

**Brief of Nahnda Garlow for the Standing Committee on Indigenous and Northern Affairs — Study  
on Restitution of Land to First Nations, Inuit and Metis communities**

**June 29, 2023**

My name is Nahnda Garlow and my Indigenous name is Nowandawit. I am a member of the Haudenosaunee community of Six Nations and come from the Dehatgahtos Beaver clan family. I have lived my entire life at Six Nations of the Grand River and my family has a long history of land defence, environmental activism and participation in our traditional governance system.

In my adult life I have become a journalist and editor of the *Two Row Times* newspaper on our Territory. That work has given me the opportunity to speak to hundreds of people from across all Haudenosaunee territories and gather many diverse opinions on what it means to get land back.

In May, Ellen Gabriel was a witness to this committee on this study and was asked by Sylvie Berube if she was familiar with any examples of land restitution. Ms. Gabriel answered that she was not.

I am writing to share that on Six Nations, we are quite familiar with land restitution — and to explain how the political fallout of that land restitution, the irresponsible return of lands at Burtch following the land reclamation in Caledonia in 2006, continues to negatively impact our community.

## **Six Nations Governance: the polarity of the elected vs hereditary councils**

On Six Nations there is a collective of hereditary title holders, known as the Haudenosaunee Confederacy Chiefs Council. This entity operated as a municipal-style council that included traditional Iroquoian structures from the time Grand River Territory was settled in 1784 all the way up to 1924. In 1923, Canada ordered a study of Six Nations, the Thompson Commission, to look into the hereditary leadership. Members of the Six Nations had been advocating to the Indian department from as early as the 1860s for elected leaders, while others in the community vehemently opposed the removal of lifelong hereditary leadership. The Thompson Commission resulted in Order-in-Council to depose the hereditary leadership structure and install an Indian Act band council, and elected leadership model.

There is a lot incorrect community lore about the removal of the chiefs. Specifically, a claim that armed RCMP officers forcibly removed the chiefs from the council building at gunpoint. However, there is no historical record to support that claim.

What we do have record of is newspaper articles from witnesses who were present the day the declaration was read in council and minutes from the chiefs council themselves. The minutes say the chiefs weren't at the council house at all that day — but down the road at the Six Nations Agricultural Hall. While there was a large RCMP presence, presumably with firearms on them, no weapons were drawn and no one was forcibly removed from the Agricultural Hall. According to minutes from the Chiefs Council the declaration deposing the chiefs was read aloud, and the Commissioner left, along with the RCMP and the hereditary chiefs carried on with the rest of their meeting.

As a community member I grew up thinking that the hereditary chiefs were held up at gunpoint. It was not until I was an adult and began to investigate for myself that I found records and spoke to local historians who corrected me and pointed to the facts.

This misinformation has been, in part, due to a lack of access on the Territory to archives and documentation that the community at large has access to. I had to advocate and hunt down records for months in order to find what anything about this very important, widely talked about version of the story where guns were drawn on my great grandfathers and uncles. When I found that the historical records did not align with that story — I was shocked.

Canada must do more to provide First Nations, Metis and Inuit communities with local archival materials, band lists for genealogical research, Indian department records and other historical documents that they have. And there must be better, guided direction on how our people can get access those materials. This includes funding for setting up community historical research spaces that are open to the general public and removing all restrictions to those documents. Our own people need to see the files — even if they have trouble interpreting them on their own. Presenting our own history to our own people through the filter of someone else's interpretation of those documents is not good enough.

### **Douglas Creek Estates 2006 and the lack of housing, water on Six Nations**

The reclamation of lands at the former Douglas Creek Estates in Caledonia in 2006 is something that most adults in Canada are familiar with today. I was a part of that action. My husband and I produced a film, Day Zero, about the heroic actions of the people on the front lines. You can watch it on YouTube.

At that time, one of the biggest things land defenders on the ground were talking about was how unfair it was that Caledonia was getting a massive housing expansion, and just a few footsteps away the housing crisis on Six Nations was an open wound. While large dream homes were being marketed on one side of the tracks for Caledonia, on the other side at Six Nations folks were living in campers.

Living without water in your own homelands torments the psyche. Everything is harder. Laundry becomes this massive event where you also need a vehicle, gas, cash on hand and perhaps child care to get it done. Having a flush toilet for many people on Six Nations to this day is a luxury.

These are still the realities of hundreds of families on Six Nations today. Water and sewage are still not available to our homes. As a result the amount of energy and extra daily chores required of us just to live a life that is still not equal to the rest of Canada is exhausting, humiliating and dehumanizing. Economic parity for our communities cannot be left in the dust behind good intentions to give land back.

### **Negotiating tables, the Haudenosaunee Development Institute and Burtch Lands**

Following the end of the standoff at Caledonia the hereditary and elected leaders were sitting as an amalgamated group to negotiate with Ontario and Canada on our land claims. The HCCC created an entity, the Haudenosaunee Development Institute, in 2007 to take on the work of dealing with development in the Haldimand Tract and to take a lead on their role in negotiations with the province and federal government.

Somehow around that same time, HDI was given a restored form of governance authority over Six Nations lands by the province of Ontario. There is no public record about how they were granted authority to do so. All we know is that the province started telling developers that they had to consult with the HCCC and the HCCC told people they had to talk to HDI.

Despite the Thompson Commission, the Order-In-Council deposing the hereditary system, and despite there being no community-based plebiscites or studies seeking the community input — governance authority over lands was restored to the HCCC by the province of Ontario.

I also want to add here that in the last decade, Six Nations was given authority to create its own child welfare agency, Ogwadenideo. Prior to that designation, the community had to procure a decade worth of studies and policy reviews before Ogwadenideo was granted authority to be an independent child welfare agency.

It is a sad reality that for Six Nations — we had to jump through years of hoops before we had authority over our own children. But for the sake of development, 100 years of history was completely disregarded and no feedback or consultation with the Six Nations was conducted before governance was restored, behind closed doors, to the HCCC to silence opposition and protest rather than to do the work of meaningful free, prior and informed consent.

As part of a deal to take down barricades in Caledonia — former Ontario Premier David Peterson promised to return a 300 acre parcel of land around the former Burtch Correctional Facility. The land was put into trust by Ontario while they did environmental remediation of the site and until it could be transferred to Six Nations.

The negotiations with the HCCC the Six Nations band council, Ontario and Canada went on for four years until 2010 when the political schism within Six Nations eventually led to divisive rhetoric being thrown from hereditary leaders to elected leadership. The Six Nations amalgamated group went into full meltdown. Ontario and Canada were frustrated and everything became so dysfunctional that in 2010 the elected band council voted to leave the negotiations and rely on the specific land claims process it had running through the courts instead.

Since that time, the lands at Burtch promised by Petersen were still being held in trust for the Six Nations community. The hereditary chiefs believed the land was promised to them. A local farmers group was farming the land with the consent of the band council for a number of years. Eventually the province asked the band council to stop the farming. Barricades were erected at the gates to the property.

The hereditary council then leased the lands to a different farmer. Eventually that led to a legal battle between the farmer holding the lease with the hereditary council and the elected band council. And that led to even more community in-fighting and more polarity.

The band council stated that because of a Supreme Court ruling that recognized the band council as the legal governing authority of the community, they were the only entity with the legal capacity to hold lands in trust for the people of Six Nations. So Ontario transferred the land into a numbered company, owned by the elected band council. That caused a ripple effect across the community, spurned a legal battle and the opportunity for divisive rhetoric again grew — leading to wild community infighting that is to this day being pointed to as a core wound between the councils and why they cannot and will not ever be able to work together.

### **Land restitution cannot lead the way**

The Ontario Premier's 2006 promise to return stolen land to Six Nations as a bargaining chip to get roads opened following a land reclamation action was something that was irresponsible and ultimately destructive to our internal relations.

Land restitution cannot be used as the proverbial carrot on the end of the stick, leading Indigenous people where you want them to go.

Today, the divisive rhetoric spurned by the Burtch carrot has led to an on-reserve culture of polarity and political extremism that is dangerous and that no one in our community has the capacity to reign in. It is quite similar to the situation Ellen Gabriel shared in her visit regarding the problem of organized crime in Kanesatake. It has taken on a life of its own and as one elder told me, the people are afraid.

This leads me to my recommendation.

This Committee must study what happened at Six Nations following the 2006 Caledonia land reclamation. Specifically the impacts of Ontario's move to restore governance authority to the HCCC, the impacts of the Burtch lands return and how both have led to an increase in political extremism in the community. It is my belief a full investigation of this experience would glean priceless knowledge,

guidance, and an opportunity to learn from mistakes made that would steer land restitution for other First Nations, Metis and Inuit communities in a better direction.