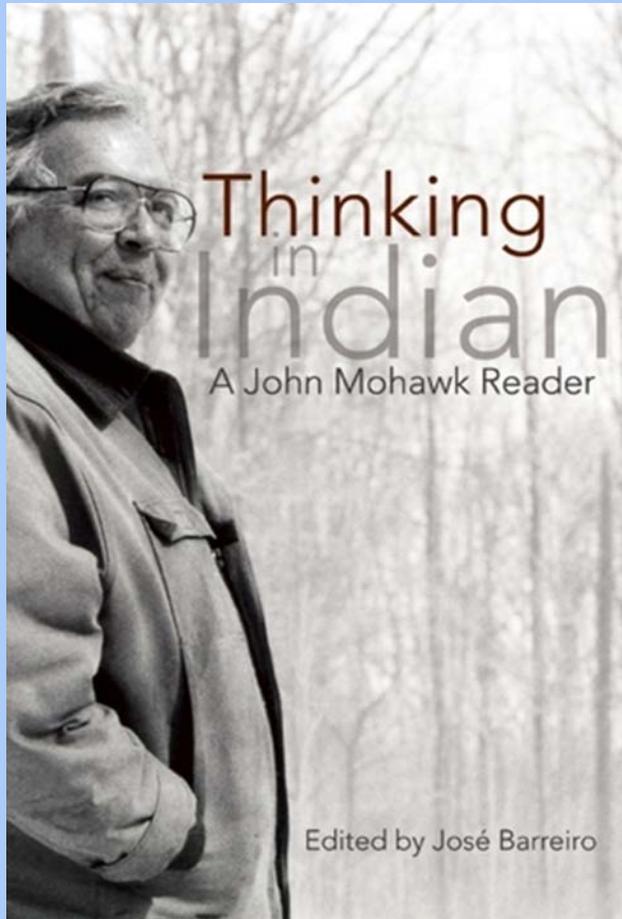




Decolonizing our Minds of the dysfunctional clutter
and propaganda of Empire building

Katsi'tsakwas Ellen Gabriel, Kanien'kehá:ka of
Kanehsatà:ke

COLONIZATION



- Colonization interrupts the pattern of learning to survive and substitutes it to learning to Serve”

IMPACT OF COLONIZATION

- Colonizers knew that in order to subjugate Native peoples that they would have to subjugate the women of these nations – *Paula Gunn-Allen, from “Conquest: Sexual Violence and American Indian Genocide” by Andrea Smith*
- 1874 the Indian Act was legislated to control “Indians”
- The Indian Act stated who could qualify for being a “registered Indian” with the passing of status only through the male line.

DOCTRINE OF DISCOVERY & PAPAL BULLS

- Papal Bulls of the 15th century gave Christian explorers the right to claim lands they "discovered" and lay claim to those lands for their Christian Monarchs.
- Any land that was not inhabited by Christians was available to be "discovered", claimed, and exploited. If the "pagan" inhabitants could be converted, they might be spared. If not, they would be enslaved or killed.



Original in the John Carter Brown Library at Brown University

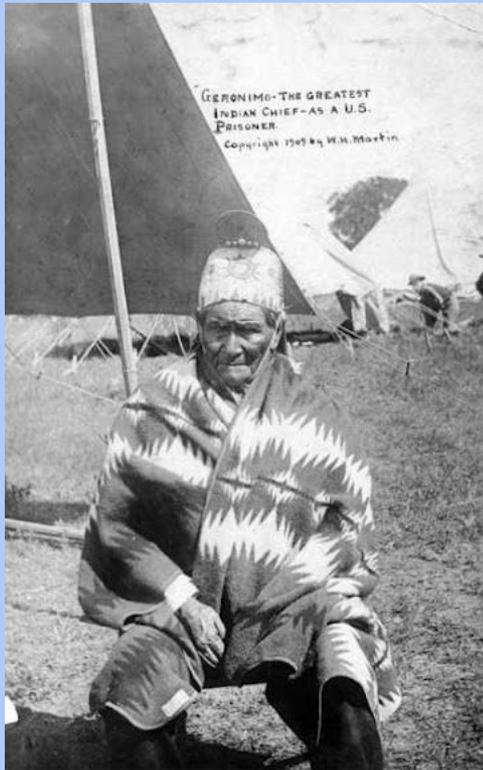
DOCTRINE OF DISCOVERY & TERRA NULLIUS

- a legal fiction whereby lands ‘discovered’ by Christian Explorers on behalf of their Monarchs, and which were “empty” (inhabited by non-Christians) the land was henceforth considered “Empty”.
- As a result of this ‘emptiness’, European powers asserted a unilateral right to simply take territories and to assume their claim of sovereignty over these “empty” lands



THE VIOLENCE OF COLONIZATION

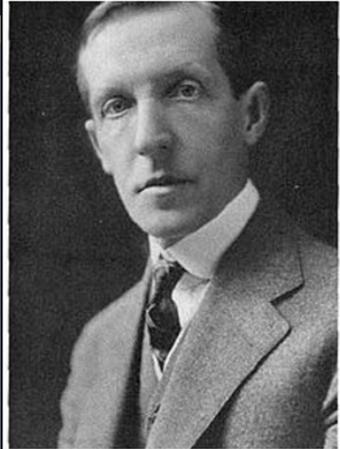
US 1909 W.H. Martin



Bartolomé de las Casas



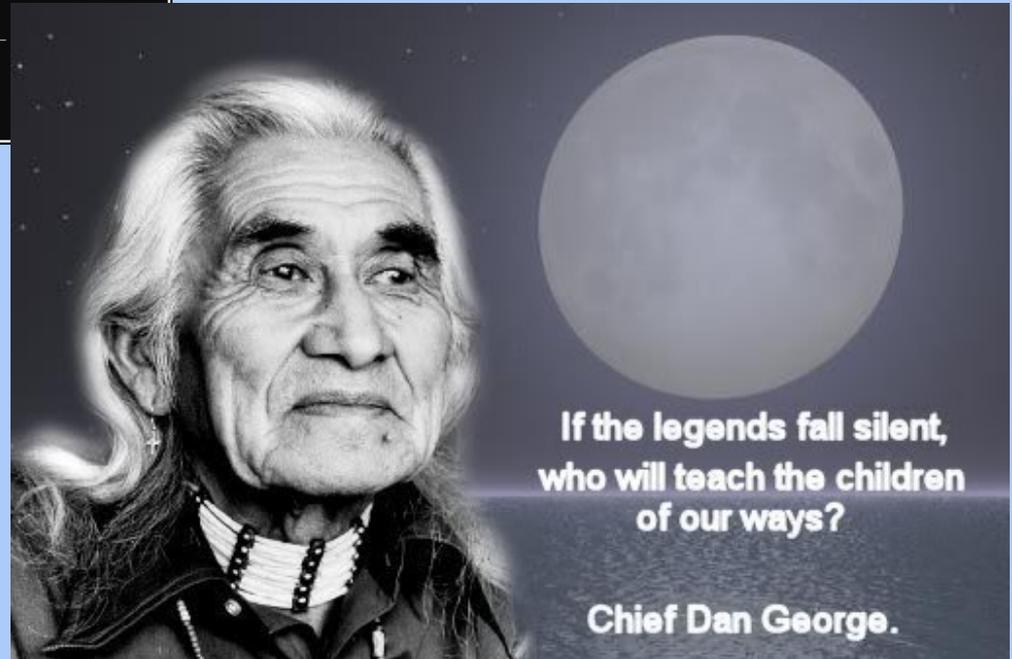
INDIAN RESIDENTIAL SCHOOL SYSTEM = GENOCIDE



I want to get rid of the Indian problem.
[...] Our objective is to continue until
there is not a single Indian in Canada
that has not been absorbed into the
body politic and there is no Indian
Question and no Indian Department.

— *Duncan Campbell Scott* —

AZ QUOTES



If the legends fall silent,
who will teach the children
of our ways?

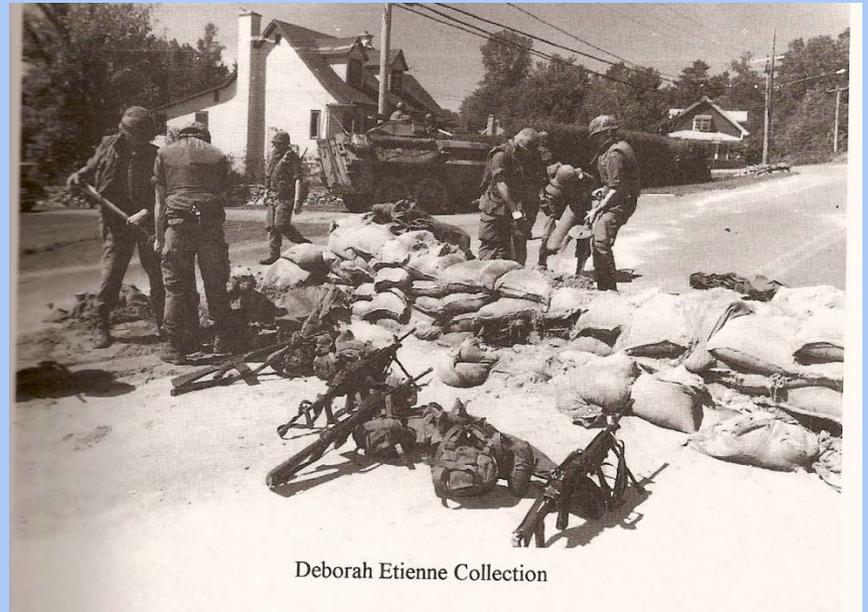
Chief Dan George.

ABORIGINAL PEOPLE: HISTORY OF DISCRIMINATORY LAWS

- “The isolationist policy has predominated but, as some observers have noted, it has had the unintended result of preserving Indian cultures and providing a means for the Indian people to resist assimilative pressures. Accordingly, Indians have fought to retain their reserves, treaty rights and special legal status as a way of maintaining distinct cultural or national identities.”
-
- Prepared by:
- Wendy Moss, Elaine Gardner-O'Toole, Law and Government Division
- November 1987
- Revised November 1991

ABORIGINAL PEOPLE: HISTORY OF DISCRIMINATORY LAWS

- the Indians' refusal to abandon their distinctive cultures, government and identities is a refusal to take up the ways of a more "advanced civilization" and accordingly, a refusal to take up the "responsibilities" of full citizenship
- Prepared by:
Wendy Moss, Elaine Gardner-O'Toole, Law and Government Division
November 1987
Revised November 1991



GOAL OF ASSIMILATION

- The policy of education was to dispossess the “Indians” of their lands (Kennedy Report – the Failure of National Policy: An Historical Analysis, taken from testimony Feb 1968 by Lloyd New page 139 to the Senate Indian Education Subcommittee)
- Land claims requires Aboriginal peoples in Canada to prove occupancy of lands since Time Immemorial!
- The Criteria to enter into “land claims” negotiations is a creation solely of the Federal Government
- the Indians’ refusal to abandon their distinctive cultures, government and identities is a refusal to take up the ways of a more "advanced civilization" and accordingly, a refusal to take up the "responsibilities" of full citizenship
- *Prepared by:
Wendy Moss, Elaine Gardner-O'Toole,
Law and Government Division
November 1987
Revised November 1991*



RIGHT HONOURABLE BEVERLEY MCLACHLIN, SCC CHIEF JUSTICE OF CANADA

- “Aboriginal rights from the beginning have been shaped by international concepts...More recently, emerging international norms have guided governments and courts grappling with Aboriginal issues. Canada, as a respected member of the international community, cannot ignore these new international norms...Whether we like it or not, Aboriginal rights are an international matter”
- *“Aboriginal Rights International Perspectives” Order of Canada Luncheon, Cdn Club Vancouver, BC, February 8, 2002*

WHO ARE THE REAL TERRORISTS?!



STATEMENT OF APOLOGY FOR THE INDIAN RESIDENTIAL SCHOOL SYSTEM 1870 - 1996

- “In the 1870's, the federal government, claims it was in order to meet its obligation to educate aboriginal children,

Two primary objectives of the IRS

- 1) to remove and isolate children from the influence of their homes, families, traditions and cultures, 2) and to assimilate them into the dominant culture.
- Were created to “civilize” Indian people so that they would be a cheap workforce in factories.
 - Many schools were run by the clergy but as well, by “lay people”.



HON. ROSALIE S. ABELLA, “INTERNATIONAL LAW AND HUMAN RIGHTS: THE POWER AND THE PITY”, [2010] 55 MCGILL L.J. 871, AT 881, 883, 886.

- Silence in the face of intolerance means intolerance wins.
- Indifference is injustice’s incubator. ...
- It’s not just what you stand for, it’s what you stand up for ...
- We need more than the rhetoric of justice. We need justice.



RAFAEL LEMKIN: 'GENOCIDE - A MODERN CRIME.'

- "the term does not necessarily signify mass killings... More often it refers to a coordinated plan aimed at destruction of the essential foundations of the life of national groups so that these groups wither and die like plants that have suffered a blight."
- "The end may be accomplished by the forced disintegration of political and social institutions, of the culture of the people, of their language, their national feelings and their religion,"

ONKWAWENNA'SHÓN:'A – OUR LANGAUGE

- Culture and Tradition Cannot Exist without Language
- Language is a Spirit and Cannot Exist without Breathing Life = Speaking it
- It is about Relationships
- ONKWENNA'SHÓN:'A (OUR LANGUAGE) is the foundation of our Relationships
- Develops our ecology of consciousness
- Self-Determination:
- Ahsatá:thawe – To Carry Yourself
- Aontá:thawe – Carry their own Responsibilities – relying on no one
- Rontá:thawe – they carry their responsibility
- NAHONTÁTHAWE – THEY (ALL THE PEOPLE) CARRY THEIR RESPONSIBILITIES

LANGUAGE IS MORE THAN JUST A FORM OF COMMUNICATION

- The United Nations Permanent Forum on Indigenous Issues (UNPFII) has emphasized that the loss of Indigenous languages affects the identity, spirituality, laws and systems of governance, traditional knowledge and biodiversity and that, “This loss is irreplaceable and irreparable”.*1
- *1 UNPFII Fact Sheet on Indigenous Languages, 09/04/2008
- “Languages are treasures of vast traditional knowledge concerning ecological processes and how to protect and use some of the most vulnerable and biologically diverse ecosystems in the world”.*2
- *2 Permanent Forum on Indigenous Issues, Seventh Session, New York, 21 April-2 May 2008 Item 7 provisional agenda UN doc. E/c.19/2008/3

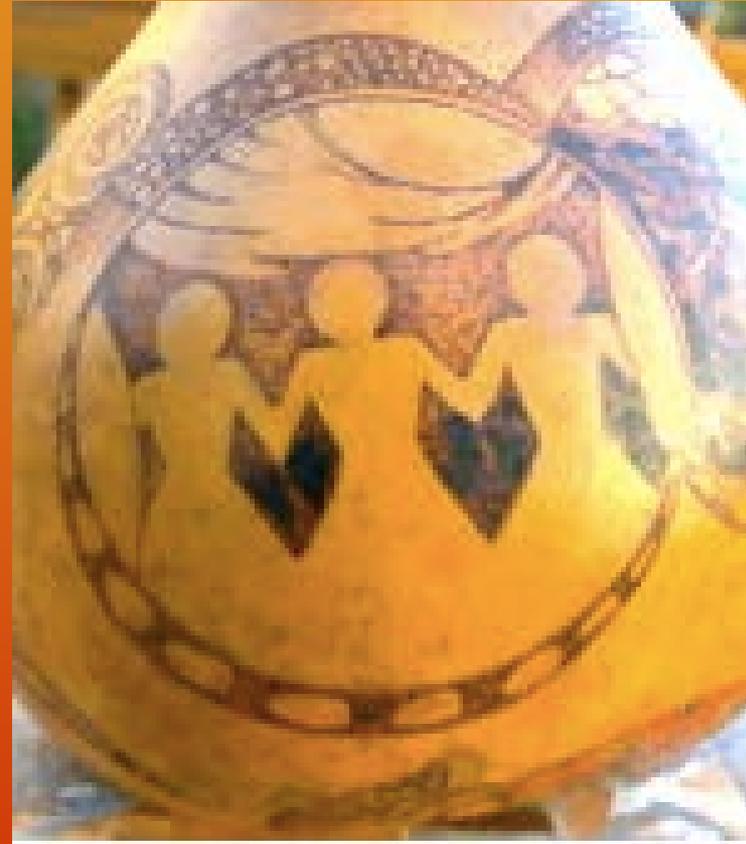
RECONCILIATION

- **noun**
- **1.**
- **an act of reconciling, as when former enemies agree to an amicable truce.**
- **2.**
- **the state of being reconciled, as when someone becomes resigned to something not desired.**
- **3.**
- **the process of making consistent or compatible.**



Free Prior and Informed Consent

- FPIC is a well established human rights principle internationally
- It is an expression of self-determination, a foundational principle of international law
- Supports Indigenous peoples rights to make decisions regarding their lands, their resources,, culture, health, food and development



GENDER EQUALITY

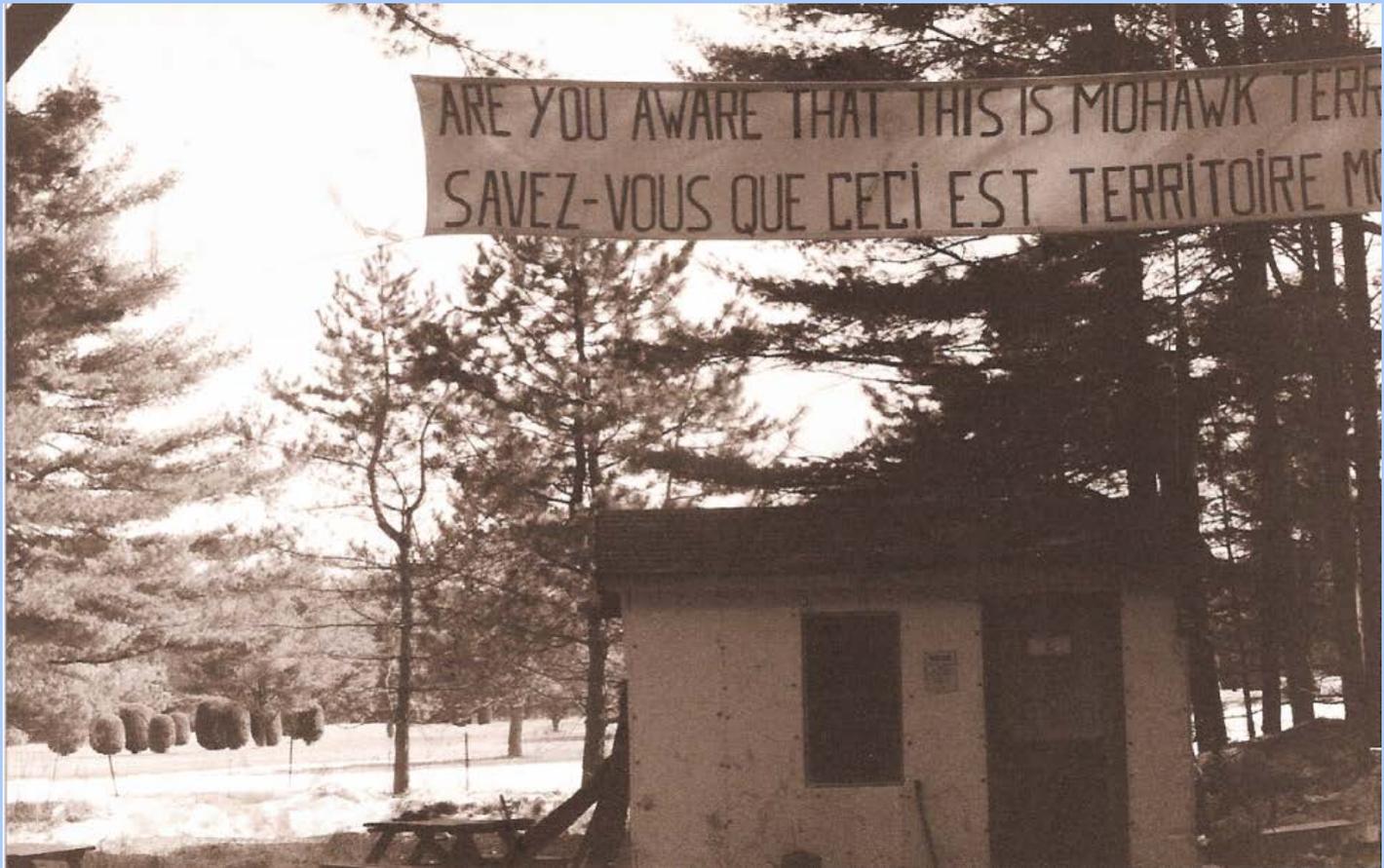
- Mainstreaming involves ensuring that gender perspectives and attention to the goal of gender equality are central to all activities - policy development, research, advocacy/ dialogue, legislation, resource allocation, and planning, implementation and monitoring of programmes and projects



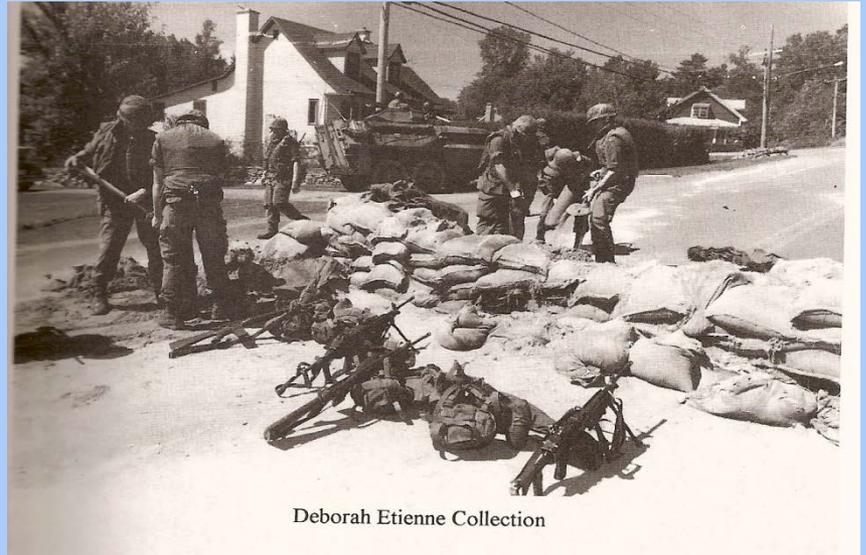
MARCH 1990 BARRICADE ROAD



MARCH 1990:



USE OF FORCE BY CANADA AND QUEBEC



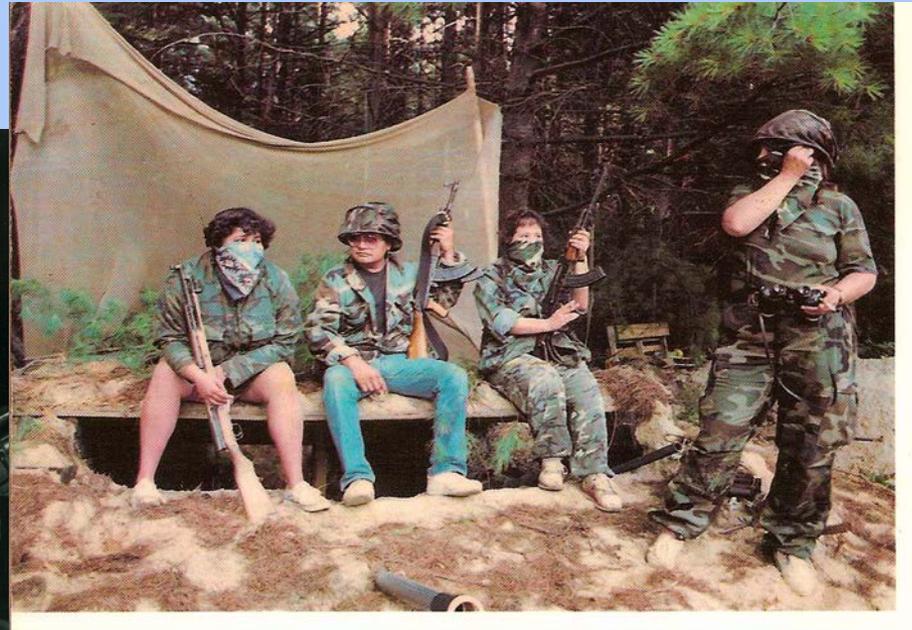
INCONVENIENCED MOTORISTS



- Hatred of Mohawks was encouraged by authorities
- While SQ and RCMP looked on:
 1. Out of control mob in Chateauguay burn effigies of Mohawks nightly
 2. Rock throwers at the Mercier bridge injure an elder who later dies of his injuries
 3. Thousands of human rights abuses against Mohawk peoples and their allies are committed by the authorities

1990 Indigenous peoples do not have access to any human rights tools and no one has been held accountable for the terror inflicted by the authorities: condoned by the federal and provincial governments

1990 KANEHSATÀ:KE SIEGE



- We are not Canadian citizens

A PATERNALISTIC AND ADVERSARIAL RELATIONSHIP

- Chapter 6 Auditor General Report 2009, Sheila Fraser
- Land Management 6.8
 - "Control of moneys. Indian Act amendments in 1880 gave power to the federal government to decide how to spend revenue from the surrender and sale of reserve lands or other resources.
- First Nations must ask to use this revenue, which is held by the government in trust accounts, and specify how they intend to use it in each case."



UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES AND RELATED UN HUMAN RIGHTS LAW

- Covenant on Civil and Political Rights
- Covenant on Economic, Social and Cultural Rights
- Human Rights Committee - CCPR (Lovelace, Lubicon)
- Committee on the Elimination of Racial Discrimination CERD*
- CEDAW
- Committee on Economic, Social and Cultural Rights
- Committee against Torture
- Committee on the Rights of the Child
- Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families
- Committee on the Rights of Persons with Disabilities

- All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.



CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

- Article II
- In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:
 - (a) Killing members of the group;
 - (b) Causing serious bodily or mental harm to members of the group;
 - (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
 - (d) Imposing measures intended to prevent births within the group;
 - (e) Forcibly transferring children of the group to another group.;



REAL AND POTENTIAL USES:

- Interpret Indigenous rights and State obligations in Canada and internationally
- Use Declaration to interpret nature and scope of rights in s. 35 of Constitution Act, 1982
- Fill in the gaps in treaties and other agreements between Indigenous peoples and States
- Transcend the “box” of domestic law
- Implementation of Gender Equitable process of decision making, rights
- Restoration of the roles and authority of Indigenous women



ANDREA BEAR NICHOLAS

- Since language is the foundation of culture, its destruction in individuals on a mass scale inevitably leads to the disruption, even destruction of whole communities and cultures. This process, now clearly caused by subtractive models of education, has even been called a “weapon of mass destruction.”
- *Magga et al 2005:3*
- **EROSION OF LANGUAGES** is not the result of natural processes, but the direct product of official government policies and practices that have been systematic and sustained over decades and generations.
- there is no argument about the effectiveness of residential school policies in the assimilation of First Nations children and the enormous damage done to their languages.

INDIGENOUS PEOPLES COLLECTIVE RIGHTS TO SELF-DETERMINATION

- Maintaining spiritual relationship with lands,
- Restoring institutions negatively impacted by colonization: Right to lands and resources;
- traditional land governance, equal participation | decision making processes;
- right to practice and revitalize art, language, culture, role and authority of women and men, health – traditional medicines, Art & Music: Dances
- Telling society the genocidal history of the America
- Remembering all the children never came home



DECOLONIZATION – RECONCILIATION AND THE UNDRIP

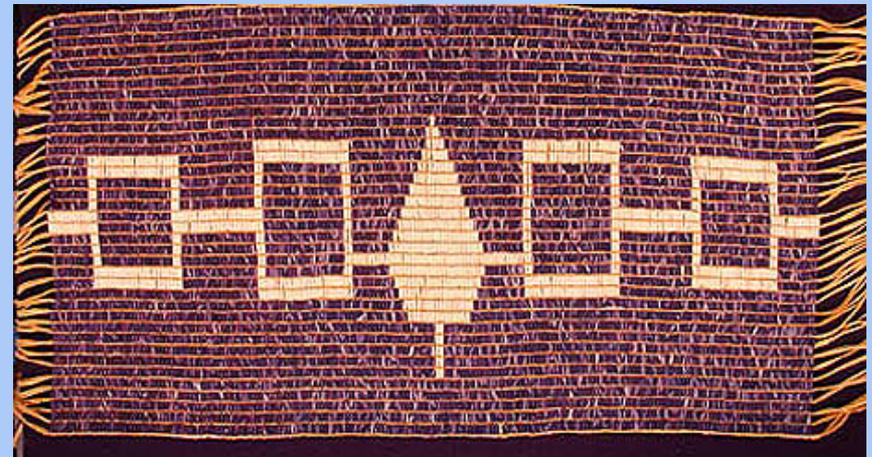
- UN Charter:
 - “We the Peoples of the United Nations determined to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small,
- 
- United Nations on the Rights of Indigenous Peoples is a principled and normative framework for achieving reconciliation:
 - It does not create new rights but responds to the urgency for states to promote and protect the rights of Indigenous peoples who have been negatively impacted by colonization

CEDAW- COMMITTEE FOR THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

- Canada should
- “recruit and train more aboriginal women to provide legal aid to women from their communities,
- including on domestic violence and property rights and review its legal aid system to ensure that aboriginal women who are victims of domestic violence have effective access to justice.”²
- In 1999, a separate treaty was created, the Optional Protocol to CEDAW (OP-CEDAW) which allows
- women from the 104 countries that have now ratified this treaty, to file individual complaints about violations of their rights.
- From Forest Peoples Programme -
- *“A Guide to Indigenous Women’s Rights under the International CEDAW” 2nd Edition June 8, 2012 -by Ellen-Rose Campbell*

NATURE OF HUMAN RIGHTS

- All human rights are:
- Universal and Inalienable
- 2. Indivisible
- 3. Inter-dependent and Inter-related
- 4. Equality and Non-discrimination
- 5. Participation and Inclusion
- 6. Accountability and Rule of Law



INTERNATIONAL HUMAN RIGHTS LAWS GUIDES STATES TO THEIR OBLIGATIONS THEY ARE BOUND TO RESPECT

- **States assume obligations and duties under international law to respect, to protect and to fulfill human rights**
- **Obligations require states to take Positive action to facilitate the enjoyment of basic human rights.**

TRC CALL TO ACTION FINAL REPORT - RECONCILIATION CANADIAN GOVERNMENTS AND THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLE

- 43. We call upon federal, provincial, territorial, and
- municipal governments to fully adopt and implement the United Nations Declaration on the Rights of Indigenous Peoples as the framework for reconciliation.
- 44. We call upon the Government of Canada to develop a national action plan, strategies, and other concrete
- measures to achieve the goals of the United Nations Declaration on the Rights of Indigenous Peoples.

IROQUOIS CUSTOMS: WOMEN ARE THE TITLE HOLDERS TO THE LAND

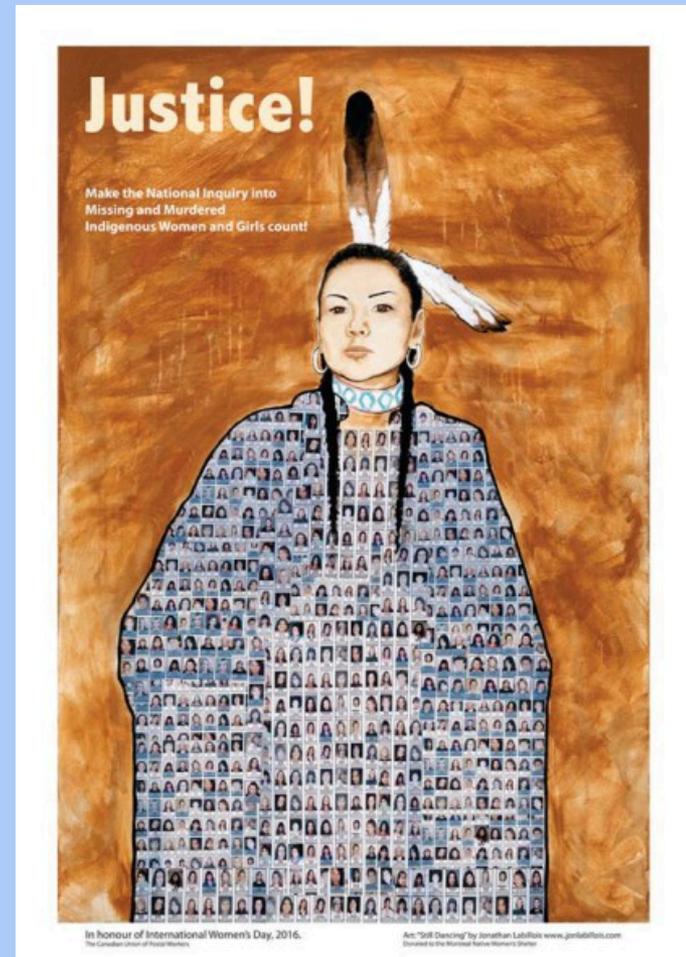


Those without titles are: Human Rights Defenders

- To be a human rights defender, a person can act to address any human
- right (or rights) on behalf of individuals or groups. Human rights defenders
- seek the promotion and protection of civil and political rights as well
- as the promotion, protection and realization of economic, social and cultural
- rights.
- United Nations Human Rights Defenders: Protecting the Right to Defend Human Rights Fact Sheet No. 29
- Many human rights defenders work to secure accountability for respect
- for human rights legal standards
- The Declaration on human rights defenders (see annex I) refers to
- “individuals, groups and associations ... contributing to ... the effective
- elimination of all violations of human rights and fundamental freedoms of peoples and individuals” (fourth preambular paragraph).
- In accordance with this broad categorization, human rights defenders
- can be any person or group of persons working to promote human rights, ranging from intergovernmental organizations based in the
- world’s largest cities to individuals working within their local communities.
- (page 6)

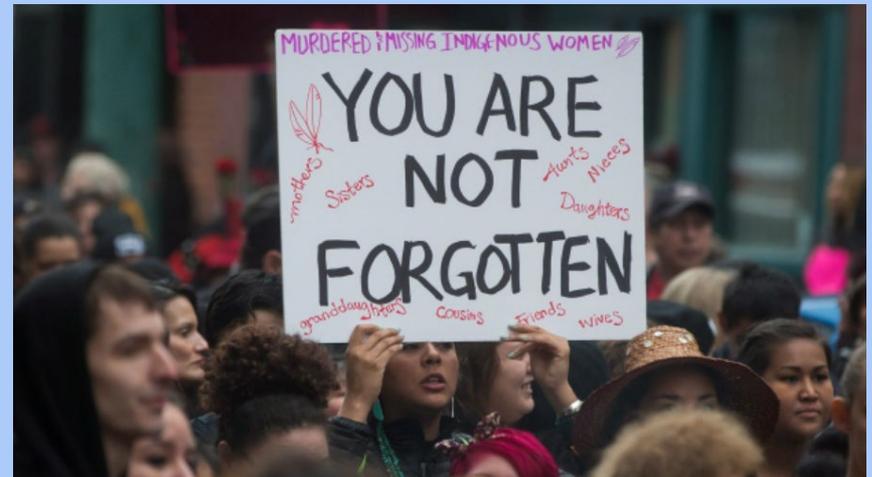
JUSTICE FOR MURDERED AND MISSING INDIGENOUS WOMEN

- **International Women's Day - 2016**
- *Published March 8, 2016*
- **"OTTAWA** – In honor of International Women's Day this year, the Canadian Union of Postal Workers created a beautiful poster to raise awareness of the issue of missing and murdered Indigenous women and girls."



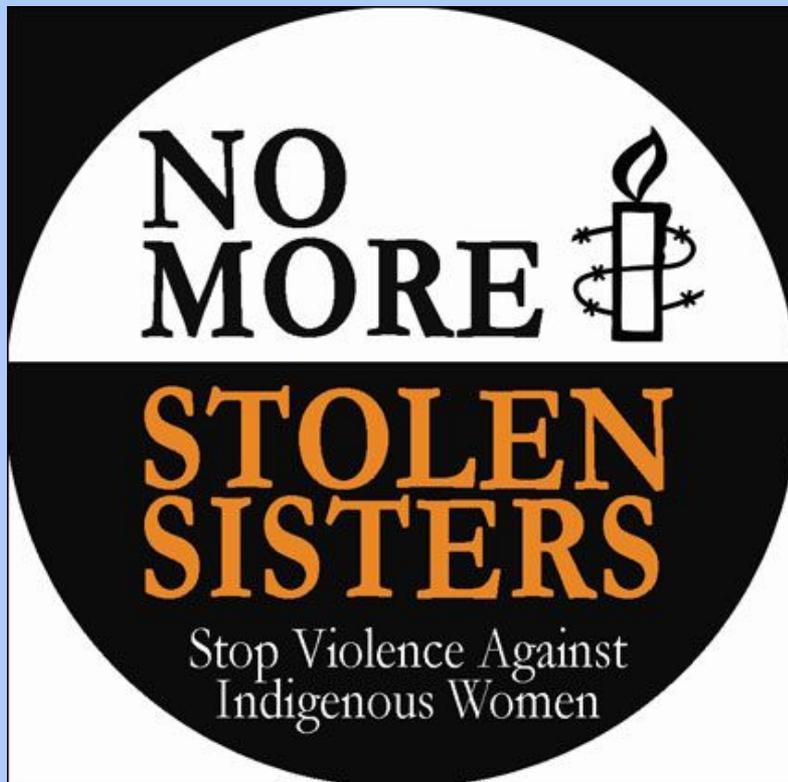
MMIW INQUIRY

- Requires family members to register with INAC commission – Remoter communities do not have the resources to do so
- Recommendations are not legal binding to Canada
- Mandate started Sept 2016
The commission has not yet begun its public hearings (32) and is expected to wrap up its hearings in October or November 2017.



STOLEN SISTERS

Discrimination and violence against Indigenous women in Canada



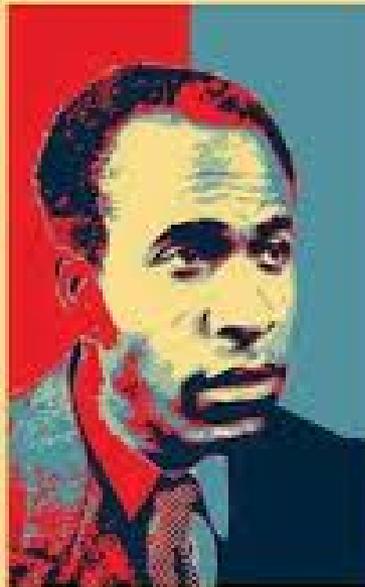
DEVELOPMENT CONTINUES TODAY



FORMER UNSR JAMES ANAYA REPORT “EXTRACTIVE INDUSTRIES AND INDIGENOUS PEOPLES” CONCLUSION PARA. 83

- “Indigenous individuals and peoples have the right to oppose and actively express opposition to extractive projects promoted by the State or third party business interests. Indigenous peoples should be able to oppose or withhold consent to extractive projects free from reprisals or acts of violence, or from undue pressures to accept or enter into consultations about extractive projects.”
- To safeguard IPs’ rights, industries must obtain the Free Prior and Informed Consent of Ips’

FRANTZ FANON



Sometimes people hold a core belief that is very strong. When they are presented with evidence that works against that belief, the new evidence cannot be accepted. It would create a feeling that is extremely uncomfortable, called cognitive dissonance. And because it is so important to protect the core belief, they will rationalize, ignore and even deny anything that doesn't fit in with the core belief.

- Frantz Fanon