

Court File No. _____



ONTARIO
SUPERIOR COURT OF JUSTICE
(Northeast Region)

BRENDA ROBERTS SUING ON HER OWN BEHALF AND ON THE BEHALF OF ALL OTHER MEMBERS OF
THE NATION OF THE AMIKWA NIPISSING ALLIES OF THE ALGONQUIN NATION

Plaintiffs

AND

ALGONQUINS OF ONTARIO (AOO) AND
ATTORNEY GENERAL OF CANADA

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date

Issued by

Local registrar

Address of
court office

TO: Attorney General of Canada
Office of the Deputy Attorney General of Canada
284 Wellington Street\Ottawa, Ontario K1A0H8

AND TO: Algonquins of Ontario
c/o Blaney McMurtry
2 Queen Street East, Suite 1500
Toronto, Ontario M5C 3G5
Attention: Mr. Robert Potts

CLAIM

Claim – Orders Sought

1. Brenda Roberts, on behalf of herself and on behalf of all other members of the Nation of the Amikwa Nipissing Allies of the Algonquin Nation, who are presently Mattawa, French River, Lake Nipissing Algonquins, Bonnechere Algonquins and Bancroft Algonquins who have been eliminated from the AOO process, or who have never participated in the AOO land claim and Treaty process, claim as follows:

- a) An Order granting funding to the Plaintiff for this action on the same basis as Canada and Ontario's fund the AOO for negotiation of their claim for Treaty;
- b) Injunctive relief to halt the present negotiations between the AOO and Canada and Ontario, pursuant to the Agreement-in-Principle until this litigation is finalized;
- c) A declaration that the Nation of the Amikwa Nipissing Allies of the Algonquin Nation have the right to assert Section 35(1) Constitutional Act inherent indigenous rights on the same footing as the present members of the AOO;
- d) An Order declaring that based on the Honour of the Crown, that the Crown consult and accommodate the Plaintiff and its members on the assertion of Section 35(1) indigenous rights as it pertains to land and resources and fishing and hunting;
- e) A declaration that the AOO, Canada and Ontario have wrongfully infringed upon the indigenous rights of the Plaintiff and its members, entitling them to redress and compensation;
- f) Costs on a substantial indemnity basis;
- g) Punitive and exemplary damages;
- h) Such further and other, equitable and other relief that this Honourable Court deems just.

Parties:

Plaintiff

2. Nation of the Amikwa Nipissing Allies of the Algonquin Nation

The Amikwa (Amik-Beaver-Wa-People) were first discovered by the French on the northern shore of Georgian Bay across from Manitoulin Island. The French called them the “Nez Percés – Pierced Noses,” and Champlain referred to them as the “Cheveux Relevés – High Hairs.” They, together with the Nipissing, inhabited the shores of Lake Nipissing, and at that time they considered themselves the dominant tribe and in control of all other Indian Nations in this area. The Amikwa and the Nipissing were originally one tribe. The Amikwa are mentioned many times in the publication of “Jesuit Relations.”

Chauvignerie, in 1736, said of the Nipissing: “The armorial bearings of the Nation are, the heron for the Achaque or Heron tribe, the beaver for the Amikwa and the birch for the Bark tribe, as well as the squirrel and blood.”

Algonkin

A term applied originally to the Weskarini, a small Algonquin tribe formerly living on the Gatineau river, a tributary of the Ottawa River. Later, the name was used to include also the Amikwa, Kichesipirini, Kinonche, Kishkon, Mackasinik, Matawchikirini, Missisaugua, Michakonbidi, Outauakamigoug, Outchongai, Powating, Sagahiganirini and Sagnitaounigama.

The term Algonquin, as proposed by Champlain in his writings, when he inquired as to who-those expert canoe handlers were received the answer “a la gomme et kina” – “the gum and bark” which became Algonquin.

3. Nation of the Amikwa Nipissing Allies of the Algonquin Nation is an historic and present-day peoples and group. They are the proper Indigenous titleholders of their specific area and beyond,

according to the laws, traditions, and customs of the Nation of the Amikwa Nipissing Allies of the Algonquin.

4. The Nation of the Amikwa Nipissing Allies of the Algonquin Nation are not under the authority of the Indian Act of Canada and derive their authority from the laws, traditions, and customs of the Nation of the Amikwa Nipissing Allies of the Algonquin Nation

5. By virtue of this claim the Nation of the Amikwa Nipissing Allies of the Algonquin Nation assert an Indigenous title to the lands claimed by the Algonquins of Ontario AOO in their purported land claim negotiations with Ontario and Canada. The Nation of the Amikwa Nipissing Allies of the Algonquin Nation also asserts an Indigenous land claim beyond the territory claimed by the AOO, extending from North Bay to Lake Nibigon in the province of Ontario.

Defendants:

6. The defendant Attorney General of Canada is the representative of Her Majesty in the Right of Canada ("Canada") and is named in these proceedings pursuant to s. 23(1) of the *Crown Liability and Proceedings Act*.

7. The Algonquins of Ontario are comprised of the Chief and Band Council of Pikwakanagan, along with the representatives of 9 other communities which are Mattawa, Bancroft, Ottawa, Whitney, Sharbot Lake, Greater Golden Lake, Antoine, Ardoch, an Bonnechere. Eventually, each entity put forward an Algonquin Nation Representative (ANR's) with the Algonquins of Pikwakanagan having 7 ANR's, consisting of Chief and Band Council and each of the other communities having one each, for a total of 16 Algonquin Nation Representatives. The quorum of the ANR's is 14.

8. It is the intention of the Plaintiff to add as Defendant the Province of Ontario after the ninety day of notice period expires, after service, pursuant to the Proceedings against the Crown Act, R.S.O. 1990, c, P.27.

Overview:

Territory

9. In a 1688 map made by Cornelli he clearly sets out the Land of the Amicoues and Nipissing, stretching from North Bay to Lake Nibigon. The Amikwa are found throughout Ontario and Quebec, and certainly within the land claim territory of the AOO.
10. On the Treaty of Friendship of 1701, concluded at Montreal, we find the dodems of 22 representatives of the Amikwa/Nipissing Nation and their allies affixed to the treaty. These dodems give us a territorial perspective of the assertion of indigenous title by the Nation of the Amikwa Nipissing Allies of the Algonquin Nation.
11. In 1763, there is a Captain Jonathan Carver map of the Province of Quebec, denoting the Royal Proclamation line at North Bay and the “petite nation of the Algonquins.” The Amikwa/Nipissing at Lake Nipissing and French River lies outside the demarcation line.
12. The Quebec Act of 1774 preserves the original indigenous title for the original title-holders, the Nation of the Amikwa Nipissing Allies of the Algonquin Nation. The territory to which the Nation of the Amikwa Nipissing Allies of the Algonquin Nation assert indigenous title encompasses both Ontario and Quebec.

AOO Land Claim

13. In approximately 2002 discussions began with Ontario and Canada regarding Section 35 (1) Constitution Act 1982 Indigenous rights, with certain Algonquins of Ontario and soon became the Algonquins of Ontario, comprised of the Algonquins of Pikwakanagan and 9 other communities. These 9 other communities are: Mattawa, Bancroft, Ottawa, Whitney, Sharbot Lake, Greater Golden Lake, Antoine, Ardoch, an Bonnechere. Eventually, each entity put forward an Algonquin Nation Representative (ANR's) with the Algonquins of Pikwakanagan having 7 ANR's, consisting of Chief and Band Council and each of the other communities having one each, for a total of 16 Algonquin Nation Representatives. The quorum of the ANR's is 14.

14. On May 29th, 2015 the Algonquins of Ontario, through their Principal Negotiator and Senior Legal Counsel, Robert Potts, Ontario and Canada signed a Proposed Agreement-in-Principle, which is declared to have no legal status and shall not create legal obligations. The parties thereto state that the Agreement-in-principle shall form the basis of negotiations towards a Final Agreement that will clarify the rights of the Algonquins that will be recognized and affirmed by Section 35 of the Constitutional Act, 1982. Furthermore, the parties thereto state that the Algonquins, Canada and Ontario have agreed to negotiate in order to clarify the rights. Algonquins are nowhere defined in the Agreement-in-Principle. An Algonquin Negotiation Representative is defined as a representative of the Algonquins who was elected by his or her Algonquin Collective to negotiate the Agreement-in-Principle and, subject to ratification to the Agreement-in-Principle, the Final Agreement.

15. During the period March 31st, 2011 and May 12th, 2012 most members of Nation of the Amikwa Nipissing Allies of the Algonquin Nation were enrolled as an Algonquin voter for the ratification of the AOO Agreement in-Principle with Canada and Ontario. A copy of the list of eligible voters in 2011 and again in 2015 was previously on the website of the AOO, however it has since been removed.

16. An Agreement-in-Principle was entered into among the Defendants in or about 2016 and voted on by all members of the AOO. In 2018/2019, the AOO, developed a protocol entitled “Beneficiary Criteria” outlining how a member could be classified as an Algonquin. This was not voted on by the members, but was developed by the AOO internally, in conjunction with a researcher hired by the AOO, Joan Holmes.

17. In January 2019, members were advised that certain enrolment issues had arisen in that Joan Holmes in auditing the database produced by her, had found errors concerning some of the lineage used to approve membership for the past years.

18. On January 22nd, 2020 the ANR’s met and adopted a Special Resolution on Eligibility, which inter alia stated that all original members, who had voted so far to reach the AIP would have to undergo a new enrolment process governed by the Enrolment Officer, Joan Holmes, that only

those who met the new criteria would be qualified to vote in further ANR Elections or participate in ratification of the Treaty or be beneficiaries of the Treaty.

19. In their Special Resolution the AOO redefined who is an Algonquin Ancestor by imposing a very restrictive test for determining who is and who isn't an Algonquin in Ontario. By virtue of this test, they created two classes of Algonquin = 1) Those who are members of the Algonquins of Pikwakanagan First Nation and 2) Those who are not members of the Pikwakanagan and who now meet the "new" Algonquin criteria the AOO have created.

20. In or about February 2021, certain members were informed by Joan Holmes that they did not meet the new proposal criteria and were now required to submit more information. In or about February 2021, members were informed that they were no longer Algonquin as per the AOO definition and no longer entitled to any benefits, including the traditional right to fish and hunt. The members were made ghosts and denied S35(1) Constitutional Rights based on criteria developed by non-indigenous peoples in direct violation of the United Nations Declaration on the Rights of Indigenous Peoples Act and the International Covenant on Civil and Political Rights.

21. As a result of the wrongful acts, thousands of self identified Nation of the Amikwa Nipissing Allies of the Algonquin Nation people have been classed as non-Algonquins in the eyes of Canada and Ontario despite being the proper Indigenous titleholders. Along with other Amikwa/Nipissing non-treaty people, who chose not to participate in the fraudulent AOO land claim process with Ontario and Canada, they are now deemed to be disenfranchised and ineligible for Section 35 (1) constitutional rights, as it pertains to land, resources, and fishing, and hunting rights.

22. In essence, the AOO relied on thousands of voters to ratify the Agreement-in-Principle, and subsequently changed their criteria for Algonquin ancestry, and excluded thousands of self-identified Algonquins throughout the claimed territory, thus rendering null and void the Agreement-in-Principle.

Violations of United Nations Declaration on the Rights of Indigenous Peoples

23. The preamble to the Declaration states: “Reaffirming that Indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind.” The AOO has offended this principle by creating two classes of Algonquins, and by excluding self-identified Algonquins. This wrongdoing is subject to redress which only the Court can grant, as the process of redress offered by the AOO is deeply flawed.

24. Moreover, the Preamble further states: “Bearing in mind that nothing in this Declaration may be used to deny any peoples their right to self-determination, exercised in conformity with international law.” The actions described in the Overview within offends this principle and specifically offends the International Covenant on Civil and Political Rights, an international instrument to which Canada is legally bound.

25. The Preamble also states: “Recognizing and reaffirming that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples.” The exclusionary action taken by the AOO and acquiesced to by the state actors offends this legal principle.

26. Article 1 of UNDRIP states:

“Article 1: Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all 8 human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.”

The exclusionary protocols of the AOO and acquiesced to by the state actors offends this legal principle.

27. Article 2 of UNDRIP states:

“Article 2: Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.” The exclusionary protocols of the AOO and acquiesced to by the state actors offends this legal principle.

28. Article 3 of UNDRIP states:

“Article 3: Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”

The exclusionary protocols of the AOO and acquiesced to by the state actors offends this legal principle.

29. Article 4 of UNDRIP states:

“Article 4: Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.”

The exclusionary protocols of the AOO and acquiesced to by the state actors offends this legal principle.

30. Article 6 of UNDRIP states:

“Article 6: Every indigenous individual has the right to a nationality.” The exclusionary protocols of the AOO and acquiesced to by the state actors offends this legal principle.

31. Article 7 of UNDRIP states:

“Article 7:

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.
2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.”

The exclusionary protocols of the AOO and acquiesced to by the state actors offends this legal principle.

32. Article 8 of UNDRIP states:

“Article 8:

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.
2. States shall provide effective mechanisms for prevention of, and redress for:
 - (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
 - (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
 - (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;
 - (d) Any form of forced assimilation or integration;
 - (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.”

The exclusionary protocols of the AOO and acquiesced to by the state actors offends this legal principle.

33. Article 9 of UNDRIP states:

“Article 9: Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.”

The exclusionary protocols of the AOO and acquiesced to by the state actors offends this legal principle.

34. Article 10 of UNDRIP states:

“Article 10: Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.”

The exclusionary protocols of the AOO and acquiesced to by the state actors offends this legal principle.

35. Article 18 of UNDRIP states:

“Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.” The exclusionary protocols of the AOO and acquiesced to by the state actors offends this legal principle.

36. Article 19 of UNDRIP states:

“Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.” The exclusionary protocols of the AOO and acquiesced to by the state actors offends this legal principle.

37. Article 20 of UNDRIP states:

“Article 20:

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.
2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.”

The exclusionary protocols of the AOO and acquiesced to by the state actors offends this legal principle.

38. Article 23 of UNDRIP states:

“Article 23: Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.”

The exclusionary protocols of the AOO and acquiesced to by the state actors offends this legal principle.

39. Article 26 of UNDRIP states:

“Article 26:

1. Indigenous peoples have the right to the lands, territories, and resources which they have traditionally owned, occupied or otherwise used or acquired.

2. Indigenous peoples have the right to own, use, develop and control the lands, territories, and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

3. States shall give legal recognition and protection to these lands, territories, and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.”

The exclusionary protocols of the AOO and acquiesced to by the state actors offends this legal principle.

40. Article 27 of UNDRIP states:

“Article 27: States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open, and transparent process, giving due recognition to indigenous peoples’ laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.”

The exclusionary protocols of the AOO and acquiesced to by the state actors offends this legal principle.

41. Article 28 of UNDRIP states:

“Article 28:

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair, and equitable compensation, for the lands, territories, and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used, or damaged without their free, prior and informed consent.

3. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories, and resources equal in quality, size, and legal status or of monetary compensation or other appropriate redress.

The exclusionary protocols of the AOO and acquiesced to by the state actors offends this legal principle.

42. Article 32 of UNDRIP states:

“Article 32:

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

4. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

5. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.”

The exclusionary protocols of the AOO and acquiesced to by the state actors offends this legal principle.

43. Article 33 of UNDRIP states:

“Article 33 1. Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.

2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.”

The exclusionary protocols of the AOO and acquiesced to by the state actors offends this legal principle.

44. Article 39 of UNDRIP states:

“Article 39 Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.”

The exclusionary protocols of the AOO and acquiesced to by the state actors offends this legal principle.

45. Article 40 of UNDRIP states:

“Article 40 Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective 27 remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.”

The exclusionary protocols of the AOO and acquiesced to by the state actors offends this legal principle.

46. Article 43 of UNDRIP states:

“Article 43 The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.”

The exclusionary protocols of the AOO and acquiesced to by the state actors offends this legal principle.

47. Article 46 of UNDRIP states:

“Article 46:

1. Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.”

The exclusionary protocols of the AOO and acquiesced to by the state actors offends this legal principle.

48. In all of the above, the AOO and the state actors have offended the principles of free, prior and informed consent of self-identified Algonquins who have been excluded from discussions involving their inherent rights to lands and resources, hunting and fishing rights based on their laws, traditions and customs. The legal principle of self-identification cannot be usurped by a protocol which ignores the laws, traditions and customs of the Nation of the Amikwa Nipissing Allies of the Algonquin Nation.

International Covenant on Civil and Political Rights, 16 December 1966 (ICCPR)

49. The preamble of the ICCPR states as follows: “Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights.”

The AOO and the state actors, through acquiescence, have violated this principle by excluding self-identified Algonquins from the discussions which directly affect their civil and political rights.

50. Article 1 of ICCPR states as follows:

“Article 1:

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.”

The exclusionary protocols of the AOO and acquiesced to by the state actors offends this legal principle.

51. Article 2 of ICCPR states as follows:

“Article 2:

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.
2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.”
3. Each State Party to the present Covenant undertakes:

(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.”

The AOO and the state actors, through acquiescence, have violated this principle by excluding self-identified Algonquins from the discussions which directly affect their civil and political rights.

52. Article 5 of ICCPR states as follows:

“Article 5:

1. Nothing in the present Covenant may be interpreted as implying for any State, group, or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.
2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.”

The AOO and the state actors, through acquiescence, have violated this principle by excluding self-identified Algonquins from the discussions which directly affect their civil and political rights.

53. Article 26 of ICCPR states as follows:

“Article 26:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.”

The AOO and the state actors, through acquiescence, have violated this principle by excluding self-identified Algonquins from the discussions which directly affect their civil and political rights.

54. Article 27 of ICCPR states as follows:

“Article 27: In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.”

The AOO and the state actors, through acquiescence, have violated this principle by excluding self-identified Algonquins from the discussions which directly affect their civil and political rights.

55. In all of the above the AOO and the state actors have offended these legal obligations by excluding the Plaintiff's members from discussions involving their inherent indigenous rights based on their laws, traditions and customs of the Nation of the Amikwa Nipissing Allies of the Algonquin Nation.

Injunctive Relief

56. In a recent AOO newsletter published as Issue 1, March 2023, Robert Potts, Principal Negotiator and Senior Legal Counsel advised as follows:

“We continue to press forward with the treaty negotiations. In doing so we are confident that in the same way that we addressed the concerns arising out of the non-binding AIP, we will fashion a proposed treaty package to be presented to you within the next several months that will address the needs and concerns of today's beneficiaries and those for seven generations to come.”

The Plaintiff states that excluding their self-identified Algonquin voices from these discussions will irreparably harm their inherent Algonquin/Amikwa/Anishinabe indigenous rights based on Section 35(1) of the Constitution of Canada. It is urgent that their voices be heard in the discussions on this proposed treaty-making process, and that they are not excluded by a process which offends the United Nations Declaration on the Rights of Indigenous Peoples Act, and the International Covenant on Civil and Political Rights.

57. The Plaintiff proposes to bring a motion within the framework of this Statement of Claim to enjoin further discussions on this treaty-making process until a process is put into place which will allow for the Plaintiff and its members to be consulted and accommodated.

Honour of the Crown

58. Supreme Court of Canada decisions in *Haida Nation v. B.C.*¹, *Taku River v. B.C.*², and *Mikisew Cree v. Canada*³, have established the legal principle that based on the Honour of the Crown, the Crown has a legal obligation to consult and accommodate with indigenous peoples and groups when their actions or decisions may adversely impact asserted or established indigenous or treaty rights.

59. The Plaintiff states that based on the law established by the Supreme Court of Canada on Honour of the Crown, that the Crown in this case, must consult and accommodate the Plaintiff on their assertion of Section 35(1) Constitutional Act inherent indigenous rights to lands and resources, and fishing and hunting rights. The Plaintiff will be asking the Court to order such redress based on the Honour of the Crown.

60. The Plaintiff states that the AOO has no proper mandate from the Nation of the Amikwa Nipissing Allies of the Algonquin Nation to negotiate Section 25 and Section 35(1) Constitutional Act indigenous rights and by signing the Agreement-in-Principle aforesaid the AOO breached the Section 25 and Section 35(1) rights of the members of the Plaintiff and other Algonquin/Amikwa/Nippising Nation members who have never participated in the AOO process.

61. The Plaintiff states that the imposition of the Indian Act in 1876, continuing to today is an act of apartheid. Furthermore, this legislation created a chief and band council, eliminating hereditary chiefs and creating a municipal like governance structure under the supervision of the Crown. The chief and band councils under the Indian Act are therefore agents of the Crown and thus cannot represent Algonquin people in assertion of Section 35(1) aboriginal rights.

¹ *Haida Nation v. B.C.* 2004 SCC 73

² *Taku River v. B.C.* 2005 SCC 69

³ *Mikisew Cree v. Canada* 2004 3 SCR 550

62. Furthermore, the Defendants, Canada and Ontario embarked upon a policy of exclusion and extermination of the Nation of Amikwa Nipissing Allies, in order to deprive the Nation of original title-holder status of the claimed territory.

63. The Plaintiff proposes that the trial be held in North Bay.

Date: This 3RD Day of August, 2023

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