

James (Sakej) Youngblood Henderson

Havard-trained lawyer prefers to listen

Two ears. One mouth. There's a reason human beings were created that way, and James Youngblood Henderson—commonly known as Sakej—understands it better than most.

"My best ability has always been to be able to listen... I don't like be out there being the attention-getter, saying 'This is what we should do.' You have to come to understand, through listening to a person, what they're really trying to get at... That always changes you... and that is a risk that many people close themselves off to. I've never been one of those people."

In many ways, Henderson has been defined by his willingness to listen, and to risk being changed by what he hears. Since graduating in 1974 from the prestigious Harvard Law School, Henderson has become one of the foremost Indigenous rights lawyers in North America.

Henderson is soft-spoken, understated and, when put in the spotlight, as he was a winner in the law and justice category and honored at the Jan. 27 National Aboriginal Achievement Awards gala, he is pleased but feels a bit aloof from the process. He was in the middle of an Assembly of First Nations executive meeting when the initial call came about the award, and tellingly, he reacted with a touch of surprise, agreed to accept the honor, then went back to the meeting. When asked after the meeting about the call, he couldn't recall what it was for. "I didn't even think about it, because we had difficult issues before us," he said.

When put in the position of a legal defender or a teacher—the two roles he's played most in the last 30 years—Henderson's energy ignites. Since 1974, he has taught law in several of North America's top schools, including Berkley, Stanford and his alma mater. He is currently a professor and research director of the University of

Saskatchewan's Native Law Centre, which he helped establish and which has emerged as a world-renowned legal research centre and training institution for many of Canada's 900-plus Native lawyers. Henderson speaks of these students-turned-colleagues with pride and delight, calling them "my good friends and brothers in the battle."

Henderson has authored eight books and numerous book chapters, journal articles, papers, conference abstracts and technical reports. He also received multiple awards from Indigenous organizations and has served as an advisor to the Canadian minister of Foreign Affairs. His opinion is frequently sought on issues, such as racial tolerance and cultural diversity. Henderson's most celebrated achievements, however, have been in the context of his fight to entrench in (and through) law the rights of Indigenous people. From his first major case in 1974-75 which helped to re-enfranchise his father's tribe, through his involvement in the Canadian constitutional debates and on into the present day with the Assembly of First Nations and the federal Kelowna Accord, Henderson has sought throughout his career to ensure that Indigenous people are never shorted.

"My wife [Marie] and I have been fighting this battle for 30 years, and we've created a lot of space and a lot of opportunities, and proved that we (as Aboriginal people) can do amazing things,



DEBORA STEEL

James (Sakej) Youngblood Henderson — achievement award recipient in the law and justice category

against amazing odds," Henderson said. "But I still think that Canada should be a lot further ahead than it is. They should really realize the geniuses that are in the Aboriginal people, and put that front and centre."

"I feel like I should be (satisfied with what's been accomplished), but I'm not," he said. "The same problems exist that we started with. We've just got a lot of court decisions and paperwork... We've been able to do things that all of our parents thought were impossible, but still we have this nagging 'linoleum poverty.' People have linoleum on their floors instead of bare floors, but they're still on welfare, and poverty is wasting their human spirit instead of maximizing their potential, and that makes me very unsettled."

Although not having much money growing up didn't bother him all that much. "I'm still not much of a spender," he admits.

The impact of poverty on Indigenous people in general disturbs him a great deal. "You watch what happens to the human spirit in those conditions," he said. "We have to eliminate poverty, and there's no reason any Indian should be poor. ... Nothing in my spiritual matrix will allow it, and I've always wanted to fix it, and of course that's always an illusion, that you can fix that kind of poverty, but you have to do what you have the talent to do, to make people's lives better and just empower them."

That the legal system might be a means toward that kind of empowerment didn't occur to Henderson until he was in his undergraduate years. As vice-president of the American National Indian Youth Council, he observed the success of the black civil rights movement's efforts in the courts, and realized that he was looking at a potential model for Aboriginal people.

"It showed me that I could do things a lot quicker with arguments in the courts than by arguing with everybody you meet on the street," he said. He also decided that a lawyer was needed, and he was prepared to become that lawyer, despite having no idea, he laughs now, of what it would take.

In 1974, the fledgling lawyer moved to California. Four years later, the Grand Captain of the Micmac people asked his wife to move north to set up a bilingual and bicultural Micmac program in Nova Scotia. Henderson followed, and soon after, he was asked to put together a land claim for the Micmac. Several years later, he was nominated to represent the Micmac people in the Canadian constitutional debates, eventually becoming one of the key negotiators for eastern First Nations.

Despite frequent frustrations with the process—at one point it got so bad that Henderson helped draft a complaint to the United

Nations Commission on Human Rights alleging the constitutional process was depriving the Micmac of their right of self-determination—Henderson is proud of his contributions to the Constitution, especially section 35, which speaks of the rights of the Aboriginal people of Canada. That text, which Henderson had always pictured as "short and sweet," nonetheless went through thousands of drafts, with the section itself being put in and pulled out numerous times and argued over endlessly by both the government and Aboriginal leaders.

During the process, Henderson came to deeply respect fellow Native lawyer Leroy Littlebear, whom he calls "one of my key sources of inspiration."

"He's got a very good grasp of what the issues are, and he's such a good communicator to the chiefs," Henderson said. "Where I would get tied up with academic or legal rhetoric, he could cut to the chase."

Still, while Henderson may be self-effacing about his ability to communicate effectively, few others would question it. According to Henderson, what success he's had as a communicator comes from that core skill: listening.

"You have to come to understand through listening to a person what they're really trying to get at," he said. "I sit there and listen... to what people are saying, trying to capture, what they're really saying, not trying to impose words I know or concepts I know... (and) trying to figure out what to do that's consistent with exactly what they want to be done, even if I don't agree."

Two ears. One mouth. That's the essence of what Sakej Henderson has learned, and he teaches it every day.

Article by Carmen Pauls Orthner