

1969 White Paper on Indian Policy

50th Anniversary

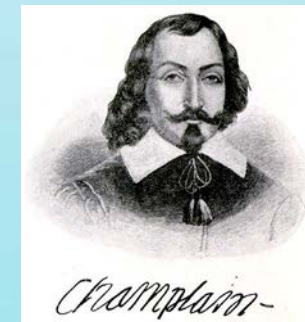
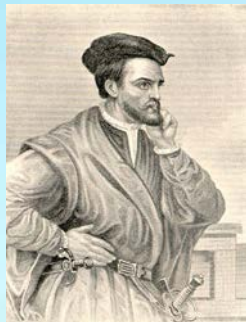
Trudeau Government's Plan to Entrench 4th Level of 'Indigenous Government'

By Russell Diabo
Decolonization Manual Speaking Tour, BC
March 2019

Parts of Presentation

- **Historical Context of Colonization**
- **Key Liberal Platform Promises**
- **Trudeau Government Actions**
- **Recognition and Implementation of Rights Framework Impacts on Land Claims Policy**
- **Conclusion**

Early European Contact & Change



Origin of Canada

- Canada bases its territorial integrity and assertion of sovereignty over Indigenous Nations by continuing to rely on the racist and outdated notions of **Terra Nullius** and the **Doctrine of Discovery**.

Early Peace & Friendship Treaties

The Doctrine of Consent



War of 1812







FATHERS OF COLONIZATION

First legislative Assembly July 1, 1867

INDIAN ACT



CANADA

CONSOLIDATION

Indian Act

CHAPTER 1-5

CODIFICATION

Loi sur les Indiens

CHAPITRE 1-5

Canada's Pass System 1885 – 1940's

No. 4

Department of Indian Affairs

Yukon Lake Agency

William Keith

Edward Yahyakke Koot No. 125

of Beard's Band

is permitted to be absent from his Reserve for Two weeks

days from date hereof. Business Hunting Big Game

for Food and is permitted to carry a gun.

Edward Keith

Indian Agent.

Chrétien & Trudeau Legacy



1969 WHITE PAPER ON INDIAN POLICY



1969 White Paper Proposals

- Eliminate Indian Status.
- Dissolve the Department of Indian Affairs within 5 years.
- Abolish the Indian Act & remove section 91.24.
- Convert reserve land to private property that can be sold by the band or its members.
- Transfer responsibility for Indian Affairs from the federal government to the province and integrate these services into those provided to other Canadian citizens.
- Provide funding for economic development.
- Appoint a commissioner to address outstanding land claims and gradually terminate existing Treaties.

UBCIC Founding Meeting 1969



1970's Trudeau & Chrétien

- First Nations organize opposition to the 1969 White Paper, form associations at regional and national levels.
- National Indian Brotherhood formed.
- Position Papers in response to White Paper are developed and presented to the federal government.
- 1971 SCC Calder decision handed down.
- 1973 Federal response - modern land claims policies announced. ('Comprehensive & Specific Claims')
- **Indian Act** amendments proposed by DIAND.

1970's Trudeau & Chrétien

- **James Bay & Northern Quebec Agreement Signed** in 1975 (1st 'Modern Treaty').
- **Joint NIB-Cabinet Committee** formed and then dissolved by NIB after Prime Minister Trudeau attempts to use it to rubber stamp federal Indian policy.
- **"Native Peoples' Caravan"** marches on Ottawa to protest treaty & aboriginal rights violations.
- **Anishnawbe Park** occupied in Kenora to protest racism.

1980 Trudeau & Chrétien

- Trudeau meets in Ottawa with Chiefs at NIB meeting to announce his plans to amend the constitution and calls on their support.
- Jean Chrétien is appointed as federal Justice Minister and is in charge of the constitutional patriation process. Ron Irwin is named as his Parliamentary Secretary.
- Constitutional issues become the priority for NIB because of concern about impacts on treaty and aboriginal rights.

1980-81 Trudeau & Chrétien

- Indian, Inuit & Metis representatives begin meeting with federal & provincial representatives to discuss wording for recognition of aboriginal & treaty rights in a new constitution.
- In 1981, a clause recognizing Aboriginal rights was first inserted and then removed at the insistence of two Western Premiers.
- Aboriginal peoples responded by mobilizing and literally camping in Ottawa to protest and lobby federal politicians.

1981 Patriation Process

- In the Fall, some Aboriginal representatives reach agreement with the Premiers and Prime Minister Trudeau on wording for an 'Aboriginal clause'. This was the 'section 35' clause.
- Another clause 'section 37' was also included, which provided for a **First Ministers' Conference on Aboriginal Matters** to be held within 1 year of the 'Canada Bill' coming into force.
- Several First Nation organizations joined forces to go to England to launch a court action and lobby British M.P.'s to vote against the 'Canada Bill' until their legal, constitutional concerns were addressed.

CONSTITUTION ACT 1982



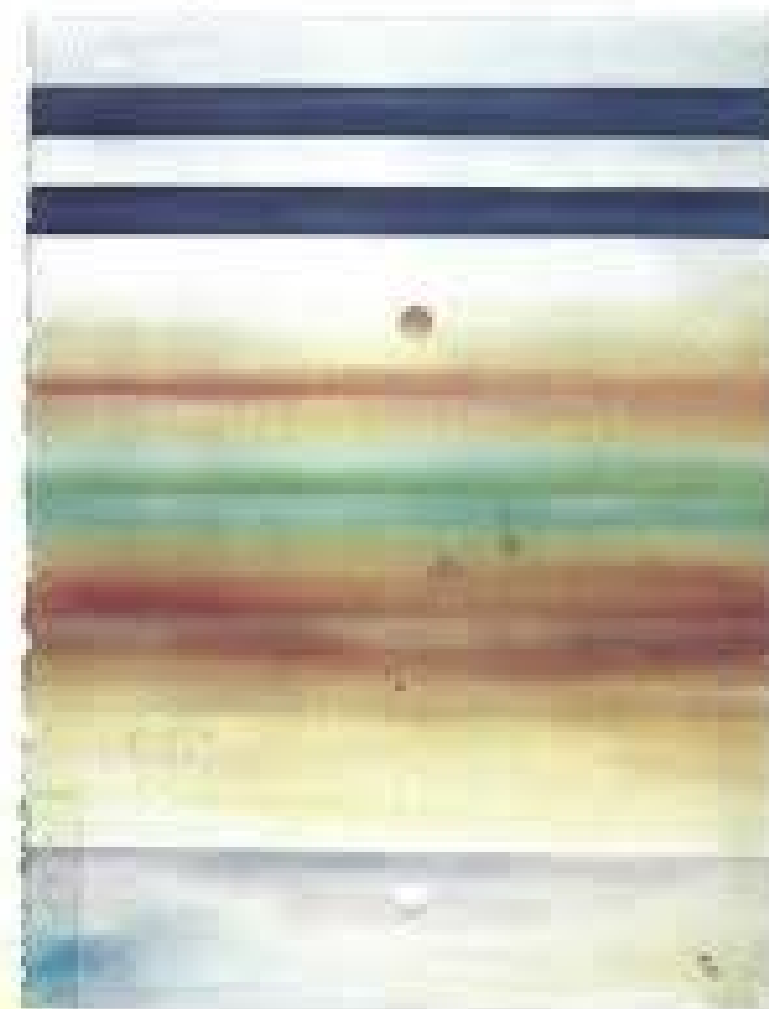
Constitution Act 1982

- Canada's new constitution Proclaimed into law on April 17, 1982. 37 years ago.
- **Special Parliamentary Committee on Indian Self-Government** established to review legal and institutional issues related to the status, development and responsibilities of band governments on Reserves.



INDIAN SELF-GOVERNMENT IN CANADA

REPORT OF THE SPECIAL COMMISSIONER



1983 'Penner Report' on Indian Self-Government

- **Recommended that the federal government recognize First Nations as a distinct order of government within the Canadian federation and pursue processes leading to self-government. The Report proposed constitutional entrenchment of self-government and in the short-term, the introduction of legislation to facilitate it.**

1983 – 1987 FMC's

- From 1983 until 1987 there were four **First Ministers' Conferences on Aboriginal Matters**.
- The main subject of negotiations was whether Aboriginal self-government was an 'inherent right' or a "delegated authority".

1985 Conservative “Native Policy” Revealed

- **Indian Act** amended by Bill C-31, intended to eliminate discrimination against status Indian women, many criticize the Bill as insufficient.
- An internal federal Report is leaked to media by a DIA employee. The Report is nicknamed the “**Buffalo Jump of the 1980’s**” by another federal official.

1985 Buffalo Jump of the 1980's

- The “**Buffalo Jump**” Report proposed a ‘management approach’ for First Nations policy & programs, which had the following intent:
 - limiting & eventually terminating the federal trust obligations;
 - Reducing federal expenditures for First Nations, under funding programs, and prohibiting deficit financing;

1987 Meech Lake Accord

- Following the final FMC on Aboriginal Matters, the **Meech Lake Accord** was struck over the opposition of Aboriginal representatives, signaling a side-lining of Aboriginal constitutional matters for a broader constitutional agenda.
- The **Meech Lake Accord** set into motion a constitutional amendment process requiring unanimous consent by the 10 provinces.

1990 The Watershed Year

- In June 1990, the Liberals elected Jean Chrétien as their Leader. The Liberal convention also created the **Aboriginal Peoples' Commission of the Liberal Party of Canada**.
- At the same time Elijah Harper refused to give unanimous consent in the Manitoba Legislature causing the failure of Meech Lake Accord's constitutional amendment.

END OF MEECH LAKE ACCORD 1990



1990 The Watershed Year

- The failure of the Meech Lake Accord led to anger among many Quebec politicians and citizens.
- On July 11, 1990, the Government of Quebec allowed a police SWAT Team to attack a Mohawk blockade set up to stop an expansion of a golf course onto Mohawk lands, which included a burial site.



1990 ARMY IN KAHNAWAKE



1990 The Watershed Year

- The attack on Mohawks would fail leaving one policeman dead and lead to a 78 day stand-off between the Mohawks, police, and eventually the Canadian Army.
- When Parliament resumed in September 1990, Brian Mulroney began the session by announcing his '**Four Pillars**' of Native Policy.

1990 Mulroney's 'Four Pillars'

- Accelerating settlement of Land claims;
- Improving the economic and social conditions on Reserves;
- Strengthening the relationships between Aboriginal Peoples' and governments;
- Examining the concerns of Canada's Aboriginal Peoples' in contemporary Canadian life.

1992 Charlottetown Accord

- Aboriginal organizations and the federal government agreed, as part of the **1992 Charlottetown Accord**, on amendments to the *Constitution Act, 1982* that would have included recognition of the inherent right of self-government for Aboriginal people. For the first time, Aboriginal organizations had been full participants in the talks; however, the Accord was rejected in a national referendum.

1993 Liberal Aboriginal Promises

- The 1993 Federal Election saw the Liberals, headed by Jean Chrétien, decimate the Conservatives.
- The Liberals electoral promises on Aboriginal issues were included in two documents, **Chapter 7 of the 1993 Red Book, and a longer Aboriginal Platform** released in Saskatchewan on October 8, 1993, during the campaign.

1993 Liberal Promise

- Act on the premise that the Inherent Right to Self-Government is an existing Aboriginal & Treaty Right within the meaning of section 35.

1995 'Inherent Right' Policy

- In 1995 the Chrétien government broke the promise to recognize the inherent right to self-government by adopting an 'Aboriginal Self-Government' Policy, which recognizes the right in an abstract sense, but doesn't recognize that any particular First Nation has the right on the ground, with pre-conditions that convert **Indian Act** bands into municipal type governments. 100's of bands are negotiating under this policy.

1996 RCAP Report Released

- In the Fall of 1996 the final Report & Recommendations of the Royal Commission on Aboriginal Peoples' was made public. The report involved 5 volumes with some 440 recommendations.
- The Chrétien government dismissed the RCAP report and recommendations as too costly, and asserted that Liberal policies already addressed much of what was in the RCAP Report.

Liberal Government's 1993-2006



HARPER AGENDA (2006-2015)

- Remove Aboriginal Peoples as a federal priority.
- Ignore 2005 “**Kelowna Accord**”.
- Focus on Individual rights over Collective rights.
- Cap and/or off-load spending.
- Use existing federal policies of Land Claims and Self-Government to limit/empty out section 35 of any significant meaning.
- Maintain **Indian Act** & impose amendments & related laws.

United Nations Declaration on the Rights of Indigenous Peoples (2007)



Selected Articles of UNDRIP - 2007

- **Article 3 – Right to Self-Determination.**
- **Article 10 – No forced removal w/o FPIC.**
- **Article 19 – FPIC required before legislation/administration measures.**
- **Article 26 – Restoration of traditional lands, territories, resources.**
- **Article 27 – Fair process jointly developed to adjudicate rights to lands, territories, resources.**
- **Article 28 – Restitution where lands, territories & resources not restored.**
- **Article 32 – FPIC required for and development affecting lands, territories, resources.**
- **Article 37 – Rights from Treaties, agreements, constructive arrangements.**

Supreme Court of Canada: The Judges As Of 2018






Liberal

Key Liberal Indigenous Platform Promises

2015 Election

Justin Trudeau's Key 2015 Promises

- Immediately re-engage in a renewed **nation-to-nation process** with Indigenous Peoples.
- Prioritize developing—in full partnership with First Nations—a **Federal Reconciliation Framework**. This framework will include mechanisms to advance and strengthen self-government, **address outstanding land claims**, and resolve **grievances** with both existing historical treaties and **modern land-claims agreements**.
- Enact the 94 recommendations of the Truth and Reconciliation Commission, including **the adoption of the United Nations Declaration on the Rights of Indigenous Peoples**.

Justin Trudeau's Key 2015 Promises

- **Recognize and respect Aboriginal title and rights in accordance with Canada's Constitutional obligations,** and further those enshrined in the UN Declaration on the Rights of Indigenous Peoples.
- Immediately **lift the two percent cap on funding** for First Nations programs, and **establish a new fiscal relationship** with First Nations.

Justin Trudeau's 2015 Promises

- Undertake a full review of regulatory law, policies, and operational practices, in full partnership and consultation with First Nations to ensure that the Crown is fully executing its consultation, accommodation, and consent obligations, including on resource development and energy infrastructure project reviews and assessments, in accordance with our constitutional and international human rights obligations.



Trudeau Government Actions!

Prime Minister Justin Trudeau's "4th Level" of Indigenous Governments in Canada

- At a public event organized by "The Economist" magazine in Toronto in the summer of 2016, the interviewer asked the Prime Minister how his government was going to liberalize and deregulate inter-provincial trade within Canada. Trudeau responded:
- *"The way to get that done is not to sit there and impose, the way to have that done is to actually have a good working relationship with the Premiers, with municipal governments, with Indigenous leadership, **because Indigenous government's are the fourth level of government in this country.**" [emphasis added]*
[Source: <http://www.cpac.ca/en/programs/headline-politics/episodes/47793606>]

December 15, 2016 - Trudeau Announces Two Track Reconciliation Approach



Trudeau's Two-Track Plan



Sec.
91.24

Sec. 35

Splitting INAC into Two Departments: Indigenous Crown Relations & Indigenous Services



L to R: Carolyn Bennett, Minister of
Indigenous-Crown Relations & Jane Philpott,
Minister of Indigenous Services

Trudeau's Two-Track Plan

91(24) - 1867

- Maintain (& amend) Indian Act Indefinitely
- Legislation Over First Nations (Fiscal Institutions, FNLMA, Recognition Act, etc.)
- Additions-to-Reserve Policy
- On-Reserve Programs & Services: Infrastructure, Housing & Education, etc. (Budget 2016-2017: \$11.8 Billion-5 Years)
- FNIHB under DISC
- INDIGENOUS SERVICES

Sec. 35 - 1982

- Unilateral Aboriginal & Treaty Rights Interpretation (Federal Consultation Policy)
- Self-Gov't Policy (Municipalization)
- Comprehensive & Specific Land Claims Policies (Denial & Extinguishment)
- SCC Decisions/Legal Tests
- TRC Calls to Action & UNDRIP Articles (Nat'l Reconciliation Table)
- Federal 10 Principles Indigenous Relationships
- 70 Rights & Recognition Tables Secret Talks
- INDIGENOUS-CROWN RELATIONS

National INAC-AFN Fiscal Relations Table 2016



INAC-AFN Joint
Committee:
Minister & National
Chief



Technical Working
Groups: Federal &
AFN

AFN-Canada Fiscal Relations Process: Revenue Generation Opportunities

- There are several means by which First Nations can generate revenue, including:
- **Increasing economic development by growing First Nations businesses;**
- **Resolving comprehensive and specific land claims and additions to reserve;**
- **Creating and increasing resource revenue sharing;**
- **Increasing other forms of revenue sharing, such as gaming; and**
- **Taxation.**

AFN-Canada Memorandum of Understanding on Joint Priorities



Canada-AFN MOU – Shared Priorities

- **June 2017** - The Prime Minister and the AFN National Chief signed a **Memorandum of Understanding (MOU)** on **Shared Priorities**.
- **3. work in partnership on measures to implement the United Nations Declaration on the Rights of Indigenous Peoples, including co-development of a national action plan and discussion of proposals for a federal legislative framework on implementation.**
- **6. work jointly to decolonize and align federal laws and policies with the United Nations Declaration on the Rights of Indigenous Peoples and First Nations' inherent and Treaty rights.**
- **7. dialogue and planning to identify priorities and measure progress to close the socio-economic gap between First Nations and other Canadians.**

Liberal's “Canadian Definition” of UNDRIP

- **“the government is in the process of providing a Canadian definition to the declaration”.**
- **“The government is currently in the process of providing greater clarity to these definitions”.**
- **“We are going to get there by following a process and a regulatory regime”.**

Source: Jim Carr to Standing Committee on Indigenous and Northern Affairs April 21, 2016.

Liberal's "Canadian Definition" of UNDRIP

- "We intend nothing less than to adopt and implement the declaration **in accordance with the Canadian Constitution.**"
- Canada believes that our constitutional obligations serve to fulfil all of the principles of the declaration, including **"free, prior and informed consent."** We see modern treaties and self-government agreements as the ultimate expression of free, prior and informed consent among partners."

Source: Carolyn Bennett to UNPFII May 10, 2016.

Liberal's "Canadian Definition" of UNDRIP

- “There is a need for a national action plan in Canada, something our government has been referring to as a Reconciliation Framework...And we do not need to re-invent the wheel completely. ...Within Canada, there are modern treaties and examples of self-government – both comprehensive and sectoral. There are regional and national Indigenous institutions that support Nation rebuilding – for example in land management and financial administration.”

Source: JWR at UNPFII May 9, 2016

Table 2: Comparison of Land Regimes

	FNPO	FNMA	Self-Government		
			Nisga'a	Sechelt	Tsawwassen
Transfer of land to non-members	Yes- fee simple, leases, etc. (Can exclude all/parts of lands from non-member fee simple ownership)	Yes- long term leasehold interest can be held by non-members.	Yes.	Possible (but lands change from 91 to 92 lands.)	Yes.
Taxation powers	Yes, under Section 83 of <i>Indian Act</i> or the FNFSMA.	Yes, under Section 83 of <i>Indian Act</i> or the FNFSMA.	Yes. Can tax Nisga'a members. For non-members can grant power to Canada / B.C. or coordinate regimes.	Yes. Interests in land for local purposes. BC agreed to suspend property tax collection.	Yes. Interests in land held by member and non-members. B.C. suspended property tax.
Section 91(24) lands or Section 92 lands	91(24)	91(24) Section 88 of <i>Indian Act</i> applies	92. Underlying title is 100% with Province.	91(24), but becomes 92 if land is sold.	92 lands.
<i>Indian Act</i> reserve land	Yes.	Yes.	No.	Yes.	No.
Registry type (Torrens/Deed) and location: Provincial/Individual / ILR	Torrens Titles Registry for FNPO lands (operated outside department)	Deeds system under the First Nation Land Registry System (operated by AANDC)	Torrens / Individual Registry: Nisga'a Land Registry Office	Torrens / BC land title registry.	Torrens / BC land registry.
Section 89 (<i>Indian Act</i>) applicability / eligibility for mortgages and liens	Section 89 as it pertains to real property would not apply. Individuals can also waive sec 89 for personal property if leveraging for credit.	Sec. 89 applies and lands cannot be mortgaged or taken via legal process. Some land codes may permit mortgages on leasehold (locatee) interests.	Nisga'a has two registries: 1) fee simple, 2) restricted. Titles registered in the Fee Simple Registry can be mortgaged.	<i>Indian Act</i> land provisions continue to apply unless the land is sold and becomes 92 lands.	If not registered in the land titles office, land is not subject to seizure or sale unless allowed under Tsawwassen law.
Section 87 (<i>Indian Act</i>)	Yes.	Yes.	No.	Yes, unless land is sold.	No.
Section 35 (<i>Indian Act</i>)	No. Converted to expropriation rights.	No. Converted to expropriation rights.	Converted to rights set out in Agreement.	Expropriation with GIC approval	Unknown
Voting Threshold (Community Ratification)	25% plus one of all eligible voters must in favour	25% plus one of all eligible voters must in favour	Absolute majority or approval of an alternative process to ratify by an absolute majority.	Absolute majority or approval of an alternative process to ratify by an absolute majority.	Absolute majority or approval of an alternative process to ratify by an absolute majority.
Own Source Revenue (OSR) provisions	Cost-sharing and redistribution.	Cost-sharing principle	Yes	Yes	Yes
Law-making powers for land administration	Yes. (Limited)	Yes	Yes	Yes	Yes

Liberal's "Canadian Definition" of UNDRIP

- **"adopting the UNDRIP as being Canadian law are unworkable and, respectfully, a political distraction to undertaking the hard work required to actually implement it...Ultimately, the UNDRIP will be articulated through the constitutional framework of section 35."**

Source: JWR to AFN AGA July 12. 2016.

FEDERAL Pre-Conditions

Section 35 Modern Agreements

- **Extinguishment (modification) of Aboriginal Title;**
- **Legal release of Crown liability for past violations of Aboriginal Title & Rights;**
- **Elimination of Indian Reserves by accepting lands as private property (fee simple);**
- **Removing on-reserve tax exemptions;**

FEDERAL Pre-Conditions

Section 35 Modern Agreements

- **Respect existing Private Lands/Third Party Interests (and therefore alienation of Aboriginal Title territory without compensation);**
- **Acceptance of existing federal & provincial laws;**
- **Program funding on a formula basis being linked to own source revenue (suspended for 3 years);**

Extinguishment of Aboriginal Title – Legal Techniques

- certainty and finality;
- modified and released;
- Non-assertion of rights.

Modern Treaties

Cash & Land

- **Cash & Land:** The Approximate Comprehensive Claims Formula: \$25,600 per head 9.3 Hectares (23 acres) per head (Based on BC Precedents)

10 Principles on Indigenous Relationships

 Department of Justice
Canada

 Ministère de la Justice
Canada

PRINCIPLES

Respecting the Government of Canada's Relationship With Indigenous Peoples

The Government of Canada recognizes that:

- 

All relations with Indigenous peoples need to be based on the recognition and implementation of their right to self-determination, including the inherent right of self-government.
- 

Reconciliation is a fundamental purpose of section 35 of the *Constitution Act, 1982*.
- 

The honour of the Crown guides the conduct of the Crown in all of its dealings with Indigenous peoples.
- 

Indigenous self-government is part of Canada's evolving system of cooperative federalism and distinct orders of government.
- 

Treaties, agreements, and other constructive arrangements between Indigenous peoples and the Crown have been and are intended to be acts of reconciliation based on mutual recognition and respect.
- 

Meaningful engagement with Indigenous peoples aims to secure their free, prior, and informed consent when Canada proposes to take actions which impact them and their rights on their lands, territories, and resources.
- 

Respecting and implementing rights is essential and that any infringement of section 35 rights must by law meet a high threshold of justification which includes Indigenous perspectives and satisfies the Crown's fiduciary obligations.
- 

Reconciliation and self-government require a renewed fiscal relationship, developed in collaboration with Indigenous nations, that promotes a mutually supportive climate for economic partnership and resource development.
- 

Reconciliation is an ongoing process that occurs in the context of evolving Indigenous-Crown relationships.
- 

A distinctions-based approach is needed to ensure that the unique rights, interests and circumstances of the First Nations, the Métis Nation and Inuit are acknowledged, affirmed, and implemented.



Right of Indigenous Self-Determination Being Hijacked by Trudeau!

- **The most important right recognized in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is the right of Indigenous Peoples to self-determination.**
- **The right to self-determination is the overarching umbrella right; much of its essence is then spelled out further in UNDRIP, in regard to land rights, governance and Indigenous free prior informed consent (FPIC).**
- **Indigenous FPIC and therefore Indigenous decision-making power regarding access to their lands and resources has to be recognized if UNDRIP implementation is real.**

Trudeau Government Operates in Secret Through the Following processes:

- **A Working Group of Ministers on the Review of Laws and Policies Related to Indigenous Peoples** – Chaired by Justice Minister & Attorney-General Jody Wilson-Raybould, but includes the Ministers of Indigenous-Crown Relations, Indigenous Services, Fisheries, Oceans and the Canadian Coast Guard, Health, Families, Children and Social Development and **Natural Resources**. Supposedly, this working-group is to “de-colonize” Canada’s laws & policies.
- **Cabinet Committee on Reconciliation**: “The Government of Canada is committed to a renewed nation-to-nation, Inuit-Crown and government-to-government relationship with First Nations, Inuit and the Métis Nation based on **recognition of rights**, respect, co-operation, and partnership. **Building on the work of the Working Group of Ministers on the Review of Laws and Policies Related to Indigenous Peoples**, this committee examines initiatives designed to strengthen the relationship with Indigenous Canadians.”

Trudeau Government Operates in Secret Through the Following processes:

- **10 Principles Respecting the Government of Canada's Relationship with Indigenous Peoples** – Released without consulting First Nation Chiefs or communities, including the National Indigenous Leaders who are supposedly the Trudeau government's partners.
- **Dissolving/Splitting Department of Indian Affairs & Northern Development into two new departments** – Announced without consultation with First Nation Chiefs or communities, including the National Indigenous Leaders who are supposedly the Trudeau government's partners.
- **Establishment of Recognition of Rights and Self-Determination Negotiation Tables across Canada** – These were initially called “exploratory tables”. The federal government initially kept it secret who is involved in the “discussions”, they have now made the list public, but not what is being discussed at these tables, the outcomes from these tables are contributing to the planned “rights-based” policy to be announced in JUNE 2019, affecting Indigenous Peoples.

Indian Act Bands

- The federal government considers **Indian Act** band councils “non-governing” because:
- Many of Canada’s First Nation communities are still governed by the **Indian Act**, and are referred to as Bands. This means that their reserve lands, monies, other resources and governance structure are managed by the provisions in the **Indian Act**.

COLLABORATIVE Self-Government Fiscal Policy

- For the purpose of this policy “**Indigenous Governments**” are defined as those Indigenous Governments operating under various self-government regimes, including:
- ***7.1. A comprehensive land claim agreement which includes a comprehensive self-government component;***
- ***7.2. A comprehensive agreement on self-government; or***
- ***7.3. A legislated comprehensive self-government arrangement.***

Three Federal “Paths” to Reconciliation

- exploring new ways to work together at **70 Recognition of Indigenous Rights and Self-Determination Discussion tables (First Nations, Metis, Inuit)**
- negotiating **modern treaties and self-government (56 Tables in BC)**
- resolving **specific claims (AFN-Canada Process)**

Recognition of Rights and Self-Determination Negotiation Tables

- **The exploratory tables, an arena for these new interpretations of section 35 to take form, could impact treaty negotiations, self-government powers and resource management across Canada — among other things under Wild's responsibility. Source: Joe Wild, senior Assistant Deputy Minister for treaties and aboriginal government INAC June 4, 2016, ipolitics Article**

Recognition of Rights and Self-Determination Negotiation Tables

- **As of December 2018, there are currently over 75 tables which represent more than 390 Indigenous communities, with a total population of more than 850,000 people. To date, 28 preliminary-type agreements have been signed as a result of Recognition of Indigenous Rights and Self-Determination discussions. Over \$118 million has been allocated to support Recognition of Indigenous Rights and Self-Determination discussions.**

“Recognition” Tables in BC Region

- Carrier Sekani Tribal Council
- Coastal First Nations
- Council of Haida Nation
- Esquimalt
- Heiltsuk Nation
- Ktunaxa Kinbasket Treaty Council

“Recognition” Tables in BC Region

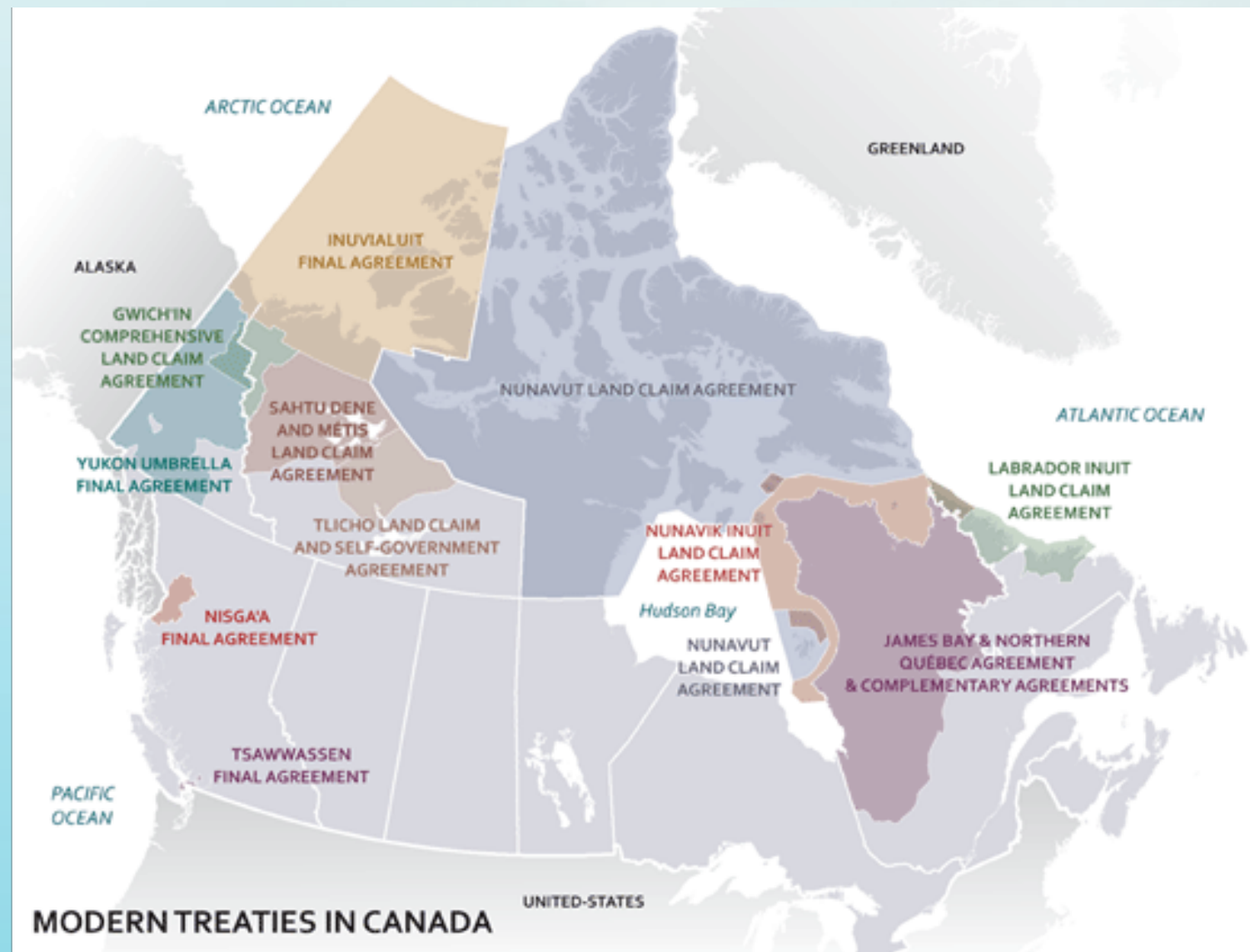
- Lake Babine First Nation
- Métis Nation of British Columbia
- Musqueam Indian Band
- Namgis First Nation
- Okanagan Nation Alliance
- shíshàlh Nation (formely the Sechelt Indian Band)

“Recognition” Tables in BC Region

- Southern Dakeelh Nation Alliance
- Shuswap Nation Tribal Council
- Snuneymuxw First Nation
- T'aaq-wiihak First Nations
- Taku River Tlingit First Nation
- Tsartlip First Nation

“Recognition” Tables in BC Region

- **Tsilhqot'in Nation**
- **Tsleil-Waututh Nation**
- **Wet'suwet'en Nation**
- **Wsanec**
- **SOURCE: <https://www.rcaanc-cirnac.gc.ca/eng/1511969222951/1529103469169>**



Comprehensive Claims Settlements

Comprehensive Land Claims & Self-Government Tables



Aboriginal Affairs and Northern Development Canada

Home > All Topics > Acts, Agreements, Treaties and Land Claims > Land Claims > Comprehensive Claims >

Comprehensive Land Claim and Self-Government Negotiation Tables

Comprehensive Land Claim and Self-Government Negotiation Tables

The Government of Canada negotiates [Comprehensive Land Claim](#) and [Self-Government Agreements](#) with Aboriginal groups and provincial/territorial governments across Canada.

Visit the: [Aboriginal and Treaty Rights Information System \(ATRIS\)](#) 

	Aboriginal Group	Participating Aboriginal Communities	Population	Date claim was accepted	Type of Process	Current Stage of Negotiations	Provincial / Territorial Participation
Prince Edward Island							
1	Mi'kmaq of Prince Edward Island*	Lennox Island, Abegweit	1,500	2003	Comprehensive Land Claim with Self-	Exploratory Discussions	No

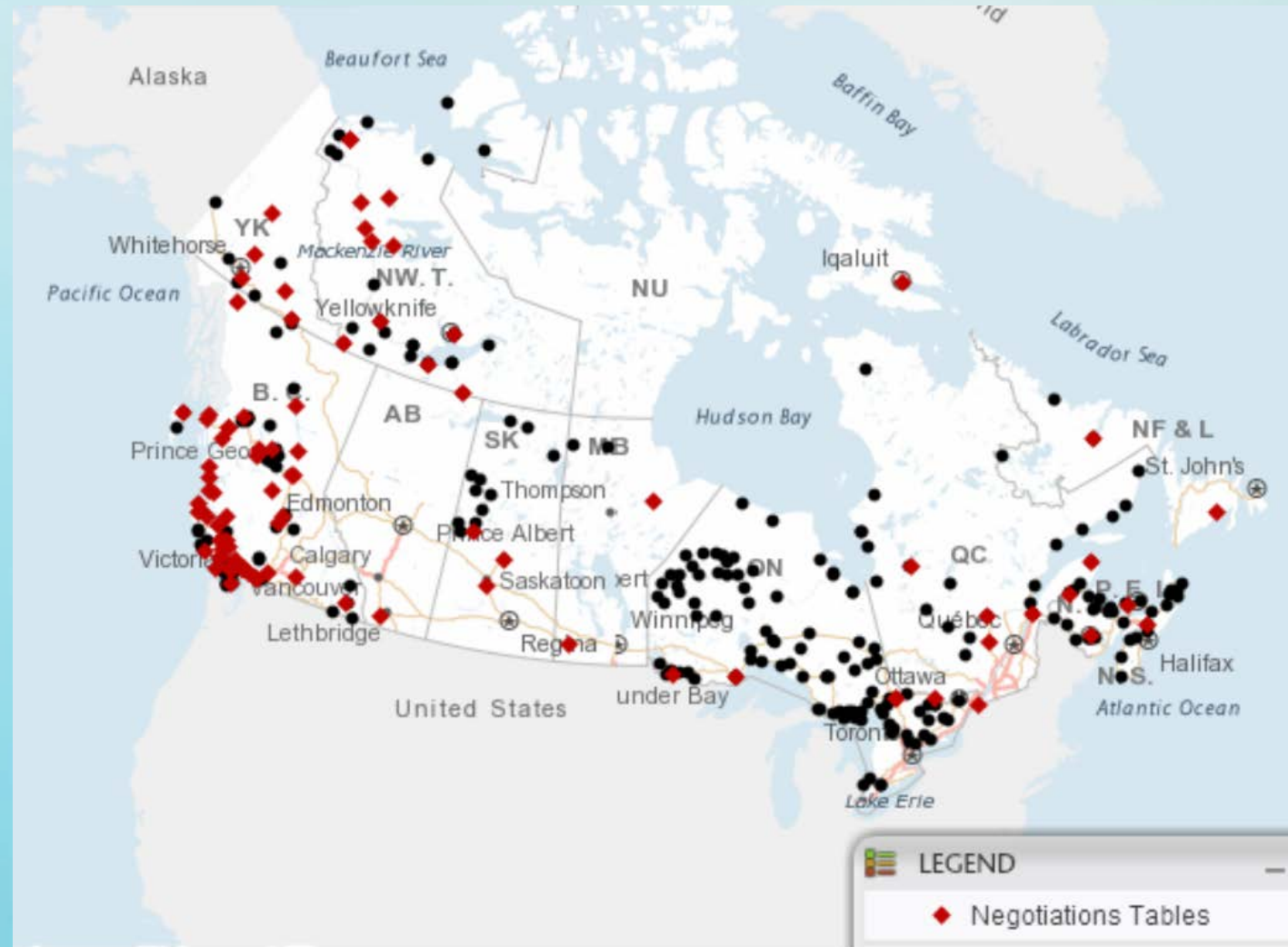
 CFNG.jpg

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BCTC Negotiations



Comprehensive Claims & Self-Government Negotiations





Recognition and Implementation of Rights Framework

PM Announces Legislative “Framework” for “Recognition & Implementation” of Rights



Recognition and Implementation of Rights Framework Bill

- Announced on February 14, 2018, Liberal government is proceeding to introduce a Bill into Parliament and before Christmas break in 2018 and PM wants it to become law before the next federal election in 2019. CBC reported the **“Framework” Bill** is **“delayed”** until after 2019 election, but Minister Bennett also said she would continue with policy changes.
- The Minister of Crown-Indigenous Relations previously stated the **“Recognition Framework”** would be enabling **“opt-in”** legislation, now Minister Bennett is replacing policy framework with a new policy by JUNE 2019!

Recognition Framework

Impacts on Inherent, Aboriginal & Treaty Rights

- According to a September 2018, federal “***Overview Document***” the federal “***Rights Recognition Framework***” law will—if passed—form the basis for **ALL RELATIONS** between the federal Crown (government) and Indigenous Peoples (First Nations, Metis, Inuit) including “***pre-1975***” Treaties, a pan-Indigenous law, and:
- Will contain federal definitions/interpretations of “key terms” like Inherent Right to Self-Government, “Self-Determination” “Aboriginal Title and Rights”, “Treaty Rights”.
- Federal and Provincial powers and jurisdictions will continue to dominate over First Nations and provincial governments have a veto over any agreements affecting their jurisdiction.

Recognition Framework

Impacts on Inherent, Aboriginal & Treaty Rights

- A federally established advisory committee or institution would be created to decide what Indigenous Nations or “***Collectives***” would be federally recognized and have the authority of a government possessing “***the legal capacity of a natural person***”, meaning a **federal corporation**. This will all be subject to agreements with the federal and provincial governments (where their jurisdiction is affected). The federal legislation will include a “***list of powers***” for “***Indigenous Governments***”, which can be amended by the federal government.

Federal Process To Accelerate Termination Agreements

- The Minister of Crown-Indigenous Relations can now sign non-legally binding agreements, such as framework agreements and agreements-in-principle, sooner and without having to seek Cabinet approval.
- To date, two agreements-in-principle have been signed by the Minister under this new authority: **Northern Secwepemc te Qelmucw** in July 2018, and **Nishnawbe Aski Nation** in December 2018.

Federal Process To Accelerate Termination Agreements

- The Minister can also now expedite negotiations to the final agreement stage by converting agreements-in-principle into final agreements. Significantly, there is also no longer a requirement to negotiate an agreement-in-principle.
- In addition, negotiation mandate extensions no longer need to go to Cabinet for approval. **These changes allow Canada and negotiating partners to conclude agreements more quickly.**

Federal Process To Replace Self-Government & Comprehensive Land Claims Policies

- The **Recognition and Implementation of Indigenous Rights Framework** was first announced February 14, 2018, with the goal to remove bands from the **Indian Act** and turn them into federally recognized “Indigenous Governments” or “Nations” that will have authority delegated to them by the Government of Canada. They will be subject to the Canadian Constitution as a 4th order of government—below not only the federal and provincial governments but also with less power than municipal governments.

Objective: To support a First Nations led process that delivers upon the AFN National Chief and Minister Bennett priority to replace the existing *Comprehensive Land Claims Policy* and the *Inherent Right Policy* with a new rights-based policy, by June 2019

Planning Committee

Membership:

- Senior officials from AFN; CIRNAC
- ADM of TAG and 2 LTAs *ex officio*

Frequency: Meet monthly

Mandate:

- Planning Committee members work together on the design of a First Nations led process
- Guide engagement led by AFN regional affiliates; provide input on agendas
- Provide a channel of communication to responsively adapt engagement approach to address concerns
- Review engagement products and key reports due in Feb, April and August 2019

Role of Elected Leadership: AFN National Chief & CIRNA Minister

- Ongoing dialogue to occur at regular bilateral meetings
- Additional meetings could be scheduled at key deliverable milestones in February, April and August 2019

Role of AFN

- Lead First Nations-led process by convening rights holders through policy sessions in regions
- Member of Planning Committee
- Liaise with CIRNA ADM-TAG and the LTAs
- Input on engagement products and report deliverables

Joint Governance

An AFN/ CIRNA planning committee will ensure an open, productive and responsive channel of communication that facilitates constructive First Nations led policy development.

The Planning Committee will assist the AFN and its regional affiliates to have the necessary support to be successful conveners of rights-holders to ensure a First Nations led process, in keeping with UNDRIP, before adopting new policy.

The Lead Technical Advisors (LTAs) are understood to be a supporting resource for the CIRNA ADM-TAG in this technical engagement in the development of a new policy. All engagement products and report deliverables produced by the LTAs will be reviewed by the Planning Committee.

Engagement Tools/Mechanisms

- Technical Paper, “Summary of Current Approaches” (January 2019) to present Canada’s views at sessions
- AFN regional engagement agendas to be developed by AFN regional affiliate with input of LTAs; Planning Committee to review engagement agendas and provide guidance

Role of Lead Technical Advisors

- Ex officio Members of Planning Committee
- Act as Canada’s lead technical advisor within engagement on new policy
- Act as Canada’s representative in AFN regional policy sessions
- Provide advice to planning committee on engagement design
- Work with AFN regional affiliates and rights holders on regional engagement session
- Collect input on new policy from AFN regional engagement sessions in support of developing key reports



Engagement Milestone and Key Deliverables

- **February/March 2019:** Interim “Emerging Themes” Report from LTAs with and reviewed by Planning Committee
- **April 2019:** Final Report from LTAs submitted to Planning Committee with recommendations for policy renewal, including interim section on legislative opportunities (April 2019)
- **June 2019:** New Policy to be released
- **August 2019:** Final Report from LTAs submitted to Planning Committee with recommendations on legislative opportunities

CONCLUSION SELFIE-DETERMINATION!



Conclusion

- For the last 50 years the main tenets of the **1969 White Paper on Indian Policy** have been implemented through components rather than as a package and 5 decades rather than 5 years!
- Prime Minister Justin Trudeau is implementing not only his father policies, but also those of Jean Chretien's, who was former Minister of Indian Affairs, Justice & Prime Minister!
- As the late Arthur Manuel said: self-determination is the antidote to colonialism, so Indigenous communities & Nations need to develop their own self-determination plans and resist Ottawa's long-standing Termination Plan!