

INTERVIEW WITH SENATOR MURRAY SINCLAIR

Corinna Netherton, Ph.D.

Instructor, Indigenous Studies

cnethert@hotmail.com

Introduction

I am a non-Indigenous Canadian settler living and researching on the unceded Syilx Okanagan territory. I am a mix of predominantly German and English descent. I am grateful for the opportunity to live, work, and play on Okanagan territory, and where my family has resided for several generations. I recognize that this time is not nearly as long as the presence of Syilx Okanagan people on their unceded territory.

The late Senator Murray Sinclair granted me an interview for my dissertation on October 31, 2018, via Skype. He graciously answered my questions and provided resources for me. Considering Senator Murray Sinclair passed in November 2024, an excerpt of the transcript is provided below for those people wanting to hear his words. He was a generous and warm man. I am grateful for all of his work, especially his work on the Truth and Reconciliation Commission (TRC) of Canada. He was wise and personable, and he acknowledged all perspectives—Indigenous and non-Indigenous—and he saw the future and the way forward together.

My methodology for the interview acquired ethics board approval with a Certificate of Approval dated March 2, 2018. I also acquired consent from Senator Murray Sinclair on October 31, 2018, that included publication of the interview. I used semi-structured interview questions as a qualitative research approach. It is a Western method closest to a conversational approach used in Indigenous research methodology. Even though I used semi-structured questions, I allowed for a conversational approach as much as possible. The interview was conducted via Skype and recorded. The interview transcript was analyzed using NVivo for key themes according to the parameters of my dissertation. The interview script has been revised from the original version to clean up the grammar and sentence structure for readability.

Interview with Senator Murray Sinclair

October 31, 2018, at 1:30 pm

(The original transcript was edited for publication.)

Corinna (C): What is your full name?

Murray (M): Calvin Murray Sinclair.

C: What is your occupation?

M: Currently, a Senator in the Canadian Senate. Formerly, a judge in the Superior Court of Manitoba and a lawyer by training.

C: In what community did you grow up?

M: A community north of Selkirk, Manitoba, which is a city in Manitoba. It used to be an Indian reserve called St. Peter's Indian Reserve. Now, it is just called St. Peter's, but it's a district. It is no longer a reserve.

C: And why did that change?

M: The treaty was signed in 1871, in that area, and that was one of the reserves that was created as a result of the treaty. But it happened to be in prime agricultural land. The government of the day wanted the land for European settlers, so they forced all the Indigenous Peoples off the land and moved them north, about 250 miles away, into a swampy area where the community of Peguis was created. So, that is where the people from Peguis came from.

C: Do you consider your community as part of a nation or remnants of that community?

M: Yes, St. Peter's people were led by, and came to Manitoba, under the leadership of Chief Peguis, who was an Ojibway chief from the Sault St. Marie area of Ontario. He had migrated west in order to be in the trading territory of the Hudson's Bay. His primary interest was to participate in the trade, and he led his band over in that direction. It was a band of over 200 people, and it settled in there in the 18th Century. He was chief until the 1830s.

C: Are you still affiliated with your community some way?

M: I am a member of the Peguis band. Yes.

C: Do you currently have a position in the leadership in your community?

M: Nothing elected. No.

C: Can you explain the overall roles in how leadership is in that community—how decisions are made?

M: Well, a lot of that has been determined before I was born. I was born in 1951. Most traditions and customs had already been impacted by the move of the vast majority of the population back to the Peguis area. Those who remained behind were, they lost their status under the Indian Act. So they had no status in the eyes of the government. They were pretty much left to their own devices, so they made do by participating in the local economy in the Selkirk area. My grandfather was a carpenter, and he was a young man when the reserve was terminated. He owned a farm at the time that the people were moved, and he refused to move. There were about 90 families that refused to move, and they remained behind. The military forcibly removed a number of families, but because of the public human outcry around it, they stopped doing that around 1911. The move started in 1909 and lasted until 1911, when they stopped forcibly removing people. Instead, they passed the law terminating all of the people under the Indian Act from being band members.

In 1913, a lawsuit was started against the government for the illegal forcible surrender of land. That lawsuit was going to trial when the government passed another piece of legislation called the St. Peter's Reserve Act, in which they retroactively justified everything they had done illegally. The condition was that all of the settlers who bought land in the old reserve had to pay an additional \$1 per acre into a fund that was supposed to be used to compensate the people of St. Peter's, or Peguis. The government, instead, used that money to pay for the salaries of Indian Agents and government officials. The fund was depleted very quickly, and, in this way, the money was not compensated to the First Nation. When I became a lawyer, I started a lawsuit against the government in a claim for that money. It was eventually settled after I became a judge, for about \$125 million. The forcible surrender was finally settled for another \$180 million. That fund is still being used by the band for economic development. There is about \$250 million remaining in it now. All of the traditional teachings and customs of the band were essentially terminated when the people moved away, and my family that remained behind were largely assimilated into mainstream society.

C: I interpret "traditional governance" as being a community's governance in a traditional sense prior to the Indian Act. Is that how you would define "traditional governance"?

M: I think that is a good definition. I think it captures the concept adequately. There are different words for it, but traditional governance is a good, all-embracing term. It certainly describes governments by tradition, and essentially, that's the way that the community was governed prior to the incursion of Government of Canada intervention into their lives.

In the Ojibway society, chiefs were generally selected by one of two clans. There were two chiefs in the tribe. The two chiefs came from two different clans, and each of those clans had a chief with different responsibilities. One of them was a leader for internal operations of the community, so he was responsible for all of the care of the community itself, and there was a chief that was responsible for all external matters. Anything to do with war, anything to do with treaty making, anything to do with external relations with settler people or governments were all his responsibility. My family was part of the Fish Clan people, which was also called the Water Clan. Their role was to mediate between the two chiefs when they couldn't agree. There were others, as well, who had different responsibilities. The Bear Clan people, for example, were responsible for guarding the community externally, so one could consider them like the military. Their responsibility was to patrol outside of the community and to make sure that there were no people who were getting ready to attack. They were also named after the Bear Clan because the bear, traditionally, was the Spirit Clan, that knew all of the medicines of the woods. They also had a role as leaders in the healing ceremonies. Internally, the Martin Clan people were like police within the community. They were responsible for security within the community. The Martin Clan people also had a role to play. The Hoof Clan people were the artists. They were the people who maintained and learned the music and passed on the music and the arts. They were the ones who made the outfits, and they led the dancing ceremonies. There were other clans as well; there were seven major clans, each of which had a major responsibility to contribute to the governance of the community and its well-being. The council of the community was made up of the heads of those clans—one woman and one male—who met from time to time to make decisions on behalf of the community or to give direction to the community.

A lot of this was taught to me after I graduated from law school because I wanted to know how we govern ourselves, in order to be able to engage in a dialogue with Canada about what was meant by self-government. Because I knew that self-government was more than the Indian Act. I found traditional Ojibway Elders mainly on the American side because most of the Ojibway Elders on the Canadian side had been subjected to Indian Residential Schools and assimilation at the undermining by government. There were a lot of people who knew that things were different before but didn't know what they were. I found Elders who were still practising those ways in Northern Minnesota, Northern Wisconsin, Northern Michigan, North Dakota, South Dakota, all from what they call down there the Chippewas. The Chippewa people and the Ojibway people in Canada come from the same tribe. A lot of this is in the book written by one of those Elders by the name of Eddie Benton-Banai. He wrote a book called *The Mishomis Book* that you should probably read if you're studying about traditional Indigenous governance. That is a good resource. There are other books, as well, written by other tribes, but that is one I relied upon. It has a lot of traditional stories and traditional teachings around governance, self-governance, internal governance, and external relations. It has written stories about naming ceremonies and the importance of that, and I recommend it highly. Given the fact that within modern-day

Indigenous communities' young people are used to relying on textbook-type material to learn from, this book works well.

C: Is there a need to adjust the Western understanding of what is perceived as “traditional”?

M: Well, I don't know if there is a need to adjust understanding. I think the issue is that there's a need to know it. Because most people do not know it, including Indigenous Peoples. They know that we had something different. They know that we had a way of doing things, but they don't know the details. They can tell you the details on how a city government is run. They can tell you how school boards function. They can even tell you how Members of Parliament are elected, but they can't tell you about traditional chiefs. Young people want to know, but no one is teaching them. There are very few Elders, themselves, who know it because most Elders have not been raised with this knowledge. I think the first step for us is going to be to develop a source of learning for ourselves; educating ourselves about our own traditions and our own ways of doing things is an important part of what we have to do. Then, once we do that, I think we have to exercise those traditions; we have to do things in accordance with that, and this is true generally for other tribes as well. It is true for the Cree. It's true for the Mohawk people to a certain extent or a lesser extent, because there have been people among the Mohawks, particularly those living on the American side, who have maintained an understanding of their traditions and have tried to exercise those authorities. The government of the United States did the same thing as the Government of Canada did—they undermined traditional governance, significantly, through legislation.

In Canada they started passing Indian Act legislation to undermine traditional governance going back into the 1880s, and so, for about 150 years, almost 150 years now—140 years almost—traditional governance has been initially outlawed. But now the laws have been withdrawn, but they have not been practised because people have grown up in an era when they never saw them practised, and so they don't know how to practise them. A lot of the time has been spent complaining about that, but very few people know what to do about it. And so, that's been part of the TRC's report on reconciliation, was to point out to Indigenous leaders that before they get government to start doing things, they really need to know what they themselves can do for themselves. This is important so the Government of Canada does not become their government.

C: Are you aware of any work right now being done to reinstate traditional government, maybe in a modern context?

M: Yes, probably the University of Victoria law school's traditional governance project is the most significant. You are probably familiar with it. John Borrows and Val Napoleon have put together a teaching process to involve traditional Elders, traditional communities, and law schools so that lawyers who are graduating after being educated in that law school will have an

experience and an understanding of what traditional forms of government were like—traditional understandings of legal concepts. And that is a limited approach because, of course, it is only going to be those students going to that institution who receive that knowledge. It will be limited to those communities which are near that law school, so it won't be communities in other parts of the country.

I think what is needed is for Indigenous educators, or educational systems within Indigenous communities, to start teaching this stuff very early on so that their teachers are actually teaching to young people and their leaders actually know it, so they can practice it in their community. Right now, Indigenous governance is largely, at least from the First Nations perspective, functioning in accordance with the Indian Act, which is a piece of federal legislation. Indigenous governance is not in accordance with their traditions. And that's also true, I think, for Métis communities and Inuit communities, who are still trying to come to terms with how to govern themselves in this modern day and age.

I think their sense of how to do that is determined by what existing laws permit them to do. You see, in some Métis communities, not all, but some Métis communities, they form corporations to run their businesses, to run their communities, to run their housing programs, and to be their government. The same occurs with Inuit in the North. There are development corporations in the North that are created that are really now the only form of traditional government that you see in parts of Northern Canada. They are organized in accordance with corporate law and principles of corporations that are coming out of the Western legal common law system.

C: What can replace that? How do you change that?

M: I think there has to be a commitment by Indigenous leadership that this is the way they are going to move towards. This is the direction they want to go. Then they have to map out a plan on how to get there. In the meantime, they have to continue to do what they have to do to be able to function. Because you can't simply end the needs of the people while you're spinning your wheels trying to figure out what your building is going to look like and how you are going to host ceremonies while you are having meetings, and what the role of Elders are. All of that discussion has to go on, but at the same time, you have to continue to serve the needs of the people. The needs of the people are quite drastic, and we point that out in the TRC report. There are children in care who need to be out of care and need to be returned to their families. There are young people and adult men and women who are being incarcerated at extremely high rates. Medical issues are profoundly high. Dropout rates from schools are very significant. Suicide rates are epidemic. So, all of those very urgent needs need to continue to be addressed. At the same time, you are envisioning what things will be like a generation, or two, or three, or four from now, and trying to move in that direction. So, while you're moving in that direction, you are dragging this huge anchor of problems and trying to come to terms with them. That is making

it very difficult. But you have to do it. Otherwise, you will be stuck only in addressing those urgent needs in accordance with existing law, and you will never move to where you need to go.

C: Do you perceive any problems in the way in which traditional practices work in a contemporary world?

M: Well, part of the problem, I think, is that there is no one to give direction when people struggle for understanding. As a result, people could just pick up concepts from various parts of the world, including from Europe, or from Asia, or from South America, or from tribes in the United States. Different tribes have a different way of doing things, traditionally. It may be that there will be a hodgepodge of rules and principles and ideas being talked about in each of the communities. Ojibway people run the risk of conducting their business affairs from a government perspective in the same way as the Dakota people do because the Dakota people have more knowledge of their traditions because of the strength of the relationships. Dakota people are actually practising some of those relationships alongside American forms of government imposed upon them, but they still have a form of traditional government working in the background. There has to be some exercise of those traditional authorities so you can get a hang of it, and get a feel for it, and be comfortable about making it work, without necessarily coming in conflict with the existing form of government that is under the Indian Act, for example. That has been a problem in some communities that have gone or tried to go to traditional government. The government only recognizes Indian bands that are set up under the Indian Act.

The Traditional council, as they call them, gets no power, has no spending authority, has no right to say who gets to go to school, where the schools are built, what goes into the school, what kind of things are taught. That is all in the hands of the chief and council who are elected under the Indian Act, which can be a conflict. There are lots of hurdles, one of which is lack of knowledge, lack of commitment, lack of planning, and generally, a visioning problem. People are not visioning about how this can be and should be done.

C: It sounds like that is what needs to happen before anything else can really take shape.

M: I think that work like yours is going to be helpful because that will allow an up-and-coming generation of student scholars to learn from written materials about how it could be done, and they, in turn, will be able to occupy positions of leadership and make it happen. Because they will be educated from textbooks that will give them the knowledge, the tools that they need. I'm sure they will borrow some of the tools that are used in Western government model systems and combine that so that they will be able to put it together. As they become more comfortable sitting in council together and exercising their decisions, they will refine it, and the more familiar they will also become with their own traditions. And that familiarity, we are finding, can be increased

because there are resources out there that people can rely upon. Just the other day, for example, we found out that the Smithsonian Institute in Washington, United States, has a significant number of audio tapes of people recorded in conversation talking about how their governments function. So, one has to be able to get access to that. One has to understand the language, and one has to figure out how to make that transportable in the modern day. And a lot of that is in song and oral tradition, and ceremonies.

Everything that I learned about traditional governance I learned in ceremony. I didn't go to a university class. No one taught me that way. I was always taught by listening to Elders in ceremony talking about things that were done.

C: I guess traditional stories lend to that and help to understand?

M: Yeah, that is what is good about *The Mishomis Book*. *The Mishomis Book* is not a handbook on how to run a government. *The Mishomis Book* is a book of stories, and in among the stories there are principles you can pull: this is how we made decisions, this is how we dealt with this kind of issue, and this is how we dealt with that kind of issue. So, those principles really can help you form the backbone or framework for your government going forward.

C: In my research, I found that some of the principles are imbedded in the government system we have now, but it is the way that government systems are structured where principles are lost. Would that be a fair assumption?

M: If the government's framework/legislation regarding Indian governance in Canada has anything that's related to Indigenous governance or traditions, that is pure chance. It is certainly not by design. And the reason I say that is because the government deliberately set out, in the 1880s, to do away with traditional Indian governance and to undermine the influence of traditional Indian government council members. In 1891, there was a piece of federal legislation called the Indian Advancement Act, which said that no longer will traditional governments have any power, any authority; only those councils that are elected by the community in accordance with these rules set out by the Indian Act [had authority]. So, you had to be male, you had to be over 21, and you had to be approved by the Indian Agent, and then you could be on the council. Then, if you were on the council, you had the authority to make decisions, but those decisions were relatively minor, and they were more municipal-type issues such as cutting grass and building roads and things such like that.

C: Do you think traditional governance can be used with non-Indigenous government at the different levels—local, regional, provincial, federal? Or do we need to revise it completely?

M: Are we to do away with everything that we are doing now and move towards inter-racial governance? I think there are problems with that because we don't know how traditional governance is going to work. As I said earlier, we have to rely on existing mechanisms that are in place to deal with those very urgent issues that we're facing: education needs, incarceration rates, child welfare rates, medical needs, housing needs, and water needs. All of those things have to be serviced and taken care of on a very urgent basis. The only mechanisms and vehicles we have now are those created by federal Indian legislation, but ultimately, we have to move towards a decision-making process that is more in keeping with our traditions: in the role of Elders, the role of clans, the role of clan heads, and the decision-making process and how decisions get made in accordance with tradition. And that will take some time. We can continue to work in both streams, side by side; and perhaps the same people will be doing both functions. But for the time being, they have to be maintained separately, so that you don't get into that situation, as some communities do, where there was antagonism between the two streams. Ultimately, the stream that controls the purse strings, which is the Indian Act band, was able to shut down the traditional governance people.

Just so it is clear, I'm only talking about it from an Ojibway perspective. I'm not trying to talk about it from a Mohawk perspective or from a Confederation perspective. I'm sure they have their own stories to tell about that. From my perspective, dealing with this as an Ojibway man, this is how I see things.

C: How would you apply a traditional Indigenous governance at a national organization and a non-Indigenous organization such as the Government of Canada?

M: The one thing that is happening now is we need to put a stop to how the Government of Canada determines who they want to talk to. They only talk to the one entity. In the case of Canada, the Assembly of First Nations is the vehicle that the Government of Canada feels very comfortable talking to because they understand it, they know how to deal with it, and they know how to make it work for them. This is from the government's perspective. The government has a hard time dealing with tribal governance. So, the Ojibway people of Canada, who number in the hundreds of thousands, if they decided to form their own tribal government, nationally (just representing the Ojibway people), or if the Cree decided that they were going to form their own Cree government, with only Cree people, then you'd probably end up with far fewer entities than the several hundred Indian bands that we now.

The government wouldn't be able to say to Ottawa, "This is what we're going to do, and let's talk about it." Because then they would have to talk to the Cree leadership, they would have to talk to the Mohawk leadership, they would have to talk to the Ojibway leadership and bring all of the leaders into one room and have a discussion. But then each of them would have to go back to their tribal entities and tribal membership and say, "This is what the government proposes."

That's the way they were supposed to do the treaty-making process, but instead, they dealt with the treaty process on a band-to-band basis—until they learned quickly that that's a neater way to approach things, and they determined who they were going to talk to. And that's why the Indian Act reads the way that it does.

C: What do you think a nation-to-nation governance means or should look like?

M: I think the Royal Commission on Aboriginal Peoples talked about this and wrote about it in the Royal Commission Report. It is something that you should be sure you read and are familiar with. They talked about how the future relationship between Canada and Indigenous Peoples, particularly First Nations people, will be on a government-to-government basis. Indigenous government will be formed on a tribal basis. So, the Ojibway people will be called upon to create their own traditional government that represents all Indigenous tribes, all Indigenous communities, and all Indigenous Peoples. What this means is, instead of talking to Indian bands in Northwest Ontario, they would talk to the Ojibway leadership for all of Canada, they would talk to the Cree leadership for all of Canada, they would talk to the Mohawk leadership for all of Canada, and so, those tribal entities then become the true voice of their people. But they would also have to reformulate themselves in accordance with their traditional form of government utilizing the tribal concept and the tribal approach, and that would require some rethinking about how they want to exist. There are some internal resistances built into doing that, because each of the Indian Act band chiefs that are in office right now are in a position of a conflict of interest. It's in their interest not to move in that direction because they will lose power that way to the tribal entity. They might still be the head of their local community, but they would then be accountable to their own leadership at a tribal level. That's more troubling for people who now have the ability to make final financial decisions for themselves.

C: Do you think a nation-to-nation governance could be achieved where joint decisions could be made i.e., judicial decisions, territorial disputes, tax issues, and education?

M: Well, obviously, the law will need to be followed. The law now says that there has to be a process of consultation if the Government of Canada wants to engage in activities that affect traditional Indigenous rights or lands, and that process of consultation may require, in some cases, their consent. I can see that happening. Right now, though, the Government of Canada finds it very convenient only dealing with an Indian band, a few hundred people, and giving them a small amount of money in return for giving up their rights instead of having to deal with a larger entity, a larger governmental entity, representing all of those communities, and all of those people within those communities. They would, in turn, have to get the buy-in and the consent of traditional leadership, of traditional governmental leadership—would have to get the buy-in and consent at the community level. They would have to consult with the women, and they would have to ensure that the warriors were engaged.

There would have to be a longer and more complicated process of consultation, and governments know that. So, that's why they are not terribly eager to embrace that idea. But at the same time, that is the way things were before Confederation, and it's the way things would have continued but for Confederation. I think we need to recognize that if we're going to create a change in the relationship, we have to take a very serious look at the way things were and the way things should be today. And, mind you, one of the ways things should be is that Indigenous Peoples should be allowed to organize themselves in their own traditional forms of government and to negotiate with and deal with government officials at the federal government level, the provincial government level, that are more in keeping with their traditional ways of doing things. A government-to-government relationship means each government is properly constituted. Right now, Indigenous governance is not properly constituted. It's constituted by one of the other governments, which is the Government of Canada.

C: In what ways do you think the Government of Canada as a framework or structure needs to change for the local, regional, provincial, and federal scales?

M: I don't think they will do it willingly. I don't think they will do it easily. I think that they will essentially have to be told by Indigenous leaders that that is the way it's going to be. But, on the other hand, they will have no choice when Indigenous Peoples organize themselves in accordance with their traditional form of government; the Government of Canada will have no choice but to deal with them in that way. They will resist it, and they will try to end that. I know that. I know governments enough. I know the way negotiations happen. You try to pick people off and co-opt people onto your side. The Trans-Mountain Pipeline in Canada is a good example of that. Because they know that by doing that, it becomes saleable not only to themselves—it becomes saleable publicly. So, under a traditional form of government, they will have to deal with the Ojibway people's leadership, the Cree people's leadership, and the other tribal leaderships in the other communities in the other areas, instead of the local Indian band, and the local Indian chief.

C: There is going to be a lot more consultation happening in terms of proper consultation and more of a voice from Indigenous groups.

M: Consultation will become much more intense and probably extensive; it may take more time, as well. But no long-term change is ever going to come quickly or easily. I think we need to recognize that we are now in an era of transition in which we are trying to change the way things have been done and trying to improve the way things have been done. This is one area that really needs some major work.

C: What about the voice and role of the women from the communities? It looks like their voices have been suppressed for many years.

M: The Indian Act started out that way, and it has been maintained that way. The first form of Indian band government was in 1891, under the Indian Advancement Act that stipulated only men could hold a position of leadership in the community. It is based on the Western European model, where only men in Western European governments held any positions of power: only men could vote, only men could be in the Senate, only men could be in the House of Commons. So, for Indian bands, only men could hold office, only men could be chief, and only men could sit on council. That undermined the matriarchal societies, and matriarchal societies are still persisting. Women have generally, still, wielded power and influence. Women have still given direction to male leaders. Yet somehow, male leaders have chosen to ignore them, at their peril, and frozen them out of the dialogue. I think those communities that have the tradition of inclusion and respect for traditional female leadership will now need to allow that to happen; to allow that voice to be heard; to give the voice back its power by giving up that power that they purport to hold already—the exclusive power that they purport to hold. That will be more problematic for the chiefs. They now realize it, and that will be a long-term challenge.

On the other hand, I don't think there will be any difficulty for women to step forward and say, "Get out of my way and let me do my thing." They've done it in other areas. Child welfare is a good example. The 1970 report by the Canadian Welfare Council noted the high apprehension rates of children and reported, for the very first time, on the '60s scoop. It was women who stepped forward and said, "We have to stop letting our children be taken away from us." I know because I was a lawyer, at that time, working with the chiefs and trying to ensure the way the women of the community were giving direction, that the way the grandmothers and mothers were giving direction on what needed to happen, was accomplished.

C: I'm sure you're familiar with s. 35 of the Constitution Act. Do you think the Constitution Act is applicable in a nation-to-nation framework? And if so, in what way?

M: Well, the Constitution Act is really a limitation on the power of Canada. It's not a creation of any power on the part of Indigenous Peoples. Some non-Indigenous leaders and some Indigenous leaders, to that extent as well, see s. 35 as a creation of rights when, in reality, it is the recognition of rights. The very fact that the word "existing" is in there tells you that. More importantly, s. 35 requires the courts to be cognizant of the fact that when they are interpreting laws, they must, when called upon to do so; they must recognize the validity of traditional—the existing Aboriginal and treaty rights of the Aboriginal People of Canada—whatever they might be. There is a lot of space to fill that definition up, a lot of ground to cover there. But having said that, there will undoubtedly be more need to rely upon that provision in future than ever before once you start moving in that direction.

C: In a legal framework, in a legal capacity, in Indigenous rights?

M: Yes, s. 35 as a foundation is going to be very influential in the debate going forward.

C: Are there any limitations on the Constitution Act s. 35?

M: Yes. It's in the hands of non-Indigenous lawyers, judges, and politicians. That's the major limitation. They will, as we saw with the recent Mikisew [Cree First Nation] case, they will interpret it in a way they are comfortable with, as inheritors of a Western European way of doing things and of doing business. So, that will be the biggest hurdle. That's why we're still dealing with a legacy of a long history of racism within the legal system. Even though it's probably realistic to say that the people at the Supreme Court level and federal courts of appeal are not racist, the tools that they are given, including the laws that they're called upon to interpret, the interpretation, and the lawyers who do presentations to them, limit their capacity to be able to achieve fairness between parts.

C: It is ongoing.

M: Education's the key.

C: You always say that, and I agree. I believe it is true. Do you think Canada's Truth and Reconciliation Calls to Action can be used to promote a nation-to-nation governance?

M: In fact, they were the very principle that we had in mind when we developed them. So, what we pointed out was that we didn't specifically focus on the issue of governance; we focused on the issue of relationship. What we pointed out was that at every level of Canadian society, from the neighbourhood to the governmental level, Canada needs to improve the way it relates to and with Indigenous Peoples. In order to do that, they have to be aware of the truth; they have to be aware of the wrongs that have been done; they have to be prepared to acknowledge them publicly, atone for them, apologize for them, and commit to action that would move them into a proper course of conduct so that in the future they never do that again. But in the future, they can figure out how to repair the damage and harm that they have done. That's one of the reasons we incorporated the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) into our Calls to Action because UNDRIP contains, within it, a plan of action with regard to how governments need to relate to Indigenous Peoples in the future. And I think it is a very important document.

C: How do you think the current government is doing in terms of initiating Calls to Action and implementing UNDRIP?

M: Well, there's certainly a commitment there. If you look at all the mandate letters that have been written to the minister, there's been a public statement and recognition of the importance of this. I think it fails, though, at the implementation level. I think it fails because governments just don't know how to reconcile. Governments just have an innate inability to believe that they've done anything wrong. Everything that governments do falls within the purview of government. In other words, we are governing, and therefore there are people that may be hurt by this, but "Tough." The majority have benefited; therefore, it's a good thing. So, even those within government who acknowledge that the government was wrong to do what it did with regard to residential school and the creation of these negative images in society, they will have a hard time believing that there was malice behind all of that. There will be "That was just the best way we could govern at the time, and now we'll govern better going forward," and "We don't need to keep harping about what we did in the past." That's going to be a hurdle for a long period of time until government officials are better educated about what the impact of those decisions continues to be today. So, we're just now, for example, I think, beginning to get government to see that the Child Welfare System, that has such a high apprehension rate of Indigenous children, is really a leftover legacy of residential schools, a leftover legacy of past racism within Canadian society. Because it wasn't just in residential schools, as you know—and you probably heard me say this—it wasn't just in residential schools that children were taught that Indigenous Peoples were inferior, it was also in the public schools. And so, people in senior levels of management and in government and in child welfare agencies and in other institutions in society, including judges, innately believe this. Because they've been told this ever since they were little children that Indigenous people were not as good as "us." That's why they are in this situation. As one friend told me one time when we were discussing this, he said, "Well, you lost. Because you lost, you can't expect to be treated like a winner." So, that idea that it was a competition, that we were participants in, and "we" lost and "you" won is a very pervasive undermining thought within Canadian society. Therefore, it's going to be hard to overcome that. It can be, but it is going to be hard.

C: I guess this is more and more of a challenge with changing governments and as agendas change?

M: The reconciliation process is going to be a reflection of the length of time it took for this problem to be created. Again, I go back to things I've said many times. One of them is that it took us a long time to create this mess, and it's going to take us a long time to fix it. We're going to have to talk generations; I'm not talking in terms of months or years here. We're talking in terms of generations. So, the problem we have when we're talking about governments that run in four- and five-year cycles is that they are only ensured of governing for four or five years, and they will govern for the first part of that, and they will campaign for the last part of that time period. The plan of reconciliation, and the plan to do what the Calls to Action call upon them to

do, gets put aside during much of that period of time because they are too busy taking care of and creating those plans and policies and other activities that will get them re-elected. So, that is a much higher priority than reconciliation is.

C: In reference to Indigenous rights, how do you feel about Indigenous environmental protests, such as Kinder Morgan, and the pipeline issues?

M: I don't see that related to Indigenous governance at all. I think that's a level of anger that Indigenous Peoples feel collectively. I don't see it as an Indigenous governance issue because it's not related to an Indigenous governance as we're now talking about it. It's probably related to territorial issues. Publicly, it is hard for people to separate out the environmental activist element and the Indigenous activist element. I think that Indigenous activists who are talking about this being an Indigenous issue because it relates to our future, our land, and our children. And we need to ensure that they do not get confused in the public's mind with those who are simply arguing for the maintenance of the trees and the forests and the water. It is important, but it is not a reflection. It's not a matter of substance when it comes to Indigenous governance. It is the other way around.

C: Do you think the federal and provincial governments are acting legitimately and morally regarding these activists and protests?

M: They are not acting very wisely because, again, they don't see this in relationship, as a question of reconciliation, and a question of future relationships. I think their vested interest is behind government activities. I think the oil industry, the petroleum industry, the mining industry, and the lumber industry have far more influence on governments than we know, and those influences are being brought to bear on government urging them to take action. Sometimes they are a real threat to Indigenous self-government, and government makes a choice to take care of those interests first, rather than Indigenous interests. So, I think, it's really a dangerous issue that we need to be cognizant of. And understanding how the resource industries have been able to control and influence government decision-making is a real lesson in back-room negotiations. And Indigenous leaders, Indigenous Peoples, and Canadian society, generally, do not have the same kind of influence.

C: Do you think that the government's position detracted from the relationship with Indigenous communities even further than what it is or than what it was?

M: I think that's a given. The reason why I say that is because from an Indigenous perspective, when they see the government come up with \$7 billion to bail out an oil pipeline company and they can't come up with \$7 billion in order to fix the water supplies in First Nations communities, they wonder what the government's priorities are, really. And the government can

justify it by pointing to the economy and jobs and things such as that, but Indigenous Peoples are also part of the economy and are part of the jobs. If they were allowed to find their feet, and find their way, and establish themselves as a stronger part of society (which is what, by law, this should all be about), they would have a much better influence over the long term than a pipeline that's going to be gone in 50 years.

End Note:

Thank you, Senator Murray Sinclair, for all of your hard work and dedication!

Corinna Netherton