

Jody Wilson-Raybould

FROM WHERE I STAND
Rebuilding Indigenous Nations
for a Stronger Canada

*With a foreword by
The Honourable Murray Sinclair*



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Reconciliation means we need to create a future together that best comes to terms with our past. Jody's words will help us do it right and do it together.

Senator Murray Sinclair

Winnipeg, Manitoba

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INTRODUCTION

A central lesson instilled in me from a very young age was to be careful with words because you cannot take them back – you must always speak the truth. This has been a vital teaching and one that has guided me in my relationships, as I strive to always be thoughtful and considerate in working with others.

It has guided me in how I have approached the various roles I have been fortunate to play, including as a Crown prosecutor in Vancouver from 2000 to 2003, as Regional Chief of the Assembly of First Nations for British Columbia from October 2009 to June 2015, and as the first Member of Parliament for the new riding of Vancouver Granville from October 2015 to the present. And it guided me when I was subsequently appointed the first Indigenous Minister of Justice and Attorney General of Canada, from November 2015 to January 2019.

In these roles and others, I have given numerous speeches and lectures. Preparing for speeches and lectures is not a task I take lightly. It is a privilege, but moreover, it is a responsibility when speaking on matters where there is urgency in people's lives and when the words you say might have a substantive impact. While I have people to assist me and to review drafts, I spend hours upon hours writing and editing draft after draft, trying to

ensure that every word is as it should be. Indeed, as those who have worked with me would attest, right up until the moment I give my remarks I am rewriting parts to make sure I am being appropriately careful with the words I use.

Giving speeches and lectures has given me the opportunity to reflect, in a systematic way, on the Indigenous-Crown relationship and the future of Canada, and I have done so from the unique perspective of having been both an advocate for Indigenous Peoples (as Regional Chief) and then the chief law officer of Canada (as Minister of Justice and Attorney General). This book is based on my speeches, lectures, committee evidence, and other writings on Indigenous issues – all from over the course of the last ten years. Front and centre in all these writings is the challenge of reconciliation and Indigenous empowerment – of Nation rebuilding – addressing Canada’s colonial legacy and building a future where Indigenous Rights are recognized, respected, and fully implemented. This is the work that we need to do as a country if we are to reach our full potential. And, to be sure, it is a responsibility for all of us. As individuals, businesses, governments, faith-based organizations, and civil society, we all have vital roles to play along with Indigenous Peoples – First Nations, Métis, and Inuit – and their governments. Reconciliation touches on all aspects of our shared future: how we build ever greater social, cultural, economic, environmental, and political well-being and how we achieve balance as a society.

Creating a more just and equal Canada characterized by transformed relations with Indigenous Peoples is a deeply personal matter for me – it is the work I was raised to be a part of. In lighthearted moments, people might hear me refer to myself as “just a little Indian girl from a small fishing village on an island off the west coast of British Columbia.” But when I say this, it is actually expressing much about the multigenerational reality of who I am, and where I come from, and why I approach the work of reconciliation the way I do.

I come from the Musgamagw Tsawateineuk/Laich-Kwil-Tach people of northern Vancouver Island, who are part of the Kwakwaka’wakw, also known as the Kwak’wala-speaking peoples. Our culture, worldview, spirituality, and way of life are integrally related to the natural world around us – the land, air, and waters that have always sustained us.

My society, in important ways, is a matrilineal one. This means that descent is traced and property is inherited through the female line. My grandmother's name was Pugladee – the highest-ranking name in our Clan – the Eagle Clan. Her name means “a good host” – a name that was given to my older sister, Kory, at the same time I was given my name, Puglaas. “Puglaas” means “a woman born to noble people.” These names were given in a naming Potlatch at Gilford Island when I was five and my sister six. My father's name is Hemas Kla-Lee-Lee-Kla, which means “number one amongst the eagles, the Chief who is always there to help.” He is our Clan's hereditary Chief.

We are “potlatching” peoples. A Potlatch is a traditional institution of governance – a central one that we still practise. It is here that our names are passed down or given from generation to generation. It is where laws are made, disputes are settled, people are married, and wealth is redistributed. In our Potlatch, the highest-ranking male leaders are called *Hamatsa*.

I am fortunate to come from a strong and loving family. My grandmother, parents, and family ensured that both my sister and I knew our culture, our values, the laws of our Big House, and how to conduct oneself as a leader. I was raised to be proud of who I am, to know where I came from, to believe in myself, and to recognize my rights and responsibilities. In our system, I am a *Hiligaxste*' (a role always held by women). One of my jobs is to lead my *Hamatsa*, the Chief, into the Big House. This role can be translated as one who “corrects the Chief's path.” We show them the way – a metaphor for life. In the Potlatch, this is symbolized in our rituals when the power of the *Hamatsa* is “tamed” and he is ready to be Chief. In my family, it meant I was raised to lead from a very young age. My family instilled in me a sense of community and duty – that I had something to give back and to contribute, to use my skills and abilities, such as they are, to improve the quality of life for our people and others. My upbringing, my education, my professional and personal experiences have all helped shape my worldview and the way I try to conduct myself.

In my culture, holding the name “Puglaas,” like other names, comes with clear expectations, responsibilities, and accountabilities. Today, this is the work of helping to carry forward, in an ever-changing world, our communitarian teachings – in which everyone has a role to play, creating

a society where our people, and all peoples, can live together in patterns of harmony and unity while upholding, celebrating, and respecting the distinctiveness of diverse peoples and the beauty, strength, and knowledge they bring to our human family.

This work of reconciliation and Nation rebuilding, for myself and for many other Indigenous leaders and people, has also meant telling the history of being resilient and standing firm in the face of colonization and oppression. While we know the true history of Canada is increasingly being understood, it continues to require retelling, re-examination, and reinterpretation. Indeed, and thankfully, young Canadians today grow up knowing about residential schools, missing and murdered Indigenous women and girls, the Indian Act, and the violation of the basic human rights of Indigenous Peoples. They also are increasingly aware that the legacy of colonization remains with us, seen in the significant socioeconomic gaps that still exist between Indigenous and non-Indigenous peoples across Canada. The fact that this true history has come to light, and that its legacy today is increasingly understood, is a testament to how Indigenous parents, grandparents, great-grandparents, and others persevered, fought, and advocated over many decades.

We truly have come a long way. Even a decade ago, when the first speeches in this book were being prepared, Canadian society at large was not as broadly conversant about reconciliation. Many governments were passively disinterested, positive media stories were more rare than common, artists and authors creating insights about the Indigenous reality were on the margins, and it was harder to get industry into the room. In substantive ways, all of these former realities have changed or are changing. As a country, we are increasingly engaged in the work of reconciliation, and progressive steps are being taken. We are moving from a learning moment to an action moment. We do, indeed, live in interesting and exciting times.

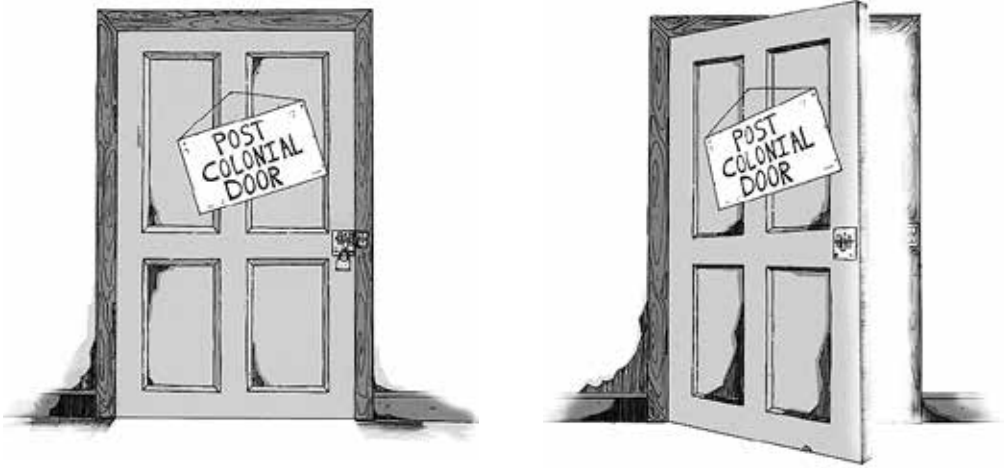
But the optimism comes with a warning. Expectations are high; we are not there yet. We must capitalize on the momentum to ensure that progress continues – to take advantage of it. This can be a real challenge because sincere intent leads to genuine action, which drives change, and change is hard to implement and sustain. While people often talk about the need for

change, actually making it happen is something else. And to be clear, the changes that reconciliation brings are, and will be, significant. They touch on all dimensions of our public and private lives, including how governments make decisions, how economies function, how children are educated, how our justice system operates and is structured, and how our environment is cared for. It is hard work. And not surprisingly, as individuals, we are often confused about what we should be doing. Indeed, in speaking with Canadians across the country, the two questions I am most often asked are “What can I do?” and “How can I make a difference?”

While individual Canadians are acting and seeking further direction on the constructive steps they can take, within government one confronts the challenge of how to shift course when things have been focused in another direction for so long and patterns of behaviour so engrained. The analogy I often use is that government is like a massive ship that has been heading through the ocean in one way for 150 years. Our task now is to turn that ship and send it off in another direction. I know government systems are not designed to adjust course quickly, and politicians tend to bias the near term, focusing on electoral cycles and prospects. And this is why we must move beyond partisanship: to set and keep the course so that, in time, the ship will inevitably turn.

This analogy can also apply to Indigenous Peoples, Nations, and their evolving governments. In many respects, Indigenous Peoples have become accustomed to patterns that have been imposed upon us, including, for First Nations, having our lives controlled and administered by the Indian Act. In the fog created by layers upon layers of colonial imposition – including multiple generations being told that, as “Indians,” they are nothing more than numbers, with identity cards, whose lives and well-being are subject to a system of band administration on a reserve – it is sometimes hard to know what the future could look like and to set the course on how to get there.

In my speeches, I often refer to this as navigating our way through the “postcolonial door” – a separate but similar analogy we developed at the BC Assembly of First Nations to illustrate a continuum of governance reform and of Nation rebuilding. Represented visually by three doors – one



locked, one partially open, and one fully opened to a new future based on self-determination – the analogy refers to the fact that opening the door will require the Crown, in partnership with Indigenous Peoples, to remove legislative, policy, and other barriers to Indigenous Nation rebuilding in Canada. It will also require Indigenous Peoples to actually engage in the hard work of rebuilding to open the door and navigate through it. In the oft-cited words of the Supreme Court of Canada, “we are all here to stay,” and building a shared postcolonial future will depend on us working together while enabling Indigenous Nations to determine their own course.

For Indigenous Peoples the challenge of breaking out of entrenched patterns becomes heightened and very real as the federal government actually changes its course – as it moves from denial and to rights recognition and support for true Nation rebuilding. When real change is happening or on the horizon, Indigenous Peoples need to set their own internal course to arrive at a future place where their priorities and visions lead the way. What is encouraging is that all across the country and within our evolving system of cooperative federalism, Indigenous Peoples are exercising their right to self-determination – lifting the fog in different ways and at different paces, striving to emerge into the future they wish to see. They are setting their own internal course to a place where, ultimately, Indigenous govern-

*The Three Doors*

ments and Nations will be rebuilt, where they will be self-governing over their lands and resources and caring for the well-being of their citizens and others within their jurisdiction. Which raises the question: Has the federal ship's course correction truly been made to support this work? If not, what more needs to be done? What are the course-setting or course-correcting solutions?

While the work is hard – even daunting at times – the good news is that we have the solutions. We know what must be done. For decades now, we have had studies, reports, and analyses that have identified the paths forward, including the work that must be done by Indigenous Peoples, governments, industry, and the general public. We also have decades of Indigenous Peoples advocating and charting the course forward and building approaches to a new future. We do not need more studies. My message has always been, and continues to be, that it is time to act because we know what actions are needed. We all know what needs to be done but we need to have the courage and the conviction to do it.

In their own way, this is what all the speeches and writings in this book set out to do – to provide a frame for a course correction for both government and Indigenous Peoples – to open a path to correct and stay the course, so to speak, and to lift the fog. While they were completed over the span

of almost a decade, their core purpose and themes have remained the same. Importantly, as should be clear in reading them, there is no distance between the themes and ideas I developed and explored in speeches when I was Regional Chief and those I delivered when I was Minister of Justice and Attorney General of Canada. While some of the niceties and nuances may read differently, the messages are the same.

The speeches and writings all, in some way, speak to the message of Nation rebuilding and empowering Indigenous Peoples within an even stronger Canadian federation. They speak to the course we should be setting to get there. They all express how relations with Indigenous Peoples in this country are transforming and must continue to transform. And they include stories of listening, learning, and reflection. At times they speak to feelings of frustration. Indeed, some of the most blunt and frank calling out of government misunderstanding or inaction is from my time as minister, when I had to confront the challenge of moving from rhetoric to action from the inside and push for real change. But they ultimately convey a narrative of hope and optimism: that change is occurring, that we are close to being on course, that what is required is renewed vision and leadership.

Collectively, and the way they are presented here, the speeches explore five broad themes that offer a foundational understanding of the challenge of reconciliation in Canada today. One of these themes is the meaning of reconciliation itself – why we have come to use that term and what it might mean. Both at home and abroad, this was perhaps the topic I was asked and am asked to speak about more than any other. I was honoured to be the first non-Australian lecturer to give the Annual Reconciliation Lecture in Canberra in 2016, and I used my time there to talk about how understanding and defining reconciliation today requires examining Canada's history and the stories we tell ourselves. At the heart of this is recognizing that the Indian Act – truly “colonial” legislation, in all the negative senses of that term – imposed and structured a form of race-based oppression within our own country. When I spoke to the Assembly of First Nations in 2013 on the sad occasion of the death of Nelson Mandela, I similarly compared colonialism in Canada to the experience of other countries and argued that reconciliation involves rising through our own unique challenges to move through the postcolonial door.

In Canada, this requires understanding and honouring our unique Constitution, which includes recognition and protection for Indigenous Rights, including Treaty Rights, a second theme I explore in depth in my speeches. Section 35 recognized and affirmed these rights in 1982 – but these rights were not created in 1982. Indigenous Rights are inherent, a result of the fact that Indigenous Peoples owned and governed the lands and resources that now make up Canada prior to the arrival of Europeans. The challenge we must face as part of reconciliation is that these rights have been denied – they have not been upheld and implemented. Section 35 of our Constitution, as well as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), are legal instruments designed to address and overcome this denial. But, for the most part, Crown governments still require Indigenous Peoples to “prove” their rights, and their denial has for far too long been used as a justification for doing little or nothing to assist Indigenous Peoples to move beyond the colonial legacy. My speeches address what we actually need to do to recognize and implement rights, to make UNDRIP workable domestically, including Canada’s need for a comprehensive rights recognition and implementation framework to help lay the foundations for governance in a post-Indian Act world, my third theme.

Indigenous Peoples have roles and responsibilities they must play in rebuilding their governments and Nations, but, as I argued in my address to the First Nations–Crown Gathering in 2012, before we can concentrate on the hard work of Nation rebuilding, we need to topple the Indian Act tree and develop mechanisms to let strong and appropriate institutions, structures, and procedures of governance grow in its place. Spoiler alert – while some may be critical of Indigenous Peoples for the quality of governance on reserve under the Indian Act, it is not Indigenous Peoples’ fault that the Indian Act system does not work. Indeed, nowhere around the globe have colonial, authoritarian, arbitrary, and paternalistic models of government proven to be effective, efficient, particularly workable, or desirable. There are, of course, many ways to govern, but what matters most is that it is legitimate and done well. Self-determination, including self-government, is the answer and has been a central component of my vision since I became Regional Chief and advanced the “Building on OUR Success” action plan, which included a Governance Toolkit to help

support the work of rebuilding Indigenous governments and Nations within Canada.

Economic development is a central component of Nation rebuilding and an issue of urgent concern not only to Indigenous Peoples but to all Canadians. As both Regional Chief and Minister of Justice and Attorney General I spoke to business leaders, both Indigenous and non-Indigenous, on this fourth theme, particularly the duty to consult and the misplaced concern about “free, prior, and informed consent” and its relationship to development. I addressed this issue at length in a speech to the BC Business Council in 2018, speaking quite frankly about how the failure to recognize rights and support Nation rebuilding is having negative economic and social consequences for everyone. We have become so accustomed to fighting about the work of reconciliation (which is ironic and oxymoronic) through the courts that we have created a climate of economic unpredictability. This is why, as Minister of Justice and Attorney General, I pushed hard to develop and release ten “Principles Respecting the Government of Canada’s Relationship with Indigenous Peoples” and the “Directive on Civil Litigation Involving Indigenous Peoples.” Overreliance on the courts and legal adversarialism have not only impeded our ability to address economic and environmental matters, they have affected how Indigenous Peoples interact with the justice system.

As a lawyer who worked as a prosecutor in one of Canada’s most disadvantaged urban areas and as an Indigenous woman who was the chief law officer of the Crown, I am often asked to give talks on two twinned themes: the role and status of women and the urgent need for criminal justice reform, a process that will depend on Indigenous communities and Nations strengthening their own legal orders and institutions of justice. My speeches in this area all point to the urgent need to restore balance, correct injustices, and remain vigilant. Balance is an important part of my teachings and is core in my Nation’s legal traditions. I was taught that equilibrium is necessary in society and must be maintained through adherence to our laws, practices, and customs, including those of the Big House. When the balance is upset, institutions must seek to find and reset it. I believe this is true for our country as a whole, that it is only by embracing diversity and promoting a truly inclusive society that we can restore and

maintain balance in Canada. Questions about what constitutes balance and how we can achieve it, whether within the justice system or in ensuring gender equality, are complex, and they are conversations that need to continue.

To be honest, though, prior to entering federal politics, I never fully considered what it meant to be a feminist or if, indeed, I considered myself a feminist in the sense or ways that the term is often used today. As a Kwakwaka'wakw woman, my roles and responsibilities have always been clear to me and the values of equality, freedom, respect, inclusion, and upholding each other emphasized. But being an Indigenous woman in federal politics has caused me to reflect a lot on questions of gender equality, diversity, and balance and, in so doing, to see parallels between my personal experience and the historical and ongoing struggle of Indigenous Peoples in this country.

I was compelled to resign from cabinet on a matter of principle in February 2019 and was subsequently removed from the Liberal caucus. This experience made me see more clearly than ever that Ottawa, politics, and its modes of functioning maintain norms and patterns that are not always compatible with my culture, my worldview, or my gender. For sure, society has changed, and politics have changed. And we can be proud as Canadians because of this. But Canadian society has still not changed nearly enough. The work of building a society that reflect the visions, strengths, potentialities, and contributions of all of us, as Canadians, is still very much ongoing, a work in progress.

There are, of course, other aspects to understanding reconciliation, and, indeed, I reflect on many other important and vital issues in this book. As you read through it, I hope you will see the integrative nature of the challenge of reconciliation. It requires that we understand our shared history and reimagine our future; that we examine our individual attitudes and actions as well as our shared ones; that we understand our laws and legal system but not place too much emphasis on legal systems alone; that we recognize that new legislation is needed but that so, too, are basic changes in how we think, act, and relate as human beings; that we realize that both Indigenous and non-Indigenous governments have a role to play but so, too, do each of us as individuals.

As I reread my speeches in putting together this introduction, I was left with the feeling that the Canadian government lost an opportunity during the Forty-Second Parliament. Yes, progress was made on Indigenous issues. But we still cannot say with confidence that the ship's course has been shifted sufficiently to turn it in a new direction – away from denial and towards unqualified recognition, as I outlined in my speech to the BC Leadership Gathering on November 29, 2018. With courage and transformative leadership and action, more could have been done. Moving forward, my resolve to push on, to correct the course, has only been strengthened.

I initially decided to run to be a Member of Parliament for many reasons – but key among them was the desire to help create the legal and political space for Indigenous Peoples to be self-determining, including self-governing. As I have said to countless audiences in Canada and around the world, the fortunes of Canada and Indigenous Peoples are intertwined. Rebuilding Indigenous Nations will result in a stronger, better Canada, one that will enrich all Canadians. My vision has not changed. To this end, I recently spoke at an honouring ceremony in our Big House in Campbell River. I spoke about how entering mainstream politics and working in the political environment that I now do has heightened my appreciation that there is much Ottawa can learn from Indigenous Peoples, from our worldview and our societies. We have legal orders that have survived for millennia and are very much part of our evolving legal framework in Canada.

I have been honoured to play the roles I have. I acknowledge the unique vantage point that I have had, being an elected Indigenous leader and an elected federal minister of the Crown. It is a vantage point few have had in the past and undoubtedly more will have in the future. When I reflect on what I have learned, I sometimes see an image of the country emerging from darkness, to half-light, to full brightness. As Canada comes to terms with its colonial past and as Indigenous Peoples increasingly continue to determine their own futures, the full potential of this country will shine. My hope is that this book may help in some small way to inspire new visions, more light for the future, and galvanize action. There is more work to be done, and I am confident it will get done. Reconciliation cannot fail, because Canada cannot fail.

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