

The myth of band councils as First Nations

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In Canadian lore, the raconteurs of old spoke of La Chasse Galerie (the flying canoe) and among the Mohawk, the Raksothas (grandpas), told scary stories about the Flying Heads that roamed deep in the forests, but one of the most disturbing myths is the one in which Indian Act band councils are labelled as “First Nations.”

They are not.

Band councils were created from the 1876 Indian Act and designed to undermine and replace centuries of traditional governments across Canada. They were, and are extremely limited in their authority and entirely subject to officials in the federal government.

Band councils are not sovereign, do not abide by ancestral law, have no definitive connection with traditional culture and govern nothing outside of their respective reserves. If they do have police services the laws that are imposed and enforced come from federal regulations and provincial statutes.

Under international law a band council has no substance, no meaning, no standing. They cannot enter into treaty or trade compacts with a nation, they cannot abide by a distinct Native justice system, they cannot create their own banking system, they cannot design their own homes, they cannot buck the social service apparatus which has strangled any attempt by Indigenous people to rise above their oppressive circumstances.

No law can be passed, enacted or enforce by the band councils without the express consent of the federal government. They are colonial entities imposed upon native peoples, whose only source of support is the money channelled to them from the provinces and Ottawa.

The band councils have been effective in one instance: they have served the federal government by eclipsing the Indigenous entities that once exercised active jurisdiction across Canada and for generations prior to contact.

Why call them “first nation” at all?

This term began in 1980 when the former National Indian Brotherhood was looking for a more jazzy name, one that would better reflect the political and social activism of that time. Rather than, rightfully, call itself the National Association of Indian Act Band Councils, the NIB went for “First Nations” when it knew this was inaccurate and misleading. But it was trendy and, they thought, would give them a sense of empowerment outside of Ottawa.

It did not.

The crippling dependency of the newly minted AFN upon federal dollars simply affirmed its status as an extension of the agents of suppression.

Among the Iroquois, the experience with the band councils was harsh and deadly. At Akwesasne, my home community, the Mohawk Nation Council oversaw the needs of the people with perfect adequacy.

But when Canadian officials stole 7,240 hectares of land from the Mohawk territory (the Dundee tract) the traditional leaders protested.

Further insult came about in May, 1899 when a contingent of RCMP invaded Akwesasne to impose the band council by force. When Jake Ice-Saiowisakeron came to the defence of the true chiefs he was shot and killed by Lt. Col. Sherwood, the commander of the Mountie platoon. The chiefs were taken to jail in Valleyfield, Que., where they were held without charge for a year while the federal government firmly placed the band council in control.

In a gross breach of law and custom, the federal government then empowered the band council (formerly the St. Regis Band Council but now the Mohawk Council of Akwesasne) to hold a referendum to have the stolen Dundee lands compensated for — but not returned — with the money to go to the band council and not the Mohawk Nation from whom it was taken.

So it was at the Six Nations Grand River territory (Ohsweken) when, in 1924, federal officials ordered the Mounties to invade their lands to replace the chiefs and clan mothers with a band council.

Chief Levi General-Deskaheh went to the League of Nations in 1923 asking for its members to compel Canada and Britain to abide by their treaties with native nations and refrain from their efforts to eradicate Indigenous governance using the band councils. The result was the expulsion of the traditional government, the confiscations of invaluable cultural patrimony and the threat that opposition to the band council would be met with overwhelming force.

To this day, the Iroquois have repeated our aspirations to return to the traditional systems. In every election for the band councils a very low percentage of potential voters bother to turn out and if the band councils did not have federal monetary support, they would be ejected.

What is needed to resolve the situation at Wet'suwet'en is the acknowledgment that they have a right to determine for themselves how they will be governed, along with the active exercise of unilateral jurisdiction over their ancestral lands.

In accordance with Articles 26 and 27 of the UN Declaration of the Rights of Indigenous Peoples, they can then begin to work out a resolution with the federal government based on mutual respect.

But let us begin by acknowledging the fact that band councils are not First Nations, while beginning the process of restoring our peoples to true national status. Repeal the Indian Act, reorganize the Assembly of First Nations, empower a restoration of ancestral government.

The Canadian people should rally for a return Indigenous governments that reflect the will of the people, the true First Nations of this continent.

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