

IHRAAM REPORT ON INDIGENOUS NATIONS ENTRAPPED IN BC/CANADA

for

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Special Rapporteur on the
Rights of Indigenous Peoples

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An International NGO in Consultative Status with the Economic and Social Council of the United Nations

TABLE OF CONTENTS

OVERVIEW OF PRESENTATION

THE ONGOING ASSAULT ON INDIGENOUS PEOPLES AND THE NEED FOR REMEDY

CONCLUSIONS AND RECOMMENDATIONS

SUPPORTING DOCUMENTS

APPENDIX I: The International Illegalities of Canada's Exercise of Jurisdiction over Indigenous Nations

Section A: Canada's Jurisdiction Over Non-Treaty Indigenous Nations

Section B: *Pitawanakwat* extradition case, Oregon County, USA, 2000

Section C: Bruce Clark to White Bear re jurisdiction argument and disbarment

Section D: Ts'peten Reasons SCBC – Jurisdiction Argument Dismissed

APPENDIX II: Encroachment and Despoliation

Section A: A Post-colonial timeline of the Pacific salmon fishery / Kerry Coast

Section B: Sacred sites and land heritage / Richard Mark Joseph, Shawe7
Letter to Mt. Currie Band Council, Lands and Resources Dept /
Alvin Nelson, Wemenqen

Section C: Whistle Across, A Village Plundered *Statimc Runner*

Section D: The Right to Food /Intervention, May 2012, Permanent Forum on Indigenous Issues
Investigating Traditional Foods, Nutritional Values / *The St'at'imc Runner*

Section E: Species at Risk within Lillooet River Watershed /

Lillooet River Watershed Management Planning Preliminary Report, April 30, 2011

Section F: Enforced Nono-development, IHRAAM Intervention, February 2012, UN Human Rights Council

APPENDIX III: A Legacy of Resistance

Section A: A Historical Review of Resistance by the Lil'wat, 1911-1987

Section B: Historical legal action taken by Lil'wat for peace and justice,
including Lil'wat Band Council Resolution November 9, 1989

Section C: Intervention at the UN Permanent Forum on Indigenous Issues / Pau Tuc la Cimc,
James Louie

Section D: Illustrated Pamphlet: *Help us stop them taking our children away*

Section E: Excerpts, Prisoners of Democracy: The Lil'wat Right to an Impartial Tribunal
/ Lyn Crompton

Section F: The "Catch 22" of Seeking Domestic Remedies on Jurisdiction in Canadian Courts /
Bruce Clark

APPENDIX IV: Reparations for Forced Assimilation, Including Indian Residential Schools

Section A: Proposed Residential Schools Settlement Agreement/Court Approval Hearing /
Written Objections / Lyn Crompton

- Section B: Sweeping it under the (shag) Rug / Janice G.A.E. Switlo
- Section C: Call for Reparations for the Lil'wat Nation / James Louie et al.
- Section D: IHRAAM Intervention, May 2013, Permanent Forum on Indigenous Issues
- Section E: News articles and academic analyses re health and legalities
- Section F: Letters from former Indian Residential School students

APPENDIX V: Refusing Indigenous Jurisdiction over Child and Family Law

- Section A: The Fraudulent Canadian/BC Negotiations on Indigenous Jurisdiction over Families and Children
- Section B: Social Well Being of Indigenous Children Placed in Foster Care in Canada: Statistics Canadian First Nations Disproportionate Placement in Foster Care / Human Rights Council Intervention August 23, 2011
Canada's treatment of Native Children "Shoddy and Suspect" / Human Rights Council Intervention August 21, 2012.

APPENDIX VI: Canadian "Success" - Indigenous Extinguishment

- Section A: The BC Treaty Process: Dealings in Duress
- Section B: The Sechelt Nation: "A Model for Self-Governance" or for Disinheritance?
- Section C: Extinguishing the Sliammon: Selected Documents

APPENDIX VII: Seeking Judicial Recourse Through International Mechanisms

- Section A: Support for the Lil'wat/IHRAAM on *Edmonds v. Canada*, Petition to the Inter-American Commission of Human Rights
- Section B: The Ongoing Plight of Loni Edmonds

OVERVIEW OF PRESENTATION

THE INTERNATIONAL ILLEGALITY OF CANADA'S EXERCISE OF JURISDICTION

Canada has been controlling all political processes, laws and policies related to indigenous nations, actively and exclusively administering their every decision with the Indian Act. Often this is done with the enthusiastic cooperation of the elected "Band Chief and Council," likewise an imposed Indian Act prescription, who are employees of the Canadian government and agents in right of Canada – rather than agents of their people's self-determination. But neither British Columbia nor Canada have a legitimate basis under international law for the exercise of jurisdiction over indigenous nations in British Columbia, the vast majority of whom have no treaties with the British crown, nor with the successor state of Canada, surrendering their land and sovereignty.

APPENDIX I

Canada's Jurisdiction Over Non-Treaty Indigenous Nations
Pitawanakwat extradition case, Oregon County, USA, 2000
Bruce Clark to White Bear re jurisdiction argument and disbarment
Ts'peten Reasons SCBC – Jurisdiction Argument Dismissed

ENCROACHMENT AND DESPOLIATION

Canada has assumed jurisdiction over indigenous resource exploitation, promoting resource extraction contracts of negligible benefit to the indigenous nations on whose territories this takes place. This has been accompanied by a significant despoliation and destruction not just of renewable and non-renewable resources, but of the sites and historic artifacts and records of indigenous history engraved on and celebrated in indigenous territories.

APPENDIX II

A Post-colonial timeline of the Pacific salmon fishery / Kerry Coast
Sacred sites and land heritage / Richard Mark Joseph, Shawe7
Letter to Mt. Currie Band Council, Lands and Resources Dept / Alvin Nelson, Wenemqen
Whistle Across, A Village Plundered *Statimc Runner*
The Right to Food / Intervention, May 2012, Permanent Forum on Indigenous Issues
Investigating Traditional Foods, Nutritional Values / *The St'at'imc Runner*
Species at Risk within Lillooet River Watershed /
Lillooet River Watershed Management Planning Preliminary Report, April 30, 2011
Plus Update
IHRAAM Intervention, February 2012, UN Human Rights Council, Enforced Non-development

A LEGACY OF RESISTANCE

The resistance of indigenous nations to Britain and then Canada's illegal encroachment and unwarranted occupation has been consistent since it became clear that the colonial governments had no intention of policing their citizens against harming indigenous peoples and individuals or their possessions, nor of making respectful and mutual arrangements over land and resource possession. Colonial encroachment and occupation quickly threatened the viability and the integrity of the peoples. Resistance has taken the form of countless acts of a civil disobedience quality, as well as direct opposition to development which always led to many indigenous victims of non-native retaliation, including murder,

incarceration, intimidation, harassment and wanton and vengeful despoliation of cultural and fishing areas.

APPENDIX III

A Historical Review of Resistance by the Lilwat, 1911-1987
Historical legal action taken by Lil'wat for peace and justice,
including Lil'wat Band Council Resolution November 9, 1989
Intervention at the UN Permanent Forum on Indigenous Issues / James Louie
Illustrated Pamphlet: *Help us stop them taking our children away*
Excerpts, Prisoners of Democracy: The Lil'wat Right to an Impartial Tribunal
/ Lyn Crompton
The "Catch 22" of Seeking Domestic Remedies on Jurisdiction in Canadian Courts /
Bruce Clark

REPARATIONS FOR FORCED ASSIMILATION INCLUDING INDIAN RESIDENTIAL SCHOOLS

For over a century, Canada seized all indigenous children, tearing each and every community apart – and because of this pivotal and sustained violence was it able to overcome indigenous resistance. Today, Canada's Truth and Reconciliation Commission and the Indian Residential Schools Settlement Agreement have been promoted at home and around the world as Canada's atonement for the genocidal impact of its Residential Schools System, which sought to expunge all traces of native culture (language, spirituality, socio-economic and political structures) from succeeding generations.

While Canada has offered (and indeed imposed) compensation to individual attendees in general, it has not addressed the genocidal impact of these policies upon the native nations as a whole, whose connection with their historical traditions and language has been severely impacted. Therefore the issue of reparations for the damages to the nations themselves remains outstanding. This is an issue IHRAAM intends to address in greater depth in future.

APPENDIX IV:

Proposed Residential Schools Settlement Agreement/Court Approval Hearing /
Written Objections / Lyn Crompton
Sweeping it under the (shag) Rug / Janice G.A.E. Switlo
Call for Reparations for the Lilwat Nation / James Louie et al.
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News articles and academic analyses re health and legalities
Letters from former Indian Residential School students

REFUSING INDIGENOUS JURISDICTION OVER CHILD AND FAMILY LAW

British Columbia attempted to address the jurisdiction issue as it relates to children and families through a series of negotiations with First Nations, actually single communities of indigenous nations which are situated on an Indian Reserve, formerly "Indian Bands," in BC via the BC Memorandum of Understanding of January 27, 2008. However these negotiations came to nothing, due to British Columbia's refusal to surrender control over actual policies; their condition that First Nations release the federal government from its fiduciary obligations – with nothing more than a renewable five-year financial plan with the province; their failure to engage in an appropriate manner with the indigenous nations, and only pursue convenient service delivery boundaries which crossed languages and cultures. British Columbia continues instead its practice of seizing indigenous children in family circumstances which would be considered normal and acceptable in non-native families.

The Aboriginal Peoples' Family Accord, as the above scheme was named, is one of seven "jurisdiction" arrangements sought by the federal government and identified clearly in its "Aboriginal Horizontal Framework." The AHF was designed by the Treasury Board in the government's most recent, but repetitive, reviews of spending on aboriginal people and strategies to procure surrenders.

APPENDIX V:

The Fraudulent Canadian/BC Negotiations on Indigenous Jurisdiction over Families and Children
Social Well Being of Indigenous Children Placed in Foster Care in Canada: Statistics
Canadian First Nations Disproportionate Placement in Foster Care /
Human Rights Council Intervention August 23, 2011
Canada's treatment of Native Children "Shoddy and Suspect" /
Human Rights Council Intervention August 21, 2012.

CANADIAN "SUCCESS" - INDIGENOUS EXTINGUISHMENT

Canada continues to pursue the extinguishment of Indigenous Peoples and their attendant rights in the most insidious and brutal ways, from the time the first treaties by indigenous peoples to secure "Peace and Friendship" in the east were interpreted as land surrenders by Canada.

By refusing to agree that indigenous peoples can attain anything more than municipal status within BC, and demanding in exchange for that menial and insulting level of recognition the release of all claims against Canada, British Columbia, and anyone else, the ultimatum facing the indigenous is real. Indigenous people are criminalized for any use of their own lands and resources or territorial heritage, if their activity is not licensed or qualified by an extinguishment-affirming "Agreement" between the First Nation's Band Council and British Columbia.

British Columbia celebrates and promotes those First Nations who accept the exhaustively defined corporate shareholder model of governance, called "First Nations self-government" in Canada, and provides momentary financial relief for those who release the government from any liability in the operation of hydroelectric facilities, logging or mining in their lands.

APPENDIX VI:

The BC Treaty Process: Dealings in Duress
The Sechelt Nation: "A Model for Self-Governance" or for Disinheritance?
Extinguishing the Sliammon: Selected Documents

SEEKING JUDICIAL RECOURSE THROUGH INTERNATIONAL MECHANISMS

Canada's delegation to British Columbia of the duty to seize indigenous children from their families and communities as often as possible exemplifies the illegality and harmful effects of its exercise of jurisdiction, yet BC's legal right to do so cannot be challenged in Canadian courts. Accordingly, the case of Líl'wat mother, Loni Edmonds, was brought to the Inter-American Commission on Human Rights in 2007. A synopsis of the IACHR case, *Loni Edmonds vs. Canada* P 879-07, is included here.

APPENDIX VII:

Synopsis, IACHR case, *Loni Edmonds vs. Canada* P 879-07,
Support for the Líl'wat/IHRAAM Petition
The Ongoing Plight of Loni Edmonds