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# Standing Committee on Indigenous and Northern Affairs

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Chair: Mr. John Aldag





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• (1605)

[English]

**The Chair (Mr. John Aldag (Cloverdale—Langley City, Lib.)):** Good afternoon. I call this meeting to order.

Welcome to the 76th meeting of the Standing Committee on Indigenous and Northern Affairs. We acknowledge that we meet on the unceded territory of the Algonquin Anishinabe peoples.

Pursuant to the Standing Orders, we're in a hybrid format today, with one witness who is online.

We're going to have two panels today.

Mr. Buffalo, we've started. If you want to turn on your video, we want to make sure your technology is working.

That's perfect. It's good to see you. Welcome.

For you specifically, Mr. Buffalo, because the others are here in the room, you are able to choose the language on your screen. There's either floor audio, which is whatever language is being used, or English or French. We want to get that set. We can't mute you, so you'll need to mute and unmute yourself. When it's your turn to speak, we'll get you to do that.

Now that we've started, there are no photos or screenshots allowed. I think we're good to go with that.

I'd like to welcome Mr. Stephen Buffalo of the Indian Resource Council.

We also have with us Amanda Simon and Albert Marshall of the National Aboriginal Land Managers Association.

Welcome to you.

That will be our first panel. We have about an hour, so we'll go until 6:05 or so.

I always like to start with our online guest. Just while we have the technology working, it's good to start with you.

I'll also mention that I'll keep track of time. You'll have five minutes for opening statements. When you're 30 seconds from the end of your time, I'll give you the yellow card, so start getting ready to wind up. When you reach the end of your allotted time, I'll give you the red card. Don't stop in mid-sentence, but do wind up your thoughts, and we'll go to the next person or the next round of questions.

With that, I think we have all our regular members here, except for Mr. Chandra Arya.

Welcome to our committee today.

Mr. Buffalo, I'll put five minutes on the clock. We're ready to go whenever you're ready.

**Mr. Stephen Buffalo (President and Chief Executive Officer, Indian Resource Council Inc.):** Thank you.

[Witness speaks in Cree]

[English]

Thank you, Chair.

I want to first acknowledge that I'm in Treaty 7 territory here in Calgary.

I want to thank the chair and committee members for the opportunity to speak today.

My name is Stephen Buffalo. I'm the president and CEO of the Indian Resource Council of Canada. Our organization represents over 130 first nations that have produced or have direct interests in the oil and gas industry. Our mandate is to advocate for federal policies that will improve and increase resource development opportunities for first nations.

Although our main focus is oil and gas, many of our members are engaged in solar, wind projects, transmission lines and carbon capture and are starting to look at equity opportunities in nuclear reactors and SMRs.

I'm sure members of the committee know that first nations have historically been excluded from economic opportunities in this country. We have had little say about the activities taking place on our lands even as they have diminished our aboriginal and treaty rights.

We want to resuscitate our economies, and land, of course, is quid pro quo for economic development. Our reserve population is growing, the fastest-growing population in Canada, but our lands are not growing. In fact, they are shrinking, especially our traditional lands, so this committee hearing is very important and very timely.

I know other presenters have spoken about the legal basis for land restitution to our communities, along with our treaties and most recently UNDRIP and the recommendations from the Truth and Reconciliation Commission. We have made our case for land restitution time and time again, and Canadian law is on our side.

The problem is that the enforcement system is broken. Best efforts relating to the additions to reserve, the ATR policy, and the treaty land entitlement in the modern treaties, especially in B.C., are well intended, but the process is lengthy and very expensive.

For me, land restitution is a continuum. It should not be one size fits all. We have our reserve lands, which are shrinking by the day, and the increase in demand for housing infrastructure and development. There are many outstanding cases to add reserve lands and/or compensation based on what was agreed to in the treaties. This process must be concluded in a timely manner.

We also need to protect what little we have left, so land stewardship is very important to us. This is why we were very proactive in the site reclamation and site rehabilitation program and were able to secure a portion of the \$1-billion federal grant specifically for abandoned and depleted wells on our land. To date, first nations have cleaned over 2,000 wells, and there are many more to go, especially with orphaned wells that do not have any owners.

Critics claim that the responsibility belongs to the owners, based on the "polluter pays" principle, but this is a ticking bomb. We can't wait for the polluters to do the right thing. Our people need their land restored as soon as possible.

In my community of Maskwacis we have old pipelines crisscrossing our lands, and we cannot build houses in these areas, so pipelines must be removed. Our elders have told us this much. We need the resources to finish this work.

We had a fiduciary trustee by the name of Indian Oil and Gas Canada, which is a special operating agency under Indigenous Services Canada. They were supposed to protect our reserve lands. Unfortunately they failed miserably in this regard. They were nowhere to be seen when we lobbied hard for the site rehabilitation program. They did not even have the data on these wells. We had to invest some money to get our own, working closely with data providers such as AssetBook and geoSCOUT. Now we know where the wells are and which ones need to be addressed.

Further, Indian Oil and Gas has failed to hold lessees accountable for their liabilities. It seems it protects industry more than it protects first nations, so currently we are working hard to transform Indian Oil and Gas Canada into a first nations-led regulator.

There are many initiatives currently in place in which indigenous people have partnerships, equity participation and industry on these lands, which we applaud, but a lot more work needs to be done.

I want to mention and commend the Government of Alberta for the Indigenous Opportunities Corporation, through which first nations have participation in projects in their traditional area.

- (1610)

I want to end by mentioning that our issue with resource revenue sharing is unfinished business. Our organization is lobbying hard to

put this matter on the table. For me, resource revenue sharing and land restitution go hand in hand.

Thank you. I'd be happy to answer any questions.

**The Chair:** Thank you for those opening comments. You're right on the five-minute mark. Well done. We appreciate it.

Now we have Ms. Simon and Mr. Marshall.

Ms. Simon, I believe you'll be offering the opening comments. When you're ready, the floor is yours for five minutes.

**Ms. Amanda Simon (Chair, National Aboriginal Lands Managers Association):** That's wonderful. Thank you, Chair.

*Sekoh sewakwekon.* Hello, everyone.

I want to begin by honouring and acknowledging the ancestral unceded Anishinabe Algonquin territory by offering our sacred medicines.

I want to thank the standing committee for the invitation to speak today on behalf of NALMA. We have had the opportunity to present several times in the past. We look upon this as an opportunity to promote awareness of raising professional capacity in first nation and Inuit lands management as well as to draw attention to the need for land restitution for the original inhabitants of this beautiful and wealthy country we call Canada.

My name is Amanda Simon, chair of NALMA and lands manager for the Mohawk Council of Kanesatake in the province of Quebec. Joining me today is Albert Marshall, Jr., lands manager from Eskasoni, Nova Scotia, and board director.

NALMA was officially formed in 2000 as a not-for-profit, non-political organization. NALMA is a technical organization driven by first nation land management professionals. We have a corporate membership representing eight regional lands associations across Canada. We have a membership of 236 first nations in Inuit communities at large. Our association comprises eight regional lands associations—Atlantic, Quebec and Labrador, Ontario, Manitoba, Saskatchewan, Alberta, British Columbia and Nunavut. We are pleased to say that we are in discussions with land management professionals in Yukon and Northwest Territories, canvassing their interest in establishing a regional lands association and becoming members of NALMA.

Our members operate under various land regimes—namely, managing land under the Indian Act reserve lands and environment management program, or RLEMP; secondly, the framework agreement on sectoral self-government; and thirdly, self-government and full control in the management of lands. It is interesting to note that, specifically to our membership, they manage well over a million hectares of reserve lands. With the ongoing initiatives of additions to reserves, treaty land entitlements and specific claims, we expect this number to increase in the coming years.

Since April 2000, NALMA has made progress in providing opportunities for first nations to build capacity in first nation lands governance and management across Canada. NALMA's mandate is to provide first nation and Inuit land management professionals and other stakeholders with professional development, networking and technical support opportunities.

I want to thank Indigenous Services Canada for their outstanding partnership and financial support over the past 23 years. We have made significant progress in raising professional standards and capacity in land management. We've established a professional land management program that has certified 225 land managers in first nations across Canada. We deliver specialized training to 500 land management professionals annually. We've developed 30 land management course modules and tool kits, and established survey, land use planning and ATR environmental units. We undertook the Centre of Excellence for Matrimonial Real Property and were very instrumental in the establishment of the Indigenous Centre for Cumulative Effects.

I am sure during the process of this study that political views, court cases and studies have highlighted the unfairness and desecration of indigenous rights concerning land and land ownership. We believe the restitution of land means transferring jurisdictional laws, rights and wealth. It is essential, because it supports sovereignty, prosperity, opportunity and good health and well-being. In this regard, how can indigenous people in Canada reclaim their land through the restitution of lands?

My message for you today is from the grassroots, from an on-the-ground perspective. Land managers and communities have the challenging task of carrying out and upholding the expectations of community members and leadership. We must understand and implement processes and procedures in the land regimes that we operate—the Indian Act, the FNLMA and self-government.

Technically speaking, giving land back could be a challenging initiative for the federal government. However, it does not have to

be if they commit to upholding their constitutional mandate to support indigenous communities in prosperity, opportunity and good health and well-being.

● (1615)

In conclusion, NALMA is a first nation-driven professional land management organization working towards improving professional capacity and ensuring quality land management to promote sustainable growth and prosperity within communities. Through NALMA's experience working directly in communities, our thoughts of restitution of land can be simplified by the federal, provincial, municipal and first nations governments' building a solid and productive relationship with a commitment to work together to share in the benefits of prosperity, opportunity, good health and well-being.

*Nia:wen*, and thank you for this opportunity to participate.

● (1620)

**The Chair:** Thank you so much for your opening comments.

We're ready to get right into our round of questions.

First up we have Mr. Vidal, who has six minutes.

Whenever you're ready, the floor is yours.

**Mr. Gary Vidal (Desnethé—Mississippi—Churchill River, CPC):** Thank you, Chair, and thank you to all of our witnesses today for your opening comments.

Mr. Buffalo, I'm going to start with you. You talked about economic opportunities being a very important part of the work you do, and I know that's a big part of what your organization does. It's no secret in Canada that indigenous people face many challenges in health care, housing and education. You talked about that in your comments. I believe that economic opportunities are going to be a really, really huge part of solving some of the challenges that are faced by many of the communities in those issues I listed.

Can you speak a bit more about how the restitution of land and the associated economic opportunities can be directly linked to solving some of the health care, housing, education and other challenges that are faced by communities across the country?

**Mr. Stephen Buffalo:** Of course, as we look at the land bases that are now set through the Indian Act, there are opportunities and business development and...primarily resource extraction that is happening just off our communities. As long as we're a part of it, I think there's an opportunity to really start looking at investing in some of the social issues that are plaguing our communities. The hard part is under the Indian Act. I think that's the primary barrier, getting around the Indian Act and what we're told to do and what we're told not to do.

Here in the province of Alberta, we have the Alberta Indigenous Opportunities Corporation, which gives first nations an opportunity to participate in the natural resources sector and business deals that are happening within their territories. That's money that a community can now invest in these areas. Our land base might not grow, but at least we can start addressing some of these issues, where bureaucrats from Indigenous Services Canada are telling us how not to spend and how to spend money. This is at our discretion, and I think it is the first step in really trying to be proactive in these areas.

As long as we keep depending on the federal government under the Indian Act, we're not going to get anywhere. Identifying the land cases.... Really, it's up to the first nation to assert their own jurisdiction, create their own land laws and everything like that.

In the oil and gas sector, we have Indian Oil and Gas Canada, which is a horrible regulator. It causes more problems than it needs to. You can ask the Privy Council how many litigations there are against Indian Oil and Gas Canada for its failure to act.

When we assert our own jurisdiction, I think we can start taking care of ourselves and really be progressive in that way to take care of those social issues.

**Mr. Gary Vidal:** Thank you. I appreciate that.

You talked in your answer and also in your opening comments about the Alberta Indigenous Opportunities Corporation, and Saskatchewan has recently set up the same kind of organization. I don't remember the exact acronym, but it's very, very similar to the Alberta Indigenous Opportunities Corporation. Something we've talked about for a couple years is what the benefit of a similar type of organization would be at the federal level.

Would you mind speaking to that for a second, and say what you think the benefit might be of having a national indigenous opportunities corporation?

**Mr. Stephen Buffalo:** The AIOC's primary mandate was to backstop the provincial government guarantee on first nations' investing in some of these projects that are in their territory. Again, it's not cash; it's a backstop, so there's still some lending and liability there, but now you're part of the equation, more or less, and you're going to see revenues when the project is full, active and running.

From a federal level, that would be imperative. You know, we're talking about critical minerals that we need in order to try to get to net zero, and a lot of that is mining these critical minerals. We see the resources, and we see what kinds of revenues the provinces are seeing in doing that. At the federal level, it will definitely help first

nations be less dependent on what's coming through their comprehensive funding agreement under the Indian Act.

• (1625)

**Mr. Gary Vidal:** Thank you.

My time is getting short and I want to ask you one more quick question.

You talked about the lengthy processes around ATRs and other claim settlements, and some of those challenges. I grasp very clearly where you're coming from.

Can you flesh out, in about a minute, the frustrations, limitations or hindrances of those long claim processes when it comes to achieving some of the goals you set out?

**Mr. Stephen Buffalo:** There are bureaucrats under the land management act who hold back the process. Of course, the only ones who are really benefiting are somewhat.... That's just to say the lawyers see a lot of benefit from this, and it is painfully long. Some communities have invested in land through TLE and have an opportunity to create some sort of commercial development and see some revenues within the corporations they may develop.

However, it's imperative that they move things along. It's painfully long. By the time things are done, a lot of money has been lost. It's just so slow. That's the only thing.

**Mr. Gary Vidal:** Thank you for that. I appreciate it.

**The Chair:** We're out of time. We're going now to Mr. Battiste.

Before I turn it over to you, Mr. Battiste, I neglected to welcome Mr. Dreeshen.

You're such a familiar face, Earl, that I completely accepted you as one of our committee. It's good to see you here.

Mr. Battiste, you have six minutes.

**Mr. Jaime Battiste (Sydney—Victoria, Lib.):** [*Member spoke in Mi'kmaq*]

I was telling Albert, as a Mi'kmaq speaker, "Welcome to this committee," and I thanked him for being here.

I'm very glad to hear the presentation.

I'm wondering, Albert, whether you could start off by describing the challenges on reserve in acquiring land. Do you think there's adequate land available in many of the reserves across Canada for the housing needs our communities are dealing with?

**Mr. Albert Marshall Jr. (Board Director, National Aboriginal Lands Managers Association):** There is not in our region. Take Eskasoni, for instance. We have 5,000 members with 8,900 acres to deal with. Out of those 8,900 acres, we could only use 13%. Basically, the rest of that is all bog, swamps and steep hills—practically unfeasible to build on.

Acquiring land is different in the Atlantic region, where we have to purchase our own land. We don't have any TLE process or specific claims that we're going through. All land we get in Atlantic Canada is either bought or donated by some kind individuals. Again, like the chief said, the ADR process is lengthy. There has to be more of them.

It's unfortunate that our projected population base wasn't properly formulated when they created reserves in Atlantic Canada, more specifically.

**Mr. Jaime Battiste:** Albert, I'm wondering whether you can speak to—I know it has specifically impacted the communities of Eskasoni and Sipekne'katik—the centralization of the Mi'kmaq in the 1940s.

Could you give a bit of an explanation as to what that policy was and what the impact of it is today for the Mi'kmaq of those communities?

**Mr. Albert Marshall Jr.:** There was centralization in Nova Scotia back in the 1950s. Basically, individuals were ordered to leave their communities and surrounding areas forcibly—in most cases, violently. Everybody moved to either Sipekne'katik or Eskasoni, and there were members from other communities living in one community. It ended up being very intense.

It even happens today. If somebody moves into our community, they assume they're not from the community. The government tried to create unity with reservations, but it technically created separations.

• (1630)

**Mr. Jaime Battiste:** Thank you for that, Albert.

Do you think that centralization has impacted our community, in terms of the population growth of communities like Sipekne'katik and Eskasoni, which are running out of land because of the population forced into those communities? Can you tell us how it's impacting Eskasoni today in terms of the availability of land for housing?

**Mr. Albert Marshall Jr.:** Of course. It hinders a lot of communities in Eskasoni and prevents families from growing, because we don't have any more land base to put anybody else in.

I feel bad for people today. They have money, but they have no land to build on. As a land manager, I don't want to send them anywhere else, because we were forced on reserves, into these camps. Now we have to live in them to the best of our ability.

**Mr. Jaime Battiste:** It's interesting. We hear about the treaties all across Canada. To the best of your knowledge, did the Mi'kmaq treaties—the Peace and Friendship Treaties—ever cede any land when they were signed between 1725 and 1786?

**Mr. Albert Marshall Jr.:** No. The Mi'kmaq never ceded any land to the government. It was just the Peace and Friendship Treaties.

**Mr. Jaime Battiste:** Thank you.

Ms. Simon, do you want to add anything that could give us a bit of context on the difficulties in acquiring land for homes around first nations all across Canada?

**Ms. Amanda Simon:** Acquiring land, I think, is a very difficult process across the country, regardless of what province you come from. Our territorial lands are taken over constantly.

When we go through a process of ATR—which, again, is an arduous and lengthy process, although we're striving to make that process a bit easier—it's very difficult for first nations across this country to buy land. If they buy the land, they now have to go through the process of adding it to their reserve through this ATR process.

The issue is there is not enough capacity for the first nations when it comes to the ATR process. It's a process that can take between three years on a good day and 10 to 15 years on a bad day. During that time, what do you think happens to the land that was purchased? It can go through many issues. It's all good and fine to buy that land, but then the process to add it to your reserve and do something with it is almost impossible.

Thank you.

**The Chair:** Thank you.

We're going now to Madame Gill.

[Translation]

You have six minutes.

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

Mr. Buffalo, Ms. Simon and Mr. Marshall, thank you for appearing here today. Your remarks are really interesting.

I was going to follow up on the question asked by my colleague Mr. Battiste.

You used the word “difficult” several times. You said that, no matter where in the territory you are, you face essentially the same difficulties.

I imagine that there are still distinctions to be made depending on the territory. You're from the Mohawk community. I know it also has its own particularities, especially since you cross borders, which are always arbitrary.

I'd like you to tell us more about the difficulties you're facing, and to make some recommendations. You mentioned time, which always works against us, but if there are several other difficulties, we'd like you to tell us what they are so we can add them to our report.

[English]

**Ms. Amanda Simon:** I should have gone into French. I apologize. I'm way too nervous, and I'm sure I'll stumble all over the place.

Again, land and getting land back is very difficult. Kanesatake is one example of this. After the events of 1990, we were a very well-publicized first nation that got land back. However, after 30 years, we're still in the process of adding that land through a proper land allotment process, so that we can properly use those lands. It's a long time. Here is the reality: It's been 30 years. I'm living proof to tell you that that is the reality on the ground.

What makes it a bit more interesting for Kanesatake is that we're not a reserve under the definition of the Indian Act. We're a territory. Therefore, we had to have special legislation issued for us in order to apply some of the rules and regulations getting us out of the Indian Act.

That said, our process is not any different from the ATR process. It's mirrored. However, I would like to say from a NALMA perspective, and as the chair for NALMA, representing NALMA here today, that we created an ATR unit to help with the capacity of first nations to be able to work through this arduous process and to find recommendations for all levels of governments—provincial, municipal and the feds—whereby we can diminish that time limit and have this distinct understanding of the first nation perspective when we're going through these processes.

If we all collaborate co-operatively, I think we can diminish those timelines while respecting all of the guidelines that are within the process to come to a successful and prosperous eventual process, so that first nations can use this land that was taken from them for so many years. Hopefully, we can establish new homes and will be able to have economic development and live prosperously.

Thank you.

• (1635)

[*Translation*]

**Mrs. Marilène Gill:** Thank you.

I'd like you to expand on that so we know what the impact is. We're talking about 30 years here, which is huge. You could say that this represents half a life. There are repercussions, and they affect several generations. Of course, some of them may not be directly observable. They may just as well be very present and predictable as indirect or underlying.

Could you tell us about the repercussions of taking so long to acquire or return land?

[*English*]

**Ms. Amanda Simon:** I will speak to what happened in Kanesatake, because it's very close to me.

When the events after 1990 happened and the land purchases began with the federal government, the 30 years resulted in Kanesatake having its land there but with no land allotment process. These lands were simply taken. We didn't have a land use plan to properly plan out a structured area where we could have social gatherings, our schools would be protected and so on and so forth.

Ultimately, unfortunately, what happened as well is that we have environmental concerns, because there was a dump that was created afterwards.

The result is huge. The impact is huge. These lands, some of them, became unusable because they now have to be remediated due to the environmental impacts that have happened in all this time that went by. Thirty years is a long time. We could have done a lot more, and I think that having a co-operative strategy with Indigenous Services Canada could probably support us so that this does not happen in other first nations.

We're trying to fix that now through the RIRSD table, and we're hoping that we're going to become somewhere where we can have a land allotment process, where we can address those environmental concerns and have those lands usable again for the Mohawks of Kanesatake.

*Nia:wen.* Thank you.

[*Translation*]

**Mrs. Marilène Gill:** Thank you very much.

**The Chair:** Thank you.

[*English*]

Now we have Madam Idlout.

The floor is yours for six minutes.

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

Thank you, Mr. Chairman.

My first question is going to Stephen, and I want to welcome the other witnesses as well.

What we're hearing from you is very good to hear. I will ask you later.

I have two questions for Stephen.

The first one pertains to what you stated about Indian Oil and Gas Canada. There have been many conflicts that arose between these entities. Can you describe in detail what the problems are that are caused by Indian Oil and Gas Canada?

The second question is this: Do you have recommendations regarding Indian Oil and Gas Canada?

• (1640)

**Mr. Stephen Buffalo:** First, Indian Oil and Gas Canada is our regulatory body. It's different from the Alberta Energy Regulator and the Canada Energy Regulator. They were supposed to be our fiduciary trustee, as well. Some of the problems that stem from their lack of enforcement have turned into litigation against the Crown.

First nations struggle through this. One, we had to learn the oil and gas sector very fast. When oil and gas is happening and our provinces are making billions of dollars, first nations have the opportunity to take advantage of it. Of course, federal money is not enough to service our communities. You all know that. Our founding fathers learned the hard way. They set up an opportunity for first nations to be part of this sector and to benefit, as well, not only through royalties but also through jobs and services. It has been very successful despite some of the social pathologies that come from having too much money.

At the end of the day, the regulatory body did not serve us well. We have orphaned and abandoned wells where IOGC did not keep companies accountable. We have miscalculation of oil and gas royalties, which are held in Ottawa and being disputed. We seem to more or less deal with regulators and individuals who are paternalistic and who impose a lot of systemic racism, not only internally but on our community leaders. They're very difficult to deal with. For example, for the site reclamation program that was initiated, they had no data on any of the oil and gas wells in our communities, in terms of what is abandoned, orphaned or active.

In my view, it's a special operating agency for people who want a government pension. They do their time there and don't act in our best interest. Some of the suggestions.... It's been mandated since 1996 to have a first nations-led energy regulator. We're back in the red zone, so to speak—for lack of a better term—trying to find a way to change that system.

IRC will not decide for first nations how they want to regulate their lands. We're at the point where we have to ask those questions and where first nations have to make a decision and assert their jurisdiction, not only on their community lands but in their traditional territories of Treaty No. 6, Treaty No. 7 and Treaty No. 8 here in Alberta and Treaty No. 4 in Saskatchewan. They have to start making land laws for themselves and working with industry and the provincial governments, because if you do it federally it is proven that it fails.

Progress, going forward, is first nations asserting their own jurisdiction with their land laws. My hope is this leads to a better system, where resource revenue sharing is at the forefront and on the table for all first nations with the extraction of natural resources in this country. We are rich in natural resources. First nations should have a better say about part of it, because depending on Indian Affairs money through the Comprehensive Funding Agreement is never enough.

To your previous question, we don't have the resources to move things along. Some of us don't have the money. It's very hard. If we obtain land through a purchase and have it added to our reserve, there's no money there to help us move it forward or move it quickly. If a minister decides this is going to be reserve land, the bureaucrats in the system hold up the whole process. It takes just one person not agreeing with the mandate moving forward. It's very tough and difficult.

To move things more quickly, don't get that type of government involved—the internals of Indigenous Services Canada. Ultimately, we're at the point where we have to find different ways to not depend on the government for our success and prosperity, and to get

out of poverty. That's my mandate—to get a lot of our communities out of poverty. Natural resources are abundant and all around us. We have to do a better job. It's absolutely about working with both governments—federally and provincially—and with industry.

Thank you.

**The Chair:** We're going to our next round, which will be five minutes.

First up, I have Mr. Schmale.

• (1645)

**Mr. Jamie Schmale (Haliburton—Kawartha Lakes—Brock, CPC):** Thank you, Chair, and thank you to our witnesses, especially my geographical neighbours from Curve Lake. Thank you very much for attending.

We'll maybe start with you.

During our study on this topic and many, many others, we tended to hear the same thing over and over again about the slowness within the department, particularly the bureaucracy.

In our study for the non-insured health benefits, we heard that applications for claims are still done by fax machine. That's something I've brought up many times. Now, I'm just confirming that for any application that you make to the department, you're not using a fax machine. Is that correct?

**Ms. Amanda Simon:** That's correct.

**Mr. Jamie Schmale:** It's very important to know, because you could say yes and it wouldn't surprise me.

Given that I think we're hitting 10,000 bureaucrats within the ISC department now and you're saying an application could take up to 30 years—and I appreciate what Mr. Buffalo said just a second ago—where do you think the logjam is? What is taking so long, and do you have some examples?

**Ms. Amanda Simon:** For me, in Kanestake, you have to understand that we did not go through the ATR process. I need to be clear on that. Following the events of 1990, we didn't have to go through the ATR process. We just had to turn around and put together a land allotment process.

To speak to the ATR process and the holdup, I think it's the idea that there's not enough capacity, both with the federal government and the first nations, and of course the provincial government and the municipal government. All of them have to be involved, and they don't have enough capacity. They don't know enough about it, quite simply.

That's where NALMA comes in, trying to offer this capacity in a way that is easy to understand and having professionals there who can help out all levels of government, and the first nations mostly, so that the process can move forward a lot more easily.

**Mr. Jamie Schmale:** Thank you, Ms. Simon.

**Mr. Albert Marshall Jr.:** I have one example. There's a reserve in my community, Bear River, in our province of Nova Scotia. They had a 30-year ATR file open. The reason it was extended again was that the province reissued mine permits to companies on proposed ATR.

There's no collaboration, as Amanda just mentioned, between the province, the municipalities and the feds. It seems like it's more the first nation and the feds, and the province somewhat.

**Mr. Jamie Schmale:** Do you see, maybe even within the departments, that turnover is a problem too? Someone might leave. They get accustomed to the file, then they're out and you're starting something new. That seems to be an issue.

**Mr. Albert Marshall Jr.:** That's the big thing too within the department. There's a huge turnover.

**Mr. Jamie Schmale:** I appreciate your knowledge on this, too. I think that's a key point of what you two are doing.

I don't know whether there could be a designated person, or maybe some background or experience to help out with that in a more stable position. I know people are free to move, but at the same time I think this is hindering the process. Is it institutional knowledge? I don't know what you'd call it.

**Mr. Albert Marshall Jr.:** I think it's more at this level. I think this is where the problem is. As you just mentioned, it's the turnover of staff repeatedly, and then you have to re-educate everybody.

**Mr. Jamie Schmale:** You have to start from scratch.

Did you want to quickly chime in, Ms. Simon? I saw you reaching for the microphone.

**Ms. Amanda Simon:** Obviously the federal government has a lot of turnover, but if it was able to implement a way to transfer that knowledge in a quicker fashion, that turnover could still happen. That transfer of knowledge, which is essential to moving these ATR processes forward, could happen. I'm sure there's a way this transfer of knowledge could happen.

**Mr. Jamie Schmale:** Okay, thank you.

Mr. Buffalo, I have about 30 seconds. Did you want to comment on any of that? I know I had a whole bunch of other questions for you.

**Mr. Stephen Buffalo:** For sure, I agree 100% that the municipalities, the provinces...no one is on the same page. Again, we lack the resources to get things together, and we're always waiting for someone to step forward.

There's a lot of corporate value to lands that we obtain, but to have them accessed through the process of ATR.... Then again, the bureaucracy is unbelievable. I've gone through four ADMs in the time I've been in my capacity with the Indian Resource Council. That being said, I don't know what to do there.

• (1650)

**The Chair:** That's the end of that five minutes.

We'll go to Mr. Powlowski next for five minutes.

**Mr. Marcus Powlowski (Thunder Bay—Rainy River, Lib.):** My riding is Thunder Bay—Rainy River. There is the Fort William First Nation, which is Robinson-Superior Treaty, and then on the west side, they're all Treaty 3.

Some of the communities are doing fairly well economically. Some of them have had recent flood land settlement agreements and have gotten a fair bit of money.

If they want to add land, they have to go through the ATR process—"ATR" is add to reserves. Is there a question when you're adding land as to whether you do it by formally adding to the reserve? Because the reserve land is still held in trust by the Crown, you don't actually have fee simple ownership of the land. I don't know if I have this right, but is it possible, and isn't it an alternative, that the band could set up a corporation? Then the corporation owns the land, so that you actually own the fee simple.

How does that work in terms of the technicalities? What have different first nations done in terms of how they add by formally adding to the reserve? If you add to the reserve, do you have to...? Does that require an act of government to formally add to the reserve? Maybe you could walk us through some of that technical aspect, because I'm still trying to comprehend how you do this.

**Ms. Amanda Simon:** First nations don't necessarily have to do the process of additions to reserve, but often they take that route because they lack the land base. They need to provide housing for their first nations, and they need to provide economic development for their first nations.

Those first nations.... I'll give you an example of a first nation that opts to have fee simple land under its ownership, and yes, through an organization, so that it can hold this fee simple land. It's been very important for first nations in B.C., who in fact opt to have a corporation and have their fee simple land because it offers them a financial edge. They can now turn around and borrow money based on their fee simple lands, because, as many of you here know, you cannot put reserve lands up for collateral. Therefore, you have limited opportunities financially and economically.

You're not forced to do an ATR process, but often the first nation is, because of its current situation on the ground—at the grassroots. Those first nations with more resources, like those in B.C., have the opportunity to take that, to opt in, saying, “I'll open a corporation and I'll have fee simple lands, because I can probably turn around and generate a very big income by doing that.”

**Mr. Marcus Powlowski:** I would take it, then, that if you get the fee from a corporation and get the fee simple, that's a much faster process than the add-to-reserve process.

**Ms. Amanda Simon:** It absolutely is. In the ATR process, there are three main components, and there are three phases. It would be nice if at some point Indigenous Services Canada, within those processes or those phases, would allow a little more flexibility from one phase to the other. It would speed up the process and still answer all the requirements of the process.

**Mr. Marcus Powlowski:** The only thing stopping first nations from going the corporation route, the fee simple route, is lack of funds, and people are forced into the ATR process because they don't have the money to go the much faster route.

**Ms. Amanda Simon:** Absolutely, and unfortunately that's the reality across the country. That's actually why NALMA is striving really hard. That's the reason they opened up an ATR unit: to help build capacity in this way and to work co-operatively with Indigenous Services Canada to improve the entire process.

• (1655)

**Mr. Marcus Powlowski:** Now, are there advantages to the ATR? If you add to the reserve, then you have the benefits of not paying tax, for example. Is that right? How important is that? How attractive is that? How much does that influence a first nation community's decision to go through the ATR or through a corporation? Are the tax benefits minimal compared to the headache of having to go through the process?

**Ms. Amanda Simon:** I think that when a first nation decides to go through the ATR process, they're very well aware of the decision they make. One of the first things they have to do is submit a BCR to the department, whereby the leadership of that first nation have made their decision. Obviously, they've made that decision because they feel they have to.

Oftentimes, the whole idea of taxation really doesn't hit the ground running for first nations. Unfortunately, it's always about being able to have more land so that our first nations people, our membership at large, can live and prosper and, quite simply, just have a place to build homes and some kind of infrastructure. That's the reality on the ground.

**The Chair:** Thank you. We're out of time.

[Translation]

Welcome, Ms. Bérubé. You have five minutes.

**Ms. Sylvie Bérubé (Abitibi—Baie-James—Nunavik—Eeyou, BQ):** My question is for Ms. Simon and Mr. Marshall.

What form should land restitution take? You explained a little earlier that there were government mazes and that the process was long. There are a lot of changes in government, and you don't necessarily get the answers you need.

What form should the restitution of your land take? What exactly does this mean for you?

[English]

**Ms. Amanda Simon:** The process is a lengthy process but I think the restitution of land is a co-operative engagement between the first nations, the federal government, the provincial government and the municipality. If everybody had this willingness to work together, the restitution of land can be a prosperous, healthy and wealthy process. Unfortunately, we haven't seen that in the past. Unfortunately, these processes have been marred with stoppages and bureaucratic difficulties.

If everybody understood their role and responsibility in what restitution of land means to a first nation.... I think the entire process and the entire idea of restitution of land can be a very good one if we all put our heads together and remain on the same page about what restitution means to everybody.

[Translation]

**Ms. Sylvie Bérubé:** What impact has land restitution had on first nations? What impact has it had on the health and mental well-being of the indigenous population?

[English]

**Ms. Amanda Simon:** The impacts are huge, as you well know when you see the news. You see the various first nations across the country that are seeing these impacts in terms of their health and their well-being and what it does to that first nation having to live in these kinds of circumstances.

When we talk about restitution of land, I think first nations, number one, get excited. At the same time, they question their capacity in terms of how they can move forward with this. The impact is always huge, because oftentimes we have to seek guidance through consultants and seek other avenues to help us through these constraints. All of this has a health impact on the first nations and the leadership within communities.

**The Chair:** I made a mistake, and I apologize.

You should have only had 2.5 minutes and I gave you five minutes. We're at the end of the time now, so you got a little bonus time there.

Lori, we'll go to you now for your two and a half minutes.

• (1700)

**Ms. Lori Idlout:** I hope I get bonus time, too.

**Voices:** Oh, oh!

**The Chair:** We'll go to you for your three minutes and a little bit.

**Ms. Lori Idlout:** Thank you. My question is for Amanda.

I am very touched by the fact that you are from Kanesatake. I've worked with people like Ellen Gabriel, who is an amazing advocate, and I've heard from others in your community what the challenges are, even when there's been acknowledgement that first nations, Métis or Inuit have obtained the self-governance necessary to lead their own communities. Part of it is that provincial law enforcement doesn't recognize their authority to have their bylaws enforced.

Could you speak to that?

I think it's quite important in terms of land back that we're not just talking about economic development and we're not just talking about alleviating poverty. We're allowing actual self-governance to be realized and having law enforcement respect the bylaws that have been made, so that the indigenous governance that was to be respected is being implemented.

**Ms. Amanda Simon:** Through your relationship with Ellen Gabriel... She has, obviously, told you some of the issues that Kanesatake faces. We are under a sectoral self-government regime. However, through the years, we have failed to do some of the things that we were supposed to do in terms of creating our justice of the peace, for example, which would have addressed the policing issue.

You're absolutely right when you state that, when you get land back, you may have it back—it's there—but if you do not have the proper measures in place in terms of justice and proper policing, chaos is the result. You can look at the news sometimes and see what's happening in Kanesatake to understand what I mean by that chaos. It's the lack of leadership—perhaps a partnership with Indigenous Services Canada—to help resolve and remedy this issue.

Everybody has to understand that, following 1990, the relationship with the Sûreté du Québec was not a good one. We lost a corporal, Corporal Lemay.

We need to really find different ways, unique ways, to address that whole policing issue.

**Ms. Lori Idlout:** Very quickly, would you say that Indigenous Services Canada is still taking too much of a colonial approach to making sure that indigenous peoples' rights are being respected in terms of land back?

**Ms. Amanda Simon:** “Absolutely” is my one-word answer to that.

Thank you.

**The Chair:** Thank you. That takes us to the end of this panel.

I'd like to thank all of our witnesses for joining us today, including Mr. Buffalo online.

To our two witnesses here, Ms. Simon and Mr. Marshall, I really appreciate your making the time.

Colleagues, we're going to suspend now. We have the second panel to bring in. We'll take a few minutes to get set up, and then we'll get under way for the second panel.

The meeting is suspended.

• (1700) \_\_\_\_\_ (Pause) \_\_\_\_\_

• (1710)

**The Chair:** Welcome back. We're into our second session.

Thank you, everybody, for joining us.

Chief Louis, welcome. Being that you're the only one online, you'll have to control the language choice. On your screen, you should have a choice of floor, English or French audio. Please make sure to choose whichever one you want. We'll have live translation going today, and I can't control it for you, so I'll need you to select that.

Then, we'll need you to mute yourself when you're not speaking, and then unmute yourself. Again, we can't control that remotely. It's easier if you do it. For everyone in the room, it's all controlled for us.

Now that we've started, there are to be no pictures taken and no screenshots allowed.

We're going to go through some rounds of questions. We'll start with opening statements.

I use a card system. When I give you the yellow card, there are 30 seconds left. With the red card, your time's up, but finish your thought. Don't stop mid-sentence.

Let's have a good conversation here.

Chief Byron Louis from the Okanagan Indian Band is our online guest today. We also have Patricia Mitchell, executive director for Manitoba USKE, and Shady Al Hafez, research fellow, Yellowhead Institute.

Welcome to the three of you.

I'll go to you, Chief Louis, first. You're online, and while we have the good connection, we're going to turn it over to you. We'll give you five minutes for your opening statement.

**Chief Byron Louis (Okanagan Indian Band):** My name is Byron Louis. I'm the chief of the Okanagan Band. It's a pleasure to be here. I'm sitting in Syilx territory in the province of British Columbia.

I'm not going to be covering the same ground as what was spoken on earlier about that, but I'd like to really talk about the actual core and foundation, if we are talking about restitution of land to first nations, Inuit and Métis.

Are we also talking about the whole issue of reconciliation? The view we take on reconciliation is the definition that talks about reconciliation being the resumption of good relations after a period of hostility. I think that really defines what our relationship has been for the longest period of time.

My question is this: How do we get beyond that? I think when we go back into that, we really need to look at what the foundation is. A lot of people don't recognize that fact, and I would ask the panellists, who have some of this research to be done.

In particular, it goes back to about 1537, with the signing of the *Sublimis Deus*—or the *Sublimis Dei*—by Pope Paul III. This document is important because it was about 45 years after Columbus had touched foot in Hispaniola and about 16 years after Cortés came ashore in 1519.

It recognized that we were in fact human beings, and not only were we human beings—and not beasts—but we were also recognized as being rational human beings and as having the right not to be deprived of our liberty or possession. Now, it is a document of colonization, but it recognizes at that point that we were in fact human beings.

You go into some of the other ones that establish the relationship that existed between first nations or indigenous peoples and the government, or the Crown, if you want to call it that. You go into 1704 and the *Mohegans v. Connecticut*. That is very interesting, because that's the earliest case of taking forward a case for land tenure and also of management and control. Then, of course, we know about the Royal Proclamation of 1763.

Also, most importantly, one of the outcomes later in 1814 was the signing of the Treaty of Ghent, article 9, which talked about the resumption of our full rights that were held prior to the hostilities in 1811. Well, when we talk about those rights, we're talking about the full rights. We expressed those rights through trade. We expressed those rights through interaction and engagement with government. We expressed that in diplomacy with our neighbours and with the newcomers who came in.

When you look at these systems, you see that we're still talking about the issue of not only recognition but the relationship that actually existed. You go into British Columbia joining Confederation in 1871. In that article, British Columbia said that Indians and the lands reserved for Indians were a responsibility of the Dominion of Canada. However, it also recognized that.... I'll quickly read this to you:

The charge of the Indians, and the trusteeship and management of the lands reserved for their use and benefit, shall be assumed by the Dominion Government, and a policy as liberal as that hitherto pursued by the British Columbia Government shall be continued by the Dominion Government after the Union.

Now, this is important, because if you actually.... In the policy that exists underneath there, it goes on to say:

To carry out such policy, tracts of land of such extent as it has hitherto been the practice of the British Columbia Government to appropriate for that purpose, shall from time to time—

This is very important:

—be conveyed by the Local Government—

That means a province.

— to the Dominion Government in trust for the use and benefit of the Indians on application of the Dominion Government; and in case of disagreement between the two Governments respecting the quantity of such...land to be so granted, the matter shall be referred for the decision of the Secretary of State for the Colonies.

• (1715)

This is one of the highest levels in colonial government, but why is this important? It shows to us in British Columbia that responsibility for us and our lands is with the Dominion and not with the province, and that the conveyance of land from time to time.... You know, to us, lands were never considered static. Reserves are supposed to be under review to look at size and demographics and other factors and be adjusted from time to time.

**The Chair:** Chief Louis, I'm just going to jump in briefly. We're at the five minutes, so I'll give you a bit of time if you want to just wrap up your comments for your opening statement.

**Chief Byron Louis:** I'll do that really fast.

One of the issues of that was, for us, that this review would happen. They tried commissions and also the McKenna-McBride.

I want people to look at the B.C. Indian Reserves Mineral Resources Act of 1943. This act is a prime example of colonialism at its finest. I can explain that if people want to ask, but what I'm talking about is the relationship. How do we get to that good relationship?

**The Chair:** Thank you so much, and I apologize for cutting you off. Five minutes is a very tight amount of time, so we really appreciate it.

We'll go now to Ms. Mitchell.

When you're ready, the floor is yours for five minutes.

**Ms. Patricia Mitchell (Executive Director, Manitoba USKE):**  
[*Witness spoke in Ojibwa*]

[*English*]

I'm trying to talk in my language. It's very emotional because it was forced from me, but I'm going to try to use it when I can.

I wanted to say that I'm very glad to be here today. I work with an organization that's been around since 1994, and it's only within the last five or six years that the federal government has allowed for an actual physical office to be created. We're situated in one of the urban reserves in Manitoba. It's the Peguis Indian reserve in downtown Winnipeg.

Some of the work that our office does.... We work with first nations to add land using the ATR policy and create new reserves, similar to the Peguis Indian reserve, the Long Plain Indian reserve and Swan Lake.

I'm very proud to say that it's part of our team in the background doing that work. Just today, one of the first nations we've been assisting.... They have been evacuated from their home community for over 10 years. In fact, this first nation has really been struggling to try to add land to the community.

Having to be evacuated from their lands completely decimated their.... They had no land. It's been very hard to try to work with them to get the bureaucrats to basically just get out of the way. It would be helpful if they just handed over the paperwork and let our office do the legwork, because I'm finding that's what's working for us and that's what's working for the first nations. This is because we know what they're going through and what the leadership and their lands department need, and we're going out of our way to support them as they go and create more land, whether it's for economic, development or residential....

Right now, we have about 12 first nations involved in doing a special lands project. It is a lot of work, but what I'm finding is that it's very beneficial when these urban reserves are created. They provide an economic opportunity, not only for the first nations, but also for the municipalities or the cities—or even the province, in this situation—because they're increasing the economic benefits for those regions.

Building that relationship with some of these municipalities has not been easy, but I'm very proud to say that since we started acting almost as a liaison or a bridge, some of these first nations, who have been stuck at tables for 15 years, are finally starting to see the benefit. It's in everybody's interest for them to work together.

In fact, some of them are talking about equity stake positions in a regional utility service. It's a big deal for a first nation in our region to be offered an equity stake in or part ownership of a utility in Manitoba. I'm not talking about the Crown corporation. The Crown corporation of Manitoba Hydro, which is owned by the province, has done a lot of damage to our first nations, including mine.

It's unfortunate that communities like mine have lost just under 900 acres of land and riverfront property. Right now, that first nation is not even in the queue anywhere to get land added through the ATR process.

To me, having riverfront property.... Even if you were to give them their land, it has to be more than that. We've hunted, we've trapped and we've fished. Even in our water, we can't fish where we want to fish. There are “no trespassing” and “private property” signs coming up on trails we use today.

• (1720)

It's difficult to see that. It would be nice if the province would open up that door for us to settle these treaty land entitlements that are owed to many of our first nations, because they are not, but they will definitely go out and lease, or they will go sell that land. If they were ever to try to settle all the TLE agreements in our region, there would not be enough Crown land for them to do that.

My suggestion, and I have shared this with bureaucrats, is that there has to be a different way for us to explore settling some of these land issues that are owed to the first nations in our region, whether it's giving them another building in downtown Winnipeg, or Brandon or somewhere.... It has to be a different process, because there's not enough land there.

*Meegwetch.*

• (1725)

**The Chair:** Thank you for your opening comments and for sharing.

We will go next to Mr. Al Hafez, for five minutes.

Whenever you're ready, the floor is yours.

**Mr. Shady Al Hafez (Research Fellow, Yellowhead Institute):**  
[*Witness spoke in Algonquin*]

[*English*]

I would first like to say *meegwetch* to the standing committee for giving me the time and opportunity to share my thoughts on the extremely important topic of land restitution.

I firmly believe that in the so-called era of reconciliation, the question of land—land ownership, jurisdiction and resources—is the most important question that needs to be resolved if our nations ever hope to coexist in peace and friendship.

My name is Shady Al Hafez. I'm an Algonquin Anishinabe and Syrian, and I'm a member of Kitigan Zibi Anishinabeg. I'm currently a Ph.D. student at the University of Toronto, in the department of sociology, and hold a research fellow position with the Yellowhead Institute, which is an indigenous-led think tank housed at Toronto Metropolitan University.

It is fitting that I join this discussion today on my nation's unceded ancestral territory, lands that my ancestors never relinquished to Canada through any formal treaty mechanism, or through any conflict. Despite this reality, Canada has chosen our lands as its capital and the home for its national government.

Although I'm not an official representative of my nation, it is only from my context as an Algonquin that I speak and it is only to that context that I can speak.

Ours is a nation whose territory has slowly been occupied over time, and we have experienced dispossession and removal from our lands and territories. The current mechanisms that exist to seek redress solidify that occupation.

In order for my nation and many other nations across this country to get land back, or cash back for lands taken, we have had to participate in outdated, costly and excruciatingly long processes and mechanisms, established with the intent not of providing restitution to first nations, but of reconciling Canada's lack of true ownership over land as highlighted through surrender clauses.

The limitations of the specific and comprehensive claims processes are well documented, as are the challenges of pursuing title claims. This reinforces the notion that true restitution can be accomplished only through the co-development of mechanisms that actively place government and first nations as equal partners in the development of a process that prioritizes restitution over reconciliation.

For nations and communities that choose to assert their jurisdiction over land with or without the support of their elected leadership and outside of government-sanctioned processes, we see how Canada actively narrows the means by which we can access land.

My nation, as have other nations, has pursued assertion methods such as actively occupying our territories and asserting our rightful jurisdiction. In these circumstances, community members and elected leaders have been served injunctions and been surveyed, arrested and harassed by police, and have experienced racism and violence from Canadians. This reinforces the notion that there is only one acceptable way to seek restitution, and that is through government-developed and sanctioned processes alone.

**The Chair:** I'm sorry. I'm going to pause just for a second.

Could you slow down the pace a little, so our translators can keep up?

**Mr. Shady Al Hafez:** I'm sorry.

This makes me question the intentions of a nation that states that it wishes to reconcile, while its actions show that reconciliation can take place only on Canada's terms and conditions.

Lastly, in the midst of a housing crisis and the rising cost of living in this country, I would like to address how those of us who reside within our ancestral territory but away from our home communities and reserves are currently being priced out of our lands.

For me and my fellow community members, home ownership outside of our communities is not feasible. Knowing that, it is extremely difficult to see Canadians' inherent wealth vis-à-vis land and property, knowing that those lands and the wealth transferred from them through inheritance were wrongfully acquired.

For me, land restitution extends beyond the borders of my community and can be exemplified by my ability to acquire and own land as well as a home on my own territory, utilize that land and property to generate wealth for my family and community, and, ultimately, pass down my land and associated intergenerational wealth to my children in the same manner as Canadians have been able to build their societies on our lands.

This requires that we think outside of the box when it comes to developing tools and mechanisms to support the acquisition of land and property outside of the reserve. In the same manner as early settlers were given a boost to access wealth through our lands outside of traditional lending and mortgages, we should be exploring how to equitably offer home and land ownership opportunities to first nations individuals throughout their entire territories, not just on reserve.

Restitution also means addressing the current inequities that exist as a result of the wealth and sustainability offered to Canadians through settlement and occupation of our lands and territories.

*Meegwetch* for this opportunity to speak. I look forward to any questions you might have.

● (1730)

**The Chair:** Thank you for your comments.

In the first round we have Mr. Viersen, who will have five minutes.

Whenever you're ready, the floor is yours.

**Mr. Arnold Viersen (Peace River—Westlock, CPC):** Thank you, Mr. Chair, and thanks to our witnesses for being here as well.

To the witness from the Yellowhead Institute, your final comments were very interesting around new ways of... I think you were referencing the homesteading process and things like that.

Can you flesh that out? Do you have any ideas on alternative methods of reconnecting indigenous people with their lands through something like that?

**Mr. Shady Al Hafez:** I'm thinking in particular of granting processes for down payments on homes or lands outside of first nations communities for first nations individuals from the territory. As an example, I'll say right now, outside of my own home community, in order for me to be able to buy land or property in Ottawa, which is unceded ancestral territory for me and most community members, that's completely out of reach given the socio-economic conditions within our community. Most of us are born with a bad credit rating, so to be able to get a mortgage or a loan is quite difficult.

I think we need processes or mechanisms in place to even the playing field a little when it comes to home ownership and land ownership outside our first nations communities. I think on reserve it's definitely important as well, but thinking outside of my community, I still live on my territory but I can't afford to live on my territory.

**Mr. Arnold Viersen:** There is an endless amount of Crown land in this country. Do you have any thoughts around reigniting the homesteading claims process in that respect, dedicated to first nations people?

**Mr. Shady Al Hafez:** I definitely do. I hold the position that Crown lands that are not currently being utilized—I'll maybe pinpoint provincial parks and nature reserves such as the ones very close to Ottawa—can definitely be returned to Algonquin community members and nations, and the land can be utilized in the way those communities see fit.

**Mr. Arnold Viersen:** One of the challenges we've had as a country across the board is around identification of who is a community member. That is always going to be the case.

How does your community identify who is a community member?

**Mr. Shady Al Hafez:** We don't. CIRNAC tells us who our community members are.

**Mr. Arnold Viersen:** You can see how that's a challenge.

**Mr. Shady Al Hafez:** We do. We identify. We know who we are, but our membership is controlled by CIRNAC. Currently we don't have a membership law in Kitigan Zibi.

**Mr. Arnold Viersen:** There have been discussions around an indigenous development bank. Do you have any thoughts on that?

**Mr. Shady Al Hafez:** Any mechanism for indigenous people to be able to access capital outside of the traditional institutions is beneficial for communities. There are a lot of barriers that exist when it comes to indigenous people and the traditional finance system, and creating indigenous-owned systems such as the one you mentioned.... I know there are other organizations in the city here, such as NACCA, that are involved in creating investment opportunities for indigenous people. I think those are great options.

**Mr. Arnold Viersen:** Can you explain NACCA a bit?

**Mr. Shady Al Hafez:** It's the National Aboriginal Capital Corporations Association.

**Mr. Arnold Viersen:** Is there any one of these organizations that I wouldn't be aware of that you think you should highlight for us?

**Mr. Shady Al Hafez:** Off the top of my head, I can't think of one at the moment.

**Mr. Arnold Viersen:** Patricia, are there any?

There are discussions around needing an indigenous development bank. Do you have anybody you could point to and say, "This is the guy that we have to talk to about something like that," or, "Here's a group that's doing something interesting around that".

**Ms. Patricia Mitchell:** I think the newly created corporation, the First Nations Finance Authority, I think it's called, or the Financial Management Board—

**Mr. Arnold Viersen:** Harold Calla.

**Ms. Patricia Mitchell:** —is something that's been creative and is helping a lot of first nations. They're finding that there are some issues with it, but it's somewhere to start, isn't it? It'll give them that financial support.

• (1735)

**Mr. Arnold Viersen:** Chief Louis, around the indigenous development bank idea, do you have any comments on that?

**Chief Byron Louis:** Yes, I do. If you look at what some first nations have actually done with trust money or monies generated from on-reserve resources, you don't have to look further than Peace Hills Trust. It started out with around \$196 million, and today that bank is worth just shy of \$1 billion.

Look over in British Columbia, where the provincial government, with first nations, established about a \$100-million trust. I sat on that for a number of years. That one generates a little less than 6%, based on \$100 million, with the interest generated.

If you look at some of those settlements coming out of land claims, these types of institutes are very much a solution to a lot of problems. You could look at some that could be providing or underwriting mortgages to their members or looking at investment into economic development.

There are a lot of solutions available, but as I said earlier, there's a need to have partnerships and support from the federal government to actually do this.

For resource development, especially in the province of British Columbia or across Canada, you're going to see first nations and indigenous peoples being front and centre in those types of initiatives.

**The Chair:** Just for the record, I said five minutes, but I corrected it and gave you six, because this first round is six minutes. I apologize. You got your full time there.

Next we have Mr. McLeod for six minutes.

**Mr. Michael McLeod (Northwest Territories, Lib.):** Thank you, Mr. Chair, and thank you to the presenters today. I appreciate the information that you're sharing with us.

I belong to the Deh Cho First Nations, which represent both the Dene and the Métis in the region I live in. We've been trying to sort out land tenure and self-governance since the 1970s. It's still a challenge. It seems like a lot of times we're not talking the same language.

When we talk about land, we talk about large tracts of land where moose and caribou can roam freely and can survive. There's enough food, trees, plants and everything else, so we can also continue to practise a sustainable way of life. We need our waters clean and pure so the fish can survive.

When we talk about land here in Ottawa, people have a tendency to say, "How many properties do you need? How much is it worth anyway?" It's difficult and really challenging, because, as I said, sometimes we're looking at the same thing but it's interpreted differently.

I hear fairly constantly about some of the policies that are still in place that are very colonial. We've entered an era of reconciliation, and a lot of things are being discussed. A lot of things are moving forward, but there are still certain policies that are very dated. The comprehensive claims policy is one I hear about the most. It stops and slows down negotiations because of the cede and surrender clause.

I wonder if all of you can provide your comments on some of these policies, especially the comprehensive claim policy. Does it need to be replaced, in the spirit of reconciliation?

Let's start with that.

**Mr. Shady Al Hafez:** I would say the comprehensive claims policy does need to be replaced with something that is co-developed with first nations on an equal footing. I think the process needs to be guided by both parties equally. It doesn't need to be dictated by one party to another, whereby if you want to see redress for your lands, this is the process you have to use. Instead, I think the process needs to be negotiated fully as equal partners.

I think the cede and surrender clause is a significant issue with comprehensive land claims. I know that with my own community, when we signed the global settlement, that was a big, divisive issue for the community. There were a lot of ambiguities around that clause.

I think another issue with those claims is not being able to pursue further claims after the claim is settled. I can't remember the exact clause itself. If something comes up later on and you find out and want to pursue that claim, you can't if it's related to that original claim. I think that's also an issue.

It's just an outdated process. We've been using the same comprehensive claims process now since the James Bay agreement. I think it's time to update it.

• (1740)

**The Chair:** Chief Louis, it's going over to you. You have your hand up. Please feel free to weigh in.

**Chief Byron Louis:** I would say that, yes, it needs to be looked at and revamped. In British Columbia, when you're talking about the province, the majority of it is unceded. One option is to negotiate through the B.C. treaty process, which our people are adamantly opposed to. The other is to seek declaration of title. That's always an option. There seems to be no middle ground between the extremes. Part of that is that a lot of our people feel that we should not actually give up ownership of our territories in order to get a fair and just settlement. That should not be a prerequisite of any agreement.

If we're talking about reconciliation, why does it have to be that way?

If you look at hydro production in our territories, 56% of all hydro produced in the province of British Columbia comes from our territory. It has destroyed our fisheries. It has destroyed habitat and all other things, yet the sharing of revenues from there is not even being looked at. What options do we have besides taking the most adverse approach?

There's never been any attempt to actually sit down and treat us as partners. That's why I brought up such things as *Sublimis Deus* and the whole process going through there and the point that we are in fact human.

**Mr. Michael McLeod:** I was going to ask the question about working together. We've heard from the previous presenters that it was difficult to have municipal, provincial, territorial, federal and indigenous governments working together to try to resolve these issues.

Maybe we could have a quick comment from the chief.

**Chief Byron Louis:** We're working fairly well with a lot of municipal and regional governments, but there's still the whole issue of looking at legislation regarding such things as you brought up—such things as resources, or what we call our natural capital. That's salmon. That's all the other things that are found in nature, that we're dependent on. Now anywhere from 85% to 90% of our territories are impacted and that is no longer possible. Now we're suffering through diabetes and other things. A lot of municipalities are basically some of the causes of those declines. How do we actually work with this?

I think there needs to be a different type of arrangement that more or less mitigates some of these impacts, because you're looking at our inability to actually feed ourselves. We had the lowest common denominator in terms of wages and in terms of families,

yet we were able to be quite healthy. The only reason was that we had our traditional foods. Now they're gone, and we still have the lowest wages. It's a real problem.

**The Chair:** We're going to stop there.

Next we're going to go to Madame Bérubé.

You will have six minutes for your questions.

[*Translation*]

**Ms. Sylvie Bérubé:** Thank you, Mr. Chair.

Chief Louis, after six consecutive terms, how have you seen the situation evolve? What are the shortcomings that the federal government continues to perpetuate and that you've been noticing for a long time?

[*English*]

**Chief Byron Louis:** I'm going to need more than five minutes.

I think one of the biggest ones is with government and the development of such things as socio-economic analysis. You know, they don't really show what the impacts are on reserve. They don't show conclusively what the social problems are, or others. They might highlight them, but it doesn't actually go down into policy that you have funding formulas that they are based upon.

You look at drug and alcohol use. They say those are high numbers, but, statistically, first nations consume less alcohol than the general public. With those who drink, it's at a lower level. The ones we have are chronic. If you look at the people who have chronic dependencies, what are those? Are those the people who are self-medicating from all of the other effects, like our residential schools, the sixties scoop and all of these other factors?

Then, you look at our inability to actually address our own issues through access to our resources. We don't have that, and then we're dependent on the government.

You have a provincial government that views the federal government as having resources for all of our problems. That is not the fact. It's formula driven. The formulas are not adequate or even based on the true facts and figures of the socio-economic conditions on reserves.

The chief in Attawapiskat once said, as she pointed towards the resources behind her community, that they have everything they need to fix their problems. It's the same thing here. It's access to resources to the point where we can actually fix our own problems.

That is the problem.

• (1745)

[*Translation*]

**Ms. Sylvie Bérubé:** Reconciliation is part of government strengthening.

Would you have any examples that highlight the positive effects of land restitution in your communities?

[English]

**Chief Byron Louis:** I really do believe that government and first nations should sit down and have the discussion on what I described earlier on, where we're both equal partners sitting at the table. Then we can start discussing what the issues are.

You look internationally at places like Pakistan and others. These small communities are actually looked at and approached using the multi-input area development, which means you're not just asking NRCan to come in there to look at how you can develop a sustainable community. You're bringing in NRCan, ISC and provincial authorities, and each one of their mandates is able to tackle a particular problem that exists within those communities.

It's not just coming out there and saying, "I'm a representative from the mining sector and I'd like to build you a school." Well, maybe the school isn't the problem. It could be having access to food and food security. That could be the problem.

You need to be able to let first nations describe what their problems are and then build a solution from there. Multi-input area development is one solution. Some people call it public-private community partnerships.

We need to look at a different model. We need to look at how we can come together and use limited resources that are out there to create a solution about sustainable communities. That could be part of our culture, which includes what we call our "natural capital", with access to ungulates, fish, wild game and others. That's along with contributions and other access to our resources, so we are able to actually develop a sustainable community.

Quickly, I'll just describe it to you. You look at how the whole population of Canada lives within about 150 kilometres from the Canada-U.S. border. Who lives in that middle point? It's first nations and other people. This is the area that's being developed. Have you developed a workforce that can actually sustain the type of development that's being proposed? No, because you haven't taken that step. Governments have been concentrating on getting them off reserve and out of their communities and back south, and now they don't have a workforce to take advantage of what's there.

We really need to flip this over and look at a new model of doing things.

[Translation]

**Ms. Sylvie Bérubé:** Ms. Mitchell, we've talked a lot about federal bureaucracy. Could you tell us more about the communities that need the processes to move forward quickly?

• (1750)

[English]

**Ms. Patricia Mitchell:** I was speaking about a first nation that has been evacuated for over 10 years, and their kids are being raised in hotels.

Just today, we had a community meeting that was held to try to update them on the process of converting that land. The region gave them funding already. There's been funding set aside for the infrastructure, and then it's the region that's holding up the paperwork. They are such minor things.

For example, a first nation was waiting 20 years to convert some parcels of land. When we came into the picture, we were told it was just a typo on a piece of paper that was holding up that ATR. It's crazy that this type of bureaucracy is what's preventing these communities from developing. This particular leadership, having had the entire community evacuated, when they were trying to go back home, wasn't even allowed to select the land. Instead, it was the province that said, "No, we're going to put you over here."

Now they're going back to an area that's not their original reserve. The province on the one hand has dictated to them, and ISC on the other hand is saying, "If you don't sign this comprehensive agreement, we're going to stall it," and that's what's happening.

How can the region on one hand give this first nation several hundreds of thousands of dollars to go and develop, and then the ATR unit on the other hand say, "No, you have to do A to Z first"? It just doesn't make any sense, and here we are.

We took them to meet with the municipality, and we did their applications. We even worked with the municipality and tried to make sure the right parcels were being discussed. Then the bureaucrats came back to us and said, "Oh, you forgot this."

We had been going at this for a year already. How many times have they gone through this process, and they're only telling us now, a year later, that maybe we needed an additional letter? It's so ineffective. If they would just say, "Here. Go do it," then we would get the paperwork back to Ottawa, and whoever needs to sign it could sign it.

It's stalled in that region. I don't know why. Manitoba is.... It's a frustrating process, having to deal with that region.

**The Chair:** We're going to have to stop there.

We have Ms. Idlout, who still has six minutes.

The floor is yours.

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

Thank you.

First, Patricia, I want to encourage you. I respect you because you are trying to use your mother tongue. If we are going to revitalize our languages, the only way we can do that is to have other people, other nations, hear us speak our language. Don't give up. Just keep going. I encourage you to keep striving forward, because I am proud to be able to use my own language while I'm here. Next time, if you come here again, you can request to use an interpreter.

To Chief Louis, I want to ask you about reconciliation pertaining to restitution of lands.

When we're working with governments to have restitution of lands to first nations and indigenous peoples, there are ways we can work more closely and work better together, but there are always barriers and hindrances.

Can you elaborate more on your vision of new ways to work on restitution of lands to indigenous peoples and to work towards reconciliation?

Thank you.

● (1755)

**Chief Byron Louis:** Thank you for that opportunity.

When I look at these types of issues, I have to go back to what the Supreme Court said in terms of "What is that community?" What I mean by this is, look at whether you're in an urban reserve or close to an urban setting, where your ability to have land—to put aside or return to reserve—is very limited. In a place like Vancouver or somewhere like that, just a small house lot is worth over \$1 million.

It is very hard to look at the ability. What are the other benefits that could be used to mitigate such things as the lack of a land base? It could be economic development, shared resources, or looking at fisheries or other things that could be utilized. If you're further in the interior, for example.... You know, it could be an agricultural land base, fisheries or forestry, but it has to be specific and driven by the people who live on that land and by what they actually need.

In certain instances you look at, it may not be something you can solve with money, because we need our traditional foods. For the majority of us, it's protein diets. What do we have on the table? Carbohydrates.... What are the ramifications of that? Diabetes, heart disease and different types of cancer.... It's not just the ability to say, "Here, have some money." Money is nice, but you can't eat it. That's what our old people used to say.

We need to look at solutions that are by the community. The community has to be a partner on the other side of that table with

the federal and provincial governments, looking at how we can identify solutions. If it has to do with resources, what is the problem? If it's fisheries, provide the means to increase the volumes. If it happens to be access to resources, increase the share that goes there for first nations to build houses or what have you. When mining and everything comes in.... You have critical mineral mines being the primary focus, not only in Canada but also in the United States, especially. What are they going to do for the indigenous people who are living there? It has to be based upon sustainable communities and how we're going to develop them.

What I don't see is one size fitting all. I see a community-based solution by the people, for their people, and them developing it in partnership with governments that provide them with the technical and policy support to achieve that. If you look at residential schools and the sixties scoop.... You're asking people to become parents again. I always tell people that being a parent is not by instinct. It's a learned behaviour. What happens when you take that away?

**The Chair:** Colleagues, that takes us to the end of the first round. We are within about four minutes of running out of time. We had two hours from the time we started, so we're going to have to end it here.

I'd like to thank our panel so much for joining us for the second hour today. We really appreciate your being here.

For our members, we'll see the notice of meeting in the next 24 hours or so, to prepare you for Thursday.

There is one very important piece of business. The former chair is holding an event right now with Indspire in support of indigenous students. It's happening from 5:30 to 7:30 tonight at 131 Queen Street, in room 853. If anybody has time to go by there, please feel free.

With that, we're adjourned.





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