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# Response to Canada's 19th and 20th Periodic Reports: Alternative Report

**Contesting Bill S-24 – The Kanesatake Land Management Act of 2004**
Canada's human rights violations in its Comprehensive and Specific Land Claims Policies

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## Executive Summary

The CERD's General Recommendation XXIII.3. *The Committee is conscious of the fact that in many regions of the world indigenous peoples have been, and are still being, discriminated against and deprived of their human rights and fundamental freedoms and in particular that they have lost their land and resources to colonists, commercial companies and State enterprises. Consequently, the preservation of their culture and their historical identity has been and still is jeopardized.*

This submission addresses the issue of Canada's threat to Indigenous peoples human rights and fundamental freedoms through their "*Comprehensive Land Claims and Specific Claims policies"* which are racist in practice and grounded in the archaic 1876 Indian Act. Indigenous peoples in Canada are required to reconcile their legitimate rights to their lands and territories within Canada's assumed sovereignty. It is within these constraints that this shadow report will focus on the Mohawk community of Kanehsatà:ke located in the province of Quebec.

It is important to note that Iroquois customary laws bestows the women of each nation and clan with the stewardship and title to the land and its resources. The Kanehsatà:ke Longhouse is a matrilineal clan society whose traditional governance pre-dates European arrival. The Longhouse people have been consistently under attack and undermined by Canada through the Indian Act and its policies.

In Canada's **CERD** 2007 review**, the Concluding Observations** included a wide range of human rights violations including those relating to the settlement of land rights and natural resources. **CERD urged Canada "to engage, in good faith, in negotiations based on recognition and reconciliation" for Indigenous Peoples' rights.**

**Canada has not engaged in good faith negotiations with the Mohawks of Kanehsatà:ke. On the contrary, Canada has undermined the democratic process of decision making and the customary laws of the Iroquois peoples. The following are points of discrimination whereby Canada has violated the rights of the Mohawks of Kanehsatà:ke**

- A 1991 Plebiscite became the basis for the creation of an elected band council whereby only 40% of eligible population voted including those living "off-reserve"; at that time Canada's Indian Act forbade "Indians" living off-reserve from voting in on-reserve elections or plebiscites. (It was not until the 1994 Supreme Court's Corbiere decision that off-reserve members allowed to vote in band council system).
- **December 19, 1994** Signing of a Memorandum of Understanding between Kanesatake and Canada to create a framework for resuming negotiations in an attempt to settle the grievances of the Mohawks of Kanesatake related to the Seigneury of the Lake of Two Mountains. This included, among other things, the acquisition of land to complete a territorial land base and discuss issues of policing and peacekeeping.

- The Interim Kanesatake 1994 Land Management Agreement leads to Bill S-24 without the free, prior and informed consent of the Mohawks of Kanehsatà:ke
- The Mohawk Councils of Kanesatake on behalf of the Federal Government begins community consultations on Bill S-24.[1] Violations of Canada's legal duty to uphold the "Honour of the Crown" during "consultations" include the withholding of information such as the meaning and legal implications of Bill S-24 by Crown lawyers refusing to answer the legal implications of Fee Simple: irregularities : tree leaves and a personal invoice for services rendered[2] in the ballot box, and the exclusion through refusal to accommodate the traditional processes of the Longhouse people of Kanehsatà:ke.[3]
- in the confidentiality and democratic process as when voting boxes are returned, leaves are found in the ballot box, and the exclusion of the Longhouse people of Kanehsatà:ke.[4]
- Refusal to divulge the meanings of the Bill to community members constitutes "sharp dealing" by Canada ultimately denying all Mohawks access to justice, democracy and the exclusion of the free, prior and informed consent of Bill S-24 by all Kanehsatake Mohawks.[5]
- 2000 secret ballot results in: "… fewer than half of more than 1,000 eligible voters took part in the ratification vote. The final tally of 239 votes in favour and 237 opposed, with ten spoiled ballots, testified to significant division over the Agreement within the Kanesatake Mohawk community."[6] The Longhouse people, a large portion of the population do not vote.
- The Government of Canada proceeded with a voting process knowing that the Longhouse people could not vote.
- Two members of the Longhouse were invited as witnesses to the Senate Committee on Aboriginal Affairs concerning Bill S-24. Both stated their opposition to the Bill.[7]

**We therefore recommend the following**

1. **Canada must acknowledge, respect and recognize traditional Iroquois customary law that bestows women with title to land.**
2. **Hence, Canada must include the Longhouse people in all discussions and negotiations on land and its resources.**
3. **Eliminate Canada's Comprehensive Land Claims and Specific Claims policy and renew treaty relationship with all Indigenous peoples.**
4. **Canada respect, acknowledge and renew all treaties by entering into negotiations with Indigenous peoples traditional governing entities.**
5. **Canada fully endorse the United Nations Declaration on the Rights of Indigenous Peoples removing its reservations that do not comply with the international rule of law and undertake an inclusive process with all Indigenous peoples to implement the Declaration.**
6. **Canada must immediately repeal Bill S-24 and renew negotiations that upholds and respects the UNDRIP, Iroquois customary law and the ICERD**

**Introduction:**

Canada has based its laws and its relationship with Indigenous peoples on two legal fictions: the Doctrines of Discovery and Terra Nullius. By assuming Crown sovereignty on these two legal fictions they have attempted to legitimize their doctrines of superiority through laws and policies under the Indian Act. As a consequence Indigenous peoples have been dispossessed of their lands and territories as Canadian laws relegate Indigenous peoples to wards of the state.

**This has resulted in delegitimizing Indigenous traditional governance along with Canada's expropriation and appropriation of Indigenous traditional lands to third parties.**

Canada bases its sovereignty, its laws and its relationship with Indigenous peoples on two legal fictions: the Doctrines of Discovery and Terra Nullius. To this day Canada continues its colonial policies that violate international rule of law based on these doctrines of superiority through laws and policies under the Indian Act.

**Canada therefore violates the ICERD which in its preamble para 4 has emphasized the fact that the United Nations has "condemned colonialism and all practices of segregation and discrimination associated therewith, in whatever form and wherever they exist, and that the Declaration on the Granting of Independence to Colonial Countries and Peoples of 14 December 1960 (General Assembly resolution 1514 (XV)) has affirmed and solemnly proclaimed the necessity of bringing them to a speedy and unconditional end.**

One of the many impacts of Canadian colonization is the expropriation, appropriation and dispossession of Indigenous peoples of their lands and territories as Canadian laws relegate Indigenous peoples to wards of the state.

**Canada has historically demonstrated racist acts of discrimination against traditional governments of Indigenous peoples. I**n 1924 it created legislation to outlaw traditional governments, namely the Iroquois Confederacy. While Canada may have repealed laws outlawing the Potlach ceremonies, it has yet to repeal those which pertain to Indigenous traditional governments.

**Recommendation 1: Canada must acknowledge, respect and recognize traditional Iroquois customary law that bestows women with title to land.**
**Recommendation 2: Hence, Canada must include the Longhouse people in all discussions and negotiations on land and its resources.**

The Longhouse people in Kanehsatà:ke have historically been forthright in conveying their disapproval of the implementation of the Indian Act and its policies upon their people and traditional lands. International human rights standards support Indigenous

peoples right to a nationality such as the ICERD Article 5. (d) (iii) and the United Nations Declaration on the Rights of Indigenous Peoples, Article 6: which states that: "Every indigenous individual has the right to a nationality."

Indigenous peoples in Canada emphasizes a nation to nation relationship whereby Indigenous nations should not have to prove or "claim" land that they have not ceded nor surrendered. Canada instead implements colonial rule with their Specific Claims and Comprehensive Land Claims policy which forces Indigenous nations to meet an exhaustive array of criteria that includes amongst others, providing proof of "occupation" on traditional land and territories since time immemorial. Until such time that a band enters into a so-called "claims" process, third party interests continue contributing to a complexity of issues and the inclusion of numerous "stakeholders".[8]

**Unfortunately in upholding the rights of Indigenous peoples Canada has not given consideration to the Committee on Economic, Social and Cultural Rights who concluded in their 2006 observations that the "modified rights model and the non-assertion model" did not differ from extinguishment and surrender of title and rights approach[9].**

By ignoring the recommendations of international treaty bodies, Canada ignores the process of sincere reconciliation and creates further hardship on communities who do not have the human or economic resources to negotiate on an equal footing.

Canada's long held position has never been accepted by the Mohawk people and has been contested by the Longhouse people of Kanehsatà:ke numerous times over the course of contact. Within Mohawk customary law title to land is held by women of the nation.

**Recommendation 3: Eliminate Canada's Comprehensive Land Claims and Specific Claims policy and renew treaty relationship with all Indigenous peoples.**

**Canada's persistent refusal to acknowledge and respect the customary laws of the Longhouse people of Kanehsatà:ke is racist and discriminatory**. Instead Canada's insistence upon recognizing only the Band Council as the "legal authorities" of an Indigenous community **has ostracized the role of the Longhouse, in particular the women, in negotiations, relegating them as voiceless and insignificant.** Furthermore, Canada has enhanced divisions through their exclusionary laws that de-legitimizes traditional peoples and is therefore a **violation the freedom, security, dignity and worth of all Longhouse peoples.**

**These racist attacks against the Longhouse peoples** denies the Mohawks of Kanehsatà:ke access to a fair and democratic process to settle long standing historical grievances. Canada has continually encouraged divisions, denied that the Mohawks of Kanehsatà have any legitimate land rights and have consistently denied Kanehsatà:ke a fair and democratic process to settle long standing historical grievances.[10]

> … the **honour of the Crown is always at stake** in its dealing with Indian people. Interpretations of treaties and statutory provisions which have an impact upon treaty or aboriginal rights must be approached in a manner which maintains the integrity of the Crown. It is always assumed that the Crown intends to fulfil its promises. **No appearance of "sharp dealing" will be sanctioned**.
>
> *R.* v. *Badger*, [1996] 1 S.C.R. 771, para. 41

**Recommendation 4: Canada respect, acknowledge and renew all treaties by entering into negotiations with Indigenous peoples traditional governing entities.**

In light of Canada's oppressive colonial laws, its Indian Act, and its Comprehensive and Specific Claims policy, it is important to emphasize that Canada has not shown careful consideration to the 2007 Concluding Observations of the CERD recommendations that the Canada:

- . "…engage, in good faith, in negotiations based on recognition and reconciliation"
- for Indigenous Peoples' rights regarding the settlement of land and natural resources claims.
- . "Support the immediate adoption of the UN Declaration on the Rights of Indigenous Peoples."
- . "…explore ways to hold transnational corporations registered in Canada accountable" for human rights impacts of their activities in and outside Canada.
- . "…allocate sufficient resources to remove the obstacles that prevent the enjoyment of economic, social and cultural rights by Aboriginal peoples"

**Recommendation 5: Canada fully endorse the United Nations Declaration on the Rights of Indigenous Peoples removing its reservations that do not comply with the international rule of law and undertake an inclusive process with all Indigenous peoples to implement the Declaration.**

**Importance of History**

Kanehsatà:ke existed long before Europeans arrived on the shores of the Americas and is an ancient Mohawk community that existed long before Europeans arrived on the shores of the Americas. It is an ancient Mohawk community which in Iroquois oral history, was the first community to accept Kaianera'kó:wa – the Great Law of Peace. For this reason it is mentioned in the condolence rights of chiefs and clan mothers of the Iroquois Confederacy. Kanehsatà:ke's history of resistance spans nearly 400 years and continues to this day.

As part of the Iroquois Confederacy Kanehsatà:ke Mohawks have stated repeatedly that they do not accept imposed citizenship by Canada and therefore do not vote in band councils elections or any other process under it. [11] It is considered by the Longhouse that

entering into the Band Council system is a violation of the Two Row Wampum treaty of peaceful coexistence. [12]

While the Haudenosaunee insist on respecting the treaty the same has not been reciprocated by Canada. This has allowed the **Department of Indian and Northern Affairs to knowingly dispossess the Indigenous peoples** of their lands and territories by imposing its colonial laws in all matters pertaining to Indigenous collective rights. As part of the Iroquois Confederacy Kanehsatà:ke Mohawks have stated repeatedly that they do not accept imposed citizenship by Canada and therefore do not vote in band councils elections or any other process under it. [13] It is considered by the Longhouse that entering into the Band Council system is a violation of the Two Row Wampum treaty of peaceful coexistence.

Colonial powers however, have continuously contested Mohawk oral history with disdain claiming that the Mohawks of Kanehsatà:ke are instead "17th Century immigrants" with no legitimate claim to land in Canada. [14] The government claims that for this reason alone, the Mohawks never possessed the land continuously since time immemorial, and that any Aboriginal title had been extinguished.

**History of Resistance to Land Appropriation – the "1990 Oka Crisis"**

Since the early 1700's when Sulpician priests brought from Montreal, Christian "Indians" to settle in the already existing community of Kanehsatà:ke[15]. For almost 400 years the Mohawks of Kanehsatà:ke have had there inherent rights to their land questioned by colonial governments who contest that the Mohawks were allegedly "17th Century immigrants" who originated in New York state[16]. However, historical records show that Kanehsatà:ke existed before European arrival in the Americas and this fact is supported through its mention in the ancient ceremonial condolence rites of chiefs and clan mothers. [17]

In **1990, the Mohawks of Kanehsatà:ke erected a small barricade** in a pine forest that is considered to be the last parcel of common lands belonging to the Mohawks. The barricade was constructed on a secondary dirt road to stop a proposed development project that would have seen the expansion of the 9 hole Oka Golf Course to an 18 hole course. It was also to be accompanied by a condominium development project which would have appropriated all of the commons.

Kanehsatà:ke has a long history of struggle beginning in the early 1700's to present day. During the summer of 1990, the Quebec Provincial police known as the **Sureté du Québec (SQ)** were called in to remove the barricade which resulted in a violent confrontation lasting 78 days. The sister community of Kahnawake was also involved when it erected a barricade on their community borders in solidarity with Kanehsatà:ke. This resulted in **hundreds of human rights violations committed by the SQ and the Canadian Army** who were called upon by the Canadian Government to dismantle the

Mohawk barricades. To this day not a single authority has been held accountable for the numerous human rights violations during the summer of 1990.

**Current Situation:**

Since that time, the Canadian Government has attempted to resolve the land issue in Kanehsatà:ke but without the respecting the inherent rights of the Mohawk people. As the ICERD has recommended to Canada in its last review of 2007, Canada must "… engage, in good faith, in negotiations based on recognition and reconciliation" for Indigenous Peoples' rights regarding the settlement of land and natural resources claims.

**Bill S-24** does not reflect good faith negotiations nor does it recognize and reconcile the Mohawk Peoples' legitimate rights to their land. Canadian bureaucrats continue to **exclude the Longhouse people** from any negotiations on lands even though it is the traditional government of the Longhouse who have treaty and Aboriginal rights. Canada continues to insist that their self created "land claims" criteria is the foundation for negotiations that does not respect international law such as the ICERD, and the UNDRIP as it forces the extinguishment of title by Indigenous peoples to their lands and resources.

> All human rights are universal, indivisible, interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and freedoms.[18]

**Canada has violated the fundamental freedom of the Mohawk people of Kanehsatà:ke by denying all community members access to a democratic process.**

**Longhouse peoples** belonging to the Iroquois confederacy **do not vote** in band council elections nor in any processes of the Indian Act. In regards to Bill S-24, the government of Canada knowing full well this position of the Longhouse, proceeded to enact this law thereby excluding the rights of the majority of Mohawk people.

**In June of 2001, Canada's Parliament passed Bill S-24 which accomdates the concerns of the neighboring non-Indigenous community of Oka and surrounding municipalities but fails to adequately address the land rights of the Mohawk people of Kanehsatà:ke.**

Bill S-24 was an undemocratic process as it purposefully excluded the voices and rights of the Longhouse people in Kanehsatà:ke as they have historically not voted in any

Indian Act voting processes. This contradicts Canada's legal obligations to the ICERD in respect to:

In order to resolve the land issue in Kanehsatà:ke, a process that respects the rights of all must be in place that respects the traditional customary laws and processes of the Kanien'kehá:ka.

Due to public pressure to "resolve" the land issue in Kanehsatà:ke, the federal government created Bill S-24: The Kanesatake Interim Land Base Governance Act which received Royal Assent in June 2001. This Bill was contested by the Longhouse or Haudenosaunee of Kanehsatà:ke by the secretary of the Longhouse, Walter David Sr. in a letter to the Minister of Indian and Northern Affairs, Andy Scott, before the passage of this Bill to state their opposition. Several witnesses from the Longhouse were invited to appear as witnesses to a Parliamentary committee to give their views. All witnesses stated their opposition to this Bill stating for their reason that it would surrender the peoples' rights to their land.

The land struggle in Kanehsatà:ke continues this day with several new developments in the story in which Canada has imposed the Specific Claims negotiations. Within these negotiation Canada's representatives have strongly encouraged the Mohawk Council of Kanestake to support Niocan Mining Incorporated who propose to mine Niobium that will contaminate the communities aquafer. This in spite of numerous protests against this mining company.

**Conclusion**

The Supreme Court of Canada has stated in many of its decisions regarding the inherent rights of "Aboriginal" peoples that in "its dealings with Aboriginal peoples that the honour of the Crown is always at stake" and that there "shall be no sharp dealings".

**The passing of Bill S-24 in Parliament belies the fact that the Government of Canada did not act honourably nor did they uphold the honour of the Crown[19].** By knowing full well that a segment of the population, namely the Longhouse people in Kanehsatà:ke, would not vote in the ratification process, undermines the legitimacy of the Government's claim that a fair and just process was adhered to. On the contrary, it was a one-sided process which was self-serving and one that ultimately has benefited the Government of Canada and the municipality of Oka, not the Mohawks of Kanehsatake. This is evident in the numerous projects that continue today on Kanehsatà:ke Mohawk Territory without the consent of Mohawks, such as proposed mining projects, condominium developments and many other development projects.

The principals of democracy dictate that all voices, including those considered minorities must be heard and included. It must not undermine the human rights of any collective or individual and must respect the rule of law. The passing of Bill S-24 by the Parliament of

Canada did not respect the principals of democracy, uphold the rule of law or the Honour of the Crown. It continues to undermine the collective land rights of the traditional Longhouse people in Kanehsatà:ke.

See also UN General Assembly, *2005 World Summit Outcome*, UN Doc. A/RES/60/1 (16 September 2005) (adopted without vote), para. 120:

> We reaffirm the solemn commitment of our States to fulfil their obligations to promote universal respect for and the observance and protection of all human rights and fundamental freedoms for all in accordance with the Charter, the Universal Declaration of Human Rights and other instruments relating to human rights and international law. The universal nature of these rights and freedoms is beyond question.

The Rule of Law has been arbitrarily construed by Canada in its interpretation of Indigenous peoples' collective rights. Canada has lacked the political will to respect the inherent rights of Indigenous peoples to their lands and territories. This has more often than naught forced Indigenous peoples into costly litigation or for those communities who could not afford litigation, disposed them of their lands and resources. Economic and energy security threaten the right to justice and restitution of Indigenous peoples in Canada. We would therefore appreciate the aid of the Committee on the Elimination of Racial Discrimination in accessing justice to the collective rights of all Indigenous peoples to their lands and territories.

## End Notes

[1] Bill S-24 First Session, Thirty-seventh Parliament, 49-50 Elizabeth II, 2001 SENATE OF CANADA MAY 15, 2001 http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=2331034&Language=E&Mode=1&File=16

[2] Kanesatake Public Notice. (20 October 2000). Volunteer Witnesses to the Opening and Counting of the Votes on Saturday, October 14, 2000. Sonia Gagnier and Leo Parent.

[3] Peter Hogg, Constitutional Law of Canada, Loose-leaf Edition (Toronto: Carswell, 1997), at 10-2: In Canada, and other Commonwealth countries which recognize the same Queen as the formal head of state, the state (or government) is commonly referred to as "the Crown". This usage dates from earlier times when all powers of government were vested in the monarch, and were exercised by delegation from the monarch.

[4] Peter Hogg, Constitutional Law of Canada, Loose-leaf Edition (Toronto: Carswell, 1997), at 10-2: In Canada, and other Commonwealth countries which recognize the same Queen as the formal head of state, the state (or government) is commonly referred to as "the Crown". This usage dates from earlier times when all powers of government were vested in the monarch, and were exercised by delegation from the monarch.

[5] Supreme Court of Canada decision R. v. Badger, [1996] 1 S.C.R. 771, para. 41 "… the honour of the Crown is always at stake in its dealing with Indian people. Interpretations of treaties and statutory provisions which have an impact upon treaty or aboriginal rights must be approached in a manner which maintains the integrity of the Crown. It is always assumed that the Crown intends to fulfil its promises. No appearance of "sharp dealing" will be sanctioned.

[6] LS-399E BILL S-24: THE KANESATAKE INTERIM LAND BASE GOVERNANCE ACT Prepared by: Mary C. Hurley Law and Government Division 5 April 2001 Revised 8 June 2001

[7] Page 19, Legislative Summary LS-399E, Bill S-24 The Kanesatake Interim Land Base Governance Act, Library of Parliament, April 5, 2001 revised June 8, 2001

[8] Indian and Northern Affairs Canada: "Resolving Aboriginal Claims", 2003, QS-7051-000-EE-A1, Catalogue no. R2-283/2003E, ISBN 0-662-35237-4

[9] UN Economic and Social Council, E/C.12/CAN/CO/5, Committee on Economic, Social and Cultural Rights, 36th Session May 2006 at para 16: "16. The Committee, while noting that the State party has withdrawn, since 1998, the requirement for an express reference to extinguishment of Aboriginal rights and titles either in a comprehensive claim agreement or in the settlement legislation ratifying the agreement, remains concerned that the new approaches, namely the "modified rights model" and the "non-assertion model", do not differ much from the extinguishment and surrender approach. It further regrets not having received detailed information on other approaches based on recognition and coexistence of rights…"

[10] 1990 creation with federal government funding to support an opposition group to the Mohawk Council of Kanesatake called the "The Kanesatake Mohawk Coalition" incorporated 18 December 1990

[11] The Iroquois Confederacy is composed of the Mohawks, Oneida, Onondoga, Cayuga and Seneca. It is also known as the Six Nations Iroquois Confederacy when it includes the Tuscarora who have been under its laws and protection but have not had a ceremony conducted to officially welcome it into the Confederacy

[12] Kaswén:tha – Two Row Wampum Treaty was originally signed between the Dutch and Iroquois Confederacy in 1613 And was to be extended to Britain upon success of their wars with France. The essence of the treaty is not to interfere with the laws, customs, culture or governance of each other. It is a treaty that the Iroquois Confederacy insists Canada is legally obliged to uphold.

[13] The Iroquois Confederacy is composed of the Mohawks, Oneida, Onondoga, Cayuga and Seneca. It is also known as the Six Nations Iroquois Confederacy when it includes the Tuscarora who have been under its laws and protection but have not had a ceremony conducted to officially welcome it into the Confederacy

[14] Public statement by Tom Siddon, Minister of Indian and Northern Affairs 1990

[15] 1717 grant of the Seigneurie du Lac des Deux-Montagnes (the Seigneury) to the Sulpician Order by the French Crown

[16] **LS-399E** BILL S-24: THE KANESATAKE INTERIM LAND BASE GOVERNANCE ACT Prepared by: Mary C. Hurley Law and Government Division 5 April 2001 Revised 8 June 2001 "B. 1945 to 1990: Federal Involvement Without Resolution" In 1975, the Mohawks of Kanesatake, Kahnawake and Akwesasne presented a joint comprehensive land claim,(11) asserting Aboriginal title to lands that included the Seigneury. The claim was rejected on the bases that the Mohawks had not possessed the land continuously since time immemorial, and that any Aboriginal title had been extinguished. In 1977, the Mohawks of Kanesatake filed a specific land claim;(12) it, too, was rejected in 1986 as not meeting specific claim criteria.

[17] At the Woods Edge, Arlette Van den Hende & Brenda Gabriel, copy right: the Kanesatake Education Center 1995

[18] United Nations World Conference on Human Rights, *Vienna Declaration and Programme of Action*, adopted June 25, 1993, U.N. Doc. A/CONF.157/24 (Part I) at 20 (1993), (1993) 32 I.L.M. 1661, para. 5:

[19] Numerous Supreme Court of Canada has instructed the Government of Canada that in its dealings with Aboriginal peoples, "the honour of the Crown is always at stake" and that there shall be no tricks or appearance of sharp dealings in matters regarding the inherent rights of Aboriginal peoples - Haida, Mikisew Cree, Taku River decisions

# I. Department of Indian and Northern Affairs web site http://www.aadnc-aandc.gc.ca/eng/1100100016305

## Fact Sheet - Progress Report - Kanesatake

Since 1990, progress has been achieved at Kanesatake in order to address the historical grievances of the Mohawks of Kanesatake and bring greater certainty in the Kanesatake/Oka area and the surrounding municipalities.

**March 6, 1991** Agreement concluded on the Agenda and Process Negotiations between Kanesatake and Canada that set out the framework and issues for negotiations to resolve land-related grievances.

**Between 1991 and 2007** Purchase of 179 properties by Canada to be integrated as part of the interim land base including lands in the area known as "The Pines" for the extension of the Mohawk cemetery at the heart of the Oka crisis. The purchase of these properties was one of the subject matters identified in the Agenda and Process Negotiations to respond to the uniqueness of the community's checkerboard land base, with a view to creating a unified land base.

**December 19, 1994** Signing of a Memorandum of Understanding between Kanesatake and Canada to create a framework for resuming negotiations in an attempt to settle the grievances of the Mohawks of Kanesatake related to the Seigneury of the Lake of Two Mountains. This included, among other things, the acquisition of

land to complete a territorial land base and discuss issues of policing and peacekeeping.

**April 1996** Resumption of formal negotiations between Canada and the Mohawks of Kanesatake. Negotiations continued up to April 2008. The negotiations were temporarily placed in abeyance due to a governance dispute in Kanesatake.

**December 19, 1996** An Interim Tripartite Policing Agreement concluded between the Mohawk Council of Kanesatake, the Government of Québec and the Government of Canada. It established the authority of the Kanesatake Mohawk police force to maintain peace, order and public security within a patrol zone agreed to by the parties. The agreement provided Kanesatake with professional and culturally sensitive policing services. The Agreement was extended for one year in 1997.

**November 1, 1997** Inauguration of the Kanesatake Mohawk police station.

**June 30, 1999** Property Management Agreement between Canada, the Kanesatake Orihwáshon:a Development Corporation and the Mohawk Council of Kanesatake led to the establishment of the Corporation. It was responsible for the management of all properties purchased by Canada for the use and benefit of the Corporation and the Mohawk Council of Kanesatake. This Agreement was amended in 2001 at the request of the Mohawk Council of Kanesatake to permit the development of a transparent and open

**June 21, 2000** Initialing of the Land Governance Agreement. The Land Governance Agreement recognized an interim land base for Kanesatake as well as their legal status under section 91(24) of the *Constitution Act, 1867*. The Agreement called for the harmonization of certain Kanesatake laws and Municipality of Oka by-laws, and brought legal certainty over the status of those lands.

**December 21, 2000** Signing of the Land Governance Agreement.

**October 14, 2001** Ratification of the Land Governance Agreement by the band membership.

**June 14, 2001** Royal Assent of The *Kanesatake Interim Land Base Governance Act*, which gave effect to the Land Governance Agreement.

**November 2006** Mohawk Council of Kanesatake tabled their legal arguments in support of their claim to the Seigneury of the Lake of Two Mountains claim.

**January 15, 2007** Acquisition of an additional 34.7 hectare property that was set aside for the use and benefit of Kanesatake and added to the interim land base, as per the 1991 agreement concluded on the Agenda and Process Negotiations.

**March 2007** The Municipality of Oka and the Mohawk Council of Kanesatake concluded an Agreement-in-Principle for the harmonization of laws and by-laws for the Mohawk and non-Mohawk lands in the Village of Oka. The parties have not yet signed the agreement.

**April 14, 2008** The Government of Canada accepted Kanesatake's Specific Claim to part of the Seigneury of the Lake of Two Mountains.

**January 15, 2009** Appointment of a Chief Federal Representative in order to conduct exploratory discussions on the current grievances of the Mohawks of Kanesatake regarding the Seigneury and their willingness to negotiate the claim under the Specific Claims policy.

**August 14, 2009** Appointment by Canada of a Chief Federal Representative to outline scope of acceptance and parameters of the Seigneury specific claim.

**May 1, 2010** Appointment of a Chief Federal Representative to work with the Mohawk Council of Kanesatake and departmental representatives to identify the unresolved issues of the 1991 agreement on the Agenda and Process Negotiations and the 1994 Memorandum of Understanding.

**July 9, 2010** Appointment of Fred Caron as Chief Federal Negotiator for negotiations on the Mohawks of Kanesatake's Seigneury of Lake of Two Mountains specific claim.