

The End of Colonialism

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One thing is certain: the flood waters of colonialism are, at long last, receding. In 2005, Indigenous peoples watched the Aymara leader Evo Morales launch his campaign for the presidency of Bolivia under the *wiphala*, the ancient rainbow-coloured banner of the Incan peoples. When he promised to end five hundred years of colonialism in his country, his opponents accused him of calling for revolution. But Morales insisted his objectives were far more profound. Not a revolution, but a refounding of Bolivia as a country that is part of ancient Tawantinsuyu (land of the Inca).

For Indigenous peoples of the Americas, Evo Morales's victory was the dove returning to the ark with an olive twig in its beak. In 2007, the UN Declaration on the Rights of Indigenous Peoples was another sign that the question of the rights of Indigenous peoples was finally being addressed by the world, beginning with a recognition of our basic right to self-determination, which is guaranteed to all peoples by the International Covenants on Civil and Political and Economic, Social and Cultural Rights. As we have seen, even colonial courts in Canada and elsewhere have recognized the need of Indigenous peoples to give their prior informed consent to any development on our lands, and Canada's Supreme Court in the *Delgamuukw* decision recognized in principle our continued proprietorship over our territories. A more recent decision, the *Tsilhqot'in* decision on June 26, 2014, recognized Aboriginal title on the ground to almost two thousand square kilometres of Tsilhqot'in territory.

In paragraph 94 of the *Tsilhqot'in* decision, the Court could not have been clearer:

With the declaration of title, the Tsilhqot'in have now established Aboriginal title to the portion of the lands designated by the trial judge. . . . This gives them the right to determine, subject to the inherent limits of group title held for future generations, the uses to which the land is put and to

enjoy its economic fruits. As we have seen, this is not merely a right of first refusal with respect to Crown land management or usage plans. Rather, it is the right to proactively use and manage the land.

The *Tsilhqot'in* case is the legal and constitutional footing needed to bring into reality the story our Elders told us: Indigenous and non-Indigenous peoples should be travelling in two canoes on the river together, but each moving under their own power and in control of their own direction. The recognition of Aboriginal title on the ground is a fundamental decolonizing action. This case is the first in Canada where Indigenous peoples have repossessed their lost—or more accurately, stolen—inheritance. It is a monumental decision for the country and the provinces.

The *Tsilhqot'in* decision paves the way for this; it recognizes our Aboriginal title, and restates that it is collectively held by the people. To implement the decision on the ground will require implementing our own Indigenous governance, based on our Indigenous laws, not on processes funded and directed by the government.

But we know that the Canadian government has time and again proven itself lawless when it comes to Indigenous peoples. Despite losing more than 150 legal cases on Indigenous rights over the past fifteen years, it insists that it is in control of the Indian agenda and that Indigenous peoples have no rights. In fact, the Department of Indian Affairs' annual Corporate Risk Profiles describe its policy, without any sense of irony, as a "non-rights based policy" in contrast to the "rights-based" position of Indigenous peoples.

Dr. Shiri Pasternak used an Access to Information request to unearth these internal documents, and they show that while the Department speaks with great confidence in its public pronouncements, internally it admits that it is playing with fire in ignoring our rights. As the 2012 report puts it, "There is a tension between the rights-based agenda of Aboriginal groups and the non-rights based policy approaches grounded in improving socio-economic outcomes." It predicts "an increase in demonstrations and public protests," and even hints at violence to come, with increased non-compliance of Indigenous people with federal and provincial regulations, a general public outcry against the government, and negative international attention.

In examining defensive measures, the government briefly looks at the Supreme Court's repeated exhortations that it act in line with the "honour of the Crown," but quickly dismisses this precept as unworkable. Instead, Canada's dishonourable governments pour money into the legal battles to the point where the Department of Indian Affairs is now the biggest consumer of legal services within the federal government. As we have seen, when conflict arises, their favourite tool is an injunction enforced by the RCMP or, if necessary, the Canadian army, to prevent us from

exercising our rights against a system where they have seized 99.8 per cent of our land and shunted us off onto the remaining 0.2 per cent.

But what, finally, is now making the Harper government most worried is not the idea of protests, potential violence, and international reaction. It is the fear that, because of all these things, “economic development projects will be delayed.”

That is where the risk lies for Ottawa, that the \$650 billion in corporate investment vaunted by the prime minister will be disrupted, and some significant portion blocked by the government’s refusal to address the cause of Indigenous rights. This explains the flurry of activity and “high-level” meetings with “resource bonds” and various systems of token compensation on the table.

None of these are acceptable substitutes for recognizing what the Supreme Court, the Canadian Constitution, and the world in the UN Declaration on the Rights of Indigenous Peoples have agreed is our right to our lands and our right as peoples to determine our own future.

This is why we must stop negotiating with governments that do not recognize our Aboriginal and treaty rights. We must stop negotiating with the governments to take over programs and services unless our Aboriginal and treaty rights are recognized and affirmed, so we can build an independent economic base for our people. We must stop negotiating under any policy that ends with our termination as peoples.

Indigenous peoples need to understand that the fundamental issue is our land and the natural wealth that it produces. Our biggest strength is in the economic uncertainty that our legal, constitutional, and political actions create for the status quo. Canada and the provinces have gotten used to the colonial privilege of having the final say on resource development in our Aboriginal and treaty territories. This must be changed.

We cannot have reconciliation until the extinguishment policy is off the table and our Aboriginal title and treaty rights are recognized, affirmed, and implemented by Canada and the provinces. Not only in the Constitution but also on the ground. We need to negotiate the dismantling of the colonial system, not bargain for cash deals that extinguish our rights and produce nothing except more debt and dependency. We need to stand up and fight colonialism in all its manifestations. We need to root out the racism and impoverishment that colonialism systematically creates for the vast majority of our peoples.

To achieve justice, Indigenous peoples need to connect our struggle from the local to the international level. We have a very strong position before the UN Human Rights Committee and other world bodies that are ready to support the cause of the world’s 370 million Indigenous peoples in fighting to undo the damage done by usurpations of the peoples’ land and liberty under the banner of colonialism. These

injustices must be remedied today if we are to begin to address the exponentially higher rates of poverty, illness, crime, and human rights abuses that infect Indigenous peoples around the world.

As UN studies have concluded, recognition of our right to self-determination and our land rights are absolutely essential for the survival of our peoples. In the *Tsilhqot'in* decision, the Supreme Court explicitly recognized that our Aboriginal title gives us “the right to determine . . . the uses to which the land is put and to enjoy its economic fruits.” We can now appear before the world as peoples with a recognized land base who are on the road to decolonization.

To Canadians who fear the changes that this will bring to this country, I can only say to them that there is no downside to justice. Just as there was no downside to abolishing slavery, to the winning of equal civil rights for blacks in Canada and the United States, to the emancipation of women. The moves away from the racism and misogyny in the past have only enriched the lives of all of us. The same will happen when racist doctrines still in force against Indigenous peoples are replaced by recognition of our rights.

We know that the Creator did not give the settlers the right to exclusively benefit from our natural wealth and resources. It is colonialism that gave settlers the power to economically exploit our lands, crush our cultures, and dominate our peoples. It is our responsibility to move Canada beyond this exploitation and help the global community move one step closer to peace and security for all peoples.

To be absolutely clear, we are not talking about stopgap programs and services that are created under federal and provincial legislation. And we are not talking about action that is purely for disrupting the establishment without any real plan of what kind of future we want to create. We are talking about fundamental change that recognizes our title to our territories and our right to self-determination.

This is where we are now heading. We invite all Canadians to join us to help move the final obstacles together. We can accomplish this as friends and partners as we have at times in the past. Or we can do it as adversaries, in anguish. Our path toward decolonization is clear. It is up to Canadians to choose theirs.

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