



The Brief

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Elsipogtog files Aboriginal Title Claim for Sikniktuk to protect territory

By DALLAS MCQUARRIE



Elsipogtog First Nation’s lawyer Bruce McIvor (centre) answering questions about the band’s Aboriginal Title Claim, flanked by Chief Arren Sock (right) and Kopit Lodge spokesperson Kenneth Francis (left). Photo by Dallas McQuarrie.

The Elsipogtog First Nation has filed an Aboriginal Title Claim in the Saint John Court of Queen’s Bench on behalf of the Mi’kmaq people for title to the Mi’kma’ki district of Sikniktuk. The claim was filed November 9, 2016 by Vancouver lawyer Bruce McIvor who specializes in Aboriginal law.

Sikniktuk is traditional Mi’kmaq territory, and covers about 30% of New Brunswick. It extends from south of Sackville, north along the Northumberland Strait, as far as Baie Sainte-Anne, and inland to the west as far as Saint John, on the Bay of Fundy.

“This claim is about protecting our lands and waters for our children and our future generations,” said Elsipogtog Chief Arren Sock, one of two plaintiffs officially making the title claim, at a news conference in Elsipogtog on November 9.

The other plaintiff in the case is Kopit Lodge spokesperson Kenneth Francis. Kopit Lodge is a Mi’kmaq organization representing the Elsipogtog First Nation on resource development issues.

“We cannot stand by while the government ignores us and makes decisions that threaten the traditional lands of the Mi’kmaq people,” Chief Sock said. “It’s time for us to exercise our rights and responsibilities to protect our territory.”

Elsipogtog’s claim asks the Court to confirm that the Mi’kmaq Nation continues to hold Aboriginal title and rights in its traditional Sikniktuk territory. It also asks the Court for injunctions to prevent the further destruction of the land, water, air and forest.

The Elsipogtog title claim comes at a time when Indigenous peoples, Acadians and Anglophones living in the Sikniktuk territory and elsewhere are opposing clearcutting and glyphosate spraying of the forest.

The Mi’kmaq case is bolstered by a unanimous 2014 Supreme Court of Canada ruling in British Columbia (Tsilhqot’in Nation v. British Columbia) recognizing the Tsilhqot’in First Nation’s Aboriginal title claim to the territory they had historically occupied.

Critical to the Tsilhqot’in Nation’s victory in court was the fact that the Tsilhqot’in had never signed any treaty surrendering, ceding or in any way relinquishing title to their traditional territory. Like the Tsilhqot’in, the Mi’kmaq of New Brunswick have never surrendered, ceded or sold their traditional territories.

Sock and Francis also noted the 1761 “treaty of peace and friendship” between the British Crown and the Mi’kmaq nation. By that treaty, “the British Crown confirmed and recognized the existence of the Mi’kmaq Nation’s Aboriginal title.”

“We want to offer hope and strength to our youth by taking a stand to protect Mi’kmaq title and rights,” stated Francis. “The federal government has promised a renewed relationship with Indigenous peoples based on partnership and respect, ... consistent with the United Nations Declaration on the Rights of Indigenous Peoples. Unfortunately, we still see Canada and the Province disregarding our rights and making decisions that threaten the health of our people and

our lands. By filing this claim we are asking both levels of government to step up and take our rights seriously.”

Francis thanked Elsipogtog’s French and English allies, including Notre Environnement, Notre Choix in Kent County, and both the Fredericton and Kent County branches of the Council of Canadians, for their financial support of its court case.

Sock and Francis both talked about justice for the Mi’kmaq people, before McIvor answered questions pertaining to the case. Speaking to Elsipogtog supporters and the media, Chief Sock said the court action was rooted in the long struggle against shale gas.

In 2010, the Conservative Alward government ignored its constitutional obligation to consult with Aboriginal people about developments on traditional Aboriginal lands, and simply announced shale gas development was proceeding. As peaceful protests against shale gas gathered momentum, in 2013, the government had special RCMP and CSIS tactical squads use violence to try to silence protesters and force shale gas development on a very unwilling Kent County populace.

At the time, the internationally respected human rights organization Amnesty International was harshly critical of the New Brunswick government for violating both Canadian law and Canada’s obligations to Aboriginal people under international agreements. A subsequent federal commission of inquiry into complaints of RCMP misconduct during the protests against shale gas has yet to report.

“Elsipogtog intends to continue to work with our Indigenous neighbours and our Canadian allies to ensure the protection of the lands and waters that sustain us,” said Chief Sock. “As part of the Mi’kmaq Nation we have a responsibility to act as stewards of our territory.”

While the election of a new Liberal government in New Brunswick in 2014 led to a moratorium on shale gas development, the province continues to ignore its constitutional obligation and duty to consult with Aboriginal people. Francis notes that Kopit Lodge has been attempting to start consultations about development on Mi’kmaq lands with the Liberal government of Brian Gallant for the last two years. Francis noted that Kopit Lodge has been attempting to start consultations about development on Mi’kmaq land with the Gallant government. All attempts by Kopit Lodge to begin dialogue or consultations with the government have so far been ignored.

A lawyer unwilling to be publicly identified says it is clear that the Mi’kmaq have a very strong prima facie case. When and if the Mi’kmaq do gain title, they will have the right to decide how the land will be used, to enjoy, occupy and possess the land, and to proactively use and manage the land, including its natural resources.

Francis cautioned that the court battle could be long and expensive. The Tsilhqot’in Nation was always the rightful and legal owner of its traditional lands, but it took more than 20 years and a lot of money for the Tsilhqot’in to have this right and ownership asserted in court.

Dallas McQuarrie is a retired journalist living in the unceded Mi’kma’ki district of Sikniktuk.

Uneven access to services for LGBTQIA+ students in Fredericton

By MAGGIE FISCHER AND SARAH ENRIGHT

Fredericton’s universities are not providing the same level of services for LGBTQIA+ students, according to Qmunity, a newly formed queer advocacy group at the University of New Brunswick (UNB).

Sex, sexual orientation, gender, and gender expression used to be seen as pathological. Lately, there has been a shift to understanding gender and sexuality as diverse spectrums. Many institutions still have progress to be made regarding service provision, because individuals who identify as LGBTQIA+ (lesbian, gay, bisexual, queer, transgender, intersex, asexual, and other diverse forms of gender and sexual orientation) are more likely to face violence and mental health challenges, according to the report, “Lesbian, Gay, Bisexual, Trans & Queer identified People and Mental Health,” published by the Canadian Mental Health Association.

STU and their LGBTQIA+ situation

According to Erin Fredericks, the LGBTQIA+ resource advisor at St. Thomas University (STU), 15-17% of students that attend the institution identify as queer, with another estimated 5% of students identifying as transgender. This is more than the number of student athletes at STU, so it is understandable that the university is making services available to support these students during their time on campus.

Fredericks plays a central role in this support system. She holds office hours to speak to students, refers students to various services on campus and in the community, and helps to advocate for further rights. Fredericks provides safe spaces training for STU faculty and staff, as well as residence advisors, residence coordinators, house committees, and welcome week leaders.

STU students started the Queer and Allied People’s Society. This year, they held the very first STU Pride Week with a variety of activities that included a heritage fair and a poetry slam.

STU has a variety of other supports for LGBTQIA+ students and faculty. The Harassment and Discrimination Policy includes gender expression, identity, and sexual orientation, which makes it more comprehensive than the general New Brunswick Human Rights Act. Fredericks plays a role in supporting any student with formal complaints.

There are still areas to be improved at STU. Firstly, there is a lot of work still needed within athletics, and this is one of the next areas that Fredericks says should be looked at. Residences, and specifically residence bathrooms, need to accommodate to all students –i.e., gender neutral and accessible washrooms. Students should be able to change their names and pronouns through the STU online system themselves, without having to go through Fredericks and the Registrar’s Office to do so. And, finally, Fredericks says that there is still work to be done in Fredericton creating a better community for LGBTQIA+ individuals, outside of bars and clubs.



Left-to-right: Members of Qmunity, Jackie Toner, Caroline Mercier, Hayden Richardson, and Nadine Violette. Photo from Qmunity.

Journalist to journalist: Kevin Donovan in conversation with Jan Wong about the Ghomeshi story

By SOPHIE M. LAVOIE



Award-winning journalist Kevin Donovan shared secrets on his investigative book on the Ghomeshi scandal in conversation with St. Thomas University Journalism Professor Jan Wong on Friday, Nov. 4, in Fredericton.

Donovan is a 31-year investigative reporter and editor from *The Toronto Star*. He has won several awards for his work, and is also the author of a work of crime fiction. After working on such controversial investigations as Rob Ford’s drug addiction, Donovan’s most recent book is *Secret Life: The Jian Ghomeshi Investigation*.

As it comes in the wake of Ghomeshi’s very recent public trial, Donovan’s book is a “nuanced view” of how the Ghomeshi scrutiny unfolded, according to Karen Pinchin, an editor with Goose Lane Editions. She declared that it should serve as a guide for future journalists on how to investigate and write this type of story.

Jesse Brown of the Canadaland podcast approached *The Star* in May 2014 with the Ghomeshi allegations and Donovan was assigned the story by his editor. Because Brown had been a critic of CBC, one of the victims had sought him out to reveal her experience with Ghomeshi. Donovan admitted to Wong that he had previously admired Ghomeshi as a journalist and radio host.

Donovan never had any direct communications with Ghomeshi. After Ghomeshi’s now infamous Facebook post after being fired, journalistic “defense of responsible communication on matters of public interest” (established in 2009) made it possible for *The Star* to begin posting articles about the Ghomeshi investigation.

For Donovan, the Ghomeshi story was different than his previous investigations because it did not have any documents involved, it was mostly allegations in intimate settings and very hard to prove. Because so many people came forward, they were coming in to confirm the others’ stories and to “say it did happen” to them.

Donovan interviewed 17 women and 2 men for this story, and said there were “uncomfortable moments” in the interviews, because of the subject matter. Interviews were done in various places, depending where subjects were comfortable. Through their interviews, Donovan discovered some of Ghomeshi’s quirks and patterns. Donovan revealed to Wong that CBC did not know much about what was in the book.

Ghomeshi’s victims came forward to investigators until the end of the trial. Donovan was careful to ask all the women to be very forthcoming about their experiences so as not to have surprises that would lead to questioning their credibility, as happened during the now-infamous trial.

Donovan worked with experts with regards to the trauma of the victims, and perceived varying degrees of the victims dealing with their situations. Donovan has worked on other stories that might have had profound psychological effects (wars, domestic violence) and, thus, does not feel these effects. He admitted to Wong that he had discussed the Ghomeshi events, and even had a conversation about sexual predators with his own daughter.

Wong’s question about the “train wreck” of Ghomeshi’s court case, pointed out the fact that the lawyers might not have done due diligence, like Donovan. One of the sticking points was the victims’ “post-contact behaviour” and, according to Donovan, there was no support for the victims from the Crown and police. Wong commented that it is the media’s responsibility to talk more about these types of issues, due to “the socialization of women” on how to act in certain situations.

Wong asked Donovan about Ghomeshi’s guilt. Donovan evaded the question by affirming he “believed” his interview subjects and wrote a book about them. For the author, Ghomeshi, as a person, is a “blend of Donald Trump and Rob Ford.”

Wong asserted that books like Donovan’s “are important for changing public opinions.” However, Donovan is of the opinion that the trial will have a “chilling effect” on women coming forward to the police. Donovan is currently investigating the plethora of peace bonds that are being issued by courts in cases of sexual assault. His preliminary findings are daunting: they are a way for the courts to avoid making a judgment.

About 150 people attended the event organized by Jan Wong of Saint Thomas University’s Journalism program and Goose Lane Editions and supported by the NB Media Co-op.

Sophie M. Lavoie is an editorial board member of the NB Media Co-op.

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UNB and their LGBTQIA+ Situation

Sharing the same campus, UNB stands as a sharp contrast to the resources and services provided at STU. No statistics exist on this population on UNB Campus. Another one of the areas that UNB is lacking in is a compensated LGBTQIA+ faculty advisor. With a position like the one that Fredericks holds at STU, resources and supports can be assessed and supplied. Without a position that acknowledges the special needs of LGBTQIA+ students and faculty, these needed supports can go unnoticed. The University Administration, who make the financial decisions, need to make this a priority.

Qmunity is a new group on the UNB campus that is filling in some of the gaps. Prior to Qmunity, a visible group/club for folks needing support did not exist, though students had a meeting place with another association, Spectrum. Qmunity has gone further and has created a safer social space for LGBTQIA+ students to reach out and meet as a community, as well as making LGBTQIA+ students visible through participating in events like Fredericton Pride last August. They are hoping to secure a physical space in order to better connect with the community, especially since the UNB Sexuality Centre was closed.

LGBTQIA+ students tend to be invisible in social spaces and can subsequently find it difficult to network. Many are coerced to reduce their visibility for fear of the possibility of harassment and violence. That is why resources and supports for gender and sexual minorities are essential.

Despite the many challenges, Qmunity executive member Hayden Richardson says, “there’s a strong queer community” on UNB campus. Since there are fewer resources at UNB than there are at STU –but more students– students have worked together in solidarity for common goals. Qmunity co-hosted a successful Safe Spaces training session with the UNB/STU University Women’s Centre on October 24th.

It is clear that UNB lags behind in supports and services. However, there is an excellent opportunity to spearhead this issue with the new vibrant Qmunity and to model changes on the work done at STU.

Maggie Fischer and Sarah Enright are STU Social Work students doing a social action placement at the UNB/STU University Women’s Centre.

In Brief

Students in Fredericton continue to mobilize for universal access to post-secondary education. A small but loud group of students and supporters rallied at the University of New Brunswick in Fredericton on Nov. 2 as part of a cross-country mobilization demanding universal access to post-secondary education. The students marched to the Legislature where their chants could be heard during the Premier’s Speech from the Throne. The rally was spearheaded by the Canadian Federation of Students (CFS) and the UNB Graduate Students’ Association and supported by Fredericton chapter of the Young New Democrats, the NB Federation of Labour and St. Thomas University’s faculty association (FAUST).

Solidarity from Wolastoq to Standing Rock. The Wolastoq Grand Council held an action in Fredericton to show solidarity with Indigenous people and allies resisting the Dakota Access Pipeline in North Dakota. Over 400 people have been arrested since last April, while blocking the pipeline’s proposed route. Concerns include inevitable pipeline leaks, which would contaminate water that Standing Rock Sioux and others depend on, and that the pipeline route crosses sacred Sioux sites. As part of the Fredericton action, people gathered at City Hall, for an opening address from Wolastoq Grand Chief, Ron Tremblay, then marched to Bank of Nova Scotia, TD Bank and HSBC, where they called for the banks to divest from the pipeline.

Murder of Guatemalan youth is evidence of escalating risk to land defenders. North American organizations are dismayed by the execution-style murder of 22 year-old Jeremy Abraham Barrios Lima, assistant to the director of the Guatemalan Centre for Legal, Environmental and Social Action (CALAS), on Nov. 12, 2016 in Guatemala City. Barrios was assassinated by unknown assailants with two bullets to the head while doing errands in Guatemala City. “Guatemala is where we found the highest amount of physical violence in connection with Canadian-owned mining projects,” stated Leah Gardner for the Justice and Corporate Accountability Project at Osgoode Hall Law School. The project’s report, “The ‘Canada Brand’: Violence and Canadian Mining Companies in Latin America,” released on Oct. 24, 2016, looked at incidents of violence and criminalization in connection with 28 Canadian companies in 13 countries in Latin America from 2000 to 2015 and found that at least 44 people have been killed, 30 of which were targeted killings, while more than 400 people were injured, excluding work-related injuries. They also found that over 700 people were arrested and detained during this period for their work in defense of their territories, livelihoods, health and environment. Over 180 Latin American organizations, including CALAS, sent a letter to Prime Minister Trudeau six months ago, calling on the government to take measures to prevent systemic harms and ensure that people harmed by Canadian mining companies have access to justice.

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Community Calendar

To list your community event, email info@nbmediacoop.org. For an updated listing of events, check nbmediacoop.org.

The Hunting Ground. A film about sexual violence on U.S. university campuses. Marshall d’Avray Hall, Room 143, UNB Fredericton on Dec. 6 at 7:00pm. Marking the National Day of Remembrance and Action on Violence Against Women. Contact: margaret.kress@unb.ca.

Cinema Politica believes in the power of art not only to entertain but to engage, inform, inspire, and provoke social change. Cinema Politica Fredericton screens films on Friday nights at Conserver House, 180 St. John St. at 7:00pm. Check out the films and venues at: cinemapolitica.org.



Jeremy Abraham Barrios Lima