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Chair: Mrs. Jenica Atwin





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• (1650)

[English]

**The Vice-Chair (Mr. Jamie Schmale (Haliburton—Kawartha Lakes—Brock, CPC)):** Good afternoon. I call this meeting to order.

Welcome to the 71st meeting of the Standing Committee on Indigenous and Northern Affairs.

Today's meeting is taking place in a hybrid format pursuant to the House order of June 23, 2022. Members may participate in person and via Zoom. Proceedings will be published on the House of Commons website. For your information, the web broadcast will always show the person speaking rather than a view of the whole committee.

I would also like to acknowledge that our meeting today is taking place on the unceded and unsurrendered Algonquin Anishinabe territory.

I will remind you that all comments should be directed through the chair. Speak slowly and clearly, because we have three languages being interpreted.

In the first section today, we have a number of witnesses here in person and on Zoom. I will introduce, from the First Nations Lands Advisory Board, Philip Goulais, and Andrew Beynon, director of land code governance, First Nation Land Management Resource Centre. As well, we have the Lower Similkameen Indian Band and the Métis Nation of Alberta joining us.

Why don't we start with the First Nations Lands Advisory Board.

Mr. Goulais, you have five minutes.

**Mr. Philip Goulais (Director, Former Chief, Nipissing First Nation, Ontario, First Nations Lands Advisory Board):** *Aaniin kina waya*. Hello, everyone. *Meegwetch*. Thank you for the invitation to speak to this committee as we meet on the traditional lands of the Algonquin.

My name is Phil Goulais. I am a proud member of Nipissing First Nation and the former chief of Nipissing First Nation. I have had the privilege to serve as an elected director of the Lands Advisory Board for many years.

I am here this afternoon to offer the Lands Advisory Board's recommendations on the issue of restitution of land to first nations, Inuit and Métis communities. I'm accompanied by my friend, Andrew Beynon, the director of lands governance at the First Nations Land Management Resource Centre.

In our written submission, we have briefly commented on the history that has created the restitution of first nations lands issue, and we offer our recommendations on a better way forward. I would start by noting a bit of discomfort with the term “restitution of lands”, which suggests that we lost touch with our lands and that the Crown is trying to figure out how to give lands back. We never lost touch with our lands. Nipissing, including myself, continues to practise our hunting, fishing and cultural traditions despite all of the many challenges of the past relationships with the Crown. Canada and Ontario never managed to take this away.

I commend the committee for tackling the important issue of first nations lands in Canada. I also want the committee to know that Nipissing, along with so many other first nations in the 20th century, faced a very real example of the Crown's recognizing our land rights, then taking them away, and then going through incredible delays to recognize our land rights again.

For example, Nipissing's land surrender and recovery of lands... Archeologists suggest there is evidence of occupation of our lands for about 9,000 years. Nipissing was one of the nations signatory to the Robinson Huron Treaty of 1850. Later, lands were set aside, a Nipissing reserve, in the late 1800s, and in the early 20th century, Nipissing was pressed to surrender reserve lands for timber harvest, railway lands and the like. These were not surrenders taken at the request of Nipissing but were, instead, driven by Ontario and the federal government.

In one case, lands surrendered in 1907 remain unsold after failed land auctions in 1919. The lands came under the jurisdiction of the Province of Ontario under the 1924 land agreement. Nipissing First Nation retained an underlying interest in the lands. After going under provincial jurisdiction, the lands remained in limbo. Neither the federal nor the provincial governments exercised jurisdiction other than to allow for easements and rights-of-way to cross the lands. Ontario did not exercise jurisdiction because it was not responsible for native affairs. Canada did not exercise jurisdiction because it was waiting for Ontario to transfer the lands back to federal control. In 1963, Nipissing requested that the lands return to Nipissing. Four parcels of land were transferred to reserve status in 1968. After that, both governments continued the state of limbo with regard to the lands, claiming that no legislation covered the return of unsold surrendered land back to reserve status.

In 1986, the Indian Lands Agreement in Ontario provided a mechanism to allow for the repatriation of unsold surrendered lands to their former owners. Negotiations were restarted on the return of the unsold lands to Nipissing, leading to a 1995 specific agreement between Nipissing First Nation, Canada and the Province of Ontario. Orders in council to finalize the transition of the lands to reserve status were completed by the Province of Ontario in 2009, 34 years after the premier of Ontario promised to transfer unsold surrendered lands to Canada. As of this morning, we still don't have Canada's order in council.

More recently, we have pursued other additions to reserve that have taken a quarter of a century or more to complete. ATR policies sought by the Lands Advisory Board will take years to complete, cost us greatly in terms of staff, time and delays, or perhaps even cause us to lose out on economic opportunities. This is despite the fact that Nipissing is one of the earliest to have signed onto the framework agreement and to govern our lands successfully under our land code.

The Lands Advisory Board recommendations in our written submission include specific recommendations for this committee. I will summarize the recommendations.

First, Canada's land policies need to catch up with the era of reconciliation instead of confrontation. Reconciliation requires timely diligence in the pursuit of its objectives.

Second, claims and treaty negotiation policies, as well as ATR policies, need to support first nations and neighbouring Canadians in resolving land issues to the benefit of all.

- (1655)

Third, Canada's ATR policy is broken. We hope for this committee's support on our recommendations for a completely new approach, which is aimed at overcoming intolerable delays. Our aim is to break down the policy limitations and the current reliance on federal tools, systems and personnel.

Fourth, we also hope for this committee's support in convincing Canada to break down barriers between its own self-government land policies.... We have a proven track record of success under the framework agreement on reserves.

I, along with my friend Mr. Beynon from the resource centre, welcome your questions.

Thank you. *Meegwetch.Merci.*

**The Vice-Chair (Mr. Jamie Schmale):** Thank you very much, Mr. Goulais.

We will go next to the Lower Similkameen Indian Band and Ms. Lauren Terbasket, please, for five minutes.

**Ms. Lauren Terbasket (Policy Adviser, Negotiator, Lower Similkameen Indian Band):** [*Witness spoke in Nsyilxcen*]

[*English*]

Thank you to the committee for me to be present for this important topic on land restitution.

[*Witness spoke in Nsyilxcen*]

[*English*]

I speak the names of my late mother and father, John Terbasket and Delphine Abraham, as well as my children, councilman Ira Edward and my daughter Tanisha Begaye.

I speak the names of my ancestry and descendants because their names tie us inextricably to our lands and our water and our *tmixw*, which are all living things. My homelands are the Similkameen and Tulameen watersheds in south central British Columbia and Washington state. It's comprised of over 7,500 square kilometres in British Columbia and 1,700 square kilometres in Washington state.

Our tribe, the Okanagan Nation tribe, is cut in half by the Canada-U.S. border, with 12 of our tribes in Washington state and seven in Canada. Our lands are unceded. We have never sold nor ceded our lands through treaty or any other legal mechanism.

The Similkameen-Okanagan systems are one of three biodiversity hot spots in Canada, hosting 77 terrestrial species at risk, including 28 that only exist in the Okanagan-Similkameen.

I am involved as a negotiator and policy analyst for the Smelqmix people and the Smelqmix government. We are working through national park reserve negotiations and MOUs with Environment Canada, through the Canadian wildlife service, to find pathways to overcome policy and funding barriers that will enable us to protect our homelands both for food sovereignty and biodiversity purposes.

In March 2022, the Smelqmix people declared an area of approximately 150,000 square hectares as an indigenous protected area, the Ashnola protected area. We did this because we could not get the support nor the tables established that would allow us to develop collaborative relationships with the federal and provincial governments despite all of our attempts.

We are working to translate our oral traditional laws into written law in order to further the process of legal pluralism and harmonization of legal orders between the Crown and our nation, and to incorporate, by reference, our Syilx water law and *tmixw* laws through our national park reserve discussions. We are working to address the impacts of legislative impairments from the Species At Risk Act. That would allow us to define and develop processes to compensate or trade lands so that we can protect those species that are so vulnerable and exist sometimes within our reservation lands, or are protected through limited access, through our reservations.

Based on the water-warming trends, the extreme water over-allocation, siltation caused by clear-cut logging, and mining contamination of sulphates, arsenic and mercury that are leaching into the Similkameen's systems, we can see that we are at a critical junction in terms of our time frames for indigenous nations to restore our systems, where the provincial and federal governments have not.

The treaty process and lengthy and expensive court proceedings leave Canada, the provinces and first nations in a perpetual state of animosity, distrust and economic uncertainty. These are not viable solutions.

What recommendations do we make?

First is that restitution within the traditional lands of the Smelqmix and Syilx, and all indigenous peoples in fact, must be framed within the context of our historic and future sovereignty and unceded and unimpaired jurisdiction over our land and our resources. We must make way for the constructs and pathways that allow for legal pluralism.

We know there are mechanisms that allow for transfer of lands across governments, such as lands that are transferred from provincial to federal jurisdiction through the parks process or additions to reserve. What is needed are pathways to allow for restoration, not to Indian reserves that are mired in bureaucratic red tape, but to sovereign tribal lands that make room for true reconciliation and legal pluralism within our homelands and this country that we call Canada.

Recognizing and enforcing indigenous laws are a mechanism that would allow us to hold industry accountable where colonial governments have not. This is imperative for both colonial and indigenous citizens, as we all pay the price through taxation, health costs and through expensive legal costs when our fights end up in colonial court systems. What is needed are stable financial commitments that would enable us to protect, restore and to also build economic models that are based on the concepts of sustainability.

- (1700)

We need processes that include nations that cross international borders and that do not pit us against our brothers and sisters across the U.S. and Canada, but that ensure co-operative, collaborative agreements.

We hope that in moving forward, the committee will look at these important issues.

*[Witness spoke in Nsyilxcen]*

**The Vice-Chair (Mr. Jamie Schmale):** Thank you very much.

We will now go to the Métis Nation of Alberta.

I'm not sure who is going to speak, so I will open the floor to either one of you.

**Ms. Audrey Poitras (President, Métis Nation of Alberta):** Good afternoon.

I'm Audrey Poitras, president of the Métis Nation of Alberta, and yes, I'm very pleased to have Jason Madden along with me today.

I join you today from the Métis Nation homeland in what is now Alberta.

The Métis Nation is one of Canada's indigenous peoples. This is still our homeland, and it will be our homeland forever.

The rivers, lakes, forests and prairies of Alberta helped shape the Métis people. As a nation, we were born of the land, and we continue to depend on Alberta's lands and resources. Many Métis citizens hunt, fish, trap and gather, just as the Métis always have. They put food on their tables and sustain their families. They help keep our culture alive.

We have had to fight for generations to have our rights to the lands respected. When Canada expanded into the northwest following Confederation, we were already here. We had a right to be treated as a nation, to be negotiated with as equals and to fair compensation for any lands that were taken.

In October 1869, a group of Métis led by Louis Riel chased Canadian surveyors out of Manitoba to defend our Métis lands. Weeks later, they declared a provisional government in Manitoba to negotiate for the protection of our lands, and they did, but Canada failed to fulfill its promise. The Métis were persecuted, uprooted and scattered.

Canada moved across the Prairies, making treaties with our first nations, but did nothing for us, so the Métis began to organize.

In 1877, at Blackfoot Crossing, Métis petitioned Canada for assistance in settling land. In 1878, in Cypress Hills, Métis petitioned Canada for a reserve. In 1880, in St. Albert, Métis petitioned Canada to survey their lots.

Do you know what Canada did? Nothing. Worse than nothing, Canada opened the west for settlement and sold our homeland out from under us. We had to act. We had to resist.

In 1885, we declared a second provisional government. That year, at Batoche, Canada tried to break us. They captured Riel, held a kangaroo trial and killed him, but we were still here, and Canada knew it. This was when they gave us scrips—pieces of paper that offered nothing but false promises.

Now reduced to coupons, our homeland was systematically bought up by speculators and used to underwrite our own colonization. By the end of the century, Canada had reduced the Métis—the Otipemisiwak—to squatting on Crown land on the fringes of white towns and being called the road allowance people. Again, we organized.

In 1897, Métis in St. Albert advocated for the fair handling of Métis land claims and petitioned Ottawa for improvements to the scrip system. In 1911, Métis from Lesser Slave Lake petitioned Canada to investigate the fraud that plagued the scrip system. In 1920, Métis from Fort Chipewyan requested that Canada establish a royal commission to investigate scrip fraud.

Canada responded by changing the Criminal Code to make it impossible to prosecute scrip fraud, and to protect the land speculators who swindled us out of our rights. Canada, not Alberta, had legal responsibility for the lands in the province, but at the end of the 1920s, Canada proposed to transfer responsibility for the Prairies to the provincial governments. Once again, we organized.

In 1928, led by Charles Delorme, we advocated for the right of Métis living on Crown land. In 1932, we organized more formally as what is now known as the Métis Nation of Alberta.

In response to Métis lobbying, Alberta appointed the Ewing commission to report on Métis health, education, homelessness and land issues. After a two-year investigation, the commission recommended that the province provide Métis with a secure land.

In 1938, Alberta created the province's 12 original Métis colonies, now known as the Métis Settlements, which was the only legally recognized Métis land base in the country.

• (1705)

Alberta later rescinded four of those colonies, and today most Métis in Alberta do not live on the remaining colonies. Our fight, however, has had to continue: The wrongs of scrip have not been reconciled. Our rights as a nation have yet to be fully respected.

Thank you.

**The Vice-Chair (Mr. Jamie Schmale):** Thank you so much to our witnesses.

We will now begin with our first round of questioning.

We begin with the Conservatives. For six minutes, we have Eric Melillo.

**Mr. Eric Melillo (Kenora, CPC):** Thank you very much, Mr. Chair.

Thank you to all of our witnesses for being here on this important study.

I want to start with the First Nations Lands Advisory Board and the gentlemen in the room.

Let me start with a quick question that I wasn't planning to ask, but it came up in the opening remarks.

You mentioned, Mr. Goulais, that you didn't like the term "restitution" and you provided a bit of context. I was wondering if you could briefly offer a different term or a further explanation as to why you feel that way.

• (1710)

**Mr. Philip Goulais:** My friend Mr. Beynon will respond to you.

**Mr. Andrew Beynon (Director of Land Code Governance, First Nation Land Management Resource Centre, First Nations Lands Advisory Board):** Different nations, the Métis or the Inuit may have different views of terminology, but one of the difficulties, as suggested by Phil Goulais, is that "restitution" sounds like a recognition that all of the sovereignty and rights are with the Crown, and that the Crown then gives lands back or renounces what the Crown had. Many first nations, in my experience, start

from a proposition that there wasn't a fair dealing in the past or a renunciation or surrender or ceding of rights.

In terms of a different terminology, there are other terms, like "reconciliation" or "addressing the lands question in Canada", but I think there needs to be a bit of flexibility depending on the particular first nations, Inuit or Métis in Canada.

**Mr. Eric Melillo:** I appreciate that context.

Also, on the opening remarks that were made, you mentioned, I believe, that around the additions to reserve process, some of the claims had lasted a quarter of a century and are still ongoing. I've heard a number of concerns. I come from northwestern Ontario in Treaty 3 and Treaty 9 territory. I have 42 first nations in my electoral district, many of which are in remote, isolated communities.

I've heard a number of concerns with the additions to reserve process. I'm curious to get your thoughts, your view, on what specifically is the failure or the holdup that's causing these massive delays and how we should look to fix it.

**Mr. Philip Goulais:** *Meegwetch* for the question and for letting me share part of the day with all of you today.

If we look at all of those examples where our lands have been in limbo for quite some time, including the area you mentioned—I have friends in the Grand Council Treaty No. 3 area as well—how do you measure the cost of lands being tied up in limbo for so long?

We're fortunate where I come from to have such a good rapport with the neighbouring municipalities and to be able to develop economic development projects. As a land management community, we have close to 100 businesses now—first nation, non-first nation and partnerships—that are going ahead, investing and creating a strong economy and a strong social fabric, and on good faith, because those lands really are still in question.

I hope I'm answering your question here, but we're going to need to see a process that is completely revamped. If you talk to the land managers, the frontline workers, the lands people in our communities, they're going to tell you and tell all of us that there's so much red tape. I think that's where your question is coming from. The left hand doesn't seem to know what the right hand is doing.

In fact, there are people from our community who have started working on our file, who have come on board and have moved papers from one side of the desk to the other, and still today, as I mentioned in my comments, the final desired end result is not there. We don't have those lands back under clear title, which is awkward for investors and for developers. We're not able to move at the speed of business, but we've done quite well so far. If we had to narrow it down—one of the spokespeople said the same thing earlier—there's so much red tape that it's horrendous for our workers who are charged with the responsibility of bringing in accurate information.

*Meegwetch.*

**Mr. Eric Melillo:** I appreciate that context very much. I definitely understand the frustration you would have with that and the fact that it would hinder so much development and economic opportunity.

To stay on the same topic, I think on the additions to reserve you did a great job outlining the problem with red tape. I have genuine curiosity here; from your point of view, has there been any specific rationale or explanation given from the department to explain these delays? Could you share some of that with us?

**Mr. Andrew Beynon:** When you read the current ATR policy, it now stretches for 59 pages. It includes a 13-page application form and typically requires first nations to provide a 20-page submission just to get their ATR submission started. The ATR policy sets very narrow, restricted categories under which Canada might consider adding lands.

I suggest to this committee, which we took up in our written submission, that if you're looking at restitution or lands back, there needs to be a much more positive policy. We do not think it's possible to simply adjust the current process or procedures and make progress. An entirely new approach needs to be put in place. Fundamentally, we suggest that a number of steps in the current procedures are getting in the way of progress and preventing a benefit for both first nations and neighbouring communities. That's particularly with framework agreement first nations, which have—

• (1715)

**The Vice-Chair (Mr. Jamie Schmale):** Thank you, Mr. Beynon. I'm sorry. We've gone way over time. Perhaps another questioner will be able to pick up where you left off.

Mr. Weiler from the Liberals is up next for six minutes.

**Mr. Patrick Weiler (West Vancouver—Sunshine Coast—Sea to Sky Country, Lib.):** Thank you, Mr. Chair.

I'd like to thank Mr. Goulais and Mr. Beynon for being here in person and our witnesses for joining virtually as well.

Ms. Terbasket, I really appreciated your testimony. You brought up some very interesting points to start today, particularly in light of the indigenous protected and conserved area that the nations declared, the Ashnola IPCA, I understand.

At this point, the Government of Canada and the Government of British Columbia are in the process of negotiating a nature agreement to set out how the province will get to 25% of lands protected in B.C. by 2025. I was hoping you could speak to the importance of working in partnership with first nations in this effort and also how

you see your idea of legal pluralism being able to be implemented in this work as well.

**Ms. Lauren Terbasket:** Yes, on the nature agreement—I think one of the concerns we have with the provincial-federal nature agreement is that there is very limited first nations input into even the drafting of the document. We had heard, I guess through outside means, that there were maybe two or three advisers, potentially, to the work being undertaken, but the draft of the nature agreement as well as any input from those nations related to the barriers we face in terms of protecting the lands are excluded.

Typically what happens within the province, and I guess within the federal government, is that something is drafted and then brought for comment. One of the really important factors that need to be considered is that the nations need to hold the pen. I think we are most experienced with the barriers we face when it comes to the protection of biodiversity and food sovereignty on our own lands. We face the legal mechanisms that are barriers more recently for IPCAs. We were unable and are still unable to get the province to make a commitment to move forward with IPCAs. They're telling us that they have no current policy and that now they're looking at the biodiversity framework as a mechanism, but again, we're excluded from those conversations.

I think what's important is the potential for those nations who have bravely moved forward with their IPCA declarations to include us in those discussions and to include some very key principles that come from all of our perspectives, whether they be from the north or the south. We come from very diverse areas and very diverse ecosystems. Those things need to be considered in the policy documents that are moved forward through both Canada and the province.

**Mr. Patrick Weiler:** Thank you very much for that.

Next I'd like to ask the First Nations Lands Advisory Board a couple of questions.

My apologies. I didn't have your written submission in advance, but I do hope I have a chance to see that in short order. I understand you have four main overall priorities and policy changes you're advocating for.

I want to touch on the last one you brought up around breaking down barriers for self-government. I do have a self-governing first nation in my riding, in the Sechelt Nation. I know that the process they went through in negotiating the modernization of that agreement could probably be described as tortuous.

I'm very curious about your perspectives on how this process could be ameliorated to ensure that we can move forward in a more expeditious way.

• (1720)

**Mr. Andrew Beynon:** Very quickly, we do deal with that in two areas in our document.

Number one, the policies show a reluctance to trust first nation governments and first nation governance of lands. The policies need to be more embracing of reconciliation, and need to recognize that self-government has succeeded in Canada. That's issue number one.

Issue number two is that a lot of the first nations who have negotiated self-government agreements have a positive relationship with their neighbours, so a drive to a less confrontational and to a more reconciliation-based approach with a better understanding of the benefits beyond first nations can help accelerate those.

The last point we make in our paper is that a lot of first nations have escaped the antiquated, ineffective Indian Act system of lands management and have gone to our land code system. In order to go to a modern treaty, or to a broader self-government agreement, you have to agree with Canada to renounce the framework agreement and all the work that has been done under it. It's that which we're suggesting is a barrier to moving ahead with self-government.

If first nations want to keep the framework agreement under another self-government agreement, they should have that option, and that would help accelerate things.

**Mr. Patrick Weiler:** Thank you very much for that.

I don't have much time left, but I was hoping you could quickly touch on how the Lands Advisory Board incorporates traditional knowledge and indigenous perspectives into lands management practices and decision-making.

**Mr. Philip Goulais:** Thank you for the question.

We continue to observe all the protocols in our gatherings, and all the things that we were taught back many years ago by our elders, and we still learn from our elders and our teachers. We make sure that, with all our cultural concerns, we try to address them and to make sure they're observed as we work and as we go forward.

**The Vice-Chair (Mr. Jamie Schmale):** Thank you very much. We've gone a touch over.

We are going now to the Bloc Québécois and Madam Gill for six minutes, please.

[Translation]

**Mrs. Marilène Gill (Manicouagan, BQ):** Thank you, Mr. Chair.

I also want to thank each of the witnesses for coming today.

Naturally, I have some questions. First, I want to turn to Ms. Audrey Poitras.

I must tell you, as a Quebecker, that the Métis nation and Louis Riel are very dear to my heart. They're part of our history.

First, I'd like to hear your definition of self-government. Then, I want to ask you another question, after which I'll give you lots of time to respond.

The second question, which we also put to members of the First Nations Lands Advisory Board, is this: What challenges are you facing? Could you, perhaps, speak to us about issues specific to the Métis people? You could also tell us about the opposition you sometimes face.

In fact, that makes three questions. I'll give you time to respond, Ms. Poitras.

[English]

**Ms. Audrey Poitras:** Thank you very much for the question.

Actually, I should pass it over to Jason, who probably can respond to that more effectively.

**Mr. Jason Madden (Lawyer, Métis Nation of Alberta):** On your first question about self-government, the history of the Métis and first nations are almost like *Through the Looking Glass*. Canada's approach in the first nations context was control and assimilation through the Indian Act and other measures. For the Métis, it was, "Well, if we ignore them long enough, hopefully they'll go away and just absorb into the body politic." That lack of recognition of Métis self-government has been almost the fundamental problem.

The Métis Nation of Alberta is 90-plus years old and still uses an association under Alberta's Societies Act in order to have its legal status and capacity recognized. That undermines and delegitimizes Métis self-government, which is just as vibrant and strong as other indigenous peoples' self-government. I would say that. Of course, we've been making progress on that in recent years, and we hope to push it further, but that's the fundamental stop. It's why, whenever you hear Métis leaders speak, self-government is the *raison d'être* of what they have been pushing with Canada, because there's been that history of denial since the days of Riel, which has been stifling.

To go further on this, those difficulties, because of that lack of recognition, whether it's in child and family services or undertaking decision-making for the Métis in relation to themselves, are frustrated. Self-government for the Métis, in particular, is seen as a vehicle to overcome those difficulties, because at least it's a starting point. You begin with a nation-to-nation, government-to-government relationship.

The land-related issues.... In many ways, we haven't even gotten to finally dealing with the legacy of Métis scrip and the challenges of a lack of recognition of Métis lands. I would highlight that's why, for the Métis in particular, recognition of self-government is so fundamental and key. As I said, it's different in different contexts for other indigenous peoples.

● (1725)

[Translation]

**Mrs. Marilène Gill:** Thank you.



Mr. Madden and Ms. Poitras, I'd like to hear more about the barriers. You mentioned what was unique to the Métis people, when it comes to self-government. You more or less answered both questions at once.

What other challenges are you facing?

What would you recommend that the committee do, and what should we look at to ensure change at the federal level?

What would be possible for us to do?

[*English*]

**Mr. Jason Madden:** One of the biggest challenges—the Supreme Court of Canada has said the Métis are living in what's called a legal lacuna, i.e., a legal gap—is a lack of policy. Many of the policies you're talking about in relation to dealing with first nations land or Inuit simply don't exist within the federal system for the Métis. We don't even have a self-government policy. What have been driving policy development are the self-government agreements negotiated between Métis governments and Canada as of late, and which are being implemented. However, that lack of clear articulation of the relationship is one of the most fundamental challenges being faced.

Now, we're hoping to fill in that legal gap by virtue of legislation and implementing those self-government agreements. What's also a real, fundamental issue for the Métis, when it comes to land, is that there isn't a Métis claims policy, whereas, for better or worse, there are specific and comprehensive claims available to first nations. For the Métis, in relation to dealing with scrip, that doesn't exist.

The case Madam Poitras spoke about, the Manitoba Métis Federation case, took 32 years to get to the Supreme Court of Canada, and they were successful there. Outside of litigation, Métis have no other way to advance their land-related claims with Canada, because there are no policies right now. That legal gap needs to be addressed. We're not just complaining about policies; we don't even have any policies in order to begin the conversation on those land-related issues.

**The Vice-Chair (Mr. Jamie Schmale):** Thank you, Madam Gill. That was six minutes.

We're now going to the NDP for six minutes. We have Lori Idlout.

**Ms. Lori Idlout (Nunavut, NDP):** [*Member spoke in Inuktitut, interpreted as follows:*]

Thank you, Mr. Chair.

Thank you to the witnesses for their presentations. Each of the presentations was a pleasure to listen to.

First of all, I have a question for Lauren.

I was very pleased to hear your presentation in regard to indigenous laws and how they need to be utilized more often. Regarding this subject, can you please explain further why that is so important, in particular, the topic of restitution of lands to first nations, Inuit and Métis?

**Ms. Lauren Terbasket:** Thank you.

The way that the Similkameen people have been implementing our own laws.... We have an oral tradition, and one of the barriers that we face is the recording of our oral tradition and documenting that.

I think one of the reasons it's so important in terms of land restitution is it is the cornerstone of governance and protection of our land bases. Where we sit now, we see through a number of cases—Blueberry and others—that the cumulative impacts that have degraded the land base, the treaty and indigenous rights and title that have come from this lack of management or mismanagement of both federal and provincial governments have resulted in extensive degradation.

The other issue we see related to the federal or provincial legal application of their law is there is a bias toward industry and toward development. There isn't the consideration of the cost of degradation in terms of biodiversity, but the health costs that come from that.

Indigenous law brings to the forefront, I believe, the concepts of sustainability. It doesn't throw out the concept of modern and historic economic models, but it allows us to bring those into some level of balance where today, we are.... A lot of times, when we're talking about protection and environmental restoration or protection, usually those concepts are thrown out in the interests of the public, whether those are housing or business. There's no clear balance between the management for biodiversity and the management for economic gain and benefit.

Indigenous law, I believe, brings that concept of sustainability and biodiversity to the forefront.

• (1730)

**Ms. Lori Idlout:** [*Member spoke in Inuktitut, interpreted as follows:*]

Thank you for your answer.

My second question is directed to Audrey.

Audrey, it's really great to see you.

With regard to Métis, when I was still in post-secondary education.... I would like to ask you about the subject of self-determination for the Métis people. You've had boundaries or obstacles.

How can we be more helpful as parliamentarians in regard to your self-determination?

**Ms. Audrey Poitras:** Thank you for that.

Yes, we certainly have had our struggles.

Our people have always tried to work very hard on relationships and figuring out how to work with all governments. For us, we believe that it is about relationships. It is about Canada and all indigenous people working together and figuring out how to support each other.

For us here as Métis, we're Métis. We're also Albertans. We're also Canadians. We believe we all need to do better. Recognition has been non-existent [*Technical difficulty—Editor*].

**The Vice-Chair (Mr. Jamie Schmale):** I think you might be on mute.

Ms. Idlout, do you want to continue? I've stopped your clock.

**Ms. Lori Idlout:** [*Member spoke in Inuktitut, interpreted as follows:*]

Part of the answer from Audrey was inaudible. I would appreciate her concluding her answer.

**The Vice-Chair (Mr. Jamie Schmale):** Do you mind repeating the last few words of your answer?

**Ms. Audrey Poitras:** I clearly believe that, definitely, there have been a lot of struggles for the Métis, but it's all because of non-recognition. Recognition is one of the key pieces. Of course, that's what we've been pushing with our self-government agreements.

We believe that we all need to work together. This is our country, Canada, made up of all of us, but certainly all indigenous people have to be recognized and respected.

For us here in Alberta, we always say, "Yes, we're Métis, but we're Albertans and we're Canadians. When we do something that's right for Métis, it's also right for Albertans and Canadians." It's really about the relationship, the working together and the recognition that will make us all move forward further together.

Thank you.

• (1735)

**The Vice-Chair (Mr. Jamie Schmale):** You have about 25 seconds, Ms. Idlout.

**Ms. Lori Idlout:** [*Member spoke in Inuktitut, interpreted as follows:*]

I just want to reiterate my gratitude for all of the witnesses' presentations.

We're not only talking about land back. We all know this. We're all aware that each of our customary practices, indigenous laws...we are trying to regain our traditional practices. If we're going to be making changes as first nations, Métis and Inuit we need to utilize our indigenous laws.

Thank you for your presentations.

**The Vice-Chair (Mr. Jamie Schmale):** Thank you very much to our witnesses.

Unfortunately, we don't have time for a second round. I do apologize, but if there's anything more you wish to share with us, you can do so in written form and we'll definitely consider that in our final report.

I am going to suspend for a few minutes. We'll do a sound test and return momentarily.

• (1735)

(Pause)

• (1740)

**The Vice-Chair (Mr. Jamie Schmale):** Welcome back. We're bringing the committee back to order.

I'm pleased to welcome our second panel of the day for the study on restitution of land for first nations, Inuit and Métis communities.

We have three guests today, who are from the Office of the Treaty Commissioner, the Treaty One Nation and the Treaty Land Entitlement Committee of Manitoba Inc.

We will start our five-minute round with our guests.

We have Chris Henderson here in person, with his sharp purple tie. He is here from the Land Entitlement Committee of Manitoba Inc., and we will start with him.

You have five minutes.

• (1745)

**Grand Chief Chris Henderson (Executive Director, Treaty Land Entitlement Committee of Manitoba Inc.):** *Meegwetch.* Thank you very much, Mr. Chairman.

*Boozhoo. Aaniin. Tansi.*

Good afternoon and good evening to the committee members.

Chris Henderson *nindizhinikaaz*. My name is Chris Henderson. My father comes from a community in Manitoba known as the Black River First Nation. He's Anishinabe, or Ojibwe. My mother comes from a Swampy Cree community known as the Sapotaweyak Cree Nation, in midwestern Manitoba.

I am the executive director of the Treaty Land Entitlement Committee of Manitoba. We are a stand-alone rights-based organization dedicated to helping our member first nations try to get what they were first promised when the numbered treaties were signed in Manitoba.

We are a signatory to the big green book known as the Manitoba Framework Agreement on treaty land entitlement. This was signed 26 years ago. At that time, 26 years ago, the Prime Minister of Canada was the Right Honourable Jean Chrétien, and the Premier of Manitoba was Mr. Gary Filmon. I was but a young lad at the tender age of 25 years old. This framework agreement, while not a treaty, is an implementation agreement that tried to resolve the outstanding treaty land claims that our member first nations had against both Crown governments.

For your background information, some first nations, shortly after the signing of their numbered treaties—particularly treaty numbers 1, 3, 4, 5, 6 and 10—with Her Majesty the Queen in Right of Canada, between 1871 and 1910, which provided among other obligations, that Canada would lay aside and reserve tracts of land for the exclusive use and benefit for first nations.... It's important to acknowledge that some first nations received their full allotment of reserve land and others did not, as promised under the treaties with the Crown. For those first nations that did not receive their full allotment of reserve land, they started their research and negotiations in the 1970s, actually, and over the next 20 years they tried to negotiate to resolve these outstanding treaty land entitlement claims.

Finally, on May 29, 1997, this framework agreement was signed with the Government of Canada and the Province of Manitoba. Since that time, only 15 out of 21 entitlement first nations actually have signed on to this framework agreement. The other six unfortunately decided not to accept what was being offered by way of land and a financial payment being provided for under the framework agreement.

Twenty-six years after the signing of the framework agreement, Canada has set aside over 565,000 acres of land as reserve for these 15 first nations. However, I should also point out that, regrettably, Canada has breached its obligations under the framework agreement, and that was noted in a court decision that was also provided, I hope, to each member of the committee. Because of that, this breach continues. On what this breach is, it is that Canada unilaterally changed the original, agreed-to, step-by-step land transfer and reserve creation process without the written consent of our member first nations.

What I mean specifically by that is that before land was to be set apart as reserve under the framework agreement, Canada said, well, we now have to let other potentially affected aboriginal groups know about these lands that are about to be set apart as reserve—we have to consult with them. When this framework agreement was signed in 1997, that was not the focus. The focus was to try to give land back to the first nations, but now, since 2012, the focus has been on Canada ensuring that it meets its consultation obligation.

• (1750)

We weren't opposed to that when we were advised of this back in 2012 because there is a process to try to negotiate amendments to the framework agreement. Regrettably, Canada did not listen to us. As a result, we took Canada to court, and we were successful in those court proceedings.

Over the years, there have been numerous studies.

**The Vice-Chair (Mr. Jamie Schmale):** Mr. Henderson, I might have to get you to wrap it up. You're just a bit over time.

**Grand Chief Chris Henderson:** Yes, most definitely.

There have been numerous studies over the years commissioned by Parliament. I would also note that the late minister Jim Prentice actually made TLE implementation a priority back in 2004. He made a ministerial commitment to try to accelerate and expedite the process in Manitoba.

Unfortunately, over this past fiscal year, no lands were set apart as a reserve under the framework agreement. In this time of truth and reconciliation, the dispossession of first nations of treaty lands sadly continues, regrettably.

*Meegwetch.*

**The Vice-Chair (Mr. Jamie Schmale):** Thank you very much. I appreciate that.

We're going next to Brokenhead Ojibway Nation, where we have Chief Gordon BlueSky from Treaty One Nation.

**Chief Gordon BlueSky (Brokenhead Ojibway Nation, Treaty One Nation):** [*Witness spoke in Ojibwa*]

[*English*]

I have come to you from Winnipeg, Manitoba, which is Treaty 1 territory. I am really honoured to have the opportunity to speak here today to the parliamentary committee.

We have a situation here in our territory where our Treaty 1 community of seven first nations—and I'll speak more specifically on my community—live in a territory that has been essentially developed without any sort of consideration for my people, our rights or our right to hunt, fish or trap—ultimately, to fish in our territory—given the fact that there's been major development within Treaty 1.

I'm not sure if the committee members are aware of our territory. It stretches from the U.S. border into the Lake of the Woods, which is southeastern Manitoba, into Brandon in western Manitoba, and into the interlake region between Lake Winnipeg and Lake Manitoba.

These lands have been agreed upon since August 3, 1871. Currently, the majority of our first nations are also treaty land entitlement communities. We've come together to work on a parcel of land known as the former Kapyong barracks, which is now reserve and known as Naawi-Oodena. That property is approximately 109 acres and was a former barracks site. It was in dispute with our first nations for the past 19 years, going on 20 years. We just recently had that property turned to reserve.

I always like to describe my territory as being overly developed. To describe the situation that we're in, we are in a situation where our children are being taught where not to hunt versus how to hunt. It becomes a really challenging situation when we start to look at how we do accomplish things like getting our land back to our first nation in terms of restitution.

We have been through this process now for 25 years. We've actually seen the process of treaty land entitlement lapse in terms of the current agreement and the work that we've been doing.

For us, it's been a really challenging situation. We have the majority of the municipalities now situated within Treaty 1. The majority of Manitoba's population lives within our territory. We have industries like agriculture that have essentially left our land base...down to nil. Hydro transmission lines that come in to feed a metropolis like Winnipeg have occupied other properties as well. We have Crown lands, but they are very rare in our territory and even those Crown lands are being leased to farmers.

Essentially, for us, it's become a very critical state where we are. We get to watch all of these videos and all of these wonderful projects that are happening in other territories. I can't speak on behalf of the northern Cree, Inuit, Dene or anything like that, but I always see these nice projects about how they're restoring their environment and how they're taking care of the polar bear, caribou and whatnot. In our case, here in southern Manitoba, we have no lands left to even protect.

We are now in this process of reclamation of land that includes municipal property, municipal lands and private lands that we have to purchase and we have to go through a process, which is left for us to navigate on our own. Municipal officials really feel that the process itself that's been outlined is a bit of an intrusive one, which I can probably appreciate from their perspective, given the fact that we've lived through the opposite as well.

With that being said, our communities are left basically to navigate these disputes—whether it be with a third party interest or with a local municipality—without any sort of mechanism in place to help us settle disputes that are long standing. I actually just got off the phone this morning with the provincial government about a road right-of-way that was identified in 2009. They told us today that it's actually no longer required. It took 14 years for that to happen.

I'm also sitting with municipalities where we're still having municipal servicing discussions that have been going on now for about 16 years.

• (1755)

Again, this is unacceptable. I would assume that if the federal or provincial government required any of these lands for X or Y or Z, these things would have a process where we could actually go for a dispute.

In the case of the Kapyong barracks, we were successful. It wasn't until after lengthy court battles and after disputes with Canada that they finally sat down and signed a comprehensive settlement agreement with our communities. We now have our reserve. Now we own it. Of course, having that land back is a significant step forward for our communities. It provides an excellent opportunity for us to really explore the economic opportunities that should have been there from day one.

This dispute started in 2002. I came to the table in 2004, as a young person at that time, but now we're—

**The Vice-Chair (Mr. Jamie Schmale):** Chief, I'm sorry to interrupt. You're quite a bit over time. Is there any way you can wrap it up? I'm sure we'll get to more of what you have to say in questions.

**Chief Gordon BlueSky:** Yup. We'll leave it there.

I guess that's my wrap-up.

**The Vice-Chair (Mr. Jamie Schmale):** Well, thank you. That was good. Thank you very much. I appreciate that. I don't like cutting people off.

Next up is the Office of the Treaty Commissioner and Ms. Culbertson.

We had a few issues with your sound. Hopefully, we have that solved and are able to hear you nice and clear.

Please proceed for five minutes.

**Ms. Mary Culbertson (Treaty Commissioner, Office of the Treaty Commissioner):** Thank you. I'll try not to take all of the five minutes.

*Aaniin.* My name is Mary Culbertson, and I am the treaty commissioner for Saskatchewan.

I have a juris doctor of law from the University of Saskatchewan. I thank you for inviting me here to give testimony today on lands and restitution.

I acknowledge the land I am currently living on as Treaty 6 land and my home territory of Treaty 4, Keeseekoose First Nation.

I'm the first indigenous woman treaty commissioner. I say that because I look at the land in a much different way than my predecessors. I hold the juris doctor of law from the U of S, but at treaty, my ancestors, the non-first nations and first nations, wanted a better future for their future generations to live here. They wanted the cunning of the white man, to be able to have doctorates, to be lawyers, to have all the levels of education that the newcomers would be having.

I look at things differently, from an indigenous perspective, and I also have to sit in the middle of my people and the Crown, being a treaty commissioner. I'm giving this from an equitable point of view. I'm not going to be neutral here because being neutral means you're not taking a side. In terms of equity, the side that I am taking is that of the treaty nations. I have a lot to say about land, restitution, the access to land and the limitation of land in order to exercise treaty and inherent rights.

Restitution of land is vital to reconciliation efforts and the future of treaty and inherent rights in these territories. It includes and is not limited to food security, economic participation, and land stewardship. In the province that we are currently sitting in... Even though treaties were here before these provinces were created—Saskatchewan, in particular, in 1905—the federal government has, through division of powers, of course, delegated certain authorities, as you may say, to the provinces.

One of those authorities that was delegated in 1930 was the NR-TAs, the natural resources transfer acts, that affect Saskatchewan, Manitoba and Alberta. In Saskatchewan, we have further legislation with regard to lands, such as the Saskatchewan trespass act that was amended in 2022. We also have the Saskatchewan First Act that was introduced by the Saskatchewan government and came into effect this year, in 2023. It was passed by readings in the House. Then we have other policies that limit the ability to access lands, such as additions to reserve policy that currently sits in Indigenous Services Canada.

All of these processes, this legislation and these policies limit the ability to exercise rights. They limit access to the land, and they limit living and making a living from the land.

I will be answering any questions that the committee members may have when it comes to these particular acts and how they limit land and access to it and the exercising of rights.

In this province, as well, we have the online sale of Crown lands. When you're selling off Crown lands, I believe that it's not just treaty first nations and people who use the land to sustain themselves who should be concerned. All people should be concerned because we shouldn't be selling off Crown lands. We shouldn't be selling off any lands when we still have outstanding treaty obligations that need to be made.

The speaker before me mentioned the treaty land entitlements. The Office of the Treaty Commissioner in Saskatchewan was actually created to settle the outstanding treaty land entitlement issues. The first commissioner was Cliff Wright. His task was to create a framework and come to an understanding between all the parties involved.

Since that time, the Office of the Treaty Commissioner has been written out of any matters to do with treaty land entitlements. In our current mandate, which is currently being updated and worked on by a chiefs committee through the FSIN, they have identified where those gaps are that the commission needs to be able to be part of again.

• (1800)

We have many first nations that still do not have their treaty land entitlement lands that they bought to make up their shortfall acres turn into reserve status. The barrier there is the additions to reserve.

We have first nations that have put in an interest when it comes to sale of Crown lands, but yet have—

**The Vice-Chair (Mr. Jamie Schmale):** Ms. Culbertson, I'm sorry. I know your goal was to not hit the five minutes, but you've gone a bit over.

Is there any chance you can wrap it up? We'll probably get to you in questions.

**Ms. Mary Culbertson:** That's no problem.

If there are any questions, I'll be looking forward to them.

*Meegwetch.*

**The Vice-Chair (Mr. Jamie Schmale):** Thank you.

For six minutes, we kick it off with the Conservatives and Bob Zimmer.

**Mr. Bob Zimmer (Prince George—Peace River—Northern Rockies, CPC):** Thank you, Mr. Chair.

Gordon BlueSky, you mentioned something of concern to me. I am the co-chair of the parliamentary outdoor caucus, and what we do in this place in Ottawa is represent people who hunt, fish, sports shoot and trap.

You said that you are being taught not to hunt. Can you please explain that?

**Chief Gordon BlueSky:** I am not necessarily stating that we're being taught not to hunt. What we are challenged with is where to hunt.

The issue we have in our territory of Brokenhead is that it's surrounded. I would say that all of our first nations are completely surrounded by farming, agriculture, municipalities, private lands, the

city of Winnipeg and the city of Selkirk. There really is no place for us to exercise the ability to hunt, trap or anything.

We have always reminded some of our communities up north to be really grateful for what they do still have. Even though there are impacts up there, they have a lot more than we do.

As you all know possibly—and maybe some of you don't—it's a really hostile environment out there with our people when it comes to interactions with settler populations and with agricultural populations when it comes to hunting. We're met with aggression.

In our particular case in Treaty 1, the areas that are considered Crown are now being leased out again for further agricultural practices, so our communities really are challenged with teaching our children even how to hunt.

• (1805)

**Mr. Bob Zimmer:** Thanks, Gordon.

It's interesting that you mentioned that. Losing access to hunting sounds like it's a concern to you.

We were up in Cambridge Bay not that long ago, where we talked to the Kitikmeot Inuit Association. They brought a concern to us, and a member across the way in the Liberal Party, Mr. Weiler, mentioned 25 by 25. Well, there is a new initiative called 30 by 30, and it talks about protecting 30% of lands and 30% of oceans.

What they brought up is a concern that these areas were being segregated without consultation of local Inuit and first nations.

When I hear you say something like that, it rings true about being concerned about 30 by 30 and its implications, not just to non-first nations but for first nations as well. Are you concerned? Are you being consulted on the 30 by 30?

**Chief Gordon BlueSky:** No, and honestly, I'm sorry, but I don't know exactly what you're referencing, but I do know a couple of things.

Whenever we have Canadian initiatives and projects going on where they're talking about protecting 10%, 20% or 17% of Canada lands for Canadians, I've followed up with a lot of them, and I started to follow what projects Canada is focusing in on. These are projects that are happening in territories my people would never be in, the Northwest Territories, Nunavut and places like that.

We need to have things that are protected here in Treaty 1 that we and our children can benefit from into the future. What I am concerned about is that we've never been consulted, ever, in the development of our territory.

Natural resources transfer agreements were mentioned earlier. The natural resources transfer agreements outline the obligations to make sure that first nations have lands to sustain themselves, and that's never happened in my territory. There has never been any consideration of that.

**Mr. Bob Zimmer:** I appreciate that, and I would challenge the government.

We can reach out and even chat about what 30 by 30 is and what the plans of the.... It's in the ministers' mandate letter for Environment and Climate Change and the Department of Fisheries and Oceans very clearly. The first paragraph really is the implementation of 30 by 30.

We're already in 2023, and there are seven years left when all this stuff is going to start to roll in, and I am concerned to hear that you haven't even been consulted or heard about 30 by 30. That's something we can inform you about, Gordon, and I am happy to do so.

My colleague Mr. Vidal was going to ask questions, but he is not available.

Let me go to Mr. Henderson briefly.

I have a niece and a nephew who are Métis. They live in British Columbia. I know that one of the challenges in Manitoba, especially.... I'll ask it as a question. Are competing claims between Métis and first nations an issue, and if they are an issue, how do you intend to resolve those issues?

**Grand Chief Chris Henderson:** Thank you for the question. It's a good one. That speaks to the heart of the dispute we currently find ourselves involved in.

Like I said earlier, the initial focus for all parties in the framework agreement was to try to permit first nations to acquire choice lands. However, the federal Crown determined that, prior to 2012, they did not have this constitutional duty to consult other aboriginal communities about lands that would be set apart as reserve lands.

This issue is currently one of many issues we're trying to resolve through negotiations with a negotiator appointed by Minister Marc Miller. We are trying to resolve it. Certainly, we, too, as first nations, want other concessions brought up at the negotiating table. We hope that, within the coming months, we'll be able to resolve, as you said, this clash of claims we're dealing with in Manitoba.

• (1810)

**The Vice-Chair (Mr. Jamie Schmale):** Thank you very much. That's the end of that round.

Next, we'll go to the Liberals.

Marcus Powlowski looks like he's ready to go.

**Mr. Marcus Powlowski (Thunder Bay—Rainy River, Lib.):** Thank you for coming, Mr. Henderson.

I'm interested in the Manitoba treaty land entitlement agreement and how that's worked. You mentioned you represent some Treaty 3 communities, which I found interesting. I think Eric Melillo finds it interesting, because there are Treaty 3 communities in our ridings, as well, on the Ontario side.

How does it complicate the negotiation process when you have two provinces involved with the same treaty area?

**Grand Chief Chris Henderson:** Sure. To respond to that point, we only have one member first nation that is a signatory to Treaty No. 3. That would be the Buffalo Point First Nation.

On the matter of the involvement of other jurisdictions outside the borders of Manitoba, there is a clause in the framework agreement where first nations that have ancestral lands outside the borders of Manitoba, whether it be in the province of Ontario or the province of Saskatchewan, can identify those lands.

However—and here's where it gets tricky and sticky—those neighbouring provinces have to agree that the lands that were identified could be set apart as reserve by Canada. Unfortunately, to date, both jurisdictions have refused to engage in those types of discussions.

**Mr. Marcus Powlowski:** Which two jurisdictions were those that refused?

**Grand Chief Chris Henderson:** They were the Province of Saskatchewan and the Province of Ontario.

**Mr. Marcus Powlowski:** Okay. In Ontario, it's with the Treaty 3 land.

**Grand Chief Chris Henderson:** Yes.

**Mr. Marcus Powlowski:** That's interesting.

Maybe you can comment on the fact that, in northwestern Ontario, there have been a number of recent land settlement agreements. I went to one in Lac La Croix. There are others in the works. They seem quite successful at coming up with land settlement agreements there. It sounds like you haven't had the same level of success under the Manitoba treaty land entitlement agreement.

In the end, do you think this agreement has been a beneficial process, or has it been detrimental to the communities involved?

**Grand Chief Chris Henderson:** Certainly, expectations were high 26 years ago.

Some of our member first nations have put to good use their land entitlements, particularly those that have the ability to buy land in urban centres, such as the Sapotaweyak Cree Nation. They have purchased or acquired three parcels of land in the town of Swan River. Two of those parcels are urban reserves. They host two economic development ventures, one being a video lottery terminal club and one being a gas station. They more recently purchased a third parcel, so they have plans there. Some first nations have taken advantage of the opportunity under treaty land entitlement, no doubt.

I guess another point to consider is that our more northern first nations in Manitoba were not given the opportunity to buy land in urban centres. They weren't given land acquisition payments. They were restricted to selecting available Crown land.

I'd also point out that the one major difference between the Saskatchewan framework agreement and Manitoba's framework agreement is this: In Saskatchewan, the first nations were given money to buy all their land, whether it was Crown land or private land. Under the Manitoba framework agreement, only six of our first nations were given land acquisition payments. The northern communities were left out.

**Mr. Marcus Powlowski:** Okay, now I'll turn to Jaime.

**Mr. Jaime Battiste (Sydney—Victoria, Lib.):** Thank you.

I thank you for your time.

I'm hearing from the numbered treaties, a lot of the misconceptions are, or the view in Canada is, that the numbered treaties ceded away land during these treaty negotiations. Can you give me a sense of whether that's an accurate description of your understanding of the numbered treaties?

I'd like to start off with Ms. Culbertson and then go to Mr. BlueSky.

• (1815)

**Ms. Mary Culbertson:** Thank you, MP Battiste.

My understanding as a treaty commissioner, and from the research that we have in our office, publications and oral history—the other side of the treaties—is that treaties were not cede and surrender. The land was never meant to be surrendered. The cede and surrender clause was inserted into Treaty No. 3 after.

If you look at any records from the treaty negotiations, which includes diaries, journal inserts and translations that were meticulously kept by translators such as clergy, the North-West Mounted Police, etc., there is the absence of the translation of cede and surrender. What you will find is cede and surrender inserted into text on the parchment that makes up the text of the treaties that Canada relies very heavily on for justification of taking up land and resource development.

**Mr. Jaime Battiste:** Thank you, Ms. Culbertson.

Answer quickly, Mr. BlueSky.

**Chief Gordon BlueSky:** Yes. Of course, we're in agreement with that.

From our perspective, in Treaty No. 1, which we're situated in here, we believe the actions that you currently see within our territory and some of the things that Chris identified in terms of the interactions, consultations and accommodations that are currently happening with the Métis population within our territory...we feel that should have been the same process from the time of treaty, whenever they started to develop our territory and our lands. That's why it's become so important for us to have lands returned to our communities and have the ability to economically develop them.

Also, with the systems that are in place right now, I think if we had had this step and the process had been happening from the time of treaty until now, we probably wouldn't be in the situation that we are in right now in terms of being desperate not only for economic opportunities, but also for the ability to feed our families.

**The Vice-Chair (Mr. Jamie Schmale):** Thank you very much, Chief BlueSky.

That is six minutes.

We go now to the Bloc Québécois and Madame Gill.

[*Translation*]

**Mrs. Marilène Gill:** Thank you, Mr. Chair.

I want to thank all the witnesses, too, for coming today and enlightening us on the issue of land restitution.

My questions are for all the witnesses here today.

Since we started this study, we have seen how restitution is governed based on the different configurations for each nation, be it Métis, Inuit or first nations, or whether it's a modern or a numbered treaty. It depends, too, on where you're located. For example, Chief BlueSky said earlier that his lands were surrounded by lands that weren't Ojibwa.

Do you believe that, despite these different configurations, it's possible to ensure fairness among nations, be they Métis, Inuit or each of the first nations? With the passage of time, it's clear that no discussion is simple. Do you think that it's possible to be fair? Would any changes or corrections need to be made later, given how complex restitution is?

I mentioned you in my question, Chief BlueSky, so you can be the first to respond, if you'd like.

[*English*]

**Chief Gordon BlueSky:** I'm not sure if I was supposed to get a translation.

**The Vice-Chair (Mr. Jamie Schmale):** Yes. On the bottom of your screen, there is the interpretation button. It looks like a globe, I think.

You click that and then click “English”.

**Chief Gordon BlueSky:** Okay. I didn't hear any of that. I heard my name a few times.

**The Vice-Chair (Mr. Jamie Schmale):** All right. That was a two-minute intro. I don't think I could sum it up as well as Madam Gill could.

Madam Gill, maybe you could do that really quickly.

[*Translation*]

**Mrs. Marilène Gill:** If you're giving me a little more time, Mr. Chair, I'll gladly take it. I think that we always need to hear all the languages in committee.

Depending on whether you're Inuit, Métis or a member of a first nations community, the issue of land restitution is different. The configurations differ, depending on whether it's a numbered or modern treaty. Consequently, land restitution is an extremely complex issue.

Based on your own understanding, do you believe that it's possible to ensure fairness among each nation or community when it comes to land restitution? Do you believe, instead, that, once the land restitution treaties are signed, corrections will need to be made?

Mr. Chair, I didn't manage to keep it under two minutes, but that's the question I want to ask each of the witnesses.

Chief BlueSky, you may start. Thank you.

• (1820)

[*English*]

**Chief Gordon BlueSky:** Again, I'm sorry about that.

Number one, I'm uncertain about the strategy Canada has to address this issue. Currently when it comes to our land claim and our implementation of our land claim, it depends on the territory and on the value of those lands and who is involved. When it comes to other aboriginal groups or indigenous groups, my issue is that Canada hasn't been clear as to how they plan to deal with that.

I can only say for number one that our agreement was signed in 1997. We initiated those discussions in the 1970s. Prior to that—this is just a little fun fact for the group here—Brokenhead Ojibway Nation had their first additions to reserve—we signed the treaty in 1871—in 1874. It was a lot less complicated back then, but we still had it happen. There was no consultation of any group other than our own.

That being said, I think it's a challenging question for me to be asked directly, given the fact that the responsibility should be Canada's and Canada, quite frankly, should be asked whether it sees that as a fair process, seeing as we already had our agreements in place, and now these issues that are being brought forward today are not issues that we had brought forward; they're issues that Canada has created.

For us, the former Kapyong barracks is a very important piece of property, on which there was consultation with the other groups that took almost two years of our time. Again, it's very challenging. A lot of things happen in two years, especially development that has taken away from our time now.

**The Vice-Chair (Mr. Jamie Schmale):** Madam Gill, you still have about 20 seconds, but that's not including the time you lost, so you probably have a lot more than that.

[Translation]

**Mrs. Marilène Gill:** I'd like to ask the other witnesses the same question, Mr. Chair.

Ms. Culbertson or Mr. Henderson may respond.

[English]

**The Vice-Chair (Mr. Jamie Schmale):** Ms. Culbertson, did you hear the question from Ms. Gill?

**Ms. Mary Culbertson:** I did not hear any of the translation, no.

**The Vice-Chair (Mr. Jamie Schmale):** Oh, no. That's okay. Well, I guess it's not okay.

Madam Gill, do you want to quickly summarize?

[Translation]

**Mrs. Marilène Gill:** I'll perform a miracle, Mr. Chair, and ask my question in under 10 seconds.

[English]

**The Vice-Chair (Mr. Jamie Schmale):** Let's see if Ms. Culbertson can hear the question.

Can you hear Ms. Gill now, Ms. Culbertson?

**Ms. Mary Culbertson:** No.

**The Vice-Chair (Mr. Jamie Schmale):** Do you see on your screen at the bottom there's a little globe that says interpretation or language, maybe?

**Ms. Mary Culbertson:** Yes.

**The Vice-Chair (Mr. Jamie Schmale):** Click that and you should have another menu come up. It should have two options, maybe three options. Do you see that?

**Ms. Mary Culbertson:** I do, but what happens after you click on it?

**The Vice-Chair (Mr. Jamie Schmale):** Then you should be able to hear. I'll get Ms. Gill to speak in French because mine is horrible. I doubt the interpreters will know what I'm saying. We'll see if it works.

[Translation]

**Mrs. Marilène Gill:** Thank you, Mr. Chair.

I'd like to know whether Ms. Culbertson can hear me now.

• (1825)

[English]

**Ms. Mary Culbertson:** Yes, I can hear it now.

[Translation]

**Mrs. Marilène Gill:** My question will be brief, but not particularly easy.

Do you believe that it's a fair process for all indigenous groups and nations? If not, what needs to be done to ensure that it is?

[English]

**Ms. Mary Culbertson:** Thank you for the question. My apologies for missing the translation.

That's a very big question, but it is one that Canada should definitely be answering. I believe there are too many processes that have been put in place and the land restitution process right now is not equal.

Like Chief BlueSky had stated, they had an ATR in 1874 and it was quite easy. Now you have a process that was put in place that is so onerous. Many nations do not have capacity because of being inadequately funded, inadequate training and a lack of capacity of human resources.

You have this ATR process, where we have, in Saskatchewan in particular, first nations that bought treaty land entitlement 30 years ago and still that land is not reserve status.

I believe, as a treaty commissioner, that those processes were put in place to make it difficult for nations to be able to acquire land that they were entitled to by treaty and that is a continued breach of treaty. It's discriminatory. It was put in there on purpose. The land restitution is not equal when you have these processes in place to begin with.



When you have other treaties, modern agreements and other constructive arrangements being negotiated around all the indigenous people.... That's not to mention those things that a whole other standing committee should be looking at, which are the access to that land and resources being sold off in Crown land options, access to the land and resources that are underneath the existing land here, and the equity when it comes to resource extraction and who is benefiting from those resources.

No, the land restitution process currently is not fair. You're pitting indigenous people against indigenous people now with these agreements. Our Métis brothers and sisters and our first nations are going to be at each other's throats over land.

Canada is the one holding all the purse strings.

**The Vice-Chair (Mr. Jamie Schmale):** Thank you very much, Ms. Culbertson.

Thank you, Ms. Gill. I'm sorry for all of that. This never happened when Ms. Atwin was here.

Ms. Idlout, you have six minutes.

**Ms. Lori Idlout:** [*Member spoke in Inuktitut, interpreted as follows:*]

Thank you, Mr. Chair, and to each of the witnesses for their presentations.

I have one question for each of you. I'll go to Mary first, and then Chief Gordon, and Chris Henderson being the last.

What would be your recommendation? As we all know, with the United Nations Declaration on the Rights of Indigenous Peoples, these rights need to be recognized within Canada, so I have a question for you. Would you suggest a recommendation for how we can recognize indigenous rights even more?

Mary, you can start.

**Ms. Mary Culbertson:** Could you repeat the two last sentences of your question, please? I couldn't hear it over the translation.

**Ms. Lori Idlout:** [*Member spoke in Inuktitut, interpreted as follows:*]

The United Nations Declaration on the Rights of Indigenous Peoples needs to be recognized even more so in Canada. How could we use this declaration even more in regard to the restitution of lands? How can this instrument be used?

• (1830)

**Ms. Mary Culbertson:** Thank you.

On the UN declaration and the implementation of the act, I believe the final report is being released. It's supposed to be this month. That's the UN declaration act. To implement the UN declaration fully, on the rights of indigenous peoples in Canada, all Canadian laws need to be completely compatible with that UN declaration. Canada's laws cannot override that base set of standards that the UN declaration sets out.

I remember when I first read the UN declaration. I was in law school in 2009. I remember looking at it and thinking why didn't we just have this all along, and there would be no issues. All our

treaties would have been honoured. We would have a right to practice and to exercise all our rights inherently, and we would have the right to self-determination recognized.

Canada needs to ensure that its laws are changed to make them compatible with the UN declaration. That means a complete overhaul of laws, but we know that Canada is there for Canada. Canada is not here to protect all the rights of indigenous peoples. If that was the case, there would be no Canada because the indigenous peoples wouldn't have allowed it. They wouldn't have allowed such blatant: Yes, you can come here. You can have all our land. You can put us on reserves. You can put us in residential schools. You can put policy in place to starve us, commit genocide, and then we're all good.

Colonization is what created Canada, and created all the countries that have indigenous people and that now have outside governments running them. Those were made in the name of empire building and not "let's go out and protect indigenous people and lands".

We have this Canadian law structure that's completely incompatible with the UN declaration. It needs to be made compatible. All these processes that Canada has put in place, and the provinces, those need to be eradicated, because none of these structures, processes and legislation are there to protect indigenous people and the lands. The purpose of exploration here was to get to the lands.

There is a lot of work to do. I do not believe there ever will be 100% reconciliation, because 100% reconciliation is implementation of treaty obligations, and it's allowing nations to have full self-determination over their lands and themselves. There is a lot of work to do, and I do not believe I will be able to see it in my lifetime. I sure wish that were different, but I don't believe that's so.

**Ms. Lori Idlout:** [*Member spoke in Inuktitut, interpreted as follows:*]

Thank you.

Chief Gordon BlueSky.

**Chief Gordon BlueSky:** I really appreciate it.

I also want to acknowledge your beautiful language and your native tongue. It's a wonderful thing to hear in 2023. I wish all our nations were afforded the same when speaking at these levels.

With that being said, for me, I think the first step is exactly that—recognizing our people. With the declaration itself, if you look at the Declaration of Human Rights when that happened, what happened, and what were the subsequent actions from there? There was the creation of the Human Rights Commission. Then there was the Human Rights Tribunal where you could actually go and make arguments on issues specific to human rights.

Indigenous rights aren't being treated the same. We are being left to fight these things out in these courts where the only real change that we can actually have is all the way up to the Supreme Court, yet human rights are being challenged and recognized, and decisions like what we're seeing today in regard to our children are happening today in real time.

I think there are steps that need to happen. There needs to be an indigenous rights commission that allows for us to have tribunals and to have decisions made that recognize the issues we have here. There are no courts that are supporting that right now. The courts that are being supported right now, or the system that we're involved with right now, we didn't have any involvement in creating it. If we had no involvement in creating that, how are we expecting our issues and our rights to be settled within a structure that was never meant to service our people?

For me, it's a big challenge that, where we are, we've all inherited this. Everyone sitting around this table and everybody online inherited the problem that was created over 200 years ago when it started to recognize the immigration of people into our territory and then the pushing us away and the annihilation of our people.

I think if Canada was to get serious, it would start to look at having opportunities for our people to sit down and to be able to dis-

cuss disputes, and to be able to discuss indigenous issues that aren't contrary to law but are focused on the indigenous rights that we have inherently from birth.

• (1835)

**The Vice-Chair (Mr. Jamie Schmale):** Thank you very much, Chief BlueSky, and all our witnesses today.

Unfortunately we don't have any more time to hear from more witnesses but, as I said in the first panel, if you have anything more to add please feel free to submit that in written form to our committee and we will definitely take that into consideration when we draft our final report.

Thank you to all our witnesses once again. Thank you to our panellists.

Our next meeting will be on Monday, June 19, when we will be discussing the Whitecap Dakota agreement.

Thank you very much, everyone. We'll see you in a few days.

The meeting is adjourned.

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