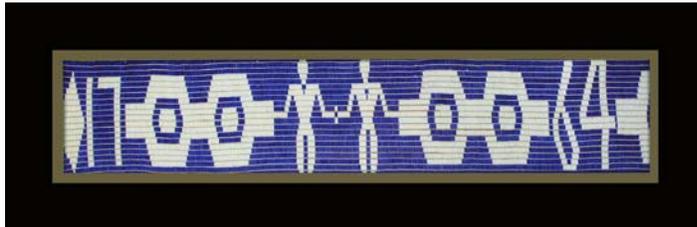


FIRST NATIONS STRATEGIC BULLETIN

FIRST NATIONS STRATEGIC POLICY COUNSEL

1764 Treaty of Niagara, AFN's 37th Assembly and Termination Table Chiefs



Depiction of 1764 Treaty of Niagara Wampum Belt

By Russell Diabo

Over 252 years ago, arguably one of the most important foundational Treaties in Canada was entered into between the Haudenosaunee, the Anishinabe Nations

and the Imperial British Crown—the **1764 Treaty of Niagara**.

The **1764 Treaty of Niagara** set the stage for events that led to the creation of the Canadian Settler-State a century later in 1867, once Indigenous Nations were outnumbered and overrun by settlers in what is now Ontario and Quebec.

The **Constitution Act 1867** set up the constitutional framework of federal and provincial governments excluding and colonizing Indigenous Nations as a “*subject matter*” under section **91.24** of that first constitution of Canada, with the adoption of the **Indian Act** soon after in **1876**. This was the original Federal-First Nations Termination Plan.

This coming July, Chiefs from across Canada will be gathering in Niagara Falls, Ontario at their **37th AFN Annual General Assembly** under the theme “*Gaining Momentum*”, presumably this means with the Trudeau government’s Indigenous Policy agenda.

While these Annual AFN meetings attract about 1,000 or more people, usually only about 200-300 Chiefs or their proxies show up for the national discussions of issues and debate of AFN Resolutions, which according to the **AFN Charter** are supposed to set the direction, priorities and mandate of the **AFN National Chief Perry Bellegarde** the **AFN Executive Committee (Regional Chiefs)** and the **AFN National Office** in Ottawa.

Of the about 633 Chiefs in Canada, over 400 of these Chiefs are at what I call the 99 Termination Tables where they are negotiating “*Modern Treaties*” to extinguish Aboriginal Title & Rights or Self-Government Agreements to “*move beyond the Indian Act*” into municipal type ethnic governments as “*Indigenous-Canadians*”.

Many of the Anishinabe and one of the Haudenosaunee Chiefs who are descendants of those who were at the **1764 Treaty of Niagara** Gathering are now at Termination Tables negotiating “*moving beyond the Indian Act*” by converting from being **Indian Act** bands into municipal type governments.

One Anishinabe Chief in Ontario is also negotiating a “*Modern Treaty*” in the Ottawa River Valley.

These Termination Table Chiefs are coopted and compromised in their relations with the Canadian State. Many of them—mostly from the B.C. region—have taken out loans for the negotiations from the federal government. The same government who

Special points of interest:

- **Termination Table Chiefs Dominate & Weaken AFN Assemblies**
- **St’at’imc Chief Don Harris intervenes at UN on BCTC Extinguishment Process**
- **Book Review of Unsettling Canada: A National Wake-Up Call**
- **Canada Historical Society Award for Unsettling Canada**

Inside this issue:

| | |
|--------------------------|----|
| 1764 Treaty & AFN | 1 |
| St’at’imc Chief at UN | 6 |
| Book Review-C. Atleo Jr. | 8 |
| CHA Awards Manuel | 14 |
| Phil Fontaine & UNDRIP? | 15 |



“Fathers of Colonization” drawing up Canada’s first constitution.

“Termination Table negotiations are one sided, unfair processes. The federal (and provincial) governments don’t fund lawyers for an independent or dissenting opinion outside of the federal Termination policy parameters”



Map of Modern Treaties in Canada

‘AFN & Niagara Falls’ continued from page 1

these Chiefs and their communities are dependent on for programs & services funding.

The federal government has the leverage to call in the loan for repayment from band funds at any time the federal government feels negotiations aren’t going the way the federal government wants.

If the loan repayment puts the band over the 8% threshold for a financial remediation plan the federal government can threaten to put the band into Third Party Management.

The Termination Table Chiefs have all accepted the federal government’s narrow policy positions and negotiation “**core mandates**”.

The federal government has a template of “**core mandates**” or key clauses they want First Nations to consent to as they pay Chiefs, key family representatives, lawyers, advisors and staff to convince their First Nation Peoples to vote YES and ratify these Comprehensive Claims Final Settlement Agreements (Modern Treaties) or Self-Government Agreements, or sectoral Agreements.

These Termination Table negotiations are one sided, unfair processes. The federal (and provincial) governments don’t fund lawyers for an independent or dissenting opinion outside of the federal Termination policy parameters, research and legal support is dependent on capitulation to the federal negotiation positions.

These “**core mandates**” or key clauses to get Indigenous Peoples’ consent on, are:

- Accept modification of Aboriginal Title into Private Property (Fee Simple) meaning extinguishment of Aboriginal Title.
- Accept reserves being converted into Private Property (Fee Simple), resulting in further alienation and loss of lands.
- Accept the release of Crown governments from liability for past theft of lands and resources and racist, genocidal acts against Indigenous Peoples without any compensation.
- Accept federal and provincial laws applying over Indigenous Peoples and becoming municipal type governments.
- Accept giving up tax exemption and paying all taxes (income, sales, property).
- Accept having to raise “**Own Source Revenue**” to pay for local programs & services while federal transfer payments are reduced.

Those First Nation Peoples on the NO side of these Termination deals aren’t funded to present the counter arguments before community votes take place! These Termination processes are a stacked deck and while a YES vote is considered permanent a NO vote is considered provisional by the federal (and provincial) government.

This is the background to the compromised Termination Table Chiefs who will be attending AFN’s meeting in Niagara Falls this July to discuss issues like:

- Truth and Reconciliation Commission of Canada – Implementation of Calls to Action United Nations Declaration on the Rights of Indigenous Peoples
- Moving Beyond the Indian Act
- Indigenous Affairs Working Group/Council of the Federation (Provincial Premiers/Territorial Leaders)
- Education
- Fisheries
- Water/Housing/Infrastructure

'AFN & Niagara Falls' continued from page 2

- Climate Action (Energy/Adaptation)
- Futures for Youth
- Emergency Management
- Child protection
- Economic Development

Among the issues on AFN's draft Agenda for the last day of the Chiefs' meeting when many Chiefs are traveling home are:

- Languages
- Land Rights and Claims
- Treaty Enforcement

All of these issues are dependent on what the Prime Minister, Provincial Premiers, Territorial Leaders (NWT/Yukon), Parliament and Legislatures may do on Indigenous issues.

Nation-to-Nation Process & UNDRIP

Despite the talk of a "*nation to nation*" process the Trudeau government is using the **Assembly of First Nations National Chief** as their partner on federal Indigenous policy and processes much like Harper did with then **AFN National Chief Shawn Atleo** on the proposed **First Nations Education Act**.

Meanwhile, the Trudeau government is maintaining the federal municipal model of self-government and extinguishment of Aboriginal Title through "*Modern Treaties*".

This was confirmed by **Justice Minister Jody Wilson-Raybould** when she told **APTN** that the Trudeau government will get rid of the **Indian Act** one community at a time through "*sectoral government initiatives*" to "*bi-lateral self government agreements*" to "*comprehensively negotiating a treaty under the modern treaty process.*"

On May 9, 2016, the **federal Minister of Justice Jody Wilson-Raybould** and the **federal Minister of Indigenous Affairs, Carolyn Bennett**, were dispatched to New York City to make announcements at the **15th United Nations Permanent Forum on Indigenous Issues (UNPFII)** that Canada is accepting "*without qualification*" the **United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)**.

But the federal Ministers did qualify their acceptance of the **UNDRIP**, they said Canada accepts the Declaration "*in accordance with the Canadian constitution*".

On May 10, 2016, Canada's **Indigenous Affairs Minister Carolyn Bennett** also told the **UNPFII** that "*modern treaties*" and "*self-government agreements*" represent the Free Prior Informed Consent of Indigenous Peoples.

All of this is consistent with what the **federal Minister of Natural Resources, Jim Carr**, recently told a Parliamentary Committee, which is "*the government is in the process of providing a Canadian definition to the declaration*" [on the Rights of Indigenous Peoples].

The "*Canadian Definition*" of **UNDRIP** under the Trudeau government sounds a lot like the Harper government's position except it is couched as "*reconciliation*".

In fact, the Trudeau government has rewarded Harper's top First Nation's federal Terminator, **Michael Wernick** (former Deputy-Minister of Indian Affairs 2006-2014), with the top job in the federal bureaucracy, Clerk of the Privy Council, to help them continue the process used by the Harper government.



L to R: Jean Chretien & Pierre Trudeau in their later years. Both negotiated the **Constitution Act 1982**.

"the Trudeau government is maintaining the federal municipal model of self-government and extinguishment of Aboriginal Title through "Modern Treaties"



L to R: Michael Wernick, Clerk-PCO, Perry Bellegarde, AFN-NC, Ottawa, Feb. 5, 2016. (Photo by Dale Leclair)

‘AFN & Niagara Falls’ continued from page 3

The Road to Niagara – Abolishing the Indian Act



Canadian Coat of Arms

“The vast majority of the prairie Treaty Nation Chiefs are not at municipal self-government Termination Tables “

While the Termination Table Chiefs are busy with the Trudeau government trying to figure out how to sell their deals to their community members at the 99 Tables across Canada, **Assembly of Manitoba Chiefs, Grand Chief Derek Nepinak**, has been busy trying to get grassroots peoples and Chiefs to hold discussions in preparation to travel to Niagara Falls this July on a caravan from Winnipeg stopping at Anishinabe communities along the way to discuss abolishing the **Indian Act** and building up Indigenous nationhood!

In fact, the **Assembly of Manitoba Chiefs** has already adopted a resolution to abolish the **Indian Act**, which resolves:

- ⇒ *that the Chiefs-in-Assembly supports the motion to abolish the Indian Act.*
- ⇒ *that the AMC Chiefs-in-Assembly supports the motion to repeal Section 91.24 of the Canadian Constitution and reverting back to First Nations sovereignty status and ensuring fiscal capacity for First Nations.*
- ⇒ *that the AMC Chiefs-in-Assembly directs the Canadian Government to provide an accounting of the Indian Moneys Trust fund within ninety (90) days of the date of this resolution.*
- ⇒ *that that the AMC Chiefs-in-Assembly directs that a technical and legal review be conducted concurrently during the process of abolishing the application of the Indian Act and Section 91.24 of the Constitution of Canada; and with greater certainty to invoke the participation of the Elders Council and Youth Council throughout the process with regular reports and feedback with the AMC Chiefs-in-Assembly for approval.*

This activity from the Manitoba region is not surprising. The vast majority of the prairie Treaty Nation Chiefs are not at municipal self-government Termination Tables they have consistently demanded that the spirit and intent of their historic Treaties be recognized and respected by the federal and provincial governments.

It will be interesting to see how the Manitoba Treaty Chiefs make out at the upcoming **AFN Assembly** given most Termination Table Chiefs who dominate at **AFN Assemblies** have already accepted the only way to “**move beyond the Indian Act**” is to negotiate under Canada’s unilateral self-government and Comprehensive Claims policies.

Abolishing the **Indian Act** and repealing **section 91.24** of the **Constitution Act 1867** are bold demands. Amending Canada’s constitution requires agreement of 7 provinces with 50% of the population, meaning either Ontario or Quebec have to be on side with a constitutional amendment or nothing happens. This is why **Senate reform** has been stalled. There is no federal or provincial appetite to re-open constitutional talks.

But **Grand Chief Nepinak** argues—and I agree with him—the constitution needs to be re-opened to finish the political agenda left over from the **1980’s First Ministers’ Conferences (FMC’s) on Aboriginal Matters** to identify and define the meaning of Aboriginal and Treaty rights in **section 35** of the **Constitution Act 1982**.

The **Supreme Court of Canada** cases interpreting **section 35 rights** by setting out legal principles and tests—which started with the **Sparrow** decision in 1990—are too onerous and costly for most bands to go to court to try and get justice and fairness. Moreover, Indigenous land rights, sovereignty and self-determination are political matters to be negotiated at the highest levels of the Canadian Settler-State and internationally.

Aside from building enough political pressure within Canada and support from the federal and provincial governments for finishing the political talks on Aboriginal and Treaty rights started in the 1980’s, there is the question of who would represent Indigenous Nations at a constitutional table.

At the **FMC’s in the 1980’s**, First Nations were represented through the **Assembly of First**



Grand Chief Derek Nepinak, Assembly of Manitoba Chiefs

‘AFN & Niagara Falls’ conclusion from page 4

Nations Constitutional Working-Group comprised of many First Nation representatives, because the **AFN National Chief** and the **AFN Regional Chiefs** only have delegated authority under the **AFN Charter**.

Over 400 Chiefs who **AFN National Chief Bellegarde** is accountable to are at Termination Tables.

The **AFN Regional Chiefs** from BC, Yukon, NWT, Ontario, Quebec/Labrador, New Brunswick/PEI and Nova Scotia/Newfoundland have a significant number of Termination Table Chiefs from their regions who the Regional Chiefs are accountable to, Alberta, Saskatchewan and Manitoba don’t!

At the recent **Liberal Party of Canada policy convention** in Winnipeg a number of Indigenous Policy related resolutions passed, which provide advice to the Parliamentary wing of the Liberal party. There were no Liberal resolutions to replace the federal land claims or self-government policies. This is an indication the Liberals plan to stay with the status quo despite their election slogan of “*real change*”!

Personally, I’m doubtful any meaningful political change along the lines of what the **Assembly of Manitoba Grand Chief** or the **Manitoba Chiefs** are talking about can occur within the **AFN structure**.

I think grassroots peoples need to get themselves informed and organized to put pressure on the Termination Table Chiefs to pull out of the tables and work on fundamental change within Canada by focusing on a national and international campaign to expose what the federal and provincial governments are up to in emptying out **section 35** of any real political or legal meaning while gutting the **Articles of UNDRIP** by continuing to implement **Canada’s First Nations Termination Plan** through **domestic Termination policies**.

Each individual, family, community and Nation can exercise the **Indigenous right of self-determination** by knowing your **history and culture**, your **Aboriginal and Treaty rights** and how the **federal First Nations Termination Plan** works in order to develop strategies and plans to survive and thrive as individuals, families, communities and Nations!

Then direct your leaders how to properly and meaningfully represent and advocate for you in locally designed governance systems and organizations with mandates from Indigenous Peoples and not just Chiefs and Councils.

Each community needs to properly develop Self-Determination strategies and plans from the ground up!

Don’t count on Chiefs organizations like the **Assembly of First Nations**, which is dominated by **Termination Table Chiefs** to save you from **Ottawa’s Termination Plan**!

The outcome of **AFN’s 37th Annual General Assembly** will be shaped by Ottawa politicians and bureaucrats NOT by Indigenous Peoples.

STAND YOUR GROUND!



L to R: Justice Minister Jody Wilson-Raybould, PM Justin Trudeau, INAC Minister Carolyn Bennett



“Over 400 Chiefs who AFN National Chief Bellegarde is accountable to are at Termination Tables”





“British Columbia Treaty Commission’s treaty process unilaterally extinguishes title and modifies or terminated rights to Indigenous Peoples’ lands and resources by negotiating and ratifying with small sub-sets or one community from an Indigenous Nation”



Map of Modern Treaty Negotiations in BC

Statement to the United Nations Permanent Forum on Indigenous Issues Theme Conflict, Resolution and Peace—May 9 – 14, 2016

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By Chief Don Harris - TSE'KU

Background:

St'at'imc Nation is an Indigenous Peoples whose territory, lands and resources are within the Province of British Columbia in Canada and Douglas First Nation (known as Xa'xtsa in our Indigenous language) is an Indian Band and comprises the communities of Port Douglas and Tipella. St'at'imc Nation collectively holds Aboriginal title and rights to St'at'imc territory and St'at'imc Nation and Xaxtsa have never surrendered or ceded inherent ownership to St'at'imc territory including the area primarily used and occupied by Xa'xtsa. However, this will change if the British Columbia Treaty Commission's process continues to negotiate and ratify the proposed In-SHUCH-ch Treaty (Land Claim Final Agreement protected the *Constitution Act*) with the provincially incorporated In-SHUCH-ch Treaty Society.

The proposed In-SHUCH-ch Treaty will extinguish St'at'imc Nation collectively held Indigenous title to part of St'at'imc territory and will modify or terminate Xa'xtsa peoples rights to use and occupy those lands and resources. A facilitated process between the Government of Canada, the Province of British Columbia and Xa'xtsa was discontinued in 2014 without resolution of Xa'xtsa concerns about extinguishment. The last consultation meeting was held in 2014. Despite requests for more consultation meetings, the Government of Canada has refused to have further consultation meetings. St'at'imc Nation and Xa'xtsa have written to Canada and British Columbia to delay initialing and ratifying the proposed treaty until resolution is found. Xa'xtsa has not received a response to the letter, dated December 4, 2015, to Minister Bennett, Indigenous and Northern Affairs Canada, seeking a resolution to this dispute.

Conflict:

British Columbia Treaty Commission's treaty process unilaterally extinguishes title and modifies or terminated rights to Indigenous Peoples' lands and resources by negotiating and ratifying with small sub-sets or one community from an Indigenous Nation. The government of Canada and British Columbia's positions and policies in creating the British Columbia Treaty Commission process is contrary to the United Nations Declaration on the Rights of Indigenous Peoples provisions to protect Indigenous Peoples' rights to the lands, territories and resources that they have traditionally owned, occupied or otherwise used or acquired (Article 26) and the process has caused significant conflict between Indigenous Nations and within Indigenous Nations. While Indigenous Peoples have challenged the British Columbia Treaty Commission process in Canadian courts, there has not been a significant remedy or resolution. The Government of Canada takes the position that the Indigenous rights of the St'at'imc Nation are merely *asserted* Indigenous rights, not proven, which the St'at'imc Nation and Xa'xtsa disagree with.

Resolution:

St'at'imc Nation and Xa'xtsa have sought to engage the governments of Canada and British Columbia through correspondence and meetings; however, this engagement has failed to resolve the conflict caused by a small, sub-set of members ability to extinguish ownership

'Xaxtsa UNPFII' conclusion from page 6

of and use of St'at'imc territory and lands and resources used by St'at'imc people, including Xa'xtsa, if government approves the In-SHUCH-ch Treaty.

While Canada announced today that Canada fully adopts UNDRIP, you heard Minister Bennett communicate that FPIC is achieved through ratified Land Claim Agreements.

We disagree, as Land Claim Agreements have the effect of extinguishing Indigenous rights and title.

Despite her comments, we challenge Canada to ensure the Indigenous rights and title of St'at'imc Nation and Xa'xtsa are recognized to achieve peace.

Recommendations:

1. St'at'imc Nation and Xa'xtsa recommend that the United Nations Permanent Forum of Indigenous Issues provide effective mechanisms so that Indigenous peoples provide their free, prior and informed consent before governments make decisions that may adversely affect Indigenous peoples.
2. Until effective free, prior and informed consent mechanisms are established, St'at'imc Nation and Xa'xtsa recommend that Canada must withdraw from all treaty negotiations that may extinguish Indigenous title and rights, especially the In-SHUCH-ch Treaty negotiations.
3. St'at'imc Nation and Xa'xtsa recommend that Canada immediately enter into nation-to-nation discussions with the objective of recognizing our Indigenous title and rights and the right of self-governance.
4. St'at'imc Nation and Xa'xtsa recommend the United Nations provide for international monitors to ensure Canada fulfill its international obligations under United Nations Declaration on the Rights of Indigenous Peoples.



Chief Don Harris, Xaxtsa/Douglas First Nation, Mt. Currie, B.C. presenting at UNPFII 2016.

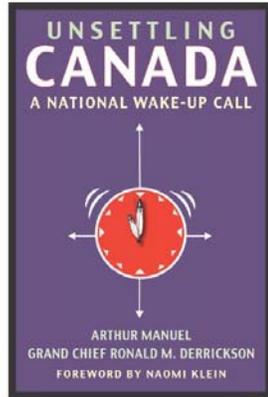


Arthur Manuel, author of **Unsettling Canada: A National Wake-Up Call**

“he is one of the few who has not strayed from his original vision of fighting for political and economic justice, while not selling out his sacred obligations to protect the land or the birthrights of future generations”



Unsettling Canada: A Book Review Kam’ayaam/Chachim’multhnii (Cliff Atleo, Jr.)



Right to Life (1994) and the author, Manuel, holding the book. Right to Life (1994) standing on the right. From *Unsettling Canada* by Arthur Manuel. © 2014, University of Toronto Press.



By David Johnson (1994). © 1994.



By David Johnson (1994). © 1994.

Arthur Manuel is not a radical. I realize that this statement needs to be further explained because many people, both Indigenous and non-Indigenous, would regard him as such. In fact, one federal government Member of Parliament referred to Manuel as an “economic terrorist” (p. 172). I am also certain that some within the Aboriginal political establishment take exception to many of Manuel’s assertions and his accounting of events. They may regard him as a radical and dismiss his version of history, but I believe that he makes a vital and refreshing contribution to our understanding of

contemporary Indigenous struggles in Canada, which according to Manuel, began with the 1969 White Paper (p. 27). Still, what Manuel is calling for is not revolutionary or radical and yet, because he seeks to stand up for Indigenous political and economic autonomy, the state and its proponents will often regard him as such. My assertion that Manuel is not a radical also informs my critiques of this. First, let us consider Manuel’s valuable contributions to our knowledge of settler colonial relations that are far too often dominated by state-centric discourses and interpretations.

Reading *Unsettling Canada: A National Wake-Up Call*, I was reminded of his father George Manuel’s (1974) book, *The Fourth World: An Indian Reality*. Both books speak to the heart and truth of matters, and are undeniably focused on obtaining justice for Indigenous peoples. They were written for Indigenous people, leaders and activists, although they certainly speak to settler Canadians as well. They are not academic books but this is a good thing in my view. That they are rooted in the lived experiences of their authors and are written accessibly is precisely why they offer such important contributions to the canon of Indigenous rights literature in Canada. Manuel’s insightful analysis of the Aboriginal land, rights and economic struggles in Canada is based on his personal experiences as a residential school survivor, youth activist, father, band chief, business person and promoter of Indigenous alternatives to the economic and political status quo. He is a man who has admittedly made mistakes but, politically speaking, he is one of the few who has not strayed from his original vision of fighting for political and economic justice, while not selling out his sacred obligations to protect the land or the birthrights of future generations. Like his father, he would rather pass on the legacy of a legitimate struggle, than sign a deal that future generations could not live with (pp. 3-4). As Manuel has grown older, his work took a turn toward economic matters, through his Indigenous Network on Economies and Trade, but he has always maintained that, “taking care of Mother Earth is the most important contribution we can make” (p. 11). His perspective on politics and economics in Canada is refreshingly rooted in Indigenous worldviews and perspectives that remain constant despite the tremendous pressure to funnel our grievances through state-centric processes. In this regard, Arthur Manuel is “old school.”

Perhaps most importantly for me, Manuel has never forgotten that, “Nothing we have ever gained has been given to us or surrendered without a fight” (p. 3). My own people heard similar sentiments from Robert Kennedy, Jr. when his organization, the Natural Resources Defense Council, helped Nuu-chah-nulth people defend our forests in Clayoquot Sound from clear-cut logging in the 1990s. Power is seldom shared willingly, if ever. Some people might think this assessment is too simplistic, indicating a zero-sum game despite the vast complexity of settler colonialism but, as Manuel indicates throughout his book, Canada has

'Book Review' continued from page 8

taken every possible opportunity to thwart Indigenous land and rights claims. The battle has been constant and remains so today, despite the recent optimism that some have felt with Justin Trudeau's Liberals recently coming to power in Ottawa. Manuel's insight here is critical. He reminds us that Canada has always been hostile to our efforts to restore Indigenous nationhood and economies. Despite small "victories" here and there, Indigenous peoples remain mired in a constant, intense battle to assert our own governance systems, economies and right to exist as Indigenous peoples. Any student of these matters should understand this but, at the same time, we can never underestimate the state's power to co-opt us into complacency with half-hearted recognition and economic crumbs. At the heart of Manuel's book is a scathing critique both of settler Canadian policies that deny Indigenous land, rights and nationhood, and of our own Aboriginal leadership that has at times forsaken our fundamental rights and responsibilities for the politics of recognition and distraction.

Manuel's lessons on the ethics of leadership first began by watching both his mother and father. He writes, "despite their unrelenting toil, both my parents understood that you had to give back to your community" (p. 19). Manuel also learned from his own experiences leading a revolt in the residential school he attended, and discussing it with his father: "I understood from my father that simply lashing out against injustice is rarely productive. You have to think things through; you have to work with people first and develop clear objectives and then be ready to act. You are responsible for those you lead" (p. 23). This advice would stick with Manuel and is no doubt why he often appears so measured and reasonable, despite what his detractors may say. That he has held steadfast to his belief in the justness and righteousness of Indigenous political and economic autonomy has rankled the political elite in Canada. Manuel has been more than willing to understand the rules and play by their game, but only to a point. There is a line that he has been unwilling to cross – most notably his refusal to engage in comprehensive claims negotiations, which he and others felt had a price of admission that was too high. This is one of the main reasons why I appreciate Manuel's story.

Manuel also learned something else from residential schools that would inform his views of Indigenous-settler relations in Canada more generally. He writes that what residential schools really achieved was to "teach [Indigenous people] how to follow orders from authorities" (p. 22). This theme of contending with, but also acquiescing at times, to Canadian authorities, is central to the book and Manuel's critique. Manuel writes of the Assembly of First Nations in Ottawa and the First Nations Summit in British Columbia, that part of their crisis of leadership is, "their complete dedication to not rocking the boat" (p. 204). This is part of a long-standing debate within Indigenous communities, but I believe that we cannot ignore the debilitating impact that residential schools had on our willingness to 'mix it up' with the state. For generations, our children and future leaders were fed a constant stream of lies that placed settlers and their ways above everything Indigenous. I do not want to suggest that every ounce of fight was beaten out of us, for clearly it was not, but we should not ignore the long-term impacts of such a one-sided experience on our individual and collective psyches.

And it is not only our public leaders that were affected. There has been a notable trend in grassroots struggles on the ground with respect to the legitimate use of force. That trajectory has gone from Indigenous peoples possessing a clear right and duty to physically defend themselves and their lands, to petitions and peaceful protests that dare not inconvenience Canadians. When fisheries disputes got heated in the 1970s and Department of Fisheries and Oceans enforcement officers tried to "muscle" Indigenous people, the Union of BC Indian Chiefs would not back down and released a press statement, which indicated that "violence would be met with violence" (p. 60). These confrontations were not new, but are reflective of a continuity of violent contention with settler Canadians. Notable conflicts included Restigouche (1981), Kanehsatake/Oka (1990), Ipperwash (1995), Gustafsen Lake (1995), Cheam (1999), Esgenoôpetitj/Burn Church (1999-2001), and Sun Peaks (2001). This list is not exhaustive, but it does highlight a number of higher profile incidents that occurred when Indigenous peoples who were committed to protecting their lands and/or rights encountered the violence of the state. There is a notable gap from 2001 until the



"Manuel's book is a scathing critique both of settler Canadian policies that deny Indigenous land, rights and nationhood, and of our own Aboriginal leadership"



Ed John, Member First Nations Summit Task Group & one of the founders of BCTC Extinguishment Process.

'Book Review' continued from page 9



“Manuel writes that the Comprehensive Claims policy was crafted to “extinguish (Aboriginal rights and title) as quickly and as cheaply as possible”



Mi'kmaq-led anti-fracking protests at Elsipogtog in 2013. I would suggest that there are number of interrelated reasons for this, one being that the impact of the attacks on the World Trade Center and the Pentagon on 9/11 are still being felt today all over the world.

The post-9/11 era has seemed to reinforce the state's monopoly on the legitimate use of force for both non-Indigenous and Indigenous peoples. From the 1990s to the 2000s, the inspirational Zapatista Movement in Mexico shifted from an armed uprising to one that was expressly non-violent. The Irish Republican Army officially disarmed in 2005 in favour of strict political organizing and earlier this year FARC rebels in Columbia officially disarmed. The trend is now well established. Manuel is not an advocate of violence, which he makes very clear in his book (pp. 220-221), but I would contend that whatever reason or rationale given for such a position, and no matter how much it may make sense morally and strategically, the general aversion to conflict seems to have prevented most forms of protest from even being mildly inconvenient. Prominent Aboriginal leaders used to routinely threaten mainstream politicians with civil unrest, but this threat has gradually become more and more hollow, especially since 2001. Of course, one cannot ignore the anti-terror legislation that has been brought in over the years that criminalizes forms of dissent that threaten “economic stability.”

Much closer to home, the West Coast Warrior Society, a group of mostly Nuuchahnulth youth, also disbanded in 2005, after significant pressure from Canadian law enforcement and intelligence agencies made the radical defense of our communities, within the warrior society model, untenable.³ People in our communities were becoming increasingly conflict averse and, at the same time, governments were more becoming more willing to negotiate, albeit with strict conditions. Following the “Oka Crisis” in 1990, the Royal Commission on Aboriginal Peoples began, as well as the Treaty Process in British Columbia (BCTP). It seemed that settler Canada was finally willing to negotiate, even though the BCTP was based upon the 1975 federal Comprehensive Claims policy and the long-running Nisga'a negotiations that had proved divisive amongst Indigenous communities from the beginning. The formation of the First Nations Summit, which included Native communities willing to engage in the new tri-partite negotiations, solidified a break from the Union of BC Indian Chiefs (UBCIC), which began in the 1970s.

According to Manuel, the Department of Indian Affairs helped facilitate this divisiveness by offering economic resources and time to those willing to negotiate. But, for some First Nations the BC Treaty Process was a non-starter from the beginning. Manuel writes that the Comprehensive Claims policy was crafted to “extinguish (Aboriginal rights and title) as quickly and as cheaply as possible” (p. 46). He concedes that the language the governments use has changed to include words like “certainty,” but he remains convinced that extinguishment of Aboriginal rights and title is still the order of the day (p. 196). Russell Diabo (2014), a Mohawk policy analyst, is also a prominent critic of the comprehensive claims processes, referring to the negotiations across the country as “termination tables.” And while the new Liberal government has made some positive moves, such as beginning an inquiry into missing and murdered Indigenous women, early indications do not suggest any drastic changes to its Comprehensive Claims policy or negotiation mandates, despite the “nation-to-nation” campaign rhetoric. I personally cannot disagree with Manuel or Diabo's criticisms of the negotiations, as I observed them first hand when I worked for the Nuuchahnulth Tribal Council from 2001 to 2005. In the four years I was there, plus another year and half working for neighbouring Coast Salish communities in a similar capacity, I never once saw the governments actually *negotiate* or show any flexibility in their mandates. They had, for all intents and purposes, determined a formula for calculating “treaty” agreements and applied that template everywhere. The governments have shown an unwavering desire to diminish Indigenous claims to land, water and rights as quickly and cheaply as possible.

Before I offer a critique of Manuel's perspectives and propositions, I want to emphasize the importance of his legitimate criticisms of our own Aboriginal leadership. I believe that this is important because the story of settler colonialism in Canada is not simply a story of what happened to us. To discount *our agency* as historical events unfolded is dangerous and eschews our ability to imagine a different future, based on our capacity to make different decisions. We must support our leaders when necessary, as well as be willing to hold them accountable

'Book Review' continued from page 10

when appropriate. I have not read such a scathing indictment of Canadian Aboriginal leadership since Taiaiake Alfred's (1999) *Peace, Power, Righteousness: An Indigenous Manifesto*. One thing that Manuel does, however, is name names, a bold move that has no doubt angered a few of those Aboriginal politicians. A full reading reveals that Manuel is not being malicious, however. The story he is telling is complete with what, where, why, how and who. If we cannot be honest about these things, we inhibit our ability to learn from our mistakes and grow as communities.

There are sensitivities about criticism in Indigenous political circles, which Manuel is certainly aware of, but which he counters with the notion that, "Many of our leaders have too long dodged responsibility for their actions by claiming that any criticism, no matter how mild, shows a lack of respect and is somehow therefore not Indigenous" (pp. 215-216). I have also encountered this dynamic, especially as it relates to the BCTP, which has proven contentious in our communities. Legal scholar Johnny Mack addresses this issue in his work, where he reminds us that *iisaak* ("respect" in Nuuchahnulth) also includes respect for oneself and the truth, and that our desire for peace or tranquility cannot be at all costs, especially when it demands that we be silent in the face of injustice or corruption (2009, p. 24). This is why I think Manuel's book is so refreshing and valuable. He tells his story and his truth, regardless of how contentious it may be. He believes in the struggle and loves Indigenous communities. So much of what we hear about Aboriginal politics in Canada is sanitized through a pro-government lens that is afraid to rock the boat. Now, as valuable as I think Manuel's truth is, I do not want to leave you with the impression that he is infallible either. When speaking with some elders about Manuel's assertion that the exodus from the UBCIC was simply a division sowed by Indian Affairs, I was told another story that included west coast communities expressing different priorities than interior communities, specifically as it related to fisheries advocacy. I am not in a place to judge either assertion for I was not there, but I think we need to make space for multiple perspectives and not shy away from legitimate and respectful criticism.

I want to conclude with my original claim that Arthur Manuel is not a radical. He clearly diverts from much of the mainstream Aboriginal leadership in that he finds the federal Comprehensive Claims policy and "treaty" negotiations fundamentally flawed. He very simply asserts, "No nation on earth should be forced to enter a negotiation that is destined to end with its own extinguishment" (p. 59). There are specific differences between the position that Manuel takes and those of the Aboriginal mainstream leadership that are noteworthy. *Unsettling Canada* includes many of these key differences, but Manuel certainly does not believe in isolationism or non-engagement either.

Arthur Manuel would likely agree with me. In his own words Manuel states, "Some will call us radical...but we are not radical. We are standing behind one of the most conservative institutions in the country and that is the Supreme Court of Canada" (p. 127). Manuel points to a number of prominent Aboriginal rights and title cases like *Calder*, *Delgamuukw* and *Tsilhqot-in*, Section 35 of the *Constitution Act*, 1982 and the Royal Commission on Aboriginal Peoples as indicative of minimum requirements for true nation-to-nation relations. He suggests that implementing these minimums would represent a decolonizing effort (pp. 79, 218, 224) and this is where we differ. While I agree that these would be important steps and are in fact a good place to start, I have to agree with Tuck and Yang (2012) that "Decolonization is not a metaphor," nor is it likely to be achieved through mainstream Canadian legal and political channels.

While Manuel specifically acknowledges that none of the Supreme Court rulings represent a "panacea" (pp. 115-116), he also does not mention the severe limitations that we cannot ignore when considering the full effect of these court decisions. For example, while extolling the significance of *Delgamuukw* (pp. 113-116), he does not refer to Chief Justice Antonio Lamer's extensive list for justifiable infringement, which include "the development of agriculture, forestry, mining, and hydroelectric power, the general economic development of the interior of British Columbia, protection of the environment or endangered species, the building of infrastructure and the settlement of foreign populations to support



CBC news

"So much of what we hear about Aboriginal politics in Canada is sanitized through a pro-government lens that is afraid to rock the boat"



‘Book Review’ continued from page 11



Elsipogtog Land Defenders

“I believe that we need more voices like Manuel’s, more grassroots activism, and more ‘old school-style’ leaders willing to sacrifice for the greater good of Indigenous peoples”

those aims, are the kinds of objectives that are consistent with this purpose and, in principle, can justify the infringement of aboriginal title” (*Supra* note 40 at 165). According to this, settlers can pretty much keep doing what they have been doing for generations on Indigenous lands. And we continue see this play out with government reluctance to ensure free, prior and informed consent with respect to economic development as outlined in the United Nations Declaration on the Rights of Indigenous Peoples, which Manuel includes in his appendix (pp. 235-249).

With respect to Indigenous peoples and environmentalists, Manuel understands that the relationships have always been precarious, if not downright colonial at times, but he holds out hope that common ground can be found and that Indigenous peoples have a lot to offer in this regard. This is not a direct criticism of Manuel, but I always urge caution when issues like this are framed as “what Indigenous people can offer mainstream society.” Leanne Simpson (2004) has outlined in detail some of the potential dangers of this, including the abstraction of Indigenous knowledge out of its contexts and the fact that many western activists and academics are trying to protect the knowledge without explicitly protecting the land or Indigenous responsibilities and rights for and to that land (Simpson, 2004). I appreciate that Indigenous peoples do have a lot to offer in the way of knowledge and our understanding of how to *live with* the earth, but we must be self-determining in regards to access to this knowledge and it needs to accompany a genuine effort to decolonize our current asymmetrical relationships with settlers. Again, Manuel might agree with this, but he does not make it explicit in this book.

In 1974, George Manuel and Michael Posluns wrote, “European North Americans are already beginning to work their way out of the value system based on conquest and competition, and into a system that may at least be compatible with ours” (Manuel & Posluns, p. 266). Like his father, Arthur Manuel concludes on an optimistic note. He writes, “One thing is certain: the flood waters of colonialism are, at long last, receding” (p. 223). Sadly, I think George was, and forty years later Arthur is, overly optimistic in their assessments. I do hope the end of colonialism will soon be upon us. For this to occur, I believe that we need more voices like Manuel’s, more grassroots activism, and more ‘old school-style’ leaders willing to sacrifice for the greater good of Indigenous peoples. Manuel briefly points out the “important and often leading role of women in our struggle” (p. 211). The book I would love to read would be from Beverly Manuel’s perspective.⁴ I would like to read this story again, but this time from the perspective of Indigenous women, including the great works of Beverly and Arthur’s daughters. While I believe that Manuel makes some important contributions in his book, especially with respect to Aboriginal leadership and ongoing settler Canadian dominance, he only hints at what I believe will be required for us to move forward with a true decolonizing movement. For too long, Indigenous men have led the way in our political, legal and economic engagements with Canada. It is long past time to restore balance to our communities and centre the voices of Indigenous women.

Endnotes

1. Although Grand Chief Ronald M. Derrickson is credited as co-author, it appears as though his contribution primarily limited to the Afterward. The bulk of the story is being told from Arthur Manuel’s perspective, which I engage here.
2. This is referring mainly to those ‘deals’ offered by the governments through the comprehensive claims negotiations, or the “modern treaty process” in British Columbia.
3. The WCWS supported Indigenous community struggles in Nuu-chah-nulth, Coast Salish, Secwepemc, and Mi’kmaq territories from 2000 until 2005.
4. Beverly Manuel is Arthur’s ex-wife.

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‘Book Review’ conclusion from page 12

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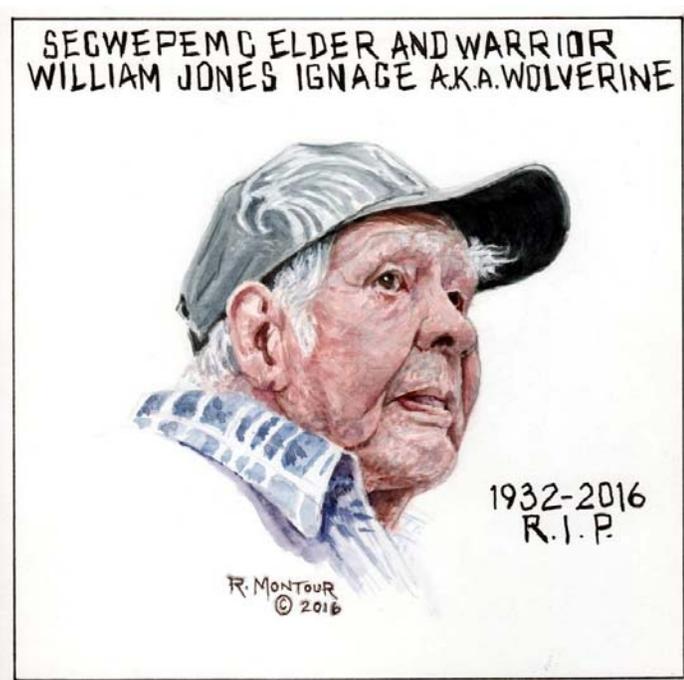
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Kanahus Manuel, daughter of Arthur Manuel, next generation activist, Land Defender

“It is long past time to restore balance to our communities and centre the voices of Indigenous women”



By Kakwirakeron Ross Montour, Kahnawake Artist



Janice Makokis, Saddle Lake Cree Lawyer, Idle No More Coordinator



“Arthur Manuel and Grand Chief Ronald Derrickson, have won the Canadian History Association Aboriginal Book Award for their co-authored work *Unsettling Canada; A National Wake-up Call*”



BC Indigenous Leaders Win National Literary Award for *Unsettling Canada*



Arthur Manuel receiving the Canadian History Association Aboriginal Book Award on May 31, 2016, at the Royal Canadian Legion in Calgary, Alberta.

PRESS RELEASE

FOR IMMEDIATE RELEASE

TUESDAY MAY 31, 2016

(Westbank, BC.) Two prominent BC Indigenous leaders, **Arthur Manuel** and **Grand Chief Ronald Derrickson**, have won the Canadian History Association Aboriginal Book Award for their co-authored work *Unsettling Canada; A National Wake-up Call* (Between the lines).

The award was announced at the Canadian History Association organization's annual gala in Calgary on May 31. The jury said it was "impressed by how the

work traced the struggles for Indigenous rights and land claims in Canada during a time-period that frankly scholars (especially historians) have neglected, and from such a personal and significantly Indigenous-insider perspective. It was fascinating to read."

Unsettling Canada, which tells the story of the past 50 years of struggle for Indigenous rights, also lays out a course for the future relations between Indigenous peoples and other Canadians. The book had already been named one of the top 100 political books by *The Hills Times* and one of the top six non-fiction books by *Canadian Dimension Magazine* and it has been widely praised.

Naomi Klein described *Unsettling Canada* "as wise, enlightening and tremendously readable" providing "the back story of both grassroots and backroom struggles that created the context in which we find ourselves today, one in which a new generation of First Nations leaders is demanding sovereignty and self-determination, and more and more non-Indigenous Canadians finally understand that huge swaths of this country we call Canada is not ours—or our government's—to sell."

The award-winning Indigenous writer, Leanne Betasamosake Simpson described *Unsettling Canada* "a breathtakingly beautiful story of Indigenous resistance, strength, and movement building, a critical conversation that Canada and Indigenous peoples must have because it is centred on land, and, therefore, it is one of the most important books on Indigenous politics I've ever read."

Arthur Manuel said he is "very encouraged by the degree that non-Indigenous peoples are recognizing that we need to have a fundamental change in this country and this award is another indication of that."

Grand Chief Derrickson said that although they had not written the book for an academic audience, he was very pleased to see that it worked on that level. "This book has been reaching Indigenous peoples and Canadians from many backgrounds because it looks at not only where we are today but it offers a look ahead at where we can be in the future."

Arthur Manuel and Grand Chief Derrickson are now working on a follow up book that sets out in more precise terms how Canada and Indigenous peoples can honourably resolve the conflicts described in *Unsettling Canada*, and also points out the dangers to both sides if they fail to find just solutions to the Aboriginal title and rights issues.

For Interviews with Arthur Manuel or Grand Chief Derrickson please contact

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Liberals May Use Former AFN Chief's Input on UN Indigenous Rights Document

NATIONAL POST—Marie-Danielle Smith | May 10, 2016

OTTAWA — Speculation is building that the Liberal government may draw on recommendations from former Assembly of First Nations chief Phil Fontaine in its implementation of the UN Declaration on the Rights of Indigenous Peoples.

Indigenous Affairs Minister Carolyn Bennett on Tuesday confirmed Canada as a full supporter of the declaration, removing its “permanent objector” status. Though the news was well-received by United Nations delegates in New York, the government was mum on its domestic implications.

Canada, the United States, Australia and New Zealand were the only countries to position themselves against the UNDRIP when the UN took it to a vote in 2007.

The Conservative government endorsed it as an “aspirational document” — with caveats — in 2011.

Fontaine, through his consulting company Ishkonigan, Inc., submitted a document to National Resources Minister Jim Carr in December, detailing how the government of the Northwest Territories has been using a process of “collaborative consent” with First Nations for decision- and law-making.

The idea is that “free, prior and informed consent” becomes essentially moot when First Nations are co-proposing and co-drafting laws in the first place. “It is an approach that leads to reconciliation,” Fontaine wrote in the report. He recommended the federal government establish a similar system.

“It’s a very symbolic act,” Ken Coates, Canada’s Research Chair in Regional Innovation, said of the government’s move.

The AFN’s current chief, Perry Bellegarde, said in a statement Tuesday the decision sends an “important message” and constitutes “a crucial step in reconciliation.”

Natan Obed, the president of Inuit Tapiriit Kanatami, welcomed the decision but said in a statement it “disappointingly suggests little change from the previous government’s stance on the right of Inuit and other indigenous peoples to self-determination.”

Conservative critic Cathy McLeod was skeptical. “I don’t think Canadians are any clearer in terms of what the government is planning to do,” she said, calling Bennett’s explanations “very, very nebulous.”

McLeod acknowledged speculation around Fontaine’s proposals but didn’t comment on their substance.

Regarding the UNDRIP document, Coates said the government can’t just “wave a wand” and say, “now we have it.”

“It requires a great deal of care and thought and attention” to implement, he said, noting that financial commitments to meet expectations outlined in the declaration could be enormous.

Meanwhile, an NDP MP is trying to expedite the process of getting UNDRIP reflected in law. Romeo Saganash asked the government in question period Tuesday whether it would support his private member’s bill tabled last month. He did not get a specific answer.

Bennett said Monday she didn’t think Canada could “go forward based on a private member’s bill” without holding consultations first.

McLeod said she thought it would be irresponsible for the government to make “concrete commitments” before analyzing the implications.

Saganash had introduced similar bills in 2013 and 2014, but they didn’t make it past first reading. It was the same story with attempts by another NDP MP in 2009 and a Liberal MP in 2008.

With a complex policy and legal framework around indigenous issues, some of what Canada does is already in line with the UNDRIP. Several Supreme Court rulings have also upheld principles enshrined in the document.

Because it tries to harmonize Canadian law with every part of the document, the Saganash bill could open up the government to “extremely open-ended promises and commitments,” Coates said.

In their refusal to fully endorse the UNDRIP, Conservatives had cautioned that the declaration’s focus on “free, prior and informed consent” could be taken to mean that the government must give veto power to First Nations on resource development projects.

Bellegarde has said he disagrees with this interpretation, saying it has more to do with consultation and building a relationship. **[Reprinted from The National Post]**

Advancing the Right of First Nations to Information

First Nations Strategic Policy Council
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The First Nations Strategic Council is the organizational name under which the First Nations Strategic Bulletin has been published since 2002. We want to expand the work of the Bulletin, and thus the Council, by creating a more responsive publishing outlet for critical analysis of Indigenous policy and law.

It's a big job and will take a lot of time and work. But we're thinking we could phase in the project gradually - begin by uploading all the Bulletins in a searchable format, on a new website and slowly begin soliciting original content and material.

We hope to launch a new website and expand our work over the next six months. We will give notice as this happens.

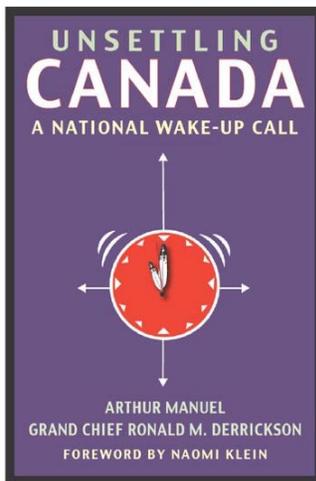


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UNSETTLING CANADA: A National Wake-Up Call

UNSETTLING CANADA is built on a unique collaboration between two First Nations leaders, Arthur Manuel and Grand Chief Ron Derrickson.



Right to left Vera Manuel (1949-2010) my mother Marceline, holding my brother Richard with Bobby (1947-1998) standing to her right. I am directly in front of Bobby, my sister Allene is on my left. Nookathli, 1962



My school picture, Chas BC, 1962



With my father, Grand Chief George Hamel, Edmonton Alberta, 1968

Both men have served as chiefs of their bands in the B.C. interior and both have gone on to establish important national and international reputations. But the differences between them are in many ways even more interesting. Arthur Manuel is one of the most forceful advocates for Aboriginal title and rights in Canada and comes from the activist wing of the movement. Grand Chief Ron Derrickson is one of the most successful Indigenous businessmen in the country.

Together the Secwepemc activist intellectual and the Syilx (Okanagan) businessman bring a fresh perspective and new ideas to Canada's most glaring piece of unfinished business: the place of Indigenous peoples within the country's political and economic space. The story is told through Arthur's voice but he traces both of their individual

struggles against the colonialist and often racist structures that have been erected to keep Indigenous peoples in their place in Canada.

In the final chapters and in the Grand Chief's afterword, they not only set out a plan for a new sustainable indigenous economy, but lay out a roadmap for getting there.

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