

Buffalo River Dene Nation of Canada

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One Last Move Before Genocide : Buffalo River Dene Nation Take Action Against the Canadian Government

"All our efforts at a peaceful solution have been denied and brushed aside by the government of Canada. Our long struggle has always been about the very survival of our land and our people", said Buffalo River Dene Nation (BRDN) spokesman Adelard Blackman. "Unabated resource development is killing the land, our water, and our people. We've asked for a moratorium and discussions to address the issues. Silence and inaction have been the response. We have no where to turn, but to the international arena and plead for help and support from other nations and nation-states. This is our last move as the tide of genocide turns against our people. When our land is no more then we are no more."

Buffalo River Dene Nation (BRDN) have pursued their rights to use their traditional lands as they so desire and in accordance with rights clearly established Treaty Number 10 between the Crown of England and the Dene people of northern Saskatchewan over 100 years ago. Resistance by the federal and provincial government, through their continued support of commercial natural resource development without consultations, has led to various legal actions such as OAS (Organization of American States) and the Canadian Federal Court.

BRDN began an international campaign to expose human rights abuses by the Canadian government. Indeed, we intend to begin proceedings before all International legal instruments: the European Court of Justice, the International Criminal Court and the International Court of Justice at the Hague in 2007.

As of October 2006, the Buffalo River Dene Nation in northern Saskatchewan, Canada, have officially informed the Canadian government that BRDN has retaken back control and protection of their traditional lands and natural resources. Indeed, natural resource development has been detrimental to Dene cultural and livelihood practices and violations of legal rights established in Treaty 10 and the Canadian Constitution.

While the Chief and Council of this northern First Nation acknowledge the shifting lifestyles and influences on their culture and people, they want to mitigate and shape the acculturation processes that will provide retention of their traditional knowledge and languages as they enter into the 21st century.

"This international legal action is our last move. We have exhausted all provincial and national avenues to protect what is ours. Our intention is to protect what we have and by that our Chief and Council have declared to the world and to the Canadian government that we see their unwillingness for peaceful engagement as a call for the genocide of our people", said Blackman, "and we will protect what is rightly and legally ours by any means necessary. "

Historic Background

Buffalo River Dene Nation is a community of 1200 people situated in North-Eastern Saskatchewan, Canada.

The Dene people were nomadic people. Once a thriving community of over 250 000 people, they lived off the land, in one of the harshest climate in the world. With the coming of colonization, 80% of the population died.

In 1906, Treaty Ten was signed between Buffalo River Dene people and the British Crown. Their understanding was it would not interfere with their way of life, and it was only a sharing arrangement with the colonizers. For the British Crown, it was a means to assert control over the land. At that time, the Dene could not read or write English, and the Treaty they agreed to was an oral version. But the written version was quite different, because it stated that they renounced to their rights over the land. And so the colonizers could begin to settle the land and exploit natural resources.

Buffalo River Dene Nation is now seriously threatened because of the conflict surrounding the interpretation of Treaty Ten.

Until 1986, when the first road was built, the community was isolated. In less than twenty years, the community moved from the 18th to the 21st century, until then, BRDN were self-sustaining and living off the land.

Today, the intent of the Canadian government is to begin the exploitation of the natural resources, oil, gas, timber, diamonds and uranium within BRDN Traditional Territory. The point of departure of the whole process is the issue of natural resources and the money involved. The Buffalo River Dene Nation made it public, in October 2006, by announcing that they have retaken back control of their Traditional Territories, Natural Resources and Water. Consequently, there will be no development on Buffalo River Dene Nation Traditional Territory until the issue of Self Determination, Land and Natural Resources is dealt with.

The problems BRDN is facing has lead to economic and social destruction. Indeed, there is 80% unemployment, high mortality rate, chronic housing shortage and social structure breakdown (alcoholism, drug addiction, family breakdown, poverty and personal despair).

So, Buffalo River Dene Nation has made a decision to put an end to all of this by taking steps to begin the road to Self Determination. BRDN will no longer tolerate the Human Rights abuses suffered by the people, and will no longer tolerate the Human Rights violation by the government, the multinationals and the military.

LEGAL INITIATIVES

The process of determination of BRDN which is now on the way is first of all a factual process of implementation of the Dene natural rights over their traditional territories.

To enforce its self determination and control over its traditional territories and prevent the actual move to genocide, BRDN we'll take every legal step necessary before every competent international bodies, to force Canada to consider the Dene Nation as a sovereign entity and to respect its treaty rights over the land.

THE CATARAT & SYLVESTRE CASE AND THE INTERAMERICAN COMMISSION ON HUMAN RIGHTS:

In June 1953, an Order-In-Council of the Federal Government of Canada authorized the DEPARTMENT OF NATIONAL DEFENCE (DND) to negotiate and to enter into an arrangement with SASKATCHEWAN to lease a large tract of land for air weapons training representing 6,2% of the Treaty Lands. The first lease agreement was signed on the 1 April 1954, and was primarily concluded for a period of 20 years. Yet, the lease has been continuously renewed, and has become essentially permanent in practice. Significantly, the lease document was silent as to the consequences of such an arrangement on the rights of BUFFALO RIVER DENE NATION on the concerned territories.

During the autumn of 1994, five members of the BUFFALO RIVER DENE NATION went for on a traditional hunt in the area located from Buffalo Narrows to the north bay of Watapi Lake. On 10 September 1994, the sound of a helicopter overhead awoke the sleeping members of the hunting party, the four members of BUFFALO RIVER DENE NATION. This helicopter circled the camp then several soldiers hoisted themselves down, followed by two Conservation Officers and they charged the hunters with unlawful hunting in the corridor. The soldiers then confiscated the weapons and moose meat.

Before the PROVINCIAL COURT OF SASKATCHEWAN both Messers Harry CATARAT and James SYLVESTRE argued that the charges they faced were a violation of their treaty right to hunt, guaranteed to them by Treaty No. 10, and affirmed by s.35(1) of the Constitution Act, 1982 and were finally acquitted. In light of the above analysis, the Court acquitted the accused of the charges, but the decision of the Provincial Court was overturned by the Court of Appeal.

On the 18th of April 2002, the SUPREME COURT OF CANADA finally dismissed the application of Mr CATARAT and Mr SYLVESTRE for leave to appeal from the judgement of the Court of Appeal for Saskatchewan, N°7869 of the 2nd of May 2001, and that so the CATARAT & SYLVESTRE case ended with important unsolved legal debate concerning the rights of the Dene over their land. This case had a big impact because it was finally stating that the Denes have no rights over their treaty lands.

So BRDN and the two hunters couldn't let this debate unsolved and made the choice to bring the case before the Inter-American Commission on Human Rights for violation of the Inter-American Declaration of Human Rights.

So, on behalf of the BRDN, Mr SYVESTRE and Mrs CATARAT, a petition was filled before the IACHR, in which we argue that the Canadian State is responsible for a series of acts and omissions harming the Buffalo River Dene Nation, and as such has violated the fundamental individual and collective rights of the Dene community and its members. Specifically, these include the right to life liberty and personal security (Article I), equality before the law (Article II), freedom of movement (Article VIII), health and well being (Article XI), benefits of culture (Article XIII), right to work (Article XIV), recognition of juridical personality and civil rights (Article XVII), the right to a fair trial (Article XVIII), political participation (Article XX), property rights (Article XXIII).

A decision of the IACHR is expected in the coming year and will bring an important answer on the issue of interpretation of Treaty N°10 and of ownership of the land.

THE ISSUE OF EXPLOITATION OF NATURAL RESSOURCE AND THE ACTION BEFORE THE FEDERAL COURTS OF CANADA:

Resistance by the federal and provincial government, through their continued support of commercial natural resource development without consultations, has led as well to legal actions before the Canadian Federal Court.

THE ENFORCEMENT OF TREATY N°10 AS AN INTERNATIONAL TREATY AND THE ACTION BEFORE THE ICJ:

The arrival of non-indigenous settlers in the West of Canada fundamentally changed the traditional Dene way of life. As common to many indigenous histories of dispossession, the non-indigenous settlers sought to gain control of the Dene territories. Compared to the bloody wars that dominated the American Indian treaty making experience,[1] the process of dispossession of the Dene, negotiated through the use of treaties, was largely peaceful. However, the aim of the treaty-making policy was strictly the same: to legalize the territorial despoilment of indigenous peoples from their land, and to bring sovereign indigenous Nations into the scope of the colonial State's domestic affairs.

However Treaty No. 10 was concluded in 1906 at ILE-A-LA-CROSSE, SASKATCHEWAN, between some members of the BUFFALO RIVER DENE NATION and the CROWN of ENGLAND.

This treaty is still legally binding but not respect and interpreted with bad faith by the CROWN of England.

However, Treaty No. 10 has three major consequences:

Firstly, it's a treaty which means that the BRDN is a subject of international law in the same way as the state of Canada.

Secondly, the treaty itself refers to a "colonial border" (the territorial scope of the treaty) which is the ground of the right to self-determination in the light of the principle of Uti Possidetis.

Thirdly, this treaty recognizes the hunting rights and guarantee the way of life of the members of the BUFFALO RIVER DENE NATION.

As a consequence, to enforce its process of self determination BRDN will bring, in 2007, the issue of violation of Treaty N°10 before the International court of justice is only international body competent to hear cases about violations of international treaties.

THE ISSUE OF GENOCIDE AND THE ACTION BEFORE THE GENERAL PROSECUTOR OF THE INTERNATIONAL CRIMINAL COURT:

The Dene as other Indian Nations have faced many threats and former genocides in their history, but the actual situation is without precedent.

The ecosystems and forest of the Dene Lands are destroyed by economical developments allowed by the Canadian government without their consent.

This destruction of the land to which the people of BRDN is connected leads to the destruction of the Dene as a People and Nation.

As this kind of destruction carried by multinational societies and governments is now global, this process of genocide of indigenous communities is also global.

Considering this alarming situation and parameters such as suicide rates, alcoholism, drugs, etc. BRDN has no other choice than to react on this issue as well and a procedure will as well be initiated before the general prosecutor of International Criminal Court before the end of 2007.

THE LEGAL ENFORCEMENT OF THE BRDN SELF DETERMINATION AT THE INTERNATIONAL LEVEL:

The DENE NATION is as well taking back its rank of subject of international law.

BRDN is already represented in the competent bodies of the UNO.

In the same logic, BRDN has taken step to enter into diplomatic relations with other Indigenous Nations.

This process will systematically be legally blinded by the conclusion of international Treaties of Alliance. Such a process is actually on the way with the Amaouta Council representing all the indigenous Nations of Bolivia.

CONCLUSION:

Taking steps to self determination in the frame of occidental countries is an important decision.

This process and legal actions to be taken by BRDN will have consequences on the whole structure of the international societies.

But it's question of survival for indigenous nations whose lands are destroyed, whose cultures are threatened and whose voices year after year are not heard by governments.

This year the UN General Assembly has refused to adopt the Declaration on the Rights of Indigenous People a document which is waiting for 20 years to be adopted.

Canada was one of the States voting against the Declaration.

If the fundamental rights of indigenous people can not be guaranteed and recognized by the Governments at a time when indigenous populations are facing genocide, then like BRDN, indigenous nations will have to make their way out of the states and to take back their sovereign place at the international level.

BRDN has crossed this step and expect trustfully to be joined in this lgal process by many other indigenous nations.

[1] See Rene Fumoleau, "As Long As This Land Shall Last : A History of Treaty 8 and Treaty 11 1870 - 1939", Toronto, McClelland and Stewart, 1975, p.25