

FIRST NATIONS STRATEGIC BULLETIN

BULLETIN OF THE FIRST NATIONS STRATEGIC POLICY COUNSEL

The Canada-Aboriginal Roundtable - One Year Later: A Review of Paul Martin's "Aboriginal" Assimilation Plan



Prime Minister Paul Martin shakes hand of Denis Coderre, Federal Metis Interlocutor during photo op at the start of the Canada-Aboriginal Roundtable, April 19, 2004. (Photo by R. Diabo)

By Russell Diabo

It was over one year ago that Paul Martin trumpeted that a "new relationship" would begin with what the Martin government calls "Aboriginal Canadians"—a term that includes First Nations—as assorted federal officials, Liberal Members of Parliament, Senators, Cabinet Ministers and of course the Prime Minister met with 70 representatives of Aboriginal peoples in Ottawa.

A month before the last federal election was called, the Canada-Aboriginal Roundtable held in Ottawa on April 17, 2004, launched a series of post-election, sectoral policy roundtables in the following six areas:

- Lifelong Learning (Education & Training)
- Health
- Housing
- Economic Opportunities
- Negotiations (Historic Treaties, Self-

Government & Land Claims), and

- Accountability (Aboriginal Report Card/Performance Measures)

This national consultation process has involved a filtering of "Aboriginal" input and representation through the internal decision-making processes of the 5 National Aboriginal Organizations that were funded to collaborate with the process, which are the following organizations:

- Assembly of First Nations
- Inuit Tapiriit Kanatami
- Metis National Council
- Congress of Aboriginal Peoples
- Native Women's Association of Canada

By agreeing to participate in the federal national consultation process, which includes the Metis and urban Aboriginal groups, the Assembly of First Nations has, in effect, agreed to water down First Nation positions on Inherent, Aboriginal and Treaty rights.

It should be noted that AFN did get the federal government to concede to First Nations holding "break out sessions" in the process, but in the end the process is designed to facilitate the assimilation of First Nations into what I have called the "Aboriginal melting pot".

The Canada-Aboriginal Roundtable process is just another federal initiative to promote process over substance in relations with First Nations, just like the Liberal's "Gathering Strength" process was before this.

In other words, the national Roundtable process is another diversionary tactic to

Special points of interest:

- **UN Report on Canada's Indigenous Peoples**
- **Haida-BC Reach Agreement**
- **Is AFN 'All For Nothing'?**
- **Land Claims Negotiations, one example**
- **New Book Preview: 'Wasase' by Taiaiake Alfred**

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“Phil Fontaine and his supporters, by following along with Paul Martin’s “Aboriginal melting plot” have led AFN to put all of their “eggs in one basket” so to speak. The Cabinet Retreat with National Aboriginal Leaders scheduled for May 31, 2005, is now threatened to be overtaken by an election call.”



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keep First Nations’ leadership busy while the real decisions take place behind the locked doors of federal government departments, the Privy Council Office, the Prime Ministers’ Office, and the tables of the Cabinet Committees.

A good indication that the Canada-Aboriginal Roundtable process has federally pre-determined outcomes independent of consultations with the 5 National Aboriginal Organizations (NAO’s), is the fact that after the last federal election the Martin government had the various “lead departments” and Ministers develop “secret” papers by September 2004, on each of the sectoral policy Roundtables, with options for the federal Ministers, the Prime Minister and the relevant Cabinet Committee to consider even before consulting the NAO’s.

These documents are available on the internet at:

http://www.gatheringplacefirstnationscanews.com/Governance/050106_04.htm

A review of the “secret” federal options papers revealed that what the national Roundtable exercise is really about is assimilating First Nations into the Canadian mainstream by focusing on individual rights to programs and services, while ignoring or downplaying collective rights.

Another objective revealed in the federal “secret” documents from last September is that the Canada-Aboriginal Roundtable process is designed to convince “Aboriginal” and provincial/territorial governments to accept the transferring or “off-loading” of federal constitutional obligations and responsibilities for delivering programs and services to First Nations. This will be the main federal objective at the proposed First Ministers’ Conference scheduled for the fall of 2005.

This would go a long way to explaining why there were no significant “new” monies announced in the last federal budget. Paul Martin wants “Aboriginal Canadians” to be funded more and more by the provincial/territorial governments.

From the reports I have received from individuals who have attended some of the sectoral Roundtable sessions, as well as a review of the Canada-Aboriginal “Roll-Up Reports” available on the internet at: http://www.aboriginalroundtable.ca/whtnw/index_e.html it is clear that any serious federal policy or budgetary proposals are not being revealed outside of a small circle of chosen “Aboriginals” within the inner circles of the 5 National Aboriginal Organizations.

With an apparent federal election looming it seems that Phil Fontaine and his supporters, by following along with Paul Martin’s “Aboriginal melting plot” have led AFN to put all of their “eggs in one basket” so to speak. The Cabinet Retreat with National Aboriginal Leaders scheduled for May 31, 2005, is now threatened to be overtaken by an election call.

Phil Fontaine, as National Chief of AFN, has already received a mandate from the December AFN Confederacy meeting to encourage First Nations to participate in the next federal election, and although he will no doubt try to be coy and try to portray a “non-partisan” posture, the opposition parties know he is allied with the Liberal Party of Canada, which is increasingly being revealed as corrupt and deceitful.

The outcome of the next federal election will determine whether it will continue be a Liberal assimilation plan or a harsher Conservative assimilation plan that is employed on First Nations.

Let’s not forget that parallel to the Roundtable process, the Martin government has simply continued with implementing Jean Chrétien’s “Aboriginal Legacy Agenda” of assimilation and termination, including the objectives in the Chrétien/Nault “Suite of Legislation”, by:

- Maintaining the National Centre for First Nations Governance, headed by Robert Nault appointee, Herb “Satsan” George;

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- Maintaining and not amending or rescinding Bill C-6, the "Specific Claims Resolution Act", which caps specific claims at \$10 million;
- Passing Bill C-20, previously known as the "First Nations Fiscal and Statistical Management Act", in order to introduce property taxation "on-reserve";
- Maintaining the Chrétien "self-government" and "land claims" termination policies as the negotiating positions at tables across Canada, which excludes any recognition of "historic treaties" except at "Exploratory Treaty Tables" (ETT's) that do not have any mandate to discuss "treaty rights";

Regardless of which Party wins the next federal election, to get out of the damage the **Indian Act** has done to our communities, First Nation citizens would likely be better off focusing on internal capacity building and clarifying decision-making processes between the people and Chief and Council, instead of trying to influence federal party politics. Whoever gets into power will have to address First Nations issues whether they like it or not. So First Nations should be organizing to strengthen themselves internally to prepare for a continued struggle to protect and defend what little there is left of First Nation jurisdiction and lands.

The bottom line is, don't count on Paul Martin's Roundtable process to come up with solutions to the many problems facing First Nations at the community level. Find the answers on the ground, not from some top down, secret, exclusionary process designed in Ottawa with AFN collaboration.

It appears Phil Fontaine is more concerned about fundraising and getting re-elected as AFN National Chief, than he is about advocating for Inherent, Aboriginal and Treaty rights.

While AFN was holding a "National Policy Forum" in Montreal in April on Education, Housing and Environment, the National Chief's advisory council was reportedly meeting at a hotel down the street from the AFN policy forum .

Here is a copy of their agenda:

Draft Agenda for the Strategy Session:

1. Opening
2. Introductions
3. Review of Strategic Plan from October 2003
4. Election Strategy
5. Roundtable on Emerging Issues and Concerns
6. SWOT Analysis
7. Related Issues and Concerns Grouped Together
8. Set Priorities/Goals for 2005-06
9. **Other Business: - National Chief's Dinners**
 - Friends of Phil Fontaine Receptions
 - National Chief's Schedule and Travel
 - AFN Security and Emergency Response
10. Adjournment



“don't count on Paul Martin's Roundtable process to come up with solutions to the many problems facing First Nations at the community level. Find the answers on the ground, not from some top down, secret, exclusionary process designed in Ottawa with AFN collaboration.”





Logo of the United Nations

“Ever since early colonial settlement, Canada’s indigenous peoples were progressively dispossessed of their lands, resources and culture, a process that led them into destitution, deprivation and dependency”



Summary Report of the UN Indigenous Peoples, Special Rapporteur, Rudolfo Stavenhagen: Mission to Canada



Rudolfo Stavenhagen, UN Special Rapporteur on the situation of human rights and fundamental freedoms of Indigenous peoples, speaking in Algonquin territory, May 2004. Photo by R. Di-abo)

This report is submitted in accordance with Commission on Human Rights resolution 2004/62 and refers to the official visit paid to Canada by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people from 21 May to 4 June 2004, at the invitation of the Government of Canada, where he had conversations with federal, provincial and territorial authorities, representatives of Aboriginal peoples’ organizations, members of the academic world, and members of Aboriginal communities in Nova Scotia, Quebec, Manitoba, Ontario and Nunavut. He had previously visited several First Nation communities in May 2003. Based on the information gathered during these visits, he presents the present report on the human rights situation of Aboriginal peoples in Canada.

Aboriginal peoples, who include First Nations (Indians), Métis and Inuit, represent 4.4 per cent of Canada’s total population of 30 million inhabitants. The Constitution Act, 1982, recognizes their existing Aboriginal and treaty rights that have been subsequently reaffirmed by the courts. In recent years, some Aboriginal nations have negotiated new agreements with the federal and provincial governments concerning land claims and self-government arrangements. In its new Aboriginal policy of 1998, known as “Gathering Strength,” the federal

Government has pledged to strengthen the relationship between Canada and the Aboriginal peoples.

The Special Rapporteur is encouraged by Canada’s commitment to ensuring that the country’s prosperity is shared by Aboriginal people, a goal to which the federal and provincial governments of Canada devote an impressive number of programmes and projects and considerable financial resources, as well as by Canada’s commitment to close the unacceptable gaps between Aboriginal Canadians and the rest of the population in educational attainment, employment and access to basic social services.

Economic, social and human indicators of well-being, quality of life and development are consistently lower among Aboriginal people than other Canadians. Poverty, infant mortality, unemployment, morbidity, suicide, criminal detention, children on welfare, women victims of abuse, child prostitution, are all much higher among Aboriginal people than in any other sector of Canadian society, whereas educational attainment, health standards, housing conditions, family income, access to economic opportunity and to social services are generally lower. Canada has taken up the challenge to close this gap.

Ever since early colonial settlement, Canada’s indigenous peoples were progressively dispossessed of their lands, resources and culture, a process that led them into destitution, deprivation and dependency, which in turn generated an assertive and, occasionally, militant social movement in defence of their rights, restitution of their lands and resources and struggle for equal opportunity and self-determination.

Aboriginal peoples claim their rights to the land and its natural resources, as well as respect for their distinct cultural identities, lifestyles and social organization. Current negotiated land claims agreements between Canada and Aboriginal peoples aim at certainty and predictability and involve the release of Aboriginal rights in exchange for specific compensation

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packages, a situation that has led in several instances to legal controversy and occasional confrontation. Obtaining guaranteed free access to traditional land-based subsistence activities such as forestry, hunting and fishing remains a principal objective of Aboriginal peoples to fully enjoy their human rights. So does the elimination of discrimination and racism of which they are still frequently the victims. In some cases, taking advantage of development possibilities, Aboriginal people have established thriving business enterprises. Much more needs to be done to provide such opportunities to all Aboriginal communities in the country in order to raise employment and income levels.

The Special Rapporteur concludes his report by a number of recommendations intended to help the concerned parties bridge the existing gaps and consolidate the achievements obtained by Aboriginal peoples so far. The Special Rapporteur recommends, inter alia, that new legislation on Aboriginal rights be enacted by the Parliament of Canada, as well as provincial legislatures, in line with the proposals made by the Royal Commission on Aboriginal Peoples; that Convention No. 169 of the International Labour Organization concerning Indigenous and Tribal Peoples in Independent Countries be ratified promptly, in consultation with Aboriginal peoples; that it be clearly established in the text and spirit of any agreement between an Aboriginal people and a government in Canada that no matter what is negotiated, the inherent constitutional rights of Aboriginal peoples are inalienable and cannot be relinquished, ceded or released; that an evaluation of the new self-government agreements be undertaken; that the Government intensify its measures to close the human development gaps between Aboriginal and non-Aboriginal Canadians in the fields of health care, housing, education, welfare and social services; that emergency measures be taken to address the critical issue of high rates of diabetes, tuberculosis and HIV/AIDS among Aboriginal people; that Aboriginal suicide be addressed as a priority social issue; that the Government address with high priority the elimination from existing legislation of provisions that place certain categories of First Nation women at a disadvantage; that section 67 of the Human Rights Act be stricken; that the Canadian Human Rights Commission be mandated to deal with the human rights of First Nations; and that efforts be increased at all levels to reduce and eliminate the overrepresentation of Aboriginal men, women and children in detention.

**[NOTE: for more information on the work of the Special Rapporteur contact:
indigenous@ohchr.org]**



UN Indigenous Peoples Special Rapporteur, Rudolfo Stavenhagen with Indigenous Representatives while in Canada, May 2004. (Photo by R. Diabo)



Gate at the United Nations in Geneva, Switzerland

“that it be clearly established in the text and spirit of any agreement between an Aboriginal people and a government in Canada that no matter what is negotiated, the inherent constitutional rights of Aboriginal peoples are inalienable and cannot be relinquished, ceded or released”



Logo of the Council of the Haida Nation

“The Haida and the B.C. government reached an understanding Friday over land use on the Queen Charlotte Islands, ending a four-week stalemate that kept many forest workers from their jobs.”



Haida, Victoria reach agreement on land use: Deal to end weeks of logging blockades on the Queen Charlottes protects prized cultural areas



L to R: Guujaaw, President of the Council of the Haida Nation with an Elder at the Supreme Court of Canada, March 25, 2004. (Photo by R. Diabo)

By Heather Ramsay, April 23, 2005

QUEEN CHARLOTTE CITY, The Haida and the B.C. government reached an understanding Friday over land use on the Queen Charlotte Islands, ending a four-week stalemate that kept many forest workers from their jobs.

The Haida and their supporters had blocked logging roads to ensure prized cultural areas were not further compromised by logging, especially before an 18-month land use planning process had been completed by the province.

Guujaaw, the president of the Council of the Haida Nation, said a mechanism is now in place to prevent that intrusion from happening.

That mechanism is an order-in-council signed by the lieutenant-governor on Thursday. It will protect large swaths of land known as the Haida Protected Areas. This order, which allows areas to be removed from timber harvest licences, is valid until Dec. 31, 2008.

Forests Ministry spokesman Don McDonald said the order fulfills past government commitments to protect these areas.

While details must be finalized in the coming weeks, the Haida negotiators returned from meetings in Vancouver to a receptive crowd at a fundraising dinner and dance Friday night.

The Haida blockade, called Islands Spirit Rising, brought Haida and non-Haida alike together to bring about changes to forestry.

Guujaaw said he is especially interested in seeing local economic and cultural concerns met before larger provincial ones.

He said it is time for some of the billions of dollars taken off the islands to remain and pointed to the antiquated hospitals and schools.

"You can tell someone who is from the islands because they can't skate," he said. "There is no arena."

He acknowledged timber harvest licensees will be affected by the agreement, but didn't have details. "Nothing is being taken from them, they have been taking from here. And it wasn't theirs in the first place. Anything they get should be considered a bonus."

Guujaaw and the other community leaders said they will await word from their constituents on whether what they negotiated is acceptable.

McDonald said the relevant provincial ministries will look to refine the details of the deal in the coming weeks.

[NOTE: Reprint from the © Vancouver Sun 2005]



Lawyers preparing to appear before Supreme Court of Canada in the Haida and Taku cases, March 25, 2004. (Photo by R. Diabo)

OPINION: All For Nothing - The Folly of Party Politricks



Phil Fontaine, AFN National Chief and Liberal Prime Minister Paul Martin shaking hands during photo op at the start of the Canada-Aboriginal Roundtable, April 19, 2004. (Photo by R. Diabo)

By Kheebahdzee

Many used to joke that the AFN acronym really only means “All For Nothing”. If a federal election is called in the next few weeks, it may well be the case because of Phillip Fontaine’s collusion with Liberal Party power brokers. It truly is tragic that the potential for a national political voice for First Nations has been hijacked by elements of the Liberal Party and the Department of Indian and Northern Affairs. It is doubly tragic that the corruption exposed in the Liberal Party will also taint First Nation leaders who have collaborated and encouraged First Nation peoples to participate in the party politics of the colonizer.

Mr. Fontaine has historically called for First Nations people to get involved in Canada’s electoral system. Just as he has encouraged First Nations to work with the federal government, calling it “opening doors”. Now he calls it “getting results”, but its never been clear just what the expected “results” are or what price is to be paid for access to the power structure. Rather than the traditional approach of defending and advocating for First Nations’ inherent, aboriginal and treaty rights, as has been the tradition for generations, his group seeks to work with the federal government and its policies as “partners”.

As this National Chief has said openly to the Ontario Chiefs, “he will not lobby”. His

style is to meet with his partners, whom are senior federal officials. He will not appear on the Hill to meet the opposition, he is on side with the very officials who continue to deny giving full and effective effect to the collective rights of First Nations. This National Chief has even cleansed his office of any remaining independent thinkers, turning the AFN-NIB Secretariat into one big National Chiefs’ Office, where political loyalty to himself means more than a commitment to First Nations. Only flunkies and yes-men need apply, preferably bureaucrats transferred directly from his “partners” in the federal system, full salaries and all.

The flip side of “partnership” becomes apparent through scenarios covered by the mainstream media, like First Nations making political contributions with public funds or the Virginia Fontaine Foundation scandal in Manitoba. Unfortunately, such incidents are not mere aberrations, but symptoms of a greater problem; a greater alienation from our peoples’ collective sovereignty. The current obsession with addressing the symptoms of dispossession through program dollars and ignoring the root cause of dispossession is responsible for a real sense of moral decay that drives many First Nations people away from politics.

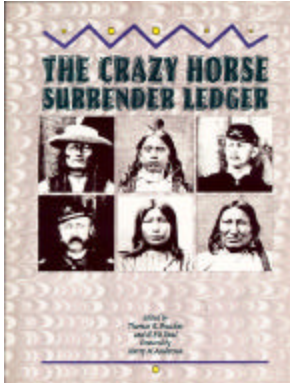
Ironically, these First Nation Liberals and bureaucratic collaborators, who have themselves helped to silence and distort the voice of First Nations peoples, are bound to suffer a backlash, regardless of the outcome of the expected federal election. If the Conservative Party or a coalition with the Bloc Quebecois end up controlling Parliament, the partisan politics of current leaders will expose them to whatever retribution may be forthcoming. Rather than maintain a self-determining, non-partisan and autonomous position on behalf of First Nations, the party politics collaborators have made First Nations vulnerable to the win-lose culture of mainstream politics.

The once independent voice of the NIB and its successor, the AFN, no longer exists in any substantive form. The integrity of First Nation self-determination and autonomy has been severely undermined. Sure, the



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“The National Chief’s liberal ideology will not allow him to seriously confront the real issues with government. He invokes the language of treaty and aboriginal rights, while conspiring with the continuation of assimilation policies”



‘Politricks’ continued from page 7

Liberal Party’s National Chief will occasionally rebuke the government for its lack of serious commitment to his proposals or even its more obvious past misdeeds, but he certainly will not challenge the Liberal Government.

In fact, Mr. Fontaine will likely encourage even more vigorously our peoples’ participation in the upcoming federal election. He personally has a lot at stake, especially in light of the lack of results to date in his term of office. If an election is called in May, his vaunted “cabinet retreat” will be no where and the expected reward for his cooperation will not materialize. If the Liberals go down, he may not even get another federal appointment or the rumored Senate seat he is said to covet, which is something he must have assumed would be a slam-dunk before the recent revelations about the Liberal Party at the Gomery Inquiry.

The National Chief’s liberal ideology will not allow him to seriously confront the real issues with government. He invokes the language of treaty and aboriginal rights, while conspiring with the continuation of assimilation policies like the federal “comprehensive claims” and “inherent right to self-government” policies. These policies are clearly designed to limit the content of the constitutional rights that will be recognized and are simply newer versions of the same outdated colonial mentality. As previously leaked internal, federal documents have repeatedly revealed, although the terms “surrender” and “extinguish” are no longer to be used, policies that “set aside” and restrict inherent rights are designed to accomplish essentially the same old thing; take our lands and resources in exchange for a pittance.

The only alternative to federal policy processes is the courts, which are risky and beyond the financial capacity of most First Nations. Although both the comprehensive claims and self-government policies have been rejected through successive resolutions of the AFN, sufficient numbers of First Nations participate in the processes to make them viable and defensible by the federal government. Meanwhile, participating First Nations develop a dependency on the funding provided for collaborating in these federal policy processes.

The reality is that very few agreements have ever been finalized under these flawed policy processes. For all we know these policies may well be long-term strategies that simply buy time for ever more natural resources to be exploited, before enough case law develops that might affirm First Nations rights to them. Negotiations certainly take long enough that the very resources that are the subject of the claims or self-government arrangements are gone by the time a settlement is in reach. Despite recent gains in the Supreme Court on the need for consultation, inadequate interim measures to protect First Nation interests have already resulted in third party interests, such as forestry or mining permits and licenses, being granted to resource companies by every province covering almost all remaining Crown lands.

Not only has the relatively recent connection to mainstream party politics clouded the issues with respect to constitutional recognition of First Nation rights, it has advanced assimilation through its tacit support for the dominance of individual rights over the collective rights of First Nations. The National Chief’s muddled support for the “financial institutions” legislation and the acceptance of subtle federal policies like DIAND’s “Land Management Act”, which are designed to promote economic development through a corresponding diminishment of collective rights, clearly illustrates the ongoing assimilation trend in federal politics.

This new form of assimilation and collective enfranchisement is designed to divert First Nation peoples away from the root cause of our poverty and social disintegration. The idea is to steer our communities and fledgling governments away from recovering our fair share of the lands and resources of this country. The result will be like throwing candy into a circle of starving children, where the scramble for limited social program funding and

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relatively minor capital investment, replaces the fight for land and jurisdiction, both in law and on the ground. First Nations end up diverting valuable time and human resources to social policy wrangling, while land and jurisdiction get increasingly characterized as unrealistic pursuits.

In the Treaties, our forefathers were seeking to secure the livelihood for future generations. In exchange for peace and sharing this rich land, our peoples were to be accorded a fair place at the table, not to be shunted aside in poverty and destitution. The injustice is widely acknowledged, yet rarely articulated for meaningful discussion between First Nations and Canada. Instead, we have leaders like Phillip Fontaine and his kind, reaching for the cash administered by bureaucrats and the ego boost accorded friends of the white ruling class.

It is interesting to observe the canned speeches given by the present National Chief. He sounds so much like the Prime Minister, you might swear he has the same speech writers, ever so exact with each phrase, carefully avoiding any controversy. Where past National Chiefs so often articulated with great passion the First Nation issues of the day, today we have a leader who more reflects the style of mainstream Canadian politicians.

Phillip and his trendy allies probably even believe this mimicking of the political mainstream is a positive development. They most likely would say something to the effect that we need to join the mainstream to get somewhere. But where is it they are taking us? They might even go so far as to say, "Why not just go along with the game, collect some cash now, and tell ourselves we'll get back to the land question later? Maybe we will even have money to do that later." Surely we've all heard such arguments.

First Nation leaders should consider the situation carefully, as our forefather did when they entered into a Treaty relationship with the Crown. To this day we know we cannot rely upon the written word for an understanding of those Treaties. Why should we abandon our inheritance in exchange for a few program dollars today, when we know our children must carry on the struggle for the land for generations to come.

Some of us believe we should not compromise the honour of the collective rights of First Nations for the individualistic, ego-centric allure of mainstream politics or party affiliation. Individual First Nation citizens may choose to get involved, but the integrity of the First Nations collective political voice should not be sacrificed in the process. At present, we have never been so close to compromising the efforts of our ancestors, whose efforts might well turn out to be all for nothing if this trend continues



Phil Fontaine and Paul Martin at Canada-Aboriginal Roundtable Press Conference, April 19, 2004. (Photo by R. Diabo)

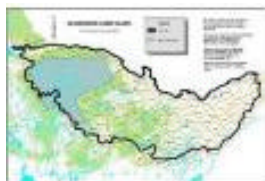
"It is interesting to observe the canned speeches given by the present National Chief. He sounds so much like the Prime Minister, you might swear he has the same speech writers, ever so exact with each phrase, carefully avoiding any controversy."





Logo of the Algonquins of Pikwakanagan

“The governments, you will find, have their own unique way of thinking and dealing with you. After several years, if you're lucky, you will start to figure out how they think and why they think that way.”



Map of area claimed by the Algonquins of Pikwakanagan

Land Claims Negotiations—An Ontario Experience



Chief Kirby Whiteduck, Algonquins of Pikwakanagan, presenting at the “Rebuilding Our Nations” Conference held in Summerside, PEI, March 1, 2, 2005. (Photo by R. Diabo)

By Chief Kirby Whiteduck

Introduction

The Algonquins of Pikwakanagan First Nation is an Algonquin First Nation in the Kitchissippi (now known as the Ottawa River) valley within Ontario. We are the only Algonquin First Nation in Ontario. There are 9 Algonquin First Nations in the Ottawa Valley within the Province of Quebec and together we comprise the Algonquin Nation.

That part of the Ottawa Valley that lies within Ontario is approximately 8.9 million acres in size and includes the City of Ottawa, the Parliament Buildings, the Governor General's residence, Canada's Supreme Court, and numerous embassies among other government seats and structures.

The territory also includes the great majority of Algonquin Provincial Park which is approximately 1.5 million acres in size and is referred to by Ontario as their "crown jewel" and "flagship park".

A map of our territory in Ontario is provided below. Of the original 8.9 million acres there remains about 1.5 million acres

of unpatented land, not including the area of Algonquin Park.

The Ottawa valley on the Quebec side of the Kitchissippi is about three times the size of that in Ontario.

The Algonquins have never signed a land surrender Treaty and our rights and title have not been extinguished. A large amount of exhaustive research has been completed by us, the Province of Ontario and the government Canada prior to our claim being accepted for negotiations.

Canada currently has three categories of claims and have developed policies for two of those categories. Their Specific Claims policy deals with breaches or non-fulfilment of treaties and other such matters as misuse of settlement funds, or Trust monies, etc. The Comprehensive Claims policy deals with claims of aboriginal rights and title to land and resources where there is no Treaty. A third category that is undefined is what they have termed "claims of another nature". This involves claims that do not fit into either of the first two formally developed policy frameworks.

Our claim did not fit neatly into their comprehensive claims policy but given the fact that they really do not have a policy framework for the third category we are negotiating our claim using the comprehensive claims policy as a guideline. We do not necessarily agree with the policy but we do want to negotiate and see where we can get.

I am here today to provide you with some of our experiences in land claim negotiations and to provide you with some insight and knowledge of what to expect. Hopefully this will help you be better prepared.

General Comments

If you haven't been involved in land claim negotiations before under the comprehensive claim policy you will probably be in for a lot of surprises and learning experiences. Many of the things that you think and assume will not be as you think or assume. The governments, you will find, have their own unique way of thinking and deal-

'Land Claims' continued from page 10

ing with you. After several years, if you're lucky, you will start to figure out how they think and why they think that way. In some cases I don't think anyone can.

You will enter the negotiations with certain assumptions and expectations many of which you will take for granted as being normal or the way things should operate in negotiations. I am here to tell you our experiences from being in negotiations for over twelve years and hope that you can learn from our experiences and acquired knowledge.

In many instances I expect to give you some concrete ideas of what not to do or what you should actually expect.

Claim Accepted

I don't want to be the one to throw water on the party but you will never get a settlement where you get all that you believe you truly deserve or negotiate what is really owed to you. You will never be fairly compensated or really be able to negotiate rights and benefits that you feel you should get or have recognized. What you will get, if successful, is a **negotiated settlement!**

When your claim is accepted for negotiations you might assume that you will only be dealing with the federal government or that the federal government has power or authority over the province. If you are within a province the province will also have to accept the claim for negotiations if you expect to settle any claim outside the Reserve boundaries. This is because under Canada's Constitution the provinces have jurisdiction over most of the unpatented lands and resources.

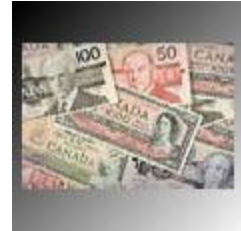
Outside of the reserve boundaries you will find that the province will have to be there and agree to everything. If they don't agree then it will not be in the Treaty. You will likely find that contrary to what you thought or assumed the province will seem to have more say and control than the federal government does. You will have to deal with the province. My advice is get to the provinces representatives know them and their policies and positions.

When your claim is accepted you might assume that it means that the federal and provincial governments have recognized your aboriginal rights and title, jurisdiction, etc. and that that is one of the bases and foundations for negotiations. You will be wrong. You will find out that they will never (at least publicly or officially) admit that you have any existing rights or title.

They will probably say or take the position that you do not have rights or title but they are negotiating with you because you weren't dealt with fairly, or you were overlooked or that they extinguished your rights but you weren't properly dealt with or that they think you might have a legitimate grievance and that is the reason they have entered negotiations with you. They may tell you that your rights were dealt with or superceded by law (they won't tell you what that means) but that it was not done fairly so they are volunteering out of the goodness of their hearts to negotiate your grievance.

What follows then is that you will find that many of your assumptions around the extent and nature of the negotiations are undermined or compromised by that position. Your assumption that you will be negotiating for compensation for settled land at fair market value is out the window. For example, when you say to them we have acquired an independent evaluation of the value of all the land that is now settled on by your citizens or the value of the use of your resources and you want to put that on the table they will say to you we are not looking at that - we don't believe you have existing rights to those properties or resources so we are not looking at negotiating that.

[And they will seek to ensure that 3rd parties are protected - i.e. not lose their rights or interests only if they agree and you pay them fair market value or more out of your settle-



“You will never be fairly compensated or really be able to negotiate rights and benefits that you feel you should get or have recognized. What you will get, if successful, is a negotiated settlement!”



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“They will place an overall financial value on the settlement beyond which the Negotiators can't go. The "envelope" may well outline further sectoral limits or conditions besides the overall value of the settlement.”



ment money].

Let me take a step back. You will enter and be in negotiations for a period of time with them. It could be several months or possibly a year or more depending on what road-blocks and changes you both encounter (i.e. changes in government, new negotiators). During this period of time they will be making an assessment of what they think you might settle for combined with what they may be willing to provide or recognize.

You will eventually find that the Federal Department of Justice as well as the provinces Ministry of the Attorney General with their armies of lawyers have a significant say in this. You will also find out or realize that you will be dealing with many provincial ministries and federal departments and seemingly innumerable staff and endless resources on their side while you will, if you're lucky, have maybe a handful of people (that's all you be able to afford with the loan money they provide to you) to help you negotiate your claim. It is by no means a level playing field. But they say in the end if you agree you agree!

The Mandate

After this period, during which the federal and provincial government will continually be consulting each other, they will collaborate on a mandate for their respective Negotiators. This mandate will be the marching orders for their Negotiators. These mandates may well be different between the feds and the province, They will not specifically tell you what their mandates are.

You may well learn that the feds are more open to a more liberal settlement or mandate. They may be willing to discuss authority or jurisdiction or self-government but the province may very likely not be amenable to that as part of the mandate for their Negotiator. If the Province doesn't allow for it in their Negotiators mandate you will not be able to discuss it at the negotiation table. The provincial negotiator in our negotiations has threatened to walk away from the table or more than one occasion.

A review of some recent land claim settlements in the Yukon and NWT will demonstrate to you that the feds can be liberal in what they will agree to in a settlement. Provinces for the most part have shown themselves to be afraid of aboriginal authority or jurisdiction. The recent Nisga'a Treaty is an exception where a province actually agreed to a "liberal" degree of jurisdiction and self-government powers for the Nisga'a.

With their mandate the government Negotiators will basically/essentially be provided with a "settlement envelope". The feds and the province will likely agree on this upset limit. It tells their respective Negotiators what they can discuss and negotiate and to what limits they can go. The mandate will be formally approved by an upper level of government probably the cabinet (or legislature) or a cabinet (or legislative) committee. The federal or provincial Negotiator is only able to change this mandate by going back to that body for approval which can be a time consuming exercise.

The settlement envelope will also set parameters or limits on the total value of the settlement. They will place an overall financial value on the settlement beyond which the Negotiators can't go. The "envelope" may well outline further sectoral limits or conditions besides the overall value of the settlement. For example, it may prescribe that only so much of the envelope can be used to buy settlement land for the aboriginal claimants or that only so many acres can be bought with the envelope dollars to be designated as settlement lands. If you want to go beyond that you will have to use your financial component dollars to buy land at fair market value that may not have the status of settlement lands (i.e. fee simple subject to all municipal, provincial and federal laws and taxes with no Treaty protection) and this will be subtracted from your financial component value of the "envelope".

With respect to the purchase of land from your "settlement envelope" and which you will

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find very disconcerting is that they very likely will (they have clearly indicated so in our case) be charging you fair market value, for the settlement lands that will be recognized for you, against your settlement envelope.

You may very well also find that they will not accept the word "compensation" in your negotiations with them. When you attempt to negotiate compensations dollars for settled land and natural resources they will very likely disagree with you using that term. That's because they will hold firmly to the position (provided from Justice and/or the A.G) that they will not compensate you for anything because they never did anything wrong. What they prefer to call the cash element of the settlement is the "financial component" and it is not based on, as you might assume the actual amount of land or resources or rights or title. It will be based upon what they can negotiate you to accept and if you agree you agree.

You may very well find yourself not agreeing with this position and that you may believe that it would be good or beneficial to go out and initiate or support a court case trying to get recognition of your rights or title in order to get more leverage in the negotiations. What you will find is that if you decide to initiate or support a court case on the basis of aboriginal rights or title the feds and/or the province will say to you that if you pursue or support such a case that they will threaten to end the negotiations and cut the negotiation funding.

So basically you are in a Catch 22 situation. After a period of time and being provided with some explanation by the government I came to understand their position on this. Basically they take the position that it is no use negotiating a settlement if at the end of the day the court in the aboriginal rights or title case you are pursuing makes a judgement that nullifies or is completely contrary to the negotiated agreement. The court decision will be seen as taking precedent.

You will find them stating their negotiating positions and you may well be completely offended by those positions because they will seem to be so completely detached from reality that it just doesn't seem possible that anyone could take such a position or positions. After awhile you won't be shocked or offended you will just listen and shake your head!

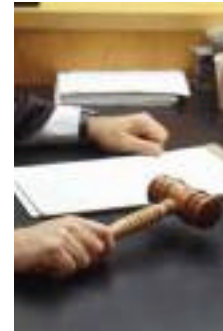
But you should just take them as that - "negotiating positions" because that's what they are. And these can be changed in the negotiations.

Loan Funding

Under the Federal comprehensive claims policy the feds are required to consider any funding they provide to you as loan funding (you will or should find out how your province will deal with any funding they may provide to you so that you are able to negotiate). You will be required to pay this back at the very latest on settlement day from your "financial component" of your settlement envelope. In the meantime any outstanding loan funding remains on your books as an outstanding debt which will be identified and noted in your First Nation audit.

They will also want you to provide them with a workplan and budget for your use of any loan funds and if they agree with it they will loan you the money. You can put whatever amount you want or think you need in the workplan and budget and then they will come back and tell you how much they are going to loan you! Expect your figure to be at least cut in half.

There is more to say about the matter of the loan funding but I do not think I am able to present more of what I have been told in a public forum. There are certain things that must remain confidential to ensure continuation of negotiation tables. This applies in Pikwanagan's case.



“if you decide to initiate or support a court case on the basis of aboriginal rights or title the feds and/or the province will say to you that if you pursue or support such a case that they will threaten to end the negotiations and cut the negotiation funding.”

CANCELED



Pikwakanagan Band Office, Golden Lake Reserve, Ontario

“I recommend that you ensure continual consultations with your First Nation members and the others. It is necessary to keep them up to date and involved in the process. They will have to understand what any proposed settlement involves and if they are not involved and informed they may very well vote against any settlement package.”



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Consultation/Negotiations Management

If your claim is accepted for negotiations it is because they recognize you as a legitimate body to negotiate the rights and title (or grievance) in question. Similar to the feds and the province you should ensure that you maintain the lead role on your side of the negotiation table.

I know that there will be a proliferation other persons, associations or organizations claiming to be aboriginal or Mi'kmaq suddenly finding an interest in your claim once they become aware that it is accepted for negotiations. Some of them will be demanding recognition and an equal seat at your negotiation table. You may also find that all of a sudden there are new "First Nations" with "chiefs and council" where none existed before.

There may well be other people besides the people you know and currently represent that may have an interest or may have aboriginal rights and they may or should be involved in your negotiations. The feds or province may recognize this and insist that these persons be involved or consulted to ensure for themselves that all possible aboriginal rights and interests have been dealt with in a settlement.

You may be tempted to try to identify who these individuals are or devise some type of identification criteria. I recommend that you do not do this. And no ID cards or lists.

This is an area where you must tread very carefully and is something that you must give a lot of thought to. If you are not careful you may run into a lot of problems and conflict and your negotiations may end.

It is my recommendation that you establish the process where you are responsible for consulting and involving these individuals but that you ensure that you maintain your lead role as the Representative of the Mi'kmaq party at the negotiation table. If you ensure that you can and will consult all those that may be legitimately a part of your claim the feds and the province should support you and continue to deal with you as the Mi'kmaq representatives at the negotiation table.

It is all about **maintaining a balance and ensuring broad and continued support for the negotiations**. You need to ensure that you understand what this means if you want to continue with negotiations. You will find that the line you are walking on to maintain this balance and support is a fine line and the more people becoming involved and wanting to be involved, and wanting to be in control on your side the finer this line becomes and the harder it is to stay on that tightrope.

I recommend that you ensure continual consultations with your First Nation members and the others. It is necessary to keep them up to date and involved in the process. They will have to understand what any proposed settlement involves and if they are not involved and informed they may very well vote against any settlement package. You will need their support and direction as negotiations proceed. Communications is key to the process.

Alternatives to Negotiations

Discuss alternative to negotiations and suggest that this be considered and closely looked at.

-either way need good understanding of rights, title, current and past laws and court cases...

- management plans - comply with Sparrow, etc.

[NOTE: This is an slightly edited version of a paper presented by Chief Kirby Whiteduck at the “Rebuilding Our Nations” Conference, held in Summerside PEI March 1, 2, 2005. To contact Chief Kirby Whiteduck use: (613) 625-2800]

Wasáse: Indigenous Pathways of Action and Freedom Mohawk Scholar Gerald Taiaiake Alfred Previews New Book

Reprinted from *The People's Voice*
(Akwesasne)

April 1, 2005, Darren Bonaparte

(Montreal) Mohawk scholar **Dr. Gerald Taiaiake Alfred** believes its time for aboriginal people to adopt a **"warrior ethic"** to confront today's political and social challenges.

That was the message Taiaiake brought to Montreal's Concordia University this week, where he spoke to anthropology students about his forthcoming book, *Wasáse: Indigenous Pathways of Action and Freedom*. The title refers to the ancient Mohawk war dance, a ceremony that promotes **"unity, strength, and commitment to action."**

Fans of Taiaiake's previous books can get a preview of his new work by visiting a website created to promote the book at www.wasase.org. On this new site, Taiaiake explores what is meant by the **"warrior ethic."**

"Wasáse: Indigenous Pathways of Action and Freedom seeks to capture and convey a new "warrior" spirit: an attitude, a way of being in the world. It conveys through dialogue and reflection the outline of a new movement for change among Indigenous peoples that is rooted in traditional philosophies and values, but which draws from many different social and political strategies to challenge the colonial, or Settler society's dominance of Indigenous lives and land, and to altering the balance of political and economic power to re-create social and physical space for Indigenous freedom."

Taiaiake notes that his concept of the word has nothing to do with violence:

"Wasáse, as it emerges in the book, is constituted in many different acts of resolve to survive as Onkwehonwe (the people), and to pressure the Settler society to acknowledge Indigenous existences and the integrity of their connection to the land. It is a spiritual revolution channeled into a politics of contention. It is not a path of violence: it does not advocate using arms to advance political goals. And yet, this commitment to nonviolence is not pacifism either. It elaborates a theory of social change based on morally

grounded defiance and nonviolent agitation, with the strategic aim of generating within the Settler society a reason and incentive to negotiate a respectful coexistence with Indigenous nationhood. The book explores and explains change not as a form of resistance, but conceptualized as political resurgence and cultural re-generation."

At his lecture Tuesday night, Taiaiake put this **"warrior ethic"** into simpler terms. **"It doesn't mean you're ready to fight or block a road, but that you have an awakened awareness of your environment...and a willingness to do what has to be done."**

De-colonization is a central theme to his writing and work. There are five strategies that can help indigenous people undo the psychological damage done to aboriginal people by five centuries of oppression.

1. The Land is Your Life. This goes beyond simply controlling your own territory. You cannot be free if you are dependent on others for your subsistence. **"Our ancestors valued self-sufficiency and maintained a strong connection to the land. We cannot exist without an environmental ethic,"** he stated.

2. Language is Your Power. The language you speak constructs you, the way you approach a problem and the solutions you come up with. **"I'm not naïve enough to think we can all become fluent, but you need to have that conceptual framework via the language. We cannot think non-colonial in English or French. We have to use our original languages as the intellectual framework."**

3. Freedom is the Other Side of Fear. There is fear in the current leadership toward authority, change, and white power. **"They fear the dark shadow of the white man,"** Taiaiake contends. **"It's a fear of the retribution when an onkwehonwe stands up and demands his rights. Unless we understand it we will never be able to take control of our destinies. Fears are manipulated. We have to move through it. Freedom doesn't lie in the opposite direction, you have to go through fear to get to it. Master it. Confront it."**

4. De-colonize Your Diet. **"Our people are not eating right. We've gone from centuries of living off the land to buying our groceries in a supermarket, and our health suffers as a result. We need to de-colonize not only our minds but our bodies as well."**

Taiaiake described moose hunting with his wife's family in British Columbia to illustrate this point. **"You need a culture that supports living off the land. You need to learn not only how to hunt but how to process the food. You need guidance and permission of the people whose hunting territory it is before you enter their land to hunt. There is a body of cultural knowledge there that helps to connect you to the land."**

Starting a simple garden is one way to reconnect to the earth.

"De-colonization starts not by criticizing our corrupt leaders, but by looking in the mirror and saying, 'what am I going to eat ton-

Advancing the Right of First Nations to Information

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

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Russell Diabo, Publisher and Editor, First Nations Strategic Bulletin.

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ite?"

5. Change Happens One Warrior at a Time. "**People have to care enough to share what they know with young people,**" Taiaiake said. "**I work with young people and ask myself, 'how can I connect them with more knowledge?' We must educate the young so that they will have pride in who they are. We need to work with the elders, have lodges, bring back traditional teachings. We can begin to act on it. It won't be long before we have political change.**"

Taiaiake is probably the most recognizable Mohawk scholar to have emerged in the last few years, with numerous television and radio appearances across the country in addition to his many lectures and workshops. "**I never turn anything down,**" he said. "**Never say no to an opportunity to promote a new message...if people are willing to listen, be willing to talk to them.**" He admits that many times the non-native media have pre-conceived notions of what they want their Indian guest to say. "**I'm a firm believer in guerilla media relations. Get in and turn it around on them.**"

After the lecture, Taiaiake expressed his appreciation to people in Akwesasne that he has had the opportunity to work with in recent months, particularly on the Natural Resources Damage Assessment. "Mary Arquette and Barbara Tarbell have been great to work with. There are tremendous resources available at Akwesasne, particularly about Mohawk use of the river. I'm very excited about this project."