



**FOR IMMEDIATE RELEASE**

15 AUGUST 2017

Geneva: Onion Lake Cree Nation along with a number of Nations challenged Canada's assumed underlying Crown title and 150 years of colonization at the United Nations (UN) Committee on the Elimination of Racial Discrimination (CERD). CERD was reviewing Canada's periodic report on the Compliance with the Convention to eliminate racism. The biggest issue of racism that is faced by Canada is the issue of underlying Crown Title.

Onion Lake along with a number of First Nations appeared before the CERD to demand that Canada comply with the CERD's previous decisions to reject the doctrine of discovery as racist. The state of Canada has asserted that they have underlying title to our lands – called Crown lands. "Our lands and territories were never given up at the time of making the peace and friendship Treaties," said Onion Lake Cree Okimaw (Chief) Wallace Fox.

Special Rapporteur Miguel Alfonso-Martinez's final Treaty Report in 1999 to the UN wrote that our Peace and Friendship Treaties were a "source of rights for the settlers to be in our territory and a source of obligations for Canada" added Okimaw Fox.

Canada is a state created in 1867 by an act of the British Parliament. Canada is not a nation like our nations. Canada is celebrating what? 150 years of colonization or 150 years of stealing the lands and resources of our Nations? "Canada pretends to be a leading state in the world in relation to rights but their own backyard is dirty. Indigenous Nations went to CERD to tell the truth. Our Nations speak for ourselves – we do not allow any organization to speak for us" concluded Okimaw Fox.

For more information – call Leon Whitstone @ 306 344 5111.

See attached summary of the Submission by a number of Indigenous Nations.

Yours truly,

**ONION LAKE CREE NATION**

PER: 

**CHIEF WALLACE G. FOX**

Cc.

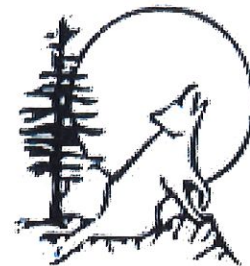
Onion Lake Council

(1) Enclosures

JOINT RECOMMENDATIONS BY THE INDIGENOUS NATIONS APPEARING  
BEFORE THE COMMITTEE ON THE ELIMINATION OF RACIAL  
DISCRIMINATION  
AUGUST 13, 2017



*Never Let Our Land Die*



## Key Issues: Indigenous Territories, Colonial Doctrines and the myth of Underlying Crown Title

1. Indigenous Nations have since the beginning of time lived and will continue to live on our Great Turtle Island (North America) forever. We are free and independent nations with our own governance and laws.
2. We, as Indigenous Peoples, have a birthright and responsibilities for all of Creation. We are the land, without the land, people are dying. We have a spiritual connection to the land and water and our way of life, our culture, our languages are rooted in the land. Water is not a resource but a spirit Creator has gifted us. It's a gift for life. Canada continues to deny us our birthright and our responsibility.
3. Canada is a settler colonial state, the assertion of sovereignty by the British Crown remains based on the colonial doctrines of discovery, which have been rejected by the International Court of Justice and various UN human rights bodies as violating international law; and as racist. Canada's claim to sovereignty and underlying title is based on the doctrines of discovery as enshrined in the *Inter Caetera and related Papal Bulls*<sup>1</sup>, which have to be repealed. This has been confirmed by CERD when they called on the Holy See to engage in a meaningful dialogue with Indigenous Peoples on the issue.
4. The settler colonial state of Canada remains based on these racist colonial doctrines, celebrating 150 years of colonialism denying our inherent ancestral rights over our territories, lands, waters and resources. The British North America Act, now the Constitution Act 1867, was unilaterally passed by British parliament and enshrines these colonial systems and structures. CERD already recommended to the United Kingdom to ensure that the principles and provisions of the Convention are directly and fully applicable, in Crown dependencies<sup>2</sup>.
5. Canada is not only trying to domesticate Indigenous Peoples, but also international law. Canadian federal Minister of Indian Affairs and Northern Development, Carolyn Bennett, at the UN Permanent Forum on Indigenous Issues in May 2016 pretended to "announce on behalf of Canada that we are now a full supporter of the Declaration without qualification." Minister Bennett immediately contradicted this in the next sentence by qualifying that: "We intend nothing less than to adopt and implement the declaration in accordance with the Canadian Constitution." This clearly is a qualification, which goes back to the Constitution Act 1867. It further tries to qualify and subjugate international law to lesser national standards. This is in violation of international law: national laws and policies should only be passed if they conform with international law and not vice versa.

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<sup>1</sup> CERD (2016) Concluding Observations, Holy See, January 11, 2016

<sup>2</sup> CERD (2016) Concluding Observations, United Kingdom, August 26, 2016

6. The International Court of Justice in its Advisory Opinion on Reservations to the Genocide Convention<sup>3</sup> rejected the position of state parties that state parties had unfettered authority to make reservations by virtue of their sovereignty. The court did not share this view and held, “It is obvious that so extreme an application of the idea of state sovereignty could lead to a complete disregard of the object and purpose of the Convention.”<sup>4</sup> The same has to be true for ICERD and Canada’s obligations under it.
7. In 2012, Canada was asked by CERD to produce a document or documents to show that Canada had underlying title to the lands and resources of the Indigenous Nations which are presently in the state of Canada. No Peace and Friendship Treaties or any other document ever gave title to the British Crown<sup>5</sup>. Indigenous Nations across Canada maintain their inherent land rights and underlying title to the land.
8. In Canada’s report to CERD and the recently released 10 principles on Indigenous relationships, Canada relies on the colonial doctrines of discovery, claiming that they obtained underlying title to the land at the declaration of British Crown sovereignty. The Canadian state’s development and implementation of its racist construct of our territories and resources vesting in the Crown is a continuation of racism and racial discrimination against our Nations leading to a denial of our rights in our territories.
9. On top of Canada’s implementation of the wrongful and unjustifiable assumption of underlying Crown title, Canada and the provinces have issued faulty proprietary interests, which are destroying our nations, our lands, our water by using Indigenous Peoples’ lands, waters and resources without Indigenous Peoples’ free, prior and informed consent.
10. Indigenous Peoples’ free, prior and informed consent has a jurisdictional dimension and recognizes Indigenous Peoples as decision-makers regarding access to our lands and resources, which is constantly undermined by Canada and the provinces claiming to be final decision-makers. The settler colonial state of Canada says that we do not have a right to say no to projects on our lands, this constitutes a further violation of our internationally protected Indigenous rights. We have a right of self-determination, and Indigenous free, prior and informed consent to access to our lands and any allocation decisions is required.
11. The settler colonial state of Canada maintains its “Comprehensive Claims Policy” on land rights, to push for final termination agreements that will result in the de facto extinguishment of our Title. This is a racially discriminatory policy against indigenous proprietary interests. In addition, the loan funding for negotiations under the policy, including the so-called British Columbia Treaty Process and the Algonquins of Ontario Process, has funded negotiations with groups who are not the proper Title and Rights holder, employed divide and rule strategies, including against the Lubicon Cree, resulting in overlapping claims and other ways to undermine our collectively held Title to our land.

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<sup>3</sup> *Reservations to the Convention on Genocide, Advisory Opinion: I.C.J. Reports* 1951, starting at p. 15., on p. 24

<sup>4</sup> *Ibid.*

<sup>5</sup> Miguel Alfonso Martinez, (Special Rapporteur), Final Report: Human Rights of Indigenous People Study on Treaties, agreements and other constructive arrangements between States and Indigenous populations, UN Commission on Human Rights, 1999, E/CN.4/Sub 2/1999/20 (1999)

12. First established in 1973, the specific claims process has been plagued by institutionalized conflict of interest: Canada adjudicates all claims against itself, perpetuating the inequalities and injustices.
13. In 1995, the Canadian federal Liberal government announced and continues to maintain its “Approach to Implementation of the Inherent Right and the negotiation of Aboriginal Self-Government”. The title of the policy is a misnomer and disingenuous, because it is not based on an indigenous inherent right, but rather on delegated authority with many exemptions, such as matters involving trade and commerce, national powers etc. The policy states that it does not include a right of sovereignty in the international law sense, it also does not recognize nor implement the indigenous right to self-determination.
14. Environmentally destructive development of our territories, including mines, tar sands, oil and gas and pipelines are examples of acts by Canada and the provinces to continue the dispossession and exploitation of indigenous lands and resources without Indigenous Peoples’ free, prior and informed consent. It also violates Indigenous laws, requiring Indigenous Peoples to take action to protect their lands, often resulting in criminalization under settler colonial law. In 2016 the Trudeau government unilaterally approved the expansion of the Trans Mountain Pipeline without Indigenous free prior and informed consent. It would lead to a tripling of capacity and increased tar sands extraction, already the largest single green house gas emitter in the world. Indigenous land and water defenders are at the forefront of opposing these destructive projects, and the Trudeau government has already indicated that they would use executive force, including the Royal Canadian Mounted Police and the army, to push these projects through. This puts the police force into a compromised political position where they become adversaries and Indigenous Peoples do not trust them, when they would be needed to investigate serious criminal issues like missing and murdered indigenous women. The criminalization of water and land defenders constitutes a human and indigenous rights violation which has to cease.

## Recommendations

1. For Canada to comply with CERD’s rejection<sup>6</sup> of the colonial doctrines of discovery as a racist basis for the claim to sovereignty, jurisdiction and title.
2. For CERD to request that the Independent Expert on the Promotion of a Democratic and Equitable International Order conduct a special study with the direct involvement of the Indigenous Nations regarding the underlying title to Indigenous Territories colonized by settler colonial states on the basis of the doctrine of discovery, where Crown assumes underlying title. To analyze the impacts of these doctrines based in colonialism on the Indigenous Territories and on Indigenous Peoples and to recommend solutions for recognizing underlying Indigenous title and to eliminate racial discrimination in all its forms.

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<sup>6</sup> UN CERD, 2002, A/57/18, paragraphs 303 and 331; Concluding Observations of the Committee on Economic Social and Cultural Rights UN CESCR, 1998, UN Doc. E/C.12/1/Add.31, para. 18; Concluding Observations of the Committee of the Rights of the Child, UN CRC, 2003, CRC/C/15/Add.215, para 59

3. For CERD to condemn Canada for promoting and developing laws and policies based on colonial doctrines behind closed doors, in a non-transparent manner without the full involvement and the free, prior and informed consent of the Indigenous Nations as the proper Title and Rights holders.
4. For CERD to hold Canada accountable to implement General Recommendation No. 23 requiring States Parties to ensure that Indigenous peoples are full decision-makers regarding issues relating directly to Indigenous peoples and that such decisions are not taken without their informed consent with specific reference to land and resource rights.
5. For CERD to hold Canada accountable and require Canada to ensure the free prior and informed consent of Indigenous Peoples with regard to development and resource exploitation within their traditional lands and territories; and ensure restitution where decisions have already been taken without the prior and informed consent of all affected Indigenous Peoples.
6. For CERD to hold Canada accountable for its failure to implement its previous concluding observations rejecting Canada's Comprehensive Claims Policy aiming at the de facto extinguishment of Indigenous Title, as a racially discriminatory policy against Indigenous Peoples and their proprietary interests.
7. For CERD to facilitate a dialogue and recommend an international facilitator to manage discussions with the Indigenous Nations, in relation to lands and other matters concerning underlying indigenous title to the land and the issue of Free, Prior and Informed consent as it relates to Indigenous Nations and Peoples.
8. For CERD to reject "Canada's Policy Approach to Implementation of the Inherent Right and the negotiation of Aboriginal Self-Government (1995)", as violating the indigenous right of self-determination.
9. For CERD to request that the settler colonial state of Canada provide a report on its efforts to reform the laws, policies and programs that aim at the de facto extinguishment of title to lands and the issue of self-government agreements as a means to resolve outstanding issues related to lands and resources.
10. For CERD to make an official request to send one or more of its members to Canada in order to facilitate the implementation of international standards regarding the situation as described in these submissions of Indigenous Nations and to ensure implementation of its concluding observations.
11. To request the CERD Secretariat to collect information from field presences of the Office of the High Commissioner of Human Rights and specialized agencies of the United Nations, national human rights institutions and non-governmental organizations on the situation as described in these submission and more specifically to appoint and direct CERD members to investigate and collect information regarding the allegations contained in these submission and to report back to UN Committee on the Elimination of Racial Discrimination with



recommendations; including follow-up on early warning and urgent action submissions in regard to the BC treaty process, the Algonquins of Ontario Process, and the Lubicon Cree, and the failure to engage with the proper title and rights holders.

12. ICERD Article 5 (d)(1) guarantees the right of peaceful assembly within our territories. When Indigenous Nations are protecting our territories, the racist state of Canada interferes with our indigenous rights in relationship to our territories. Indigenous Peoples' free, prior and informed consent is denied when the state asserts rights in our territories by criminalizing Indigenous and water defenders be protected which denies Indigenous Peoples right to peaceful assembly. CERD requests Canada to respect all the articles of the Convention especially as it relates to the rights of Indigenous Peoples.

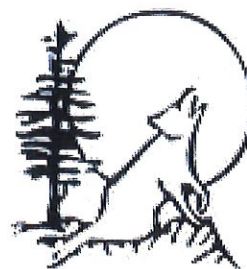


Onion Lake  
Cree Nation  
TREATY NO. 6 TERRITORY



LUBICON LAKE NATION

*Never Let Our Land Die*



### PRESS RELEASE

## INDIGENOUS NATIONS CONFRONT CANADA'S COLONIAL AND RACIST LAWS AND POLICIES

(August 15, 2017 Geneva, Palais Wilson, United Nations) Indigenous Nations presented to the CERD on Monday August 14th, 2017 in Geneva Switzerland decrying 150+ years of colonialism in Canada. The Coalition of Indigenous Nations who are the proper title and rights holders brings together Interior Alliance members nations with large territories in the Interior of British Columbia, including the Secwepemc, St'at'imc, Okanagan and Nlaka'pamux Nations; Nations East of the Rockies, including Beaver Lake Cree Nation, Lubicon Lake Nation, O'Chiese First Nation, Onion Lake Cree Nation and TsuuT'ina Nation, and; and Algonquin Nations, including Timiskaming, Wolf Lake and Barriere Lake. They submitted joint recommendations (attached to



this release) to CERD for condemnation of Canada's reliance on the racist colonial doctrines of discovery for its claim to underlying Crown title to all land in Canada. Further, the Nations submitted that due to Canada's racist policies in relation to our lands and resources – all our rights are violated on a daily basis.

On Monday morning, Indigenous Nations, as the Title and Rights holders, led off the official dialogue with CERD members. Phyllis Whitford, O'Chiese First Nation acknowledged that Indigenous Peoples have lived on turtle island since the beginning of time in accordance with their natural and creator's laws which govern them to exercise, maintain and strengthen connection to the land and all our relationships with the Creation.

Ms. Whitford was followed by representatives of Interior Alliance Nations, including Ska7cis Manuel (Secwepemc Nation); Chief Don Harris (Douglas First Nation, St'at'imc Chiefs Council), Chief Darrell Bob (Xaxlip, St'at'imc Nation) and Chief Judy Wilson (Secwepemc Nation, Union of British Columbia Indian Chiefs), who called for recognition of indigenous land rights, underlying indigenous title to their territories and indigenous decision-making across their territories. They condemned Canada for maintaining land rights policies that aim at the *de facto* extinguishment of Aboriginal title; commodification of water and criminalization of indigenous land and water defenders.

Russel Diabo, Algonquin Nation Secretariat said: "without a doubt recognition of underlying Indigenous title and land rights is the core issue being discussed by our Nations." He added "Canada's Comprehensive Claims Policy still aims at the *de facto* extinguishment and termination of Aboriginal Title".

The members of CERD were informed that the recently released 10 principles on Indigenous relationships remain rooted in the colonial doctrine of discovery. Further, the members were informed that these policies were developed without the free, prior and informed consent of the proper title and rights holders in complete violation of international laws especially our right of self-determination.

"We were able to lobby the members of CERD to ask Canada a question in relation to our treaty rights – when we go to court to protect our Treaty rights – Canada continues to allow the violator of our rights to destroy our lands. They do not stop the companies. Canada's response this morning at CERD was a complete joke. They said that we can ask for the court to have the case put into abeyance while we negotiate. We negotiated a treaty with the Crown – we are done negotiating but due to Canada's view of owing our underlying title – the state violates our rights on a daily basis" said Ron Lameman, Beaver Lake Cree Nation – Treaty 6.

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The joint recommendations by the Indigenous Nations appearing before the Committee on the Elimination of Racial Discrimination from August 13, 2017 are attached to this release.

More information available online: <http://unsettling150.ca/unsettling-canada-internationally>