



## TRUTH BEFORE RECONCILIATION!

### BRIEFING NOTE (WARNING) TO GRASSROOTS FIRST NATION PEOPLES

**Both Liberals & Conservatives Share Same Plan and “Core Federal Negotiation Mandates”:  
Achieving First Nations Surrender to Canada’s Definition of a “Self-Governing First Nation”**

**March 25, 2025**

The federal bureaucracy has been after national legislation to convert Indian Bands into municipal corporate entities that have the “**power, rights and privileges of a natural person at law**” for decades now.

The approach is consistent with the 1995 “**Inherent Right Policy**” of Self-Government, imposed by then **Liberal Prime Minister, Jean Chretien**—who never gave up his **1969 White Paper Indian Policy objectives**—Chretien’s so-called “**Inherent Right Policy**” remains the umbrella policy for **ALL** discussions and negotiations with the federal government, including at the **Recognition of Indigenous Rights and Self-Determination (RIRSD) Tables**.

Despite Liberal Prime Minister Justin Trudeau’s promise to replace the self-government policy in 2018 with “*something better*”, it remains in place by the federal government, as does the **Indian Act**, despite dissolving the federal **Department of Indian Affairs** by legislation, in 2019, and implementing a 2-Track approach to prepare **Indian Act Bands/Reserves** for the end of the **Indian Act** through 2 new federal departments of **Indigenous Services Canada (ISC)** and **Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC)** to fiscally coerce Indian Bands/Reserves into **4<sup>th</sup> Level Indigenous Government municipal status and capacity**.

### **Defining Constitutional Rights through Legislation [Limiting Self Government Rights] & Imposition of Corporate Structures**

To understand how federally legislated municipal powers works for “**Self-Governing First Nations**” (**Former Indian Act Bands**), it parallels the legal status and capacity of provincial municipalities, but “*Indigenous Governments*” are a **4<sup>th</sup> level government**, lower in status than the federal, provincial and municipal governments:

*[Self-Government Agreements and Legislation] “define[s] the legal status of Bands to those of a “natural person” (this is the same legal definition that applies to corporations) with powers to deal with other levels of government, to sue and be sued and to hold and dispose of property...[and] define[s] a Band in more concrete legal terms, giving Bands powers akin to a corporation. This open[s] up a whole new area in which the Canadian courts and government impose[s] and define[s] the structure of Band governance and further control[s] a system which is already far removed from traditional government structures. Further, these corporate entities operate entirely within the Canadian legal system (with powers defined, limited and delegated by Canadian legislation)...[and] moves a step further from recognition of Indigenous Peoples nationhood. [emphasis added] SOURCE: Ardith Walkem, Lawyer in 2001, now a B.C. Supreme Court Justice*

In September 2018, the federal government tried to get First Nations support for “**Rights Recognition**” legislation to “**enable Canada to recognize a Nation or other Collective as an entity that has the authority to govern itself through a government having the legal capacity of a natural person.**”

First Nations across Canada rejected this proposed federal legislation, so the federal government changed tactics as evidenced by a November 2018, statement released by a **Statement from the Office of the Minister of Crown-Indigenous Relations, Carolyn Bennett**:

***Our Government is committed to advancing the framework, and to continue actively engaging with partners on its contents***

*Minister Bennett has led more than 100 engagement sessions since last spring with Indigenous organizations, communities and people to develop with The **Recognition and Implementation of Indigenous Rights Framework**. She is continuing to meet with Indigenous peoples on the Framework - in fact, this week she is meeting with First Nations in Alberta and Quebec.*

*This framework will not be imposed on anyone except the federal government. The legislative and policy reforms we are committed to will get Ottawa out of the way so that Indigenous nations and governments can accelerate their path to self-determination.*

**We continue to make substantial progress in accelerating the recognition and implementation of Indigenous rights through policy changes and the development of the Recognition of Rights and Self-Determination Tables.**

***We look forward to continue working with our partners on developing more of this crucial framework.*** [emphasis added]

Failing to get First Nations support for the government’s proposed 2018 “**Rights Recognition Framework**” **Bill**, for First Nations (Indian Bands) the federal government is promoting it band-by-band at the **federal RIRSD Tables**, by peddling a template agreement that the **Metis of Alberta, Saskatchewan and Ontario** signed in 2019, except changing the template agreement to say “*First Nations*” instead of “*Metis*”.

Section 7 of that template agreement provides as follows:

***FIRST NATION X GOVERNMENT'S LEGAL STATUS, ROLE, JURISDICTION, LAWS, AND AUTHORITY, CHAPTER 7: LEGAL STATUS AND CAPACITY***

***“7.01 As of the Self-Government Implementation Date, the First Nation X Government and each of its Governance Structures will be a legal entity with the rights , powers, and privileges of a natural person at law”.*** [emphasis added]

**The following are examples in recent decades, of the federal government’s attempts to pass national legislation to impose municipal corporate status over First Nations (Indian Bands), which were defeated by First Nations opposition.**

**Bill C-79, Indian Act Optional Modification Act (1979):**

***“Legal capacity of bands - 16.1 A band has the capacity and, subject to this Act, the rights, powers and privileges of a natural person.”***

**Bill C-7, First Nations Governance Act (2004):**

*“Legal Capacity, Capacity, rights, powers and privileges - 15. (1) A band has the legal capacity, rights, powers and privileges of a natural person”.*

**Proposed Recognition and Implementation of Rights Framework Legislation (2018):**

*“To summarize, the legislation could: enable the Government of Canada to recognize Indigenous Nations and Collectives as legal entities with the status and capacities of a natural person; enable the self-determined exercise of governance by federally recognized Nations and Collectives; affirm Canada’s intent to enter into government-to-government fiscal relationships with recognized Nations and Collectives; and, require Canada to co-develop further measures to support these elements.” [emphasis added]*

**The following are some specific examples of the band-by-band, group-by-group approach (divide & conquer) where First Nations (Indian Bands) have accepted the legal capacity and status—delegated authority (federally created through legislation) as municipal corporations (natural persons at law).**

**Bill C-93 Sechelt Indian Band Self-Government Act (1986):**

*“CAPACITY AND POWERS OF BAND, 6. The Band is a legal entity and has, subject to this Act, the capacity, rights, powers and privileges of a natural person”.*

**TLICHU LAND CLAIMS AND SELF-GOVERNMENT AGREEMENT ACT (2003):**

*“GENERAL POWERS, 7.2.1 The Tlicho Government is a legal entity with the legal capacity of a natural person”.*

**Nisga’a Final Agreement Act (2003):**

*“LEGAL STATUS AND CAPACITY, 5. The Nisga’a Nation, and each Nisga’a Village, is a separate and distinct legal entity, with the capacity, rights, powers, and privileges of a natural person”.*

**Westbank Self-Government Agreement Act (2005):**

*“LEGAL STATUS AND CAPACITY, 19. In addition to Westbank First Nation’s capacity to pass and enforce Westbank Law pursuant to this Agreement, Westbank First Nation is a legal entity with the rights, powers and privileges of a natural person”.*

**Tsawwassen Final Agreement Act (2007):**

*“LEGAL STATUS AND CAPACITY, 7. Tsawwassen First Nation is a legal entity with the capacity, rights, powers, and privileges of a natural person”.*

**Meadow Lake Agreement-in-Principle (2001):**

*“8.0 Capacities of a Meadow Lake First Nation and Meadow Lake Tribal Council, 8.01 Capacities of a natural person Each MLFN is a separate and distinct legal entity with the capacities, rights, powers and privileges of a natural person.”*

**On May 21, 2024, Meadow Lake Tribal Council and the Minister of Crown-Indigenous Relations and Northern Affairs signed a Memorandum of Understanding.**

*“Under the co-developed Memorandum, the parties will explore new ways to advance the Meadow Lake First Nations’ inherent right to self-determination. The goal is to work together toward negotiated agreements focused on restoring First Nation control over matters affecting their communities in key areas, such as governance, the management of lands and resources and matters related to the administration of justice in their communities such as policing and restorative justice.”*  
[emphasis added]

*“The Meadow Lake Tribal Council represents nine First Nations in these discussions across three treaty areas in northwestern Saskatchewan with a total population of over 17,700 members. The Meadow Lake First Nations who have come together to pursue these discussions with Canada are: Birch Narrows First Nation, Buffalo River Dene Nation, Canoe Lake Cree First Nation, Clearwater River Dene, English River First Nation, Flying Dust First Nation, Makwa Sahgaiehcan First Nation, Ministikwan Lake Cree Nation and Waterhen Lake First Nation.”*

**Sioux Valley Dakota Nation Governance Agreement Act (2014):**

*“SIOUX VALLEY DAKOTA NATION, Capacity, 5. (1) Sioux Valley Dakota Nation is a legal entity and, without restricting the generality of the foregoing, has the capacity, rights, powers and privileges of a natural person”.*

**Cree Nation of Eeyou Istchee Governance Agreement Act (2018):**

*“Cree First Nations, Legal capacity, 9(3) A Cree First Nation has, subject to the Agreement, the capacity, rights, powers and privileges of a natural person.”*

**ANISHINABEK NATION GOVERNANCE AGREEMENT (2022):**

*“ANISHINABEK NATION GOVERNMENT, Legal Status and Capacity, 4.1 The Anishinabek Nation is a distinct legal entity with the rights, powers and privileges of a natural person”.*

**SELF-GOVERNMENT TREATY RECOGNIZING THE WHITECAP DAKOTA NATION (2023):**

*“Whitecap Dakota Nation, Capacity, rights, powers and privileges, 6(1) The Whitecap Dakota Nation is a legal entity and has, subject to the Treaty, the capacity, rights, powers and privileges of a natural person.”*

## **HAIDA NATION RECOGNITION ACT (2024):**

*“Haida Nation Recognition Act, Powers, 4 In accordance with the Constitution of the Haida Nation, the Haida Nation exercises its governing powers through the Council of the Haida Nation, Capacity, rights, powers and privileges, 5 The Council of the Haida Nation is a legal entity and has the capacity, rights, powers and privileges of a natural person.”*

The First Nations (**former Indian Act Bands**) listed above, have accepted their legal status and capacity as **“Self-Governing First Nations”** through federal **“Self-Government Agreements”** and **“Self-Government legislation”**, so they have different constitutional and international rights from First Nation (**Indian Act Bands**) that have unresolved (Treaty and Inherent Right) legal issues with the Crown.

The federal objective of getting all 600+ **Indian Act Bands** into surrendering to Crown sovereignty and territorial integrity through self-government agreements and land claims final settlement agreements (modern treaties & specific claims) remains

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## **CONCLUSION**

For the past 10 years the federal government has used a federal one-sided interpretation of the **2007 version of the United Nations Declaration on the Rights of Indigenous Peoples** to justify passing a federal law during the global pandemic, with the support of the **Assembly of First Nations**—a Chiefs’ organization—to implement the federal **United Nations Declaration Act (Bill C-15)**, and the federal law required the development of **National Action-Plan Measures, which include Repealing the Indian Act and transforming Historic Treaties with Great Britain into symbolic heritage documents by:**

- *Continuing to control and manage First Nations ways out of the Indian Act through land codes, delegated tax powers, modern treaties (where eligible) and self-government agreements imposing the same legal status and capacity as corporations and municipalities—the same legal status and capacity of existing self-government agreements listed above.*
- *Continuing to Off-Load Federal Programs and Legal Responsibilities onto First Nations, through the Federal Service Transfer Policy Framework. CHAPTER 1: Cross-cutting priorities, Action-Plan Measure #27)*
- *Continue to implement the **New Fiscal Relationship** of 10-year Grants to Indian Act Bands until they are transitioned into the Federal Self-Government Fiscal Policy as “Self-Governing First Nations”. (First Nations Chapter Action-Plan Measure #1)*
- *Continue implementing the Federal Specific Claims Policy to end ongoing fiduciary and Treaty obligations and responsibilities with **Certainty and Finality (Release & Indemnity) Clauses** in Final Settlement Agreements. (First Nations Chapter Action-Plan Measure #3)*

- Use an **Action Plan Advisory Committee** with **Indigenous Collaborators** from the National Indigenous Organizations (**AFN, MNC, ITK**) to help implement the **Federal Bill C-15 Termination of Indigenous Collective Rights Plan**, using the **AFN Executive Committee and AFN's Chiefs' Committee on the United Nations Declaration Act (Bill C-15)** to provide support and advice, **upon request**, related to the implementation of **shared priorities [implied federal veto]** included in this action plan. The Minister of Justice only needs to consult with AFN and First Nations themselves **CONSENT is not needed.** (CHAPTER 1: Cross-cutting priorities, Action-Plan Measure #22)

### **FEDERAL ELECTION 2025:**

For First Nation Persons voting in the **2025 Federal Election**, there are 2 parties likely to form the next federal government, so you can vote for either continuing the Red (Liberal) Termination Plan or changing to the Blue (Conservative) Termination Plan!

Of course there are other federal political parties, but these parties are unlikely to form the next federal government.

In the end, Canadians will choose who to vote for!

In my opinion, if there is no coordinated First Nations movement to stop the federal government's top down secretive negotiation approach at the various federal tables, the federal government's definition (recognition) of self-determination (self-government municipal status) will become the national standard, without the national legislation the federal government failed to get, just group-by-group ratification of self-government agreements through specific federal legislation and the "**assumed sovereignty of the Crown**" set out the **section 35 Common Law**, which is heavily based on the **Doctrine of Discovery**.

The next federal government—whether Liberal or Conservative—will likely impose federal legislation defining "**Indigenous Rights**", especially if there is a majority government.

So, each First Nation community would be best served by developing its own self-determination plan to get out of the **Indian Act** on its own terms—not Ottawa's!

**Document prepared by: Russ Diabo**

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#### **Truth Before Reconciliation:**

The **Truth Before Reconciliation Network on Education and Advocacy** is a core team of people who are working to get Crown governments and Canadian society to address "**Truth Before Reconciliation**", because we believe the **Truth and Reconciliation Commission** and its **Calls to Action** are not sufficient to address the colonization that First Nations have historically experienced and which continues today, particularly under the colonial policies and legislation passed under the Constitution Act 1867 and the unilaterally imposed federal policies and legislation defining Inherent & Treaty Rights in section 35 of the Constitution Act 1982.

## RIGHT OF INDIGENOUS PEOPLES OF SELF-DETERMINATION IN UNDRIP WATERED DOWN FROM 1994 VERSION TO 2007 VERSION

- ▶ **Article 4.- Indigenous peoples have the right to maintain and strengthen their distinct political, economic, social and cultural characteristics, as well as their legal systems, while retaining their rights to participate fully, if they so choose, in the political, economic, social and cultural life of the State. [1994 Version]**
- ▶ **Article 4**
- ▶ **Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions. [2007 Version]**



# Self-Determination and Options for Moving Away from the *Indian Act*

