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## The Road to Self-Government

### Chapter Outline

Like land claims and Aboriginal rights, the road to self-government has also been one that has gone through a number of phases. At the close of 1990, there were 500 to 600 specific land claims outstanding, some with very long histories, such as the Lubicon, which began in 1930. Although there has been success in the decades following, the process is often complicated by the division of powers between the federal government and the provinces. In particular, B.C.'s lengthy history of denying Indigenous title and claims has resulted in a greater number of comprehensive claims there, than any other province. The first land claim settled in B.C. was the Nisga'a Treaty, which (as a self-government agreement: see Historical box, p. 313), provided the Nisga'a with fee simple title to 1,900 sq. kilometers of land.

In the northern part of Canada, the need for self-government was underscored by developing technology, which saw increasing exploitation of lands with little consideration for the needs of northern peoples. In the case of plans for hydroelectric development in Quebec, the lack of consultation led to protests and political organization by First Nations and Inuit peoples. The James Bay and Northern Quebec Agreement of 1975 was the result of these actions and it provided Indigenous Peoples with much greater control over their own political, economic and social affairs. However, in other similar cases, such as that of the Kitchenuhmaykoosib Inninuwug First Nations, their clashes with a drilling company on their land has been ongoing and unresolved.

The issue of self-government came to the forefront after the repatriation of the Canadian Constitution and several constitutional conferences on self-government in the mid-1980s. These conferences were to include the Prime Minister, premiers, and Indigenous leadership with the goal of defining self-government as an Aboriginal right. However, the conferences failed to advance self-government and demonstrated the reluctance of both the federal and provincial governments to entrench self-government in the Constitution as an Aboriginal right. In 1990, Elijah Harper, then member of the Manitoba legislature, withheld his vote on the Meech Lake Accord on the grounds that proper procedures were not being followed, resulting in the deadline not being met and the Accord dying. The stalling of the recognition of self-government at the constitutional level did not stop self-government from moving forward at the local level. A number of self-government agreements were signed, including the, the Cree-Naskapi Act, the Western Arctic Claim Agreement, the Yukon Umbrella Agreement and the Sechelt Self-Government Agreement, which allows the Sechelt to operate similarly to a municipality. As a case by case approach continues, other First Nations have also negotiated municipal style self-government agreements. However, matters of self-government have been complicated by the diversity of circumstances for each case as well as fiscal restraint.

One result of the lack of movement in the area of Aboriginal rights, catalyzed by the Oka crisis, was the establishment of the Royal Commission on Aboriginal Peoples by Brian Mulroney. The Commission heard from Indigenous Peoples across Canada and created 440 recommendations to government that could improve the lives of Indigenous Peoples. Unfortunately, the Canadian government has only acted on a few of these recommendations.

In the meantime, the government has made a number of unsuccessful attempts to replace the Indian Act with legislation that allows for greater Indigenous control over their affairs. The First Nations Governance Act was proposed to give bands increased powers, but First Nations objected to the lack of Indigenous involvement in the development of the legislation. More recently, the government of Justin Trudeau has promised to build a new relationship with Indigenous peoples; in May of 2016, he began by announcing support for the United Nations Declaration on the Rights of Indigenous Peoples. and in February of 2017, he announced the governments intent to review all laws and policies as they relate to Indigenous people.

The chapter also introduces some of the primary Aboriginal leaders who played an important role in the negotiations mentioned above such as Elijah Harper and Ovide Mercredi. Other important Indigenous voices came from artists like Willie Dunn.

## Learning Objectives

- To understand the evolution of Indigenous self-government as it has taken form in Canada
- To recognize the connections between lands, resources and governance
- To recognize the place of Indigenous self-government within the Canadian constitution
- To be able to identify and understand a number of Indigenous self-government agreements, including that of the Nisga'a
- To recognize some important Aboriginal leaders who have contributed to the struggle for self-governance

## Key Terms, Figures or Sites

**Aboriginal title** A legal term referring specifically to the inherent Aboriginal right to land or a territory (p. 330).

**comprehensive claims** Claims arising in areas where rights of traditional use and occupancy have not been extinguished by treaty or superseded by law (p. 332).

**Constitutional patriation** Process of transfer of the authority to amend a country's constitution to that country, signifying independence from a colonial power. In the case of Canada, it refers to the 1982 amendment of Canada's Constitution from being a British statute to being held in Canada (p. 328).

**division of powers** Situation in which different levels of government in a federal system have authority over different aspects of public policy (p. 321).

**Dunn, Willie** (1942-2013) a Mi'kmaw filmmaker, activist, playwright and folksinger who represents a powerful contrast to the context of hard political negotiation in the relationship between First Nations and the government. This contrast was especially notable in his song "Son of the Sun," where he proposed a view of Indigenous culture and the importance of customary usage in what is considered beautiful and elegant simplicity (p. 334).

**First Nations Governance Act (FNGA)** Legislation proposed in January of 2002 by the Department of Indian Affairs that was designed to amend, and effectively do away with, the original Indian Act. Known as Bill C-7, it created much discussion on the issue of First Nations governance but was never enacted and died when the parliamentary session ended in 2004 (p. 337).

**Harper, Elijah** Oji-Cree chief from Red Sucker Lake and member of the Manitoba legislature (NDP, Rupertsland) who was instrumental in the failure of the Meech Lake Accord by withholding his vote for ratification (p. 329).

**James Bay and Northern Quebec Agreement (JBNQA)** Land claim agreement of 1975 between Inuit and Cree of northern Quebec and federal and provincial governments that involves a transfer of money in exchange for cession of land but fails to entrench Aboriginal rights. The JBNQA resulted from Indigenous objections to the province's James Bay hydroelectric project, begun in 1971 (p. 325).

**Kelowna Accord** A "national treaty" achieved by Liberal Prime Minister Paul Martin and Indigenous leaders in meetings in Kelowna, BC, that would provide \$5 billion over a five-year period to improve the daily lives of Indigenous People living within Canada in terms of housing, health care, education, and economic development. The Accord, reached in late November of 2005, was never ratified by the House of Commons after the Conservatives, under Stephen Harper, gained a minority government in February of 2006 (p. 338).

**Mercredi, Ovide** (b. 1946) served two terms as Chief of the Assembly of First Nations (1991 and 1994); he is known to be one of the strongest proponents of self-government and constitutional reform in Canadian history. He first came to national attention as an advocate for the Cree during the time of the proposed Great Whale hydroelectric project. He is a firm believer in non-violent protest. His work on constitutional reform is reflective in his 1993 book, *In the Rapids: Navigating the Future of First Nations* (p. 336).

**Mackenzie Valley Pipeline Inquiry** (1974–7) Investigation commissioned by the Canadian federal government and headed by Justice Thomas Berger to study the social, economic, and environmental impact of a proposed gas pipeline and energy corridor from the western Arctic to Alberta and further south (p. 326).

**Penner Report** (1983) Report of the Special Parliamentary Committee on Indian Self-Government, headed by Liberal MP Keith Penner, that recommended a distinct form of Indigenous self-government (p. 328).

**Royal Commission on Aboriginal Peoples (RCAP, 1991–6)** Commission set up in the wake of the Kanesatake standoff and chaired by Georges Erasmus, a former National Chief of the Assembly

of First Nations, and René Dussault, a judge of the Quebec Appeals Court. Its final report included 440 specific recommendations (p. 331).

**Self-government** Government controlled and directed by the inhabitants of a region rather than by an outside authority (p. 330).

**Specific claims** Claims concerning outstanding legal obligations on the part of the government, such as non-fulfillment of a treaty, breach of an obligation under the Indian Act, or improper actions in connection with the acquisition or disposition of land by government employees or agents (p. 321).

**United Nations Declaration on the Rights of Indigenous Peoples** An aspirational document overwhelmingly approved by the United Nations in 2007; Canada, with the new Justin Trudeau government in 2015, has now moved to put its goals into policy and practice (p. 341).

## Study Questions

1. How many out of 500–600 outstanding specific claims were settled by the end of the twentieth century?
2. What is the history of the Lubicon Cree claims?
3. What circumstances led to the James Bay and Northern Quebec Agreement and what were the highlights of this agreement?
4. How has the push for resources affected various northern First Nations such as Grassy Narrows and the Kitchenuhmaykoosib Inninuwug First Nations?
5. Why was the Mackenzie Valley Pipeline Inquiry struck and what was the result of this inquiry?
6. What were the circumstances surrounding the “Native Peoples Caravan” and what is significant about this event?
7. What were the reasons behind the constitutional conferences that were set out after the constitutional patriation took place in 1982? What were the results of these conferences?
8. What was the Penner Report and what was significant about its recommendations?
9. Who is Elijah Harper and what is his association with the Meech Lake Accord?
10. What was the importance of the Cree–Naskapi Act of Quebec in 1984?
11. Why was the Royal Commission on Aboriginal Peoples created? What was its mandate and what was the result of this Commission?
12. Why is the land claim process in British Columbia so complex?

13. Why is the Nisga'a Agreement so important?
14. What was the First Nations Governance Act and how did First Nations view its provisions?
15. What was the Kelowna Accord and what was its outcome?
16. What has been Canada's approach to self-government negotiations since RCAP?
17. What are the key promises that have been made by Prime Minister Justine Trudeau, which may move the relationship between Indigenous Peoples and the federal government forward?
18. What are the new names for the former Ministry of Indigenous and Northern Affairs?

## Essay Questions

1. Describe the terms of the Western Arctic Claim Agreement (Inuvialuit Final Agreement).

The Inuvialuit Final agreement was reached in 1984. It included the cession of 96,000 square kilometers of land, \$45 million in benefits, and \$10 million for economic development. Administered by the Inuvialuit Regional Corporation, this agreement also includes wildlife conservation and management and many business activities (p. 330).

2. Describe the Report of the Royal Commission on Aboriginal Peoples.

The Report of the Royal Commission on Aboriginal Peoples is contained in five volumes and a total of 3,537 pages. Its recommendations advocate for a major change in the social and political institutions that are related to Aboriginal peoples. Four key issues were identified: "the need for a new relationship between Indigenous and non-Indigenous peoples, self-determination through self-government, economic self-sufficiency, and healing for Indigenous peoples and communities" (Dickason & Newbigging, 306). The Commission made 440 recommendations to achieve these goals. RCAP also outlined four dimensions for social change: (1) healing; (2) improving economic opportunity; (3) developing human resources and Aboriginal institutions; and (4) adapting mainstream institutions to both Aboriginal and non-Aboriginal needs. (pp. 334–335)

3. Who was Ovide Mercredi? Explain why he was important to the negotiation of Aboriginal self-government.

Ovide Mercredi was at one time the National Chief of the Assembly of First Nations. He has been and is one of Canada's foremost advocates for self-government and constitutional reform. His first role was working for the Cree in the Great Whale hydroelectric project in Quebec. He was also a key advisor to Elijah Harper during the Meech Lake Accord negotiations. He served as a mediator in the Oka crisis of 1990 and at Gustafsen Lake in 1995. His belief in the inherent right to self-government is published in his book *In the Rapids: Navigating the Future of First Nations* (1993) (p. 336).

## Additional Resources

### Further Readings

- Asch, Michael. *Home and Native Land: Aboriginal Rights and the Canadian Constitution*. Toronto: Methuen, 1984.
- Belanger, Yale D. *Aboriginal Self-Government in Canada: Current Trends and Issues*. 3rd ed. Saskatoon: Purich Publishing, 2008.
- Boldt, Menno. *Surviving as Indians: The Challenge of Self-Government*. Toronto: University of Toronto Press, 1993.
- Borrows, John. *Canada's Indigenous Constitution*. Toronto: University of Toronto Press, 2010.
- Flanagan, Tom. *Beyond the Indian Act: Restoring Aboriginal Property Rights*. Montreal: McGill–Queen's University Press, 2010.
- Goddard, John. *Last Stand of the Lubicon Cree*. Vancouver: Douglas & McIntyre, 1991.
- Hedican, Edward J. *Ipperwash: The Tragic Failure of Canada's Aboriginal Policy*. Toronto: University of Toronto Press, 2013.
- Hornig, James F., ed. *Social and Environmental Impacts of the James Bay hydroelectric Project*. Montreal and Kingston: McGill-Queen's University Press, 1999.
- King, Sarah J. *Fishing in Contested Waters: Place and Community in Burnt Church/Esgenoopetiti*. Toronto: University of Toronto Press, 2013.
- Mercredi, Ovide. *In the Rapids: Navigating the Future of First Nations*. Toronto: Viking, 1993.
- Samson, Colin. *A Way of Life That Does Not Exist: Canada and the Extinguishment of the Innu*. St John's and London: ISER Books and Verso, 2003.
- Shkilnyk, Anastasia M. *A Poison Stronger Than Love: The Destruction of an Ojibwa Community*. New Haven: Yale University Press, 1985.

### Websites

- Nisga'a Lisims Government – Accomplishments and Benefits of Nisga'a Treaty
- <http://www.nisgaanation.ca/about-accomplishments-and-benefits-nisgaa-treaty>
- Amnesty International – Our Work: Issues: Indigenous Peoples: Indigenous Peoples in Canada: “The Lubicon Cree: Ongoing Human Rights Violations”
- <https://www.amnesty.ca/our-work/issues/indigenous-peoples/the-lubicon-cree-ongoing-human-rights-violations>