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T H E I N D I A N L I B E R A T I O N M O V E M E N T

TERMS OF REFERENCE FOR THE ROYAL COMMISSION
ON ABORIGINAL PEOPLES

Issues which must be addressed if the Royal Commission is hopeful of productive results.

1. SOVEREIGN STATUS OF THE INDIAN NATIONS

Due to the fact that the Indian Nations have never been defeated in battle, never surrendered any rights, nor have they consented in any manner to being "Canadians" their sovereignty is intact and unextinguished. This reality must be acknowledged before meaningful negotiations can begin. Progress cannot be made without squarely facing the existence of sovereignty of the Indian Nations.

2. THE ILLEGAL TERMINATION OF SOVEREIGN RIGHTS BY CANADA'S UNILATERAL DOMESTIC LEGISLATION.

Under this heading the clash between domestic Canadian law (both federal and provincial) and the internationally protected sovereign rights of the Indian nations (as expressed within their traditional systems of governing themselves and their territories) must be inquired into.

Additionally, the strategy of reducing sovereign status to that of municipal status through such terminology as "self-government" must be revealed.

The Indian Act is the most blatant termination legislation and due to its domestic status it is without jurisdiction over the sovereign Indian Nations.

3. THE ILLEGAL EXPROPRIATION AND THE CRIMINALIZATION OF ABORIGINAL PEOPLE FOR ASSERTING THEIR SOVEREIGN RIGHTS.

A full inquiry should be made into the current practice of criminalization by the Canadian government by examining both the Mohawk/Quebec and the Lil'wat/B.C. situations from an international legal perspective.

4. BREACHES BY THE CANADIAN GOVERNMENT OF BINDING EXISTING AGREEMENTS AND THE RULE OF LAW (INCLUDING BRITISH, CANADIAN AND

INTERNATIONAL LAWS AND POLICY).

The basis of the relationship between Indian Nations and the Canadian Government has long ago been agreed to and formalized. For example, the Two Row Wampum, the Royal Proclamation and the law of Nations all acknowledge and offer protection of the agreement of both Nations to co-exist in peace, friendship and respect. The breaches of this agreement are the basis of the conflict thus inquiry into the theft of traditional land and resources as well as the resulting ethnocide, genocide and denial of self-determination must be acknowledged as the breakdown of the international law of Nations and the domestic rule of law itself. Also, the issue of reparation for the resulting damages must be formally addressed.

5. BREACHES OF THE FIDUCIARY TRUST OBLIGATION OF THE FEDERAL GOVERNMENT AND PROVINCIAL GOVERNMENT.

This legally binding trust obligation held by both the Federal and Provincial Governments requires that their actions be conducted with the "utmost honour". Thus, inquiry into the Federal Government's action of sending in the army against the Mohawk's defense of their sovereign territory and both the Federal and Provincial Government's criminalization of the Lil'wats for their assertion of jurisdiction over their traditional territory must be analyzed in light of this fiduciary legal duty. Additionally, reliance on procedural and technical defenses by the Federal and Provincial Governments must also be viewed subject to the trust obligation. (Example: The Federal Government claims the Royal Proclamation does not apply to the Western Provinces.)

6. LACK OF JURISDICTION OF THE PROVINCIAL GOVERNMENTS

Agreements as to the nation to nation relationship (including boundaries and jurisdiction) can only be conducted between the Federal Government and the Indian Nations thus the Provincial Government encroachment into and assertion of laws over these unsundered traditional territories are illegal acts conducted without jurisdiction. A method of dispute resolution must be established and internationally overseen. Such a forum could address the implications of the sovereign rights of free trade and tax exemption.

7. SPECIFIC INVESTIGATION OF DEPARTMENT OF INDIAN AFFAIRS

Including

- a) breaches of international law
- b) fraud and abuse in both its policy and administration
- c) its role in sanctioning the residential school system and resultant psychological and sexual abuse.

8. FRAMEWORK FOR RECOGNITION AND PROTECTION OF THE INDIAN NATIONS

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