

SFU School of Public Policy Speaker Series: Being the
Change: Women, Policy and Making a Difference.

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CHECK AGAINST DELIVERY

Thank you to the SFU School of Public Policy and especially my good friend Doug MacArthur for the invitation to the speaker series on Being the Change: Women, Policy and Making a Difference.

It was an incredible privilege and honour to have been elected the first Member of Parliament for the new riding of Vancouver Granville and having been appointed Minister of Justice and Attorney General of Canada – an appointment that speaks volumes about how far our country has come and also of the important work that lies ahead.

At Rideau Hall I must say there was an audible gasp followed by applause on the announcement of my portfolio – not so much a reflection on myself personally but rather the symbolism of what my appointment represents – that in a Nation where someone who not so long ago would not have been able to vote, let alone run for office, nor be recognized legally as both an Indian and a lawyer – someone against whom the law discriminates and in some cases still does and who fought against that law for years – is now the principal lawyer in charge of administering that very law on behalf of that very Nation and advising its government. It takes a moment for that to sink in.

During the federal election last year, the world was watching Canada – and if they were not then, they are now. In the run up to October 19th, *The Guardian* lamented our Nation's role on the world stage. And questioned whether we would return to our

country's "best traditions". The *New York Times* spoke about the subtle darkening of Canadian life. It asked did we like what our country was becoming?

The answer, of course, was a resounding "no". The vast majority of Canadians voted for change. People wanted their Canada back.

All Canadians, and regardless of political affiliation, expect that our governments will be respectful of the principles and values upon which our country was founded and has evolved – particularly since the second world war, as we continue to develop the very idea – the very concept – of Canada – a beacon of hope and optimism in an increasingly divided world.

In the days and weeks immediately following the swearing in of Cabinet this was very evident by the number of people who came up to myself and my colleagues – and still do for that matter – on the street, in a store, or restaurant, at an airport, to talk.

I have heard so many amazing stories. People who have come up and hugged me and expressed their passion and optimism for our country.

The reaction of Canadians is incredibly uplifting and powerful – underscoring the tremendous responsibility as the reality of governing continues sets in.

My reflections this afternoon will be in three parts based on what

I was asked to talk about and the theme of this lecture series – being the change; women, policy and making a difference. First, I will talk about my upbringing, experience and perspective as an Indigenous leader in BC and what led me to become the MP for Vancouver-Granville. Next, I will provide some reflections about being an Indigenous woman in Canadian politics during this time of transition and transformation. And finally, I will conclude with some thoughts about a vision for Canada and how I see my role as the Minister of Justice and AG in meeting that vision.

My traditional name is 'Puglaas' and I come from the Musgamagw-Tsawateineuk/Laich-Kwil-Tach people of Northern Vancouver Island. I am a Citizen of the We Wai Kai Nation where I used to serve on the *Indian Act* Band Council. I also had the honour of being the Regional Chief of the BC Assembly of First Nations for almost six years before stepping down to seek federal office.

I come from a matrilineal society where we have hereditary Chiefs. Being matrilineal means that descent is traced through the mother and our maternal ancestors. Power and inheritance flows through the mother's line. Hereditary Chiefs – always men – are identified from a very young age and they are groomed for leadership.

My father is a hereditary Chief of the Eagle Clan. His name is Hemas Kla-Lee-Lee-Kla, which means, "Number one amongst the Eagles, the Chief that is always there to help." He was given that

name in a potlatch, which is our traditional institution of government. We still practice our potlatch. It is here where our names are passed down or given from generation-to-generation. It is where laws are made; disputes settled; people are married; where possessions and wealth is redistributed; and so forth. In our potlatch the highest-ranking male leaders are called *Hamatsas*.

With rank reflected in positions and names come considerable responsibilities and obligations. My grandmother's name was Pugladee. The highest-ranking name in our clan. Her name means "a good host" – a name that was given to my older sister, Kory, at the same time I was given my name. My name, Puglaas, means "a woman born to noble people". The names were given in a naming potlatch at Gilford Island when we were very young.

My grandmother – Pugladee– ensured that both my sister and I knew our culture, our values, the laws of our big house, and how to conduct oneself as a leader. In our system I am a *Hiligilaste*. One of my jobs is to lead the *Hamasta* – the chiefs – into the big house. The *Hiligilaste*, can be defined as one that "correct the chiefs path". We show them the way; a metaphor for life and in the potlatch symbolized in our rituals where symbolically the power of the *Hamastas* is tamed, tempered and propelled.

My grandmother used to joke with us that when it came to the respective roles of woman and men that the women were too busy and too important to be the chiefs. It is important to

remember it is a communitarian culture. Where everybody has a role to play. The roles are very different but equally important in terms of ensuring the community – the society – functions as a whole. I call it balance.

In fact, our whole system was and is about balance. Between men and woman – between clans – and between tribes. I have come to appreciate that it is these same objectives of balance that we need to seek in all relationships and in life. Including with respect to the place of Indigenous peoples within Canada and for that matter as our country as a whole.

I am very fortunate that for her part my grandmother ensured I knew who I was and where I came from and to recognize the rights and responsibilities that our people have in this country. Both my grandmother and my father advocated for and pursued those rights and for inclusion within a stronger Canada. It was in this context that I was raised.

When I think back, although at times somewhat rebellious, I never questioned my role or where I would go. I never questioned that on this path I would go to University and study law because it was just something that was already determined. My family raised me to know that I had something to give back and to contribute. That we all can be the change we desire and have a role to play. I was expected to push the boundaries and move the goal posts in advancing and implementing Aboriginal title and rights; to help

correct the power imbalance as between the Indigenous peoples and the Crown.

The roots of this power imbalance go back to the time of confederation and before. It is important to understand this history and struggle in order to appreciate the work needs to be undertaken today.

Before confederation many political and military alliances were made with Indigenous peoples under the auspices of the Royal Proclamation of 1763. During the time of the Proclamation the colonial authorities recognized the power of the various "Nations or Tribes of Indians" and the need to treat accordingly.

Some of the Nations or Tribes in the east, indicated their assent to treaty by presenting wampum to officials of the Crown. The wampum belt, shells on leather, reflects an understanding that neither group will force their laws, traditions, customs or language on the other, but will coexist peacefully. The laws of Tribes in their canoe in their river symbolized by one row of purple shells, and those of the newcomers in their boat – also symbolized by a row of purple shells. While the two rivers exist side-by-side they will never cross.

However, when the fathers of Confederation came together in 1864 in Charlottetown and then again a year later in Quebec to lay out the foundation for Canada, Indigenous people were not

present – they were left out – this despite the early treaty-making.

The fact that Indigenous peoples were left out of confederation as partners has had far reaching implications for Canada in the intervening years. The work of reconciliation today is, in many ways, at its core, about rectifying this exclusion.

After confederation Crown policy became one of assimilation and not partnership.

The most insidious of tools used to propagate this policy of assimilation was the *Indian Act* imposing an alien system of governance, creating residential schools to “remove the Indian from the child”. Rather than being citizens or members of a Nation or Tribe of Indians based on a treaty relationship as symbolized by the wampum belt, under the *Indian Act*, the Indian was made a ward of the state – the government as trustee until assimilation was complete. The local mechanism for administration was the Indian Agent along with the chief and council through the band system of government – neither an appropriate system of government for Indians nor any peoples for that matter.

This is a history that I feel, at least in part, most Canadians are now somewhat familiar. Particularly given the report of the Truth and Reconciliation Commission and the publicity surrounding it. And also because of the importance, personally, of the

relationship between Indigenous Canadians and other Canadians to our Prime Minister and the very public commitment he has made to develop a new, nation-to-nation relationship.

Of course, considerable water has travelled down the symbolic river of the two-row wampum belt since it was originally presented. Our collective challenge now – for both Indigenous peoples and the Crown is to get back to the spirit and intent of the two-row wampum while recognizing that the nature of the relationship within the modern nation state of Canada has changed. The laws of the Nations or Tribes of Indians and those of the Crown are not simply in their own canoe or boat, side-by-side, but today they co-exist together within the modern and advanced nation state of Canada under a dynamic legal system that supports pluralism through multi-level governance.

Let me explain.

In 1982 when the Constitution was repatriated section 35 was included which recognizes and affirms existing Aboriginal and treaty rights. This was incredibly significant. However, at the time some legal advisors to the Provinces played down the significance – even going so far as to advise their clients that most Aboriginal rights had been extinguished – including Aboriginal title here in BC – and that any continuing Aboriginal rights were limited.

Accordingly, they said, provincial governments did not need to worry about the implications of the section. For these folks, section 35 was a so-called "empty box" that could only be populated at the will of the Crown. In other words, there really were no inherent right of self-government – the constitutional division of powers having been fully exhausted as between the federal and provincial governments in 1867. Indigenous governments not being included.

For Indigenous leaders that had fought so vigorously for section 35 and for the Charter amendments it was, of course, anything but an "empty box".

At the Constitutional conferences on Aboriginal self-government that followed repatriation this disconnect in opinion was palatable at the negotiating table. I remember in 1983 as a young girl in grade six watching the conference at school – watching my father, and our Prime Minister's father go toe-to-toe.

When the negotiations were going nowhere, my father told the first Prime Minister Trudeau that "There needs to be some good faith about it" and that, "The exercise now is not about frank and open discussion or understanding and appreciation of other peoples' concerns on the basis of respect and dignity, it has now become, all of sudden, a question of power and who exercises it."

Rene Leveque, I think summed it up best when he said later that day; "Behind all of this, what is going on is a political process – a

political process that is fundamentally a question of power. One authorized spokesperson for the Aboriginal peoples has already stated the whole thing is about power." He went on "Power has traditionally been exercised in several classic ways. Probably the most classic example is by the force of arms; and by the strength of numbers. For example, the dispossession of the Metis during the time of Riel was a crime, which was an abuse of the force of arms backed up by strength of numbers; what alternative is left so a group can reach a civilized solution? It means accumulating enough power, enough ways of asserting pressure so they can negotiate as equals; that is fundamental."

He was of course right. His words were also prophetic. Since the failure of the constitutional conferences in the '80s Indigenous peoples have been accumulating power – economic, legal and political power – to negotiate as equals in order to reach, as Premier Leveque said, "a civilized solution".

Today, after numerous legal challenges, the courts have confirmed Indigenous peoples do have an inherent right of self-government and that these powers survived confederation. According to the court these powers are, "one of the unwritten 'underlined values' of the Constitution outside the powers distributed to Parliament and the legislatures in 1867". While these powers are certainly not absolute they exist. Today reconciliation is now possible precisely because section 35 is not an empty box. The table has been set.

A couple of years ago one of the most important decisions that speaks to this table and reconciliation was handed down by the Supreme Court in *Tsilhqot'in*. Many called the decision a "game-changer". This was primarily because the Court, in granting the first declaration of Aboriginal title, found that Aboriginal title is territorial in nature and not just small spots.

For me, what was equally important about the case was how the bench, having made up its mind on the extent of the proven title area –moved on to the next big question that needs to be answered; namely, "whose laws will apply to the title lands so proven and how will they be governed?"

The answer is multi-level governance. It will be a combination of laws respecting the constitutional division of powers and the rules of cooperative federalism as they are evolving. It will be a combination of Indigenous law reflecting Indigenous legal traditions, provincial and federal law. And the relationship between laws will have to be addressed through discussions among the parties and if necessary adjudicated in the courts. In much the same way this already happens today between the provinces and the federal government.

This is significant. For me achieving a better balance in power and power sharing as between all levels of government – including now Indigenous governments – is important. It helps to ensure fewer legal gaps and promotes greater cooperation and compromise. It also allows for creative shifts in the role of law in

making social progress and developing and implementing innovative policy. Overall this results in better laws, better decisions, and better government.

Over the last thirty years at the same time as Aboriginal title and rights have been crystalizing in the courts, many Indigenous communities have been rebuilding – developing their institutions of government post-*Indian Act* – some at the local level, others regional or sometimes national in scope – some as a result of modern treaty-making - in order to move through what I have called the post-colonial door. Those communities that have opened that door and are moving through it and beyond the *Indian Act*, in whole or in part, are doing better both socially and economically than those that are not.

In fact, I became involved in First Nation politics and ran for Regional Chief because of a belief that by building on our success we could do more to accelerate the transition of Indigenous communities from a colonial to a post-colonial world - to finish the unfinished business of confederation.

During my time as Regional Chief I also came to a greater appreciation that First Nations could not get the work done without willing federal and provincial partners. There being a need for legislative tools and other mechanisms to support governance reform, transition, and the process of reconciliation.

As the late Nelson Mandela taught us – beyond the necessary apologies and beyond the emotional work of truth telling and of healing –reconciliation actually requires laws to change and policies to be rewritten.

Making the jump to federal politics was not an easy one for me, nor a decision taken lightly. I cannot claim to have had a long-standing ambition to be a federal MP let alone a Minister of the Crown.

But then I met this gentleman named Justin Trudeau. I met him for the first time about two and a half years ago when he came up to Whitehorse for the Annual General Assembly of the AFN. He attended one of our working sessions – a session that I happened to be chairing and where we were dealing with some difficult and controversial issues.

After the session Justin and I sat down and we chatted. We talked about the future of Canada. Our respective visions. About making Canada even better. We talked about what we shared in common including talking about walking in the footsteps of our political fathers. Justin's father obviously being better know than mine.

Justin eventually asked if I would consider running as part of his team. I said I would think about it.

A few months later he asked if I would co-Chair the 2014 Biennial Liberal Convention in Montreal and I agreed. Tim and I were not members of the Party at the time. It was our first convention. But what we saw was excitement – we saw hope and in the delegates present we saw a reflection of the Canada we believe in. I decided to run shortly thereafter.

I sought out the nomination in Vancouver Granville for a number of reasons. I have lived and worked most of my life in Vancouver and was born in the riding. Our riding is incredibly diverse – both across the traditional political spectrum as well as the different communities that comprise it. Vancouver Granville was also a new riding – so no incumbent, and of course with some work it was a riding that could be won.

The campaign was very exciting – long – but rewarding – we had a great team. Certainly I would be happy to speak further about campaign in questions.

Which brings me to the next subject I want to talk about. Gender balance and the role of woman in ensuring good governance based on my own experience and generally.

Traditionally in Indigenous society there were distinct political and social roles for men and women. This was impacted by a common colonial experience. Indigenous people being subjected to the *Indian Act* and for women the impact was particularly hard.

The *Indian Act* turned our social and political systems on their head – often shifting the balance of power between men and women. For example, there was no regard to matrilineal systems. Further, the *Indian Act* sought to eradicate hereditary leadership structures and in so doing the mechanisms in place where women played a central role in the raising and teaching of leaders.

To add insult to injury, under the *Indian Act* only men could run for chief and council and vote. Also, if a woman married a non-Aboriginal they lost their status. This meant not only being precluded from participation in the governing process but also losing any property – in a matrilineal society where property descends down the female line this is devastating.

Women did not get the right to run for chief and council and vote in band elections until 1951. It was only in 1960 that all Indigenous people were given the right to vote in Canada.

What is so powerful today, and encouraging, is the demonstrated resilience of Indigenous women and the role they are playing in the transition during this period of First Nation's governance reform and nation rebuilding.

However, having observed this, there are still only 25% women *Indian Act* chiefs - although the percentage of women councillors is higher. Many more women are running – but they are not winning. And there has never been a woman National Chief, although, again, many women have run.

Within our democratic institutions more generally in Canada there is also a need for more women in politics as well as in the boardrooms.

Of course everyone is aware of our Prime Ministers' now famous, "Because it is 2015" line. His response when asked, "Why gender balance in your Cabinet".

Nevertheless, the percentage of women MPs is still only 26% after the last election. This is still below the 30 per cent watermark that the United Nations suggests results in shifts in policy and practice in government. However, with gender parity in cabinet perhaps this is somewhat offset?

While not transforming parliaments or the executive, women do raise different perspective on political issues – with different priorities. From my experience both in Aboriginal and now mainstream politics I do think attitudes to issues differ by gender. Where there is potential for conflict women will negotiate longer on issues. The way we experience the world differs from men's. I think there are different leadership styles that I know for sure were recognized in my culture among the Kwak'wala.

There are steps we can take in terms of institutional design to support the participation of woman and other groups in public life. In Indigenous institutions the role of different groups – typically the elders, women and youth are often built in. Self-

governing Tribes often make room for different groups in contemporary governance structures.

Nationally, over the coming months and years there is going to be a critical conversation in Canada about democratic reform as we move beyond a first past the post system. The types of reform we consider and what we ultimately decide could have an impact on the number of women in parliament as well as the diversity of political perspectives represented.

What I can say, as both a woman and as an Indigenous person, where our rights to participate in our systems of government were denied for so many years, I place great value, as I am sure you all do, on Citizen engagement and ensuring broad and diverse participation in our political processes.

I want to turn now to my role as Minister of Justice and Attorney General and reflect on a vision of Canada.

As the Minister of Justice and Attorney General I am responsible for ensuring that our government's legislative and policy approaches are consistent with the Charter. This made was clear in my mandate letter and underscores how I am to carry out my duties.

In safeguarding and upholding the Charter in all our activity as a government I am guided by our core values and vision. I seek to ensure that opportunity exists to engage in discussions about our

public policy directions – to listen to the voices of Canadians and to ensure that those voices are reflected in our actions as a government. This has been and must continue to be the foundation of our modern democracy. This is how we will continue to build a Canada that is inclusive and diverse, ensures equality, and meets the commitment to openness and transparency.

It is indeed our culture of governance and our system of laws – with respect for the rule of law – that underpins our pluralistic society that in many ways now defines our national identity.

For myself as a proud Indigenous Canadian this evolution of our national identity is particularly poignant. It is a powerful lens through which we can understand where we have come from and more importantly where we are going – as a country – in a global community that despite being more closely connected than at any time in world history - through ease of travel, social media and technology – is also becoming increasingly divided along ideological lines or belief systems with less tolerance for the “other”.

This is evidenced by our Nation’s response to the Syrian crisis. Part of our vision for our country is met by continuing to embrace immigration rooted in the concept of nation-building. This is a good way to view the recent wave of Syrian immigrants. Not simply our moral duty on compassionate grounds – which is in itself reason enough – but because it makes us stronger.

As I watch Canadians step up to assist Syrian refugees you cannot help but to be proud. Yes, I am aware there are those within the Aboriginal community who argue that there is suffering and substandard condition on-reserves and this should come first. Indeed, it is true we cannot be the country we ultimately aspire to and want to project to the world until the plight of Indigenous peoples are addressed. And we will. At the same time we have a role to play to support those that need our help beyond our shores and continue to build Canada.

What we all ask and expect is that when people come here they do not try and change others nor feel compelled to change themselves, but rather embrace the diversity that is our strength. And where, as a result, the mix of peoples is the most diverse on the planet. Where what defines Canadian nationalism is not some fear of "us versus them" but rather where we are all "us". A country based on ideas and opportunity, not one fuelled by ideology and fear. It is the idea that embraces inclusiveness and creating a safe space for people to live and thrive.

It is in this safe space that is Canada, that we resolve our differences and co-exist – to create an economy that maintains one of the highest standards of living in the world.

Societies will be judged by history on how well they treat their most vulnerable. And societies that are most successful will be those where the vulnerable are not only protected but where

their human potential is maximized. Policy makers have a role in ensuring this.

In the future countries that will be most prosperous, whose economies will grow – will be those that maximize their human potential and create the environment where innovation is encouraged. Those places on our planet where human potential is incubated – though good education – health care – supported by legal freedom – are the very places where people will want to not only invest, but to live and raise a family – secure always in the knowledge they will be treated with fairness and never persecuted. This was the underlying message of our Prime Minister and my colleagues in Davos this week.

Of course we still have to be diligent. We cannot be naïve. There are of those around the world who do not like the idea of Canada and seek to fight pluralism with repression or worse. And domestically, there will always remain elements in our society that will seek to disrupt our equilibrium. They will not be successful.

Moving forward, there is no question that in my role as Minister I certainly have some well publicized and important initiatives for which I am responsible – often in conjunction with other members of Cabinet – including addressing physician assisted dying – the legalization of marijuana – justice reform – the inquiry into missing and murdered Indigenous women and girls – review of our litigation strategy – to name a few.

But if you ask me now what keeps me up at night - and most important – it is ensuring that we get the national balance right providing the legal space for inclusion and diversity – so that all people can succeed if they work hard and are good citizens.

So that we can all be confident in the knowledge that we live in a caring and compassionate society under a legal and political system that will protect us and our neighbours, regardless of race, gender, sexual orientation or faith.

This is our opportunity and I think this is why I was asked to this job.