

**The
Lubicon Lake Indian Nation:
Land Rights Struggles
in
Northern Alberta, Canada**



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Brief Chronology of the Conflict

1899 – The Canadian Government negotiated Treaty 8 with several Indigenous groups resident in Northern Alberta. The Lubicon Nation was overlooked in the signing of this treaty because of their remote location, so they “...never entered into a treaty relationship with the State.” (Amnesty International, May 27, 2006) As a result, they “...never surrendered their rights to their traditional lands” (Amnesty International Canada, August 31, 2006).

1939–1940 – The Canadian Government promised the Lubicon Nation a reserve, and some land was set aside “...approved by both levels of Canadian government pending formal survey. A membership list [of Lubicon people] was drawn up and left open to permit the addition of members out hunting and trapping” (Land Rights Negotiations 2006).

1942–1973 - There were attempts to talk some members of the Lubicon Nation into moving from their traditional lands beginning in 1952, as well as attempts to deny the validity of the Lubicon Nation. The increasing interest in resources on Lubicon traditional land prompted the Provincial Government to build a road into Lubicon territory as part of a plan “to open up northern Alberta for resource exploitation” (Land Rights Negotiations 2006). In 1973, the existence of the Lubicon Nation “as a separate and distinct aboriginal society was reaffirmed by Order-In-Council” (Land Rights Negotiations 2006).

1975–1977 – The federal government refused to negotiate with the Lubicon Nation, since officially they claimed that they were “merely squatters on Provincial Crown land with no rights to negotiate, not even the rights to their own homes” (Land Rights Negotiations 2006). It was at this point that the Lubicons were advised to file a claim with the Alberta Land Registration Office. The Provincial Government refused to accept this claim, so the Lubicons pursued the matter through the court system, to no avail.

1978–1983 - The Provincial Government completed the road, after which several oil companies were given access to the area. “Between 1979 and 1983, over 400 oil wells were drilled within a 15 mile radius of [the] community” (Land Rights Negotiations 2006).

1984 – A complaint was filed by the Lubicon Nation “...with the UN Human Rights Committee charging Canada with denial of basic subsistence as a people under Article 1 of the International Covenant on Civil and Political Rights” (Lubicon Lake Indian Band May 1, 2006).

1985 – The Fulton Inquiry was commissioned by the Federal Government to study the situation of outstanding aboriginal land rights. This study confirmed

the claims that were being made by the Lubicon Nation. When the report was made public, the Provincial Government refused to deal with Fulton, and the Federal Department of Indian Affairs "scrapped the inquiry and suppressed his report" (Land Rights Negotiations 2006).

1986 – The Federal Government recognized only half of the Lubicon Nation as viable members. "The Lubicons announced a boycott of the 1988 [Calgary] Winter Olympics...In support, ...30 museums world-wide refused to lend artifacts to the game's main cultural event – an Indian art exhibit..." (Land Rights Negotiations 2006).

1987 – "The United Nations Human Rights Committee agreed to hear the Lubicon complaint concluding that "there are no effective [domestic] remedies still available to the Lubicon Band"." (Lubicon Lake Indian Nation May 1, 2006).

1988 – The Province sold timber rights in Lubicon traditional territory to forestry multinational and pulp mill giant Daishowa (Land Rights Negotiations 2006). The Lubicons decreed that they had sole "jurisdiction over their traditional lands"...to enforce "sovereignty which they'd never relinquished...Passport control points" were established at all main points of entry into Lubicon land (Land Rights Negotiations 2006). 27 people were arrested, causing an international outcry. An agreement was reached that provided "for the Provincial Government to transfer 95 square miles of land to the Federal Government for use by the Lubicon" (Land Rights Negotiations 2006) - this agreement was called the Grimshaw Accord.

1989-1991 – The Federal Government establishes a band called the Woodland Cree (to be located elsewhere), and then pays members of the Lubicon Nation to join this new "band".

1989-1990 – Negotiations collapsed between the Lubicons and the Federal Government, but continued with the Province. "The Human Rights Committee [of the United Nations] concluded that logging and oil and gas development taking place in the hunting and trapping territory of the Lubicon Cree without the community's consent constituted a violation of the Lubicon's right to maintain and practice their culture in accordance with Article 27 of the ICCPR." (Amnesty International, March 27, 2006)

1992 – An independent commission of concerned citizens is formed to explore the "merits of Government and Lubicon settlement proposals and to recommend ways to move negotiations forward" (Land Rights Negotiations 2006).

1993- The independent citizens' report is released, and states the "governments have not acted in good faith" in negotiating with the Lubicon while "Lubicons have acted in good faith in negotiations" (Land Rights Negotiations 2006).

1995 – The Province of Alberta reneged on the Grimshaw Accord, while negotiations with the Federal Government began again in July (Land Rights Negotiations 2006).

1996 – The Royal Commission of Aboriginal Peoples declares that “Canada must now work out fair and lasting terms of coexistence with Aboriginal people...Canada’s claim to be a fair and enlightened society depends on it (Amnesty International Canada 2006).

1999 – The Province of Alberta announced that it was going to accept tenders for logging within a portion of the Lubicon traditional territory.

2003 – Negotiations broke down between the Lubicon and the Federal Government over the issue of self-government.

2005 – “...the Human Rights Committee [of the United Nations] renewed its call for Canada to make every effort to resume negotiations “with a view to finding a solution which respects the rights of the Band.”” (Amnesty International, March 27, 2006)

2006 – “On May 23, the UN Committee on Economic, Social and Cultural Rights “strongly recommended...that Canada hold land-rights talks with the Lubicon prior to the granting of licenses for economic development on traditional Lubicon lands. Instead, Alberta auctioned off 50,000 hectares of that land for oil sand development on June 14, 2006.” (McGrory, June 20, 2006)

Parties to the Conflict

Primary Parties - The main parties include the Lubicon Nation, the Government of Canada, and the Government of the Province of Alberta

Secondary Parties – Daishowa Paper Products, numerous oil and gas companies, many of which are multinational companies

Interested Third Parties – Amnesty International, the United Nations, Friends of the Lubicon, Royal Commission on Aboriginal Peoples

Issues

Fact-based

- The Lubicon Nation would like a reserve in their traditional territory, similar to the terms granted to other Indigenous groups in the area.
- The Lubicon Nation wants to be self-governed – as has been granted to other Indigenous groups in Canada.
- Federal and Provincial Governments want to exploit the resources on traditional Lubicon territory, and have done so. Oil companies amassed revenues of \$500 million per year from exploration on Lubicon traditional territory, with none of the profit going back to the community (Goddard 1992).
- 90% of the Lubicon people have been forced onto subsistence welfare; serious health problems have arisen from the chemicals being released from the Daishowa pulp mills and oil and gas exploration and production; tuberculosis is rampant; in an 18-month period, there were 19 stillbirths out of a total of 21 pregnancies; asthma is prevalent; young people are suffering from severe skin rashes, some of which cause permanent scarring (Lubicon Lake Indian Nation May 1, 2006).

Value-based

- The resource exploitation that has taken place on and near Lubicon traditional territory has devastated the community's traditional way of life – fishing and trapping - due to the massive clear-cutting of the surrounding forests; the rivers and lakes are poisoned from the run-off from the pulp mills as well as from oil exploration.
- The lack of a traditional economic base has resulted in problems with alcoholism within the community – which was unheard of prior to the late 70's.

Interest-based

- Daishowa and the oil and gas companies active on Lubicon land have an interest in profiting from their investment without the uncertainty of submitting to Lubicon control and unknown Lubicon royalty requirements. In light of current oil prices, there is much money to be made by both the Province and these companies, and any transfer of control may lead to uncertainty and loss of revenue. The economic clout of the Province of Alberta – one of the wealthiest provinces in Canada - has impacted the way in which the Lubicon land claim has been dealt with.
- If the Lubicons obtain treaty rights, this would give them some control over the companies who are currently exploiting them, and would assure a large revenue stream from resource extraction for the community.

Need-based

- The Lubicons desperately need to have a stable economic base. They have always been a self-sufficient people, relying on hunting and fishing and foraging to supply their basic needs. Without that base, the community has been economically devastated.
- The exploiting businesses and Provincial government do not want to share the revenue streams and feel that they need to maintain tight control of the resources on Lubicon territory.

Importance of Issues for Each Party

- For the Lubicons the issue of withering under the structural violence imposed by the Governments denying them their rights and resources is paramount.
- It is important for businesses operating on Lubicon land that they see the same rate of return on their investment, if the land in fact comes under Lubicon jurisdiction in the future.
- The importance to both levels of Government is to satisfy their business interests, because the revenue stream they would lose is not insignificant.

Positions of Parties Regarding the Issues

- The Lubicons feel that they have been denied a treaty because of the resources coveted by business, and that they are being marginalized and exploited.
- The businesses operating on Lubicon lands as well as the Province want resource extraction to remain under Provincial control.
- The Federal government is not responding to inquiries about the status of negotiations.
- The interested third parties feel that this is an important example of structural violence that needs to be resolved.

Issues which emerged during the conflict

- The most obvious issues that have emerged are those stated above, ie: the detrimental consequences of resource exploitation and the refusal of governments to alter the status quo.



Oil Facility on Lubicon Territory

Stages of the Conflict

This conflict has existed for 60 years and has escalated since the 1970's, when oil exploration began in earnest on Lubicon lands. The Winter Olympics in Calgary, Alberta, saw the issues thrust into the international spotlight, with condemnation of the Canadian Federal and Alberta Provincial Governments from all around the world.

Conflict Settlement & Resolution Attempts

There have been several attempts over the years at resolving this conflict, seen as "one of the longest unresolved human rights issues in Alberta" (McKay-Panos 2006). However, both levels of government have not acted in good faith as can be seen from the brief chronology outlined above.

There have been several attempts by the United Nations Human Rights Committee (UNHCR), at the request of the Lubicons, to resolve this conflict. In 1987, the UN "instructed Canada to take...measures of protection to avoid irreparable damage to...members of the Lubicon Lake Band" (Lubicon Lake Indian Nation May 1, 2006).

The UN also ruled in 1990 that "... recent developments threaten the way of life and culture of the Lubicon Lake Band, and constitute a violation of article 27 so long as they continue" (Lubicon Lake Indian Nation May 1, 2006). The reality is that nothing has changed.

In October 2005, the Lubicon made another submission the UNHCR "pointing out that 15 years had passed and Canada had still failed to comply with Committee findings or to rectify the situation" (Lubicon Lake Indian Nation May 1, 2006). The 85th Session of the UNHCR stated, "The Committee is concerned that land claim negotiations between the Government of Canada and the Lubicon Lake Band are currently at an impasse (Lubicon Lake Indian Nation May 1, 2006).

Most recently, the UNHCR chided Canada In May 2006 and "strongly recommended that Canada hold land rights talks with the Lubicon prior to the granting of licenses for economic development on traditional Lubicon lands. Instead, Alberta auctioned off 50,000 hectares of that land for oil sands development on June 14, [2006]. (McGrory, 2006).

Attitudes of the Parties towards Intermediaries

- The Lubicons hope that international pressure from the United Nations and other interested groups, both in Canada and in Europe, will force the Canadian government to negotiate in good faith.
- The Federal Government gives lip service to the UN resolutions, but the Province refuses to recognize any intermediaries.

Potential Constructive Solutions

- To have an insured future the Lubicon people require an income source that will raise them above the marginal subsistence provided by welfare. Control of their resources would effectively give them control over their future.
- By granting Treaty rights to the Lubicon, they would be given the ability to levy royalties on resource extraction activities and control logging and other environmentally intrusive activities.

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