

GUEST COLUMN

Prime Minister Martin's bad faith policies towards Lubicon

■ *The Prime Minister's treatment of the Lubicon reveals his government's true policies towards aboriginal peoples: endless negotiations crafted to produce failure, subversion of constitutional rights and plunder of aboriginal lands, say the Lubicon Indian Nation's trustee.*

By RON KAPLANSKY

On June 1, Prime Minister Paul Martin made "commitments" to five aboriginal organizations when he signed "accords ... to enhance the involvement of aboriginal peoples in the development of federal policies that affect them."

If the Lubicon Lake Indian Nation's experience is an indication, the aboriginal leaders who joined Martin for his political photo-op after the accord signing will soon discover that a Martin commitment to aboriginal peoples is hollow. Prime Minister Martin's treatment of the Lubicon has been no different from that of prime ministers Jean Chrétien or Brian Mulroney, and reveals his government's bad faith policies toward aboriginal peoples: endless negotiations crafted to produce failure, subversion of constitutional rights, plunder of aboriginal lands, and avoidance of fiduciary and social obligations.

The Lubicon, whose traditional lands are in the Peace River area of Alberta, are a desperately-impooverished band of about 500. They have been trying to negotiate a land agreement with the federal and Alberta governments for more than 60 years. Lubicon land became politically and economically important in the 1970s when the first all-weather road opened it to forestry and petroleum exploitation. The timber cutting and oil and gas wells drove off and poisoned the wildlife that the Lubicon depended upon for their livelihood. Since then, the federal government's dealings with the Lubicon have been based on malfeasance, deceit, hypocrisy, and bad faith. As a consequence, the once self-sufficient Lubicon are now wracked by despair, poverty, and disease. Their only hope for survival as a people is a just land agreement.

As he did to the aboriginal groups on June 1, Martin made commitments to the Lubicon. He said he was "committed" to concluding a just land agreement with them. The Prime Minister even claimed the agreement was a "priority." Commitment? Priority? Since Martin became Prime Minister in 2003, his government has had no negotiating meetings with the Lubicon.

Federal negotiators say they need a mandate before they can discuss outstanding issues. For more than 30 years, the government has been using these kinds of delaying tactics. The endless, bad faith negotiations go on and on, a settlement is never concluded, and the Lubicon continue to suffer under appalling living conditions, with no end in sight.

The United Nations High Commission on Human Rights and Amnesty International have censured the government's treatment of the Lubicon. In its 2005 report on human rights abuses Amnesty International said, "There were no further negotiations regarding the long outstanding land claim of the Lubicon Cree in northern Alberta. The failure to reach a just resolution continued to contribute to violations of the rights of the Lubicon."

Government officials become indignant when they are accused of acting in bad faith. Lubicon Chief Bernard Ominayak raised the matter in October 2004.

Indian Affairs Minister Andy Scott responded, "Your letters make allegations that I find most troubling, implying that Canada is negotiating in bad faith in respect



Photograph by Jake Wright, The Hill Times

Under pressure: Prime Minister Paul Martin, who met reporters on the Hill on Wednesday, is being accused of hollow commitments by the Lubicon Lake Indian Nation.

to your discussions on self-government. ... Canada has always negotiated, and will continue to negotiate, in good faith."

Really? Two recently-leaked secret documents, prepared in 1996 as guidelines for federal negotiators and that remain policy today, according to a senior negotiator at Indian and Northern Affairs Canada, prove otherwise. The documents, "Language for Recognizing the Inherent Right of Self-Government in Agreements and Treaties" and "How to Deal with Requests for Recognition as Distinct People(s)," give federal negotiators the chicanery necessary to draft agreements intended to deprive aboriginal peoples of their constitutional rights.

The guidelines prove that bad faith is the de facto policy of the federal government toward aboriginal peoples. The policy is to enhance the government's position, reduce its obligations to aboriginal peoples, and facilitate the resource and economic exploitation of aboriginal lands regardless of the harm caused and lives lost. Making lofty commitments is just a standard tactic used to manage aboriginal "stakeholders."

The negotiation strategies in the documents were used against the Lubicon by a former federal negotiator. During one session, the negotiator told the Lubicon that he and his negotiating team had crafted special language about self-government for the Lubicon's agreement, but that it would need approval from his superiors. The language was taken verbatim from the guidelines. The negotiator also told the Lubicon that self-government language in the preamble of an agreement would have the same force and effect as if it was in the agreement's body. The negotiator knew this was legally false. Both of these bad faith ploys were spelled out in the secret documents.

Perhaps Prime Minister Martin, unlike his predecessors, is committed to changing the federal government's bad faith policies towards the Lubicon and other aboriginal peoples. Unfortunately, despite his many, many lofty commitments, nothing the Prime Minister has actually done offers much hope.

However, if the Prime Minister wishes to demonstrate that he's not misleading us, then a good way to prove it would be to repudiate the 1996 negotiating guidelines, and honour his commitment to the Lubicon. If the Prime Minister resumed negotiations with the Lubicon and acted in good faith, a

just land agreement could be concluded in as little as three months. The Lubicon could then lift themselves out of poverty, and provide a hopeful future for their children, something the federal government has denied them for more than three decades.

That is a commitment worth honouring, a commitment worthy of a Prime Minister.

Ron Kaplansky is the trustee of the Lubicon Legal Defence Fund.

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