

# **Human Security and Aboriginal Women in Canada**

**By**

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## ACRONYMS

AIM	American Indian Movement
APEC	Asia Pacific Economic Co-operation
CBA	Canadian Bar Association
CBC	Canadian Broadcasting Corporation
CERD	Committee on the Elimination of Racial Discrimination
CIDA	Canadian International Development Agency
CPT	Christian Peacemaker Team
CRIAW	Canadian Research Institute for the Advancement of Women
CRRF	Canadian Race Relations Foundation
CSIS	Canadian Security Intelligence Service
CUPE	Canadian Union of Public Employees
DFAIT	Department of Foreign Affairs and International Trade (now known as the Department of Foreign Affairs and the Department of International Trade)
DFO	Department of Fisheries and Oceans
EFN	Esgenoopetitj (Burnt Church) First Nation
FAFIA	Canadian Feminist Alliance for International Action
FBI	Federal Bureau of Investigation (United States)
ICLMG	International Civil Liberties Monitoring Group
INAC	Indian and Northern Affairs Canada
INSET	Integrated National Security Enforcement Team
NAC	National Action Committee on the Status of Women
NAFTA	North American Free Trade Agreement
NAWL	National Association of Women and the Law
NGO	Non-governmental organization
NWAC	Native Women's Association of Canada
OPP	Ontario Provincial Police
RCAP	Royal Commission on Aboriginal Peoples
RCMP	Royal Canadian Mounted Police
SCC	Supreme Court of Canada
SPEC	Society Promoting Environmental Conservation
SQ	Sûreté du Québec
SWC	Status of Women Canada
UFW	United Farm Workers
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNIFEM	United Nations Development Fund for Women

## **PREFACE**

Good public policy depends on good policy research. In recognition of this, Status of Women Canada instituted the Policy Research Fund in 1996. It supports independent policy research on issues linked to the public policy agenda and in need of gender-based analysis. Our objective is to enhance public debate on gender equality issues to enable individuals, organizations, policy makers and policy analysts to participate more effectively in the development of policy.

The focus of the research may be on long-term, emerging policy issues or short-term, urgent policy issues that require an analysis of their gender implications. Funding is awarded through an open, competitive call for proposals. A non-governmental, external committee plays a key role in identifying policy research priorities, selecting research proposals for funding and evaluating the final reports.

This policy research paper was proposed and developed under a call for proposals in August 2002, entitled Engendering the Human Security Agenda. Research projects funded by Status of Women Canada on this theme examine issues, such as human security and Aboriginal women, the impact of the national security agenda on racialized women, the effect of Canada's new immigration and refugee protection act on women asylum seekers, and changes and challenges arising out of new security and immigration laws in Canada and their impacts on immigrant and ethnic communities.

A complete list of the research projects funded under this call for proposals is included at the end of this report.

We thank all the researchers for their contribution to the public policy debate.

## EXECUTIVE SUMMARY

This report contributes to the discussion of women and security by making the connections between Aboriginal women, protest and human security. It begins with a literature review of gender and protest, Aboriginal women and protest, human security, the constitutional rights of Aboriginal people, Aboriginal protest and Bill C-36.

Aboriginal women are key players in efforts to preserve their culture, uphold their constitutional rights and defend themselves from encroachments to their land and culture. Women are in the forefront of protest activities regarding fishing rights, clear-cut logging and proposed ski resort development. Frequently, they are the first to initiate resistance and protest, acting as strategists, spokespersons, mediators and front-line activists. Through efforts that are unpaid and largely unrecognized, they support resistance movements while maintaining homes and families, and employment.

Women are compelled to action by their commitment to the future of their children and grandchildren as First Nations people. They are distressed at the environmental destruction that negatively impacts their lives and culture, and apprehensive about the rights of First Nations people. Largely excluded from formal decision making and negotiations that have far-reaching effects on their lives and rights, they turn to the peaceful resistance of demonstrations and blockades. They bring a specifically gendered approach to their struggles and experience gendered impacts, like being at odds with the male elected leadership of their communities. Though sometimes labelled as such, they in no way consider themselves terrorists.

Against this backdrop of resistance, Canada's anti-terrorism law opens doors for the continued denial of Aboriginal rights and title, and excessive use of force by law enforcement officials. In its intent, Bill C-36 echoes the more explicitly repressive *Indian Act*, which aimed to colonize and assimilate First Nations people and shut down their dissent. A key difference is that this 140-year-old piece of legislation curtailed the basic human rights of a specific group of people; Bill C-36 more broadly targets all Canadians through vague but ominous provisions. While resistance and protest are not new to Aboriginal communities, Bill C-36 could be used to further repress people who face the oldest and most complex human rights issues in Canada.

This research consists of interviews and focus group discussions conducted with 20 women across Canada. Three First Nations communities — Burnt Church, New Brunswick, Grassy Narrows, Ontario and Mount Currie, British Columbia — were visited. At these sites, the women's understanding of human security goes beyond safety from the threat of international terrorism. Instead, their human security is intimately tied to the land, and the cultural traditions derived from fishing, hunting and gathering necessary to foster a safe and healthy life for the future generations of their people.

The authors make the following recommendations regarding Aboriginal women and human security.

1. Recognize and affirm the First Nations right to self-government by implementing First Nations land and resource management agreements.
2. Amend Bill C-36 to exempt Aboriginal communities from this legislation in cases of disputes over land and resources.
3. Redefine “consultation” and the consultation process according to First Nations values, beliefs and processes. This will include consultation with the entire First Nation membership on matters regarding Aboriginal and treaty rights, and natural resources. These consultations must incorporate women and consider gender impacts.
4. Agreements with the Department of Fisheries and Oceans and resource agreements should be discussed, agreed to and disseminated in an open forum with First Nation band members and include a mandatory community referendum in the case of formal agreements between the First Nation community and the federal government. Such discussions must include gender issues and ensure the attendance and meaningful participation of women.
5. First Nation communities that develop and administer their own fishing or resource agreements must include gendered aspects, by incorporating women’s use of land and resources, and spiritual significance.
6. In providing clear communication of constitutional rights and current case law and guidelines to communities, police and other officials who are enforcing the laws, need to include a discussion of gender impacts and implications.
7. Provide training in crisis management and gender sensitivity for federal government officials dealing in disputes, including those from the B.C. Department of Fisheries, Land and Water, Indian and Northern Affairs Canada, the Royal Canadian Mounted Police, and others, to avoid the criminalization of peaceful Aboriginal protests.
8. Provide training and direction to First Nations communities and police on the drafting of safety agreements or protocols for protest in potential areas of conflict, with a particular emphasis on the gendered nature of conflict.
9. To ensure the public safety, encourage police and the RCMP to develop demonstration guidelines that outline appropriate behaviour by officers and discourage the use of force and intimidating equipment.
10. By consulting First Nations elders, including women and men, introduce an Aboriginal traditional ecological knowledge perspective to research and respect First Nations teachings and knowledge in economic development discussions.





# 1. LITERATURE REVIEW

## Toward an Aboriginal Feminist Perspective

Aboriginal scholar Emma Larocque wrote that the voices of Aboriginal<sup>1</sup> women have long been silenced, appropriated or submersed under centuries of racist and inflammatory historical language (1990: xxiv.) Two other scholars, Patricia Albers and Bea Medicine (1983), challenged negative stereotypes and misinformation about pre-contact Aboriginal women. In their book, *The Hidden Half: Studies of Plains Indian Women*, they argued that early ethnographic accounts were biased by the attitudes of those who recorded these events. Most were men who focussed on male activities, because women's roles within their own cultures were viewed as subservient and passive. The book deconstructed the portrayal of Aboriginal women "as chattel, enslaved as beasts of burden and beaten into submission by over-bearing male masters" (Albers and Medicine 1983: 3). The general consensus from these writers is that there is a dearth of information written about Aboriginal women; however, the information from these meagre accounts needs to be reviewed and reinterpreted to create more awareness of Aboriginal women's place in history and their roles today and tomorrow.

Many Aboriginal scholars are deconstructing ethnographic texts and challenging long accepted social science theories and methodologies to enrich the research regarding Aboriginal people (Albers and Medicine 1983; Taiaiake Alfred 1999; Tuhiwai Smith 1999). Métis writer Kim Anderson (2000: 15) claimed Aboriginal women<sup>2</sup> write because they seek to "resist, reclaim, construct and act" in regards to their realities, histories and world views.

Linda Tuhiwai Smith, in her book *Decolonizing Methodologies* (1999), promoted the need for research methodologies that allow indigenous people to record their specific values, perspectives and experiences.

At the very least it [theory] helps make sense of reality. It enables us to make assumptions and predictions about the world in which we live. It contains within it a method or methods for selecting and arranging, for prioritizing and legitimating what we see and do. Theory enables us to deal with contradictions and uncertainties. Perhaps more significantly, it gives us space to plan, to strategize and to take greater control over our resistances (Tuhiwai Smith 1999: 38).

Tuhiwai Smith stated that historical accounts also need to be decolonized, because continuing to hear only the voices of the colonizers means current government policy will reflect a colonialist perspective (1999: 36).<sup>3</sup> This concern has been played out many times for First Nations people, especially women. Examples of this are evident in previous legislation like the *Indian Act*, and policies that are discussed later in the report.

In this context, Aboriginal women have criticized mainstream feminist analysis as being incompatible and inappropriate as applied to Aboriginal communities (Monture-Angus

1995).<sup>4</sup> In a 1993 article, Justice Mary Ellen Turpel-Lafond evaluated the 1970 *Report of the Royal Commission on the Status of Women in Canada*. She wrote that nothing had changed since the inception of the report for First Nations women; in fact, the opposite was true. Turpel-Lafond voiced her frustrations in having to restate continually the First Nations women's understanding of the world. She concluded that the Canadian state cannot be trusted to provide positive change for First Nations women, and she challenged white feminists to question the universality of their aspirations and prescriptions, and to support the political agenda pursued by First Nations peoples (Turpel-Lafond 1993: 187). Montour echoed this sentiment. "The result of my involvement in the feminist movement as a First Nations woman is centred around explaining, 'I am not you' (read that as 'I am not white') ... There is no place in the women's movement for a First Nations woman to focus on 'I am me'" (reprinted in Turpel-Lafond 1993: 187).

Therefore, the authors suggest that any discussions regarding Aboriginal women's roles include an analysis from Aboriginal women's perspective.<sup>5</sup> Two First Nations scholars recognized these limitations and offered one of the first definitions of a First Nations feminist analysis. "Feminism in the context of a First Nations analysis is distinguishable from mainstream feminist ideology as it incorporates not only an analysis of patriarchy but includes an analysis of the impact of colonization and state oppression" (Sayers et al. 2001: 8).

In a previous study prepared by the authors of this report, a further description was added that captures the interconnectedness — with family, community and the nation — that is integral to the lives of women. "The authors propose that for First Nations people, the core of social life is not the traditional nuclear family unit but the extended family, the band and the community. Therefore, the analysis of First Nations women's roles must take place in the context of community" (Rude and Deiter 2004: 2).

Turpel-Lafond (1993: 180) wrote that women's roles in First Nations societies made them a specific target of despotic government policies.

It is women who give birth in the physical and in the spiritual sense to the social, political and cultural life of the community. It is upon women that the focus of the community has historically been placed and it was, not surprisingly, against women that a history of legislative discrimination was directed by the Canadian state. Our communities do not have a history of disentanglement of women from political and productive life.

This report uses gender analysis<sup>6</sup> as a starting point in reviewing the literature, conducting the research and considering policy recommendations. This analysis, from First Nations women's perspective, includes an awareness and acknowledgment of the impact of colonization on gender roles, the interconnectedness of women to family, community and nation, and the centrality of spirituality in Aboriginal world views.

### **Gender and Human Security**

In a world troubled by armed conflict and terrorism, debate over the term "human security" has never been more vigorous, or relevant. Three approaches to human security exist in what

remains a controversial and contested concept, both at the level of policy and in international relations (Hampson 2002: 5).

The United Nations Development Programme (UNDP) popularized the term human security in its 1994 annual report. Drawing from the theory of sustainable development, the UNDP concept of human security “equates security with people rather than territories, [and] with development rather than arms” (UNDP 1994). Based on a people-centred approach, it acknowledges seven categories of human security: economic, food, health, environment, personal, community and political. Human security, argues the UNDP, is not possible in the absence of sustainable development and the upholding of basic human rights. In acknowledging both the national and the global application of human security, the report stresses: “The world can never be at peace unless people have security in their daily lives”(UNDP 1994: 1).

A second definition considers the main threat to human security to lie in the denial of fundamental human rights, the absence of the rule of law, and a lack of democratic governance. Based on the idea of natural rights/rule of law, this concept of human security is anchored in the fundamental liberal assumption that individuals have a basic right to life, liberty and the pursuit of happiness, and that the international community has an obligation to protect and promote those rights (Hampson 2002: 5). Through the network of international institutions and human rights instruments, human security has been promoted by the use of economic sanctions, shaming through negative publicity and pressure to reform domestic legal structures and systems.

A third approach to human security focusses on the safety of peoples, particularly in conflict and post-conflict situations. Recognizing that states may be unwilling or unable to guarantee individual human security, this approach emphasizes military interventions, humanitarian and emergency assistance, peace building and conflict prevention. “Human security today puts people first and recognizes that their safety is integral to the promotion and maintenance of international peace and security. The security of states is essential, but not sufficient, to fully ensure the safety and well being of the world’s people” (Axworthy 2001: 20).

Canada’s human security agenda, cast as a foreign policy approach, most closely resembles the third definition. Under the banner “Freedom from Fear,” the federal government describes human security as a people-centred approach “which recognizes that lasting stability cannot be achieved until people are protected from violent threats to their rights, safety or lives” due to terrorism, drug trafficking and small arms trade (DFAIT 2002). The emphasis is on ensuring national security, reflecting in part a post-September 11 preoccupation with a federal response to perceived national security threats. Key areas of Canada’s human security agenda, first introduced in 1996, are the protection of civilians, conflict prevention, public safety, governance and accountability, and the international deployment of Canadian peacekeepers.<sup>7</sup> This is buttressed by the anti-terrorism law, Bill C-36, which was passed quickly in the aftermath of the September 11 attacks in the United States (Maxcy et al. 2002).

Foreign policy has tended to exclude women and gender analysis (Keeble and Smith, 1999; Sjolander et al. 2003). Canada's soft power approach to human security, which includes the promotion of multilateralism and human rights, progress on women and development, and a peacekeeping role, is defined by mostly masculine state constructs that ignore and limit particular policy practices and ways of thinking and doing by women. Boyd (2003) and others argue that the current human security agenda emphasizes elements that Canadian women's groups<sup>8</sup> have long resisted — increased militarization, closer ties to the United States and the promotion of globalization. Several hundred million spent on human security is dwarfed against a \$13.5 billion defence budget, \$2 billion to upgrade CF18 fighter jets (Boyd 2003) and \$3.2 billion for 28 new helicopters (CBC 2004).

Gender is central to the struggle against insecurity, as even in peacetime, pervasive and persistent violence against women ensures that “no group lives in greater insecurity than females around the globe” (Bunch 2001: 8). Indeed, a coalition of 40 women's groups found Canada is failing to meet its obligations under the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), as both the condition and position of women in the country have worsened in the last decade (FAFIA 2003). Such a report calls into question Canada's leading position on gender mainstreaming internationally, through the Canadian International Development Agency (CIDA) and the Department of Foreign Affairs and International Trade (DFAIT) (Boyd 2003).

In Canada's human security agenda, the consideration of gender issues appears limited to one page, which briefly discusses the impact of war on women, Canada's support for UN Security Council Resolution 1325 and a gender and peacekeeping training course.<sup>9</sup> However, in this people-centred approach, it is unclear how gender will be taken into account in areas, such as good governance and public safety, and how progress in promoting gender equality will be monitored and maintained. Consideration of gender in security would need to include a full examination of the structure of power relations in the international and the national systems and concrete measures to address it. For example, the deployment of peacekeepers in war-torn areas can leave refugees and displaced women and girls vulnerable to crimes of sexual violence and exploitation (Rehn and Johnson Sirleaf 2002: 61; UNHCR and Save the Children 2002) but few stationed peacekeepers from any country have been held accountable for such behaviour.

Of these three definitions of human security, the UNDP's stands as the most expansive and potentially inclusive of gender issues. It focusses on the non-military threats to human security arising from socio-economic inequalities, environmental degradation and a lack of social justice.<sup>10</sup> This approach is echoed in the analysis of women's groups around the globe, that have called for redefining security in terms of human and environmental needs instead of national sovereignty. Arguing that security transcends military parameters, they state that women cannot be secure until their economic and social needs as human beings are fulfilled and they are full and equal participants in the political institutions that dictate security policy (Hill and Grossman 2002). Feminist peace theorists have argued that a feminist notion of security links authentic peace with both positive peace (the absence of indirect or structural violence) and negative peace (the absence of personal, physical and direct violence) (Brock-

Utne 1989, cited in Mazurana and McKay 1999). In a submission to the UN Commission on Human Rights, the women's rights organization MADRE asserted:

For security to be genuine, it must be global. Moreover, "state security" must be grounded in human security, based on protection of women's human rights as outlined in the Universal Declaration of Human Rights (UDHR) and the International Bill of Rights, including the rights to food, housing, health care, education and decent work (MADRE 2004).

## **Gender and Protest**

Women's protests span a wide range of activities, in vastly different contexts and with diverse aims.<sup>11</sup> In movements that are exclusively female and others where women play a dominant part, women's activism around needs and rights has been a crucial element in struggles for equality and justice at both the global and local levels (Rowbotham and Linkogle 2001). Women have organized and protested to provide for the basic needs of themselves and their families, and political and civil rights, including the vote.<sup>12</sup> In labour protests, the civil rights movement, antinuclear and peace building efforts and women's rights activism, women have taken up protest with varying degrees of involvement, militancy and success. Women's approach to protest frequently goes beyond demonstrations, occupations and boycotts to include wearing black, remaining silent, using their bodies as shields, stripping naked, burning clothing and other items, banging pots together and chaining themselves to trees or posts. Beyond this resourcefulness, however, are the larger questions of why women protest, how gender norms are challenged (or not) during protest and how gender informs and impacts such protest.

Some writers assert that the subject of gender and protest has been largely ignored due to a public-private dichotomy that assumes women are apolitical, more interested in domestic concerns and personal relationships than in public issues and political controversies. The role of women in protest has been dismissed as sporadic, fragmentary or invisible, especially in mainstream movements and mixed-sex movements, such as the anti-Vietnam war protests. Where women are involved, they are seen as angry and irrational, or mere puppets of politically active husbands and male family members (Blee 1998: 2). Women's radical protest is identified with left-wing and feminist politics. Little is heard, for example, about the protest activities of Southern Confederate women during the American Civil War, who were called "disorderly" and "defiant" for transgressing their expected gender norms and behaviour (Bynum 1992, cited in Blee 1998).

Perhaps the strongest motivation for women's protest comes from their lived experiences and lives. A gendered world means women and men are situated differently in social, economic and political life, creating gender-distinct assumptions of entitlements, possibilities and impacts. As the literature on conflict and economic structural adjustment has made clear, for example, women and children are the primary casualties of indirect or structural violence and warfare (Rehn and Johnson Sirleaf 2002). In particular, the negative impacts of global economic policies in the last two decades have forced thousands of women to mobilize in Latin America, Asia and Africa in response to livelihood issues that

include the cost of living, the extent of state provision, environmental change and access to financial and social infrastructure (Rowbotham and Linkogle 2001: 2). Women's lives may structure certain forms of political consciousness, suggesting why women's protest activities, on both the left and the right, tend to be linked to issues of economic survival, national/racial/ethnic conflict, humanism/nurturance and women's rights (West and Blumberg 1990). Kaplan (1982, cited in Rowbotham and Linkogle 2001) referred to the concept of "female consciousness" to suggest that that "recognition of what a particular class, culture and historical period expect from women creates a sense of rights and obligations that provides motive force for action."

A reality of women's gendered lives is their near exclusion from formal political structures and decision-making processes around the world. Typically, women do not sit at tables when decisions are made to declare wars, test nuclear weapons, cut down forests, sign trade deals or otherwise enact gender-biased laws or policies that directly affect their lives. As a result, they are forced to adopt different strategies and responses, and operate in different spaces, in an attempt to have their voices heard. Women's activism and protest often involves informal networks of friendship, kinship and neighbourhood rather than elections, positions and organizations, an approach that both defines and positions their work. In Britain, Women against Pit Closures aimed to save not just the mines but also the mining community, in which they shared a sense of belonging, and familial and emotional ties (Allen 2001: 46). Tilly and Gurin (1990, cited in Blee 1998) referred to protest occurring outside formal political structures and based on everyday solidarities as "proto-political," in contrast to "political" militancy, which operates through formal politics or social movements and is often grounded in allegiance to voluntary associations.

Finally, women's gendered roles, lived out on a daily basis, are arguably a strong motivation to action. Women are key players in protests, because they bear the greatest responsibility for family welfare and face the greatest disadvantage and risk to personal security when their way of life is disrupted. Raising children, maintaining a home and retaining cultural identity is a tremendous challenge in the face of unjust social and economic structures, ecological destruction and armed conflict. Yet often, societies expect women to continue fulfilling those gender roles, even in the most adverse circumstances. Few women have the option, means or desire to abandon their roles as mothers and caretakers when the going gets rough. Gender differences in focus and rationale during protest are summed up in a description of the Chicano families participating in the United Farm Workers (UFW) boycott of grapes, lettuce and wine.

Wives, mothers and daughters experienced the boycott differently than their husbands, fathers and sons – in rationale, content and form. Women justified their participation as a defense to the domestic welfare of the family; their activism was to a considerable extent loosely tied to the organizational structure and was more cooperative. Men justified their involvement in economic terms: their participation was explicitly incorporated into the union structure and more individualistic. While men's militancy was more apparent and focused, women's activism was more complex as they juggled the

competing interests of family, work and trade unionism (Baca Zinn 1975, cited in Rose 1998: 226).

Women participate in protest in a gendered way, but their participation can either fit, or subvert, the gender expectations of a larger society (Blee 1998: 6). During protest, the standard division of labour may prevail, with women cooking meals and providing support to protesters while men take centre stage, directing activities and speaking publicly. In the early 1970s, when female hospital workers in Kentucky went on strike for 28 months in a drive to unionize and increase their poverty wages, union officials instructed them to act “ladylike” on the picket line. Community support for the women’s struggle wavered under the gendered notion that it was women’s duty to care for others — at work and at home — and made people reluctant to see them as workers who could collectively organize and strike (Maggard 1998: 297). However, sometimes simply stepping into a protest, blocking a road or confronting male authority represents a major gender challenge in a given context. A good example is the Saudi women who drove cars to protest gender discrimination, including driving prohibitions against women.

Women may also use gender norms to their advantage, drawing on the moral authority granted to them by virtue of their being mothers (givers of life) and nurturers (mothers, wives, daughters) (Mazurana and McKay 1999: 20). At times, adapting individual feminine characteristics to social struggle is an important strategy that affords women some protection. Their gender roles in caring for families also bring rights that can legitimize confrontations with public officials so “when police or armies arrest women acting as mothers, it is the law that is called into question, rather than the women” (Kaplan 2001: 41). In Chipko, women embraced their own stereotypes as loving sisters and courageous mothers working for their families and the common good, and shamed the masculinity of woodcutters (Kaplan 2001: 35). Women likewise challenged male gender roles during the 1973 coup in Chile, when they demonstrated in the streets “banging their saucepans, accusing the military of cowardice for not intervening” (Stalker 1987). Later, women came together to demonstrate on behalf of political prisoners and the “disappeared” and to visit the detained, bringing in food and then taking out written messages hidden in their underwear.

Women’s involvement and initiation of protest can produce a myriad of gendered impacts. Typically, gender-blind accounts privilege male experience and fail to consider the impact of protest and resistance and their aftermath on women, or the diversity of women and stratification among women and effects on women’s experiences and position (Mazurana and McKay 1999: 2). Women are often relegated to “victim” or “vulnerable group,” with an emphasis on considerations of sexual violence, although there is growing awareness of the gendered expression of backlash against protesters.<sup>13</sup> Women protestors can live with other negative after-effects of their involvement, including divorce, loss of jobs and livelihoods, and estrangement from family and communities at odds with their involvement and approach.

At the same time, women can emerge from a protest with a new appreciation of their own capacities and abilities (Maggard 1998: 302), as well as heightened political awareness and organizing skills. Individual growth for women seems more profound in extreme circumstances (i.e., when their activities expose them to a new circle of friends and acquaintances and they

risk physical danger) (Maggard 1998: 285). Women's participation in boycott activities with the United Farm Workers of America undermined traditional gender relations by bolstering self-esteem among the women and promoting co-operative relationships in marriage (Rose 1998). College women who joined the civil rights movement were, 20 years later, less likely to be married or have children and clearly opted for less conventional lifestyles (McAdam 1988, cited in Blee 1998). Sometimes, women report that the men in their lives begin to take on more domestic duties as a result of their involvement with protest. However, any changes to gender relations may not be permanent, as women often play dramatic public roles, but go back to being housewives (West and Blumberg 1990). Individual growth seems to be an inevitable outcome of women's involvement in protest. What is less certain is the level and permanence of change to gender relations at a personal or community level.

### **The Nature of Aboriginal Protests**

Around the globe, Aboriginal communities seek to uphold their human security by resisting and protesting the pressure put on their lands and the valuable resources they contain.<sup>14</sup> From the Amazon Basin to the tropical rainforests of Southeast Asia and Central Africa, energy, mining, logging, hydro-electric and other mega projects have uprooted, dislocated and even destroyed native communities (Geddicks 1993: 13). The U'wa in Columbia are fighting oil development on their lands, the Batwa in Rwanda and Burundi are battling logging concessions and the Igorot, Mangyan and Lumad in the Philippines are fighting mining on ancestral lands. The Penans of Sarawak, the Cree of Canada and the Mapuche of Chile are all fighting World Bank dam projects (Tauli-Corpuz 2002: 66). A coalition of non-governmental organizations (NGOs) has documented hundreds of such cases on a large world map (International Forum on Globalization 2003). In India, Nigeria and Zambia, police have killed hundreds of indigenous people protesting large-scale dam projects (Shiva 2002: 68).

The impacts on women in these struggles are extreme and far ranging. According to the women's organization MADRE, the U.S. war on terror has included pressure on Latin American governments to sign free-trade agreements. In Nicaragua, Indigenous women have particularly suffered after multinational corporations appropriated land and resources from their communities.

Rain forests on which local peoples depend for food, water and medicines are being destroyed. As a result, traditional diets are further undermined in a region where 75 percent of the population already suffers from malnutrition. Women, who are responsible for providing for their families and have less access to food in the first place because of gender discrimination, are especially threatened. Mirna Cunningham, an Indigenous leader and medical doctor on the North Atlantic Coast, reports that, "when women go out to haul water, fish or gather plants, they are confronted with armed guards protecting land that is now corporate property. Without our lands, women cannot care for their families" (MADRE 2004).

In Chiapas, where globalization forced millions of Indigenous farmers off their land and sparked the Zapatista movement, women live with a growing military presence that directly



compromises their security. As a young Indigenous woman and human rights activist describes:

Women suffer from the presence of soldiers, both government troops and the more brutal paramilitary forces. They live in fear that their families will be hurt, their houses burned down and their lands taken by the army to build military camps or roads. These threats cause tremendous psychological stress. We have seen more mental health problems among women in our community. Women's personal security is further threatened by acts of gender-based violence.... When the army comes, it is no longer safe for women to be outside. Girls are raped and forced to become prostitutes for the soldiers. Others have been kidnapped by paramilitaries and held as slaves to cook, clean and provide sex for the men (MADRE 2004).

However, disputes to control or preserve land and resources — oil, water, timber, fish — are typically described as ethnic or religious conflicts (Shiva 2002; Klare 2001).

In Canada, conflicts about property and natural resources frequently endanger the lives and safety of Aboriginal people (Amnesty International 2003). New pressure on Aboriginal land rights and titles through the imposition of free trade has prompted a resurgence of Aboriginal resistance. In both Canada and Mexico, a crucial component of restructuring under the competitive regime of the North American Free Trade Agreement (NAFTA) is the conquering of the last frontiers for natural resource industries and agribusiness (Simmons 1999). Concerns and frustration have driven Aboriginal people into protest and conflict with the justice system and police services.

The use of excessive force by law enforcement personnel against Aboriginal communities, particularly those protesting land and treaty issues, is well documented.<sup>15</sup> In 1981, 300 Quebec police and 90 Department of Fisheries and Oceans officials raided the Restigouche First Nation. While helicopters circled above, helmeted police officers confiscated and destroyed salmon fishing nets, beat people with batons and arrested 12 band members, including two minors (Obomsawin 1991). In Canoe Lake, Saskatchewan in 1992, RCMP dispatched 80 officers to deal with a small number of protesters. In northern Alberta, the Lubicon Cree reacted to oil extraction and logging in their traditional lands with a boycott of the 1988 Calgary Olympics, roadblocks and demonstrations. When the band declared sovereignty in 1988, heavily armed RCMP, backed by helicopters and dogs, mounted a coordinated assault on four passport control points and arrested 27 people. When the Innu of Labrador protested the use of their land and airspace for military flight training in 1989, the police and military responded by surrounding women, children and elders with coils of razor wire (Aboriginal Rights Coalition 1993: 33). In September 1988, the Algonquins of Barriere Lake, in an effort to raise awareness about poverty on the reserve and the impact of clear-cut logging, set up a tented camp on the front lawn of Parliament Hill and were arrested. A year later, they erected barricades in their community. The Sûreté du Québec (SQ), the provincial police, stormed the barricades in riot gear and arrested the protesters once again (Taylor 2002).

The 1990s produced more examples of excessive force. In a dispute over fishing rights at the Esgenopetitj First Nation (EFN) in Burnt Church, New Brunswick, fisheries officials

confiscated lobster traps and boats. Some EFN boats were swamped, rammed and run over, while the occupants were subjected to tear gas and pepper spray, and beaten in the water (CPT 2003). In 1995, more than 250 heavily armed provincial police confronted less than 30 unarmed protesters occupying Ipperwash Provincial Park to protest land and treaty violations against the Ojibway people of Kettle and Stoney Point First Nation. Three protesters were shot and one, Dudley George, was killed. At Gustafsen Lake, British Columbia, a 1995 dispute over sacred land escalated into an armed stand-off. Four hundred RCMP and army officers confronted a group of 18 sun dancers, 12 of them women and children (CERD 2002). In what's been described as the most aggressive government use of armed military force in Canada in the past century, public authorities used 77,000 rounds of ammunition, armed personnel carriers and internationally banned land mines (Hall 2004: 7).

Frequently, resistance by Aboriginal people has been criminalized. Within Canada, a partial list of 124 Aboriginal people arrested during various protests about fishing, logging and land since 1995 includes 35 women, some of them elders (CERD 2002). The most common charges, laid by RCMP and local police, are:

- obstruction – refusing to cease the activity;
- mischief – when Aboriginal people are told to leave their land and respond emotionally;
- uttering a threat – when they tell the enforcement personnel to leave their land;
- assault – when they pull away from enforcement personnel; and
- resisting arrest – if they refuse to move as directed by the enforcement personnel. (CERD Report Ad Hoc National Network 2002).

In some cases, court injunctions are used to stop Aboriginal people from exercising their Aboriginal title and rights. Injunctions routinely require people not to return to the disputed area or to engage in any kind of protest; those refusing may be charged with criminal contempt of the court.

Clashes with the law occur against a backdrop of ongoing discrimination against Aboriginal people within the justice system. In fact, the history between Aboriginal people and the Canadian justice system is “one of continuing systemic discrimination and disproportionate adverse impact at every stage of the Canadian justice system.”<sup>16</sup> Aboriginal people are overrepresented within the prison populations, underrepresented by defence lawyers, more likely to be denied parole and bail, and spend more time in remand. Aboriginal youth and women have the highest incarceration rates of any ethnic group in Canada.

Aboriginal women have also suffered disproportionately at the hands of the justice system. According to various statistics, they experience higher rates of intimate violence than the overall female population. The Aboriginal Justice Inquiry in Manitoba noted that violence and abuse in Aboriginal communities have reached endemic proportions. Native women's groups have catalogued cases of Aboriginal women whose murders are either poorly investigated or lightly punished.<sup>17</sup> Over the past 20 years, about 500 Aboriginal women have gone missing in communities across Canada. “In Canada, Aboriginal women continue to be targets of hatred and violence based on their gender and their race. They continue to be

objectified, disrespected, dishonoured, ignored and killed, often with impunity” (NAWC 2004).

### **Aboriginal Women and Protest**

In Aboriginal communities, the primary role of women, as the keeper of the home fires, remains strong even in a modern-day context. It has been argued that women’s roles have not undergone the same transformation as those of men, who have lost their traditional roles of protectors and providers of food through hunting, fishing and trapping. For women, protecting a way of life through protest is a natural extension of their role of keeper of the home fires and derives from a sense of responsibility to all. Ivy Chaske, a Dakota woman, describes her understanding of being a woman and a mother.

I grew up with a sense of women’s responsibility for all the people. It’s not just women’s responsibility to the children — we have a responsibility to all for the people. We have to. We are the life givers. We are the life force of the nation. Our responsibility is to everyone; male and female, young and old, because we are that place from which life itself emanates. And there is nothing greater than that (Anderson 2000: 169).

In Canada, Aboriginal women have long led efforts at healing and rebuilding in their communities, even when male-dominated governments sidelined them. “Natural leaders are the ones who get things done...early on in our development, it was these natural leaders who worked to change our communities and these leaders were, in overwhelming numbers, women” (Maracle 2003: 73).

Their roles included active involvement in protest and activism, with the contributions of First Nations women, such as Kahn Tineta Horn and Anna Mae Pictou-Aquash to the pan-Indianism movement of the 1960s. Aquash, a Mi’Kmaq from Nova Scotia, was highly placed in the American Indian Movement (AIM) of the 1970s. Aquash joined in the Trail of Broken Treaties March to Washington and the 71-day Wounded Knee occupation in South Dakota before being shot to death.<sup>18</sup>

In subsequent decades, Aboriginal women conducted a 100-mile walk to Ottawa from Oka, Quebec, to protest housing conditions on the reserve.<sup>19</sup> Later, they and others from across the country organized to seek changes to the *Indian Act*, which had stripped women of their status if they married a non-Indian man. Along with her status, the woman lost her band membership, her property, inheritance, residency, burial, medical, educational and voting rights on the reserve. Their years-long campaign included taking their case to the UN Human Rights Committee in Geneva, which ruled Canada had breached the International Covenant on Civil and Political Rights (Silman 1987: 14). In 1985, their efforts resulted in the historic passing of Bill C-31, which allows reinstatement for non-status Indian women.

During the Oka crisis in 1990, women were spokespersons and acted as a buffer between the Canadian Army and the Mohawk Warriors. On the Prairies, women have protested the authority and accountability of male band leadership through sit-ins and hunger strikes,

sometimes forcing a change of leadership (Brooke 2001). In Labrador, Elizabeth Penashue, an Innu woman and grandmother of 22, led the protest in the 1980s against low-level test flights by Canadian and foreign pilots above river valleys and lakes where the Innu travel and build their camps. Sitting on runways and crossing into no-go areas designated as test bomb ranges, Penashue has been arrested a half dozen times.

The first time was five years ago.... All us women had a meeting and decided to do something. Next morning over 100 people sat down on the runway — kids, women and even some men. We just sat there. We didn't make no trouble or break no planes. Then the RCMP dragged us away to a big bus and put us in jail (Ellwood 1996).

In the interior of British Columbia, women have been at the forefront of protests and blockades over plans to expand the Sun Peaks ski resort in their traditional hunting and gathering lands. Since October 2000, Sun Peaks has obtained court orders and destroyed four Skwel'kwel'welt protection centres and associated sweat lodges. At least 54 Secwepemc people have been arrested. On one occasion, RCMP and Ministry of Highways officials dragged two women elders from a teepee, then tore down the teepee. Women from the Neskonlith First Nation described some of their experiences in protests, including police raids on their camps. Early one morning, 12 police officers, with dogs, pulled down their camp.

*RCMP came and flipped that tarp up, kicked snow in there, grabbed everything, dumped all our food out, emptied our bags and all on the ground on the snow right there like. And they didn't have a warrant. They didn't have anything. They just did it just to be pricks.... It was cold and it was at night time.... Two other times, they did the same thing.* (Previously unpublished research for Rude and Deiter 2004).

How these protests have impacted gender is a topic just starting to be discussed. One writer (Bressette 2003: 237) described the chaos and insecurity on the Kettle and Stoney Point First Nation, where the peaceful Ipperwash protest resulted in the shooting death of band member Dudley George. In the internal conflict that escalated after the crisis, a group of protesters, mainly women and children, were attacked by a mob that also burned buildings and painted graffiti. Youth violence, drug and alcohol abuse have increased dramatically, with implications for women's well-being and security. "I have witnessed the destruction of a once peaceful community and continue to witness on a daily basis the anger, hurt and fear that has replaced it" (Bressette 2003: 238).

The extensive involvement of Aboriginal women in protest stems from several factors. Colonization introduced a hard reality for all Aboriginal people, with women particularly targeted for repressive government measures. Today, Aboriginal women and their families face systematic discrimination and endure the lowest standard of living in Canada. While Canada regularly tops the United Nations list for the highest quality of life in the world, Aboriginal peoples living "on-reserve" in or near their traditional lands ranked approximately 63rd on the UNDP scale (INAC 1998). Aboriginal women are the poorest of the poor, even poorer than

Aboriginal men, and remain extremely vulnerable to violence (FAFIA 2003: 10). The FAFIA report also found that Aboriginal women face a pattern of neglect and overt discrimination, at all levels of government, and have been excluded from self-government discussions, so their interests are not adequately represented or protected.<sup>20</sup>

Arguably, women's roles in protest are derived, in part, from the more powerful and elevated positions they once held within their societies. Although the first explorers and missionaries described Aboriginal women as "beasts of burden and menial slaves," these early ethnographers also found women in the roles of leaders, warriors, hunters and council members (Albers and Medicine 1983; Wright 1993). Some Aboriginal scholars, anthropologists and feminists argue women possessed prestigiously recognized roles in pre-contact tribal societies that equalled men in status and influence (Albers and Medicine 1983; Leacock 1986: 254). These scholars deconstruct early ethnographic, explorer and missionary accounts, focussing on gender analysis and a better understanding of research techniques.

In *The Hidden Half*, Albers and Medicine (1983) argued pre-contact Plains tribal societies had few rigid gender roles. Their research provides different interpretations for bride price, polygamy, work roles and other genders in a society where women exercised social and economic power. For example, in many pre-contact tribal societies, women worked hard but distributed the goods from their work. Aboriginal women were known to trade corn, beans and slaves with fur-trading companies and army posts, without the help of male intermediaries (Albers and Medicine 1983: 42). Another interpretation for polygamy was to share the work among women and provide a social safety net for unmarried women.<sup>21</sup> They also wrote about a society respectful of other genders, where double-spirited people played a spiritual role in traditional life.

The Iroquois are acknowledged for the elevated status of women within their societies. Many experts claim women in Iroquois society enjoyed an equal, if not superior position, because of their control over the basic economic unit (Montour 1987: 2; Voyageur 2000: 86; Anderson 2000: 66). Property transfer and marital residence were matrilineal and matrilineal, tracing kinship through the mother's line (Ember 1977: 302). Matriarchs also decided on who was to be chief or headman of the band. Frederick Engels wrote about the Iroquois Confederacy. "There can be no poor and needy. All are free and equal — including the women" (cited in Wright 1993: 117). In Iroquoian society, the women grew the crops and distributed all food resources including the meat provided by men. Their ability to control food distribution allowed women to influence political decisions, and, in some cases, prevent war by withholding provisions to the men (Albers and Medicine 1983: 42).

Among the Mi'Kmaq of the east coast, family groups would set up wigwam sites along the coast in bays, coves and inlets. Several times a year the band would meet to discuss warfare, marriages or ceremonies. As with other Algonquian speakers, the most important social unit was the community or extended family. The *sagamaw* or chief travelled with twelve to several hundred people. His role was to negotiate consensus between band members and act as a spokesperson. The society was thought to have been egalitarian with women participating equally in all aspects of society (Steckley 2001: 52; Whitehead and McGee 1983).

West coast tribal societies are hierarchical with complex house systems that incorporate clans and families. Potlatches and feasts were celebrations and First Nations government at work, as property was transferred, alliances built and chiefs selected through these functions (*Delgamuukw* 1997: para: 93; Anderson 1998: 1). Matrilineal kinship lines permitted women to play an influential role in decision making (Sayers et al. 2001).

Paula Gunn Allan, another Aboriginal academic, wrote extensively about Aboriginal women's roles in *The Sacred Hoop: Recovering the Feminine in American Indian Traditions* (1986). She argued that First Nations women's roles in pre-contact society were as valued as men's roles, and that with the arrival of the Europeans and the effects of colonization, the roles have lessened.

Indeed, as the European's influence continued, Aboriginal women's traditional roles and ceremonies were denigrated, displaced and forgotten.<sup>22</sup> The fur trade introduced a mercantile economy that further denigrated women's influence in traditional society. The fur trade also brought a reliance on European goods, which led to women's dependency on men and encouraged the development of the European model of the nuclear family (Bourgeault 1989: 87; Anderson 2000: 62).

In 1876, the first *Indian Act* was introduced and brought Indian women and men under legislation whose function was to colonize and assimilate.<sup>23</sup> The early *Indian Act* (1876) contained provisions that undermined traditional authority and roles, and required a male elected chief and council (Morris 1971). This denied women the right to participate directly in the governance process. Additionally, the first Act prohibited Indian women from voting in band elections, until amendments were introduced in 1951. These provisions were necessary to be included as law, which suggests that Indian communities had to be directed to stop electing women. Indian women participated in treaty signing<sup>24</sup> and spoke at political discussions<sup>25</sup> on behalf of their bands.

Sanctions available to ensure compliance by the First Nations people included withholding rations and privileges by the department-appointed Indian agents on reserves (Carter 1990: 152; Dickason 1992: 303). In the hardship that followed, women hungry and dressed in rags sometimes sold sex to feed their families (Goodwill and Sluman 1984: 24).

In 1894, the first of the compulsory education provisions was introduced. Later, the RCMP was authorized to use necessary force to take children from their home and bring them to residential schools. For Indian women, the denial of being a mother or grandmother had major repercussions for later generations, including the loss of traditional child-rearing practices, loss of languages and cultural traditions, and the infliction of sexual, physical and psychological abuse. Restrictions on freedom of movement, through the pass system, prevented women from visiting their children at residential school. Several stories are written about the collaboration between school principals and the Indian agent to keep Indian parents, grandparents and community members separate from their children (Miller 1996: 70).

In 1884, the federal government introduced religious prosecution provisions against First Nations people. Potlatches and the *tamanawas* dance of the west coast people who participated brought a jail term of two to six months (RCAP 1996: vol.1, p. 291). The provision was expanded the following year to include the sun dance and the thirst dance of the prairie tribal groups (RCAP 1996: vol. 1, p. 291). There were many charges laid. Taytapasahsung, a 90-year-old, partially blind Saulteaux/Cree man, spent two months at hard labour at Stony Mountain penitentiary for holding a sun dance (RCAP 1996: vol. 1, p. 292). This provision was not repealed until 1951. During the 1920s, Nancy Rockthunder (Dressyman), then 17 years of age, hosted a horse dance for her sick husband. This young woman risked a six-month jail term to practise her spirituality.<sup>26</sup>

For Indian women, the goal of assimilation by the Department received extra emphasis, as indicated by the number of separate provisions targeted to Indian women. The officials at the Department were extraordinarily concerned with their morality. In 1874, section 72 allowed for the “stop payment of annuities to Indian women who have no children who deserts her husband and lives immorally with another man.” For many tribal groups, divorce was available to Indian women. For example, among the Plains Cree, the wife would put the moccasins of her soon-to-be former husband at the door of the dwelling and the marriage was ended. Unfortunately, for Indian women traditional divorce practices were outlawed; only state sanctioned divorces were approved. In 1881, only 17 divorces were recorded in Canada (Jamieson 1978: 45). Under other provisions, unenfranchised Indian women were not allowed to live in a rooming house, ostensibly to prevent them from entering prostitution. A woman was fined \$10 and the rooming house owner fined as well or sentenced to six months in jail (Jamieson 1978).

Women also lost their right to Indian status on marriage to a non-Indian. This provision was not repealed until 1985, but its gender discrimination is still apparent. Many women who prior to 1985 lost their Indian status, because they “married out” have still not been restored to full status in their bands. Nor can they, even though their Indian status has been restored, pass on their Indian status to their grandchildren on the same basis as men who “married out” prior to 1985 (FAFIA 2003: 9).

In the past, Aboriginal protests regarding Aboriginal title and rights were met with legal provisions and responses that severely undermined basic human rights at the individual and communal levels. Most of these provisions under the *Indian Act* have been repealed in the last decades. However, the physical and psychological effects of legislation on First Nations people makes even more poignant the scene of a First Nation community still struggling to have its Aboriginal title and rights recognized and enforced by the courts.

### **Constitutionally Guaranteed Rights and Freedoms**

Despite the diversity of Aboriginal people across Canada, most Aboriginal groups possess similar values and attitudes regarding land use and the environment. Aboriginal values include group harmony, sharing, respect, balance and spirituality. Co-operation was necessary among Aboriginal groups to secure food, resources and protection (Mandelbaum 1979: 105; Bourgeault 1989: 88). This co-operative value extended to communal land use. The Royal Commission on Aboriginal Peoples (RCAP 1996: 457) wrote:

Aboriginal property systems can best be thought of as communal because they resemble neither individualized private property systems, nor the system of state management that currently prevails on public lands in Canada. Even where family and tribal territories existed, these systems combined principles of universal access and benefit within the group, universal involvement and consensus in management, and territorial boundaries that were flexible according to social rules.

Academics worldwide have accepted that Aboriginal people have a unique perspective/world view that should be protected, especially regarding customs, traditions and Aboriginal practices. This is reflected in international agreements and declarations addressing indigenous rights specifically. The UN Declaration on the Rights of Indigenous People, drafted in 1993, has yet to be finalized. The Indigenous and Tribal Peoples Convention of 1989 also supported the rights of indigenous people to enjoy a full measure of human rights and fundamental freedoms without discrimination. Only 17 countries have ratified the Convention so far.

Some First Nations leaders have advocated that they are peoples as defined in the UN Charter; however, the Canadian government argued against this idea and lobbied to introduce the term “populations.” The term “peoples” is an international term that includes a right to self-determination (Boldt 1993: 54).<sup>27</sup> Another United Nations document that affirms self-determination is the International Covenant on Civil and Political Rights.<sup>28</sup> The Canadian government has argued that treaties signed with First Nations are not international agreements, but rather domestic agreements signed with other citizens within Canada (Boldt 1993: 49).

In Canada, it’s argued that these customs and traditions are, in fact, Aboriginal rights that are recognized, affirmed and protected by the *Constitution Act*, 1982, sections 25 and 35.<sup>29</sup> Supreme Court of Canada (SCC) decisions like *Guerin* (1984), *Delgamuukw* (1997) and *Marshall* (2000) have all been major steps toward recognition of Aboriginal rights and title. In *Delgamuukw* (1997), Chief Justice Lamar defined Aboriginal title.

Aboriginal title is a right in land and, as such, is more than the right to engage in specific activities which may be themselves Aboriginal rights. Rather, it confers the right to use land for a variety of activities, not all of which needs be aspects of practices, customs and traditions which are integral to the distinctive cultures of Aboriginal societies. Those activities do not constitute the right per se; rather, they are parasitic on the underlying title. However, that range of uses is subject to the limitation that they must not be irreconcilable with the nature of the attachment to the land which forms the basis of the particular group’s Aboriginal title. This inherent limit, to be explained more fully below, flows from the definition of Aboriginal title as a sui generis interest in land, and is one way in which Aboriginal title is distinct from a fee simple (at para: 111).

Chief Justice Lamar also outlined the test to justify an infringement of Aboriginal rights, provided new criteria for a claim to Aboriginal title, and a way to extinguish Aboriginal title. *Delgamuukw* also recognized that Aboriginal title is protected by section 35(1) of the



*Constitution Act.* While the case went far in settling and clarifying some Aboriginal rights questions, it left the federal government and First Nations little option but to begin negotiating land claim agreements rather than taking the cases to court.

Aboriginal protests are primarily in response to what the Aboriginal protesters perceive as a lack of recognition or acknowledgment of Aboriginal title and rights by developers and government institutions. Little Buffalo Lake, Burnt Church, Oka and west coast fisheries are Aboriginal protests that attempt to have federal and provincial governments address Aboriginal rights and title. Indeed, protesters at many of these sites argue their occupation, and roadblocks or fishing practices are lawful activities, backed by constitutional guarantees and favourable court decisions.

Another mechanism used by First Nations governments to settle Aboriginal land claims is the Indian Claims Commission, which has three types of settlements.

- Comprehensive claims address claims based on unextinguished Aboriginal title. These claims are areas where treaty agreements have not been made with First Nations. These regions include British Columbia, the Northwest Territories and Yukon (RCAP 1996: vol. 2, p. 535).
- Specific claims address grievances made by Treaty Indians for failure by the federal government to discharge its treaty obligations and improper land surrenders.
- Other claims address administrative solutions or remedies to grievances that go beyond lawful obligation (Indian Claims Commission 1993).

Despite several objections by Aboriginal organizations and groups, the claims policy remains the same. The policy insists on the surrendering of all Aboriginal title and rights by Aboriginal groups in exchange for benefits or rights provided in negotiated agreements (RCAP 1996: vol. 2, p. 537). The process has been slow, with Aboriginal groups hampered by a lack of funding to hire lawyers, and frustrated by the federal government's conflict of interest in its joint role as adjudicator and party to the claim (RCAP 1996: vol. 2, p. 535). In addition, government negotiation tactics have divided some First Nations communities. For example, if the federal negotiator has determined a claim is justified, the government offers a lump-sum payment to community leaders. The payment is then accepted by some community members but not by all, as is the case in Burnt Church. A hereditary chief of the Mi'kmaq Grand Council said the Burnt Church agreement was signed by a handful of band council people, who did not even have a lawyer present to advise them.

The agreement was entered into under duress. The government of Canada used our hunger and poverty, violence against us, our vulnerable position, the threats of the Crown, the charges against all of our people who were defending our rights, as coercion against us. All this was used to get our people to "agree" to a fishery agreement that the community did not want (Kwegsi 2002).

## Bill C-36 and Aboriginal People

Bill C-36 became law in December 2001. It is actually a series of amendments to current federal legislation, including the Criminal Code, the *Official Secrets Act*, the *Canada Evidence Act*, the *Proceeds of Crime (Money Laundering) Act*, the *Canadian Human Rights Act*, the *Access to Information Act* and other pieces of legislation with possible relevance to terrorist activities. Amendments to the Criminal Code introduce offences for terrorism including the financing of terrorist activities, confiscation of terrorist property, and legislative linkages to international agreements on terrorism.

The *Official Secrets Act* becomes the *Security of Information Act*, which provides new offences to deal with spying by foreign powers and/or terrorist groups. Changes to the *Canada Evidence Act* allow the Attorney General of Canada to not disclose sensitive information during a trial or hearing. This change allows for secret hearings without due process for those suspected of terrorist activities. As well, provisions on how and why organizations are placed on the terrorist list are without procedural protections. Certificates revoking charitable status, leaving the organization 100 percent taxable, can be handed down in private by a Federal Court judge, without the organization present. Bill C-36 was passed as permanent law. “Sunset” clauses apply only to those portions of the Act allowing for preventive arrest and investigative hearings, representing only a tiny fraction of the whole package (Pue 2003: 271).

The most troubling and contested aspects of Bill C-36 are definitions of “terrorist activity”<sup>30</sup> and “facilitating terrorist activity.”<sup>31</sup> Commentators have called these definitions vague and non-sensical, a one-size-fits-all designation of terrorism that fails to distinguish between terrorist and freedom fighters and leaves police with too much discretion (Pue 2003: 276). Previously under the Criminal Code, one needed to have the “mens rea” or intent to commit a crime. Under these definitions, the accused does not require the knowledge and intent to commit a terrorist activity for a conviction. These provisions shake the very foundation of Canadian criminal law jurisprudence.

A wide range of groups and commentators<sup>32</sup> has opposed Bill C-36 as a sweeping assault on civil rights and liberties (Daniels et al. 2001; Quigley 2003). They argue the legislation increases police power and narrows the civil rights of those involved in or supporting legitimate protest activities and what the government deems terrorist activities. The broad definition of terrorist activity could extend to legitimate protest that may have implications for activists and expose them to improper surveillance, questioning, harassment and criminal charges (CBA 2001; CUPE 2001; NAWL 2001; Maxcy et al. 2002). Racial profiling by security and police may target members of minority groups for increased surveillance. Even supporters of activists and protesters risk being caught up in Bill C-36. Churches are concerned about legitimate fund-raising activities if a portion of those funds is found to assist a member of a terrorist group with food, medicine or lodging. Even if the charity is not charged, it may risk the loss of its charitable status (Carter 2002).

The entire legislative package is “drastic and unwarranted” and represents a serious erosion of civil rights (ICLMG 2003). The International Civil Liberties Monitoring Group

(ICLMG), a coalition including NGOs, churches and the Canadian Bar Association, is particularly concerned about accountability for the legislation itself, and for those who enforce it. Justice Canada's report on the bill, tabled in Parliament in May 2003, was described as scant and inadequate (ICLMG 2003).<sup>33</sup> While proponents of Bill C-36 argue security concerns justify a partial and temporary infringement of basic rights, opponents wonder when and if the war on terrorism will end.

The War on Terror...is not a real war. Its parameters are unclear, ranging from gunboat diplomacy to more or less gratuitous rights violations at home. Linguistic slippage threatens clarity of thought as the metaphor of war glosses over a great deal. Unlike the war against the Nazis, unlike even Vietnam, this war involves neither a fixed enemy nor an identifiable objective. There are no criteria by which to declare victory or recognize defeat. Closer to the War on Drugs than "hot" warfare as such, we find ourselves confronting an endless state of emergency that ensures the "permanence of the temporary". When the state intrudes on fundamental liberties, "temporary" tends to permanence as surely as night follows day (Pue 2003: 271).

To what extent is Canada prepared to override rights and values reflected in the *Canadian Charter of Rights and Freedoms* when dealing with matters of national security? Legal scholars argue that Charter-proofing this legislation may not be what is best for Canadian citizens, because federal government lawyers are adept at avoiding potential Charter challenges (Daniels et al. 2001). Daniels et al. argued that courts have been supportive of legislation that puts national security above individual rights. One example is the forced internment of Japanese Canadians during World War II, where individual rights were suspended because of race-based policy making.

#### ***Aboriginal Concerns over Bill C-36***

The expanded powers of Bill C-36 have raised alarms among Aboriginal leaders, who have called for Aboriginal people to be excluded from the legislation. Former Assembly of First Nations (AFN) Chief Matthew Coon Come (2001) has expressed fears that First Nations people "will inevitably suffer such misuse and abuse disproportionately." Within the anti-terrorism legislation, three sections raise concerns for Aboriginal groups. These include overriding the Aboriginal constitutionally guaranteed rights and freedoms, introducing protection for economic security and increasing police discretion under a wide-open definition of "terrorist activity."

Coon Come stated that Anne McLennan, then Minister of Justice commented that Aboriginal people should be exempted from Bill C-36 in matters relating to Aboriginal rights and title to lands. These rights are protected by the *Constitution Act, 1982*. His concerns are the introduction of protection of economic rights for individual private property will take precedence over communally held Aboriginal rights and title. He also provides as an example where a death resulted in increased police powers.

Ipperwash stands as just one case study among many which demonstrates the risk posed to First Nations of legislation which gives heightened powers to

police, narrows the civil rights of those involved in legitimate dissent and protest activities and limits or suspends the civil rights of those perceived by the government to be involved in “terrorist” activities (Coon Come 2001).

### **Is There an Aboriginal Right to Protest Protected Under the Constitution?**

Resistance and protest by Canadian Aboriginal people<sup>34</sup> have been recorded since the arrival of Europeans. This paper argues that there is an Aboriginal right to protest affirmed and recognized by the *Constitution Act*, 1982. Yvonne Boyer (2003: 14) in her paper, *Aboriginal Health: A Constitutional Rights Analysis* wrote “the contemporary existence of Aboriginal rights stems from two key understandings. First, prior to contact and at the time of contact, Aboriginal societies were self-sustaining nations with evolved institutions such as law, policing, education, and health.” It flows then that protest or conflict resolution was a part of Aboriginal life before the arrival of the Europeans.

In *R. v. Van der Peet*, the Supreme Court confirmed that Aboriginal rights exist, “because of one simple fact; when Europeans arrived in North America, Aboriginal people were already here, living in communities on the land, and participating as distinctive cultures, as they had done for centuries ([1996] 4 C.N.L.R. 177 at 210, para. 74).

In addition, Aboriginal rights are affirmed and recognized in sections 25 and 35 of the *Constitution Act*, 1982. As mentioned previously, *Delgamuukw* (1997) set out the test for Aboriginal rights. Justice Lamar stated that Aboriginal rights are tied to Aboriginal title in that the right in land gives Aboriginal claimants a right to engage in activities or rights that flow from their occupancy of their traditional territory.

Justice Lamar in *Delgamuukw* posited three questions to test an Aboriginal right.

- The claimants must prove occupancy of the disputed territory at the time of sovereignty. In *Delgamuukw* (1997), however, it was assumed that this test is met if the land is occupied by the claimant Aboriginal group; if this is so, then the practice or right that is in question is integral to the culture. Aboriginal protests dealing with land and resources meet this requirement if the protest takes place regarding disputes over their traditional territories.
- The right must have continuity with the present and pre-sovereignty occupation, and the right must be rooted in the past. Aboriginal protests or some form of conflict resolution have been a part of First Nations culture since before the arrival of the Europeans.
- The right tied to the land must be exclusive to the claimant group. Justice Lamar noted that others might trespass or an Aboriginal nation could give permission for the territory to be shared, but the right continues.

Therefore, using the test in *Delgamuukw*, Aboriginal protest for land and resources is an Aboriginal right.

The next step is to determine if the right has been infringed and if so, then does it meet the test for justification. The test to determine justification has two parts.

- Is the infringement of the Aboriginal right in “furtherance of a legislative objective that is compelling and substantial” (para.161)? Justice Lamar wrote that while Aboriginal rights are a necessary right, they must be reconciled with the rest of Canadian society; he ruled that this infringement will not be granted for a relatively unimportant reason. For example, “sport fishing without a serious economic component would fail this test.” It should be argued that ski resort development with its minor benefit provided to the financial elite would not warrant a legislative objective that is compelling and substantial; therefore, it would fail this test for infringement.
- Is the infringement consistent with the fiduciary relationship between the federal government and Aboriginal people? In this analysis, the duty must be “legal and factual context,” and the interests of Aboriginal people must be placed first regarding the Aboriginal right in question. However, this may not be the case in all situations, and this right may be limited by previous legislation and other policies like conservation.
- It is this test that calls for accommodation by the industry to allow limited use of an Aboriginal right and/or calls for consultation with the Aboriginal community affected.
- Section 52 of the *Constitution Act* 1982, has not been judicially dealt with to date as no new facts existed in *Delgamuukw* or new court cases since that date that address laws that are inconsistent with the *Constitution Act* 1982 and Aboriginal rights.

Therefore, given the test in *Delgamuukw* (1997) for justification, and applied to First Nations protesters protecting traditional territories, the *Anti-Terrorism Act*, does not meet the test to infringe the Aboriginal right to protest for resources or land.

### ***Protection of Property and Economic Rights***

The *Canadian Charter of Rights and Freedoms* does not specifically protect property rights or economic rights. Yet the *Anti-Terrorism Act* refers to intimidation of the public “with regard to its security, including its economic security.” Because Aboriginal protesters usually collide with strong economic forces supporting forestry and economic development, and the political right, Aboriginal people are concerned about the inclusion of property rights. Right wing groups argue for individual property rights to be protected under the Charter and for the extinguishment of Aboriginal rights. For example, the Canadian Alliance policy on Aboriginal affairs stated: “We will not support race-based allocation of harvest rights to natural resources” (Canadian Alliance 2002). This attitude flies in the face of Supreme Court of Canada decisions like *Delgamuukw* (1997) that have been supportive of Aboriginal title and rights. In *Delgamuukw* (1997), Chief Justice Lamar affirmed Aboriginal title.

It is an inalienable communally held interest in land, which arises from both prior occupation and the pre-existing Aboriginal law, which accompanied this occupation. There is a limit to this in that the uses of land must not be

irreconcilable with the nature of the Aboriginal group's traditional and ongoing attachment to it.

Forestry companies argue that Aboriginal rights do not include a communally held interest, but refer only to usufructory rights like hunting and gathering and recognition for individual First Nation member's property rights. This position challenges decisions of the Supreme Court of Canada and Aboriginal groups calling for co-management forestry agreements between First Nations, governments, and forestry and development companies (Indigenous Network 2003). Furthermore, Aboriginal groups argue that legitimate Aboriginal protest typically interrupts "economic activity," such as logging or public access to a ski resort. For example, at the Sun Peaks dispute in British Columbia, protesters stopped tour buses and slowed traffic into the ski resort to deliver pamphlets spelling out their opposition.

### ***Increased Police Discretion and Definition of "Terrorist Activity"***

Little analysis has been done to date regarding Aboriginal protests and Bill C-36. In November 2001, former Assembly of First Nations Grand Chief Matthew Coon Come, in an address to the Standing Committee on Justice and Human Rights on this Act, highlighted concerns raised by the Bill. In the past, Coon Come used protests as a successful tool to call attention to the circumstances of the Quebec Northern Crees and has been called a "guerrilla" by governments for his efforts.

Part of the definition of terrorism includes an act or omission motivated in whole or part by a "political, religious or ideological purpose." Aboriginal protest could arguably include aspects of all these purposes. Under unclear definitions of terrorist activity, the question of discretion in application is left to what critics call "umpire's discretion."

The invitation to read a statute pragmatically amounts to an invitation to place unquestioning trust in the discretion (a polite term denoting biases, gut instincts, upbringing and socialization) of officialdom. This approach is an affront both to the very idea of public governance by law and to the underpinnings of liberal democracy. It will be police and bureaucrats, not Supreme Court justices, who will give these laws concrete meaning (Pue 2003: 282).

Aboriginal protesters have used various forms of protests including roadblocks, sit-ins and occupations in disputed territory. In the midst of these conflicts, who will decide whether the protest is lawful or a contravention of Bill C-36? Is it the commanding officers of a local RCMP detachment, or a single officer at a blockade? What guidelines have been issued? What discretion is in the hands of officers? How will they perceive native protesters such as those from the Native Youth Movement who typically wear camouflage clothing and sometimes cover their faces to avoid identification?

Furthermore, legitimate Aboriginal protest typically disrupts an essential "service, facility or system."<sup>35</sup> In numerous sites across Canada, Aboriginal groups have blockaded logging roads or shut down railways. Although "saving" clauses in the legislation are supposed to

exempt advocacy, protest, dissent, or work stoppage that is not intended to result in harm or threat to life or public safety, such clauses are not a safeguard.

All large demonstrations interfere with essential services by disrupting traffic flow. In such circumstances, it is entirely foreseeable that members of the public may suffer if fire fighters, ambulances or police services are unable to do their work. If the intent required to be a terrorist is only *some* knowledge that *some* threat to safety *might* develop as one *possible* outcome of one's action, many demonstrators would become terrorists despite the "saving" clause [emphasis in original] (Pue 2003: 273).

Like churches that support activities deemed to be linked to terrorists, First Nation chiefs and councils and Aboriginal organizations may also risk financial losses if they have paid for an event that falls within this definition. So indeed, may their other supporters, including human rights advocates or environmental organizations.

Bill C-36 does not address legitimate protest based on Aboriginal rights. The Act brings into Parliament attitudes that are not consistent with Aboriginal communal rights and values, and leaves loopholes that would allow Aboriginal protest to be potentially caught up in the definition of "terrorist activities."

## 2. METHODOLOGY

The researchers originally identified three communities as possible research sites: Burnt Church, New Brunswick, Kanasatake, Quebec, and Buffalo Lake, Alberta. However, research could not be undertaken in the last two sites. Ongoing negotiations between the band and various levels of government or the lingering impacts of the conflict left women in the community reluctant to be interviewed. The researchers, wanting to avoid situations where women may not have felt free or safe to speak, decided to visit other sites. They travelled to Grassy Narrows, Ontario, site of a road blockade against logging, and Mount Currie, British Columbia, where a community camp has been maintained since May 2000 to prevent the development of a ski resort.

These sites were deemed suitable, because they highlighted different issues: the treaty right to fish, clear-cut logging on traditional territory and proposed ski resort development pushed forward for the 2010 Winter Olympics in Vancouver. The sites represented geographically diverse communities engaged in different stages of protest, including relatively new, long-standing, and partially resolved protests. In all three provinces, the site chosen was one of several engaged in protests around similar issues. Sites were identified through the researchers' previous knowledge of the protests or through searches on the Internet, including reviews of media accounts, reports by NGOs, government and documentary films. At some sites, women had already appeared publicly as leaders or supporters in the dispute. In each site, the researchers either contacted the women directly or spoke to another band member who referred them to one of the women involved.

Three additional interviews were conducted to capture other aspects of Aboriginal women and human security. One was with a woman whose house was searched under Bill C-36, and another was with a former chief, a woman with a long track record of activism in her community. A third untaped interview was done with a young woman who had come from a nearby reserve to support the camp in Mount Currie.

In the first three communities, the researchers hired assistants who spoke to women participants and organized group discussions and interviews. The assistants were identified through previous contact with the communities or through press interviews quoting them. In all the sites, the research assistants were well known, respected and active members of their communities, so their direct involvement helped to build trust with the women and allow the research to proceed. The assistants contacted women with varying levels of involvement in the dispute, representing a range of ages, and invited them to participate in the research. They briefed them on the project, arranged times and secure locations for the interviews, and advised the researchers on suitable dates. The research assistants reported that they were not aware of established research protocols as part of band policy.

In all the communities, a total of 20 women were interviewed, ranging in age from elders to women in their early 20s.<sup>36</sup> The researchers started the discussions by introducing themselves, talking about their lives and background to help participants get to know them and feel comfortable. They also spoke extensively about the research project, including the rationale and objectives, confidentiality, the process of collecting data and the anticipated



results. Following introductions, they allowed participants to ask questions, both about the researchers and more broadly about policy research. Some women questioned how and if the research would bring positive attention to their concerns and help lead to a favourable outcome. In one site, they shared a meal with the women first.

Following the introductions and questions, the women were requested to sign consent forms and give their permission to start the tape recorder. The forms, together with information packages the researchers prepared, emphasized that the research was voluntary, anonymous and confidential. The researchers explained that the consent forms would be kept secure by the researchers. The women readily agreed to be interviewed, but a few were nervous about speaking, fearing repercussions. They verbally agreed to the interview but a few opted not to sign the informed consent forms. During the interviews, the women spoke freely and were eager to share their experiences and tell their stories. Almost always the women shared the same perspectives and backed each other up during the interviews, with one expanding on a point another had made. Rarely did they contradict or disagree with each other.

Due to the sensitive, possibly divisive nature of the topic, women were offered the choice of focus group discussions or individual interviews. The group discussions allowed the women to reflect collectively on the dispute and their roles in it. In the individual interviews, women could speak more personally and anonymously. One woman requested to have an individual interview following the group interview.

The interviews followed a semi-structured format. Women were asked to introduce themselves and describe the background of the dispute. Other questions included the following.

- What roles have women in your community played in the dispute?
- How did women experience the protest for themselves and through their families?
- How do you think Canada's anti-terrorism legislation might affect the women or the community?
- How do they, as Aboriginal women, define human security?
- How could human security address their concerns and issues?
- What recommendations would they like to make to government regarding the dispute or human security more broadly?

Care was taken by the researchers to approach the research holistically, giving women space to bring forth the values and perspectives specific to them as Aboriginal women.<sup>37</sup> At all the sites, the researchers collected data on a single visit between June and October 2003. During their stay, they toured the community and visited the camp sites that had been established as the base for the protest. The interview locations included restaurant meeting rooms, private homes, front porches, tents at campsites and in one location, around the sacred fire the women lit on the first day of the protest.

## The Participants

The 20 women interviewed ranged in age from their early 20s to elders. Most were mothers or grandmothers, and they had varying levels of education. Some had left their own communities to seek further education, and had returned. Some had worked for the band as paid staff or volunteers. Others lived on social assistance, as there was little employment available in their communities. Two had served as chief or councillor; both said their fathers had also been chiefs. At two sites, the women sometimes spoke in their own language.

## The Communities

Multiple interviews and focus group discussions were conducted at three sites. They are described below. At a fourth site, only the former chief, a woman, was interviewed. A summary of the disputes in this community is included as background.

### *Esgenoopetitj First Nation, Burnt Church, New Brunswick*

Burnt Church is a small village on the northern coast of New Brunswick. Mi'Kmaq people have lived in this village for hundreds of years and in the region several thousand years. One of three Mi'Kmaq communities located in this area, the Burnt Church First Nation covers 985 hectares. A majority of the Band's 1,500 members live on the reserve. The primary economic activity in the region is fishing. Overall federal funding to Burnt Church, including fisheries, is \$2 million. Of this, \$113,000 is to support economic development (INAC 2002). Many Burnt Church residents, except for the young, speak the Mi'Kmaq language. The Royal Proclamation of 1763 reserved lands in the Maritimes for the use of "the Indians," thereby confirming earlier treaties made with the Mi'Kmaq in 1725, 1752, 1760 and 1761.

In September 1999, the Supreme Court of Canada ruled in the *Marshall* decision that a status Mi'kmaq held a treaty right to fish for commercial purposes (*R. v. Marshall* 1999). Donald Marshall was arrested for fishing 463 pounds of eels without a licence, with an illegal net and during the closed season (Elliot 2000: 51). He argued that his ancestors signed the 1760-1761 Treaties of Peace and Friendship, which allowed the Mi'kmaq to fish for commercial purposes. The Supreme Court affirmed this argument and Donald Marshall was acquitted of charges.<sup>38</sup>

After learning of the ruling, Native fishers set lobster traps in Miramichi Bay in front of their reserve. Fearing the court decision would threaten their own livelihood, non-Native fishers destroyed Mi'Kmaq fishing equipment. Officials from the Department of Fisheries and Oceans (DFO) and the RCMP were dispatched, together with helicopters. They confiscated lobster traps and boats (CERD 2002; Obomsawin 2002). Boats from the First Nation were swamped, rammed and run over, while the occupants were subjected to tear gas and pepper spray, and beaten in the water (CPTs 2003). The enforcement of Canada's *Fisheries Act*, and the overriding of EFN's treaty right to fish were often accompanied by an excessive and even reckless use of force (CPTs 2001). About 60 EFN members were arrested on charges of illegal fishing, obstruction and assault. The question of fishing rights in the community

was partially resolved when the chief and council signed a \$34 million agreement with the DFO that stipulated the fishing season and catch limits for band members.

***Grassy Narrows First Nation, Ontario***

The people of Asubpeeschoseewagong Netum Anishnabek (Grassy Narrows First Nation) live one hour north of Kenora. About 700 of the 1,182 members of this Ojibwa community survive on 4,145 hectares of land. The annual funding provided by federal departments totals \$7 million, with \$32,000 allocated for economic development (INAC 2002). Grassy Narrows First Nation is a member of the Grand Council Treaty #3, one of 28 First Nations in northwestern Ontario and eastern Manitoba that signed Treaty #3 in 1873. Band members continue to hunt, trap and fish on the 4,000 square kilometres of traditional lands that surround the reserve (Sierra Legal 2003).

For generations, however, the Band endured severe disruptions to its traditional lifestyle. In the early 1960s, the community was uprooted by INAC and moved closer to Kenora. In 1972, the Band discovered that a pulp mill upstream in Dryden, Ontario had dumped mercury into the English River. This destroyed the local fishery, contaminated the water supply, and left a legacy of health problems caused by mercury poisoning. The Reed Paper Co. and the federal government compensated the Band in the 1980s. More recently, Ontario Hydro has flooded sacred sites, traditional lands and wild rice fields (Carter 2003).

A decade ago, the community began raising alarms about the impact of clear-cut logging. About half the forest in the surrounding territory has been levelled, destroying wildlife habitat and leaving the land littered with piles of abandoned trees, oil spills, garbage and herbicide residue (Grassy Narrows nd). Abitibi-Consolidated of Montréal, the world's largest producer of pulp and paper, holds a 20-year sustainable forest licence from the Province of Ontario to manage the Whiskey Jack Forest. This includes the last remaining stand of old-growth boreal forest in the Asubpeeschoseewagong traditional lands. Abitibi, with 16,000 employees, operates 52 sawmills and paper mills, and eight hydro-electric generating stations, many of them in Quebec (Noel 2003). Its American newsprint customers include the Knight Ridder chain, *The New York Times* and *The Washington Post* (Carter 2003).

Industry and government argue the Grassy Narrows traditional territory is Crown land. The Band says Treaty #3 and the Constitution protect its right to hunt and fish in its territories.<sup>39</sup> In December 2002, the Grassy Narrows community blockaded the main logging road leading into its territory. A camp has been established with wooden cabins, a traditional round house and an outdoor kitchen. Roving blockades are sometimes used to block logging trucks on other access roads.

***The Lil'wat Nation (Mount Currie First Nation), British Columbia***

The Mount Currie First Nation, located near Pemberton, British Columbia, has 1,800 members. About two thirds live on the Band's 2,930 hectares of reserve land. They receive \$13.5 million annually in federal government funding, including \$381,000 for economic development (INAC 2002). Mount Currie is one of 11 communities of the St'at'imc Nation, located on the western edge of the Interior Plateau and extending into the Coastal Mountains. The Nation's traditional territory includes the present-day site of the Whistler ski resort, developed in the 1970s.

Since May 2000, this community has opposed the development of a \$500 million ski resort on Melvin Creek, a small tributary of the Cayoosh Creek that flows from Duffy Lakes into the Fraser River near Lillooet. This unlogged glacial valley, rich in wildlife, is an important hunting and gathering site for the 11 bands that claim it as their territory. It is also home to the Sutikalh, or Winter Spirit. The area has long been used by medicine men and other people seeking vision quests and spiritual renewal (*Sutikalh News* 2002).

The four-season Cayoosh Ski Resort is proposed by former Olympic gold medal skier Nancy Greene-Raine and her husband, Al Raine. It is expected to attract up to 12,000 visitors a day (SPEC 2000). In 1991, the British Columbia Ministry of Environment, Kamloops Region, opposed the plan, citing the habitat's importance for grizzly bears, mountain goats and alpine fauna. The plan was abandoned in 1993, only to be revived in 1994 after the then employment minister Glen Clark met with Greene-Raine and Raine. In an October 2002 referendum, 87 percent of Mount Currie Band members voted no to the proposal. A protest camp has been established there since 2000, and Band members have blockaded the road and demonstrated outside the Vancouver Stock Exchange. Vancouver's successful bid to host the 2010 Winter Olympics could speed the construction of the Cayoosh Resort, in a push to promote winter tourism in the province (Klein 2003). The Band has maintained a presence at the foot of the mountain for three years and in 2000, they blockaded the nearby highway.

### ***Mount Cheam First Nation, British Columbia***

The Cheam First Nation is located outside Chilliwack, British Columbia and has 430 members. This community has roughly half of its members living off reserve, with the rest residing on 305 hectares. Funding from INAC provides over \$3 million, with only \$58,000 allocated for Aboriginal rights and title. No money is allocated for economic development (INAC 2002). The Band is one of the Sto:lo Nation, situated in the lower Fraser River Valley.

This community has a long history of action around rights to salmon fish on the Fraser River and, more recently, has reacted to logging and plans to build a ski resort. Cattermole Timber has a five-year licence to cut timber blocks in the Elk Creek Forest near the reserve. The company will harvest five hectares as mini clear-cut and heli-log the rest selectively, requiring them to build a road and a helicopter pad. Elk Creek, a watershed of 1,200 square hectares, is home to an old-growth forest that includes western red cedars and Douglas firs, some of them 300 feet tall. Elk Mountain is considered sacred to the Cheam people, and has long been used for hunting, gathering, medicinal plants and spiritual practice. One proposed cut block shows evidence of culturally modified cedar trees, whose bark has been cut for practical and ceremonial use.

In the Elk Creek itself, band members and others fish for chum and coho salmon and cutthroat trout. Logging on mountainsides above the creek can adversely affect the stream below, especially the spawning beds (Elk Creek Action 2003). In October 2003, a group of mostly women and young girls blockaded the CN Rail line that runs through the reserve. The group also opposes a plan by Resorts West to build a ski resort that will include 20 lifts on eight peaks, three resort villages, a golf course and condos (Heidi 2003).

We have tried negotiations, litigation and written notices; so far none of these tactics have worked. It does not matter what we say, governments, and big corporations go ahead and do what they want even if it means destroying someone else's life. This attitude leaves us no other alternative than to take action to protect what is rightfully ours (Elk Creek Action 2003).

### 3. FINDINGS

This research is based on the hypothesis that Aboriginal women are central players in protest activities in their communities. Data collection at three sites sought to document systematically both the role of women in protest and the gender-specific approaches and impacts they experienced. It also explored the implications of anti-terrorism legislation on Aboriginal women's protest activity and began to develop an Aboriginal women's definition of human security.

The women did not view the disputes as isolated events, but stressed that their protests were rooted in a long and complex history that has marginalized Aboriginal people in Canada. Factors that impacted and contributed to the disputes included the loss of land and traditional lifestyle, the treaty process, political struggles within their communities and with government, the colonizing impacts of residential school and the *Indian Act*, persistent racism from mainstream society, and the everyday reality of their communities.

As women living close to the land and interconnected within their communities, they viewed the disputes as affecting their people as a whole. The women did not consider the men in their communities as separate from them or from the struggle. They acknowledged that the men's support varied, with some actively backing their efforts and others opposing them. Where possible and applicable, the role of men in the protest is explored and contrasted, although men's gender roles were not a specific focus of the data collection. Clearly, more comparative research in this area would be helpful.

The findings are discussed in three sections — motivation, roles and impacts, and outcomes — with a focus on women's gender considerations and perspective. A final section examines women's definition of human security. As far as possible, women have been allowed to tell their stories in their own words. The findings include general observations and anecdotes shared by women at all the sites, with an emphasis on key themes: cultural identity, spirituality and environmental integrity and protection.

#### **Motivation to Action**

##### ***Cultural and Historic Claims***

No matter the issue in their communities that prompted action — fish, trees or resorts — the women viewed their activities as a quest for justice and preservation of ways of thinking, living and doing as Aboriginal people. Some did not like the term protesters, feeling it failed to depict their goals and rights.

*We're not protesters. We're Indians out on the land, teaching our children the ways.*

None of the women felt that peaceful actions could be deemed illegal, because Aboriginal title, inherent and treaty rights, and Supreme Court decisions, such as *Marshall*, allowed them to be on the land or in the water. They set up blockades and camps in the hope that

those actions would earn respect and understanding for those rights and protection for them in the long term.

In describing the events that led up to the dispute, two women took a holistic perspective, identifying historical grievances and cultural misunderstandings that contributed to present-day situations. For example, in Mount Currie, trap lines destroyed by loggers would have indicated human activity and supported an Aboriginal claim to the disputed territory.

*They found the trap line. They and the loggers came and destroyed them. They didn't want any evidence. This started in the '30s.*

*In the '30s and '40s, there was a man here by the name of \_\_\_\_\_. He had a logging company here and he was telling us that even then, they went and found gravesites, petroglyphs and culturally modified trees. Any signs of us using the land, they were destroyed.*

The women felt some cultural values, such as sharing and hospitality, ultimately set the stage for disputes.

*If someone came to me, maybe from Vancouver and said, "I'd like to build a cabin and just use it for a short time," I'd say, "Well, OK. Build a cabin. Come to my property and build a cabin. You can stay for a short time or come and stay at my house." Because that's just the way I am and that's the way she is too. She'll end up with lots of people staying in her house and I do too. Sometimes I'll have 12 people sleeping in a little house and that's just the way we were brought up. But when our ancestors, our grandparents did that for the white man, they thought they were just staying for a short time. They didn't know that the land was sold and they had a certificate saying that they owned it.*

In British Columbia, elders spoke of the understanding that there were a lot of resources available to everyone, and people's treaty rights gave them the right to fish undisturbed.

*When I was young my father used to go fishing and nobody ever bothered him. He didn't need a licence or anything to go fishing...he takes his traps out and doesn't bother anyone. So I don't know why at that time they were so scared that the Native people would fish all the fish.*

### **Gender Roles**

A compelling motivation for all the women was their gendered roles as mothers and grandmothers. They felt strongly that these roles required them to preserve the land and everything that lives on it, for the sake of the children. This perspective was expressed most strongly from the older women and the elders.

*We're brought up to protect our children, and whatever our surroundings are and when we go out and fight on those issues, that's how we fight. So we do get most of the women, mostly women, out fighting all the time.*

*For me, it's like showing ultimate love for your family, standing up for your rights.*

The women saw their actions as an extension of their roles as protectors of the home fires and purveyors of traditional knowledge to the younger generations. Some said their grandmothers had cared for the environment, and they had to do the same.

*As a woman, she looks after her grandchildren and she's raising them and we're thinking about her grandchildren's grandchildren. I'm thinking about my grandson's grandchildren. That's the way we were both brought up. Her by her parents and me by my parents and my grandparents and they taught us that. Because they taught us that, today we have the opportunity to go into the mountains and pick the medicines, and the berries, and to use the vegetation that we use. And we want that opportunity for them too, seven generations down the line. We have to think that way.*

The women's commitment reflected a strong sense of connection to future generations of unborn children, to whom they would be accountable for their action, or inaction.

*The thing that drives me is the children...there's the tiny children who can't speak for themselves that are growing up and if we don't do something, they will never have a chance. If we are quiet and we just let things go on and on and, we can never face our little children or our grandchildren and say, "Well, I tried, I tried to stop the logging trucks. I tried to protect our way of life." But now, we can.*

The women acknowledged the emotional dimension of their struggles, saying this gives them particular strength and direction as women.

*The women always were the front-line warriors. I would say the reason we fight so hard is because we fight through the heart.*

### ***Protecting the Environment***

In all the sites, women spoke very passionately of the environmental destruction that was already impacting them, with troubling implications for their immediate lives, and for future generations. They felt being able to live off the land became more important in light of high unemployment, growing funding cutbacks to their communities and years of cultural loss.

*I know that Canada has lost its standing in the human rights, being the best because of the situations that we as Native people are in...I know a lot of people think it's a handout for us but I think it's very little. It's a drop in the bucket for the things they've taken from us for centuries — our resources, our*



*culture, our very essence, our shaming, our confinement to residential schools. Or you know, telling us that we're heathens and we have to become Catholics and then those priests are the very ones that abused us. So where are we? No wonder why we're in this state of flux.*

Maintaining a close link to the land means prosperity and dignity — in short, survival — for their communities and their identity as people.

*I don't want any more destruction brought to our communities by people, because our animals, our trees, our water, our plants, everything means so much to us. I live that every day... We all live that way. That is our way of life. The grass-roots people you know. We are the people of the land.*

In all the sites, the women still rely on food from fishing, wild game and berries; others harvest medicines. In two sites in particular, the women said that at least 60 percent of their food came from traditional sources, a diet considered healthier for First Nations people than the processed foods of supermarkets. The land sustains them with a much-needed hedge against the modern-day poverty experienced by many in their communities.

*My common-law husband is a trapper and all we eat is wild meats. He kills a moose or a deer and that lasts for a whole year or half a year and then he kills another one. I never have to buy meats. That saves me a lot of money. And we use wood for heat and that saves me money again.*

Any environmental changes would impact women directly, so they felt obligated to take a stand. They did not identify themselves as distinct in their relationship to land, explaining that men in their cultures, as hunters, trappers and fishers, also had gender-specific roles that tie them closely to the natural environment, both for sustenance and spiritual practice. The women pointed out that the loss of hunting and fishing areas would impact men, ultimately affecting food sources and the well-being of the entire family.

All the women spoke of alarming environmental changes they had already experienced, making them fearful for how future encroachment might impact them. For example, in the Fraser Valley, near Cheam First Nation, clear-cut logging is increasing as Cattermole Timber harvests blocks of timber on Elk Creek Mountain. The women felt the cutting will ripple through the ecosystem, resulting in mudslides and other disturbances to what was otherwise a balanced environment. Clear-cut logging destroys the forest and natural habitat and had already caused drastic changes for fish in the Fraser River.

*There's always a real big concern the last few years about the global warming. All this cutting away of the forest is letting the sunlight into the creeks, warming them up. They're not as cold as they used to be. I think that's a real big factor, and the problem we're having with it, in water temperatures and the river, which make it very difficult for a lot of the fish to reach their spawning grounds because it's too hot.*

They said sometimes a 50-foot buffer of trees has been left around creeks, but forestry officials may decide to cut the buffer back, citing the danger of winds blowing the remaining trees down.

In Grassy Narrows people are traditionally hunters, trappers and fishers. In the 1970s, mercury from the mills was found to have poisoned water sources and many people became sick. Logging has ruined trap lines and destroyed people's livelihoods. In recent years, the pace of logging has accelerated, damaging many berry picking and medicine harvesting areas. The women estimate half of their 2,500-square mile territory has already been clear-cut.

*Before when I was growing up there was always logging trucks on the road but [I] never really saw what was happening until now. Like when you go how big the clear-cuts are. It's like they have bigger machinery and better machinery, and they do more damage now, faster and it's devastating.*

In addition, they said band members found the discards left from the logging industry, including old machinery and oil dumped on the ground from servicing machines and vehicles.

At Mount Currie First Nation, the Band's blockade at Melvin Creek is meant to protect an unlogged glacial valley that serves as an important hunting and gathering site for the Band and other First Nations people in the area. The women said ski resorts elsewhere had disturbed the animals and destroyed the plants they gather for food and medicines.

*We're trying to save our land, I mean, for our own medicines. There's some people who know what medicines can do, what plant to pick for certain medicine and all that. You can go up there in the fall time and there's still good shoo-pi-tack. We just want to keep the traditions, old trap lines, and everything and there's even the miners up somewhere up there I heard. It's all about to keep it for our own use. Look at all the bears and all that coming in at Whistler. They're crying about all the bears up there. The bears go in and destroy the houses now.*

One woman spoke of the environmental impact that she sees occurring closer to the reserve.

*Last spring, some of our guys went fishing and someone brought me a fish. They brought me five trout, rainbow trout, and I was so glad to get them. I then opened one of the fish and it was all black in the inside. I had to have it sent in to be analyzed and it was oil from motorboats and you know that jet boat that they have in Pemberton that they have to jet people along the river. It was all totally black. It was as black as that in the inside. Even part of the flesh of the trout was black.*

At Burnt Church, women spoke about times when fish and seafood were plentiful for Mi'Kmaq people on the coast.

*Down the shore, here, we used to just go down and start fishing. But now there's no fish at all. I remember...just go down the shore. Like there's lots of lobster, and just pull your fishing line [for] catfish.*

The women spoke of traditional conservation methods that band members followed and were reinforced in the community-based management plan for harvesting fish, which gave them only two percent of the total lobster catch. Native fishers would throw back female lobsters and refrain from setting traps during the lobster molting period in the summer.

*No, we're not going to eat all the lobster. We want to save it for generations also. We're not going to be the only ones eating these lobsters. You know we want to feed our children and our grandchildren with these.*

The women felt the increased fishing had slowly depleted the fish and seafood, forcing changes in tastes in both communities. The pressure on natural stocks exacerbated the tension between Native and non-Native fishers, leading to disputes they felt First Nations people did not win.

*Salmon and all the other fish were more plentiful until non-Natives cleaned that up. Then when there was no more fish, they were introduced to lobster ...then the same thing happened with the lobster, like the codfish. They started and they said Mon Dieu, it's pretty good. So they just started taking the lobster and catch it themselves. Again, started bumping off the Native people, because there was moneys in this lobster that before they wouldn't even look at it. So it was like a dead man's catch — can't go out there and catch fish but you can scavenge shellfish...It's funny how something like that turns into a delicacy and people fighting over it.*

The women closely linked the health of the environment with the well-being of their own people. Environmental destruction and the disappearance of their traditional territory were directly tied to social and economic problems they face in their communities.

*It's not just about like saving trees. It's about also what I see happening in Grassy. Kids are getting into problems like alcohol and drugs, loss of culture and they're not doing too good in school, vandalism...our culture is land based so therefore clear-cutting is destroying that, because all the forest is gone. Everything about our culture is about the land, our medicines, our spirituality.*

Most of the women understood the effects clear-cutting would have on their family and community. One woman told how clear-cutting impacted her father's trap line, and his life.

*The clear-cutting started to happen and my dad, his trap line was one of the first areas that was affected...there's no wildlife there, it's just all clear-cut and he eventually lost interest in trapping, because there was nothing there for him. And then, he turned to alcohol. It destroyed his life and eventually killed him.*

The environmental change through economic development and encroachment of civilization could bring further negative influences to their community. In Mount Currie, the construction of a paved road as part of the 2010 Olympics development will increase the amount of traffic, and the influence of the outside world. Some women are concerned about the arrival of organized crime into their isolated communities. One specific gender impact is that more young girls from their community will be lured into the sex trade and that drugs, already showing up in their playgrounds, will become more prevalent.

*I went over there [to the community school] and I was talking to one of the janitors. "Yeah, we've been finding needles, hypodermic needles. It's in the bigger playground." So, you know, how do you police that? How do you make our children safe? It's that kind of thing too.... I get scared to even just to send them, because I don't know what cars are zooming by and who is going to be coming here.*

### ***Safeguarding Spirituality***

Intimately tied to the environmental concerns is an understanding of the sacredness of the land, the forests and all creation. Women at all the sites spoke of the spiritual dimension of their actions, both in protecting spiritual sites and as a source of strength.

For the women in British Columbia, the mountains are integral to ceremonial life. Several women referred to a return to traditional ceremonies long practised by Aboriginal people, in spite of earlier efforts by authorities to outlaw both those ceremonies and the languages. Ceremonies and teachings from elders, they said, help people learn their roles and teach them to live with each other in a good and respectful way.

In Burnt Church, an elder spoke about keeping traditional values alive, passing them onto youth and keeping them away from the negative influence of drugs and alcohol. She said the dispute was almost a test of some of those values, which her male relatives also sought to preserve.

*We need to continue being nice to one another and show that kindness, bring that back. We got self-esteem and bring this stuff back and our spirituality and you know just continue doing what we need to do. Like listening to my brothers the other day and my uncle talking about their spirituality and how they want to move on and how it works and you know, have faith. I think that's where they approach it but darn it, sometimes it just goes out the window when you hear something bad.*

At Cheam First Nation, winter ceremonies are conducted each year on Elk Creek Mountain, where the sacred objects and clothing left after the ceremonies are supposed to remain undisturbed.

*Our people, their regalia, they bring it up to the mountain when they're done with it. There's a lot of people here that have gear, we call it gear, in the mountains. It's a real concern for some of our young kids that come up to the*

*mountain if their mountainsides are destroyed, because they figure along with that will be their gear. And there's spirits.*

Destruction of such sacred gear causes extreme anxiety among the young people because of

*the way they're taught in the long house. They're taught the value of all the Earth and the sacredness of all their gear and what it means if they lose it. So it's really a big concern to some of them.*

Indeed, where logging access roads have been built the women already see evidence that sacred places are being polluted and desecrated.

*We had a couple of hot springs that used to be our sacred area and we go pray and whatever and now we can't even go and access it, because there's parties and whatever there. We don't even know how clean it is anymore.*

In all the sites, spiritual practices, through prayers, ceremonies and offerings, were a common feature. Each camp or blockade had a sacred fire, lit and maintained by the women.

*We directed the men to set up a camp and we set a sacred fire so that fire was there to protect our lands. That fire burned for about two and a half years before it was put out and re-set again, because there was a lot of things. We had circles<sup>40</sup> and people came and told us lies around the sacred fire so it was directed by a pipe carrier for us to let the fire go out and take the ashes and bury them so we had to reset the fire again. That was set to protect our lands, to help us to have the strength and the energy that we need to protect our lands for our generations to come.*

In Burnt Church, women performed a ceremony on the water, asking that community members be kept safe and the situation be peacefully resolved.

*It was really hard, because the first year go out there and fish, and stuff, so and we'd go out there and do water ceremonies. And we did another water ceremony, at the point where we do our powwow. Light the sacred fire, we did the water ceremony there.*

At the height of tensions there, some band members discovered their ceremonial arbour, where powwows are held, had been burned to the ground. The women considered this act akin to burning a church. Two days later, the arbour was rebuilt by a non-Native businessman from a local community.

Some women felt it was shameful for people to be fighting over the lobster. They were startled when the day after a community prayer on National Aboriginal Day, so many dead lobster washed up on a nearby shore that band members had to use a tractor to remove them. They believed the incident resulted from greed over lobster, which earned non-Native fishers up to \$150,000 a season and was depleting fish stocks.

*I believe that when those dead lobsters came ashore, that was lesson to both sides, 'cause we're fighting for something that didn't really belong to us....in the natural sense, it doesn't really belong to nobody. It's there for food but what we're doing, we're fighting for it. The Creator put it there for us to eat and now all we're doing is fighting for it.*

Some felt that ancestors were directing them in their efforts.

*I couldn't understand why I felt so strong about the land. I really had no way of doing something about it even when I was here, I knew it was something that I had to do and I did stay here. I knew it was important to be here. One night I had a dream and I didn't understand why I was here. It was a powerful dream...I dreamed that I was in the roundhouse with elders...they were saying that we would know what to say. We would have knowledge that we never knew we had because it is passed down to us by them. And I was really surprised...When I blinked my eyes again in my sleep, all of a sudden all the elders disappeared...some of the people I dreamed of that didn't come to the blockade eventually did come and it kind of confirmed my dreams. Some of the people you wouldn't expect to come, actually came and they were in my dreams. And then it does happen to us sometimes, all of sudden someone will say something that you wouldn't expect them to say. They surprise themselves.*

### ***Seeking a Voice***

Women's exclusion and limited voice on many levels compelled them to action. In their communities, few were active in formal political structures — elected chief and council or tribal councils. Their political influence and authority derived through the pressure they applied as mothers, grandmothers and elders in their communities; at all the sites, they felt they should have as much say as the elected officials. However, these roles and their interrelationships with the formal political structures were largely ignored by the outside world, who tend to view the band chief and council as the ultimate authority and voice. Governments and other actors often deal exclusively with the chief and council in discussing issues, negotiating agreements and signing deals. Decisions made at a nation-to-nation level superseded the concerns and perspectives held by women, elders or hereditary leaders in communities. In the larger world, the women's exclusion was both gendered and cultural. They felt their perspectives and struggles as Aboriginal people and as women were misunderstood, ignored and ridiculed by the media and various levels of government.

Women in Burnt Church were disillusioned with band politics, saying they did not participate in elections because, they felt the chief and council acted in self-interest and did little for the women in their communities.

*I'll tell you the truth. I never voted for the last six years. I'll go in there, make a show and that's it. I don't why should I vote for somebody that don't even fucking look at me.*

Of all the women interviewed, only two were actively involved in band level politics — one as a former chief, another as an elected councillor. One had resigned mid-way through her third term as chief, citing strife between herself and the council on what strategy the community should take to stop clear-cutting.

*Our council changes every two years. I was in the third term. And this particular council was a fairly new council and one of them had just been taking \_\_\_\_\_ training for about 10 years. Of course the only thing that she could understand was work with them. So anyway, I stepped down in February and told them that was it and didn't you realize that things were going to happen, because all of a sudden \_\_\_\_\_ got approved to do the logging. People were pushing forward. We had the highways truck sitting on our land. They never used to do that before, like when they were working on the roads. They'd park on their property.*

At all the sites, the elected chiefs and councils either did not support the women's stand or disagreed with their tactics. The possibility of financial gain through jobs or business opportunities, either for themselves or their impoverished community, proved too much for some to resist in the face of pressure from government or companies, the women said.

*They dangled that carrot in front of him [the chief]. They wined and dined him, both him and a few council members. One of the council members, she was a great supporter of what we were doing. She was wined and dined and very easily she went over to the other side.*

The women's political actions typically spanned the elected tenures of different chiefs and councils, as band elections are held every two or three years. The women felt changes to government slowed their protests, as they waited sometimes for newcomers to orient themselves in office or lend them support that didn't come.

*I was doing it by myself. Like I said we didn't have the support of the council. They agree that there shouldn't be any developments but they didn't know how they were going to stop it. They kept saying, we're working on it, we're working on it. By this time, they'd already had 17 days of logging.*

At all the sites, women spoke of being excluded from any negotiation between the band and the major players — governments or logging companies — whose representatives refused to speak to protesters and approached the chief and council instead. They feared that a deal or settlement would be signed without their consent or knowledge, something that did happen at one site.<sup>41</sup> The actions of band governments sometimes actively undermined the protest efforts. Women at one site said the appearance of van loads of RCMP and dogs at a blockade meant someone on council must have given permission for police to enter the reserve.

Political action or protest activities were sparked after years of unsuccessfully trying other avenues — negotiations, litigation and media campaigns — to gain recognition on treaty and inherent rights.

*They don't really work. You can sit at the table until your face goes blue and at the end of the day the government's gonna say well, we heard you. We consulted with you. Now, we're gonna make our decision.*

*If you're not going to change anything, then you're going to stay like this forever. This is how it's gonna be, our lives.*

Many of the women said the media was unsympathetic to the concerns of First Nations people, and dismissive of their perspective.

*What used to piss me off is when, on the news, every one of them would label us as defying the government for the fisheries crisis. They always said that they're defying. And to us, we weren't defying anything. We were just doing what was right, under the law.*

Sometimes, they felt the media did not give balanced coverage to their concerns. At Mount Currie, women spoke of being frustrated that the pro-Olympic lobby in Vancouver received so much coverage, while much of the opposition to the games was silenced.

*They had money available for them to make posters and to let the people know, "OK, the Games are coming to Vancouver, it's a great thing." But as soon as we tried to do something there was an immediate lack of coverage. We set up press conferences and no one would show up. I spoke up a lot in the newspapers and very little things were written, if at all. I went to several meetings in Vancouver, Squamish talking about the Games saying, telling people why. What I found was when I went to speak to the grass-roots people, they listened to me and they applauded me, told me to keep going. They encouraged me to keep going to save the lands from destruction.*

The woman whose house was searched by the RCMP and members of the Integrated National Security Enforcement Team (INSET) felt sensational and unsubstantiated newspaper editorials fuelled rumours that she was hiding weapons in her house.<sup>42</sup> She felt INSET and the RCMP must have used those clippings in deciding to conduct a raid.

*There was a smear campaign going on in the Native Youth Movement and we got it right away about stockpiling weapons. You know we don't use that kind of language among ourselves.... Native youth stockpiling weapons came out in an editorial in a paper like the Province or the Sun...it was an editorial so someone kind of wrote it and then people were writing back, "Well, if they got stockpiles of weapons, then that's not right." So people were writing in but it was all bullshit. There were no facts or anything to it.*



Only women in Burnt Church said the presence of the media could be positive in that they afforded some protection to people. They felt DFO officers and non-Native fishers were less likely to be aggressive to Aboriginal people in full view of reporters and cameras.

Within the legal system, the women were frustrated that Supreme Court of Canada decisions that recognized their right to the land and the need to consult them over development were not enforced at ground level.

*We go to court and we win these cases in court, go to the highest courts in Canada and win them and they still don't. We have to go back and test them and by testing them it means we have to go and do either another blockade or we have to practise our rights. Sometimes, we get charged for that and we have to go back to court. But that's how you're testing some of these court cases and on and on and on. Even their judicial system has to be looked at... It's not fully equipped to accommodate our interests or our rights. I think those have to be really changed. Not even just reviewed, they have to be changed. Period.*

*What I don't understand is why is the government doesn't apply its own justice. Why do they override the Supreme Court of Canada? You know? And if they can do that, what's the difference about their Canadian citizens doing that? It's not right that when you look at the Marshall decision when the Crown went up to the Supreme Court, you know, and it's the highest court and they overturned it, the government. So I don't understand their system, because right now their system's telling me that they don't care about the justice. It's only the little people that have to abide by it but not them. They can overturn what they don't like and what they don't want.*

Individually and collectively, all the women said the justice system discriminated against them as First Nations people. Charges such mischief, trespass, obstruction or intimidation were laid against them in an effort to shut down their protest. One woman, who served 71 days after being convicted on charges of assault and obstruction in connection with a ski resort demonstration, said she could not access legal defence or wait for a travelling legal aid lawyer to come to her community.

*Once they get us in the court, we have no money to get a good lawyer. We can't afford to pay for anything. We either go into debt or spend 24 hours a day fund-raising for legal fees.*

*We have no idea of how to access or to leeway ourselves using the law or the courts in a good way, because that has always been against us.*

Where they particularly felt the impact of non-application of court decisions was at the provincial level. Though their rights were recognized at a federal level and in court decisions, often they were left to deal with provincial officials who did not respect court rulings or treaty rights.

*They send in a bureaucrat, like the area manager who has no authority to even talk about our rights and title, but has the authority to make a decision on a project.*

For example, timber-cutting licences are issued, despite the impact on traditional territory, without the knowledge or consent of the First Nations. Clear-cutting was environmentally unsound, they felt, even if it did not violate provincial laws. Likewise, they said provincial environmental legislation was not enforced.

*Oh that chemical that was dumped, it was illegal for them to dump that, because it was really toxic and four environmental groups said to the Minister of the Environment, “You’re supposed to fine the Dryden Paper Mill, because they weren’t supposed to dump that in the water.” And the Minister of the Environment didn’t do anything. Like these four environmental groups pushed but they didn’t get a response. It’s just like they just turn their heads the other way.*

Government conservation officers and loggers do not understand or give credit to knowledge and information that First Nations people have about wildlife and environmental conservation. One Grassy Narrows woman said she was frustrated at trying to explain the disappearance of animals to a meeting of government officials, whom she said “had an answer for everything.”<sup>43</sup>

*Like martens, for example. One trapper said, “There’s no more martens there.” Then the biologists said, “Well, they’re under the snow, you know, because I did see them there and they were walking around under the snow.”...That’s his explanation of why they don’t see the martens.*

At Grassy Narrows, the women expressed frustration that their dispute was not resolved even though their reserve was part of the Kenora–Rainy River federal riding of the then Indian Affairs Minister Robert Nault.

### **Gender Roles and Impacts**

While certain motivations sparked women to action, they brought to their protests a specific gendered approach and, in turn, experienced impacts that were gendered in nature. Some took on the role of “protector” in adopting bold and risky actions on the front line. While they may have done things they had not done before as women, they felt their actions fell within their purview — their rights and roles — as Aboriginal women. Some of the younger women said their roles were somewhat scaled back if they had small children in their care.

*Women just can’t get up and do the stuff that men are called to do. Men can automatically just get up and walk out and go, where a woman is, like even if it’s your own boyfriend or husband, “Can you babysit?” So that’s where a lot of frustration comes sometimes, with child care.*

While men were not entirely absent from the sites, they frequently acted as background players. Men contributed in gender-specific ways, such as building structures or staying in

the camp overnight or long term. At Burnt Church, men had a higher profile in the actual conflict on the ocean, as it was mostly men who owned the dories and fishing boats, or worked as conservation rangers for the Band. In one community, women said most men survived on welfare, at \$195 a month, and were more concerned with basic survival than with political action. Some men were still struggling with drug and alcohol addiction. Elsewhere, men joined the action during the winter, but then accepted seasonal labour during the summer. The women at all the sites explained that while many women were involved, those who were not tended to be silent. The men, they said, either supported in the ways described above or were sometimes part of the elected band government that opposed their aims or failed to support them actively.

### ***Protest Initiators and Strategists***

The decision to launch longer-term and more challenging actions, such as setting up a roadblock or permanent protest camp, was usually preceded by smaller scale efforts such as letter writing or local demonstrations that did not produce results. While some of the women had little experience in protest, others were long-time activists who had already influenced events in their community. One had mobilized people to vote no in a referendum asking whether they supported the development of a ski resort in their traditional territory.

*I was in the back of the truck with the megaphone and just hollering out, and telling the people what we were doing. They were drumming, singing, banging on our drums you know, just waking the people up at 11 o'clock on a Saturday morning. And a lot of people came out to listen and a lot of people commented, "You know if you didn't do this, I wouldn't have decided to go to vote." And that was the most people they have ever gotten to have a vote on any issue even for chief and council in many, many years.*

In most situations, women initiated the actions that led to a long-term protest or conflict.

*The men weren't there. It was the women that took the initiative and the men that followed. The men stayed back and watched to see who were the organizers and the runners.*

In one site, a logging blockade began when one of the women's husbands, camping out alone on the side of the road, ran out in his pajamas to stop a truck he heard approaching. The next day, children from a nearby reserve school lay down on the road to stop logging trucks. Later, their mothers joined them and became key players in the blockade. At another site, two grandmothers decided to set up a camp and directed men to set it up and start a sacred fire. The women also set parameters of behaviour, by banning alcohol in the camp.

At Burnt Church, women were the first in the community to go out and set lobster traps after the *Marshall* decision was handed down. Some women felt they moved too quickly, but the court decision brought long-sought recognition of the treaty right to fish after years of limitations by the fisheries department on the amount of lobster they could catch.

*There was this one time we all went out. There was nothing but women and that was back in 1999 when this first came out. So there was a group of us women, I'd say about 10 to 12 of us on the boat and we all went out, did the day, did the fishing.*

*My sister \_\_\_\_\_ took her social assistance cheque and just bought all traps, bait, whatever she had to get, and she went out there. But they cut all her traps in the afternoon. She lost everything.*

Some women felt they had a duty as women to fight for the rights of the men even if some were unable to do that for themselves.

*I accept my role to protect them even if it's only a few of us, even if it's only women and children, accepting that responsibility. Maybe someday, you know whatever we can get out of this, to make them strong and maybe get back on the land...that could help with instilling that pride.*

The women's way of organizing themselves drew on links of kinship and community. Many were closely related by ties of blood or marriage, or had lived side by side for years. Unlike the band governments or government bureaucracies they deal with, the women did not establish a formal structure or organization at any of the sites.

*It's just people who are interested on their own. It's not a formal group. There's no president, there's no secretary.... We don't seek support from the chief and council. We just do it on our own as the people.*

From recognizing that a situation was unjust and had to be addressed, women acted as the political analysts and strategists in the day-to-day operations.<sup>44</sup> From the beginning, they adopted a stance of non-violence, though sometimes in raids on the site, the RCMP would search for weapons.

*There's no weapons here...we don't accept violence. We don't want to hurt nobody physically.*

*They couldn't find any arms in our tent, in our camp because we said right from day one, this is a peaceful camp. It is not armed and they did not believe us so they used these broken axes and pieces of sticks, saying they were weapons.*

*We've never ever, in all our days of blockades and what not, have ever been armed.*

One woman, told that her house was being searched for a stockpile of guns, pointed out that hunting rifles are common in First Nations households and could be assumed to be potential weapons in a conflict.

*We're still hunting and gathering communities out here and they've had guns. Kids have guns. Everybody's got guns, you know.*

Once their action was underway, women sat together to visit, share information and strategize about what they would do next.

*We just come here and we visit each other and we talk about what our next move is going to be and we help each other decide that... Or we hear about cutting happening or somebody reports and that triggers us to go to a roadblock or that somebody sees trucks coming out and that triggers a blockade, which is almost automatic now.*

At most of the sites, women acted as spokespersons. Behind them were women taking up other duties, such as networking.

*I stay at home. I'm their ears. If I hear anything I give her a call and then from there she calls someone else. So that's what I do. I generally stay at home and if I get a call, if it's something that we need to do right away, I'll mention it to her and then she'll start phoning all over the place.*

In terms of strategy, all the women in the disputes made use of their gendered roles to advance their aims. Sometimes, they put themselves directly into situations of risk. Their concern as mothers was clearly highlighted by a particularly poignant example in Burnt Church. Some women placed baby toys into the lobster traps that non-Native fishers would pull out of the water, vandalize and cut. They hoped to send a message that their families needed the lobster to make a living and feed their children.

At another site, a tactic used by the women was a “protest swim” at a scenic lake near the reserve. Band members have long used the lake for recreation and hunting. Recently, the province sold part of the land, including the nearby shore, to a private owner who has established a small resort and campsite. The women, together with their children, wanted to assert a claim to their traditional territory, despite the “No Trespassing” signs erected on the beach. They risked arrest to spend an afternoon swimming there.

On Cheam First Nation, the women grew frustrated with clear-cut logging that was quickly proceeding on Elk Mountain near their reserve. When the council did not react to their demands to do something, a leading woman rallied other women in the community. They called CN Rail, dragged two trucks across the tracks and for 27 hours blocked the railway running through the community. A video shot by band members showed a young woman walking on the railroad track less than 10 feet ahead of a train that moved slowly behind her. The women's blockade resulted in a meeting with the Minister of Forests and a one-week break in logging on the mountain. At the time of the interview, women were continuing to press the band government to take further action to stop the logging.<sup>45</sup>

At Grassy Narrows, band members argued with Ontario Provincial Police (OPP) that they had a right to blockade a public access road used by logging trucks. Although officers initially tried to tell them it was a provincial highway, the women insisted they had a legal

right to block the road. To their surprise, one officer had a clear understanding of their rights, which the women believe has helped keep the blockade peaceful.

*In the end, that sergeant said, "It's OK, you guys. You're a peaceful demonstration. You're protected under the Charter of Rights and this is like a public access road so it's OK," I think that's why the police kind of stay away. There's just a little stick across the road there...it's a powerful stick.*

The women, aware they had neither the resources nor the manpower to shut down all logging roads, employed a strategy of roving blockades for the secondary roads. While they were aware of the limitation of this approach, their blockading called attention to their concerns but avoided a direct confrontation as was seen in Oka.

*How the people have dealt with that is they've had roving blockades. They go and block one logging route over there and one over there, just like moving around and just really, really, I guess really irritating the loggers but it is to create attention to our situation and, and they haven't, like there's no change. They're still cutting, eh? Like they're saying we're breaking them but I don't think we are because this one guy says he has to make \$300,000 a month to break even and that's something we never ever see in our lives — \$300,000.*

At all the sites, children were a constant presence. Children both supported the efforts of their mothers and grandmothers, through helping with chores and cooking, or joining the protest, and served as a steady reminder to the women about why they were there.

*All my grandchildren, they say "Grandma, we'll go and help you. If they're going to build this ski resort up there, we'll stop it."*

At the same time, women had tremendous respect for their children's opinions on the conflict. From previous experience, the woman had learned not to accept compensation or to agree to negotiation. They felt their children guided and reinforced them in this decision.

*They, the kids, keep saying that they don't want compensation, because we've had compensation in the past. What they just want was the clear-cutting to stop and the pollution. What they're saying, they want to find their culture again, their way of life that we've had and use the land, because I think maybe that's what is missing. They find that missing in their lives, not all of them, but most of them. They're learning to value that.*

*I guess because the kids are young, they say no negotiations and I don't know if that's how the real world works out there. But I like that stand. No negotiations, no compensation. Just stop clear-cuts, get out of here.*

*My little girl, when we started in December, she said, "Mom, I have a funny feeling we're going to win," even though it was so chaotic, so crazy. I trusted her voice and that's what keeps me going.*

In serving in the role of “protector,” women sometimes directly confronted authorities. In one incident, a young fisher was stopped on the highway by DFO officers who arrested him, confiscated his fish, took his money and threatened to impound his truck. The man’s aunt arrived on the scene with other women and directly challenged the officers.

*I was really angry and I swore at the one fishery officer who was standing there with this other fellow. I told him you take those cuffs off. You take those fucking cuffs off. He looked at me and he goes no. You know, just real sarcastic, eh. So I said take the fucking cuffs off them and he did that three times. He said fine. I said we’ll shut the fucking freeway down.*

She demanded the officers call their superiors and then negotiated the man’s release and the return of his property. She agreed the officers could keep the fish, but they refused to touch them. However, other woman at the scene said they would move the 200 fish packed in a plastic tote in the back of the man’s truck.

*One of the ladies there says we’ll do it \_\_\_\_\_. She said no problem. So they got in the back of my nephew’s truck, flipped the lid off the tote, and started throwing the fish over into the fisheries truck, because they pulled up beside it. They were just slamming it all over the fisheries [vehicle]. The fish was going all over the back, wherever they could throw them.*

Later when the woman appeared in court, she continued to challenge.

*When I went to court they had this Crown counsel there and of course he was really gung ho to see me charged. When he was questioning me about different things, he looked at me and he said “what do you think gives you the right to tell these guys to take the handcuffs off them?” I said, “‘cause in my position I feel I have the same power and authority as the Prime Minister.” And his face just went white.*

Women in British Columbia also similarly challenged authorities, all the way up to the premier. One woman slipped into the opening of an Aboriginal culture centre in Whistler so she could tell Premier Gordon Campbell she did not support the hosting of the 2010 Winter Olympics in that province.

*[I said to him] I want you to hear from lips why I don’t want the Games here. I want you to hear the truth as it comes out. I feel it in my heart, I told him. I do not want the destruction of our lands because of the animals, because of the vegetation, because of our medicines, because of our berries and most of all, because I am thinking of the seven generations. I said, “you’re thinking seven years down the line, I’m thinking further than that... [Then] there was a snap of the finger. There was six security around me, ready to grab me and I didn’t know because they were behind me. His face just went red and he says, “Well, ah, \_\_\_\_\_” he says, “Why don’t you phone my office and make a time and ah, I’ll listen to your grievances.”*

She was never able to arrange a meeting with him.

As a struggle continued, women frequently took the role of mediators to keep the conflict from escalating. At the height of tension in Burnt Church, women in the community calmed men and discouraged them from taking arms onto their boats to protect themselves. Eventually they talked them into setting up a roadblock instead of returning to the boats, where the previous day, non-Native fishers had fired shots at them.

*That was the scary part for me, because then you wonder. They were willing to get shot at or get killed...they were serious about it. That's what really got the women when we seen that in their faces. That's why we really tried to calm them down and steer them to a different location, and we did whatever we could, because we had to control, you know calm that down.*

In another dispute, a woman protester drafted a safety agreement between the band and DFO on how the two parties were to behave during a dispute. In an effort to limit human contact between the two sides, the agreement spelled out how many boats the DFO could have and the number of officers per boat and required helicopters to remain 200 feet from Native fishers. The agreement, first signed in 2000, was discontinued in 2003 after Department officials pressed for clauses permitting fisheries officers to use their own discretion in disputes. This followed an altercation with DFO earlier that year in which a band councillor was beaten and pepper-sprayed.

*They wanted to change some of the words. They said they would live by the principles of the agreement, but they wanted to be able to use discretion as to how many — how many officers or whatever they — what kind of force they'd bring in according to the situation.*

She said discussion on the agreement was sidelined amid reports that the DFO wanted to investigate her community

*to see if we had guns, a mass of guns or weapons.*

The same woman also built strong alliances with environmental activists and people in the nearby white community who opposed clear-cut logging on the nearby mountains. In recognizing that the issues at stake went well beyond the concerns of her own community, she was able to build relationships that would strengthen her own efforts. Between different Aboriginal communities, the women also networked and kept in touch. Their support for each other's efforts included sharing resources or coming to attend each other's protests or blockades.

The women also networked with others outside their communities before deciding to take action.

*I met a lot of people from South America and they said, "Don't let them in" and I met people in Salt Lake City, the grass-roots people there, and they said, "Don't let them." "Sure" they said, "the First Nations people will be*



*there, we're going to sell all their trinkets and beads and they were going to do the opening ceremony. [At] the opening ceremony, [all] they did was one little dance. They lit the fire and the torch and that was it." That's all their involvement in the Games were. And when I tried to tell people that here, they wouldn't listen to be, because lies were told to them about our children standing on the podium receiving gold medals. They were lied to by saying, "OK, we're going to be the centre of it all." And I tried to open their eyes and say, "This is not true. They've been lying to us for hundreds of years. What makes you think that they are going to tell the truth now?"*

At all the sites, women took on caring for the many people who came to support them — human rights observers, members of warrior societies and Aboriginal people from other communities. Frequently, the women provided food, lodging and even laundry service to people who arrived from across Canada. One woman consistently has a steady traffic of environmental activists camped out in and around her home. She often cooked for them, though at times their vegetarian tastes clashed with the fish and traditional meats she was used to preparing. Another recalls her young daughter questioning her about why the house was always full of people, sometimes up to 16 a night.

*Jeez! I was standing here one day and I was looking [the daughter said]. There was a person in that chair. There was two people on the loveseat; the couch was all taken; people were lying on the floor watching TV. I look out here, there's a whole whack of people sitting around the table. All the chairs are taken. I go in my room, I go into Peter's room to go watch TV. There's kids lying on top of each other on the bed watching TV.*

Some of the women tried to juggle family responsibilities with maintaining a blockade or camp and spending time at the site. Although their protest grew out of a concern for the welfare of families and others, paradoxically, these activities took them away from their homes. They were particularly concerned about how their involvement impacted their children and family.

*My husband's at home with our four kids. That's kind of hard to explain to your family like why you're doing this to them. They think it's something else — you don't like them... For me, I'm a very protective mother and for me to leave my son for a day, it's hard.... Even while he was here, he broke his arm and I was crazy trying to look after him.... It was hard for me to be here and I wanted to be there with him while he was in pain. Someday I hope, like in the future, he'll understand why I did it.*

Women had to continue nurturing family members, some of them quite frightened and agitated by the daily events, and found little time to take care of themselves. One woman felt the strain of combining multiple roles took a toll on her health.

*I was getting sick physically in February and like I felt weak but I still kept pushing myself even if I was in pain. And sometimes I would get really, really tired and then I still push myself.*

One woman said that when she felt exhausted by the dispute, she would turn to her spirituality for renewal and strength.

*The phone stops ringing and the e-mails stop just for a short time.... I sit back, centre myself, pray for guidance, to get my energies back and then boom, I am gone again.*

### **Gender, Excessive Force and Bill C-36**

All the disputes involved conflict with law enforcement officials, including police, RCMP, DFO officers and, sometimes, white community members. When asked if they saw themselves as terrorists, the women said they did not deserve that label.

*They [the outside authorities] were terrorizing us.*

With the exception of Burnt Church, women maintained the front lines, and took the brunt of direct conflict through rough treatment or arrest. In some cases, women felt they were specifically targeted, because officers did not want to challenge the men.

*There's men. My husband and my son are there but they more or less kind of play a background role. If there's any pushing and shoving, the women are still right at the front line.*

Other women lived with the fear of police and dogs, or were shocked by the sight of helicopters flying over their reserve and van loads of officers geared up with helmets, orange suits and military hardware. They worried daily about the safety of family members and were deeply distressed by the sight of male family members beaten up, arrested or tear-gassed.

Some women acknowledged relations between police and First Nations people were negative even before the disputes, and this history and context must be considered when assessing political action.

*Fresh into the movement, it is already a tense situation for any Aboriginal person against the police, because of our history with them. [For example, one might hear that] "O's father died in police cells in \_\_\_\_\_, and is said to have hung himself but he was beaten."*

Several women commented that the RCMP has not been helpful to them for domestic disputes, discriminating against them both as First Nations people and as women.

*Now I don't have nothing for the RCMPs. They're not there for us at all you know. You can call in about a complaint about something and then, they'll always find a loophole around it or something. "Oh well, we can't help you."*

*There's another Indian drunk, or stuff like that, when women are getting abused by their husbands. Here we are trying to get help out to them, and they [the RCMP] say, "We can't do nothing because you're married."*

At Burnt Church, women found the use of force excessive, shocking and traumatizing. In what some now refer to as “the war,” they would watch dozens of non-Native fishers arriving in large fishing boats on what the community came to call “Black Sundays.” Non-Native fishers cut and destroyed hundreds of Native lobster traps.<sup>46</sup> As tensions escalated, several men were assaulted and shots were fired from non-Native boats. In a scene televised across the country, DFO officers rammed the small aluminum dories of Burnt Church fishers, capsizing several of them into the water.

*We were all pretty surprised by the use of force. That was way too much, I mean that was crazy. They practically tried to kill us out there basically and they almost damn near did.*

Those officials, they felt, tended to react to Native people, even swamping a boat, but did nothing to non-Native fishers who threatened them, shot at them or beat up male band members.

*There was about 16 boats coming from that side...we went to go see the police, the RCMP, at the corner of the wharf here and told them “Listen, they’re coming here, they’re coming here to attack our men.” They didn’t do anything. I said if anything happens to us, you guys are going to be held responsible and we started taking down their licence plates and their names, but they still didn’t do anything...*

*They said they were down here to protect us but that’s not the way it was. They came here to protect the white people.*

The women felt their community members were blamed and criminalized for events, even though they were exercising a right upheld by the Supreme Court of Court. In Burnt Church, about 60 residents were arrested. One man served a three-year sentence; another suffered hearing loss after being attacked by non-Native fishers. The women said no charges were ever laid against non-Native fishers.

As the situation became more tense, more men and fewer women began going out on the dories. One woman said she wanted to continue, but did not have her own boat to use.

*If I could get on a dory, I would get on, and go out myself, but I didn’t have a chance to get on a boat.... Because there was not too many boats either. You know, they needed the manpower.*

One woman, a conservation ranger for the band, got very upset recalling how she was tear-gassed and arrested on a boat. Another woman in the community described the incident.

*She was just a young girl. They treated her like any man; knocked her down on the floor of the boat. They put their knee on her back and handcuffed them in the back. And there was a white girl, a peacekeeper. They didn’t give her*

*the same treatment. It was so obvious that they even asked her if she wanted to have something to eat or drink, and they treated her so bad, the young girl.*

Later, she was left to sit handcuffed on the wharf in front of the non-Native fishers, which she felt the police did to humiliate her. Police held her in the cells for several hours before releasing her without charges.

At another site, police dispatched 13 police vehicles, together with riot squad members and dogs, in an effort to end the women's blockade. The women recalled that there was one officer for each protester. Women were resisting physically during the dispute; in one dispute their resistance was stronger than the men and they experienced direct violence. The women recalled that three RCMP dragged teenage girls out of the back of a truck parked onto the railway tracks to block the train. Officers were more likely to manhandle young women protesters, they said, because they were afraid of the men.

*Women resisted. The men really didn't resist so they kind of went quietly but the women, most of the women resisted all the way and they got dragged. They had bruises and everything, all over. My sister's arms were all blue. I didn't even see her getting dragged down the hill, but somebody came and said they dragged \_\_\_\_\_ down the hill you know, and I said when? They said, "Well, she's in the police car." Of course, there's so much going on I didn't notice she wasn't even there. I knew my daughter got dragged there cause she was sitting on the back of the truck and they had to pull her off. And one of my nieces.*

At one site, women have had a long history of protest and blockades, around the protection of a graveyard, in support of the Oka stand off and to prevent the paving of a road. In the last protest, 67 people were charged. The women said the arrests, together with the excessive use of force, scared some community members from joining future protests.

*One of our girls had her nose broken by the arresting officers. She had her nose broken. Some of our guys were put in choke holds and they actually passed out. People were getting beaten. The ones that they thought were our leaders were arrested.*

In August 2000, protesters blockaded the highway beside their camp for 17 hours. Later another blockade, not sanctioned by the women, resulted in a police raid on the camp. The RCMP dismantled the information centre the women had established in a trailer, and destroyed or confiscated radios, cameras, T-shirts, information pamphlets and documents related to the camp. The women did not know if the RCMP had a warrant, but said their search for weapons yielded only broken axes and pieces of stick.

At all the sites, the conflicts created considerable stress and worry for the women, concerned for family and community members, as well as the risks they faced to their own safety.

*Everything that was happening was so overwhelming. You never knew what to expect from one day to the next. Who is going to get hurt? Who is going to jail today? Or who is getting their traps cut? Who is getting their boats rammed now? You know that was always a constant worry.*

One Burnt Church woman had four sons and a daughter involved in the dispute. One son, who was beaten up and later charged for obstruction, needed medical attention from the police cell. When granted a single phone call, he dialed 911 to request an ambulance. Another had his boat rammed, was flipped overboard and later beaten. A third man had a gun pointed at him and dared the DFO official to shoot him. The woman, who stayed in her house on the waterfront, said she found the events too terrifying to watch.

*It's a really scary thing. I just can't explain how I feel when I looked out the window and see somebody comes running in and tell me your son's boat is being rammed... I went into my bedroom and prayed that he would be all right. I lay down in bed and just waited and then there was just somebody coming in [saying] "OK, he's coming in."*

One woman recalls seeing her younger sister arrested, handcuffed and being led away to jail. The women stood on the shore watching family members on the boats while bullets flew around them.

*When she was on the boat she was handcuffed and she looked up just to see them staring down at her. And I could feel it, I could picture it, you know, and I was like, I almost started crying yesterday when she was talking, you know, it's like that's my baby sister. Heard she was in jail and oh, my goodness, that was scary, because I know she had to be out on the water, because she was a ranger. Everybody was worried about everybody being out on the water. My mom worried about her. I worried about her and you know, everybody had a family member out there helping in the fight.... At one point, I was along the shoreline taking pictures and you could see freaking bullets hitting the water.*

The conflict in Burnt Church proved very frightening and stressful for children regularly subjected to the sounds of gunfire and helicopters flying overhead. Many of them had parents and family members involved in the dispute and knew they were out on the boats. When the conflict flared up, the women said they could see children watching from school windows that faced the water. Later, some children drew pictures of DFO officers shooting at Native people on boats. One woman was horrified to hear the games they played.

*There were two kids running around in the basement saying I'll be the Indian, you be the cop and the cop was chasing the little girl.... I had to laugh, but then I didn't really know how to really react, because it was so awful but it was funny at the same time.*

Formal charges laid against Aboriginal protesters are usually assault, intimidation, obstruction and mischief, and may require those charged not to engage again in any protest activities. Women were charged with the men for a variety of offences, particularly obstruction. The women said such charges scare band members away from protest activities. Their names then appear in police records and some are banned for years from going anywhere near the site.

One woman became a fugitive; warrants for her arrest were in effect for one and half years. She was arrested, pleaded guilty without a trial, and subsequently sentenced to 71 days at a women's correctional centre. She received 45 days for intimidation for blocking a highway and 26 days for breach of probation and mischief for drumming and singing. She felt police used her baby against her by refusing to allow her to breast feed.

*The cop was holding him. They let him cry for hours before they let me have him, brought him into the cell so I could breast feed.*

She did not hire a lawyer, because she could not afford one and felt pressured to complete the process, because she could not stand being separated from her baby.

Following the September 11, 2001 bombing of the World Trade Center in New York, all the women said they feared that Bill C-36 might be used against them. They viewed the new law as another piece of legislation that could criminalize their activities.

*All this money was going to people to create fear and then you could create a solution to that... What's the outcome that you want? It's this power and control and that happened. What we're seeing unfold, it was kind of like, this is going to come to us at some point.... So we knew and it was just a given that we would be affected by this national security fear.... We did have discussions and a year later, it happened.*

One woman whose house was searched under the anti-terrorism legislation by INSET and the RCMP deemed the whole episode excessive, deeply intrusive and unconstitutional.

*They went to the extremes that they did, which was to put police tape around our house, telling neighbours to leave. They had the ambulance, the fire department. They had the ERT, which is the Emergency Response Team in the bushes if you can imagine. They had semi-automatics.*

She felt that her involvement with Aboriginal rights struggles in Canada and elsewhere made her and her family a target for the search under Bill C-36. Her suspicion was confirmed by a comment from an officer present during the search.

*I carry a lot of propaganda and stuff about Zapatistas and Gustafson Lake. We have everything on those. We have tons of files on things you know, about indigenous struggles around the world, colonization, globalization and different rallies and posters.... I kept all that but they had gone through everything, all of our papers. Even one of the local police made a statement*

*they had seen some of the stuff when they went through our house. “Well, you did have a lot of,” what did he say, the roadblock materials that I had.*

She said afterward, she felt she had little recourse to find out what happened or to prevent similar searches in the future. Despite hiring a lawyer, she and her husband have never seen a search warrant and or learned any details from INSET and the RCMP about the allegations made against them by unknown people.

*Go into any Indian’s house and say, well, this person’s just been labelled an Indian activist and stuff and [is] stockpiling weapons. They can do that, because someone called in an anonymous tip but we can’t go on to say who did that. You’ve got anything to protect yourself. Anybody can say something and they can come into your house and do whatever they want and violate and then have an ongoing investigation when they can tap your house.*

They deeply resented any reference to them as “terrorists” and felt authorities tried to use that word against them. At one site, the camouflage outfits of young protesters were described as “terrorist-like clothing.”

## **Outcomes**

The impacts, at both a personal and a community level, continued long after the dispute subsided or was resolved. Some protesters were arrested and charges dropped; others find their charges are still going through the court system. Little has changed in the disputes, as camps or blockades still exist in most of these communities, apart from Burnt Church.

While women frequently defended the front line and challenged authority in their protests, they did not feel their actions had significantly changed gender relations. At the same time, altering gender relations was not a specific goal of their protest, though some voiced the inequality that existed within their communities.

In the case of Burnt Church, the outcome of the dispute appears to have worsened the situation for women and increased gender-based discrimination. The Band signed a two-year \$34 million agreement with DFO following two summers of the lobster dispute. In exchange for money, the Band would waive its treaty right to fish and agree to certain limits on lobster fishing. Each band member is now allowed to set only one trap, in the fall, for personal food.<sup>47</sup> However, the women have never seen the actual agreement.<sup>48</sup> At a community meeting called to discuss the terms, they discovered the deal had already been signed. The women did draw up and sign a petition saying they had never consented to the agreement.

For Burnt Church, the women felt the agreement signed by the chief and council did not reflect what the community wanted and focussed too narrowly on fishing. Some people lost their fishing licences and a new wharf to be built will ruin fishing from the shore. Most of the women felt the agreement discriminates against them as women. The resources, money and jobs it brought were not fairly shared and it appears to have further divided the community between the haves, and the have-nots — many of them women.

*What do we get? We never got jack shit, or even our houses looked at. Even if all this fish and shit that's — all this stuff — what about the women, eh? That's why the women and children are so poor and the men are getting rich, is because the whole topic in these three years was fishing, only.*

*I've been making my rounds and talking to the women, and there is not an equal representative going on as employment, housing, anything that deals with the fisheries money that came in, because right now all the chief and council except two others and the members got brand new fish package. They got the boats, the traps. Meanwhile, elders, children, single parents, and disabled didn't benefit from nothing. They still don't today and that's what's going on.*

The women said those women who benefited from the agreement were mostly wives or family members of the chief and council. One woman said she was dismayed by what she saw as a sell-out by chief and council, but urged her family to apply for a boat so they could at least get something. In the same site, the women said some men were dismayed by the settlement, especially those who had experienced violence on the water and were arrested and charged.

*He was really disappointed that Burnt Church signed an agreement...he says "Well, I'm behind bars for nothing now, eh? It was all for nothing."*

The women also reported wide discrepancies in salaries paid to working band members. Women typically earn \$250 a week doing menial labour, such as cleaning ditches. Others in the Band, many of them single men, earned up to \$1,000 a week. Some youth were being paid \$400 a week, meaning they did not go to school and had more money than they knew what to do with. One woman said she heard of young girls hiring taxis so they could visit friends 40 miles away.

At Burnt Church and elsewhere, women wanted government officials to consult them directly. However, officials neither spoke to the women nor required the community to hold a referendum on the settlement and could be said to have played a part in marginalizing them. Elders said fear and financial dependency kept many women silent.

*The women are really are not strong enough to come right forward there but there are some. We are developing like a coalition that we talked about but the women are so terrified too, you know, a lot of them. The younger ones anyway. When we get to talk to the younger ones they're upset and they're angry, and they're pissed but they won't say nothing to the leadership, because they fear that they won't get a job.*

In British Columbia, the women said they wanted to talk to officials on their own terms, suggesting a new process of consultation.



*Talk with us or provide us with the money to be able to say: "Well this is how we feast." Come and see us. Come and see what we need for our security and not call the army in on us every time we try to move and mobilize.*

Like women at other sites, they felt that when male leadership does not consult women, decisions made are not in the interests of the entire community and can be harmful and divisive.

*Talk to women. Come and talk to the women as human beings, as people of the lands. Talk to the people that use the lands. Our leaders, our leadership are not always there for the people. They're there for the money so they're not going to listen to us.*

At one site the ongoing protests and reaction by authorities' strengthened women's resolve to not back down.

*What would I tell government? I think I would say what I've been telling them all along. They have to realize we exist. We have rights and that. We're gonna stand up for those rights. At least we are. And until they start recognizing it, there's going to be conflict and there will be people like myself that will stand up too. I do tell them that you might get rid of me, but I have trained a lot of people behind me.*

Women shared mixed feelings about the disputes. Some saw the events as empowering, and afterward they felt a stronger spirituality and a sense that they had done the right thing. Some said the dispute brought their communities together.

*The whole community got together. They just dropped all of their anger or anything like that that they have among each other. They just dropped it, and then they stuck together. And that's the best thing about that war, that's what really brought us people together. That's what it took. I mean, that's sad though, but that's what it took.*

A few were concerned that the dispute deeply divided their community or led to what they saw as an increase in drug and alcohol abuse. Others coped with feelings of resentment.

*When you go through things like that, the fish crisis there at that time, you never get over it. Something will always remind you of it. You even start hating the people that were there and didn't help us any and they were pretending they were protecting us, like the police and the DFOs.*

At a personal level, women at one site were only starting to come together and talk about their experiences. Some found it painful to revisit the events.

*Even just looking at that videotape, the first time I cried, because I was so pissed off. It was hard to look at it. I had to look at it like three times before I*

*was finally all right with it. But, what it did to me, the whole thing, it made me more determined to move forward and keep fighting.*

For some women, involvement in protest impacted their lives and made them think of different directions, including going to school.

*I'm not even afraid anymore, only because I know, in a spiritual sense, that somehow things will work themselves out. We're going through this just to... it will only make us stronger and more determined to pursue, for myself, to pursue a law degree so I can understand more of who we are, where we stand and First Nations people. For me, it's the beginning of empowering ourselves.*

One woman said the stress of the protest, together with the feeling that the leadership had sold them out by signing the deal, made her want to move away.

*I've got to leave. I can't do this around here no more. I'm going off to Connecticut. I'm going to find me a job and make some money and make a whole new life. Yeah.*

One outcome women spoke of was a worsening of race relations in their communities. Many felt uncomfortable going into places they had previously frequented and described incidents of taunting or racial harassment by non-Natives. The women felt the RCMP treatment of First Nations people did not improve and that community members remained highly suspicious and wary of law enforcement officials.

### **Human Security**

In many ways, the women felt their human security was already compromised by the situation in their communities, including high unemployment, drug and alcohol addiction, and inadequate levels of government funding. A true sense of security, one said, requires a feeling of respect for self.

*For our people on welfare or social assistance, we're being shoved to the provincial government and yet we're federal responsibility.... A single person, I think, gets \$125 a month. Some of that is deducted, because they owe the store or they owe someone else.... So that sense of security is gone and some of them are so down, so belittled and so ashamed to try and go and ask again, so they live on next to nothing and a lot of our people are homeless.*

Given the reality of their communities, threats to treaty rights or unwanted encroachments and developments in their territories proved a compelling reason to organize and protest.

*They have to realize we exist. We have rights. We're gonna stand up for those rights. And until they start recognizing it, there's going to be conflict.*

The women said their definition of human security centred on an adequate standard of living, environmental protection and respect for the rights of First Nations people, as guaranteed in the Constitution, numerous court decisions and legislation. Threats to the human security of Aboriginal people stemmed from a long-standing failure to understand and respect them as people, which one woman found deeply dehumanizing and discriminatory.

*They tell us that we are lawless. We are not lawless. We have had our laws since forever. They tried to tell us we don't have a language. They tell us we don't have a culture, that we don't have a religion of our own. You have to have all these things to be a people. We have it, but they still don't consider us as a people. You go to Europe. They have these things. They're considered a people, as human beings.*

*Where's our security? We're always looked at as the potential threat or whatever and we're not the ones who stole this land.*

Many felt human security meant the security for all members of their community and was closely tied with their ability to live off the land as much as possible, follow their culture and practise their spirituality.

*My security is being able to go to the rivers and the lakes to fish, to hunt if I want, to pick the berries to survive as a human being. To see the animals roaming on our land, to breathe the fresh air and to drink the good water. That's my security.*

*My dad had always said: "You know this is our territory." Not to just limit ourselves to our reserve boundaries. This is where we get our whole essence of being, using our territory in a good way and protecting it, continuing on using it for gathering and harvesting. We're out there to gain our own sense of being, like doing our spiritual ceremonies and accessing it. That sort of security.*

Although women voiced concerns about gendered aspects of human security — personal safety and the ability to provide for their families — they viewed their human security as intimately tied to the security of both their own community and that of Aboriginal people in general. In all aspects, their human security was strongly related to the natural environment, the spirituality of the land, and other people. There could be no human security in the absence of community security or environmental security.

A key component of their understanding of human security related to time. Human security, they felt, does not refer merely to the present moment, but is a timeless concept that derives from the past and extends into the future. Human security refers to the security of future generations, decades from now. For many First Nations, the standard test is seven generations. Decisions must be made to ensure cultural integrity and a healthy social and physical environment for those yet unborn.

## Summary

For the Aboriginal women in this study, threats to their human security come in different guises. They view the ongoing marginalization of their people as a backdrop that leaves them vulnerable to further threats against their families, communities and land. At all the sites, their protests represented an effort to uphold or pursue treaty rights, maintain a healthy and balanced environment, and retain traditional practices and teachings. Limitations to fishing, clear-cutting of forests or the environmental havoc created by ski resort development will weaken their link to the land and the resources it provides. Their identity as Aboriginal people is further undermined as their ties to the land are weakened, making it harder for them to pass knowledge onto their children and grandchildren. The economic aims of largely outside forces will have drastic results for their social, cultural and environmental considerations and values of the women and their communities.

At all the sites, women took to the front lines to resist change, standing in front of trains, challenging authorities and risking arrest through blockades and protests. In approaches that were both bold and unwavering, they organized, strategized and resisted, sometimes putting themselves in conflict with authorities, and clashing with the elected leaders of their own communities. They brought a specific gendered perspective in their approach, one that challenged gender relations and roles but reflected ongoing and historical roles as “front-line warriors.”

The women’s definition of human security refers not just to an individual or the present, but derives from a collective and generational identity that depends on an intimate connection to the land. The women could not envision future security if forests and valleys are irrevocably altered or their ability to live off the land is severely compromised.

The threat of international terrorism, as defined by national governments in the current global reality, did not seem immediate or valid to them. Rather, their sense of insecurity came from what they considered “domestic” terrorism, thought they acknowledged the label of terrorist was more frequently applied to them. Bill C-36, they felt, represents an ominous legal threat, one they have no control over. What is real to them is the potential to enforce that law in harsh and heavy-handed ways. The legislation is a tool that could shut down their protests and silence their voices.

## RECOMMENDATIONS

The authors make the following recommendations regarding Aboriginal women and human security.

1. Recognize and affirm First Nations right to self-government by implementing First Nations land and resource management agreements.
2. Amend Bill C-36 to exempt Aboriginal communities from this legislation in cases of disputes over land and resources.
3. Redefine “consultation” and the consultation process according to First Nations values, beliefs and processes. This will include consultation with the entire First Nation membership on matters regarding Aboriginal and treaty rights and natural resources. These consultations must incorporate women and consider gender impacts.
4. Agreements with DFO and resource agreements should be discussed, agreed to and disseminated in an open forum with First Nation band members and include a mandatory community referendum in the case of formal agreements between the First Nation community and the federal government. Such discussions must include gender issues and ensure the attendance and meaningful participation of women.
5. First Nation communities that develop and administer their own fishing or resource agreements must include gendered aspects, by incorporating women’s use of land and resources and spiritual significance.
6. Include a discussion of gender impacts and implications in clear language, as related to the constitutional rights and current case law and guidelines to communities, police and other officials enforcing the laws.
7. Provide training in crisis management and gender sensitivity for federal government officials dealing in disputes, including those from the Department of Fisheries, Land and Water British Columbia, Indian and Northern Affairs Canada, the Royal Canadian Mounted Police, and others, to avoid the criminalization of peaceful Aboriginal protests.
8. Provide training and direction to First Nations communities and police on the drafting of safety agreements or protocols for protest in potential areas of conflict, with a particular emphasis on the gendered nature of conflict.
9. To ensure public safety, encourage police and the RCMP to develop demonstration guidelines that outline appropriate behaviour by officers and discourage the use of force and intimidating equipment.

10. By consulting First Nations elders, including women and men, introduce an Aboriginal traditional ecological knowledge perspective to research and respect First Nations teachings and knowledge in economic development discussions.

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## ENDNOTES

<sup>1</sup> In this paper, the term “Aboriginal” is applied to all Indian, Métis and Inuit people for any event happening after the coming into force of the *Constitution Act*, 1982, except where a specific group is identified. (R.S.C. 1985, App.II, No.44, being Schedule B of *Canada Act* 1982 (U.K.),1982, c.11.)

<sup>2</sup> Anderson and Lawrence (2003), Monture-Angus (1995) and Perreault and Vance (1990) are just a few examples.

<sup>3</sup> For example, in 1998 INAC introduced Gathering Strength <[www.ainc-inac.gc.ca/gs/pdf/progr\\_ehtml](http://www.ainc-inac.gc.ca/gs/pdf/progr_ehtml)>. The policy expanded the federal government’s mandate found under the *British North American Act* section 91(24) for “Indian and lands reserved for Indians” to include Métis, and Inuit (*Constitution Act, 1867* (U.K.), 30 &31 Vict, c.3 (R.S.C. 1985, App.II, No.5). This change incorporates section 35(1) of the *Constitution Act* 1982, which includes Indian, Inuit and Métis peoples of Canada as Aboriginal peoples of Canada (being Sched. B. of the *Canada Act* 1982 (U.K.), 1982, c.11). First Nation leaders have argued that section 35(1) and the proposed “setting aside” of the *Indian Act* will undermine the federal government’s responsibility under sec. 91(24) of the BNA, 1867 (*Indian Act*, R.S.C. 1985, c.1-5). The concern is the legal principle of parliamentary sovereignty permits new and more specific law to take precedence over old, more generalized law (Elliott 1992: 97). It’s feared the *Constitution Act* of 1982 will take precedence over the *Constitution Act* of 1867 and with the *Indian Act* no longer in use, new policies like Gathering Strength will be applied to all government programs, and lessen the exclusive responsibility of the federal government to First Nations people. Gathering Strength further removes the Crown’s responsibility to First Nations people from what was promised in the nation-to-nation agreements or treaties.

<sup>4</sup> Feminist theories at this date were new and generally reflected the attitudes of liberal feminists who were organizing around achieving equality for women with men. Since this date, new definitions regarding feminism have been developed. These include eco-feminism, radical feminism, marxist and socialist feminism, existentialist feminism, postmodern feminism, multicultural and global feminism (Tong-Putnam 1998).

<sup>5</sup> The term “Aboriginal” includes Indian or First Nations, Métis and Inuit. There may be separate definitions of feminism for each of these groups.

<sup>6</sup> Gender-based analysis integrates gender considerations in the policy, planning and decision-making processes. Such analysis takes into account the full diversity of both women and men, their specific experiences, issues of participation, resources and decision making, and the differential impacts of policies, programs and socio-economic trends on them (SWC 2004). For example, gender-based analysis recognizes that gender roles in any given society are both fluid and dynamic, and can change across time, space and life spans.

<sup>7</sup> This approach has been backed by Canada’s initiatives and support to establish the Anti-personnel Landmines Treaty, the International Criminal Court, small arms and light

weapons agreements, conventions on war-affected children and the UN Security Resolution 1325. All of these have been opposed by the United States (Boyd 2003).

<sup>8</sup> A few examples include Voice of Women for Peace (Canada), the National Action Committee on the Status of Women (NAC), the Quebec Fédération des femmes and the Canadian Research Institute for the Advancement of Women (CRIAOW).

<sup>9</sup> A fuller discussion of gender issues is available from the proceedings of the Peacebuilding and Human Security After September 11th Conference at <<http://www.humansecurity.gc.ca/finalreport-en.asp>>.

<sup>10</sup> A similar focus on protecting people is advocated in the final report of the Commission on Human Security (2003).

<sup>11</sup> Protest in this case is defined as “a complaint, objection, or display of unwillingness usually to an idea or a course of action,” or “the act of objecting or a gesture of disapproval...an organized public demonstration of disapproval” (Merriam-Webster 2005). However, the literature also speaks of organizing, activism, resistance and social movements, which may or may not include elements of non-violent protest.

<sup>12</sup> History is full of examples. In turn-of-the-century Britain, suffragettes seeking the vote for women chained themselves to the gates of Parliament. In the 1970s, the Madres of Plaza de Mayo in Argentina, at great personal risk, silently demonstrated to protest the disappearance of their family members. During World War I, nearly 1,200 women from warring and neutral countries came together to protest the war (United Nations 2002). In Zambia, women staged bare-breasted protests to advance national independence and seek political reform (Gemini News Service 2001). Women of the Chipko movement in India successfully organized to prevent the cutting down of the forests (Kaplan 2001: 31). At the same time, women may organize and protest to preserve the status quo, as illustrated by white working-class women opposed to the busing of black school children in Boston (Wrigley 1998: 251) or those who support white-supremacist groups (Blee 1998a).

<sup>13</sup> For example, at the 2001 Genoa Summit, where Italian police shot a young male protester to death, a group of women was forced to stand against a wall “spread-eagle” for hours. Others were strip searched, shown pornographic photographs and threatened with rape (Trofimov et al. 2001). Women have been particularly targeted by intimidation and violence by police and local authorities in protests over the Maheshwar dam project, which will flood a half million hectares of land and displace one million people (Shiva 2002: 64). On International Women’s Day in 2000, police forcibly removed more than 200 women and 150 men during a peaceful protest of the project. Women activists have reported intimidation, violent harassment and rape at the hands of dam supporters, including employees of construction companies (Amnesty International 2003).

<sup>14</sup> There are few victories for Aboriginal peoples in these disputes. In what is now known as the Water War of 2000, Bolivia’s Indigenous people, who account for 80 percent of the population, forced the government to reverse plans to privatize the country’s water supply

services. When strikes and blockades shut down the capital, a state of emergency was declared and armed soldiers sent in. One death, numerous arrests and hundreds of injuries later, the government declared the contract with the American multinational, Bechtel Enterprise, void (Nanibush 2002: 2).

<sup>15</sup> Aboriginal protesters are not the only ones to have suffered excessive force. At the Asia-Pacific Economic Co-operation (APEC) meeting in Vancouver and the Summit of the Americas in Québec City, police used pepper spray, surveillance tactics and preventive arrests against anti-globalization protesters. During a March 2002 demonstration at the provincial Tory leadership convention in Toronto, one in eight demonstrators was arrested, bound by tight handcuffs, thrown in vans for several hours, strip-searched and denied a phone call to their lawyer (Planet-Friendly 2002). The actions have prompted groups, such as the Toronto Police Accountability Coalition, to call for police and the RCMP to develop demonstrations guidelines (Toronto Police Accountability Coalition 2002).

<sup>16</sup> Coon Come (2001). Within the justice system, there are untold numbers of stories of unlawful arrest, police violence, abuse, shootings and false convictions of Aboriginal people. In Saskatchewan, allegations that the Saskatoon police forcibly abandoned Aboriginal men on the outskirts of town in freezing weather, in what is referred to as “starlight tours,” led to the establishment in 2002 of a provincial commission of inquiry on Aboriginal people and the justice system. Similar commissions have been held in Manitoba and New Brunswick. Canada’s mistreatment of Aboriginal people in the justice system and by police authorities is routinely cited in the annual reports of groups like Amnesty International, and has prompted investigative visits by the UN Special Rapporteur on Human Rights.

<sup>17</sup> For example, the killers of Helen Betty Osborne were not brought to trial for 16 years following the sexual assault and stabbing death of the Manitoba teenager. Only one of four of her alleged killers received any jail time. In Regina, two men convicted of the beating death of Pamela George served four years each; the judge had instructed the jury to remember that George was “indeed a prostitute” (NWAC 2002: 5).

<sup>18</sup> Martin (2002). Anna Mae Aquash’s death brings another aspect to women’s involvement in protest movements. In February, 2004, Arlo Looking Cloud, an AIM member was convicted of the murder of Anna Mae Aquash, 30 years after the murder took place. Another member John Graham is being extradited from Canada to the United States to face questioning of his involvement in the shooting. It is alleged she was shot because of her knowledge of information regarding the death of two FBI agents during the Wounded Knee confrontation in 1973 (Native Voice nd).

<sup>19</sup> In 1977, a group of women from Tobique, New Brunswick occupied the band office for nearly four months to protest the lack of housing for women, especially those who had lost their status when they married white men (Silman 1987). During their occupation, they endured rock throwing, name calling, threats to themselves and their children, and direct violence from opponents.

<sup>20</sup> Self-government is within the confederation of Canada, as opposed to self-determination, which is an international law concept found in the UN charter. *1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development*. The Canadian government has argued that First Nations peoples and treaties are domestic for a number of reasons; however, one response given is because the Canadian Constitution 1982 refers to “Aboriginal people of Canada” (Boldt 1993: 59).

<sup>21</sup> Albers and Medicine (1983) found that during that period, warfare decreased the number of men and guns increased the number of buffalo kills of one hunter, hence the need for more women in the household. It was estimated it took one woman three days to process a buffalo after a kill.

<sup>22</sup> Further readings on the loss of women’s ceremonies include Anderson (1991, 2000) and Allen (1986). Most Aboriginal scholars recognize the deliberate machinations used by church and state in devaluing the roles of women as a means to destroy the traditional values of the community.

<sup>23</sup> Some examples of harsh and discriminatory provisions of the *Indian Act* include the following.

- Indian agents had the power of a magistrate (RCAP 1996: vol. 1, p. 288), and the authority to conduct trials either on or off reserve and on “any other matter affecting Indians” (RCAP 1996: vol. 1, p. 289). Since the Criminal Code was not in place during this time, the Indian agent could adjudicate both criminal and civil matters (RCAP: vol. 1, p. 289).
- In 1884, it became an offence “if three or more Indians, non-treaty Indians, or half-breeds” were making “riotous and threatening demands on a civil servant” (RCAP 1996: vol. 1, p. 289). Indian people did not have the right to complain about the starvation and increasing numbers of European settlers on their territory.
- The Government of Canada responded to complaints from White farmers about competition from Indian farmers by prohibiting the individual sale of agricultural products by an Indian without a permit issued by the Indian agent (RCAP 1996: vol. 1, p. 294).
- A pass system, aimed to prevent Indians on reserves from joining the Métis in their discontent in 1885 (RCAP 1996: vol. 1, p. 296), a provision that remained in effect until 1951. Despite assertions by various historians that the pass system was never law, for First Nation people on the prairies, it was an effective method of control by Indian agents and the Department of Indian Affairs (Carter 1990: 152). Both the permit and pass systems undermined First Nations participation in business.
- First Nations persons who were intoxicated either on or off a reserve were given a one-month jail sentence. If they refused to name the person who sold them the alcohol, an additional 14 days was added to the sentence (RCAP 1996: vol. 1, p. 293).
- Prohibitions were introduced in 1927, on First Nation people being in a poolroom; later this was extended to dance halls (RCAP 1996: vol. 1, p. 294).

- From 1927 on, First Nations people could not hire lawyers or raise funds for any legal claims against the Crown (RCAP 1996: vol. 1, p. 294). These provisions, not repealed until 1951, blocked First Nations' people in British Columbia from raising money and launching court actions against the federal government for not settling land claims (Frideres 1998: 49).

<sup>24</sup> Minnie Myrtle wrote in 1855 about the Seneca:

The legislative powers of the nation are vested in a Council of eighteen, chosen by the universal suffrages of the nation; but no treaty is to be binding, until it is ratified by three-fourths of all the voters, and three-fourths of all the mothers of the nation! So there was peace instead of war, as there would often be if the voice could be heard! And though the Senecas, in revising their laws and customs, have in a measure acceded to the civilized barbarism of treating the opinions of women with contempt, where their interest is equal, they still cannot sign a treaty without the consent of two-thirds of the mothers! (Wagner 1966: 33).

<sup>25</sup> Chief Poundmaker, in discussion with General Middleton, was interrupted by an Indian woman to which Middleton replied: "We don't listen to women." Another elder responded: "Then how is it that orders for the government of the country come from a Queen?" (Loscombe 1986).

<sup>26</sup> Nancy Rockthunder is the aunt of Connie Deiter.

<sup>27</sup> The UN Charter (1945) recognizes the right to self-determination, as well as other rights.

#### Article 55

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

- a. higher standards of living, full employment, and conditions of economic and social progress and development;
- b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and
- c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

- <sup>28</sup> 1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

- <sup>29</sup> 25. The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including
- (a) any rights of freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and
  - (b) any rights or freedoms that **now exist by way of land claims agreements or may be so acquired.**

#### **Part 11:**

#### **Rights of the Aboriginal Peoples of Canada**

35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

(2) In this Act, “aboriginal peoples of Canada” includes the Indian, Inuit and Metis peoples of Canada.

(3) For greater certainty, in subsection (1) “treaty rights” includes rights that **now exist by way of land claims agreements or may be so acquired.**

(4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are **guaranteed equally to male and female persons.**

35.1 The government of Canada and the provincial governments are committed to the principle that, before any amendment is made to Class 24 of section 91 of the Constitution Act, 1867 to section 25 of this or to this Part,

(A) a constitutional conference that includes in its agenda an item relating to the proposed

amendment, composed of the Prime Minister of Canada and the first ministers of the provinces, will be convened by the Prime Minister of Canada to participate in the discussions on that item. [Emphasis added.]

<sup>30</sup> 83.01 (1) “terrorist activity” means...

(b) an act or omission, in or outside Canada,

(i) that is committed

A) in whole or in part for a political, religious or ideological purpose, objective or cause, and

(B) in whole or in part with the intention of intimidating the public, or a segment of the public, with regard to its security, including its economic security, or compelling a person, a government or a domestic or an international organization to do or to refrain from doing any act, whether the public or the person, government or organization is inside or outside Canada,

<sup>31</sup> 83.19 (1) Every one who knowingly facilitates a terrorist activity is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

Facilitating terrorist activity

- (2) For the purposes of this Part, a terrorist activity is facilitated whether or not
- (a) the facilitator knows that a particular terrorist activity is facilitated;
  - (b) any particular terrorist activity was foreseen or planned at the time it was facilitated; or
  - (c) any terrorist activity was actually carried out.

<sup>32</sup> The Canadian Bar Association, Canadian Union of Public Employees, National Association of Women and the Law, Canadian Race Relations Foundation and Canadian Quakers, among others.

<sup>33</sup> The ICLMG (2003: 8) report detailed examples of Bill C-36 in action, including a raid on Native activists at Port Alberni, British Columbia, an article in the *RCMP Gazette* identifying environmental activists, among others, as potential terrorists, a CSIS report identifying the anti-globalization movement as a threat to security and the seizure of U.S. anti-war videotapes by the Canada Customs and Revenue Agency. Examples of racial profiling included police failures to respond to hate crimes against Muslims, threats to Arab and/or Muslim community leaders if they failed to provide “voluntary interviews” Canada’s failure to protest “the disappearance, secret detention and deportation by American authorities of Maher Arar and other Canadians of Arab and Islamic origin, and CSIS harassment of Arab university students including threats of “deportation and revocation of their citizenship if they did not provide information about community members.”

<sup>34</sup> After September 11, a photograph of Geronimo and his warriors with the phrase “Defending Homeland Security for 500 Years” circulated through e-mail and Web sites.

<sup>35</sup> 83.01 “terrorist activity” means

- (b) ...
- (B) in whole or in part with the intention of intimidating the public, or a segment of the public, with regard to its security, including its economic security, or compelling a person, a government or a domestic or an international organization to do or to refrain from doing any act, whether the public or the person, government or organization is inside or outside Canada...

<sup>36</sup> At two of the sites, two men who were active in the disputes were present for a short part of two group interviews.

<sup>37</sup> For example, Kenny (2004: 8) argued that a holistic approach to Aboriginal research must honour three aspects: the past, present and future, including historical references and intergenerational discourse, the interconnectedness of all life and the spiritual, physical, emotional and mental aspects of a person and the community.



<sup>38</sup> Read the treaties on line at <[www.apcfn.ca](http://www.apcfn.ca)>.

<sup>39</sup> In 2000, three Grassy Narrows trappers launched a lawsuit to stop Abitibi's logging, saying clear-cutting is destroying their livelihood. Their case, which is still before the Ontario Divisional Court, is backed by the Sierra Legal Defence Fund and the private law firm Cook Roberts (Sierra Legal Defence Fund 2003).

<sup>40</sup> A circle, or talking circle, is a ceremony that begins with smudging and prayer. Each person in the circle is then given a chance to speak.

<sup>41</sup> At Burnt Church, women said they had never seen the terms of the \$34 million agreement signed between DFO and the band chief and council.

<sup>42</sup> On September 21, 2002, the residence of an activist couple, both members of the West Coast Warrior Society in Alberni, British Columbia, was raided by members of INSET, the RCMP emergency response team and local RCMP. A dozen armed officers evacuated the neighbourhood, kicked down the couple's front door and searched the house for four hours, finding nothing incriminating. The woman and her husband were not home at the time. The raid and questioning of other members of the Westcoast Warrior Society by the RCMP suggest that one of the intents was intimidation. Union of BC Indian Chiefs President, Chief Stewart Phillip, wrote in an open letter to the couple, "Your case confirms our worst fears concerning the high potential for such highly questionable Gestapo-style enforcement techniques demonstrated by the RCMP INSET" (cited in Ma 2004).

<sup>43</sup> A forest company executive recently welcomed a British Columbia Court of Appeal decision to allow logging in the habitat of endangered spotted owls (Matas 2003). Environmental groups had argued that the bird needs large areas of forest to survive. However, Ted Holtby of Cattermole Timber said the logging might actually improve the forest, because "it will open up the stand, and the birds can fly around a little better."

<sup>44</sup> Men did contribute in terms of analysis and strategy. At one site, a man who had been on the front lines arrived in the middle of an interview. He said, "I see within this community a transition between a communal society and a colonial society, every man for himself. ... There's no living chance in hell that we will ever be able to live in accordance to our ways, our traditional cultural or communal society." He felt the chief and council were "easily bought" for the benefit of non-Native Canada "There will always be a few that you can buy that say, no look, treat this Indian good. Oh, those other ones, they're just terrorists."

<sup>45</sup> A similar blockade, on a local road, was set up for three months in 2000. Band members and others protested a provincial protected area strategy for both sides of the Fraser River from Hope to Mission. Although the plan would have restricted fishing and encouraged the development of public parks, Aboriginal people were not consulted. The protest resulted in the government overturning the plan, which had already earned cabinet approval.

<sup>46</sup> One band member estimates the community lost over \$200,000 worth of lobster traps (Kwegsi 2002).

<sup>47</sup> However, not far from the reserve, the McDonald's restaurant chain offers McLobster sandwiches for \$5.99.

<sup>48</sup> An Access to Information search by researchers to obtain the agreement with the DFO was denied on the grounds that releasing the information could be "injurious to the financial interests of Canada." Department of Fisheries and Oceans, correspondence dated August 25, 2003. Ottawa.

**Policy Research Fund (PRF) Status of Women Canada Projects Funded from August  
2002 Call for Proposals Engendering the Human Security Agenda \***

*The Impact of the National Security Agenda on Racialized Women: Bringing Us Out of the  
Policy Ghetto and into the Development of National Policy, Strategies and Solutions*

Hamdi Mohamed, Anuradha Bose, Nayyar Javed, Jo-Anne Lee, Lise Martin

Canadian Research Institute for the Advancement of Women (CRIAOW)

National Organization of Immigrant and Visible Minority Women of Canada

*Gendering Canada's Refugee Process*

Catherine Dauvergne, Leonora C. Angeles, Agnes Huang

*Security and Immigration, Changes and Challenges: Immigrant and Ethnic Communities in  
Atlantic Canada, Presumed Guilty?*

Evangelia Tastsoglou, Edna Keeble, Alexandra Dobrowolsky, Diane Crocker,

Carmen Celina Moncayo

***Human Security and Aboriginal Women***

Connie Deiter, Darlene Rude

\* Some of these papers are still in progress and not all titles are finalized.