

Countering the Trudeau Government's Plan to Domesticate UNDRIP, FPIC & Hijack Indigenous Self-Determination

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Free, Prior, Informed Consent Conference:

Empowering Our Future

October 25, 2018, Blue Mountains, Ontario

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
- Development of Indigenous Self-Determination Plans
- Conclusion

European Contact & Change

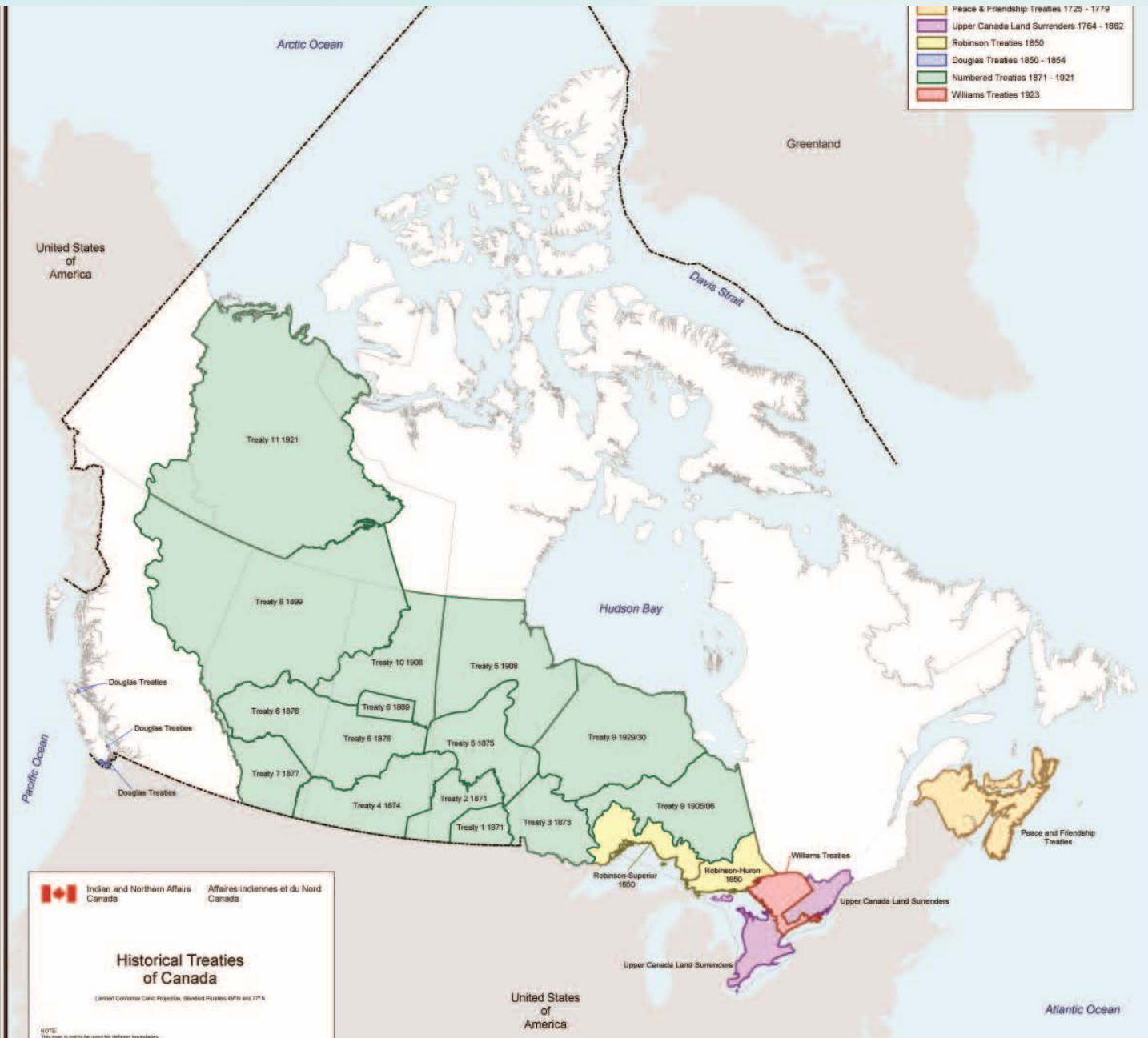


Early Peace & Friendship Treaties The Doctrine of Consent



War of 1812





- Peace & Friendship Treaties 1725 - 1776
- Upper Canada Land Surrenders 1764 - 1862
- Robinson Treaties 1850
- Douglas Treaties 1850 - 1854
- Numbered Treaties 1871 - 1921
- Williams Treaties 1923

Indian and Northern Affairs Canada / Affaires indiennes et du Nord Canada

Historical Treaties of Canada

LAMBA Canadian Co-Ord. Projection, Standard Parallel 49°N and 77°N

NOTE: This map is not to be used for defining boundaries.

United States of America

Atlantic Ocean

Pacific Ocean

Arctic Ocean

Greenland

Davis Strait

Hudson Bay

Peace and Friendship Treaties

Williams Treaties

Robinson-Superior 1850
Robinson-Huron 1850

Upper Canada Land Surrenders

Upper Canada Land Surrenders

Treaty 11 1921

Treaty 8 1899

Treaty 10 1906

Treaty 5 1908

Treaty 6 1878

Treaty 6 1890

Treaty 6 1876

Treaty 5 1875

Treaty 9 1829/30

Treaty 7 1877

Treaty 4 1874

Treaty 2 1871

Treaty 1 1871

Treaty 3 1873

Treaty 9 1805/06



FATHERS OF COLONIZATION

First legislative Assembly July 1, 1867

Federal Powers – Section 91

- ▶ Public Debt and Property
- ▶ Regulation of Trade/Commerce
- ▶ Direct/Indirect Taxation
- ▶ Defence
- ▶ Navigation/Shipping
- ▶ Sea Coast and Inland Fisheries
- ▶ Ferries (interprovincial/ international)
- ▶ Currency, Banking /Incorporation of Banks/Paper Money
- ▶ Bankruptcy
- ▶ Patents, Copyrights
- ▶ **Indians & lands reserved for the Indians**
- ▶ Citizenship, Marriage/Divorce
- ▶ Criminal law, including Criminal Procedure

Provincial Powers – Section 92

- Direct Taxation within Province
- **Management/Sale of Public Lands belonging to Province**
- Prisons, Hospitals
- Municipalities
- Formalization of Marriage
- Property and Civil Rights
- Administration of Civil/Criminal Justice
- Education
- Incorporation of Companies
- **Natural Resources**
- Matters of a merely local or private nature

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 Agency

Yukon

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.

[Signature]
Indian Agent.

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.

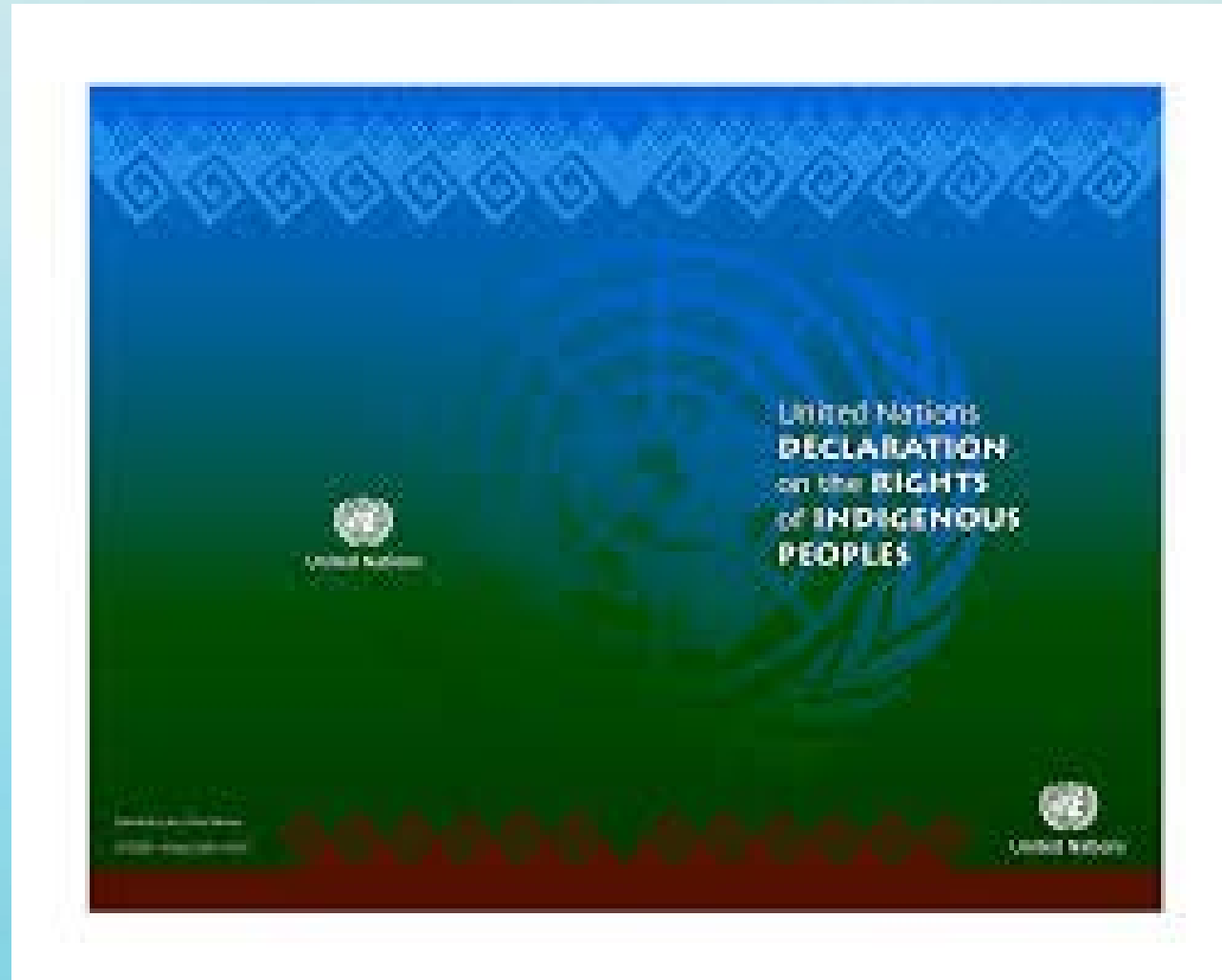
CONSTITUTION ACT 1982



Supreme Court of Canada: The Judges As Of 2018



United Nations Declaration on the Rights of Indigenous Peoples



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.




Liberal

Key Liberal Indigenous Platform Promises

2015 Election

Justin Trudeau's 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 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.
- The Liberal Party of Canada has endorsed the recommendations in the Eyford report in their entirety and is committed to working in partnership with First Nations to fully implement them. We will look to First Nations' leadership for guidance when making decisions on where investments should be made.

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 governments 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

National INAC-AFN Fiscal Relations Table 2016



INAC-AFN Joint
Committee: Minister
& National Chief



Technical Working
Groups: Federal &
AFN

3.2 - Insufficient and Under-Utilized Revenue Generation Opportunities

- Transfers are not the only means by which First Nation governments are financed. Revenue generation by First Nations can play an important role in building a stronger fiscal relationship, reducing reliance on federal transfers and strengthening First Nations self-determination.
- 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	FNLMA	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.
Indian Act 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 (Indian Act) 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 (Indian Act)	Yes.	Yes.	No.	Yes, unless land is sold.	No.
Section 35 (Indian Act)	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

Annex A: Summary of Proposed Changes under FNPOI

Current <i>Indian Act</i> System	Proposed Changes Under FNPOI	Anticipated Benefits
Deeds Registry System	Torrens Land Titles System backed by assurance fund	Greater certainty of title; reduced transaction costs; reduced time and red tape; variety of professional expertise to handle the transaction; seamless with off-reserve system
Leasehold interests (members and non-members)	Freehold fee simple title interests (members and non-members)	Though some First Nations have been able to leverage leasehold interests for mortgage, fee simple title may improve the ability to access credit; provide greater certainty of title, tenure, and clarity on land use.
Land registry system governed by policy	Create federal legislation to support title registry and surveys	Greater certainty of title and consistent standards for surveys
Indian Land Registry is not seamless with either or deeds land registry systems off-reserve. Therefore it is unfamiliar to investors and professionals.	Following the BC land title system and Nisga'a model, develop a First Nations system that is similar to off-reserve land title systems.	Greater consistency and certainty of land title and tenure will lead to increased private investment on reserve, as well as increased value of those investments.
Does not provide certainty regarding: length of tenure, regulations over the use of land and neighbouring lands; future taxes and policies; jurisdiction of services provided; and infrastructure development.	Develop a land titles system based on the BC system so that clear mechanisms exist regarding the development of future policies; dispute resolution; and land use regulations.	Improved certainty regarding land tenure, use, and policies will increase both the value and number of investments on reserve lands.
Does not develop First Nation capacity to manage lands and does not provide incentive for local investments.	Create a First Nations institution that would manage the land titles system thereby build the capacity of First Nations to manage lands under a system. Improved access to credit would also increase First Nation on-reserve investments.	Develop the capacity of First Nations to manage their lands in a modern land titles system and provide the opportunity (via access to credit) for First Nations to invest on their own properties and to invest on reserves.
Transaction costs (including search and measurement costs, negotiation costs, and execution costs) are all higher than average off-reserve transaction costs.	Develops a system that is similar to off-reserve registry system and thereby lowers transaction times for registering and verifying interests in land.	Lowers the costs of investing on reserve lands and increases the value and number of investments. Increases the possibility of transferring interests in land.

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.”

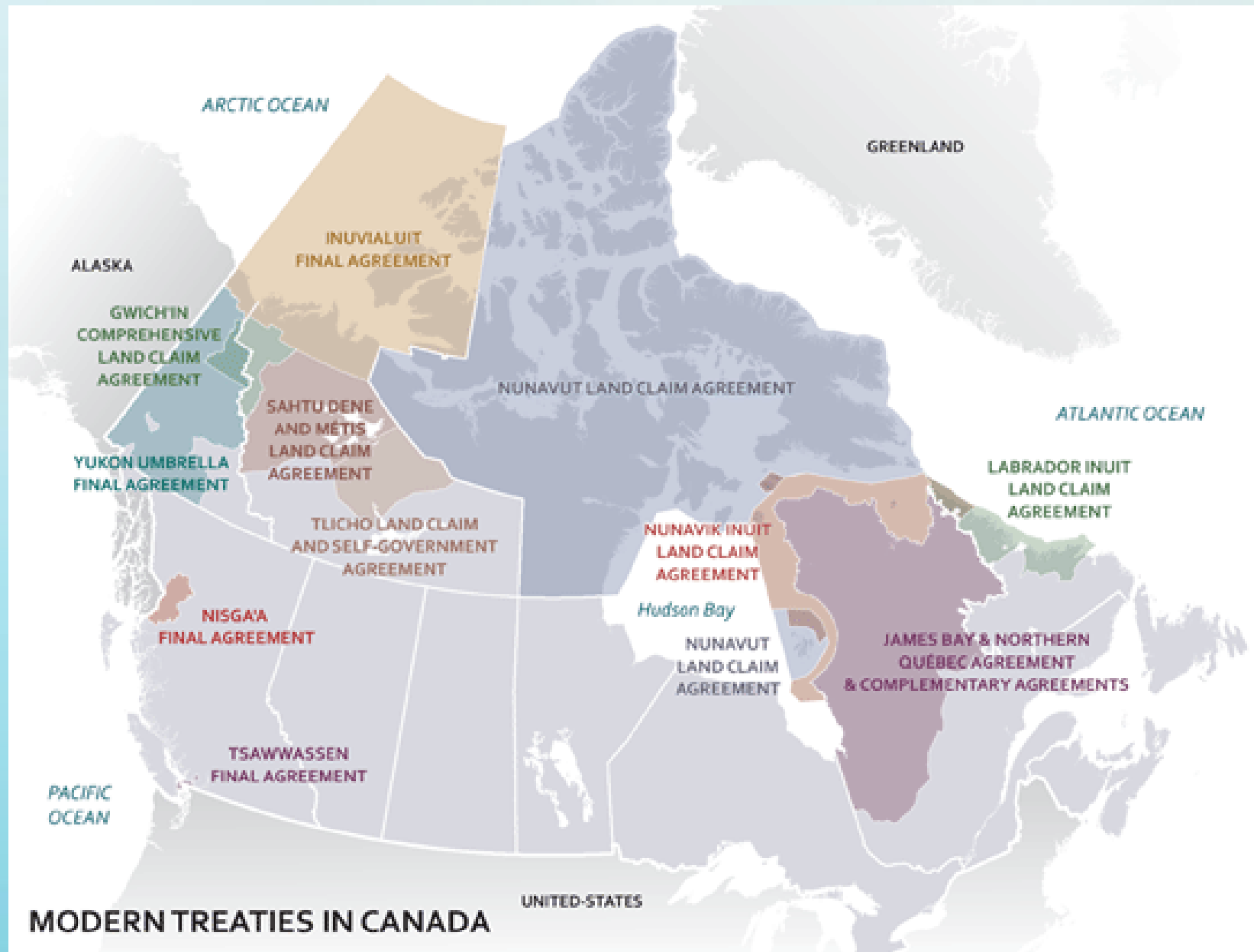
Source: JWR to AFN AGA July 12. 2016.

Three Federal “Paths” to Reconciliation

- exploring new ways to work together at **Recognition of Indigenous Rights and Self-Determination Discussion tables**
- negotiating modern treaties and **self-government**
- resolving **specific claims**

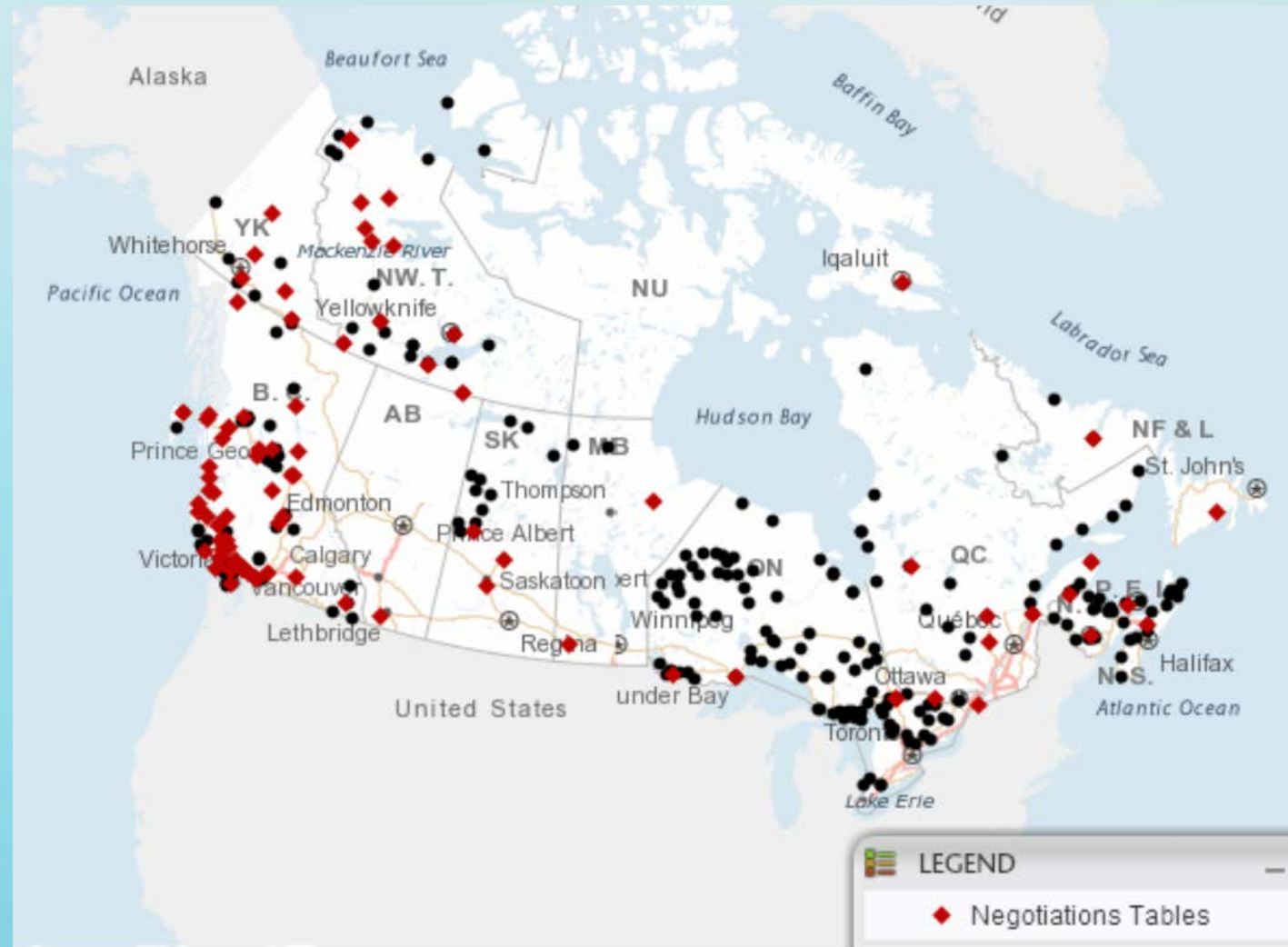
Recognition of Rights and Self-Determination Negotiation Tables

- 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



Comprehensive Claims Settlements

Comprehensive Claims & Self-Government Negotiations



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, reportedly the outcomes from these tables will contribute to the planned policy and legislative “Framework” affecting Indigenous Peoples.



Recognition and Implementation of Rights Framework Legislation

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 reportedly before Christmas break in 2018 and PM wants it to become law before the next federal election in 2019.
- The Minister of Crown-Indigenous Relations has stated the “Recognition Framework” will be enabling “opt-in” legislation and that the Standing Committee could consider amendments to the Bill in the New Year.

Recognition Framework - Structure of Legislation: Federal Overview Document Sept. 2018

- Definitions
- Preamble & Purpose
- Obligations Binding on the Crown
- Implementation of the Framework: Institutions
- Amendments to the Interpretation Act
- New Policy on Recognition & Implementation of Indigenous Rights

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.

Recognition Framework

Impacts on Inherent, Aboriginal & Treaty Rights

- The Prime Minister has said these “**Indigenous Governments**” are a lower order of government than municipalities (City Council) as the “**4th level**” of government in Canada. A “**new**” order of government.
- New funding arrangements are to go with new agreements and Indian Band’s **tax exemption will be removed** to promote the new “**Indigenous Governments**” exercising powers to collect “**own source revenue**” the same as existing “**Indigenous Governments**” under self-government agreements, comprehensive land claims settlements.

Recognition Framework

Impacts on Inherent, Aboriginal & Treaty Rights

- The new law will likely use existing, or new federally created national institutions for First Nations, Metis and Inuit to: 1) provide an advisory role to the federal government, 2) oversight of Indigenous Rights implementation, 3) dispute resolution and 4) public education.
- According to media reports the federal Minister of Crown-Indigenous Relations, Carolyn Bennett has stated the Trudeau government wants to introduce the “***Rights Recognition Framework***” legislation into Parliament before Christmas break and hold Committee hearings in the New Year.

Indigenous Self-Determination Plans

- **1. PROTECTION OF MOTHER EARTH, LANDS, WATERS AND CLIMATE IS CONSISTENT WITH OUR ORIGINAL INSTRUCTIONS FROM THE CREATOR**
- From our community land-base to our ecological/cultural territorial landscapes all Indigenous Peoples were given original instructions about our responsibilities to protect our lands and waters for future generations of all life.
- Since the 1980's even the United Nations has recognized Mother Earth's biological processes are impacted by human development activities globally, which is why global agreements on climate change and biodiversity have been signed by most countries.
- This has led to a false debate between development versus environmental protection, partly because First Nations have been left out of the equation. **Access and benefits to shared lands, territories and resources needs to be based on clear jurisdictional lines of authority that include First Nation governments, and that apply the standard of free, prior and informed consent of Indigenous peoples. This should include decision making that incorporates effective environmental reviews and oversight in accordance with Indigenous knowledge and Indigenous laws. This also includes the protection of the environment in our communities: safe and sustainable drinking water and infrastructure.**

Indigenous Self-Determination Plans

2. IMPLEMENTATION OF FIRST NATION SELF-DETERMINATION MUST BE BASED ON TREATY AND ABORIGINAL RIGHTS, AND CONSISTENT WITH INTERNATIONAL STANDARDS AND PRINCIPLES

- We have fought hard to obtain international recognition of our rights and international standards - like the United Nations Declaration on the Rights of Indigenous Peoples. But current approaches to “rights and recognition” are intended to hijack and domesticate these important gains, to keep our nations under the thumb of federal and provincial governments.
- We need to work to develop an approach that lifts-up our ancient and inherent rights as a basis for our renewal as nations. An approach of discussion and negotiation, which is based on rights recognition and respect rather than denial and extinguishment, that it is not for the Crown to dictate the rules of engagement - that should truly be mutual and based on the nation to nation relationship. This is what the historic Treaties were based on, including the **pre-confederation Maritime Treaties**, the **Treaty of Kahnawake**, the **Niagara Treaty**, the **Robinson Treaties** and the **Numbered Treaties**.

Indigenous Self-Determination Plans

3. OUR LAND AND RESOURCES ARE THE KEY TO FIRST NATION RENEWAL

- First Nations today have control over less than 0.2% of Canada's land base. This dispossession is the cause of our poverty and underdevelopment. International standards, including the UN Declaration on the Rights of Indigenous Peoples, require Crown restoration of First Nations stolen lands, territories and resources, or restitution where lands, territories and resources are not returned.
- Existing "land claims" policies don't do this, and these policies are not transparent or consistent with international standards. We need to work towards authentic approaches that provide our nations with a sufficient share of our lands to prosper. Talking to Canada alone won't resolve this, since it's the provinces that control much of our lands. **We need to develop a strategy to ensure that the provinces and territories do what is required to support the implementation of international standards, and the restoration of traditional lands and resources. This will require creative approaches to issues like compensation and jurisdiction.**

Indigenous Self-Determination Plans

- We are told by governments, and too often by our own leadership, that there is no alternative to the cookie-cutter surrender of lands and resources provided at the existing government negotiation tables. The fact is, we do have another course of action, one that is supported by the International laws which recognize all peoples right of self-determination.
- My vision is to see First Nations protecting their traditional lands and waters by **developing and implementing their own Self-Determination Plans for Community Development and Nationhood** based on restoration of stolen lands, territories and resources, or restitution where lands and resources aren't returned.

ASSESSING HISTORY, LANGUAGE, CULTURE AND INDIGENOUS LAW

- Know your First Nation history, language, culture, customs, practices, laws and the treatment of your peoples by successive Crown governments (both oral & archival) and connection to your territory, lands & resources. This is important to show evidence when exercising rights and/or responding to challenges from Crown governments/Industry regarding their current or planned projects/activities on your traditional lands.

ASSESSING COLLECTION OF INFORMATION/EVIDENCE

- For decision-making and negotiations support regarding traditional territories, First Nations historical substantiation & documentation needs to be combined with contemporary land & resource management information; 1) Resource models & inventories, 2) Obstacles from legislative/regulatory/governance frameworks 3) List of third parties operating without consent on First Nations traditional territory, 4) Identification of alienated lands vs. less encumbered lands.

VALUATION OF LANDS & RESOURCES FOR SUSTAINABLE DEVELOPMENT

- Identify some criteria and provide some parameters for attaching a value (or range of values) to Aboriginal Title/Historic Treaty lands & resources in Canada. Also estimate the value of resources taken out of Aboriginal Title/Historic Treaty lands annually (ie., timber, minerals, hydro, fish & wildlife, etc.). **Assess National, Provincial and Corporate accounting practises, assess the impact the reality Aboriginal Title/Treaty Rights have on the balance books of major resource extraction companies. The existence of Aboriginal Title/Treaty Rights as a legal interest stands to affect corporate security of tenure, supply, stock valuation, cost of borrowing, etc. Also identify issues Re: WTO/NAFTA rules & hidden subsidies/unfair competition, etc.**

ASSESSING NEGOTIATION/LITIGATION READINESS/SUPPORT

1. Knowledge of Canadian constitutional & international legal/policy frameworks of Indigenous, Aboriginal, Treaty & Human Rights and legal counsel,
2. an information database (historical & resource management) to draw from during negotiations
3. access to an interdisciplinary team of advisors (in-house or consultants) for Indigenous Leadership/Peoples and
4. identification of sources of sustained funding,
5. Preparation of litigation and/or international strategies as options.

Living Proof: The Essential Data-Collection Guide for Indigenous Use-and-Occupancy Map Surveys (Terry Tobias)



Information Management

community knowledge

government

researchers

industry

academics

interest groups



reports

letters

maps

databases

stories



decision

↳ interpretation

Conclusion

- Trudeau government is developing a “**Canadian Definition**” of UNDRIP to re-colonize Indigenous Peoples with racist, colonial laws and termination policies. Only strongly prepared Self-Determination Plans can counter the proposed federal “Recognition Framework” in the long-run.
- Trade Agreements like **USMCA** like **NAFTA** will continue to impact on Indigenous Inherent, Aboriginal & Treaty Rights because of federal interpretations of the constitution.
- Trudeau government hasn’t mentioned “**lands, territories & resources**”, federal land claims & self-government policies are written to help the provinces clear Aboriginal Title & Rights and place Federal & Provincial jurisdiction over Indigenous Peoples. The “Recognition Framework” elevates these policies into a federal law.
- In Canada, the SCC “Duty to Consult” and “Strength of Claim” legal tests/standard is being used by both the federal & provincial governments instead of Free, Prior, Informed Consent when planning land use or resource development on Indigenous Aboriginal Title/Treaty lands.

Conclusion

- This whole “Nation to Nation” process is false “Reconciliation” and our Peoples have been deliberately misled and bypassed for three years in this secret-top down approach of the Trudeau government who is using AFN, selected Chiefs/Leaders and Chiefs’ organizations!
- There is not much time left for grassroots First Nation Peoples to stop Trudeau’s “Rights Recognition Framework” Termination Plan! It’s Time for Action!