



NDN COLLECTIVE

LANDBACK:

A TOOLKIT TO RESTORE OUR RELATIONS

BY PENNELYS DROZ



**Authors Note**

This booklet is focused on navigating Indigenous Land Back strategies and issues within the colonial nation-states of Canada and the United States. We acknowledge the limited scope of this publication, and recognize the strong work and strategies happening in Mexico, Oceania, Central and South America, and across the world.

Editor's Note

We have chosen to capitalize Land, in honor of the living presence that sustains our lives. Additionally, we spell Land Back as two capitalized words when referencing the larger Land Back movement. LANDBACK all capitalized as one word is used when we are referring to LANDBACK work coming through NDN Collective.

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“It is clear that the colonial projects
that sought to extinguish the connection
between people and Land have failed.”

INTRODUCTION

It is clear that the colonial projects that sought to extinguish the connection between people and Land¹ have failed. We have held onto our fierce and loving responsibility to our homelands, our cultures, our languages and our ways of life amidst the tidal wave of colonial violence, assimilation attempts, and ecological devastation. And we are not alone. Decolonization efforts are being led not only by Indigenous Peoples, but also by Black and Brown communities across nations partnered in power with the descendents of those who have caused harm, recognize their own responsibility, and offer their access and allyship to the movement to heal injustice. We acknowledge that healing the wounds of injustice will take all of us.

Our movement legacies run deep. From the initial moments of violent colonial presence, we have been resisting the takeover of our lands.² We gather strength from the memory of the Pueblo who revolted in 1680, of Micaela Bastidas and Tupac Amaru's resistance in Bolivia in the 1700s. We gather the power to continue the work of the many tribes who led the struggle for hunting and fishing rights in the 1970s and 1980s, and the Mohawk who took a stand at Oka in the 1990s. We are inspired and nourished by the strength of the Zapatistas in Mexico, those who made a stand at Standing Rock in 2016, and those who continue quietly, every day, healing our relationships with Land and each other. We stand firm on the legacy of our ancestors' determination as we act to defend and restore the health of our homelands, communities, and Nations.

Land Back is a movement to not only reclaim Land but also Language, Ceremony, Medicine, and our Relationship with one another. We understand that these elements are inseparable while recognizing our ancestors and elders whose struggle, organizing, and sacrifice allow us to continue the work today..



“Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.”

Article 25, UN Declaration on the Rights of Indigenous Peoples

¹Land is capitalized here in honor of the life of the Land we are in relation to.

²Hill, Gord. [500 Years of Indigenous Resistance](https://ia801901.us.archive.org/7/items/GordHill500YearsOfIndigenousResistance/Gord%20Hill%20-%20500%20Years%20of%20Indigenous%20Resistance.pdf). <https://ia801901.us.archive.org/7/items/GordHill500YearsOfIndigenousResistance/Gord%20Hill%20-%20500%20Years%20of%20Indigenous%20Resistance.pdf>

A Brief History of Dispossession

Our ancestral homelands were impacted by different eras of colonization. Before Crown and federal law were engaged, some lands were stolen using genocide and violent settler occupation. After the creation of laws, Indigenous people were restricted by treaty and violence and confined to reserves and reservations. These eras were marked by the intentional and systemic devastation of Indigenous traditional economies through acts including the genocide of bison, burning of seed stocks, and the violent restriction of fishing, hunting, farming, and gathering on traditional lands. In the colonial United States we were also dispossessed of a tremendous amount of land through the implementation of The Dawes Allotment Act of 1887. This act was designed to break up Indigenous collective tenure and care of land, dividing most of our remaining land into ‘allotments’, and issuing ownership of the allotments to the single male head of household. All “excess land” was made available for settlement. Senator Dawes, the author of the Allotment Act, illustrated the perception of colonizers at the time, saying:

*“The head chief told us that there was not a family in that whole nation [Cherokee] that had not a home of its own. There was not a pauper in that nation, and the nation did not owe a dollar. Yet the defect of the system was apparent. They have got as far as they can go, because they own their land in common there is no enterprise to make your home any better than that of your neighbors. **There is no selfishness, which is at the root of civilization.** Till this people will consent to give up their lands, and divide them among their citizens... they will not make much more progress.”³*

The impact of the Dawes Act continues to reverberate today. Our reservations and traditional territories are a patchwork of tribal trust lands, trust allotments, and individually owned ‘fee-simple’ land (often owned by non-Native people that can be legally sold). In addition, the original allotments now have so many heirs that there can be hundreds of people with ownership rights for one parcel of land. As a result, we have limited jurisdiction over zoning and land use within our own reserved lands.

Additionally, millions of acres have been seized as eminent domain for construction, mining, energy development, and national parks. This deep legacy of land dispossession and injustice must be addressed if we are to protect our territories, heal our ecosystems and people from the effects of assimilationist colonial policies, respond effectively to climate change, and create sustainable, just economies for our communities.

Moving Forward

We have designed this booklet as a roadmap, source of inspiration, and resource guide. Within these pages you’ll find practical considerations on how to give and receive Land Back, stories of how some have engaged, partnered, and organized to extend care and stewardship to lands that cannot be given back yet, and resources to address our own internal issues of fractionation of land. We are honored to be able to share the stories of people, communities, and Nations who are leading the way and to offer strategies that support your visions and actions.

³ [Dawes act](https://origins.osu.edu/read/dawes-act?language_content_entity=en): https://origins.osu.edu/read/dawes-act?language_content_entity=en



Our movements have had a profound impact. Increasingly, settler descendants who hold legal title to land are committing themselves to justice through giving land back. We are seeing more legal cases over stolen land being won, more non-Indigenous organizations reaching out to learn from and partner with Indigenous Nations to support Land Back, and more action being taken by Indigenous families and collectives to liberate our lands from the entanglement and dispossession caused by the Dawes Allotment Act.

Legal land transfer is not a light task. It needs to be undertaken on a foundation of clear communication, patient and sincere relationship-building, and the engagement of legal support so there is a clear understanding on all sides. Different strategies to transfer land make sense in different situations. It is important to clearly envision what you and your community are seeking to restore before taking those first steps. This will keep everyone involved aligned and clear.

First Steps: Articulate and Map the Dream

We offer the following questions as a guide to support the beginning of your strategy map.

Dream

What is the ultimate vision you are working towards? Which land are you seeking returned? Do you want easy and unhindered harvest access in traditional territories? Do you need to be able to access sites for uninterrupted ceremony or prayer? Does the land need to be burnt to restore ecological balance? Whatever the dream is, write it down, speak it out loud or share it with others with as much detail as possible.

Build the Family Network around the Vision

Who shares this dream with you? Who should be brought into the vision? Your friends and family? Your community or Nation? Share the vision and gather other ideas and dreams to strengthen the clarity. Some may not think it can happen and others may try to dissuade the vision, so focus on dreaming in partnership with others who can carry the flame forward.

Mapping the Plan

Working together with your network, map out the plan and write it down. Include (1) the overall vision of what you seek to restore and why; and (2) your proposal for how it would work, including what you need to do, at what times of year, who would be involved, and why.

The Clear Bold Proposal

The proposal to the title-holding entity (whoever ‘owns’ the land now) can be as specific or general as needed, depending on the nature of your relationship with the land. Asking with an open heart and the assumption of natural partnership and care can do wonders. However, Land Back in its variety of forms can be uncomfortable and unnerving to settlers. If your land relationships involve noticeable effects, sharing a thorough plan that shows the title-holding entity exactly what your relationship involves can be beneficial. It may also be helpful to research other Tribes and Nations that have established these practices as examples of success to share.

Follow Up, Relentless Commitment, and Relationship Building

If the request is unsuccessful, learning from Nations who have successfully secured access to caring for ancestral lands can be more important. The critical value of centering prayer, public education, and building strong partnerships and allies cannot be overstated.

“There is an incredible amount of power
in being able to articulate
vision, purpose, and strategy.”

Practical Issues of Land Transfer

Legal land transfer is not a light task. Pursuing land transfer must be rooted in patient and sincere relationship-building. There also must be **legal support** to ensure a clear understanding on all sides. Depending upon how the land was taken and the legal status it is in now, there are diverse strategies to pursue in order to achieve their return. These different legal strategies involved with transferring land make sense in different situations.

Land can legally be transferred to individuals, organizations, or Tribes/Nations. Typically, the collective ownership options are the best choice for maintaining long-term stability and care of land. As we have seen within our allotted fee simple reservation land, private ownership is more vulnerable to dispossession. Land can be given to an organization, Tribe/Nation, or Trust as a donation, title transfer, or a charitable sale. Below we will briefly cover the basics of a **charitable sale**, **donation**, **title transfer**, and **easement donation** from the perspective of a Land Back recipient.

A CHARITABLE SALE is when the title holder sells the land to a tax-exempt nonprofit organization, trust, or Tribe for less than market value. This allows the recipient to have immediate access to the land and increases the affordability. The recipient can even enter into a seller-financing agreement for greater affordability. The seller may be eligible for a tax write-off on the difference between the sale price and the value of the land. In this case, the recipient is solely responsible for taxes on the land.

DONATIONS:

A DONATION allows the recipient immediate access to the land, and the donor can write off the full value of the land and avoid capital gains tax. With a donation, the donor is fully responsible for any appraisal work that needs to be done. When accepting a donation it's important to make sure that you/your Tribe/organization can cover the property taxes on the land and research whether there is environmental contamination or any property title restrictions or covenants.



A DONATION OF A REMAINDER INTEREST is a donation of land to a tax-exempt organization or Tribe that allows the donor to remain living on the land for the duration of their lifetime. Full transfer will occur after their death. In this circumstance, the donor will continue to pay the property taxes on the land. If the donor and the recipient create an agreement, the recipient can have access to and use of the land while the donor is still alive.

EASEMENTS:

AN EASEMENT is a legal agreement made between a title holder and an organization or Tribe/Nation that allows different types of use, use restrictions, or access without a complete title transfer. Easements do not share or give legal title to the land and are also difficult to enforce if the descendants of the agreeing person have different ideas in mind. They also do not protect the affordability of land, because land in easement is still subject to capitalist market speculation.

CONSERVATION EASEMENTS restrict use of land that would compromise the ecological integrity of the land.

CULTURAL EASEMENTS allow Indigenous communities to have access, and potentially traditional caretaking authority, of the land.

AGRICULTURAL EASEMENTS are created to protect the integrity of farmland.





Use of Land Trusts and Conservancies

One approach to Land Back that is powerfully enacted is the creation of **land trusts**. A **land trust** is a nonprofit organization that holds legal ‘ownership’ of, or decision-making authority in relation to, a particular land base.

There are essentially three ‘entities’ in relationship in a land trust:

The **grantor or settlor**, who creates the trust and transfers property ownership to it

The **trustee**, who manages the trust according to the specific wishes of the grantor or settlor

The **beneficiary**, who stands to benefit in some way from the terms of the land trust

The process for setting up a trust is essentially the same as setting up a nonprofit organization. Of primary importance are:

Creation of a Board

The board provides guidance and decision-making to ensure that the trust is well-cared for and is serving the mission of the trust.

Mission

The mission needs to be clearly written. What is the purpose of the trust? Who does it serve? What are the guiding values?

Governance, Agreements & Accountability Processes

Collective care of land for the long-term is not simple. Founding members of the trust and the board need to agree on and document the values, governance and accountability processes of the trust organization.

We recommend beginning by hosting ceremony, prayer, and identifying the values the collective aligns with.

The governance, accountability, and conflict resolution processes can then be designed based on those values.

Trusts can also be either **revocable** or **irrevocable**. In revocable trusts, Grantors of land trusts can change the terms at any time. This is beneficial to the grantor, but can be a source of insecurity to the trustee or beneficiary. In irrevocable trusts, the beneficiary needs to approve of all changes. There are different kinds of trusts that can be established. The two kinds that are most useful for Land Back efforts are **Community Land Trusts** and **Conservation Land Trusts**.

COMMUNITY LAND TRUSTS are designed to ensure community stewardship of land. They are invaluable in their ability to restore Indigenous values-based care of land, their ability to remove land from commodification, and create a foundation for community development that is reflective of shared values and social governance. Community land trusts are often used to offer long-term housing affordability in the face of gentrification, the creation of co-housing, or other developments that are decoupled from the capitalist real estate system. Their boards are most often composed of residents.

Important considerations are that if housing is created on the land, the ‘homeowners’ own long-term renewable leases and not the land underneath the houses. This means that when/if they sell, they are selling their lease, and earn only a portion of the increased property value. Separating typical land ownership from housing allows housing prices to become stable and affordable. This type of long-term lease ownership also allows the lease owners to build similar kinds of equity as standard homeownership. Built equity allows the lease owners to have access to credit and more financial opportunities than they otherwise would not have.

CONSERVATION TRUSTS work with both individual landowners and organizations/Tribes to develop conservation plans and protect lands from certain types of development. They often provide education, organizing platforms, and community support related to the lands held in trust for conservation or protection. From a Land Back perspective, it’s critical to consider issues of access when working within this frame. Conservation trusts prevent open access to the public and restrict use for anything other than ecological conservation. If the intention is to open the land to Indigenous caretaking - which may include practices such as harvesting, trimming, and burning - that clearly needs to be written in legal documentation. Additionally, as the land transfers from one lease owner to another, the new lease owner may challenge or be unaware of the limitations placed on the land. Leases for Land in conservation trust can be sold by the lease owner and passed on to heirs with remaining Land conservation regulations. Indigenous people can form their own conservation trusts or conservancies to forgo this issue.

Regarding **property taxes** in Community Land Trusts, either the home lease-owner or the Community Land Trust organization itself pays the tax. In other forms of trusts, tax details would need to be worked out case by case. Again, it is vital that you find a trusted legal advisor to support any issue of land transfer.

Examples of Native conservation land trusts are the [Native American Land Conservancy](#) and the [Native Land Conservancy](#). In 1998 the Native American Land Conservancy was formed in Southern California by an intertribal group working to protect off-reservation sacred sites in the Southern California desert. The Native Land Conservancy was formed in Mashpee, Massachusetts by another intertribal group to preserve the ecology of ancestral Indigenous lands on the East Coast.

WIYOT LAND BACK: FROM RESTORATION TO REGENERATIVE COMMUNITY LAND TRUST

The Wiyot Tribe have had a remarkable Land Back journey. Their Island home, Tuluwat, was the site of genocide for most of their people that occurred during the World Renewal ceremony on February 26, 1860.⁴ The Tribe was dispersed then moved to Table Bluff Reservation. In the 1970s, Albert James, a descendent of one of the few massacre survivors, had a dream of returning to the Island. He approached the City of Eureka, who ignored his requests. In the 1990s, his nieces Leona Wilkinson and Cheryl Seidner (then Wiyot Tribal Chairwoman) began organizing prayer vigils to realize this dream. After fundraising for years, they were eventually able to buy a small portion of land to heal and restore. The land was contaminated from years of use as a shipyard. They continued to build partnerships and pour volunteer labor and resources into the cleanup of toxins, holding the dream of returning to Tuluwat. As a result of these years of dedication, on October 21, 2019, the City of Eureka formally returned the Island to the Wiyot Tribe, the first event of its kind. Even though a small amount of the land is still privately owned, those private owners will be allowed to remain on island. Seidner shared that they are peacefully coexisting with these non-native neighbors, stating “We know how it feels to be taken away from our land.” The Wiyot have been able to hold World Renewal ceremonies there again, marking the healing and renewal of their power and legacy.

Today, Tribal Administrator Michelle Vassel and Tribal Chair Ted Hernandez are using this model of Indigenous-led, place-based healing to build a restorative economy within ancestral lands that is rooted in place, care, equity, collaboration, and sacredness. Work within this frame is cooperative, meaningful and productive. They built a partnership with Cooperation Humboldt, a local nonprofit dedicated to building solidarity economies in the region, in order to create Dishgamu (Love) Humboldt, a groundbreaking Indigenous-led community land trust off the reservation. This trust forms a foundation for culturally-grounded and regenerative development that bolsters the vitality of the land, people, and culture. The land trust is governed by a board whose structure ensures that the Wiyot Tribe always retains the decision-making majority.



Dishgamu Humboldt is set up to be able to receive donations of land, effectively becoming a vehicle for Land Back for the Wiyot Tribe. The team of the Wiyot Tribe and Cooperation Humboldt also brought in the values-based investment firm, Full Spectrum Capital, to create Gouts Lakawoulh Hiwechk (GLH) Investment Fund. In Soulatluk, gouts lakawoulh hiwechk means “money that makes us well,” speaking to the Fund’s purpose of seeding a values-based Indigenous regenerative economy that benefits all who live in the Wiyot homeland. Their guiding values are to heal the relations between people and the land by focusing on restoration ecology, housing, regenerative forestry, food production and distribution, cooperative business development, and wellness.

Dishgamu Humboldt and GLH Investment Fund, along with many other collaborators, are currently in pre-development planning for their initial projects which include a beautiful 40 to 50 unit low-income apartment

⁴ [Tuluwat island massacre](https://www.northcoastjournal.com/humboldt/the-tuluwat-island-massacre-in-its-time/Content?oid=24834282): <https://www.northcoastjournal.com/humboldt/the-tuluwat-island-massacre-in-its-time/Content?oid=24834282>

building designed to enhance ecology and community health. The project includes food production infrastructure and childcare, a 47-unit “ecovillage,” and the Dishgamu Innovation Center, a co-working place for building community knowledge for a new economic future based on the healing and care of the land and people.

These contemporary developments, rooted in traditional values and care of homeland, are a powerful expression of Land Back in off-reservation ancestral lands.

HONOR TAX/NATIVE LANDS TAX

The Wiyot Tribe is also a leader in the movement towards voluntary land taxes for Indigenous nations. The Wiyot Honor Tax was created during the struggle for the return of Tuluwat as a voluntary tax for people living in Wiyot homelands. Committing to giving land tax to Indigenous peoples whose land you are on is a fundamental commitment to justice and reparations.

Inspired by the creation of the Wiyot Honor Tax, other organizations have emerged. For example, the Sogorea Te Land Trust in what is known as the East Bay Area in California initiated the Shuumi Land Tax,⁵ a voluntary annual contribution non-Indigenous people living on the Confederated Villages of Lisjan’s territory can make to the Trust. These monies have supported the repatriation and development of lands for the Tribe, who have been a landless Nation due to colonization in northern California. Another example of land tax as a tool for restoration is Real Rent Duwamish. Settler organizers in what is known as Seattle, Washington, worked with the Duwamish Tribe to form Real Rent Duwamish,⁶ whose monies go to Duwamish Tribal Services. For more information about Indigenous Land Taxes, see the [Honor Tax Toolkit](https://www.honortax.org/toolkit.html)⁷ from the Wiyot Honor Tax project and this [Land Tax Resource](https://nativegov.org/news/voluntary-land-taxes/) produced by Native Governance Center.⁸

NATIVE CONSERVANCY: TRUSTS AND EASEMENTS FOR INDIGENOUS FUTURES

The [Native Conservancy](#) from the Copper River Delta in Alaska is another model example of restoring our people, land, and values-based economies. This trust formed in 2003 with the vision of “creating resilient futures for Indigenous peoples by preserving, repatriating and restoring ancestral homelands, traditional food sources and subsistence practices to revitalize Native culture, habitat, health and spirituality” (source?). They built strong partnerships across scale to establish a permanent conservation easement to protect their ecology, economies, and ways of life.



The Native Conservancy’s focus is on habitat restoration, land protection, Land Back, and food sovereignty through their Stewardship Fund. This Fund supports their ability to hold the conservation easement in perpetuity, establishes a cultural easement on the land, and protects the land from destructive development. They operate a Remote Processing and Cold Storage Program for subsistence and commercial fishermen, which offers access to food safety certified processing facilities and mobile cold storage to support local economies and food sovereignty. Part of their habitat restoration work includes a kelp enhancement program to help heal the water and sequester carbon while restoring habitat, in addition to launching an exciting and innovative regenerative kelp farming business.

⁵ [Shuumi Land Tax](https://sogoreate-landtrust.org/shuumi-land-tax/): <https://sogoreate-landtrust.org/shuumi-land-tax/>

⁶ [Real Rent Duwamish](https://www.realrentduwamish.org): <https://www.realrentduwamish.org>

⁷ [Honor Tax Toolkit](https://www.honortax.org/toolkit.html): <https://www.honortax.org/toolkit.html>

⁸ [Land Tax Resource](https://nativegov.org/news/voluntary-land-taxes/): <https://nativegov.org/news/voluntary-land-taxes/>

PARTNERING TO PURCHASE LAND BACK

As our Nations build financial capacity, we have also been outright purchasing and partnering to purchase lands in our ancestral territories. Land purchase partnerships are most often built with large environmental nonprofits or land trusts.

For example, the Yurok Tribe has restored 2,424 acres of privately owned culturally and ecologically significant timberlands in Northern California. This return was a land purchase that resulted from a partnership by the Yurok Tribe with the investment firm New Forests, who acquired the land in 2016 on behalf of institutional investors, and The Trust for Public Land who supported the Tribe in accessing funds from the California State Resources Agency. This wasn't the first partnered land purchase pursued by the Tribe. In 2006, they partnered with Western Rivers Conservancy to buy back 50,000 acres of ancestral lands from logging company Green Diamond which included the watershed of Blue Creek, a critical salmon refuge. They are currently caring for these lands as a salmon sanctuary and community forest. As Frankie Myers, Yurok Tribal Vice-Chair, shares:

“As Yurok people who have been literally locked out of these lands, some for up to a hundred years, just the ability for our members to go out and to access these lands and to harvest and gather, interact with the forest; the shift in land management itself, to allow Indigenous people back onto their landscapes ... I think that's absolutely key.”

The Yurok Tribe has used its newer land acquisitions to address issues of food insecurity and climate change. In 2020, the tribe bought the 26-acre Weitchpec Nursery plot, as well as a 40-acre parcel of agricultural land. Their intention is to grow organic vegetables and an orchard on these lands so it can be a hub for tribal food, harvesting, and agricultural education practices.



OCCUPYING TRADITIONAL TERRITORIES

There are a few families and communities who have taken the step of occupying their ancestral territories. Knowing and articulating your purpose and exploring all of the means to achieving that purpose should be done before arriving at the potentially risky choice of occupation. If this is the chosen path it is important to ensure that you, your family, and any partners understand the real challenges and risks involved. The inclusion of families with young children should be deeply considered and evaluated. We are seeking to raise empowered children as the foundation of our healed Nations, and young children could be traumatized and weakened for decades by exposure to potential aggression, threat, or the removal of their safe spaces. Without legal title, as an anonymous interviewee shared, “We may put all the effort into building and they may show up with bulldozers.” This is something that should not be a surprise to anyone. This should be prepared for, and a plan should be created if this does occur. Removal does not have to be the ultimate destiny for occupied territories.

One example of a long-term family occupation is Seitcher Bay in the homelands of the Nuuchalnuth people. Seitcher Bay is the home of Naasalthuk Rampanen, Nitanis Desjarlais, and their ten children. Naasalthuk and Nitanis, working together since their youth in decolonization and cultural revitalization movements, were compelled to return to their ancestral territories that they had been working to defend from industrial fishing, mining, and forestry interests. In defense of the territories, they realized that it was important on multiple levels to have an active, protective, and healing presence on the land. They began building that vision with their family

by talking with their older relatives who still remembered the history of the Bay. Naasaalthuks' mother carried this vision to their hereditary chiefs, who then supported Naasalthuk and Nitanis in their return home. With their extended family's commitment, they began to build where the last Seitcher family was. Naasalthuk shared:

"This site was home to our ancestors and was used as a place of refuge. It is a place filled with spirit and life where the winds and the waters still carry the whispers of our way of life. Initially, we stumbled as we tried to find our way back upon the land. Family gatherings and celebrations brought with them exorbitant amounts of waste left behind. Recreational camping supplies, disposable and detrimental in nature, accumulated and our dependency upon oil and gasoline fueled machinery (outboard motors, generators, and chainsaws) exposed the colonial flaws in our good intentions. Over time, we established more experience and hard learned lessons as a family. We built a familiarity with the surrounding environment and learned how to live with the land as opposed to off the land. Our children have memories and experiences attached to these lands. The decolonial shift is in much more effect and gaining more clarity as we continue to strengthen our imprint with each footstep forward. We offer not only the idea of reclaiming our Indigenous identity but a practical, family oriented approach on how we can breathe life back into our ancestral ways. The land has been through so much, and paying attention to and learning from how the land is regenerating, that is a lesson for us."

Nitanis and Naasalthuk offered more words of wisdom from their experience:


"We need to be aware of what kind of expectations we place on each other in terms of decolonization... we are all impacted by colonization, and decolonization can look like many different things. We might imagine that we could suddenly transform, but there is a whole process at work. Some aspects and tools brought through colonization will be useful and we can choose to carry those... It has already been generations and it will take more generations to arrive."

Initially, the community on the Reserve were unsure of what they were doing. Some were critical, some were supportive. After many years of putting in the loving work to bring language, traditional food and medicine, building, arts, and caring for the Land back into daily practice, Naasalthuk Rampanen and Nitanis Desjarlais are now supported by their community, their actions inspiring others to return to their home territories as well.

LEGAL STRATEGIES AND POLITICAL ACTION TO REGAIN STOLEN LANDS

The legal system as it pertains to Indigenous issues was birthed from colonial constructs and practices, but there are many instances in which Land was seized and stolen in violation of their own laws. In these cases, legal action accompanied by political action can be a path to successful land return. The Cobell case and settlement is a strong example. Elouise Cobell, Blackfoot lawyer and organizer, sued the federal government for mismanaging Indigenous lands. This 13-year effort led to 1.9 billion dollars committed to support the re-acquisition of lands for tribes. Legal cases can take decades, but each success makes the success of future cases more likely.

THE SALISH & KOOTENAI STORY



In 1908 the U.S. government seized 18,000 acres of Land from the Confederated Salish and Kootenai Tribes to create the National Bison Range. The bison that live there are the descendents of a herd that was intentionally brought to the area by their ancestor Latati who, upon seeing the decimation of the herds by colonial forces, brought a group of orphaned calves to the tribes' lands. The Confederated Salish and Kootenai people fought for over 100 years for the return of this land, including the return of their role of caring for the bison. In the 1970s a court ruling on a civil action filed by the Tribes found the Bison Range to be private property taken for public use without just compensation, thus in violation of the Fifth Amendment. Even with this acknowledgement, return was slow and challenging due to the racism and colonial culture of the United States.

The first agreement to return the land was finally signed in 2004 but terminated in 2006 due to resistance from employees of the U.S. Fish and Wildlife Service (USFWS). After the Tribes challenged that termination, another agreement was reached in 2008 but again undone in 2010. Finally, in 2016, the USFWS got behind the restoration of the National Bison Range to tribal management. It took four more years for the true initiation of the transfer process. As of 2021, the Confederated Salish and Kootenai Tribes have restored their care to this herd and are co-managing the bison who leave Yellowstone National Park. As Fish and Wildlife Division Manager and tribal member Tom McDonald shared:

"We treat the buffalo with less stress, and handle them with more respect... [We] recognize the importance of bison family groups and have allowed them to stay together. That was a paradigm shift from what we call the ranching rodeo type mentality here, where they were storming the buffalo and stampeding animals. It was really kind of a violent, stressful affair."

The land, bison, and the Tribes are able to rebuild a new future based in honor and respect. Management shifts being enacted by the Salish and Kootenai reflect the kin responsibility between people and bison and require resource managers to consult with tribal elders in order to maintain a close and familial connection with the bison moving forward.

Although the legal system is only as good as the people who work within it, there are now many precedent-setting cases on which to base legal claims for lands that were stolen via treaty violation, settler violence, or simple dispossession based on the dominance of the United States. In order to learn potential strategies to achieve Land Back for your Nation, it is critical to learn your Nations' history. Depending on the manner in which your Nation was dispossessed, you may be able to pursue legal and political strategies to regain land.

RESOURCES

FUNDING

Native Owned Community Development Financial Institution offering loans and support for land acquisition, and investment into work that cares for the land.

- **Indian Land Capital Company**, www.illc.net

Grants to support the critical legal and planning work, and technical assistance.

- **Indian Land Tenure Foundation Land Recovery Grants**, www.iltf.org

Community Self-Determination Grant, Grant for general support, building Indigenous power.

- **NDN Collective**, www.ndncollective.org

Funding and other assistance for Indigenous land restoration.

- **First Nations Development Institute Stewarding Native Lands Program**, <https://www.firstnations.org/our-programs/stewarding-native-lands/>

ADVOCACY & PARTNER ORGANIZATIONS

Wabanaki-centered intercultural land and justice restoration organization.

- **First Light Learning Journey**, <https://firstlightlearningjourney.net>

National, colonial U.S.-based land trust who has been a solid partner for Indigenous nations working on Land Back.

- **Trust for Public Land**, www.tpl.org

International land conservancy organization who works in partnership with Indigenous nations for Land Back.

- **Nature Conservancy Indigenous Lands and Communities Program**, https://www.nature.org/en-us/about-us/who-we-are/how-we-work/community-led-conservation/?tab_q=tab_container-tab_element

Canada-based land conservancy in partnership with Indigenous Land Back.

- **Nature United Canada**, <https://www.natureunited.ca>

LAND TRUST INFORMATION AND ORGANIZATIONS

Leading organization supporting the development of land trusts, including detailed development content.

- **Land Trust Alliance**, www.landtrustalliance.org

Practical Details on land trust development for Land Back from First Light.

- **First Light Learning Journey**, <https://firstlightlearningjourney.net/wp-content/uploads/2019/12/LTA-accreditation-indicators.pdf>

Technical Startup Manual for land trusts.

- **Grounded Solutions Network**, <https://groundedsolutions.org>

A Community and Conservation hybrid model land trust with resources, education, inspiration, and support.

- **Northeast Farmers of Color Land Trust**, www.nefoclandtrust.org

Wiyot Tribe, whose homepage describes their work and Land Back journey.

- **Wiyot Tribe**, www.wiyot.us

Intertribal Conservation Land Trust in Southern California.

- **Native American Land Conservancy**, www.nativeamericanland.org

Intertribal Conservation Land Trust on East Coast,

- **US. Native Land Conservancy**, www.nativelandconservancy.org

RESOURCES FOR NON-INDIGENOUS FOLKS

Resource Generation, non-Indigenous organization committed to justice.

- **Land Reparations and Indigenous Solidarity Toolkit**, <https://resourcegeneration.org/land-reparations-indigenous-solidarity-action-guide/>

Yellowhead Institute, research organization in Canada, report providing Land Back context.

- **Land Back Red Paper**, <https://redpaper.yellowheadinstitute.org/wp-content/uploads/2019/10/red-paper-report-final.pdf>



CHAPTER 2

RESTORING GOOD RELATIONS; LAND DEFENSE, ECOLOGY AND HEALING

A recent United Nations Global Assessment Report on Biodiversity and Ecosystem Services wrote that Indigenous people maintain so much biodiversity in their lands because they “*manage the land and coastal areas based on culturally specific world views, applying principles... such as the health of the land, caring for the country and reciprocal responsibility.*”⁹

In order to heal the vitality of the land and enable life to continue, this report recommends “promoting and strengthening Indigenous community-based management and governance, including customary institutions and management systems, and co-management regimes involving Indigenous Peoples and local communities,”¹⁰ as well as “recognition of land tenure, access, and resource rights, and the application of free, prior, and informed consent.”



“Inherently, a return to our foods, lands, and waters mandates the responsibility to protect them.”

There is an international understanding that our care and jurisdiction preserves the life-giving vitality of the land. Any kind of ecological restoration must involve the return of Indigenous peoples' care and harvesting practices to the Land. Our harvesting practices, use of fire, and ecosystem cultivation practices enhance the biodiversity and resilience of our homelands while aligning our bodies and minds with our sources of life.

Traditional Indigenous practices of caring for land reduce the incidence of large forest fires. It renews the earth, our foods, medicines and basket plants while providing fresh forage for wildlife. Organizations, Tribes, and communities across the Nations are utilizing traditional knowledge of land care and governance to maintain and restore vibrant families of animals and plants while educating youth in these practices. On lands that are recognized as Indigenous-titled, this work and restoration is straightforward. What would it look like for ancestral lands that are not Indigenous-held?

⁹ [IPBES The Global Assessment Report On Biodiversity And Ecosystem Services](https://issuu.com/marohaas/docs/2019_ipbes_global_report_spm__layout_v9_digital_): https://issuu.com/marohaas/docs/2019_ipbes_global_report_spm__layout_v9_digital_

¹⁰ 'Indigenous Peoples' and 'local communities' are different in a legal sense. Indigenous Peoples have internationally recognized nationhood and accompanying legal rights, whereas the rights of local communities are connected to the political framework of their larger nation-states.



There are strong opportunities and precedents set to restore care to land that is held legally by other entities such as federally or state-held lands, county and city land, or even individually-held land. If your traditional harvesting, gathering, prayer or ceremonial lands are in the legal title of another entity, a first approach is the empowered step of dreaming, planning, and then making the proposal as described in the preceding section on First Steps on page 7.

INDIGENOUS-LED COLLABORATIVE CARE

A prime example of successful Indigenous-led collaborative care is the [Great Lakes Indian Fish and Wildlife Commission \(GLIFWC\)](#). GLIFWC formed in 1984 after a history of first struggle toward, with legal victory following, recognizing the rights of Indigenous people to hunt, fish and gather in ancestral territories that had been ceded by treaty. Comprising of a coalition of eleven Anishinaabe Nations in Minnesota, Wisconsin, and Michigan, GLIFWC assists member Nations in implementing off-reservation treaty seasons and in the protection of treaty rights and natural resources. GLIFWC provides natural resource management expertise, conservation enforcement, legal and policy analysis, and public information services while working in tandem with the Forest Service and the Department of Natural Resources to ensure the health of the lands and the protection of the rights of the people. There are several collective intertribal organizations that serve similar roles, including the [Skagit River System Cooperative](#), the [Columbia Intertribal Fish Commission](#), and Tribes/First Nations themselves that engage in collaborative care for land and wildlife with state, federal, and tribal agencies, universities, and private entities.

Establishing collaborative care that honors Indigenous autonomy and knowledge can be extremely challenging, depending on the

attitudes of the legal ‘title-holders.’ We are in recovery from centuries of infantilization and dehumanization of Indigenous people by settlers who benefited from that belief system. This recovery process can be shocking or spark fear in settler descendents, or simply show up as an unconscious yet highly impacting bias. Unfortunately in this case, this means we need to ensure we are well-planned, educated, strategic, kind, and more confident in our purpose than the average person. While this is an example of inequity, it is a reality we should be prepared for. This reality also underscores that co-management is only a first step and does not embody the meaning of Land Back, in which our people are the decision-making authorities within our traditional territories.





Community Stories

An example of this preparedness is the work of the Karuk Tribe to create the Karuk Tribe Eco-Cultural Management Plan. The Karuk Tribe has been working solidly as a leader within partnership for decades within the Western Klamath Restoration Partnership. This is an intercultural organization which is committed to the health of the Klamath River ecosystem and includes the health of the people and their economies. The Karuk prepared their management plan so that when the regional Klamath and Six Rivers National Forests

Land and Resource Management Plan complete their own plan revisions, they can do so in alignment with the Karuk model, enabling the Karuk Tribe to “manage the Aboriginal Territory in a manner consistent with ... cultural and natural heritage.” The Karuk have also been leaders in developing climate change adaptation plans that are centered on their traditional care of their homelands.



The Dene of Łutsël K'é in Alberta are another inspiring example of defense and leadership in extending care. In 1970, the leadership of Łutsël K'é refused to consent to the development of a national park in their region. They had seen their southern kin experience criminalization for harvesting within the Wood

Buffalo National Park and did not want to see the same for their people. As extractive industries began to circle their homeland like vultures, they began exploring the idea of the creation of a park, but on their terms. They worked with Nature United and the Nature Conservancy to plan for the Thaidene Nënë Trust, a 6.5 million acre territory. The Nature Conservancy raised \$15 million, which was matched by Parks Canada, creating a sustainable trust that ensures Łutsël K'é always has the financial capacity to care for their territory. They visited Haida Gwaii to learn about their groundbreaking [Gwaii Haanas Gina 'Waadluxan KilGuhlGa Land-Sea-People Management Plan](#), and their culture-based Indigenous landscape ranger program, the Haida Watchmen, which supports Indigenous young people in cultivating the traditional and contemporary skills necessary to become caretakers of the land. They then went on to form the Ni Hat'Ni Dene Rangers.

THE CASE OF FIRE

For thousands of years, fire has been a vitally important tool for Indigenous people to provide renewed vegetation for animals, clear old brush, and encourage the strong regrowth and renewal of important food, medicine, and basketry plants. This care and relationship between people and the rest of the beings present was disrupted by colonization and the creation of the National Park System and Forest Service, which removed Indigenous people from land management practices. The landscape now is dramatically different than when the colonizers arrived. Stopping the periodic, small yet intentional burns has resulted in a build-up of old brush in the undergrowth of forests. The additional stress of the climate crisis has led to wildfires growing in numbers and intensity. For decades, the northern California Yurok, Karuk, and Hupa Tribes have been advocating for their ability to return to the forest as caretakers without risk of State persecution. During the full moon in August, the Karuk Tribe would perform a ceremony with a large-scale burn that was intended to call the salmon upstream before the fishing season. This practice supported the healthy abundant ecology on the land, therefore protecting the river and salmon.



The Karuk, Yurok, and Hupa have all begun cultural burns once more, restoring this special relationship with their lands. They have worked together to form the [Cultural Fire Management Council](https://www.culturalfire.org)¹¹ and the [Indigenous Peoples Burning Network](https://www.nature.org/en-us/membership-and-giving/donate-to-our-mission/gift-and-estate-planning/newsletter/forever-forests/)¹² to support the return of this knowledge to the land. They also work extensively with the state and the Forest Service to establish Integrated Management Plan agreements and host Training Exchanges (TREX) where cultural fire and land management practices are shared with other foresters. Their work is a strong step towards the decolonization of their homelands and has transformed the landscape and hearts of their people.

A FEW NOTES ON LAND DEFENSE

Inherently, a return to our foods, lands, and waters mandates the responsibility to protect them. Mining, oil pipelines, land and water degradation from contamination, logging and development are some of the many threats to our communities and foods. Indigenous lands have historically not been subject to the same kind of environmental regulations as non-Indigenous lands. Today, Indigenous lands in Canada and the US alone have 815 toxic sites - most of them related to mining¹³. In this era of intensive globalized exploitive capitalism, it is imperative that we utilize all the means we have to prevent the formation of new toxic sites and ensure a future for our descendants.

There are legal protections and mechanisms to consider in this pursuit. Because Indigenous lands are politically in the realm of the federal government, our lands often require a National Environmental Policy Act (NEPA) process to approve projects undertaken on or near our lands. NEPA requires an Environmental Assessment to be done in order to determine if the project is likely to cause a significant impact on people and the Earth. If an impact is determined, an Environmental Impact Statement must be completed that takes into account cultural impacts and environmental justice considerations. There are acts such as the Clean Air Act and Clean Water Act that hold companies accountable, in addition to the right to set our own standards under a policy ironically

¹¹ [Cultural Fire Management](https://www.culturalfire.org): www.culturalfire.org

¹² [Indigenous Peoples Burning Network](https://www.nature.org/en-us/membership-and-giving/donate-to-our-mission/gift-and-estate-planning/newsletter/forever-forests/): <https://www.nature.org/en-us/membership-and-giving/donate-to-our-mission/gift-and-estate-planning/newsletter/forever-forests/>

¹³ [Contaminated Sites and Indigenous Peoples in Canada and the United States](https://www.medrxiv.org/content/10.1101/2022.08.08.22278551v1.full): <https://www.medrxiv.org/content/10.1101/2022.08.08.22278551v1.full>

called Treatment as a State (TAS). The implementation of these standards are subject to shift in strength with the political winds and the power of money. This makes legal mechanisms both vitally important to employ as we defend our lands and waters, and not be the final or only defense mechanism. Nonviolent Direct Action (NVDA) and effective use of media has also been a critical component to ensuring equity and our people's survival.

RESTORATION OF LANDS AND WATERS; REMEDIATION, HEALING, AND RECOVERY

Due to the targeting of Indigenous lands by extractive and waste industries, many of our communities have toxic sites, superfund sites, brownfields, and contaminated water supplies. Requiring the companies, industries and governments responsible for contamination to take full responsibility for the cleanup would be the most just and appropriate form of action, this is not always going to happen. There has been some success using legal strategies, however it is important to not leave the health of our lands in the hands of the same people who were responsible for the destruction and contamination.

If our traditional foods and lands become contaminated, abandonment is not an option for us. We are people who have been given a family within our homelands, an ecology to care for. As Leanne Simpson, an Anishinaabekwe writer, mother, and activist, articulated in an interview with Naomi Klein:

*"So when I think of the land as my mother ...I don't hate my mother because she's sick, or because she's been abused. I don't stop visiting her because she's been in an abusive relationship and she has scars and bruises. If anything, you need to intensify that relationship because it's a relationship of nurturing and caring. And so I think in my own territory I try to have that intimate relationship, that relationship of love - even though I can see the damage - to try to see that there is still beauty there. There's still a lot of beauty in Lake Ontario. It's one of those threatened lakes and it's dying and no one wants to eat the fish. But there is a lot of beauty still in that lake. There is a lot of love still in that lake. Mothers have a tremendous amount of resilience. They have a tremendous amount of healing power."*¹⁴

Nations in care of damaged lands can pursue bioremediation and mycoremediation options to treat contaminated lands and waters as affordable, ecological restoration that works in harmony with Earth's natural healing methods. Bioremediation is the cultivation of plants and rich soil environments that allows plants and bacteria to digest and degrade toxic compounds. Mycoremediation utilizes fungi to do the same. These approaches can be used to address all scales of contamination of lands and waters. Different kinds of plants, fungi,



and decomposing creatures can heal different types of contamination. For example, soil contaminated with diesel oil was inoculated with oyster mushroom mycelia, resulting in a 95 percent reduction of toxic compounds after a one-month period.¹⁵ Sunflowers have become famous for their ability to remediate radioactivity after being used in Chernobyl and Japan to clean toxic soils from nuclear accidents.¹⁶ Brownfields and other contaminated sites may also be used for other purposes, such as a site to place renewable energy facilities or other non-residential beneficial uses. See our resources section for more ideas.

¹⁴ *Dancing the World into Being*: <https://www.yesmagazine.org/social-justice/2013/03/06/dancing-the-world-into-being-a-conversation-with-idle-no-more-leanne-simpson/>

¹⁵ *Mycoremediation*: <https://www.bionity.com/en/encyclopedia/Mycoremediation.html>

¹⁶ *Sunflowers, Cleaners of Nuclear Disasters*: <https://www.ua-magazine.com/2022/03/27/sunflowers-cleaners-of-nuclear-disasters/>

Community Story

When addressing contamination, as in most things, it is important to look for mutually beneficial partnerships. An excellent example is the work of the Tulalip Tribe in Washington. Concerned about declining salmon health, the Tribe identified local dairy farm runoff as a significant factor. By forming a partnership between the Sno/Sky Agricultural Alliance, Northern Chinook Recovery, and their own Tulalip Energy Corporation to form Qualco Energy, they created a mutually beneficial energy cooperative that uses the collected manure to produce clean-burning biogas, generating a great resource while also protecting the salmon. The spirit of collaboration and trust built by this project enabled the creation of the collaborative [Sustainable Lands Strategy](#), whose mission is to “generate net gains in the productivity and sustained health of fish and farm communities while improving flood control, tribal culture and traditional knowledge, and environmental quality.” The Sustainable Lands Strategy collaboration utilizes transparent, consensus decision making, and has become an example of what can be done through mutually respectful and honorable conflict resolution and solution-generation.

RESTORING CEREMONY TO LAND

The common thread that runs throughout all Land Back efforts is the restoring of people with ceremony, prayer, and visioning with the Land. The source of strength for our future is the connection that is built when our children are able to fast and pray on the Land during their coming of age. When people are free to go to the places of their ancestors to sit in meditation and prayer, gather medicines, and hold gatherings. When we are able to engage in the hunting, gathering, and agricultural practices that sustain our bodies, spirits, and the Land. We face many challenges, from healing ourselves and our families of colonial legacies to the threats made to our lands and waters by extractive industries. The simple act of going to the Land to work, gather, pray, observe, learn and heal holds the power to call us back to ourselves and the full restoration of our homelands.

RESOURCES

Intertribal Land Care and Restoration organization.

- **Great Lakes Indian Fish and Wildlife Commission,** <http://glifwc.org>

US Northwest Intertribal fisheries organization.

- **Northwest Indian Fisheries Commission,** <https://mwifc.org>

Conservation Stewardship, soil care consulting, agricultural support.

- **Intertribal Agriculture Council,** <https://www.indianag.org>

National Park Register Regulations for Traditional Harvest.

- <https://www.federalregister.gov/documents/2016/07/12/2016-16434/gathering-of-certain-plants-or-plant-parts-by-federally-recognized-indian-tribes-for-traditional>

‘Return the National Parks to the Tribes’, David Treur’s, article for the Atlantic.

- <https://www.theatlantic.com/magazine/archive/2021/05/return-the-national-parks-to-the-tribes/618395/>

Native American Tribal Lands Superfund site resource center.

- <https://triballands.org/tlac/resources-learning/superfund-case-studies/>

DEFENSE SUPPORT

Direct Action Training and strategy mapping.

- **Indigenous Peoples Power Project,** <https://www.ip3action.org>

Strategy mapping, education, networking and small anti-mining fund.

- **Indigenous Environmental Network,** <https://www.ienearth.org>

Funds for land, water defense and organizing support.

- **Honor the Earth,** <https://honorearth.org>
- **7th Generation Fund,** <https://7genfund.org>
- **NDN Collective,** <https://ndncollective.org>

BIOREMEDIATION

READING

- **Resilience Online Journal**

<https://www.resilience.org/stories/2014-08-11/using-plants-to-clean-contaminated-soil/>

- **Earth Repair**

<https://earthrepair.ca/resources/bioremediation-types/mycoremediation/>

ORGANIZATIONS

Ecological restoration and repair engineering organization with a strong Indigenous community track record.

- **Biohabitats,** <https://www.biohabitats.com>

Grassroots-focused bioremediation and mycoremediation organization offering training and capacity building.

- **Eart Repair,** <https://earthrepair.ca>

Colonial violence and strategies to remove Indigenous self-determination have led to our reservations and traditional territories having conflicted and complex rights, jurisdictions, and land tenure. This has made it difficult to exercise our rights to care for the land, harvest and hunt, develop housing and businesses, or extend infrastructure. This leads to Tribes having limited jurisdiction over zoning and land use, which must be addressed if we are to protect our territories, regenerate our ecosystems, heal our communities from the effects of assimilationist colonial policies, respond effectively to climate change, and create sustainable just economies for our communities. In addition, when our lands are privately owned and can be sold or used as loan collateral, it puts the integrity of the Nation's landbase at risk of further alienation.

Trust land is the foundation of our nations. Trust land is collectively 'owned' and is primarily under the jurisdiction of our Tribes, making these lands the base for our traditional use, governance, resource sharing practices, and collective planning and decision-making.

There are several strategies we can act on to extend our care over our lands again. The [Land Buy-Back Program](#) was created as part of the *Cobell v Salazar* settlement case to address fractionated ownership, allowing Tribes to buy the ownership rights from allotment heirs who are disengaged from the land and place the land into Tribally held trust. The Interior Department, now led by Secretary Deb Haaland, is taking several steps to make it easier for Native American tribes to take land back into trust and simplify a process that was slowed by the Trump administration. The American Indian Land Probate Reform Act also addresses continued fractionated heirship by creating structures for ownership to be passed to single heirs in wills and estates. Care of tribal trust land can take many forms that are expressive of our values and needs, including **Tribal Land Departments, Tribal Cooperatives, Tribal Corporations, nonprofit corporations, and Tribal Land Enterprises** such as the Rosebud Sioux Tribes' or the Yakama Nation's Land Enterprise.

There are other possibilities outside of tribal governments. Groups of co-owners can create decision-making bodies to care for their land collectively, allowing them to conduct restoration, create housing, start businesses, and other developments. The [Indian Land Tenure Foundation](#) is the leading organization that supports Indigenous peoples managing these issues within the United States. They offer education on land ownership and management, technical assistance in estate planning, land recovery and financing, work on legal and administrative reform to remove limitations on Indigenous lands, offer grants to support land recovery planning, education and development, as well as loan funding to purchase lands.

A man with a mustache and long hair, wearing a grey baseball cap and red shorts, is wading through a shallow, muddy area. He is holding a long, dark wooden staff or pole. The background is filled with large, green, heart-shaped leaves, likely from a marsh plant. The scene is outdoors, with sunlight filtering through the foliage.

“When our lands are privately owned and can be sold or used as loan collateral, it puts the integrity of the Nation’s land base at risk of further alienation.”



Community Stories

One outstanding grantee of the Indian Land Tenure Foundation is the Lakota Lands Recovery Project which conducts research, outreach and advocacy focused on increasing the control that Lakota people have over their lands and resources. In partnership with the organization Village Earth, they developed the “Pine Ridge Reservation Allottee Land-Planning Map Book,” which includes information about land use planning and GIS maps of the entire reservation used to locate allotment lands. The Oglala Sioux Tribe Land Office, along with the organization Village Earth and the Indian Land Tenure Foundation also developed the Pine Ridge Land Information System (PRLIS), a web-based tool designed to help tribal members access information about their lands and resources.

SAN XAVIER TOHONO O’ODHAM; HEALING FRACTIONATION AND BUILDING FOOD ECONOMIES

In response to fractionated heirship, the Tohono O’odham of San Xavier decided to get together in 1971 and form a cooperative to manage their lands. Once they had aggregated their lands, they had to address the issue of water. Agribusiness, copper mines and the City of Tucson had been draining the aquifer that sustained the Santa Cruz River, which historically had been the source of canal irrigation for the San Xavier community. Finally, in 1982, Congress passed the Southern Arizona Water Rights Settlement Act, ensuring significant water resources for the Tribe in perpetuity. They now operate a large cooperative, the [*San Xavier Cooperative Farm*](#).¹⁷ This farm employs tribal members and produces both commodity and traditional desert-adapted crops. In addition they offer traditional and wild-harvested food workshops, youth programming, and many celebrations and gatherings throughout the year.

ADVANCING ON-RESERVATION INDIGENOUS CARE OF LANDS

Many of our communities and Nations now have traditional harvesting and ecological care youth camps, workshops, and other cultural programs. These educational programs are an invaluable way to reconnect our communities with the land and one another. A few Nations have established Tribal National Parks to preserve land for non-development while allowing harvest, traditional cultural use, and tourism. The Red Cliff Tribe's Frog Bay Tribal National Park, an 89 acre old-growth forest and shoreline along Lake Superior, is the first of its kind. Although that land was originally part of the reservation, the Tribe had become dispossessed. They were able to get their Land back through a combination of a charitable sale and raising funds to purchase from NOAA's Coastal and Estuarine Land Conservation Program with funds from the Great Lakes Restoration Initiative.

The Ioway Tribe are creating the second Tribal National Park within the nation-state boundaries of the United States, overlooking a historic trading village and burial mounds. The Ioway obtained this land back through land transfer donated by the Nature Conservancy of Nebraska. The lands that the park is on are all within the boundaries of the reservation, but they were dispossessed through allotment. Through donations and the purchase of fee-simple allotment parcels, the tribe has regained one-third of its original reservation.

The Tribal park movement is also strong over the colonial borders in Canada. Months after a historic Supreme Court decision granted the Tsilhqot'in title to 1750 square kilometers of their aboriginal lands, more land was added and 3,000 square kilometers was declared of their territory to be the Dasiqox Tribal Park. This park includes a lake that is the site of a proposed mine. The implications of the founding of the park is not yet clear, but it is not the first time that a designated park status has been used to prevent exploitive resource extraction. The park allows customary use including living on the land, hunting, fishing and trapping, and is an example of care, defense, and ensuring the future of the coming generations.

¹⁷ [San Xavier Coop](http://www.sanxaviercoop.org): www.sanxaviercoop.org

HISTORY AND PRESENT OF LANDBACK IN MEXICO

By Alvaro Mena



The post-colonial state of Mexico, like others, was imposed based on a monarchical approach that maintains that the lands invaded in colonial times were, by “divine right”, the property of European kings. Subsequently, during the wars of independence, it was assumed that what was previously the property of the king became the property of the descendants of the invaders. After the 1916 Revolutionary War in Mexico, those who remained in power were again the whites, and what was previously the property of the king became the property of the white heirs. In the course of five hundred years, it has benefited the powerful to ignore the reality of Indigenous land tenure.

In the Mexican War of Revolution, the whites promised the Indigenous peoples that if we joined the struggle, they would return the land to us. They betrayed their word and failed to fulfill the commitment to return the lands to our communities. In that war, as in the previous ones, our peoples put their bodies and blood into it, the new Mexican nation was being formed upon the territories of the Indigenous Peoples, while the land remained unrecognized as Indigenous territories.

Under the same logic of land as monarchical property, the legal structures that govern the Mexican State to date were created, which is why the Mexican Constitution of 1917, in its article 27, says that “the ownership of lands and waters within the national territory originally corresponds to the nation. The nation has the right to transfer ownership of land to private individuals, constituting private property.” To this day the Mexican Constitution does not explicitly recognize Indigenous peoples as subjects of law and therefore does not recognize Indigenous territories.

In Mexico, Indigenous peoples do not have any acre of land recognized as Indigenous lands or territory, unlike in the United States, where there are reservations or other forms of Indigenous territory. It is in this context that Indigenous peoples in Mexico have had to fight for the recovery of their lands and the legal recognition of our existence. Therefore, the first battles were; To fight for the recognition that we exist, that we are alive as peoples, then that we have rights to the territory. The monarchical approach to the origin of land ownership has to be dismantled and the existing legal frameworks decolonized so that, in addition to being recognized as peoples, we are recognized as having the right to the territory.

For all the above, talking about Landback in Mexico has very particular characteristics. The deep roots come from our peoples in the constant and historic struggle to reclaim our ancient nations. In the Mexican Revolution, the demand for Land and Freedom led by Emiliano Zapata was one of the demands that symbolically represent this historic struggle. From 1911 to 1919, although the governments of the new Mexican nation were changing, the struggle of Emiliano Zapata remained firm in the demand for Land and Freedom for our peoples, and the Indigenous peoples continue to raise it until now.

THE ZAPATISTA EXPERIENCE

On January 1, 1994, the Zapatista uprising took place in the state of Chiapas, an armed Indigenous movement that broke into several white cities to demand the same demand; Land and Freedom, but now also complemented with a set of basic human rights demands and adding the demand for Autonomy and Self-Determination; the exercise of freedom in Indigenous terms. This movement recovered Indigenous lands that had been grabbed and exploited for many years by wealthy cattle ranchers or agricultural entrepreneurs. These lands, with a total of 355,769 hectares, returned to the hands of Ch'oles, Tzotzil's, Tojolabales, Tzeltal's Indians, peoples of the Mayan nation who created new villages on recovered lands, becoming collective property at that time. Currently, the Zapatistas maintain that Mother Earth cannot be the property of anyone, nor collective, much less private, therefore, they have pronounced that it is “of the commons.”

Regarding the lands of the Zapatista Indigenous communities, there is no legal document to support it, other than the strength of the uprising that is now peaceful, and that remains in force in southeastern Mexico. Although there is the Law for Dialogue, Conciliation and Dignified Peace in Chiapas, which recognizes the importance of the Zapatista demands, the aggressions against these peoples are constant and increasingly aggressive on the part of powerful groups that try to take these lands back.

THE LEGAL STRUGGLES OF RECOVERY

Whereas, in Mexico, according to Article 27 of the Constitution, there are only three forms of land ownership; private, social and public. Indigenous peoples have had to resort to these legal figures, while not ceasing to fight for the full recognition of our rights as original peoples, and achieve the recognition of the land on which we live as Indigenous territory.

One of the main effects on the Indigenous territories was during the period known as the Reform Laws, issued in 1859, a package of laws that were later elevated to the constitutional level. One of them, known as the Lerdo Law, was implemented throughout the country, with the main objective that the lands that had been occupied by the clergy be public. However, this also resulted in Indigenous lands being requested by business people and cattle ranchers and the Mexican State granted them without considering that they were Indigenous territory.

In this sense, in Mexico there have been multiple experiences of land recovery through legal processes, all of them emblematic and that have profoundly marked the Indigenous land recovery movement. Talking about all of them would take us many pages, so we will focus on only a few.

The first is a land recovery process conducted by the community of Dziuché, in Mayan territory in the state of Quintana Roo. It is of particular interest because it was within the framework of the declaration of a Natural Protected Area (NPA) that, because it is for conservation, seems to have a noble objective. However, this figure of the NPAs has served to dispossess Indigenous peoples of their territories on many occasions and put them at the disposal of the government, facilitating the implementation of extractive projects such as mines, hydroelectric dams, hotels, and even casinos, as is happening in the Calakmul protected natural area in Campeche, Mexico.

The second is from the community of Bosques San Elías Repechique, another emblematic case considering two substantially important variables; the land had been taken from them 100 years earlier under the Lerdo Law, and second, the sentence that the judge granted them was in recognition of their Indigenous territory, which as we saw above, does not currently exist in Mexican administrative laws. Given the judge's ruling, at least within the state of Chihuahua, it will have to create administrative laws so that the community can register their Indigenous lands, an important precedent for all Indigenous peoples in Mexico.

THE CASE OF THE MAYAN COMMUNITY OF DZIUCHÉ, QUINTANA ROO

In 2011, the governor of the state of Quintana Roo, through a decree, declared that 11,610 hectares (28,689 acres) would be converted into a Natural Protected Area which, in the case of Mexico, is an area that passes to government administration, that is, the rights of the owners or communities that are in those territories are withdrawn.

In this decree within the 11,610 hectares, the state government included, without consultation, the Chichankanab lagoon, which is part of the territory of the Mayan community of Dziuché. Sometime before, an NGO called Friends of Sian Ka'an, which works together with the government for the creation and administration of NPAs, had proposed to the community to create the protected natural area and the community had rejected the proposal, however, despite this rejection the state issued the decree.

Once the community was informed about the decree, several years later, it began the legal process to recover its territory. The community of Dziuché has a type of social property called ejido, so the legal process involved a struggle over land ownership, but at the same time, considering that the owner of the land is a Mayan community, it also implies the recognition of the rights described in ILO Convention 169. Therefore, the community included in its land recovery process the complaint that its right to Free, Prior and Informed Consultation was not guaranteed, in accordance with international standards.

The process involved the creation of a strategy that included, in addition to legal litigation, an organizational process in which the community elected a Committee in Defense of the Territory and to strengthen collective decision-making structures and the incorporation of internal and external communication strategies. Their strategy for the recovery of the territory was comprehensive, from the community base, to the relationship with the media and allies, to the fight in the courts. After two years of litigation, the judge granted a favorable ruling for the community and the 11,610 hectares were recovered. example has left profoundly relevant precedents for the recovery of our territories. It is our peoples who have best preserved their territories over the centuries.

THE CASE OF THE RARÁMURI COMMUNITY OF BOSQUES SAN ELÍAS REPECHIQUE

In February 2024, the community of Bosques San Elías Repechique recovered lands that had been taken from them more than 100 years ago. This is an unprecedented case in Mexico, but also much more emblematic because the sentence granted to the community recognizes its existence as an Indigenous People, not as an ejido, nor as an agrarian community. This is again, recognition that does not exist inherently in Mexico, but must be created by order of the judge. The judge recognized that the Rarámuri People have a connection with the land and that therefore Indigenous property is based on traditional use and possession that are based on the cultural uses and practices that the Indigenous People have in relation to the land and the resources found therein.

The community had to make a long journey to arrive to this success, in which the work was passed through generations. This struggle was initiated by the elders and even some members of the community who did not make it to see the results. It is the young people of the community who maintain the relationship with the land and live strongly with the memory of the struggle for the recovery of the land.

This community lost more than 30,000 hectares of land more than a hundred years ago when the Ley Lerdo came into force and therefore a rancher requested that these lands be granted to him, which were, from his perspective, abandoned. The government granted these lands to the businessperson, who later sold it to another person and so on to fifty other people. The community was systematically expelled from this territory, and it was not until 1972 that they began the process of legal recovery, although for a long time before, they continued to make use of their territory. Throughout the process, the community filed up to five amparo petitions because their rights to territory, prior consultation, the right to be heard in court, and several other violations of their collective rights were violated.

It was very important that in this process the community carried out the struggle always from the perspective of collective rights as a community and not from the individual rights for land ownership.

After a long process, with the accompaniment of lawyers who know and respect the Indigenous perspective and worldview, they reached the end of the journey, achieving a historic ruling that sets a precedent for the Indigenous peoples of Mexico who can now use this ruling as a reference in their own struggles for land recovery.

In conclusion, achieving Land Back in Mexico is a tortuous struggle, especially when facing a legal system that has taken more than five centuries to recognize our very existence. The recovery of land through purchase or voluntary return is something that is not yet unprecedented in Mexico, but it may be something that can be explored in the future, particularly in this generation of megaprojects and regional developments that treat the Earth as a commodity. It is time to recover our lands, to dignify them as our Mother Earth, land that are for us, Indigenous Peoples.





CLOSING WORDS

The era of Land Back is here. As climate impacts - rooted in greed and exploitation - devastate ecosystems and their people worldwide, Land Back is timely and needed. Our people have inherited the responsibility to care for our homelands and work to ensure the continuance of life for future generations. We remember that we are intended to live in reciprocity with Earth, the elements, and the spirits that give us life. Our knowledge holds the seeds of power and strong pathways forward. Today, with the strength of our youth and the guidance of our elders, we partner with all peoples who are ready to build a just future in which life continues to thrive. We will continue to work toward getting Indigenous lands back in Indigenous hands. Join us.

*Appraisal

An expert estimate of the value of something.

*Bioremediation

The use of either naturally occurring or deliberately introduced microorganisms or other forms of life to consume and break down environmental pollutants, in order to clean up a polluted site.

*Brownfield

A former industrial or commercial site where future use is affected by environmental contamination.

*Eminent domain

The right of a government or its agent to expropriate private property for public use, with payment of compensation.

Fractionated Heirship

Fractionation results from the repudiated Federal Indian policy of Allotment. Under the General Allotment Act of 1887, Tribal lands were divided up and “allotted” to individual Tribal members. When the original Indian allotment owners passed away, their heirs inherited equal undivided ownership interests in the allotment. As the land passed through each successive generation, the number of owners of undivided interests in the land grew exponentially.

Land tenure

Land tenure is the relationship, whether legally or customarily defined, among people, as individuals or groups, with respect to land. Land tenure is an institution, i.e., rules invented by societies to regulate behavior. They define how access is granted to rights to use, control, and transfer land, as well as associated responsibilities and restraints. In simple terms, land tenure systems determine who can use what resources for how long, and under what conditions

*Manifest Destiny

The 19th-century doctrine or belief that the expansion of the U.S., white, Anglo-Saxon descendants throughout the American continents was both justified and inevitable.

Nation

A body of people united by common descent, history, culture, or language, inhabiting a particular country or territory.* We utilize Nation to contrast with the term ‘Tribe’ which is a political designation within the colonial United States, but is not in common contemporary political use outside of the colonial U.S.

*Precedents

An earlier event or action that is regarded as an example or guide to be considered in subsequent similar circumstances.
(legal application) a previous case or legal decision that may be or (binding precedent) must be followed in subsequent similar cases.

*Reparations

The making of amends for a wrong one has been done by paying money to or otherwise helping those who have been wronged.

Tribe

A term utilized politically within the colonial United States to refer to sovereign Indigenous Nations.

¹⁸ <https://www.bia.gov/bia/ots/dtlc/fractionation>

¹⁹ <https://www.fao.org/3/y4307e/y4307e05.htm>

NOTES

FIRST STEPS TO LAND BACK:

ARTICULATE AND MAP THE DREAM

Use this Notes section to begin articulating your vision and strategy.

DREAM/VISION

What is the ultimate vision you are working towards? Which land are you seeking returned? Do you want easy and unhindered harvest access to traditional territories? Do you need to be able to access sites for uninterrupted ceremony/prayer? Does the land need to be burnt to restore balance? Whatever the dream is, work on being able to write it down or speak it out loud to share it with others, in as much detail as possible.

BUILD THE FAMILY NETWORK AROUND THE DREAM/VISION

Who shares this dream with you? Who should be brought into the vision? Your friends and family? Your community or Nation? Share the vision and gather other ideas and dreams to strengthen the clarity. Know that some may not think it can happen and others may try to dissuade the vision, so focus on dreaming in partnership with others who can carry the flame forward.

MAPPING THE PLAN

Working together with your network, map the plan and write it down. Include (1) the overall vision of what you seek to restore and why; and (2) your proposal for how it would work, including what you need to do, at what times of year, who would be involved, and why.

THE CLEAR BOLD PROPOSAL

The proposal to the title-holding entity (whoever ‘owns’ the land now) can be as specific or general as needed, depending on the nature of your relationship with the land. Asking with an open heart and the assumption of natural partnership and care can do wonders. However, Land Back - even when it’s an issue of Indigenous harvest, governance, and ecosystem care - can be uncomfortable and unnerving to settlers. If your land relationships result in noticeable effects, sharing a thorough plan that shows the title-holding entity exactly what your relationship involves can be beneficial. It may also be helpful to research other Tribes and Nations that have established these practices as examples of success to share.

FOLLOW UP, RELENTLESS COMMITMENT, AND RELATIONSHIP BUILDING

If the request is unsuccessful, learning from Nations who have successfully secured access to caring for ancestral lands is even more important. The critical value of centering prayer, building public education, and building strong partnerships and allies cannot be overstated.



NDN COLLECTIVE

NDN Collective is an Indigenous-led organization dedicated to building Indigenous power. Through organizing, activism, philanthropy, grantmaking, capacity-building and narrative change, we are creating sustainable solutions on Indigenous terms.