

The Contemporary Land Claims and Self-Government Process Should be More Than the Crown Offloading Fiduciary Responsibility at Minimal Cost

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Many people, Indigenous and otherwise, are of the erroneous perception that Indigenous peoples, such as the Algonquins of the Ottawa River Valley, enter into land claims and self-government processes with the federal and provincial governments merely to relinquish their traditional territories in exchange for financial compensation. Rather, Indigenous peoples engage in these processes to gain rightful recognition of their traditional territories as well as their share of the revenues generated from their traditional territories.

Within the land claims and self-government process the federal and provincial governments are more than willing to negotiate Aboriginal jurisdiction in the areas of membership, adoption, culture, education, health, social services and in others areas such as policing. And through this process, while Indigenous people gain jurisdiction, the Crown is relieved of their responsibilities. In fact, the Inherent Right Policy actually states that the Crown lessens its fiduciary responsibility through the land claims and self-government process.

Contradictorily, other peoples, again Indigenous and otherwise, are of the erroneous perception that these negotiation processes are about Indigenous economic development. This is a reasonable assumption; after all, how else would Indigenous peoples support their newly obtained jurisdictions and remain viable in the long term? Despite this, in actuality, the Land Claims Policy states that settlements merely offer a “means whereby aboriginal groups can obtain some of the tools to capture economic opportunities and establish the means whereby they can make decisions about future renewable resource use” (11). The policy then proceeds to place time limitations and absolute dollar caps on potential resource revenue sharing opportunities, the very revenues that could potentially sustain the newly obtained Indigenous jurisdictions which the federal and provincial governments desire Indigenous communities to achieve.

In essence and worthy of repeating, through the contemporary Land Claims and Inherent Right Policies what the federal government has created in both policy and practice is a process whereby the Crown relinquishes their fiduciary duties while concurrently setting up limitations and barriers in terms of revenue resource sharing. Said another way, the Crown offloads their fiduciary responsibility while placing limitations on their willingness to share with Indigenous peoples the revenue derived from Indigenous lands. This begs the question, “How do the federal and provincial governments expect these new self-governments to remain viable?” and further, “Are the federal and provincial governments really negotiating in good faith?”

With this said, the remainder of this article is dedicated to providing people with an idea of the revenues that the provincial government generates from the lands in Ontario and in some cases more particularly southern Ontario. These figures may be of interest to

Algonquins in that we are presently in the process of negotiating a land claims and self-government settlement.

According to the Ministry of Northern Development and Mines (MNDN), in 2005, 4.8 billion dollars in metals were extracted from the land in southern Ontario, where metals include elements such as cadmium, cobalt, copper, silver and zinc. In addition, and in the same year, 2005, 2.4 billion dollars in non-metals were extracted, where non-metals include substances such as cement, clay products, lime, quartz, salt, soapstone and stone. Further to this, in the year prior, 2004, 1.6 million dollars in natural fuels were extracted from the land in southern Ontario.

While these figures are huge and provide an idea of the revenues that Indigenous peoples, Algonquins included, have been excluded from, we must also consider the revenues the Ministry of Natural Resources (MNR) generates from angling and hunting. For example, 2006 licenses sell for: small game hunting \$19.00, wild turkey \$22.50, moose \$43.00, deer \$36.00, farmer's deer \$21.50, bear \$36.00 as well as fishing licenses for \$23.00 and \$13.50 for a conservation fishing license. In addition to this, the mandatory accompanying outdoor card sells for \$6.00 each (Personal communication, Tom McWhirter). With this said, Ontario wide MNR sales statistics report that the government generated over 58.9 million dollars during the fiscal period of 2005-2006. Should not Indigenous peoples be entitled to a share in this revenue, after all they are hunting on and fishing in Indigenous territories?

In addition to this, one must also consider the revenues generated from the forestry industry, for example the 29th 2003-4 annual Algonquin Forestry Authority report states that the Algonquin Park accounted for "\$152.8 million to the Ontario economy" (4).

Moreover, and particular to the Algonquins, traditional Algonquin territory here in Ontario is home to possibly more than 17 provincial parks which to name a few include, the Upper Madawaska River Provincial Park, Lake St. Peter Provincial Park, Silent Lake Provincial Park, Bonnecher Provincial Park, Lower Madawaska River Provincial Park, Bon Echo Provincial Park, Sharbot Lake Provincial Park, Silver Lake Provincial Park, Rideau River Provincial Park and of course Algonquin Provincial Park. While I do not provide a total of revenues generated from these parks, in 2005 Algonquin Park alone generated over 13.5 million dollars from visitors, campers, concessions, and commercial leases (Personal communication, Jim Murphy). This figure of course would substantially increase if the revenues of all 17 parks were considered.

To this end, while in no way do I profess to provide a comprehensive analysis of resources generated from Indigenous lands in Ontario, these figures alone of 4.8 billion, 2.4 billion, 1.6 million, 58.9 million, 152.8 million, and 13.5 million dollars gained from mineral extraction, natural fuel extraction, the forestry industry within Algonquin Park alone, in angling and hunting license sales, and from other Algonquin Park revenues respectively, provides concrete figures that serves to inform us that economic development projects within southern Ontario have been plenty bountiful for the provincial government. See also Summary Table 1 below.

Summary Table 1: Some of the Revenues from Ontario's Natural Resources

Mining, metal and non-metal, Southern Ontario:	\$4.8 & \$2.4 billion (2005)
Natural Fuels, Southern Ontario:	\$1.6 million (2004)
Angling and Hunting Licenses, Ontario wide:	\$58.9 million (2005-6)
Forestry Industry, Algonquin Park:	\$152.8 million (2003-2004)
Algonquin Park Revenues:	\$13.5 million (2005)

While reviewing these figures, it must be appreciated that I have not considered the revenues potentially generated from waterpower. For example, recently MNR has suggested that Ontario's lakes and rivers provide economic opportunities and benefits and therefore has put out a call for applications and proposals in the development of waterpower opportunities on what they call "Crown lands".

Unfortunately, for Indigenous peoples, and as previously mentioned, the federal land claims and self-government policy and practice have established limitations, which serve to prevent us from obtaining our rightful inheritance and responsibilities. In addition to this, past practice has proven when Indigenous peoples do obtain even a limited amount of revenue resources sharing through the land claims and self-government process, these revenues are not provided the constitutional protection required to ensure their existence for time immemorial, thus leaving Indigenous self-governments and their jurisdictions vulnerable and potentially non-viable in the long term. For example, in 2000, although the Nisga'a achieved one-quarter of the Nass River fishery in their final agreement, it did not receive constitutional protection. And as Asch argues, "rights that are not constitutionally entrenched can be easily taken away" (68).

Finally, it is interesting to note here that Indian and Northern Affairs Canada reports the federal dollar allocation to the Algonquins of Pikwàkanagàn, which is the only federally recognized Algonquin First Nation in Ontario, as \$4.02 million for the fiscal year of 2004/2005. Where elementary, secondary and post secondary education accounts for 1.9 million dollars, health transfer accounts for \$446,000 and interestingly enough economic development accounts for \$63,900. Especially important to appreciate is that while the Algonquins of Pikwàkanagàn have and continue to receive funding from the federal government, the non-status Algonquin communities have received absolutely none!

Biographical Note:

Lynn Gehl, Algonquin, is a second year Ph.D. student in Indigenous Studies at Trent University where her dissertation topic is the contemporary land claims and self-government process. In addition, Aboriginal Legal Services of Toronto currently represents her in a Charter Challenge regarding the continued discrimination with the registration requirements of the Indian Act.

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