

Assembly of First Nations 38th Annual General Assembly  
From: Department of Justice Canada

Speech  
Notes for an address by  
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To the  
Assembly of First Nations  
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Gilakas'la. Thank you for that introduction.

First of all I wanted to acknowledge the elders, matriarchs, veterans, chiefs, youth, and my colleague ministers, ladies and gentlemen. It is indeed a pleasure to be here to speak to you on Treaty 4 territory and to be in the city of Regina.

So, today, I want to talk about rights recognition and the incredibly important transition that we now find ourselves in. And I'm going to speak to you both as a minister of the Crown and as a Kwakwaka'wakw citizen.

But before I do, as the National Chief did, I wanted to acknowledge the deep concern that we all have for the communities in British Columbia that are impacted by the wildfires. Our thoughts and certainly prayers are with the 48,000 registered evacuees. I understand that as of this morning 26,000 of those evacuees have been able to return home. I recognize the 20 First Nations communities and the 850 first responders that are continuing to battle the fires, and we very much hope to see an end to the state of emergency as soon as possible.

So, as many of you know, over the years I have attended the AFN AGA in various capacities: with my father as his daughter, as a treaty commissioner, as an elected councillor of my Indian Act band, as the Regional Chief of British Columbia, and in the last couple of years as the Minister of Justice and Attorney General of Canada. I've been witness to the debates, the decisions and the strategies of leaders coming together to chart a path forward. And there is no question that through the collective voice of Indigenous leaders, tremendous strength has been mobilized to withstand and push back the waves of colonization and assimilation.

Something that was instilled in me from a very young age and that has been confirmed over my many years of work is this: colonialism cannot be stemmed and ultimately overcome without recognition and implementation of the inherent rights of Indigenous peoples.

Of course you all know this. Recognition and implementation of Indigenous rights has been the focus of 60 years of fighting in the courts. It has been the focus of community mobilization on the ground, the negotiation of treaties, in governance and nation rebuilding. A quarter of a century spent to negotiate

and finalize the United Nations Declaration on the Rights of Indigenous Peoples was to confirm and entrench the minimum standards of recognized Indigenous human rights, individual and collective. It has been the work of our generation and the sacrifice of generations before us to maintain our diverse cultures and ways of life in the face of massive obstacles.

Indeed, the lack of recognition of rights and the patterns of relations based on denial has contributed to the unacceptable social and economic indicators for Indigenous peoples: the boil-water advisories, inadequate housing, poor education and health outcomes, murdered and missing Indigenous women and girls and suicide.

And while the day-to-day realities in Indigenous communities must continue to be addressed directly, we all know that there must also be systemic change.

Of course, if proper relations had occurred at the time of Canada's founding, the first 150 years of Canada's history would have been markedly different. So, the challenge now, knowing the past and learning from it, is to make sure that today, for the next 150 years and beyond, we give life to a new and transformed era of Indigenous-Crown relations.

Undertaking this work requires confronting the reality of the history of Canada, something the Truth and Reconciliation Commission is helping Canada to do. It means confronting the foundations that were not built when Canada was created. It will ultimately require undoing the Indian Act and other legislation that has remnants of colonialism, and creating laws and policies that recognize Indigenous governments, laws and lands.

We also need strong proponents for change to be courageous and to take bold steps. We all need to do this.

This is why in February our Prime Minister formed a working group of federal ministers to review laws, policies and operational practices to ensure that the Government of Canada is fulfilling its constitutional obligations and implementing its international human rights commitments, including the United Nations Declaration.

I was very pleased to have been asked to chair this working group. Never before has a federal government created a body of ministers with this unique flexibility and scope of action on a whole-of-government basis.

It was also why, on July 14th, as the National Chief noted, our government released 10 Principles respecting Canada's relationship with Indigenous peoples. The goal of the Principles is pretty straightforward: to trigger a definitive departure from the denial of rights, disempowerment and assimilation. The Principles are to be the necessary starting point for a recognition-based approach to changing federal laws, policies and operational practices through engagement with each of you.

The review of laws and policies and the Principles are a doorway to finally doing what so many of you have advocated for years: to move from denial to recognition of rights-based relations.

The Principles are rooted in Section 35 and the United Nations Declaration, and are informed by the Truth and Reconciliation Commission's Calls to Action and the report of the Royal Commission on Aboriginal Peoples. At the core of the 10 Principles is the recognition of Indigenous peoples,

governments, laws, and their relationship to the lands and resources. They affirm the right of self-determination, the inherent right of self-government, and Indigenous governments as distinct orders of government. They are explicit in rejecting certain longstanding federal positions such as a focus on extinguishment, surrender, or denial of rights, and are clear that all relationships must be based on recognition and implementation of rights. They also speak to the need for a new fiscal relationship that actually supports Indigenous governments to exercise their right to self-determination.

They are a start, as the Government needed to tell itself internally how to act. In this sense, the Principles, Chiefs, are not really directed at you, but rather at federal officials and the bureaucracy to begin shifting decades of old patterns of internal behaviour to a new reality. They will evolve over time as need be.

And so, for all of you who have spoken up about the significance of the Principles and the work to be done now, thank you. This is important, as it shows we are collectively on the right track in transforming our country, and this cannot be done by one person, five people or ten people. This has to be done by all of us.

And while the working group is still in its early stages – the Principles being relatively hot off the press – we've already held a number of meetings of the working group since February, and my colleagues and I are excited to get on with the work.

So far, our work has focussed on developing clarity and an understanding of what is going on across government – a taking stock of what Canada is currently engaged in regarding laws and policies. And over the past few weeks, we have moved into the next phase of this work and have begun substantively meeting with many groups, organizations, and Indigenous peoples.

And I want to be clear there is a standing invitation to all nations across the country to share perspectives and ideas on priority federal laws, policies and operational practices that the review should address. This includes seeking perspectives on which laws and policies should be addressed early in the process and why, as well as perspectives on how the United Nations Declaration and the Principles may be understood, used, or operationalized through the review.

Of course, change comes through actions, not words. We – Canada and Indigenous nations – all have a lot of work to do, and it will be very challenging. I have no illusions of how difficult it will be for the federal system. Likewise, I know how hard it will be for Indigenous nations. Living on reserve for many years, I know how challenging it is for Indigenous communities to do the work of reconstituting and rebuilding their nations and governments. Over generations of colonialism, many patterns, practices and restrictions have been developed or imposed that have divided our families, communities and peoples, interfered with our systems of governance and laws and created deep social challenges.

The Indian Act has continued to enable these divisions and harms, and moving into a new post-colonial era, it will be incumbent upon all of us to demonstrate the best of our leadership, values, wisdom, expertise and teaching as we overcome its legacy.

So, as this work unfolds, consider your vision for the future of Crown-Indigenous relations. There will be many questions that you as leaders will be confronted with and have to answer, and some for which we will have to act together.

For example, as Indigenous peoples bonded by language, culture and traditional territories with rights to self-determination and self-government, how will you organize yourself for implementing relationships with the Crown based on recognition of Indigenous governments, laws and rights?

Who are the rights-holding people being recognized, and what will you establish as your political and governing institutions? If not the colonial-imposed institutions for administration of Indians living on reserves under the Indian Act, then what?

In considering our government's commitment to a distinction-based approach on recognition, how will your nation and/or Indigenous governments be organized? What is your territory? Is it shared with another nation, and to what extent?

How will you work to engage your elders, educators, business leaders, youth, legal experts, community organizers and members around key issues of nation reconstitution, government rebuilding and new forms of partnership with the Crown based on the recognition of rights?

Are your citizens ready for change? What steps must be taken to prepare your citizens for looking at new ways of organizing beyond the Indian Act?

Do you have the necessary capacity and tools for change to exercise your right to self-determination?

Where you have existing intergovernmental arrangements with the Crown – for example, a Peace and Friendship Treaty, a historic treaty, a modern treaty or a reconciliation agreement – how do these relate to rights recognition, the implementation of the United Nations Declaration, and what is understood as the evolving nation-to-nation relationship based on rights recognition?

Consider also that our government and Indigenous peoples will also be called upon to be ambassadors for this change more broadly as the national conversation inevitably continues and increases across Canada on advancing reconciliation based on recognition. How will we do that work together?

In the period of non-recognition, for the most part these questions did not have to be fully answered unless perhaps you were required to do so in court. Well, they need to be answered now. And, of course, they cannot simply be answered by Canada. They need to be answered by you and by all of us.

While we know many of the questions, we do not have all of the answers at this point, and we do not know exactly how this critical work will unfold; but this cannot stop us, and it cannot be an excuse for inaction.

Hard choices and creativity will need to be seen across government and within Indigenous communities.

And so, just before I close, let me say a few words about where we head from here, at least from my perspective – the critical path, as it were, that we might follow.

There are six observations that I would share about what I think comes next.

First, there is no doubt the path forward is one of working in partnership. Certainly, there is distinct work for the federal government to do and distinct work for Indigenous nations to do, as well as vast amounts of work that we have to do together.

Second, we need, in very short order, a new policy framework that will break through the limitations and delays that have been barriers to reaching understandings on how to address title and rights, historic treaty implementation, and the implementation of the inherent right of self-government. This relates to both the substance of policy, which must be based on recognition, and how we are working together effectively and efficiently to move to deep patterns of cooperation and partnership and away from conflict.

Third, we also need to engage in partnership on what legislative work needs to be done. Of course, some important work is already under way around language, environmental assessment, children and families, and other areas. But from my perspective, legislative mechanisms will be needed to support Indigenous self-government and movement away from the Indian Act, and obviously more will be needed. We should be considering together a legislative framework, options and ideas around the recognition of rights and the implementation of the United Nations Declaration.

Fourth, in the almost two years that I've been the Minister of Justice and the Attorney General, I have taken steps to change the way Canada participates in litigation with Indigenous peoples. This has included stopping some of the standard defences Canada has used in the past and trying to limit the scope of what must be addressed in court by making certain admissions, but I know there's much more work that needs to be done, because indeed the goal is to move from the current reality – where in many respects, conflict, often litigation, is the norm – to a future reality where conflict and litigation are the exceptions. And as a step in this important work, I have instructed my officials to use the 10 Principles to develop some new, innovative and specific guidance for Canada's conduct in litigation.

Fifth, together, we must continue to build the growing awareness and understanding of the Canadian public about the Indigenous experience in Canada's history, and a vision of the future based on recognition that sees Indigenous peoples as true and full partners in Confederation. This, too, needs our common leadership.

Finally, sixth, building the future based on recognition also needs to involve the provinces and territories. Amongst the provinces and territories, while there are some good examples of establishing positive steps forward with Indigenous peoples on many fronts, challenges, of course, remain. There is much work to be done, and the future will require all governments – federal, provincial, territorial and Indigenous – to work together in increasingly more cooperative ways.

I hope this vision for the immediate path forward is as compelling to you as it certainly is to me.

And finally, in closing, I would expect some of you to be sceptical. Some of you may not believe that this is actually happening. To those of you who would think this way, I can tell you under the leadership of our Prime Minister and from the perspective in my seat, it is happening, but I also know that the potential of this moment will only be realized if you help advance it, fight for it, and are deeply involved and driving the change.

There will be some that do not support this work, for whatever reason. Some might support the status quo. This is a reality that we need to face, but not let it stand in the way of the recognition of rights. The United Nations Declaration will be implemented. Section 35 is a full box of rights, as the Principles reiterate, and the only path for a prosperous future for all is one grounded in recognition and not denial.

On that note, I'm aware that there are some who say that they do not recognize Canada as a state, so how can our rights be recognized by it? To that, I'll say as a proud Kwakwaka'wakw woman and also as a proud Canadian, to these people I say this: while I understand your position, please do not underestimate the power of Section 35 and the United Nations Declaration. Yes, Section 35 and the Declaration are about Indigenous rights being implemented within a nation state, but the Canada of today is a country that deeply respects diversity. Simply put, there are many ways to be Canadians respecting different legal traditions. I believe it is within a strong and caring Canada that we as Indigenous peoples can build a future where our traditions, cultures, identities and ways of life thrive, and that the state has a role to play in supporting this objective, including through changing laws and policies and working in partnership based on recognition of rights.

Exciting and extremely challenging work is upon us, but it is the work that we were placed here to do by our families, our communities and those that came before us, and when we rise to this challenge and work to turn the page of our country's history, Canada will be the stronger for it. The stage is now set, and as the National Chief says, the stage is now set for the best story ever written.

Gilakas'la. Thank you very much.