provincial and federal governments of Canada.
The rest is released, extinguished, "modified."

23. This Agreement exhaustively sets out Nisga'a section 35 rights, the geographic extent of those rights, and the limitations to those rights, to which the Parties have agreed, and those rights are:
a. the aboriginal rights, including aboriginal title, as modified by this Agreement, in Canada of the Nisga'a Nation and its people in and to Nisga'a Lands and other lands and resources in Canada;
b. the jurisdictions, authorities, and rights of Nisga'a Government; and
the other Nisga'a section 35 rights.

24. Notwithstanding the common law, as a result of this Agreement and the settlement legislation, the aboriginal rights, including the aboriginal title, of the Nisga'a Nation, as they existed anywhere in Canada before the effective date, including their attributes and geographic extent, are modified, and continue as modified, as set out in this Agreement."

25. For greater certainty, the aboriginal title of the Nisga'a Nation anywhere that it existed in Canada before the effective date is modified and continues as the estates in fee simple to those areas identified in this Agreement as Nisga'a Lands or Nisga'a Fee Simple Lands

27. The Nisga'a Nation releases Canada, British Columbia and all other persons from all claims, demands, actions, or proceedings, of whatever kind, and whether known or unknown, that the Nisga'a Nation ever had, now has or may have in the future, relating to or arising from any act, or omission, before the effective date that may have affected or infringed any aboriginal rights, including aboriginal title, in Canada of the Nisga'a Nation.

10. There are no "lands reserved for the Indians" within the meaning of the Constitution Act, 1867 for the Nisga'a Nation, and there are no "reserves" as defined in the Indian Act for the use and benefit of a Nisga'a Village, or an Indian band referred to in the Indian Act Transition Chapter, and, for greater certainty, Nisga'a Lands and Nisga'a Fee Simple Lands are not "lands reserved for the Indians" within the meaning of the Constitution Act, 1867, and are not "reserves" as defined in the Indian Act

BC Premier Gordon Campbell recently told an economic development workshop in Richmond that “Treaty is not the way to go. I don't support the treaty process."

Provincial funding of BC Negotiations:

$203 million

Federal contribution to the BCTC and FNS:
$34.3 million

Provincial contribution to the BCTC:
$10 million

Ed John is the Grand Chief of the First Nations Summit.
He has encouraged the BCTC all along, but was recently quoted in a letter disagreeing “with Canada’s assertions that it is a champion of human rights in Canada.”

Robert Morales is the Head of the Treaty Negotiators, for FNS.
According to Robert, “There are no negotiations going on.”

British Columbia

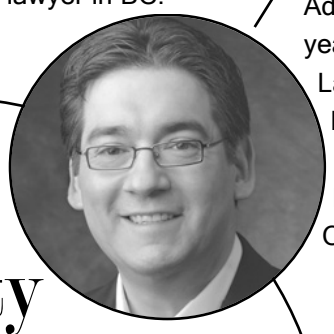
BC’s economic interests have driven the Treaty Commission from day one.

First Nations Summit

The BCTC relies on Canada’s Comprehensive Claims Policy in dealing with treaties, neither recognizing aboriginal title nor rights, as instructed to do by the Supreme Court of Canada’s *Delgamuukw* decision.
When questioned on this, Bill Austin, then Chief Deputy Minister for the Comprehensive Claims Policy, 1999, stated: "The BC Treaty Commission is our flagship process. We're not going to change it."

The BC government feels a responsibility to the good wealth of its 1.4 million non-native citizens. Things haven’t changed since 1910, when Prime Minister Laurier visited BC to settle conflicts over reserve size. When the Supreme Court was to be asked to decide, BC’s Premier McBride insisted there should be no reference to aboriginal title, as court rulings that found aboriginal title would be “disastrous to BC’s financial standing and would jeopardize investment in the province.”

Jody Wilson was a treaty advisor at the Treaty Commission for nine months before being appointed to the Commission in 2003. Previously, she served for two years as a Provincial Crown Prosecutor. Her home, We Wai Kai First Nation of the Laich-Kwil-Tach K'omoks Tlowitsis Council of Chiefs, is in the treaty process. She is a lawyer in BC.



BC Treaty Commission

“Treaties will bring a major cash injection and new investment and pump tens of billions of dollars throughout the BC economy.” - BCTC website

Robert Phillips was just appinted to replace Wilf Adam, who served for 12 years. Phillips, from Canim Lake, has been Chief Negotiator and Self-government director at the Northern Shuswap Tribal Council since 1998.

Loans to First Nations:

$289 million

Mike Harcourt was re-appointed in 2005. Harcourt was Premier of BC during the Gustafsen Lake stand-off in 1995. He stonewalled the peoples’ plea to reach the Governor General; he requested the presence of the Canadian Armed Forces; he oversaw the RCMP control the media to show the Defenders as terrorists; and more. He signed the agreement to develop the BCTC in 1992. Harcourt stepped down in May, 2007, to chair the Nisga’a Lisims commercial development group.

Justice Steven Point
Stolo, was jointly appointed by the Province of BC, Canada, and the First Nations Summit. His home Band is in the treaty process. “We’ve got to understand that in this country the highest law of the land is the Canadian constitution.” He says, with treaty, “First Nations will have at long last found a place for themselves in Canadian society,”

Commissioner photos: BCTC website

Jack Weisgerber was the MP for Peace River South for 15 years to 2001. He became BC's first Minister of Aboriginal Affairs in 1988. He is known for his criticism that treaties should give natives more cash and less land during the Nisga’a treaty development. Weisgerber led the BC Claims Task Force which recommended the BCTC. Weisgerber then pushed for the referendum on treaties.

Federal Funding to INAC and other departments and agencies (for treaty):
$236 million

INAC

Indian and Northern Affairs Canada

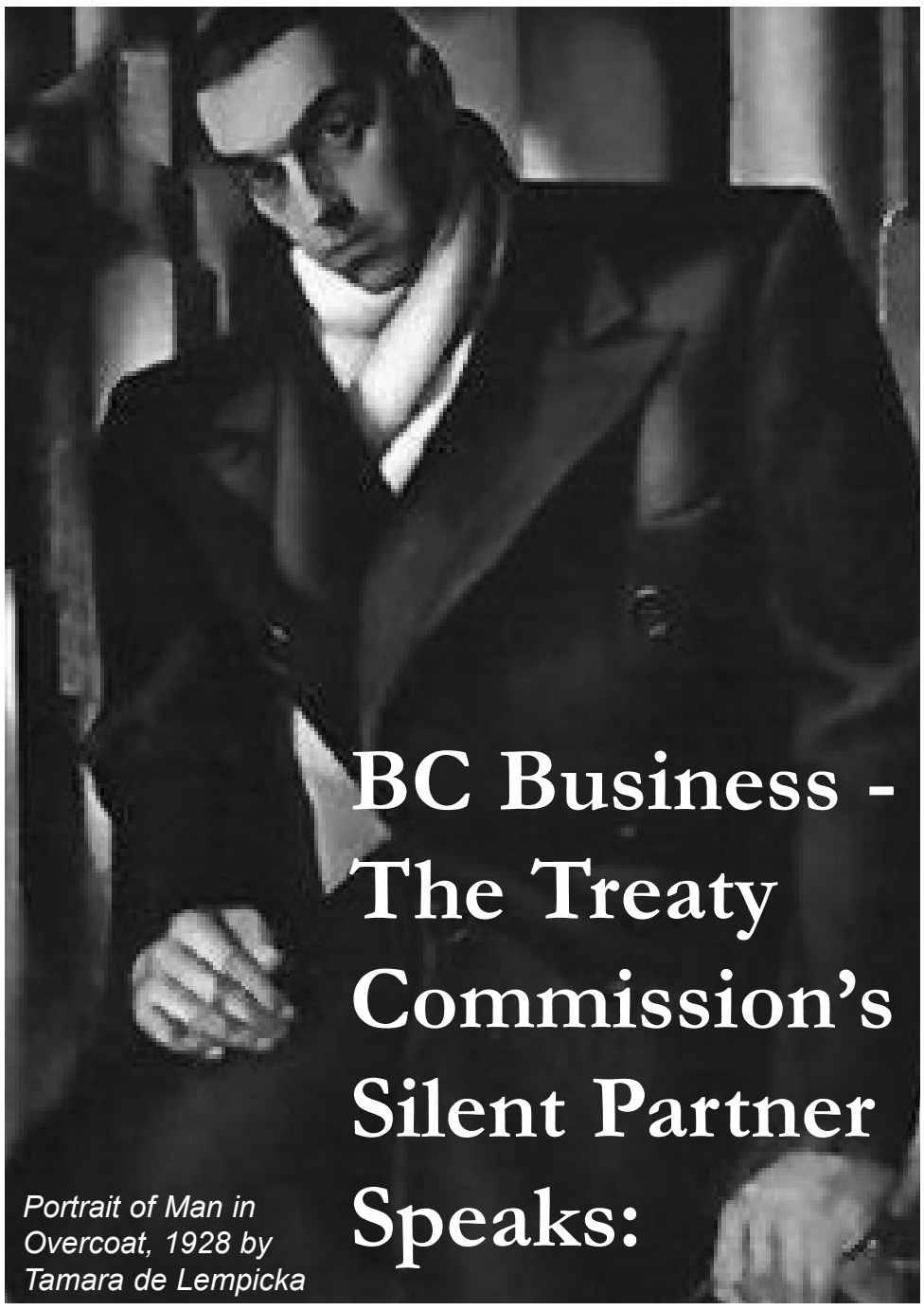
Canada

Canada is following existing policies of extinguishment and assimilation, in its role in the BC Treaty process. Canada refuses to acknowledge Aboriginal title in the treaties.

“...we believe that signing treaties with most B.C. First Nations based on the treaty process as it currently exists will continue to be difficult.” Canada’s auditor general, 2006 report. “In 1991 the federal government expected that all land claims in B.C. would be resolved by the year 2000.
As of 2006, no treaties have been signed under the B.C. treaty process...”

Right, Steven Harper

BC and Canada claim to have spent $439.8 million on their side of negotiations. Please note that loan funding to all the First Nations in the process only comes to $289 million.



BC Business - The Treaty Commission's Silent Partner Speaks:

Portrait of Man in Overcoat, 1928 by Tamara de Lempicka

BC Business Council President Jerry Lampert
"The unfinished business of aboriginal rights and title cannot remain unfinished indefinitely. The business community in British Columbia, in Canada, and even internationally, is looking for concrete signs of substantive progress and of an increasingly stable investment climate in this province."

Jock Finlayson, BC Business Council Executive Vice-President,
told participants in an economic development forum that the economic implications of unresolved aboriginal land claims have clearly been negative for the British Columbia economy. "It has depressed economic growth. It has clearly impacted new investment and business activity in land-based industries, primarily resource-based industries that require access to Crown land in order to operate." Because those industries are a big piece of the economic pie in British Columbia, Finlayson said the problem concentrated in the land-based component of the economy has spilled over to depress overall economic growth, both output growth and export growth.
"There is a potential for increased investment and business activity, hopefully in a world where we have more treaties in place. And not least, there should be more economic opportunities and greater opportunities to improve living standards for First Nations themselves."

Ron Jamieson,
BMO Senior Vice President of Aboriginal Banking, said that corporations don't like uncertainty. "I would have to say that the land claim issue in this province, from where I sit (Bay Street, Toronto) and as I understand it, is a huge hurdle to corporations."

One in five companies surveyed reduced their investment in BC over the past five years because of unresolved land claims. BCTC newsletter, June 2004

Loan Funding: A Pocket-Hold Trap

High debt levels
create challenges for concluding agreements.
For some smaller First Nations, we estimated that outstanding loans relative to the cash offered at the agreement-in-principle stage range from 44 percent to 64 percent.
By March 31, 2006, $289 million in loans had been issued by the federal government to First Nations.
By the end of March 31, 2009, First Nations loans could reach over $375 million.

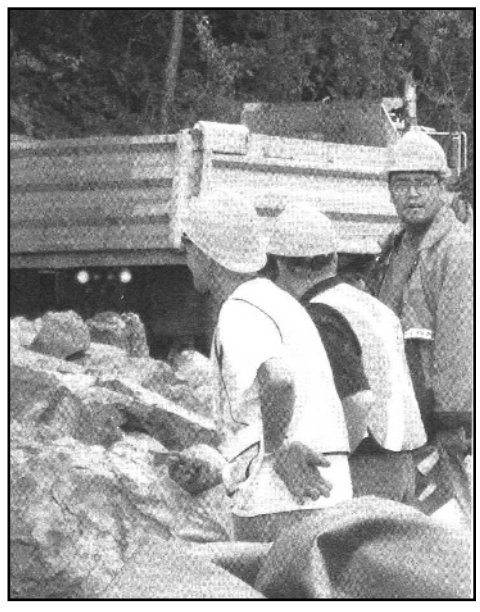
Loans are expected to be repaid from the cash portions of their treaty settlements.
Partly in response to the growing First Nations debt load, INAC sought and obtained changes to the loan program in 2002.
If negotiations are progressing, the date when loans become due and payable can be extended from 12 to 17 years after negotiations began.
Indigenous Network on Economies and Trade

BC's Contingent Liabilities

The banks know that BC doesn't have any land for collateral.
BC uses the loan funds to First Nations to show its creditors that it is buying the land, and that soon it will own the land because First Nations will have to sell them the land, through the Final Agreements, to pay off the loans.

Just as if you or I went to the bank for a loan, the bank asks BC what is it doing to pay off its debts? How much does it pay each year?
BC has a line item in its financial statements showing the amount of money it pays into treaty negotiations.
This line item indicates what BC is spending to "buy" the land, and assure the bank it will be able to repay the loan.

You see a lot of promotional pictures of guys wearing hardhats.
You've got to know this is a picture of a temporary construction job.
Usually you see pictures of aboriginal people in hard hats, and white or Chinese guys wearing suits and smiling.
When is the last time you saw a promotion of the BC Treaty Commission where the aboriginal guys were wearing the suits and smiling away, and the white guys were wearing hard hats and schlepping rock?



Sliammon construction workers. Photo: BC Treaty Commission's 'The Business Case for Treaties'

BC *Rents 'Certainty'* for Business

Forest and Range Opportunities Agreements are an example of pre-proof remedies.
BC makes a deal with a single community: a little bit of money for a guarantee of no disruption of the industry for five years. Certainty.

The Supreme Court of Canada recognized Aboriginal Title in 1997 with the court case *Delgamuukw.* This recognition of Aboriginal Title creates Human Rights and contingent liabilities against Canada and British Columbia.

After that, the Assembly of First Nations' Delgamuukw Implementation Steering Committee requested that Canada review its Comprehensive Land Claims Policy to reflect this legal development, but they refused.

Every time BC or Canada infringes on Aboriginal title and/or rights, they are vulnerable to being sued for it, as the court case *Haida* found.

Making an economic agreement with a First Nation *in advance* of development is a pre-proof remedy, meaning that the First Nation agrees its Interests have been accommodated by the government, and development can proceed *without further proof of Title.* The First Nation has signed.

"Indigenous peoples do not need money from these processes. You have economic sovereignty. To benefit from your economic sovereignty, you must respect it and act consistent with knowing that you have it."
J. Switlo, LLB

...and *Subsidizes* industry with stolen resources protected by their police.

Canada Exports $10 Billion Annually. During the Canada US Softwood Lumber Dispute, USA imposed a 27% Countervailing Duty on Canada. Canada Appealed to the World Trade Organization and NAFTA.

INET made submissions to WTO and NAFTA and identified the surreptitious theft of Indigenous forests as a subsidy, saying that Canadian government policy *NOT to recognize Aboriginal Title* is a cash subsidy to the forest industry.

The WTO and NAFTA recognized that the non-recognition of Aboriginal and Treaty Rights is an international economic subsidy. Logging continues to be protected by police. - *INET*

Fisheries and Math

Lheidli T'enneh members voted "No" to 12 fish each.

Food, Social and Ceremonial fishing is given an allocation in the Final Agreements to date. Currently, FSC fishing is protected by DFO's mandate and existing aboriginal rights. The FSC treaty rights for the Lheidil T'enneh, in terms of sockeye, amount to a maximum of 12,357 in a year. The fish allocation depends on the total Canadian allowable catch, for sockeye, and could dip as low as 2% of a quarter million, or 12 fish each for the nearly 400 Members.

Fishing rights are fixed, no matter the changes in population. Should Canada's total allowable catch dip as low as a quarter million, it seems unlikely the Lheidli T'enneh would ever get their share, imagining that BC allocates 2% to the fifty-odd other First Nations in the treaty process and considering how far upriver they are situated.

Also, others' "unmodified' Section 35 aboriginal Title and Rights "takes precedence over this Agreement," according to the document.

Commercial fisheries are side deals with the Department of Fisheries and Oceans. One problem with these is that First Nations do not need to consult with each other on fishing. They must consult with municipalities and third parties, but not other natives. *By Kerry Coast*

Victoria band receives $31.5m for city block

Members of the Songhees First Nation voted 94 per cent in favour and the Esquimalt First Nation members voted 92 per cent in favour to ratify a deal that will pay $31.5-million to the bands to drop a land-claim in downtown Victoria. The settlement is from a 2001 lawsuit that alleged, that land put aside for a reserve in 1854 was taken back by Governor James Douglas without consent or compensation. The deal, which was initialed by the First Nations and the provincial and federal governments last November, still must be ratified by Ottawa before proceeding.
(Time Colonist, March 30)

$125m to 6 Nations for Haldimand: "Not Enough"

Six Nations chiefs are frowning on a $125 million offer from Ottawa to end the 15-month occupation of a former housing project because it does not include land in long standing claims other than a small piece of property in Brant County.

Mohawk Chief Allen MacNaughton, a Six Nations negotiator, also says a condition to end the occupation of Douglas Creek Estates is immaterial as far as he's concerned.

"The Douglas Creek lands have been repatriated," MacNaughton told reporters at the end of a meeting yesterday with negotiators from Ottawa and Queen's Park. "That's all I can say about that." MacNaughton and Cayuga sub-chief Leroy Hill, another Six Nations negotiator, called the $125 million offer a start to settling questionable handling of Six Nations funds by colonial governments, but said they have told federal officials since talks began last year their mandate was the return of land in the Haldimand Tract. Six Nations claims 10 kilometres on either side of the Grand River under a 1784 proclamation by the British Crown.
The Hamilton SpectatorCaledonia (Jun 1, 2007)

No majority of BC Aboriginals in Treaty Process

BC finances its economy through bank loans sometimes. While BC may not be the first to admit it, the banks are well aware that BC does not own the land it sits on. As a result, the bank requires to see some evidence that BC is making payments on this particular debt, just as any bank would ask you and I, if we were to ask for credit, what our monthly bills add up to.

BC replies it is managing this lack of collateral by implementing the BC Treaty Commission and engaging First Nations in treaty talks, or land claim settlements as they call them. BC says they have a majority of First Nations involved in selling them the land, they show the bank what the process is costing them - on a line item in their budget; and show the payment schedule.

Unfortunately, with "12 inactive tables," and "17 challenging tables," according to the Auditor General's 2006 report, the remaining tables do not make up a majority of aboriginal title. - *INET*

Indigenous Network on Economies and Trade

STATEMENT ON THE SPECIAL THEME: TERRITORIES, LANDS AND NATURAL RESOURCES

> "We are presenting this statement to express our deep concerns about Canada's long standing policy on indigenous land rights that violates both the Canadian constitution and international law.

The Canadian Comprehensive Claims policy deals with indigenous land rights to their traditional territories, instead of recognizing those rights, the policy is based on their extinguishment and surrender. The Canadian government will only negotiate with Aboriginal peoples based on this policy, for example under the British Columbia Treaty Process, where indigenous peoples have to borrow money from the federal government in order to negotiate and are in turn under pressure to sign agreements under this unconstitutional policy to overcome the almost 300 million in loan funding amassed in the last 13 years.

> **The Canadian government will only negotiate with Aboriginal peoples based on a policy of extinguishment and surrender.**

This although the Supreme Court of Canada, over 10 years ago, in the landmark Delgamuukw Decision, unanimously recognized Aboriginal Title, as the inherent land right of indigenous peoples in their traditional territories. The judges also found Aboriginal Title to be one of the Aboriginal Rights protected by Section 35 of the Canadian Constitution. Still the federal government is steadfastly refusing to change its policy and to base it on the recognition of Aboriginal Title and co-management of the respective territories as directed by the Supreme Court of Canada.

This places Canada in a situation of constitutional breach, where the judicial power and the legislative branch have recognized and protected Aboriginal Title and Rights and the executive branch, namely the government refused to implement them through their policies.

A number of United Nations Committees have also taken issue with Canada's Comprehensive Claims Policy finding it to violate international human rights law. Most recently the Committee on the Elimination of Racial Discrimination urging the party to implement Section 35 of the Constitution without limiting Aboriginal rights and by implementing treaty rights.

"While acknowledging the information that the "cede, release and surrender" approach to Aboriginal land titles has been abandoned by the State party in favour of "modification" and "non-assertion" approaches, the Committee remains concerned about the lack of perceptible difference in results of these new approaches in comparison to the previous approach.

The Committee is also concerned that claims of Aboriginal land rights are being settled primarily through litigation, at a disproportionate cost for the Aboriginal communities concerned due to the strongly adversarial positions taken by the federal and provincial governments.

In line with the recognition by the State party of the inherent right of self-government of Aboriginal peoples under section 35 of the Constitution Act, 1982, the Committee recommends the State party to ensure that the new approaches taken to settle aboriginal land claims do not unduly restrict the progressive development of aboriginal rights. Wherever possible, the Committee urges the State party to engage, in good faith, in negotiations based on recognition and reconciliation…."

The Committee had heard both from indigenous nations refusing to negotiate under the current policy and those caught in the current negotiation policies. Similarly the UN Human Rights Committee and the Committee on Economic Social and Cultural Rights have expressed similar concerns that Canada's land rights policy still results in the de facto extinguishment of Aboriginal Title.

In turn Canada has only stepped up its push for conclusion of negotiations under the current policy by strategically using economic pressure pointing to outstanding loans that the respective nations cannot afford to pay back without giving up their land rights. - *INET*

Talk and Log.

We're 15 years into the treaty process. First Nations "owe" hundreds of millions for loan funding, while BC has earned billions on resource extraction in unceded territories.

Chief Fred Alec,
Ts'k'wáylaxw,
Speaking on the need for interim protection of territories during treaty negotiations:

"I have two major concerns. One is, I guess, the inability of the government to come forward to honour their commitment to interim measures. I'll talk about the negative effects of what I see as the government's inability and unwillingness to change. I think that the original document brought forth by the task force basically states that you can have interim measures prior to, during and after a treaty. For one side of the negotiation table to unilaterally decide that that cannot happen until stage 5 or stage 4 or basically at the end of this process is not acceptable.

... I think that when the provincial government says no to interim measures, they're saying no to the process in general, and it makes the process itself ineffectual. I really believe that if the governments were to realize at this point in time that if they continue to say no to interim measures. . . . We're trying to protect some of the resources for ourselves during the treaty process. I think we really have to look at it from a different perspective, because we as native people also know that they have policies that they developed after the fact, after they agreed to the process, that are in contravention to what they agreed to. This enables them to continue the status quo of accessing the logs.

In the beginning, I think in June of '95, we talked about possible protection of our watershed as an interim measure. It was brought to the table. It was understood, and we were sort of assured by Deputy Minister Angus Robertson and his colleagues that that was possible. They said they could bring us results within five days, and within five days that had changed. We want to protect our watershed, because it would be detrimental to my people, detrimental to the local ranchers and to the lake people, who are not native. But we are concerned because we have co-existed and depended on this watershed.

... at that time we agreed we would allow logging in the rest of our territories: in the west Pavilion, in the Leon Creek watershed, which has basically, in my mind, been destroyed. I look at the other areas of our traditional territory, like the Sallus, the Tiffin Creek watersheds, which have literally been destroyed just by clearcut logging. It's mass destruction that I call inappropriate. I've asked for the local forest manager to be fired or reprimanded for some of the things that have happened out there. I know that when we talk we basically are not heard."

Speech to the ***Select Standing Committee on Aboriginal Affairs, Lillooet, November 14, 1996.***

(Ts'k'wáylaxw has since pulled out of the BCTC.)

UN International Covenant Economic Social Cultural Rights 1998

18. The Committee views with concern the direct connection between Aboriginal economic marginalization and the ongoing dispossession of Aboriginal people from their lands, as recognized by RCAP, and endorses the recommendations of RCAP that policies which violate Aboriginal treaty obligations and the extinguishment, conversion or giving up of Aboriginal rights and title should on no account be pursued by the State Party.
The Committee is greatly concerned that the recommendations of RCAP have not yet been implemented, in spite of the urgency of the situation.

A Tale of Two Road Shows,

BCTC's Chief Commissioner The Honourable Steven Point

"The Treaty Commission is the independent and neutral body responsible for facilitating treaty negotiations among the governments of Canada, BC and First Nations in BC." - BCTC Website

"We've got to understand that in this country the highest law of the land is the Canadian constitution. I believe it's in our interests right now to shelter our traditional territory through treaty."

Justice Steven Point has been busy: "I've been all over the province talking to different First nations." The people are very happy to see him, he is a model of success: first a lawyer and then a judge, a commanding presence in the longhouse, wealthy and owning a place in Canadian society. He did it all without a treaty, but he states his ultimate support for the treaty process at community meetings: "Not only is the Treaty the best way to go, it's the only way to go."

Recently I watched his presentation at the In-SHUCK-ch Annual General Assembly, in Skátin.

He begins by recapturing the moment when the numbered treaties came to an end. In 1871, he says, BC asked for money from Canada to continue buying the land at the price of a blanket per person and a dollar an acre. Canada refused. BC took the position that aboriginal Title no longer existed.

Point tracked the implementation of the Indian Act in 1876, and the Marshall decision. He claims there are two kinds of sovereignty, the first, and only familiar form, being the god-given right that a people receive at the Creation of their clan. The second form is legalistic and invented, and includes the external aspect of sovereignty, meaning the ability to make treaties and deal internationally, and an internal aspect, the governance of land and people. The Marshall decision wrote that aboriginal Tribes have internal sovereignty only, and are "dependent nations."

Towards the midst of his talk, Point drops the thread of progressive historical logic. He makes claims about the outcomes of the treaty that are highly controversial and totally unsupportable, at best.

He says, "There are fears that somehow the white people will end up with our land in the treaty." Considering the First Nation relinquishes at least 95% of their territory, it's safe to say the white people will end up with the land.

He says, "There are fears that failure to pay taxes will lose you your home. It won't. You won't lose your home." It's a well known fact that BC will gain underlying Title to the land, and that the new First Nation government will need to charge taxes on its citizens to pay for public services, such as health care and roads upkeep. Is Steven privy to the taxation strategy of the First Nation, their policies and procedures?

In Nisga'a, almost everyone is on welfare. We will see if Point is an accurate fortune teller next year, as they begin taxation.

Point tells the people that all services will continue as they are, such as health, education, dental coverage; "Everything. There will be no change to existing government services. If people outside the treaty get those services, you'll get them." Considering the inability of In-SHUCKch to get paved roads, or ambulances, or phone lines, or hydro electricity, and in the absence of a multi-billion dollar side deal to create those, again Point seems to be meandering away from solid ground.

The Nisga'a have noticed very real changes to their services, with dental and medical coverage declining sharply and the relocating of the four villages' health centres.

Facts notwithstanding, Point reaches a pitch and begins gesticulating, covering his heart with his hand: "We don't take the side of government or industry. We're not supposed to take the side of First Nations, but I can tell you, that's where my heart is."

"As a nation you will be able to get investment." It seems strange that the Commissioner is trying to convince people who have just got investment in a multi-million dollar Independent Power Project that they need a treaty to get investment.

Point talks about resources leaving the territory and getting no benefit, but says, "When this is under the treaty, you will." It seems odd that Point thinks BC is going to pay First Nations for resources on land they just relinquished. The treaty is all about making certain that *they won't.*

" If the Supreme Court of Canada has recognized unextinguished rights, do we need a treaty? We've got to understand that in this country the highest law of the land is the Canadian constitution. The constitution protects our rights and title but not self government. The best way to protect our government is in treaty. I ask myself, does that mean we have to extinguish our rights, internal sovereignty and external sovereignty? ... I believe it's in our interests right now to shelter our traditional territory through treaty. To maintain the hunting and fishing for our use in certain parts of our traditional territories."

Just to sum up, it sounds like we need treaties to protect our First Nations governments. Only treaties don't do that. They limit governance to taxation, marriage certificates, and bylaws. All under the power of Province and State. Trade, justice, corrections; these are not afforded by treaties. Self-determination and governance are just as surely protected under international human rights law, today, as is indigenous land title and ensuing rights.

" We need to protect our land in the event that Canada ceases to be a country."

After the initial shock, I remember that this is not an international treaty, it is a land claims agreement, a transfer of program funding, a devolution of obligations. I wish I could clarify, maybe add little-known details, but there is no opportunity for questions at the end of Point's presentation.

Written by Kerry Coast

"As a nation you will be able to get investment." It seems strange that the Commissioner is trying to convince people who have just got investment in a multi-million dollar Independent Power Project that they need a treaty to get investment.

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"There are fears that somehow the white people will end up with our land in the treaty." Considering the First Nation relinquishes at least 95% of their territory, it's safe to say the white people will end up with the land.

Two Different Stories, ...and many cities.

Arthur Manuel, Indigenous Network on Economies and Trade

"Every dollar that is uncertain is our dollar, and every uncertain decision is our decision. We are entitled to some form of benefit from every dollar that's earned in this country," he said. "They have to understand that our land is the basis of the Canadian economy. Without our land, there is no Canadian economy."

"They owe us compensation back to 1846 - they'll never be able to pay it back, because the money has been spent,"

the United Nations Human Rights Commission has already condemned Canada for its treatment of indigenous people.

international economic pressure will force Ottawa to concede political power to First Nations, along with compensation for historic infringement of aboriginal rights.

"If you've never owned fee simple lands, you don't know what this statement means," he said. "You have to pay taxes. And if you don't pay taxes, the government can take it away. That's what they mean by fee simple."

"Canada and British Columbia want certainty for their economic interests - not yours,"

The son of one of Canada's great modern aboriginal leaders is calling on BC First Nations to back away from the treaty process.

Arthur Manual, son of the late George Manual, gave a power-point presentation at the Hupacasath House of Gathering on Friday. Manual's message was clear and to the point: treaty negotiations are a rigged game - international economic pressure will force Ottawa to concede political power to First Nations, along with massive compensation for historic infringement of aboriginal rights.

"They owe us compensation back to 1846 - they'll never be able to pay it back, because the money has been spent," Manual told his audience. In lieu of money, Ottawa and the provinces will be forced to realign the division of political powers to include "Indian people" (Manual's preferred term for First Nations).

Manual said the United Nations Human Rights Commission has already condemned Canada for its treatment of indigenous people.

His own organization, the Indigenous Network on Economics and Trade, has won favour with the World Trade Organization, with its position that infringement of aboriginal title constitutes a subsidy to the Canadian forest industry.

Currently, provinces must factor in future treaty settlements as "contingent liabilities" within their budgets. Those provinces must submit to international scrutiny when borrowing funds, Manual explained. And any economic uncertainty can ratchet up the interest rates which provinces must pay.

"Canada and British Columbia want certainty for their economic interests - not yours," Manual said. By creating economic uncertainty, First Nations can bring the business of the nation to near-standstill, then negotiate from a position of strength, he said.

"Every dollar that is uncertain is our dollar, and every uncertain decision is our decision. We are entitled to some form of benefit from every dollar that's earned in this country," he said. "They have to understand that our land is the basis of the Canadian economy. Without our land, there is no Canadian economy."

Manual's appearance in Port Alberni, where the five Maa-Nulth Nations of Barclay Sound have already initialed an agreement in principle, followed close behind the rejection of a similar AIP by the Lhedli T'enneh Nation in Prince George.

Manual said a tremendous amount of money - $975.3 million - has been spent on the treaty process. "And nothing's come out of it," he said.

Hupacasath chief councillor Judith Sayers disagrees. Sayers, who said she hadn't known beforehand the identity of the group which booked the hall for Manual's presentation, demanded that organizers include a disclaimer as part of the event: "The opinions expressed here do not reflect Hupacasath policy on treaty negotiations."

"There are still some major issues that have to be resolved," Sayers said. For example, the province would like to turn over land to First Nations in fee-simple. That allows bands or individual members to own property, to obtain mortgages and develop homes or businesses.

"The flag that fee-simple raises is the matter of aboriginal title. We want to see that aboriginal title is not extinguished," Sayers said. "Under the terms of fee-simple, the ultimate title is with the Crown. It's something we have to resolve."

For Manual, the concept of fee-simple ownership is anathema. "If you've never owned fee simple lands, you don't know what this statement means," he said. "You have to pay taxes. And if you don't pay taxes, the government can take it away. That's what they mean by fee simple."

.... excerpts from an article written by Shayne Morrow
Alberni Valley Times
Tuesday, April 17, 2007

"Arthur talks about this phrase extinguishment. It is one of those bureaucratic phrases you hear whenever you hear talk about treaties. It is made, I think, deliberately bureaucratic so that people kind of tune out.

But if you think about the word extinguishment, this is a violent term and if you see it, it is not a bureaucratic term. Extinguishment is the snuffing out of life, the snuffing out of an entire culture.

That is what you see extinguishment in process, you actually see extinguishment in process, except for there is a moment when you can actually intervene and stop the extinguishment before it is too late.

That is the moment we are in right now. This is the truth time." Naomi Klein, Author of No Logo, Vancouver Public Library – August 4, 2004

Carrier Sekani Tribal Chief Turns the Boat Around

After 13 years and $18,227,929,

"My people have decided that the British Columbia Treaty Process is a dead-end for our Nations."

writes Chief David Luggi in his June 5 letter to all Chiefs of First Nations involved in negotiating BC treaties.

"I trust that your people have had the same experience in the BCTC as we have, and now feel the same frustration and anger. For 13 years we have tried to achieve justice for our people through the BCTC. We believe it is time to walk away from this process as there is no possibility of achieving a just reconciliation within the current framework. The governments of British Columbia and Canada have proven that they are not willing to move away from their racist positions, and they are not capable of respecting our existence. After 13 years, they are still demanding that we surrender our inherent rights and ownership of our lands!

Brothers and Sisters: We will not surrender. We will survive. The BC Treaty Process is corrupting, dividing and destroying our people; the White Man is using this process to bankrupt us, to deny our rights, and to insult our ancestors. So, we say it is time to kill the BCTC process so that our people can survive. We will never give up on ourselves, we will not ruin the land, we will never surrender the future of our children, and we will not dishonour our ancestors.

... we should formally withdraw our Nations from the BC Treaty Process and immediately begin a campaign of direct, legal and court action to force the British Columbia and Canadian governments to cease to require extinguishment of title and surrender of rights, and acknowledge that First Nations territories will continue to be protected.

By turning away from the BCTC and focusing on rebuilding our traditional government systems, we can rebuild our communities and nations and reconnect with our cultures. We can resolve the territorial disputes that have arisen because of the BCTC using our own processes and protocols. And we can begin to act as sovereign Nations. Let us move forward by living our culture and traditional governance on the land. This is the way to truly decolonize our Nations and gain the collective strength we need to force the governments' of British Columbia and Canada to recognize and respect our people and our rights.

I understand that the recent "Unity Protocol" has the same basic message what is wrong with the BCTC. But, the Unity Protocol is advocating a very different strategy. The Unity Protocol does not call for withdrawing from the BCTC because the Unity Protocol is led by First Nation negotiators who have a large personal, financial, and political stake in keeping the BCTC process going. Yet there is common ground for action. The Title & Rights Alliance, the UBCIC, the Leadership Council, and now our group, the Indigenous Rights Alliance, all say the same thing about the problems we face. The only difference between our Alliance and the other groups is that we believe the chiefs should show leadership and be courageous in taking action against the real problem instead of waiting around while the process does more harm and steals more land from our people.

The First Nations Summit Task Group has tried to get the provincial and federal governments to move from their position at the principles level; they failed. First Nations are trapped in a vicious cycle in the BCTC, where negotiations are dragged out, thus increasing costs and allowing the federal and provincial governments to use a strategy of attrition to force First Nations into accepting meagre and insulting offerings, as with the agreements put forward in Tsawassen, the Maa-nulth, and Lheidli T'enneh.

... I believe that, as leaders, we need to buckle down and show our adversaries we are serious about ourselves and our rights by walking away from the process. By staying in the BCTC process, we are only encouraging more treaty proposals like the ones that have come forward so far.

The White Man's "uncertainty" is our Native Power. Let's get serious about our situation and start working together in a real way to gain the upper hand on the provincial and federal governments. The youth are looking to us for leadership; the elders are expecting a lot of us. Let's make them proud to be Native and stand up for who we are.

Sincerely,
Tribal Chief David Luggi"

LHEIDLI T'ENNEH BRIBED TO VOTE YES ON BCTC FINAL AGREEMENT

Indigenous Rights Alliance Press Release,
Prince George, BC - June 19th, 2007

On April 3rd, 2007, the Lheidli T'enneh band held a Community Treaty Meeting to discuss options following their rejection of the proposed Lheidli T'enneh Final Agreement. A total of only 20 Lheidli T'enneh band members attended.

Instead of respecting the voice of the people, the chief and council and the BCTC and federal and provincial governments have devised this new "mandate" to entice the Lheidli T'enneh to change their minds and support the Final Agreement.

The centrepiece of the scheme is a proposal to negotiate a slice of funding out of the proposed financial payment in the agreement. This money is to be used as a one-time compensation payout of $3000 to each member, $5000 for those 55 years of age and older.

Certainty

Continued from page 4:

We need to stop negotiation under that rigged system and define our relationship to our traditionally territories so we have certainty.

In fact the poverty we experience on a daily basis is caused by the fact the Canadian and British Columbia have been exercising 100% certainty over our land since BC became a province in 1871. We are not poor because our traditional territory are poor, on the contrary we are poor because the federal and provincial government do not recognize our Aboriginal Title. In fact the arrogance and disrespect that the provincial government has toward us is reflected in their business-as-usual approach to negotiations under the Comprehensive Land Claims Policy.

Uncertainty for Canada and British Columbia is certainty for indigenous peoples. We need to not be overwhelmed by the need of British Columbia but be motivated by what will help our peoples get out of poverty. We have been subsidizing the British Columbia long enough. We have the opportunity to serious force British Columbia from quit violating our Human Rights as indigenous peoples and stop extinguishing our Aboriginal Title. Defining certainty on the ground is your responsibility. We cannot turn it over to any other generation. We have been born into a time when this major question of our economic security, our economic future needs to be dealt and dealt with now.

By Arthur Manuel, Spokesperson,

Indigenous Network on Economies and Trade

In 1998, Glen Clark's NDP spent $5 million over 3 months promoting the Nisga'a treaty. About 50 people worked for the 'treaty - implementation project.' They hoped to make the treaty one of the top five issues for voters in the upcoming provicial election. Voters did not change their studied indifference to the treaty.

"There is one negotiation happening at 47 tables."

"...these were to be government-to-government negotiations, but that's not how it turned out."

Sixty First Nations have united to demand negotiation of "higher level issues" within the BC Treaty process.

The Unity Protocol was formed in October of 2006 as the result of years of conversation between Chief Negotiators who were finding that BC and Canada's negotiators will never discuss a list of key issues.

"The experience we're having at the Tables and in meetings is that government comes to every table with the same language, with one approach, whether the Nation is small or large, urban or rural," says Robert Morales, a Cowichan Member and Chief Negotiator for the Hul'qumi'num Treaty Group. "We have realized that we can't change those policies on our own, even at my table where 6,000 people are represented. We're going to stand together."

Each First Nation, BC and Canada signed on to the process in good faith. Morales speaks of the contradiction between good faith negotiations and Canada's arrival at the tables with a predetermined outcome: "I think BC assumed we had accepted their policies when we signed on. Now we are asking ourselves what it is that we bought into and what it is that we're trying to achieve. The vision was that these were to be government-to-government negotiations, but that's not how it turned out. There's only one negotiation going on at 47 tables. But there's no legal foundation, as far as we can determine, there's nothing in law that says 'you have to become fee simple lands, you're no longer Section 91 lands once you start a treaty.' These aren't laws, they're policies."

Federal and Provincial negotiators "go blank," when Bands seek to negotiate these policies, specifically Certainty, Constitutional Status of Treaty Lands, Governance, Co-management in traditional territories, Taxation and Fisheries. Some of the most contentious sections of the treaty template are the Extinguishment of Aboriginal Title, the Release of past claims, and the 'full and final settlement' clause. "They say, 'those are higher level issues,' " Morales recalls. The Unity Protocol has been formed to create a forum where those 'higher level issues' can be discussed. "The government negotiators come to the tables with their marching orders, with one position. When we raise our concerns they say, 'this is a voluntary process. If you don't like it, you can get out.'"

None of the treaty bands has suspended their negotiations to press for change, but "it may come to that," Morales notes.

Mr Morales is also the Chair of the First Nations Summit Chief Negotiators.

- Article by Kerry Coast

The following is an excerpt from a letter Robert Morales wrote **To the Times Colonist, Victoria, May 12, 2007**

"First, the provincial and federal governments come to the treaty tables with the view that First Nations' title and rights are not recognized and that the title and rights of the Crown are unquestionable. ... it is currently impossible for First Nations to engage in real negotiations on key issues since the government negotiators are controlled by the marching orders of their political masters. ...The combined effect is one of significant power imbalance. In the face of public and business support for treaty-making, governments continue to act in the manner of the school bully who insists that might is right."

The only treaty First Nation not in FNUPA is In-SHUCK-ch.

Chief Negotiator Gerard Peters wrote, "I have advised this collective that we are unable to sign the protocol at this time, because we can't afford to compromise our position as a "lead" table.
The reason for this is simple. Our position as a lead table comes with what I call *political currency*. It means we have the attention of the mandate givers as a lead table. They'll pay attention to us if they want to complete final agreement."

2006: Twenty years in Review, Eppa (Gerard Peters)

For many years, the United Nations have been asking to see an improvement in Canada's treatment of indigenous peoples.

Canada reports to the UN committee on implementation of the International Covenant on Civil and Political Rights:

186. In recent years, new approaches to achieving certainty have been developed as a result of comprehensive land claims negotiations. These include the "modified rights model" pioneered in the Nisga'a negotiations, and the "non-assertion model". Under the modified rights model, aboriginal rights are not released, but are modified into the rights articulated and defined in the treaty. Under the non-assertion model, Aboriginal rights are not released, and the Aboriginal group agrees to exercise only those rights articulated and defined in the treaty and to assert no other Aboriginal rights."

ICCPR, PART I , Article 1:
1. All peoples have the right of self-determination.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

Principal Subject of Concern noted in the UN committee's response:

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 under study.

UN Committee on the Elimination of Racial Discrimination 2007, response to Canada's report:

While acknowledging the information that the "cede, release and surrender" approach to Aboriginal land titles has been abandoned by the State party (Canada) in favour of "modification" and "non-assertion" approaches, the Committee remains concerned about the lack of perceptible difference in results of these new approaches in comparison to the previous approach.
In line with the recognition by the State party of the inherent right of self-government of Aboriginal peoples under section 35 of the Constitution Act, 1982, the Committee recommends the State party to ensure that the new approaches taken to settle aboriginal land claims do not unduly restrict the progressive development of aboriginal rights.
Wherever possible, the Committee urges the State party to engage, in good faith, in negotiations based on recognition and reconciliation, and reiterates its previous recommendation that the State party examine ways and means to facilitate the establishment of proof of Aboriginal title over land in procedures before the courts.

Those Words Should Mean Something To You

Arthur Manuel, Spokesman, INET, June 12, 2007

The kinds of words that set out the wealth of our peoples are words like **certainty, consultation, accommodation, fiduciary, treaty, final agreement, modified rights mode, extinguishment,** and **free prior informed consent**.

There are a number of terms that are used by the government, the media and our political leaders that we as the people need to define ourselves. By defining and understanding these terms right we can reduce and eliminate our poverty. We have fought to have many terms protected by our constitution, recognized by the courts, who finally recognized Aboriginal Title. They go to the core of our power to make decisions over our traditional territories. To a very large extent we have been very responsible in raising these issues but we have been very irresponsible in defining them on the ground. We have been leaving the definition of these terms to high priced lawyers and negotiators and the terminology they are coming up with are the terms set out in the Nisga'a Final Agreement and all of the subsequent Final Agreements and Agreements in Principles under the British Columbia Treaty Process.

The kinds of words that set out the wealth of our peoples are words like ***certainty, consultation, accommodation, fiduciary, final agreement, treaty, extinguishment, modified rights mode*** and ***free prior informed consent***. This list is not exhaustive but it gives the broad spectrum around which we have to build our security as indigenous nations.

Arthur during the 4th Session of the United Nations Forum on Forests in Geneva, Switzerland, May 2004. Photo by R. Diabo

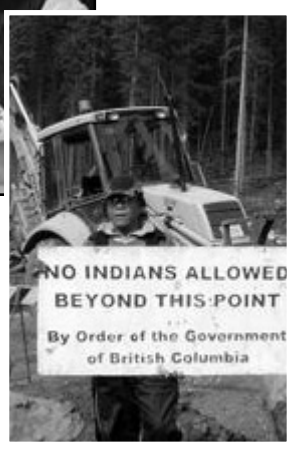
All these terms must be defined and understood by the grassroots. You need to define these words or you will forgo the financial and other benefits that these words and terms could mean to you and your grandchildren. Those words and terms mean wealth to you as a peoples.

The Canadian and British Columbia governments have spent about one billion Dollars to financially, economically, legally and constitutionally define these terms. The grassroots need to ask what we got from this one billion Dollars. I know only our government bureaucrats, political leaders, treaty negotiators, lawyers and consultants benefited from this money. The vast majority of us did not get one penny from those funds nor will we really get anything from that money. One thing we know though is that the government knows we own this land because the government would not put that kind of money on the table if we did not.

The Canadian and British Columbia governments would have never spent that money if they could have gotten away without it. You know how cheap these governments are when it comes to helping us out when we really need it. You know it is a joke when somebody says, "I am from the government and I am here to help you". They know they are in an economically vulnerable position, they know we own our traditional territories and they want to define the words and terms and trick us into giving our land to them.

All those words up above mean that you own this land, those words would have no meaning in Canada if you did not own this land. Canada would not have spent the one billion Dollars in the British Columbia Treaty Process if you did not own the land. I know this is hard for some of you to understand but you need to think this through. You know and I know that the federal government is not giving other indigenous peoples in other areas Canada money to negotiate under the Comprehensive Land Claims. It is only in British Columbia that they are talking about so called Modern Treaties.

Above, Arthur Manuel with Elder Irene Billy. Right, at Sun Peaks, where people have been blocking the expansion of the ski resort.. Photo: Skwelkwek'welt Protection Centre, 2004



All these terms should mean something to you. They are headings you need to use to eliminate the poverty we commonly experience. They are the essence our parents and grandparents have given us so we can take care of the children of our children. Right now the government is structuring the one billion dollar BCTC money around these discussions. It is the one billion Dollars that is the energy source the Canadian government uses for controlling of this discussion and controlling the agenda. They want to neutralize the voice of the common everyday grassroots indigenous person. They want the meetings to be closed and secret so they can determine what the meaning of these words and terms is so they keep themselves rich and keep us poor. They want to keep everything the way it is now. The provisions in the Final Agreements of the Lheidli T'enneh, Tsawwassen and Maa-nulth Final Agreements spell that out very clearly.

In fact the federal government is treating our ownership with complete disrespect because they are trying to take advantage of the situation. Instead of recognizing our ownership they are trying to extinguish our ownership through the provisions in the Final Agreements. It is important to read these provisions so you can see what the one billion Dollars has produced and decide if that is what you want for your children. You need to decide that.

I know you have lots of problems. I know most of you elect your Chief and Council to handle this kind of business but that is not good enough anymore. The federal and British Columbia governments do not recognize our leaders as having the power to create positive financial benefits for us or they would NOT be forcing extinguishment in the deals they are now trying to force us to accept. The federal and British Columbia governments feel that they have co-opted or bought off our leadership under the British Columbia Treaty Commission loan funding.

The federal government has loaned our Treaty Negotiators $286 Million Dollars to negotiate Final Agreements with provisions like the ones printed in this information document. The grassroots have to take the bull by the horn or get trampled. We need to define what these words and terms mean because we need to determine them on the ground. They need to be determined by your political will as indigenous peoples. Self-determination really belongs to those strong enough to exercise it. That is why the federal and British Columbia governments are trying to steamroll us and define these terms on us.

They know we own the land that is why they are trying to take it from us. Only we can extinguish our Aboriginal Title and that is what they are trying to have us do. They want us to commit suicide as peoples and assimilate into Canadian society and own minimal parts of our land like any good settler under fee simple, paying taxes and staying poor.

BC treaties are not International Treaties

and are not protected by International Treaty Law

UN Rapporteur Alfonso Martinez and the UN Special Rapporteur on the Rights and Freedoms of Indigenous Peoples, Rodolfo Stavenhagen, were very interested in a recent report on the provisions of the final agreements and agreements under the BCTC and how they violate indigenous rights.
The report, compiled by Arthur Manuel of INET, clearly documented that the agreements proposed under the British Columbia Treaty Process are not treaties in the international sense:

- BC Treaty Commission Final Agreements do not constitute an agreement between two equal nations.
- The proposed agreements do not recognize indigenous sovereignty, they do not recognize land rights which are one of the foundations of sovereignty.
- They aim at the extinguishment of indigenous land rights and only propose delegated authority that is still subject to control by both federal and provincial governments.
- Under international law it is also clear that provinces can never be signatories to an international treaty. By involving the provincial government in the negotiations and attributing the control over overall land management to them, and even more by signing an agreement with them, it is clear hat it is not an international treaty.
- The modern agreements do not meet the same standard as the treaties signed East of the Rockies, where the indigenous signatories had a strong understanding of sovereignty and considered it recognized in the spirit and intent of the treaties which were signed with the federal Crown alone.
- The agreements do not meet the minimum guarantees of international human rights law.

The Comprehensive Claims Policy, first drafted in 1973, deals with comprehensive land claims in Canada. It *still* requires that indigenous peoples give up their inherent land rights, or, in effect, extinguish them. In turn they will be "granted back" small parts of their traditional territories by the government. This policy has been found to violate international law.

The United Nations have repeatedly called on Canada to revise the policy based on the recognition of Aboriginal Title.

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Published by
Kerry Coast

Indigenous Peoples in British Columbia have always played an important role at the international level.

Already at the turn of the last century delegations from different Aboriginal Nations traveled to England to assert their sovereignty and to take up land rights issues with the King. This continued until the 1920s when indigenous peoples were prohibited by law and under the threat of being jailed from organizing around their land rights and for going international, thereby effectively cutting off this alternative venue.

In response to the 1969 "White Paper Policy," indigenous peoples got organized at the local, national and international level. Aboriginal Nations from British Columbia played a key role in the organization of the international indigenous movement. In 1976 they hosted the founding conference of the World Council of Indigenous Peoples at Port Alberni. Indigenous peoples from around the world converged on the island and elected George Manuel the first President of the WCIP, endorsing his vision of building a fourth world movement where indigenous peoples (constituting the poorest part of the population of many countries) would work together to seek the recognition of their rights.

This also meant pushing their way and creating a space for indigenous issues at the United Nations. So in the late 1970s and early 1980s more and more indigenous representatives, many from British Columbia, traveled to the United Nations in Geneva, where the human rights bodies are headquartered.

Through their lobbying the United Nations were forced to set up the first international body on indigenous issues, the United Nations Working Group on Indigenous Populations (UN WGIP). As an expert body, the working group addressed many key issues, including land rights and historic treaties by mandating studies.

Most recently the UN Special Rapporteur on historic treaties of indigenous peoples, Alfonso Martinez, visited Treaty 6 territory to talk about the implementation of historic treaties in Canada. He expressed a lot of interest in the British Columbia Treaty Process and heard a report from the representative of all chief negotiators pointing to many of the shortfalls in the policy underlying the negotiations under the BC Treaty Process.

The fact that so many Aboriginal nations are negotiating under the current process is probably the reason why Canada opposes the UN Draft Declaration on the Rights of Indigenous Peoples. The proposed agreements would never meet the minimum standard set out in the Draft Declaration.

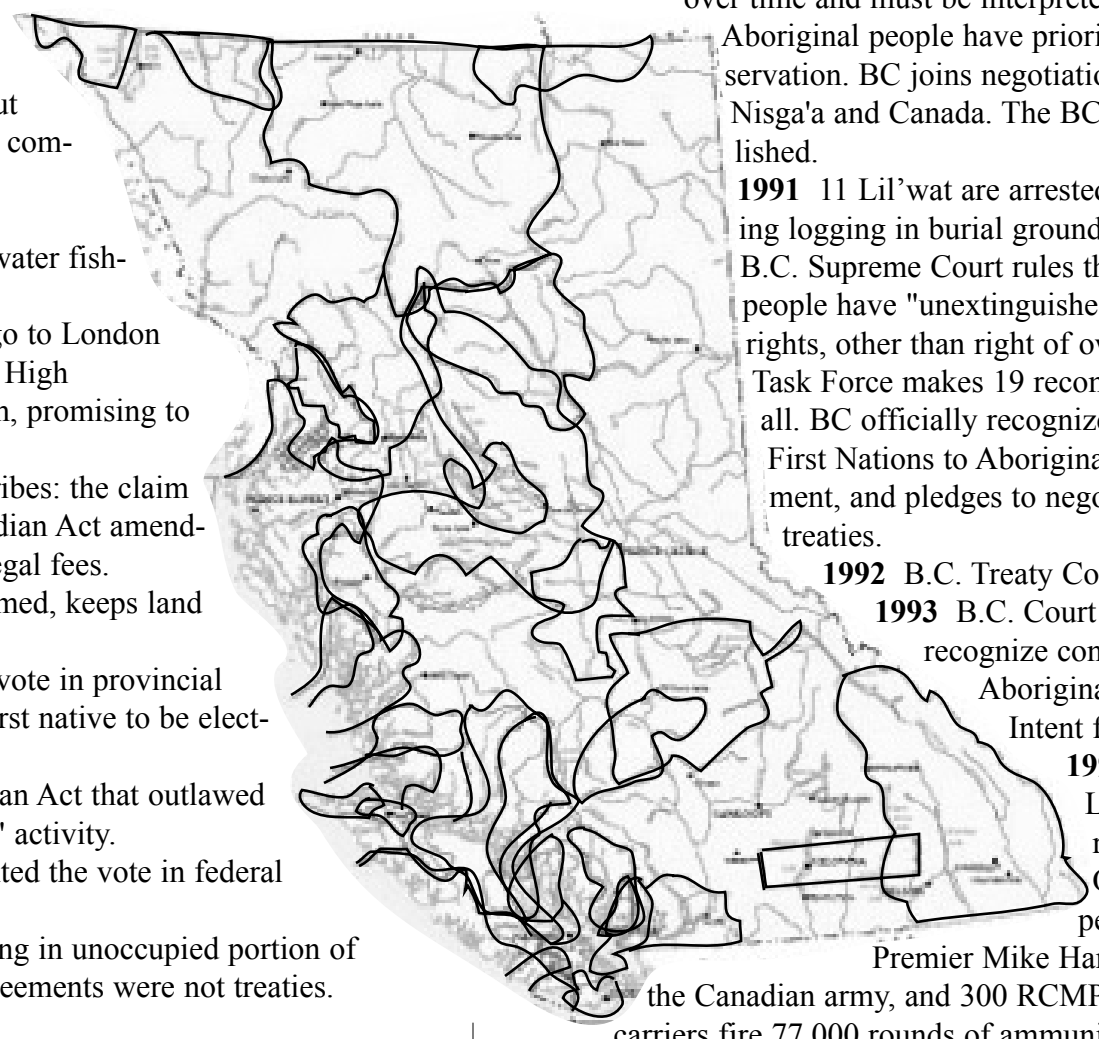
A History of Conflict and Repression.

1741 Russians sailed to Aleut, Southern Alaska. They took Aleut families hostage and took sea otter skins for payment, until:
1763 Aleuts revolted and destroyed 4 of 5 Russian ships. The Russians massacred Aleuts in the fight, and destroyed many villages. The Royal Proclamation of 1763 by King George III recognizes Aboriginal people as "nations or tribes" and acknowledges that they continue to possess traditional territories until they are "ceded to or purchased by" the Crown.
1774 First recorded contact by Spanish Explorer Juan Perez Hernandez when he meets Haida near Haida Gwaii. Oral history indicates that some BC First Nations had prior contact with Europeans.
1775 A Spanish boat crew was killed by Quinalt warriors on Washington's coast.
1778 Captain Cook arrives at Nootka Sound on South Vancouver Island, and claims the land for Britain.
1786 Nuu-chah-nulth warriors attached the British Ship *Sea Otter*. The ship's crew killed as many as 50 warriors using guns.
1793 British sea captain George Vancouver sails into Observatory Inlet (Ts'im Gits'oohl) and produces first contact between the Nisga'a and explorers.
1802 Tlingit warriors destroy a Russian Fort at Sitka.
1803 Nuu-chah-nulth warriors attacked the US ship *Boston* and killed all but two of the crew.
1811 Nuu-chah-nulth warriors attacked the US ship *Tonquin* in Clayoquot Sound. The surviving crew set off explosives killing as many as 100 warriors.
1843 Fort Victoria is established by the Hudson's Bay Company, with James Douglas at the head.
1846 Oregon Boundary Treaty draws line at 49th parallel.
1849 Vancouver Island now British colony. HBC is in charge of immigration and settlement. Royal Navy gunboats, from Victoria, patrol the coast enforcing colonial rule.
1850 A Kwakiutl group, Newitti, was accused of killing settlers. A gunboat found their village empty and burned it down, and did the same the following year.
1851 Tlingits destroy HBC fort; Haida and Nuu-chah-nulth loot more ships.
1850 - 1854 James Douglas, instructed to purchase land from the Indians. Fourteen Treaties cover 358 square miles around Victoria, Saanich, Sooke, Nanaimo and Port Hardy. Natives are paid in blankets and credit at HBC store, and promised the rights to hunt on unsettled lands and to carry on fisheries "as formerly".

1851 James Douglas appointed governor of the Vancouver Island colony, while retaining his Hudson's Bay Company position.
1853 'Cowichan Crisis:' two Salish warriors arrested by gunboat crew, village is forced to witness their execution.
1856 January: 1,000 Salish warriors, Nisqually and Yakima, attacked Seattle. Informants betrayed them, they lost as many as 200 men. Massive raid on the Salish at Cowichan - 500 marines with 2 cannons aredeployed; Salish submit and a warrior is hung at the village.
1858 The Mainland becomes the Colony of British Columbia. James Douglas is appointed governor and resigns his HBC position. Matthew Begbie is appointed chief justice of BC, the two men swear each other into office. 2 US ships are destroyed at Haida Gwaii.
1859 New Westminster becomes the first capital of British Columbia. A US ship is destroyed by Nuu-chah-nulth.
1860 Begbie writes *The Pre-emption Act,* where settlers could "buy" land from the new provincial government, or, more accurately, pre-empt the status of the current owner. Agunboat destroys the Lekwiltok's houses on Quadra Island.
1861 Douglas instructs that "the extent of the Indian Reserves . . . be defined as they may severally pointed out by the Natives themselves."
1862 A smallpox epidemic begins in Victoria. Colonial authorities force natives out. As people return to their villages, the epidemic spreads and kills approximately one of every three Aboriginal people in 2 years.
1863 2 settlers killed on Saltspring Island. 4 ships bomb the Lemalchi, Cowichan village, several warriors were caught and executed. Settlers were killed at Port Simpson. Tsimshian villages were raided and several Chiefs taken prisoner. The suspects were surrendered.
1864 Tsilhqot'in War: Tsilhqot'in attack road builders and miners in their territory, soldiers attack them and bring 5 men to "a meeting" which turns out to be a trial, and Judge Begbie has them hanged. Douglas retires, replaced by A.E. Kennedy. Joseph Trutch appointed Chief Commissioner of Lands. Nuu-chah-nulth attack a ship and kill the crew; gunboats destroy 9 Ahousat villages.
1865 Nuxalk warriors kill a Customs official at Bella Coola. Later that year a Kwakiutl village is raided by gun boat; houses, canoes burned.
1866 Colony of Vancouver Island and of British Columbia are united.
1867 Canada becomes a country when confederation joins Nova Scotia, New Brunswick, Quebec and Ontario. The Constitution Act 1867 instructs "to make laws for the Peace, Order, and good Government of Canada" including "Indians and lands reserved for Indians."
1868 Owikeeno warriors destroy a trade ship. Kwakiutl attack a ship but are repelled by a new repeating rifle.
1869 2 years after purchasing Alaska from Russia, US ships bomb Tlingit villages at Kake and Wrangell. In one attack, 29 houses are destroyed. 2 Hesquiat warriors were hung by soldiers after crew found near their shipwreck.
1870 Joseph Trutch, writes memo denying the existence of Aboriginal title.
1871 BC becomes a province within the Canadian Confederation. The Terms of Union state that the federal government will assume responsibility for Indians, and BC will be responsible for land and resources. By this time, Begbie has ordered 22 Indians hanged. Trutch first Lieutenant-Governor. *British North America Act.*
1872 Hundreds of Coast Salish rally outside provincial land registry in New Westminster.
1873 Owikeeno destroy the *George S. Wright.*
1874 56 chiefs approve a petition supporting a federal proposal that reserves contain 80 acres per family. BC Lands Act passed in Parliament to open land to settlement.
1875 Canada issues the Duty of Disallowance, striking down the BC Lands Act and citing the failure of BC to make treaties for surrender of native land. BC threatens to withdraw from Canada.
1876 Canada issues the Indian Act, extending federal control over all natives, including those of BC, and effectively excusing BC from any responsibility for native issues. Native people are forced on to reservations, Indian Agent forts are established near the reserves, and natives must have a pass approved by the Indian Agent to travel. South Africa uses the Indian Act as a model for apartheid.
1877 Nuxalk refuse to surrender suspects: their village is destroyed by cannon, in the last use of Royal Navy firepower on the coast of BC.
1880s European population rises to about 23,000. Native population is down to 25,000, from some estimated 200,000 in 1780. Religious missions widely established; abduction of Native children begins.
1881 Chief Mountain leads a Nisga'a protest delegation to Victoria.
1882 Tlingit village of Angoon destroyed by US Navy.
1884 Indian Act amended to outlaw cultural and religious ceremonies.
1885 Three Tsimshian chiefs travel to Ottawa and meet with Prime Minister Macdonald to discuss "our troubles about our land."
1886 Nisga'a in the Upper Nass resist surveyors and begin organized pursuit of land claims.
1887 Nisga'a and Tsimshian chiefs travel to Victoria to discuss land and

self-government with the Premier William Smithe, who responds that Indians could no more be landowners than could the birds or the bears.
1889 Federal fishing permit system introduced. Resistance ensues.
1899 Treaty 8 is extended into BC from Alberta.
1909 The Native Tribes of B.C. is founded. 20 Indian Nations representatives go to England to assert their land rights.
1910 Chiefs of the Shuswap, Okanagan and Couteau Tribes sign the Memorial to Sir Wilfred Laurier, Premier of Canada. They assert ownership of the land and protest the reservations and violent behaviour of the BC settlers. Laurier promises to settle the Land Question.
1911 180 chiefs from throughout the Interior of BC sign the Memorial to Frank Oliver, Minister of the Interior, Ottawa, asking Canada again to intervene in BC's assumption of jurisdiction. 17 Chiefs sign the Declaration of the Lillooet Tribe, asserting ownership of the land and aligning themselves with Indians of the Coast and their demands of treaty.
1912 Royal Commission struck to re-examine the size of reserves.
1913 Nisga'a land committee petitions British Privy Council to resolve settler and natives dispute. The petition was referred back to Canada.
1916 McKenna-McBride Royal Commission report recommends that much valuable land be cut from many reserves.
The Allied Tribes association, with a majority of Tribes involved, is formed to pursue land claims and secure treaties.
1919 The Allied Tribes file a presentation of all land claims in the province.
1920 McKenna-McBride recommendations begin: "cut-offs" of reserves without consent. A review of this Commission is completed in 1923 and finds inaccuracies re. acreages and descriptions.
1923 Natives allowed commercial saltwater fishing licences.
1926 Neskonlith Chief and two others go to London to petition the Crown for their land. The High Commissioner of Canada intercepts them, promising to deliver it.
1927 Canada responds to the Allied Tribes: the claim to Indian title in BC is without merit. Indian Act amended: it's now illegal to raise money for legal fees.
1931 Native Brotherhood of B.C. is formed, keeps land discussions alive.
1949 Indian people receive the right to vote in provincial elections. Frank Calder, Nisga'a is the first native to be elected to the provincial legislature.
1951 Parliament repeals part of the Indian Act that outlawed the potlatch and prohibited "land claims" activity.
1960 Aboriginal people on reserves granted the vote in federal elections.
1965 Nanaimo natives arrested for hunting in unoccupied portion of treaty area. Province argues Douglas agreements were not treaties. Supreme Court of Canada disagrees.
1966 Department of Indian Affairs and Northern Development is formed.
1968 In *Calder*, Nisga'a seek a provincial acknowledgement that their title has never been extinguished.
1969 B.C. Association of Non-Status Indians formed. The Union of B.C. Indian Chiefs is formed to proceed with a land claim on behalf of all B.C. status Indians. George Manuel, Secwepmc, is the first President.
1973 Calder Decision: The Supreme Court of Canada rules that the Nisga'a had held Aboriginal title before settlers came, but the judges split evenly on the question of the continuing existence of their title.
1974 Canada starts negotiations with Nisga'a.
1976 The federal government adopts a "comprehensive land claims policy." Under the Comprehensive Claims policy, only six land claims could be negotiated in Canada at any one time, and only one per province. The Nisga'a land claim is the only claim in B.C. started under the Comprehensive Claims policy.
1981 The Constitution Express: hundreds of natives make a trip from BC to Ottawa to England to insist on having aboriginal title recognized in the new Constitution of Canada.
1982 Constitution Act recognizes and affirms existing Aboriginal and treaty rights, through the Royal Proclamation of 1763.
1984 *Guerin v. The Queen*: Supreme Court of Canada: Aboriginal rights existed before Canada, those rights apply on- and off-reserve.
Delgamuukw: Gitskan and Wet'suwet'en file suit against BC, claiming 57,000 square km; self-government; compensation land and resources.

Traditional Territories claimed under the BC Treaty Commission's 'Statement of Intent' *BCTC Source*



Over 100 Nuu-chah-nulth and environmentalists block logging.
1985 71 Haida people arrested while blocking logging operations. Eventually, after more logging, the land is declared a park. Gitxsan block CN rail tracks that run through reserve land, expropriated in 1910.
1986 *Sparrow* Decision: Aboriginal rights to fish for food continue to exist in non-treaty areas of the province. Sechelt Indian Band Government Act: title to lands and self-government through legislation. Kwakiutl at Fort Rupert block logging road on Deer Island, claiming it is reserve land under a Douglas Treaty. 18 natives face charges of assault, obstruction and illegal fishing at Cheam, during a summer-long protest fishery on the Fraser River.
1987 Native Affairs Secretariat created by BC.
1988-89 Gitxsan blockade logging operations and ignore DFO fishing restrictions. Sinixt people block road building at Vallican after a burial site is found.
1990 Mohawk warriors block development of a golf course on an old burial ground. The stand-off sparks at least 30 other roadblocks across BC. 64 Mt Currie people arrested road blocking the Duffy Lake Road on the Mt. Currie reserve, they are protesting expropriation of the road for BC's purposes of extending Highway 99. Kwakwakwaka'wakw blockade logging road. Nlakapa'mux block road south of Lytton. *Sparrow v. The Queen*: Section 35 of the Constitution Act protects Aboriginal rights, which can evolve over time and must be interpreted generously, and that Aboriginal people have priority to fish for food after conservation. BC joins negotiations underway between Nisga'a and Canada. The BC Claims Task Force is established.
1991 11 Lil'wat are arrested near Mt. Currie for blocking logging in burial grounds. *Delgamuukw* Decision: B.C. Supreme Court rules the Gitxsan and Wet'suwet'en people have "unextinguished non-exclusive Aboriginal rights, other than right of ownership". The BC Claims Task Force makes 19 recommendations, accepted by all. BC officially recognizes the inherent rights of First Nations to Aboriginal title and to self-government, and pledges to negotiate just and honourable treaties.
1992 B.C. Treaty Commission established.
1993 B.C. Court of Appeal *Delgamuukw:* recognize continuing existence of Aboriginal rights. Statements of Intent from accepted by BCTC
1995 Sundancers at Gustafsen Lake are attacked by a local rancher. They petition the Queen for an impartial independent third-party tribunal. Premier Mike Harcourt receives back up from the Canadian army, and 300 RCMP and 6 armoured personnel carriers fire 77,000 rounds of ammunition at the campers before they surrender. The court case becomes the longest criminal trial in Canadian history. The Judge instructs the jury to ignore key witnesses and evidence, including the Canadian constitution. Treaty bands loudly disavow the Defenders.
1996 First Agreement in Principle under BC Treaty Commission signed with Nisga'a. *Van der Peet* decision sets precedent for acknowledging aboriginal rights one at a time, one court case - one right.
1997 *Delgamuukw v. British Columbia*, Supreme Court of Canada: recognizes existence of aboriginal title as "a property right." The BC Treaty Commission refuses to acknowledge these developments. Its mandate and negotiations remain with the Comprehensive Claims Pol.
2000 An American judge refuses to extradite OJ Pitawanakwat, criminalized in his role at the Gustafsen Lake, to Canada. Justice Stewart cited the existence of a political agenda against native people in Canada in her reasons, comparing the case to extradition cases that found favourably for members of the Palestinian Liberation Organization and the Irish Republican Army. Canada does not appeal the decision.
1984 to 2006 101 blockades of logging roads, boats, trains. 9 camps are built to occupy traditional territory. 14 office occupations. 3 sabotage. associated with assertion of title.
Sources: Warrior Publications' 'War on the Coast,' and 'Know your History;' BC Treaty Commission website; 00-M-489-ST Opinion and Order; Stolen Lands, Broken Promises; Dictionary of Canadian Biography Online; The Langley Story.

Sovereign Nations Have Options.

Canada's territorial integrity is in question,

because it has claimed lands that belong to indigenous nations, lands that have not been ceded, sold, given away or otherwise treated. The United Nations' remedy is to examine the statements of claim by sovereign indigenous nations within Canada's asserted borders, and reconcile the conflicting jurisdictions by proper acknowledgement of indigenous countries, and proper acknowledgement of the inherent right of the governing systems within them.

"We don't want to enter into a treaty for five or six percent of Secwepmcullec.
We go by our Sir Wilfred Laurier Memorial, which says, "We will share this land with the non-natives, but in such a manner as it lasts forever."
- Chief Mike Lebourdais, Whispering Pines, Secwepmc

The call for an independent third party tribunal has never been answered.

It may be that the Queen's Privy Council must hear this conflict between its Commonwealth and the indigenous nations, and provide a proper remedy that will lead to the acknowledgement of indigenous peoples' human rights.

Canada must be pressured to change its policy of extinguishment of aboriginal title.

It undermines international human rights law, according to the United Nations. For indigenous peoples, land rights are human rights.

Indigenous peoples must manifest governance

that protects the integrity of their land base.

Canada must be pressured to reconcile

with indigenous peoples, providing compensation for resources extracted and harm done to the integrity of the land bases of the indigenous peoples.

"The governments and Chiefs and Councils are terrified of the truth. Perhaps that is why the governments consider "Natives" who speak the truth as Terrorists!"
Clarke Smith, Kakila, Tenas Lake Hereditary Chief, St'át'imc

The world's Indigenous peoples lobby for recognition

of their right to self-determination. The BC Treaty Process is not a means to achieve self-determination, but integration into Canadian Society. Chief BCTC Commissioner Steven Point:
"First Nations will have at long last found a place for themselves in Canadian society..."

Byron Spinks watches as Nathan Spinks, Nlaka'pamux, signs to implement the Inter-Tribal Fishing Treaty with the St'át'imc. It reads, in part, "Both parties hold Title to their respective territories and everything pertaining thereto. Both Parties agree to work collectively on Fisheries Issues; recognize the requirement of a collective approach to the protection of the Fisheries; and have Laws governing the Fisheries and are in the process of codifying them." Signed February 20, 2007, the letter serves to re-instate the treaty of 1989, signed by 61Chiefs.

Only indigenous people have the legal right to challenge

state government decisions based upon Aboriginal and Treaty Rights
Recognition of Aboriginal and Treaty Rights gives all citizens the influence to stop adverse decisions.

Repair the Tribes.

Stop acting as Indian Act Bands, separated for BC and Canada's convenience, find strength in numbers.

The Aboriginal Tribes in BC Now have more than what BC can offer

What aboriginal tribes have:	What BC and Canada are offering:
Sovereignty in Traditional Territories	Municipal Status, Third Party Status in land use
Title to the land	Fee simple title with underlying title held by BC
Inherent rights to self-government	Decision making controlled by BC, Canada
Traditional government ,justice	First Nations Governance Act, Criminal Code
"The inherent right to dispose of natural wealth," International Covenant on Civil and Political Rights	A small place in boosting BC's economy, with as little as 0.2% of their actual land base.
Indian Status	No further fiduciary obligations on the part of the Crown