

Gut a Land, Gut a People

Joan Ryan

“Little Buffalo, Alberta: Today we drove through the Lubicon traditional territory with Edward and Josephine Laboucan. The old people were silent. It was as if they were grieving. The land has been silenced too except for the swishing of the many pump jacks. The trappers used to walk their lines, healthy and well. Now Edward tells me he hasn’t been to where his bulldozed line once was; he says it hurts too much. As tears glisten in his eyes, he tells me he has no soul anymore. It used to connect him to the land, the animals and the spirits. Now, he says, it is dead out there and that, inside, he too is dead.”



Photography
by
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We visited Albert and Summer Joe at their cabin. They are Edward’s brothers. It felt peaceful and the gentle voices of the elders lent an air of false calm to the day. Now the road made for the many gas and oil trucks is five feet from the cabin separating it from the lake, and a large seismic cut heads north through the area the men used to trap. Their fathers and grandfathers trapped from this cabin and now they feel they have been dispossessed.

I take Bernard’s canoe out on Fish Lake. It’s a lovely evening and it should be a pristine one. But I am surrounded by

black monuments to greed, the standing remains of the unfought fire of last summer—unfought by provincial decree even though the crew was at the site. The fire destroyed a prime trapping area.

The old men talk of death not coming soon enough. Still, they don’t want to leave their land, injured as it is. Here they had status based on their skills, experience and knowledge. They were self-reliant; they kept themselves fed and clothed, warm and comfortable. They knew the land around for miles; they knew where to get moose, mink, fox, muskrat, beaver, geese and ducks. They knew which plants were edible and what roots and plants heal physical and mental illness.

Now they can’t eat from the land; they are buying spam, hot dogs and kraft dinner. They are ashamed they can no longer provide meat for others. They feel they no longer have a role in life. Those important ties to the land have been broken. They feel broken too.”



I wrote those words ten years ago. What had brought the Lubicon people to this state of siege? In 1899 a party of government officials travelled down the Athabasca and Peace Rivers negotiating Treaty 8. The Lubicon Cree, who lived in the interior between the two rivers, were simply missed. Since they did not sign the treaty, they have never ceded title to their territory. In the early 1930s the federal government granted them band status, and the Lubicon petitioned for a reserve at the west end of Lubicon Lake. In 1940, while a reserve survey was delayed, Alberta set aside 25.4 square miles [approximately 66 square kilometres] for a reserve to be transferred to the federal government under the terms of the 1930 Natural Resources Transfer Act. The reserve was to accommodate 127 people—the number of people met by government officials at the time, but the treaty party missed other band members still out on the land. In 1942 Indian Agent Malcolm MacCrimmon, with a stroke of the pen, removed 90 people from the list. While some of these were assigned to other bands, the remaining group was declared too small to be given a reserve.

In 1954 the government of Alberta wrote to the federal Department of Indian Affairs and Northern Development (DIAND), asking if it still wanted the 25.4 square miles for a reserve. When the federal government deliberately failed to reply within the requested 30-day time limit, Alberta reclaimed the land and began to grant oil and gas leases in the area.



Initially, oil and gas development was limited by the inaccessibility of the Lubicon territory. In the 1950s only 15 wells were drilled, of which 12 were abandoned. Then, in 1973, the Alberta government, at the request of oil and gas companies, constructed a road into the area. This sparked a stampede of industrial development to extract oil and gas and led to the destruction of much of the unceded traditional territory of the Lubicon people.

In 1975 several Cree communities joined to file a caveat against Alberta in the Court of Queen's Bench to register their interest in their unceded territories. The Registrar refused to file it. The federal Department of Justice intervened and argued that the petitioners had extinguished aboriginal rights and were signatories to Treaty 8. Then, in 1977, Alberta passed Bill 29, which makes it illegal for anyone to file a caveat against the provincial government. In a highly unethical move, the law was declared retroactive.

In 1979 the road opened from Peace River into Lubicon traditional territory. Within the next few years the well count went from 15 to 415 in a 15-square-mile area; 4,000 miles of seismic cuts were made; moose moved out; fire destroyed a prime beaver breeding area; trap lines were bulldozed or made useless by seismic cuts; trappers' income dropped dramatically and, effectively, they were put out of work. By 1980 welfare rates had increased from 10 per cent to 90 per cent.

At the same time, the province continued its assault on the Lubicon people by trying to make Little Buffalo into a hamlet. People were asked to sign up for two-acre lots; many thought they were signing for free wood or other benefits. The province made driveways into the lot sites. So-called roads were bulldozed into the bush and street signs were put up. People were told that provincial permits were now required for corrals. Property tax notices were sent out.

In 1982 the Lubicon filed for an injunction in the Court of Queen's Bench to stop oil and gas activity on their traditional territory pending the outcome of their land claim. In 1983 Justice Forsyth declined to grant the injunction, ruling that the Lubicon had not demonstrated that they had a unique way of life to protect. The Court of Appeal upheld Forsyth's decision, adding that the companies had more to lose than the Lubicon and claiming that the Lubicon could be compensated in cash for any damages done by the companies. Expert testimony given by myself and others predicted social, spiritual and economic damages that would destroy the society and which certainly could not be compensated for with cash. The courts did not believe the testimony of elders and experts. To date, they remain unaccountable for their contribution to the destruction of the Lubicon Cree society. Shortly after, the World Council of Churches visited the Lubicon people and described their situation as having genocidal consequences.

In 1984 DIAND Minister David Crombie appointed E. Davie Fulton as a special negotiator to try to resolve the land claim. Fulton's report (tabled in 1985 with the approval of the Lubicon people) argued for the establishment of a reserve with proper infrastructure. It advocated

compensation for lost resources and treaty benefits, a training and employment program, and an environmental protection program. DIAND promised to use it as a basis for negotiations but never did.

By 1985 the spirit of some Lubicon people was beginning to break, and a grieving process began that has yet to end. The loss of their local economy took roles away from elders which meant that they could not socialize their grandchildren to a way of life on the land. Every family in this small community was affected when seven local teenagers were killed in a car accident. When the rate of stillbirths and miscarriages jumped dramatically (19 of 21 pregnancies were lost in one year), the community was devastated and suspected oil and gas activity. In 1986 tuberculosis struck one third of the Lubicon people. People blamed their vulnerability to illness on the major stress they were suffering and on the loss of country foods.

In 1988 the Alberta government leased 11,000 square miles to Daishowa, a giant Japanese pulp and paper company. This area includes 4,000 square miles of unceded traditional territory. The Lubicon people decided to fight back. Having built up a national and international support group, the Lubicon people blocked the road and said that permits would be needed to travel in their traditional territory. The response was quick. Heavily armed RCMP arrived by car and in helicopters with a canine tactical squad, surrounded the blockade and arrested 27 people. (Charges were later dropped.) The RCMP used a chainsaw to take down the barricade which even a five-year-old child could have lifted off. This paramilitary assault on unarmed adults and children clearly conveyed the goals of the provincial government to protect the interests of multinational companies rather than those of indigenous peoples.

The blockade sent a clear message to Premier Getty. Shortly after the barricades came down, he met with Chief Bernard Ominayak in Grimshaw to draft what became known as the Grimshaw Accord. It guaranteed the band 95 square kilometers for a reserve, which included the original 25.4 square miles. The accord included full surface and subsurface rights to 79 square kilometers and surface rights to the remaining 16. Negotiations for other matters, and the confirmation of the land base, would take place with DIAND. Currently the province is reluctant to honour what they call an agreement rather than the more formal legal Accord. They argue that there are problems with the number of people to be counted for the land transfer, but the Accord was never based on numbers and was, in fact, Getty's attempt to get around the band membership issue.

Feeling besieged and frustrated with the lack of a settlement, the Lubicon launched an appeal to the United Nations. They asserted that they were denied subsistence rights because their land and resources were no longer accessible to them and as a result they were the objects of genocide. The appeal was accepted. The United Nations ordered DIAND to stop allowing damages of Lubicon lands until the claim was settled. The federal government ignored the UN order and spent substantial funds defending itself at the UN and assigned a lawyer to the case from the federal Department of Justice. As well, the Ambassador was assigned a special full-time assistant for the case. In an unusual move, the UN also asked the Lubicon to appoint a rapporteur to update the UN committee annually on political and religious freedoms. Each year, both DIAND and the Canadian Ambassador attempt, unsuccessfully, to block the report.

To coincide with the 1988 Winter Olympics in Calgary, Shell Oil sponsored an exhibit at the Glenbow Museum called *The Spirit Sings*. Petro-Canada sponsored the Olympic torch run. Since both companies had projects on Lubicon lands, the Lubicon organized a boycott of these events. The response of both levels of government was vicious. The Canadian government used diplomatic pressure to threaten the jobs of European curators who had decided not to lend artifacts to the Glenbow. The Olympic Special Security Force kept some Lubicon supporters under 24-hour surveillance. Phones were tapped and mail arrived previously opened. Film crews from CBC News, who had been travelling in the Petro-Canada media van, did not film demonstrators along the torch route until they obtained their own van in Winnipeg. Based on misinformation provided by Alberta's Attorney General, the Calgary Herald mistakenly reported that the Lubicon land claim was about to be settled. Immediately, Glenbow Director Duncan Cameron faxed the article to non-lending museums, indicating that they could now send their



materials. Unfortunately some did ship before the misinformation was corrected by the Lubicon support group.

In 1989 the federal government attempted to discredit the leadership of Chief Ominayak indicating he was not representative of his people. In response, Ominayak called an early election in which he was unanimously re-elected. DIAND then offered the Lubicon a “take it or leave it” settlement, which the Lubicon rejected because it would have left them in a permanent welfare state with no training, employment or compensation.

Meanwhile, Daishowa decided to sell their softwood lumber rights in their Lubicon leasehold to two small contractors, Buchanan and Brewster, on the understanding that clear-cutting would take place and the hardwood would be given back to Daishowa. This was in clear violation of their commitment not to cut on those leases until the land claim was settled. They claimed that Buchanan was an independent, but in fact he was a subsidiary. After Brewster had been asked several times to remove his equipment, someone set fire to it. Thirteen Lubicon men were charged with arson, but a mistrial was declared because the judge had met with the Crown Prosecutor without informing or including defence counsel. Charges were stayed after three years.

In 1991, with the assistance of Alberta, DIAND struck again. Using section 17 of the Indian Act, it created a new band called the Woodland Cree Band at Cadotte Lake, just down the road from Little Buffalo. Lubicon members were urged to join the new band and get a house with running water. About 30 people agreed to move. People agreeing to ratify the formation of the new DIAND band received \$1,000 per family member—big bucks for large families. Later, and without notice, this money was deducted from welfare payments. Those eligible to vote got \$50 for transportation costs, although the electoral station was within walking distance. The new band split Lubicon families and caused great grief among them. The new band has never been recognized by the Assembly of First Nations nor by the Indian Association of Alberta.



In 1992 the provincial New Democrats (then the official opposition) established the Lubicon Settlement Commission, which included members of all parties and citizens from various interest groups. It supported the Fulton recommendations, declared governments had not been acting in good faith, and recommended that all oil and gas royalties be withheld pending the

settlement of the claim. DIAND ignored it.

In 1993 a huge effort was made by the federal and provincial governments to get the large Laboucan family to join the Woodland Cree Band. These concerted attempts to defeat the Lubicon land claim by reducing membership (reminiscent of MacCrimmon) caused great anguish among the families and leadership. Relationships were never the same again.

In 1994 Unocal asked the Lubicon leadership for consent to expand an existing well battery site. The Lubicon did not object. However, Unocal built a sour gas plant rather than expanding the existing oil facility. When the Lubicon demanded a public inquiry, the Alberta Energy Resources Conservation Board came down on the side of Unocal. It also removed the restriction that all oil and gas companies report to the band office before doing anything on Lubicon land—the last control the Lubicon had over their own traditional territory.

Band elections were held again in 1995, and a dissident group, allegedly supported by the province, ran against Ominayak and the incumbent Council. After they were soundly defeated they decided to form yet another new band, to be called the Little Buffalo Cree Band. They held a press conference in a fancy Edmonton hotel, showed a video and provided people with a glitzy brochure prepared with help from the premier’s top media consultant at the time. One dissident returned home to find his 19-year-old son very angry at him for being disloyal to Chief Ominayak. They fought; the son left the house and shot himself.

Land claim negotiations began again in 1997. Harold Millican, past president of the Canadian Petroleum Producers Association and former head of the Northern Pipeline Agency, was appointed as the federal negotiator. People wondered if a negotiator less heavily involved in oil and gas might have been found. The Lubicon negotiator was Cree lawyer Harold Cardinal. The negotiations came to naught.

Resource corporations began to engage in SLAPP (strategic legal action against public participation) suits attempting to silence their critics. In 1998 Daishowa unsuccessfully attempted to get an injunction against the Friends of the Lubicon, a small and gutsy support group in Toronto that had run a very successful boycott against Daishowa's paper products. Injury was added to insult when Millican voluntarily testified on behalf of Daishowa at the hearing. He claimed to know better than the Chief what the Lubicon people wanted. Back in Alberta, after losing an appeal, Daishowa asked the Alberta government to withdraw their lease in the Lubicon area and give them another lease elsewhere. Also, they decided not to go ahead with the expansion of their plant at Peace River.

The old men I visited with at Fish Lake are all dead now. People have little meat to share since moose pass through only when in rut. Family relationships have been badly damaged by external manipulations. Predicted social problems have all come to be. In the wake of several suicides and its first murder-suicide, the community grieves on. And, while the small and courageous leadership continues to fight, multinational corporations and the province take millions of dollars of oil and gas resources out of unceded Lubicon traditional land, acting as though the area was *terra nullius*—empty land. After all, only a few animals and the native people live there; they don't count, but resources do.

Canadians, as individuals and as groups, need to take some responsibility for Lubicon suffering and for the lack of a land claim settlement. It is our governments' elected individuals who have acted with such ill will for the last 70 years. Corporate and provincial greed may fit within the concepts of progress and globalization, but these clearly constitute economic colonialism and racism.

The destruction of the land base by multinational corporations with the collusion of governments has led in major part to the destruction of many of the traditional activities of the Lubicon Cree and has introduced major social and economic problems. The Lubicon continue to try to save their society from total annihilation by looking to their children's future—a future which they cannot foretell except that it will not look like the past. They want 95 square kilometers, which would honour the Grimshaw Accord; they want compensation for lost treaty benefits and the theft of their resources; they want social and training programs which would equip youth with employment skills; they want infrastructure. They do not want welfare. Finally, they want to restore their damaged lands so they can reconnect with the land, animals and spirits.



Everywhere in the world where multinational corporations have destroyed indigenous land bases they have destroyed local economies and cultures. Often they have destroyed the people as well. It is a terrible irony that such destruction always affects marginal people who have managed for centuries to survive on their lands as good stewards. Cultural diversity is not important to multinational corporations, nor apparently to our governments, yet biodiversity in a sustainable environment is inevitably linked to cultural diversity and the survival of indigenous peoples. If we do not help them survive, we have little hope of surviving ourselves.

The land claim negotiations presently continue, with Lubicon leadership doing their own negotiating. Agreement has been achieved on a few key points, mainly the issue of membership—which the Lubicon will decide. Major hurdles such as compensation must still be overcome. If these negotiations do not succeed, then the final and genocidal destruction of a small hinterland Cree society will rest squarely on the backs of two levels of government, multinational corporations and a disinterested Canadian public. We will all be diminished by the loss.

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