



WHY THE FEDERAL UNDRIP BILL C-15 MUST BE STOPPED!

BY RUSS DIABO

INDIGENOUS SCHOLARS LECTURE SERIES, UNIVERSITY OF WINDSOR, FEBRUARY 17, 2021

PARTS OF PRESENTATION

1. Constitutional Context - Self-Government
2. The Promises (2015)
3. The Plan (2016-2021)
4. Content & Impacts of Bill C-15 (2021)
5. Conclusion

LEGACY OF TRUDEAU & CHRETIEN



SECTION 35 SELF-GOVERNMENT:

INHERENT RIGHT vs. CONTINGENT RIGHT



1983 FIRST MINISTER'S CONFERENCE

CONSTITUTION ACT 1982



SECTION 35 & SEC. 37 FMC'S *CONSTITUTION ACT 1982*

- ▶ S. 35 was only included in constitution due to pressure from Aboriginal groups along with public support.
- ▶ S. 35 was re-introduced into draft constitution with **the word “existing” added to the clause** at the insistence of Western Premiers. The intent was to limit or restrict future interpretations of the clause.
- ▶ S. 37 provided for a **First Ministers’ Constitutional Conference on Aboriginal Matters** within 1 year of the constitution coming into force (Held in 1983).

1983 CONSTITUTIONAL AMENDMENT PROCLAMATION

- ▶ S.37 provided that the purpose of the FMC was to “**identification and definition**” of what rights would be included in the constitution.
- ▶ FMC 1983 was held in the spring with **representatives of the four National Aboriginal Organizations** (AFN, ITC, NCC, MNC).
- ▶ FMC 1983 agreed on a constitutional amendment that amended section 35.1 to **include section (3) creating a new category of Treaties called “land claims agreements”** (now called ‘Modern Treaties’) & section (4) confirming **Aboriginal & Treaty rights are “guaranteed equally to male and female persons.”**
- ▶ FSC 1983 also provided for **further FMC’s on Aboriginal Matters**, which were held in 1984, 1985 and 1987.

1980'S FMC'S ON ABORIGINAL MATTERS

- ▶ The amended s. 37 process changed from explicitly identifying and defining what rights would be included in the constitution to merely discussing “**agenda matters that directly affect the aboriginal peoples of Canada**”.
- ▶ Despite having a number of agenda items, the amended s. 37 process **focused on whether the right to self-government was an inherent right vs. a contingent right, subject to Crown agreement.**
- ▶ The FMC's ended in 1987 **without any agreement** between the four National Aboriginal Organizations and First Minister's.

SINCE 1990 SCC HAS DEFINED SECTION 35
THROUGH CASE LAW



1993 LIBERAL RED BOOK PROMISE



RENEWING THE PARTNERSHIP
Aboriginal Peoples' Policy Platform

1993 Liberal Redbook Promise

Inherent Right to Self-Government

- ▶ The cornerstone of a new relationship with Aboriginal peoples will be the recognition of the inherent right of Aboriginal self-government. **A Liberal government will act on the premise that the inherent right of self-government is an existing Aboriginal and treaty right within the meaning of section 35 of the *Constitution Act, 1982*.** Recognizing the inherent right is consistent with the historical fact that Aboriginal peoples governed this land prior to the arrival of Europeans to the various regions of North America.
- ▶ It is time for the government of Canada to recognize the inherent right of Aboriginal peoples to govern themselves. The Liberal Party is not suggesting reopening the constitutional debate at this time, but it is necessary to move ahead on Aboriginal self-government and we believe it is possible to do this within the existing constitutional framework. The approach is consistent with the views of the **Royal Commission on Aboriginal Peoples as set out in its interim report on self-government.**

STOP TRUDEAU'S ASSIMILATION CAMPAIGN

#WhitePaper2019
#IdleNoMore



Honour Our Treaties
&
Nation-to-Nation
Relationships

**INDIGENOUS NATIONS ARE NOT
CANADA'S 4TH LEVEL OF GOVERNMENT!!!**

Government of Canada's
Approach to Implementation of
the Inherent Right and the
Negotiation of Aboriginal Self-
Government (1995):
The Federal so-called "Inherent
Right" Policy

FEDERAL DEFINITION OF INHERENT RIGHT OF SELF-GOVERNMENT

- ▶ INHERENT RIGHT POLICY 1995-2021
- ▶ Federal government says it recognizes that s.35 includes the “inherent right of self-government”
- ▶ Federal government limits & restricts the nature & scope of the right through its policy
- ▶ Federal government wants to get First Nations consent to a narrow definition of rights
- ▶ Federal government requires provincial role & allows provincial veto

CANADA'S DEFINITION OF "INHERENT"

- ▶ Matters that are "internal" & "integral to the culture" of a First Nation ie., internal governance, reserve lands, administration, delivery of services, culture
- ▶ Canada still retains ultimate control by defining the limits to what can be negotiated under each heading
- ▶ AREAS WHERE CANADA WILL DELEGATE
- ▶ matters where Canada will not recognize any inherent right
- ▶ Canada will only delegate: First Nations must recognize paramount federal authority ie., taxation; trade & commerce; justice; gaming; fisheries; etc.
- ▶ Provinces get vetoes in their areas

NON-NEGOTIABLES

- ▶ Self determination
- ▶ Extinguishment & Terra Nullius (Empty Lands)
- ▶ Sovereignty, international treaty-making
- ▶ International trade, import & export;
- ▶ Trade & commerce
- ▶ Criminal law
- ▶ Fiscal policy

DISCUSSIONS, NEGOTIATIONS, LEGISLATION

1995-2021

- ▶ The federal “inherent right” policy is being applied by Canada at every discussion & negotiating table
- ▶ Canada’s intention is to use negotiations to get First Nation’s consent to a narrow definition of the nature & scope of Aboriginal & Treaty rights
- ▶ In the process, fiscal resources are capped or reduced
- ▶ Federal Crown abandons responsibility to ensure that needs are met without assuring adequate revenues for First Nations

FEDERAL LEGISLATION OVER INDIANS, FIRST NATIONS & INDIGENOUS PEOPLES

- ▶ Continue federal interference by legislating in areas that even Canada admits are internal to First Nations and integral to their culture
- ▶ ie., elections, lands, definition of “Band”, child & family services, languages
- ▶ Modify legislative base to facilitate ‘inherent right’ negotiations
- ▶ consolidate ultimate control of Ministers
- ▶ Use legislation to limit nature & scope of right: First Nations consent when they opt-into legislation

FEDERAL 'INHERENT RIGHT' POLICY

- ▶ The federal '**Inherent Right**' Policy states "*The inherent right of self-government **does not include a right of sovereignty in the international law sense...**implementation of self-government should enhance **the participation of Aboriginal peoples in the Canadian federation [as fourth level "Indigenous governments"]**". [emphasis added]*

The Promises (2015)



Carolyn Bennett, PM Justin Trudeau, Jody
Wilson-Raybould

Justin Trudeau's Key 2015 Promises

- ▶ Engage in a new “**Nation-to-Nation**” Process.
- ▶ Develop in full partnership with First Nations a **National Reconciliation Framework**.
- ▶ Enact all **94 TRC Calls to Action** and **adopt UNDRIP**.
- ▶ **Lift 2% Cap** on First Nations Funding.
- ▶ Do a **full review of federal law & policy** in full partnership with First Nations.
- ▶ Establish an **Indigenous Missing Women's & Girls Inquiry**.

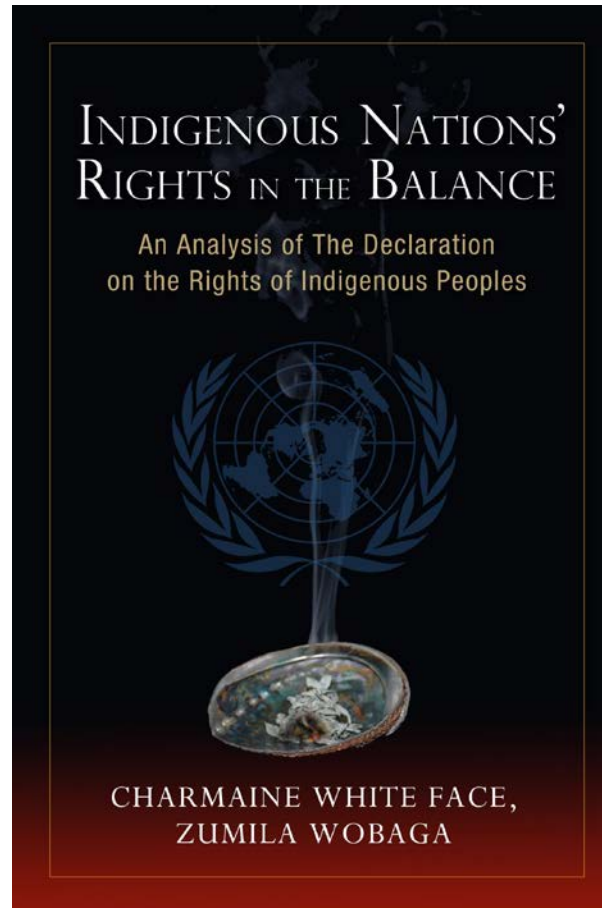
TRC CALLS TO ACTION

- ▶ 43. We call upon federal, provincial, territorial, and municipal governments to **fully adopt and implement** the United Nations Declaration on the Rights of Indigenous Peoples as the framework for reconciliation.
- ▶ 44. We call upon the Government of Canada to **develop a national action plan, strategies, and other concrete measures** to achieve the goals of the United Nations Declaration on the Rights of Indigenous Peoples.



ADOPT UNDRIP!

Indigenous Nations' Rights in the Balance, An Analysis of the Declaration on the Rights of Indigenous Peoples, By Charmaine White Face, Zumila Wobaga, 2013, Living Justice Press



UNDRIP Was Watered Down at UN

- ▶ There were three main drafts of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).
- ▶ 1994, the Original Text version of UNDRIP.
- ▶ 2006, a second amended version of UNDRIP was the Human Rights Council version.
- ▶ 2007, the final version of UNDRIP is the United Nations General Assembly version, which was passed by the United Nations General Assembly after changes were made by the African Union, changes that were never properly presented to Indigenous Peoples.
- ▶ It is the first Original Text version of UNDRIP drafted by hundreds of Indigenous representatives over a period of years with their direct participation, which was then undermined by nation states in politicized negotiations. The United Nations General Assembly by resolution adopted the UNDRIP in 2007.

Key Articles of UNDRIP

- ▶ Article 3 – Right to Self-Determination.
- ▶ Article 10 – No forced removal w/o FPIC.
- ▶ Article 18 – Right to participate in decision-making through representatives chosen in accordance with their own procedures & their own indigenous decision-making institutions.
- ▶ Article 19 – FPIC required before legislation/administration measures.
- ▶ Article 26 – Rights to lands, territories, resources and restoration.
- ▶ Article 27 – Fair process jointly developed to adjudicate rights to lands, territories, resources.
- ▶ Article 28 - Just, fair and equitable restitution: comparable lands or monetary compensation.
- ▶ Article 32 – FPIC required for and development affecting lands, territories, resources.
- ▶ Article 37 – Rights from Treaties, agreements, constructive arrangements.
- ▶ Article 46 - Nothing in this Declaration may be interpreted to challenge the assumed sovereignty or territorial integrity of the state.

The Plan (2016-2021)



PMJT & Michael Wernick, appointed Clerk of the Privy Council, Jan. 2016

National “Reconciliation” Plan

- ▶ From my experience in the 1993 Federal Election as **Vice-President of Policy for the Aboriginal Liberal Commission**, I can confidently say when a federal political party forms government **it falls to the bureaucracy to turn the election promises into a plan.**
- ▶ In January 2016, PM Justin Trudeau appointed **Michael Wernick as Clerk of the Privy Council.**
- ▶ In 2016, the Trudeau government **gave qualified support to UNDRIP** (in accordance with Canadian constitution).
- ▶ In December 2016, PM Trudeau announced a **Two-Track approach of Indigenous Reconciliation** using the three National Indigenous Organizations & Leaders.
- ▶ In June 2017, the Trudeau government issued **10 Principles for Indigenous Relationships**, which reinforced “**assumed**” **Crown sovereignty and Territorial Integrity** via Canada’s constitutional framework. (UNDRIP Article 46)

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

- ▶ "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

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

- ▶ "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.

PM Justin Trudeau has Described “Indigenous Governments” in Canada as a “4th Level Gov’t

- ▶ At a public event organized by “The Economist” magazine in Toronto in the summer of 2016, Prime Minister Justin Trudeau stated “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>]

TWO-TRACK APPROACH TO PAN-INDIGENOUS POLICY (FIRST NATIONS, METIS, INUIT) & “NEW” RELATIONSHIP

- ▶ 1) closing the socioeconomic gap between Indigenous Peoples and non-Indigenous Canadians (**Indigenous Services Canada**), and
- ▶ 2) making foundational changes to laws, policies and operational practices based on the federal recognition [definition] of rights to advance [federal interpretation of] self-determination and self-government. (**Crown-Indigenous Relations**)

Trudeau's Two-Track "Reconciliation" Plan

Section 91.24

Use Federal Colonial, Authority & Control over **"Indians & Lands Reserved for Indians"** to Dissolve Dept. of Indian Affairs & Create 2 New "Indigenous" Dept's.

Section 35

To Impose a "New Relationship" Through a Unilateral Federal Definition & Interpretation of "Recognition" of **"Existing Aboriginal & Treaty Rights"**



10 FEDERAL PRINCIPLES ON INDIGENOUS RELATIONSHIPS



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.

1



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

2

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

3



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

4

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.

5



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.

6

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.

7



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.

8

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

9



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.

10

2017 FEDERAL "10 PRINCIPLES"

- ▶ The "**10 Principles**" act as a proxy for the UNDRIP, with the Principles are simply a restatement of the Canadian common law limitations of section 35 rights.
- ▶ Canada makes it clear under the first principle where they pretend to recognize the Indigenous right to self-determination, but their approach is still rooted in the colonial doctrines of discovery. They set out that: "**Canada's constitutional and legal order recognizes the reality that Indigenous peoples' ancestors owned and governed the lands which now constitute Canada prior to the Crown's assertion of sovereignty.**" Here, Canada speaks to its assertion of sovereignty and claim to underlying title to the land, which they take as a given and do not question. If Canada was serious about meeting its international obligations it would have to move away from its reliance on the colonial doctrines of discovery. Canada should comply with the **Convention on the Elimination of Racial Discrimination (CERD's)** rejection of the colonial doctrines of discovery as a racist basis for the claim to sovereignty, jurisdiction and title.

Dissolving INAC & Creating 2 Departments: Indigenous Crown Relations & Indigenous Services



DEFINITIONS – INDIGENOUS SERVICES & CROWN-INDIGENOUS RELATIONS DEPTS.

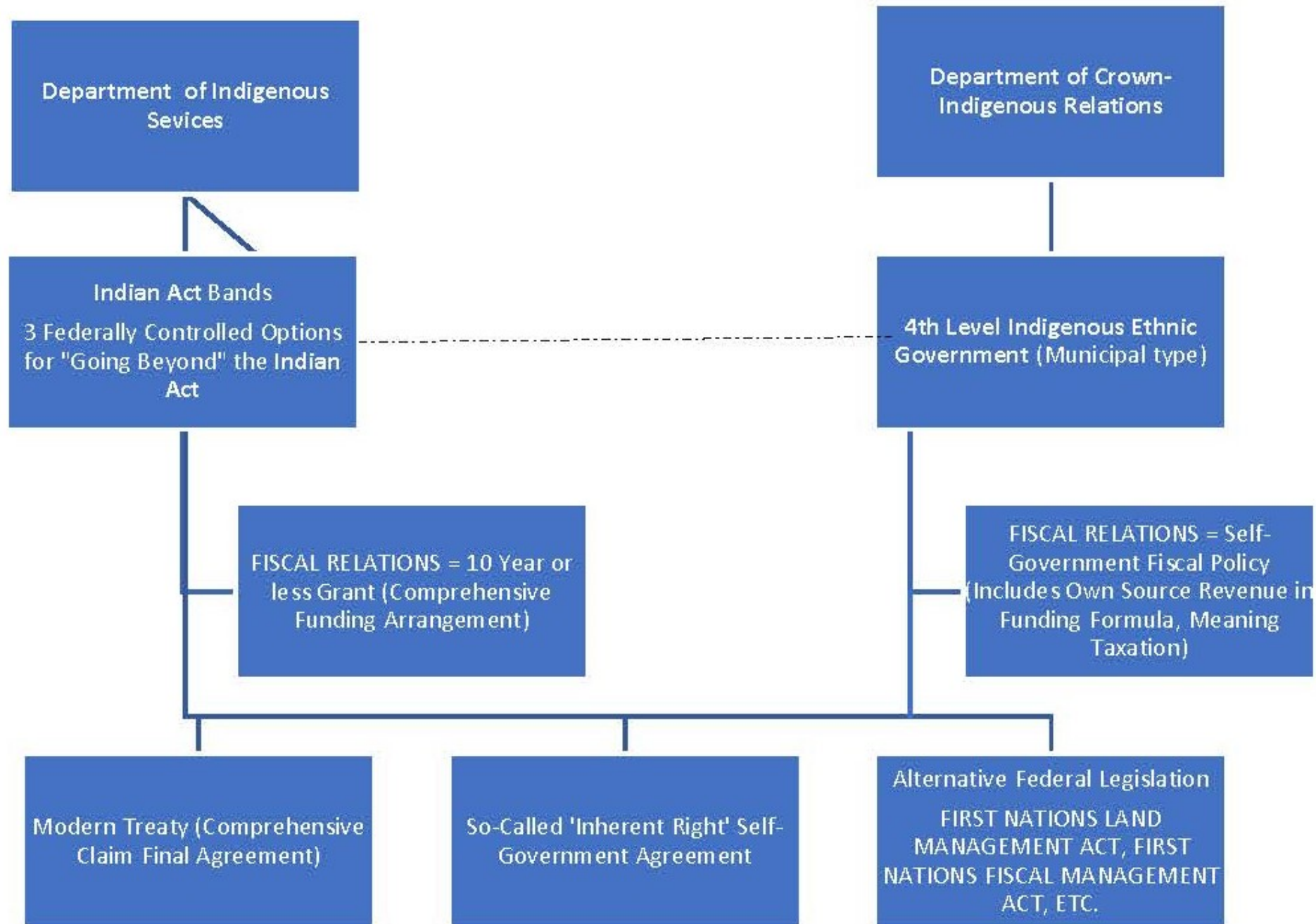
- ▶ **Indigenous governing body** means a council, government or other entity that is authorized to act on behalf of an Indigenous group, community or people that holds rights recognized and affirmed by section 35 of the *Constitution Act, 1982*.
- ▶ **Indigenous organization** means an Indigenous governing body or any other entity that represents the interests of an Indigenous group and its members.
- ▶ **Indigenous peoples** has the meaning assigned by the definition aboriginal peoples of Canada in subsection 35(2) of the *Constitution Act, 1982*.

MINISTER OF INDIGENOUS SERVICES MANDATE

- ▶ Ensure that services are provided to **Indigenous individuals** who, and **Indigenous governing bodies** that, are eligible to receive those services.
- ▶ (a) child and family services;
- ▶ (b) education;
- ▶ (c) health;
- ▶ (d) social development;
- ▶ (e) economic development;
- ▶ (f) housing;
- ▶ (g) infrastructure;
- ▶ (h) emergency management;
- ▶ (h.1) governance;

MINISTER CROWN-INDIGENOUS RELATIONS MANDATE

- ▶ Minister is responsible for:
- ▶ (a) **exercising leadership within the Government of Canada** in relation to the affirmation and implementation of the rights of Indigenous peoples recognized and affirmed by section 35 of the *Constitution Act, 1982* and the implementation of treaties and other agreements with Indigenous peoples;
- ▶ (b) **negotiating treaties and other agreements** to advance the self-determination of Indigenous peoples; and
- ▶ (c) **advancing reconciliation with Indigenous peoples**, in collaboration with Indigenous peoples and **through renewed nation-to-nation, government-to-government and Inuit-Crown relationships.**



2018 - PM Announces Legislative “Framework” for “Recognition & Implementation” of Rights



PROPOSED “RIGHTS RECOGNITION” FRAMEWORK

- ▶ On February 14, 2018, PM Trudeau announced in the HoC his **National “Reconciliation” Plan**, a “**Rights Recognition Framework**”, which was subsequently rejected by First Nations across Canada.
- ▶ According to a September 2018, federal “**Overview Document**” the federal “**Rights Recognition Framework**” law would have formed the basis for **ALL RELATIONS** between the federal Crown (government) and Indigenous Peoples (First Nations, Metis, Inuit) including “pre-1975” and “post-1975” Treaties and:
- ▶ Would have contained federal “**definitions**” of “**key terms**”.
- ▶ Federal and Provincial/Territorial powers and jurisdictions would continue to dominate over First Nations and provincial governments would continue to **have a veto over any agreements affecting their jurisdiction**.

COMPONENTS OF PROPOSED “RIGHTS RECOGNITION” FRAMEWORK

- ▶ A federally established advisory committee or institution would have been 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 would all have been subject to agreements with the federal and provincial governments (where their jurisdiction is affected). The federal legislation would have included a **“list of powers”** for **“Indigenous Governments”**, which could have been amended by the federal government.
- ▶ The Prime Minister has said these **“Indigenous Governments”** are a **“4th level” of government in Canada**, making them lower in status than federal, provincial and municipal governments.

Status of the “Reconciliation” Plan (2021)



2020 Throne Speech

Status of Key Liberal 2015 Promises

- ▶ **"Nation-to-Nation"** Process is a pan-Indigenous approach but remains based on imposed 1995 "Inherent Right" Policy.
- ▶ **National Reconciliation Framework** is based on unilateral sec. 35 policy framework as Canadian definition of UNDRIP as proposed in Bill C-15.
- ▶ **Enact 94 TRC Calls to Action** and **UNDRIP** federal action on TRC Call to Action 43 & federal endorsement of UNDRIP with Bill C-15.
- ▶ **Lift 2% Funding Cap** remains to be seen--in fiscal policies (10 Yr. Grants & Self-Gov't Fiscal Policy Formula.)
- ▶ **Full review of federal law & policy** in full partnership with First Nations. This became a top down approach using Nat'l Indigenous Orgs. Now it is an internal process of "Reconciliation" Cabinet Committee.
- ▶ **Indigenous Missing Women's & Girls Inquiry** federal action-plan on MMIWG Findings & Recommendations remains outstanding.

FEDERAL UNDRIP BILL C-15

2019 MAJOR LIBERAL PROMISE & 2020 THRONE SPEECH

- ▶ “We will take action to implement the United Nations Declaration on the Rights of Indigenous Peoples in the first year of a new mandate.” (Liberal Platform)
- ▶ “The Government will move forward to introduce legislation to implement the United Nations Declaration on the Rights of Indigenous Peoples before the end of this year.” (Throne Speech)

MANUFACTURING CONSENT – BILL C-15

- ▶ Bill C-15 was introduced into Parliament on December 3, 2020, after **a six week “engagement process”**, again bypassing the rights holders (Indigenous Peoples and Nations). Rather the government focused on its funded organizations (AFN, MNC, ITK) to manufacture consent: a continued violation of our right of self-determination. The manufactured consent brings disrepute to the process and the people who have cooperated with the government of Canada in bypassing rights holders—the Peoples!

WHAT IS CONTENT OF TRUDEAU'S BILL C-15?

- ▶ Bill C-15 is a proposed Federal law introduced into Parliament December 3, 2020.
- ▶ The preamble of Bill C-15 is not legally binding but provides context for interpretation. The courts will mainly focus on the operative sections (1-7) of Bill C-15 **NOT** the preamble.
- ▶ **SECTION 1-TITLE**-This Act may be cited as the **United Nations Declaration on the Rights of Indigenous Peoples Act**. The title of Bill C-15 reflects the intent of the Bill, which is not to adopt UNDRIP in the laws of Canada otherwise Bill c-15 would have been titled the "Adoption of the UNDRIP Act" or a similar title.
- ▶ **SECTION 2(2)-RIGHTS OF INDIGENOUS PEOPLES**-maintains the common law interpretation of section 35(1) and section 35(2) of the Constitution Act, 1982, which is heavily based on the colonial Doctrine of Discovery. Nothing will change-the colonial status quo (White Paper 2.0) will remain the same.
- ▶ **SECTION 4-PURPOSE OF ACT**-Bill C-15 merely "affirms" UNDRIP but does not "adopt" or "approve" UNDRIP to be implemented in the "laws of Canada" as a framework for the Government of Canada's implementation of the Declaration, but Bill C-15 does NOT respect international standards of law.

WHAT IS CONTENT OF TRUDEAU'S BILL C-15?

- ▶ **SECTION 5-MEASURES FOR CONSISTENCY OF LAWS WITH UNDRIP**-A court could not “order” the government of Canada to adopt legislation that conforms to UNDRIP based on this section, nor could it invalidate a federal law for being inconsistent with UNDRIP based on this section. Then there is the separation of the three branches of the federal government.
- ▶ **SECTION 6-ACTION-PLAN**-This section of the Bill C-15 gives the government of Canada a dominant role in interpreting UNDRIP “principles” in relation to federal laws, since under Canada’s constitutional division of federal and provincial powers, the provincial governments have a veto in subject areas that may affect their jurisdiction.
- ▶ **SECTION 7-REPORTING TO PARLIAMENT**-on measures taken and the action-plan. Bill C-15, in its preamble or in this section, makes no mention that the government of Canada in “preparing and implementing” an “action plan” shall obtain the Free, Prior, Inform Consent of Indigenous Peoples and Nations “in accordance with their own procedures” and “their own indigenous decision -making institutions”.

IMPACTS OF BILL C-15

1. The Trudeau government is taking a page from the BC government, which also used a top-down approach to adopting **Bill 41 BC's UNDRIP law** over a year ago. It was the First Nations Leadership Council that collaborated with the BC government to adopt the BC UNDRIP law, **Bill 41**. The "Leadership Council" represents the main Chiefs' organizations in the province, but there are 203 Indian Act bands in B.C. whose band members were not meaningfully consulted about Bill 41 and many likely still don't know what the implications of the UNDRIP law are yet.

2. This Bill if it becomes federal law will negatively impact all aspects of the lives of Indigenous Peoples and Nations in Canada for generations to come, because the Bill will keep in place the colonial system of the Crown's (federal, provincial, municipal) centuries old domination through its laws, including the *Constitution Act 1867* and the *Constitution Act 1982*, which are based on the colonial Doctrine of Discovery.

IMPACTS OF BILL C-15

- ▶ 3. The main sections of Bill C-15, particularly section 2, maintain the common law interpretation of section 35(1) and section 35(2) of the *Constitution Act, 1982*, which is heavily based on the colonial Doctrine of Discovery.
- ▶ 4. The application of this doctrine has resulted in a number of problems in legal interpretations in case law based on section 35 of the *Constitution Act, 1982*, which negatively impact the “on the ground” daily life for Indigenous Peoples and Nations in Canada including:

IMPACTS OF BILL C-15

- The imposition of Crown sovereignty over Indigenous peoples, including self-government rights.
- Disregarding Indigenous laws and legal traditions.
- Establishing that the Crown has “ultimate title” to land.
- The burden of proof imposed on Indigenous Peoples and Nations to establish their rights in Canadian courts.
- The racist and “frozen in time” “Van der Peet” legal test for establishing Aboriginal rights.
- The ability for the Crown to infringe Aboriginal rights based on the “Sparrow” legal test.
- The erosion of the Government’s duty to consult and accommodate to nothing more than a procedural right that is reviewable based on administrative law principles. (Strength of Claim/Depth of Consultation - Crown assessments)

CONCLUSION

The Trudeau government has co-opted our terminology like Nation-to-Nation, Reconciliation, Decolonization and making big promises it made during its first mandate operating in a secret, top-down manner, using AFN & other National Indigenous Organizations to give the appearance of “co-development” of massive, unprecedented, changes to policy, law & structure.

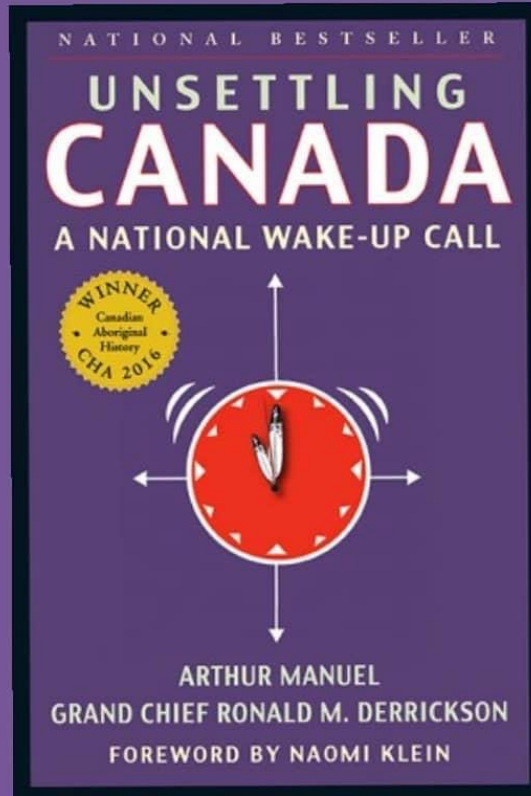
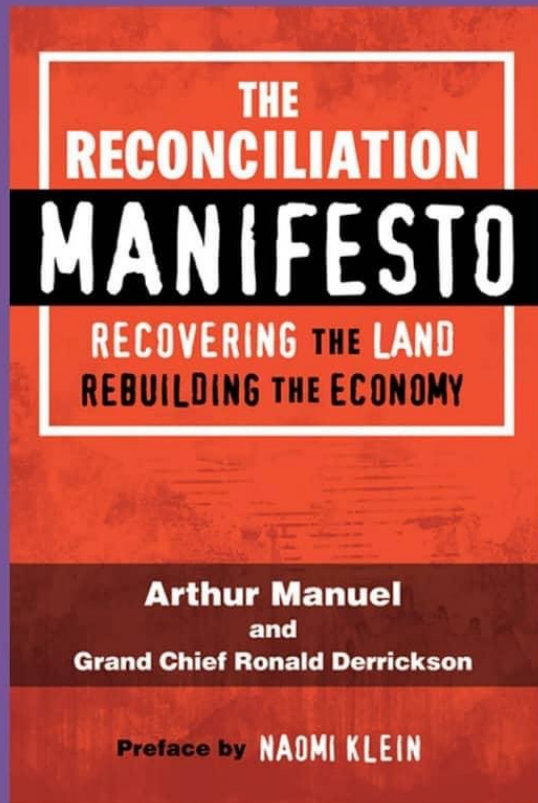
If Bill C-15 becomes law the federal section 35 domestic policy/legal framework will be the status quo (SECTION 4) “Framework” used for interpreting the international UNDRIP 46 Articles in the (SEC. 5) measures, (SECTION 6) action-plan and (SECTION 7) reporting requirements in the legislation.

The lead Indigenous advocates of Bill C-15 come from Indigenous groups who have entered into, or they are negotiating, “Modern Treaties”, “Self-Government” Agreements, or they’ve opted out of the Indian Act into alternative federal legislation.

It is those Indigenous Grassroots Peoples who have unresolved Aboriginal Title and historic Treaty rights who are opposing Bill C-15, called CANDRIP not UNDRIP! This is an indication that there needs to be a national process of discussion among Indigenous communities & Nations about UNDRIP itself!

If passed, Bill C-15 will likely lead to more conflict not less between Indigenous communities, Nations, Crown governments & industry, beyond the currently active land defenders and water protectors!

EDUCATE YOURSELVES



Must read books

THE END