

**British Columbia Assembly of First Nations
Annual General Assembly**

**The Honourable Jody Wilson-Raybould
Minister of Justice and Attorney General of Canada**

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Musqueam

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Gilakas'la. Elders, Matriarchs, Chiefs, youth, ladies and gentleman. First, let me acknowledge the traditional territory of the Coast Salish Nation – Musqueam, Tsleil-Waututh and Squamish – on whose ancestral lands we are gathering. I am very pleased to be here at Musqueam, and at an Annual General Assembly of the BCAFN. I, alongside many of you, have participated in numerous of these gatherings over the years, and it feels like a true homecoming to be here once again.

The years I spent as BC Regional Chief working with our Nations was one of the great privileges of my life and vital preparation for the work I am doing now as the Minister of Justice and Attorney-General of Canada. It was, in fact, our inability to move the previous government to support our collective nation rebuilding and rights recognition agenda that drove me to getting into federal politics. So I begin with a

thank you for all of the years of support and guidance, and for so warmly welcoming me back.

I want to – at the outset – also acknowledge the two candidates for Regional Chief – Maureen Chapman and Terry Teegee, as well all of the candidates for other positions up for election. Thank you – I know that you will do tremendous things to advance the collective work of Indigenous peoples in British Columbia and across the country in what is truly a period of transition – the era of rights recognition as some are now calling it.

And today this is what I want to speak about – rights recognition and nation rebuilding – both as a Minister of the Crown and as a citizen of the Kwakwaka'wakw Nation. Perspectives and thoughts that are in full

alignment and building upon what our Indigenous leadership in BC has been saying before, during and after my terms as Regional Chief.

The message that I and many others have delivered – that many of you in this room have delivered – is that for our country to overcome its colonial reality, the Crown must recognize and implement the title and rights of Indigenous peoples – and that absent recognition, true reconciliation will not emerge. Today as a Minister of the Crown, I deliver the identical message – Colonialism cannot be stemmed and ultimately overcome without recognition and implementation of the inherent rights of Indigenous peoples. Unless and until recognition is entrenched in the laws and policies of this land, and Indigenous nations are actively self-determining and self-governing, exercising their

jurisdictions and applying their Indigenous laws, the promise of this country and our *Constitution* will not have been met.

And let me be clear. When I speak of recognition and implementation of title and rights, including historic and modern treaties, I mean what Indigenous peoples have always meant by these terms. That our rights are inherent. That they are not are granted or created by a State or a *Constitution* or the *United Nations Declaration on the Rights of Indigenous Peoples*. That they do not require agreement or proof in court to be affirmed. That they are grounded in the reality that Indigenous peoples had systems of government and laws, and owned and used the lands which make up Canada, prior to the arrival of Europeans. And that implementing recognition of rights is fundamental to closing the socio-economic gap, alleviating poverty, ending the

scourge of youth suicide, building healthier families, communities and nations, and ensuring that all generations of Indigenous children to come will live in ever-increasing conditions of well-being, prosperity, and opportunity.

To be sure, we have reached a truly remarkable moment in the history of this country. For the first time we have clear and public acknowledgement that the aspirations of Indigenous peoples and the aspirations of the Federal Government are one and the same.

The goals, challenges, and path of recognition is a shared imperative of the federal government and Indigenous peoples.

And this is why we are at a turning point – a moment of transition.

Moving beyond denial on the part of the Crown and moving beyond simple protest on the part of Indigenous peoples – there is now a shared responsibility to act and to seize the moment.

Now is the time for concrete and urgent action by all of us. And as I have said elsewhere – at the AFN AGM in Winnipeg earlier this year – it will not be easy. Hard work will be required. Change is not automatic.

Under the leadership of Prime Minister Trudeau, who has made the complete renewal of the relationship with Indigenous peoples a central mandate, the federal government has already taken a number of important steps along the path to recognition we have:

- provided unqualified endorsement of the UNDRIP in May, 2016 with a commitment to its full and effective implementation;
- made initial efforts to move away from the denial based comprehensive claims policy through establishing new negotiation approaches at recognition and self-determination tables;
- increased efforts to settle or narrow litigation;
- In February 2017, the Prime Minister formed the Working Group of Ministers to review federal laws, policies, and operational practices for alignment with section 35 of the *Constitution* and the UNDRIP;
- Released the *Principles Respecting the Government of Canada's Relationship with Indigenous Peoples* which explicitly articulate the shift to recognition by the Federal Government as the starting point for relations and engagement; and

- And, flowing from the recommendation of the *Royal Commission on Aboriginal Peoples*, commenced the division of INAC into two Departments – one focused on rights and relationships, and the other on services – as part of the necessary decolonization of the federal government.

These have been important and necessary internal steps on the path to recognition. They have set the table – getting the federal house in order as the Prime Minister said at the United Nations General Assembly a few weeks ago. But as the Prime Minister also re-iterated at the U.N., to address the true colonial history of Canada, transformative action is still required.

In my mind, the fundamental next step is to extinguish the legacy of denial that lies at the heart of federal laws and policies and replace it

with the recognition of rights. While the Principles we released speak of doing this, they cannot operationalize themselves. The same is true for UNDRIP. Words in themselves are not enough. Action is needed. And together we, in partnership, need to confirm the action we are each going to take – the next steps in the path of recognition and reconciliation.

This is the conversation the Working Group of Ministers, as well as individual Ministers and Departments, has begun to have with Indigenous peoples and groups from across the country – including, of course, with First Nations in BC. This is the conversation that will intensify this fall. This is the conversation that I expect to lead to tangible legislative and policy change in the near future and, of course, new patterns of relations.

So in the rest of the time I have available let me share with you a few of my initial thoughts about the key elements of a recognition and implementation of rights framework that is evolving through the many discussions we are having.

First, recognition of rights must be affirmed and enforced as the required standard for conduct for all federal government officials in their relations with Indigenous peoples – including in decision-making, negotiations, and treaty and agreement implementation. As you will recall, such a step was one aspect of the proposed *British Columbia Recognition and Reconciliation Act* in 2008 – 2009 that ultimately was not achieved in this Province for a number of reasons that we have all learned from.

Denial of rights is a primary source of massive costs and lost opportunities for Indigenous peoples and all Canadians. It delays the advancement of improved relations between the Crown and Indigenous peoples that would see the alleviation of often-tragic social conditions. Denial inevitably embroils us in modes of discourse and interaction that are limited, incremental, inefficient, transactional, overly process-oriented, and often unsatisfying or even offensive – in short confrontational. This is what happens when the starting point of engagement about rights is a denial of their existence – despite their explicit recognition and affirmation in section 35 of the *Constitution*. A recognition and implementation of rights framework, building upon this Government's endorsement of the *UNDRIP* and the release of the *Principles*, must advance the next stage of reform by embedding the standard of recognition in all legislation and policy. We expect to be

launching new dialogue and concrete action on shifting and entrenching recognition in the upcoming weeks.

Second, a recognition and implementation of rights framework will need to include the implementation of the standards set out in the *UNDRIP* – moving further than simple endorsement and support to actual application of the *UNDRIP* in Canada. Some of this work has already started, but comprehensive mechanisms needed for implementation are now required. A range of measures will have to be used, consistent with Article 38 of UNDRIP which reads, “States in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.”

Third, a recognition and implementation of rights framework will need to contain mechanisms and measures to support nation rebuilding and to facilitate self-determination including self-government by Indigenous peoples, including transition out from under the constraints and impositions of the *Indian Act*. This, of course, is where there lies significant work that must be done directly by you – as Indigenous peoples. Self-determination includes deciding your own political structures, and reconstituting as nations in ways aligned with your histories, traditions, and customs. It also includes reinvigorating your Indigenous laws and decision-making approaches, so that the relationship between Indigenous peoples, and the lands and resources of their territories, can be fully and properly expressed.

I know for a fact that Nation rebuilding is not work that the federal government can do for you. Indeed, the Crown thinking it knew best is what led to the imposition of the colonial structures of the *Indian Act* in the first place – structures that First Nations must now overcome.

Canada has many responsibilities and duties in the transition but for this to happen Indigenous nations need to work internally together. It is only our peoples that can reconstitute and self-determine the path forward. Moving beyond the rhetoric and stated as simply as I can, Canada needs to know who and what is recognized.

On the path to self-determination there will necessarily need to be incremental steps to deal with the dismantling the colonial legacy.

Further, I know well that different Nations are on distinct paths, and in various stages of advancing this work, but for all Nations it requires

asking and answering hard questions such as: Again, how will you choose to organize as proper title and rights holders? What structures and processes of self-government will you build? What mechanisms will you use to express and articulate your Indigenous laws? How will you ensure your citizens are supportive and involved in the work of reconstitution and rebuilding your governments? This is work that I know the Nations in BC are ready for.

Of course, Canada does have a role to play in this work. Canada is not a passive bystander waiting for all Nations to somehow reconstitute in the wake of colonialism or that there is a “one size fits all” “post-colonial door” to walk through. No, when a Nation determines and brings forward its framework, or its proposal if you like, for self-government, it is the role of Canada to help facilitate that transition.

This includes providing support for communities, individually and as part of Nations to rebuild and ensuring the space for the operation of Indigenous jurisdiction and law. Canada must ensure that areas of co-decision-making and law-making are clear, and that there is a fiscal relationship that is designed to properly support the operation of an Indigenous government.

Canada also has a role to play in supporting the institutions that Indigenous peoples have created or may wish to create to support the work of transition to self-government. These are the institutions that support nation rebuilding and that can transcend a particular nation or group and will ultimately enable services to be delivered directly by Indigenous governments under their own laws and authorities. That will enable the removal of federal departments from such a role –

Institutions such as FNEESC, and the Health Authority, FMB, FNTC, FNFA and so on.

Fourth, a recognition and implementation of rights framework must accelerate the shift from patterns of conflict to those of deep and constructive collaboration and co-operation. While the Courts have played a pivotal role over the past many decades in forcing advancement and consideration of Indigenous rights, adversarial court processes are not designed to effect transformation in the relations we all want. They will not build new political, social, and economic arrangements, or remove the legacy of denial from federal laws and policies. Nor can the courts reconstitute Indigenous nations; or rebuild Indigenous governments.

As Attorney General, I will continue to take steps to move cases out of court including, in the next little while, issuing a Directive on Litigation involving Indigenous People. Removing cases from the court.

Finally, moving from conflict to collaboration also requires creating a climate where trust can be built. That is something which, for good reason, has always been in short supply in Indigenous-Crown relations. To build trust, we have to foster a climate of accountability, where actions match words. Being accountable means being transparent. We will have to be clear with everyone on how historic and modern treaties are being implemented. Same for the UNDRIP, as well as actions that support and facilitate self-government.

I hope the new world I have described is as exciting for you as it is for me. The recognition and implementation of rights framework is precisely what the BCAFN has been advocating for a long time. What has changed is that – to borrow a well-known phrase – we have reached the moment where it is at last possible to “just do it”. We all agree it must be done. Let us work together in ways we have never done before. We are partners. There is no other way. I hope that in the upcoming months, through deep mutual support, we finally achieve what we, as Indigenous peoples, have sacrificed and strived for over generations.