

AFN Does Not Have a Mandate From First Nations Inherent & Treaty Rights Holders: Putting Our Own House in Order

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2. Main Point - AFN Doesn't Represent Rights Holders it has become a Federal Tool

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Genuine First Nations self-determination requires implementing UNDRIP Article 18 and Article 19 together:

- First Nations Peoples must choose their own representative institutions.
- Those institutions must be involved before laws and policies are developed.
- Rights holders themselves, not merely federally recognized governments or organizations like AFN, must direct decisions affecting their lands, rights, and future.
- **Bottom Line:** Many federal policy and legislative initiatives affecting First Nations have relied on consultation with AFN and Indian Act, **modern treaty and self-government agreement** leadership structures, while failing to fully engage the First Nations Peoples and traditional decision-making institutions envisioned under UNDRIP Articles 18 and 19.



3. AFN & AFN Inc. Represents Indian Act Chiefs, Modern Treaty Leaders, Self-Government Agreement Leaders - Not Rights Holders Directly

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No Canada-wide First Nations citizens ratification process exists for AFN positions.

- The Assembly of First Nations Charter defines the AFN's primary decision-making body as the "*First Nations-in-Assembly*," composed of Chiefs or their designated representatives. The organization receives its authority through resolutions adopted by Chiefs assembled within AFN processes, **not through direct votes or consent processes involving all First Nations rights holders.**
- **Key Issue:**
- Rights holders are First Nation citizens, families, clans, and nations.
- AFN representation is indirect through federally controlled Indian Act elected, Modern Treaty or "*Self-Government Agreement*" leadership structures.



4. UNDRIP Article 18 Creates a Higher Standard

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Article 18 states Indigenous peoples have the right to participate in decisions affecting them through representatives chosen by themselves according to their own procedures and through their own institutions.

AFN resolutions cannot automatically substitute for:

- Nation-specific consent;
- Clan-based decision making;
- Hereditary governance processes;
- Direct First Nations citizen mandates.

There is a vast difference between:

- Indian Act & AFN Political representation, and
- Exercise of self-determination by First Nations rights holders themselves, which is an international right.



5. UNDRIP Article 19 & Federal Government Manipulation for Re-Colonization

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UNDRIP Article 19

- Requires states to consult and cooperate in good faith with Indigenous Peoples through their own representative institutions before adopting legislative or administrative measures affecting them.

Federal Government Impacts

- Major policy and legislative changes ignored Article 18 and relied on Article 19 to recognize Indian Act Councils & AFN through Canada-AFN joint processes—controlled by the federal government—rather than broad community-based consent mechanisms.
- Federal reforms were negotiated primarily with AFN & affiliate provincial organizations and leaders participating in federal discussion tables rather than directly with rights holders.
- Decision-making shifted toward negotiations over federal termination frameworks rather than First Nations peoples determining the nature and scope of their rights themselves.
- This weakened meaningful exercise of Free, Prior and Informed Consent by grassroots First Nations citizens and traditional First Nations governance structures.

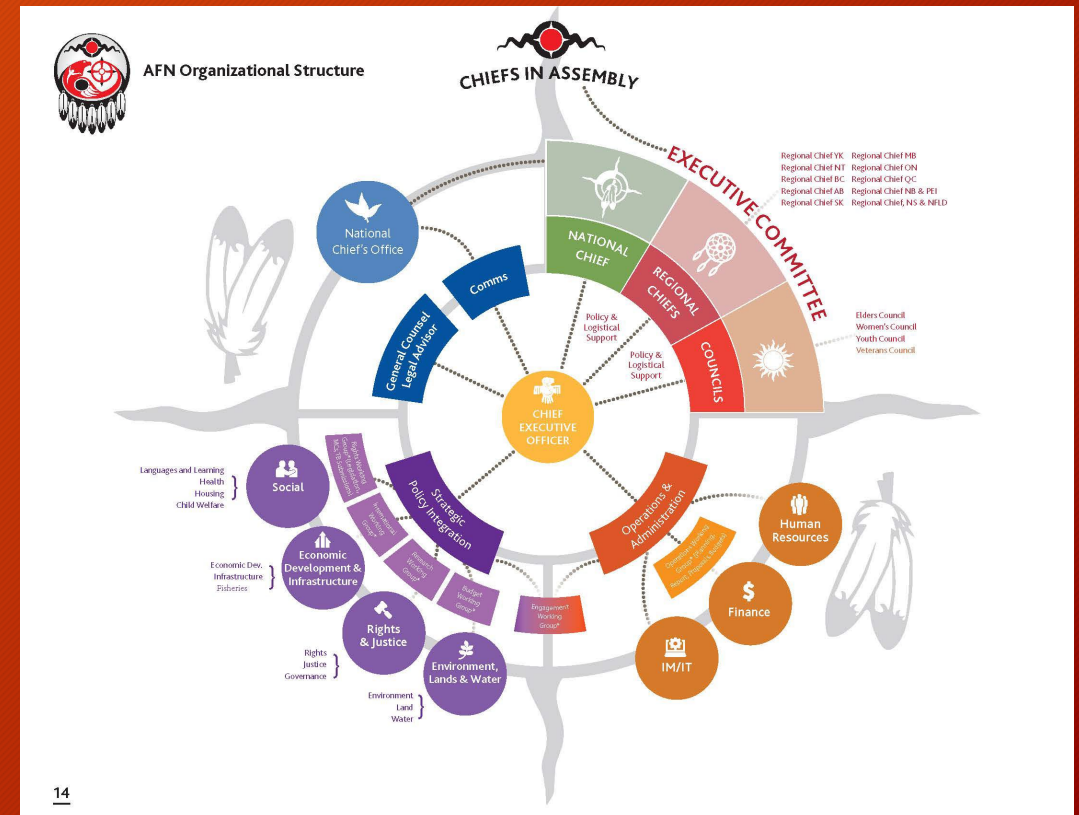


6. Assembly of First Nations Impacts

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The AFN structure is composed primarily of Chiefs recognized through colonial Indian Act governance systems.

- Membership and representation occur through Chiefs-in-Assembly rather than direct participation by rights holders, families, clans, or traditional governance institutions.
- AFN participation in federal policy discussions allowed government initiatives to proceed without obtaining direct consent from First Nations Peoples themselves.
- This creates a huge representation gap between AFN & Affiliate leadership organizations and the people holding Inherent Rights and historic Treaty Rights.



7. Colonial Administrative Control = Self-Government

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Elimination of role for traditional First Nations decision-making institutions recognized under Article 18.

- Community members become informed after policies are developed rather than participating before decisions are made.
- Centralization of negotiations in AFN leadership and AFN Affiliate provincial organizational structures rather than citizens, clans, families, and nations.
- Federal definitions of rights, governance, and self-government are replacing First Nations definitions developed by First Nations Peoples themselves.
- Weakening of nation-based sovereignty & governance and strengthening of colonial administrative governance created under federal land & fiscal management, self-government & modern treaty legislation.

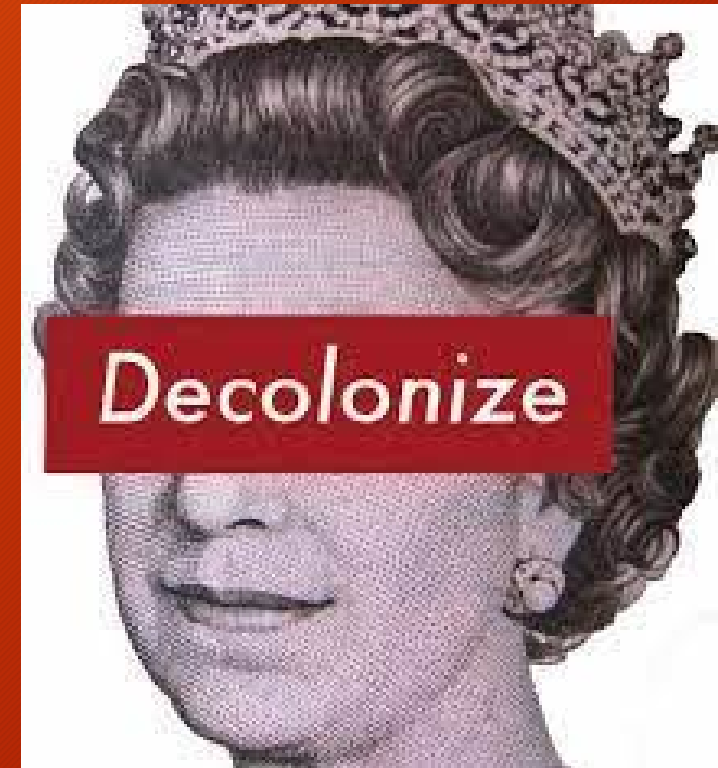


8. Challenging Colonial Foundations

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The Myth of Crown Title

- Indigenous Nations existed before Crown assertions of sovereignty
- Colonial doctrines of discovery & terra nullius (in Quebec) remain embedded in Canadian policy & section 35 common law
- First Nations Peoples maintain Inherent & Treaty rights to lands and resources
- International bodies have criticized Canada's colonial doctrines
- Land, culture, language, and governance are interconnected



9. Canada and First Nations Rights

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Ongoing Colonial Structures

- Federal policies continue to define First Nations rights through Canadian law
- First Nations rights are interpreted through federal frameworks
- Crown Governments seek negotiated agreements based on surrender to assumed Crown sovereignty
- First Nations continue to exercise Inherent rights, title & historic Treaty rights
- Self-determination remains a central objective of many First Nations



10. First Nations Data Sovereignty

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Information is Power

- First Nations Peoples have the right to govern their own data
- Control over information supports sovereignty
- Mapping and documentation strengthen governance
- Historical, cultural, and territorial information supports nation-building
- Data governance is a modern expression of self-determination



11. Building Nationhood

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Indigenous Nationhood Checklist

- Document history, language, culture, spirituality and laws
- Strengthen connections to territory and resources
- Build community knowledge and research capacity
- Develop legal, technical, and negotiation expertise
- Create long-term strategies for authentic governance and nation rebuilding

Information Management

community knowledge

government

researchers

industry

academics

interest groups



reports

letters

maps

databases

stories



decision

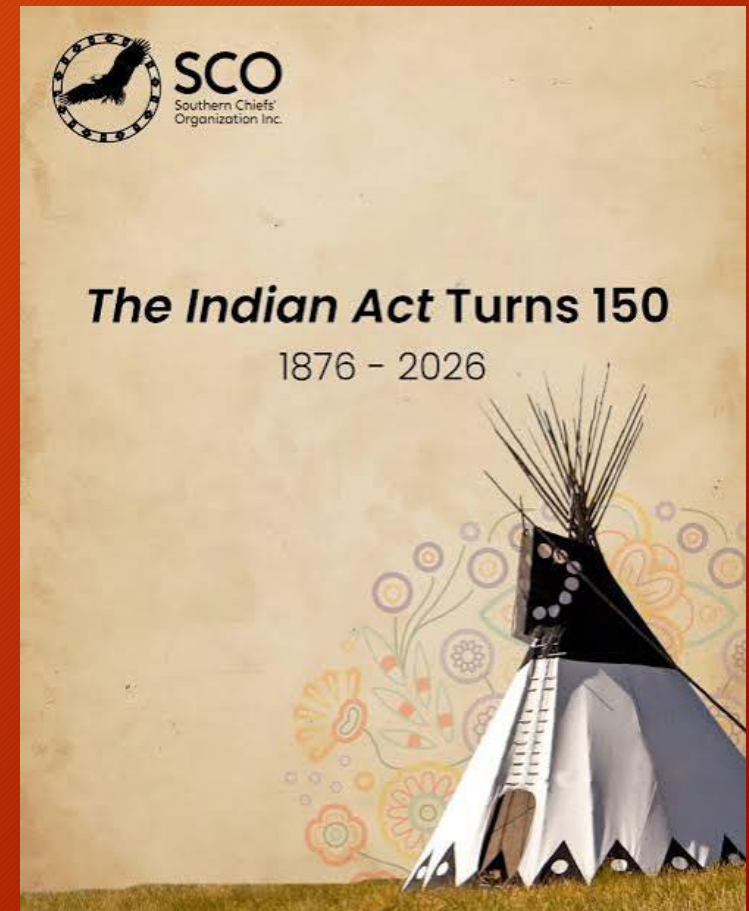
↳ interpretation

12. The Indian Act System

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Colonial Governance Structure

- The Indian Act remains a foundational federal statute
- Band Councils operate within a federally created framework
- Indigenous Nations were divided into administrative Indian Act bands
- Federal policies have historically emphasized assimilation & this continues
- Traditional governance systems were considered displaced by federal colonial institutions, but still exist in many communities

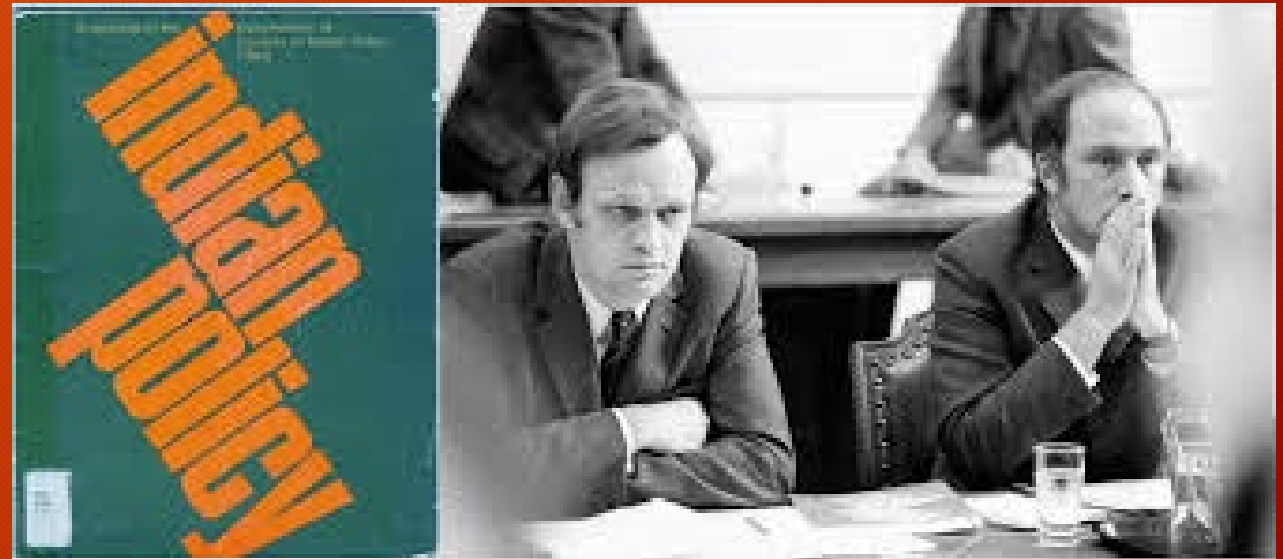


13. The 1969 White Paper

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Historical Assimilation Policy

- Proposed elimination of Indian Status
- Proposed abolition of the Indian Act
- Proposed transfer of responsibility to provinces
- Proposed privatization of reserve lands
- Generated widespread First Nations opposition across Canada so it was publicly withdrawn by politicians, but quietly implemented by the federal bureaucracy for the past 50+ years

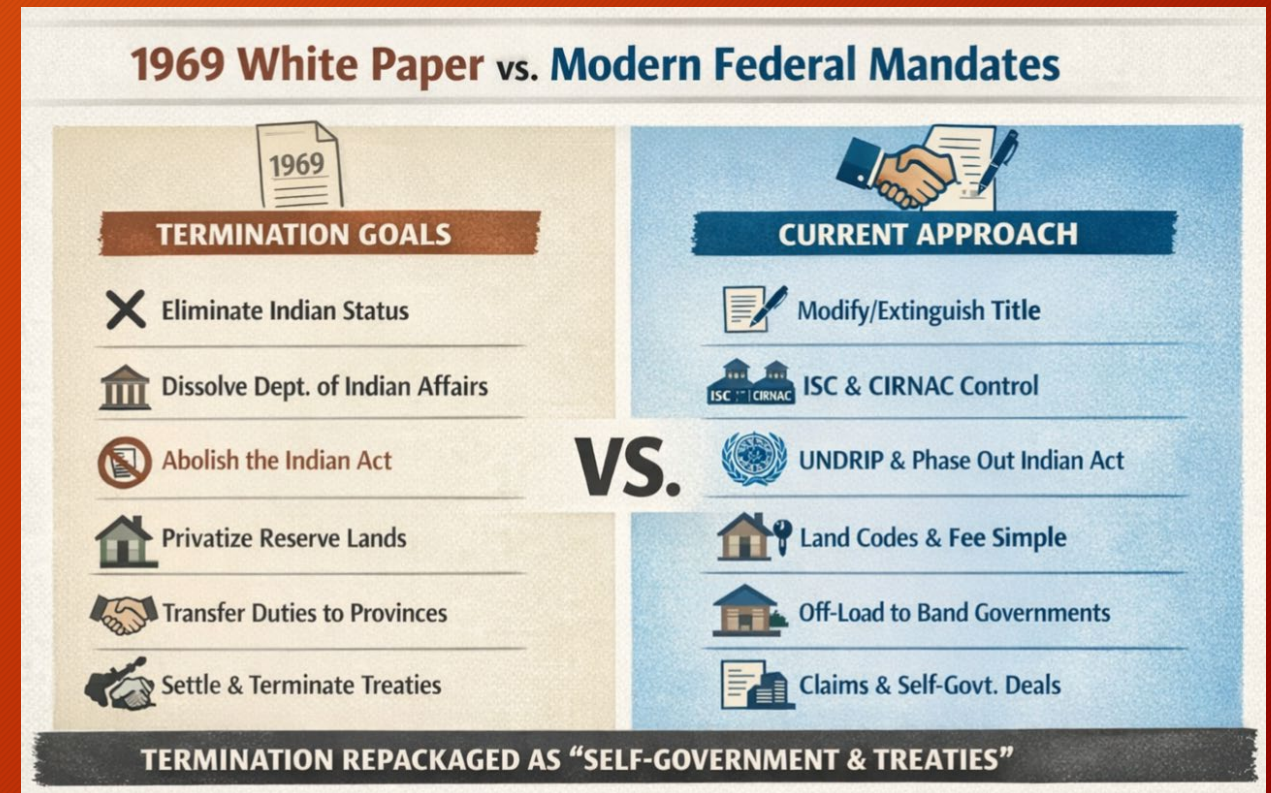


14. White Paper 2.0

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Continuity of Federal Policy

- Modern agreements are a continuation of earlier 1969 White Paper objectives
- Federal reforms promote new municipal governance and fiscal arrangements based on an own source revenue formula not rights or needs
- Municipal type Self-Government negotiations occur within federal policy frameworks
- These approaches reduce First Nations autonomy
- Many First Nations continue to seek alternatives rooted in sovereignty



15. Rights Recognition Framework

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Federal Approach Since 2015

- Restructuring of Indian Affairs department into Indigenous affairs departments (ISC & CIRNAC)
- Introduction of recognition and self-determination tables under a federal termination framework to end the Indian Act, Indian Reserves & Indian Status (CANDRIP (Bill C-15) National Action-Plan
- Expansion of municipal self-government processes
- Increased use of modern termination agreements
- Significant changes to Indigenous-Crown relations frameworks



Rebecca Alty, Federal Minister of Termination (Crown-Indigenous Relations & Northern Affairs Canada).



Mandy Gull-Masty, Federal Minister of Re-Colonization (Indigenous Services Canada).

16. Federal Off-Loading Through Fiscal and Land Management Systems

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New Policy Mechanisms to Transition First Nations into Municipal Type Self-Government

- First Nations Land Management Act
- First Nations Fiscal Management Act
- First Nations Tax Commission
- First Nations Finance Authority
- Expanded participation in federal “*self-government*” fiscal frameworks



These are the heads of the federally bought & paid for National Land, Fiscal & Infrastructure Institutions to support the transition of Indian Act Bands into “*full self-government*” with the same legal status as municipalities & corporations.

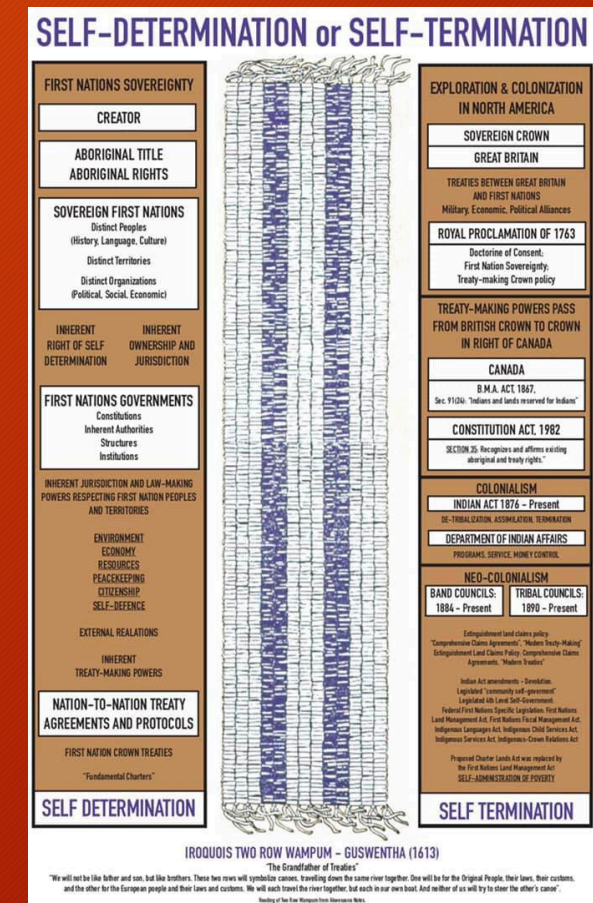
They get six figure salaries annually, some for as long as 19 years.

17. Rebuilding Authentic First Nations Governance

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Returning Decision-Making to the People

- Governance rooted in families, clans, and nations
- Revitalize traditional decision-making institutions
- Chiefs and Councils accountable to community direction
- Community consent should guide major decisions
- First Nations authority originates from rights holders themselves



18. Free, Prior and Informed Consent

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UNDRIP Standards

- First Nations Peoples must be fully informed
- Participation in decisions affecting rights is essential
- Consent is required for lands, territories, and resources matters
- Authentic First Nations institutions should lead decision-making
- Self-determination requires meaningful participation

INTERNATIONAL FPIC VS. CANADA'S FPIC	
 UNITED NATIONS	
UN Standard "Right to Consent"	Domestic Approach "Duty to Seek Consent"
Legal Right to Withhold Consent	Consult & Accommodate Only
Consent Required for Projects	Consent Not Legally Needed
Indigenous Decision-Making Power	Procedural Influence Not a Veto
Inherent Sovereignty & Self-Determination	Crown Sovereignty & Reconciliation
INTERNATIONAL FPIC A RIGHT TO CONSENT	CANADA'S FPIC A DUTY TO SEEK CONSENT

19. Arthur Manuel's Decolonization Framework

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Six-Step Program

- Reject doctrines of discovery and terra nullius
- Recognize Indigenous self-determination
- Respect Indigenous laws and worldviews
- Establish nation-to-nation relationships
- Apply Free, Prior and Informed Consent
- Align Canadian law with international human rights standards



20. Land Back

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Land Restoration and Restitution

- UNDRIP affirms rights to lands and resources
- States should recognize First Nations land tenure systems
- Restitution is the preferred remedy
- Fair compensation where restoration is not possible
- Land recovery is central to nation rebuilding



21. Community Action Plan

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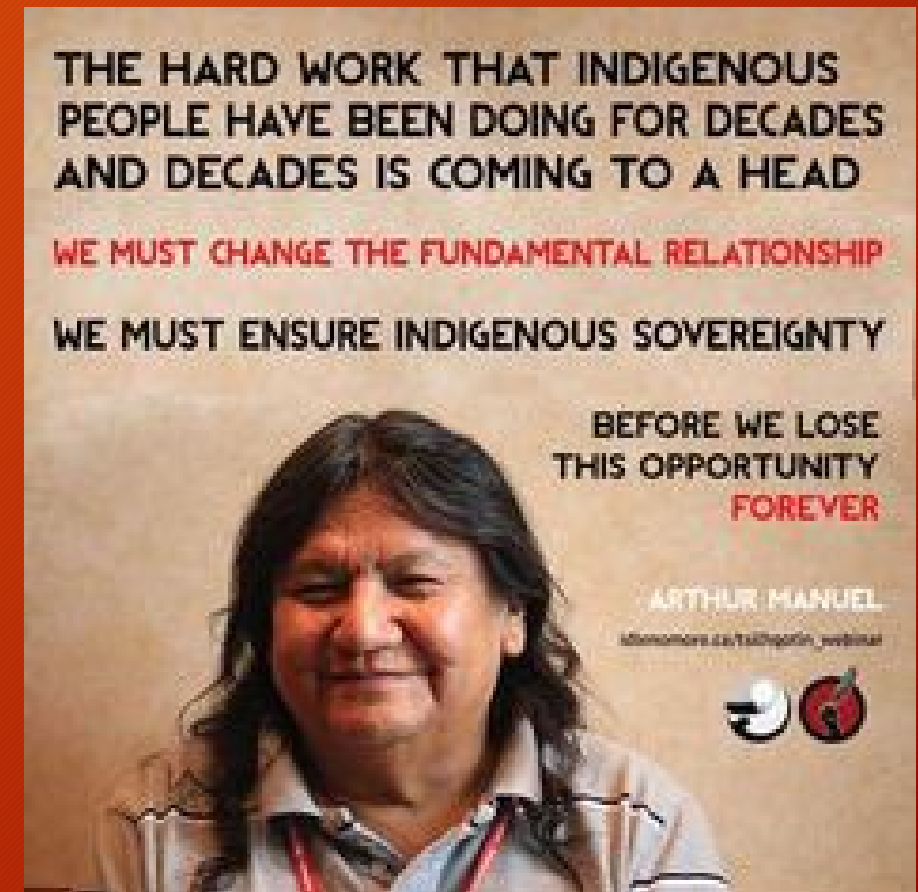
- Four Steps Forward
- Inform
- Learn about current policies and negotiations
- Organize
- Build community networks and working groups
- Educate
- Share information publicly and through media
- Act
- Exercise First Nations rights and responsibilities on the land



22. Key Takeaways

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- **Self-Determination is the Antidote to Colonialism**
- Sovereignty begins with informed First Nations citizens
- First Nations must rebuild their own governance systems
- Data, land, and decision-making are connected
- Traditional governance can be revitalized
- First Nations Peoples must shape their own future
- The First Nations people's voices must guide nationhood and self-determination



23. Discussion

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Questions for Community Dialogue

- What does self-determination mean in our First Nation?
- How do we strengthen the people's voice?
- What governance systems best reflect our traditions?
- How do we prepare the next generation of leaders?
- What should a community-driven Nationhood/Self-Determination Territorial Plan to get out of the **Indian Act** on a community's own terms look like?



October 26th Stand for Our Rights in Ottawa During First Nations-First Ministers' Meeting

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- INTERESTED IN GETTING INVOLVED IN NATIONAL DAY OF ACTION?
- CONTACT TRUTH BEFORE RECONCILIATION NETWORK:
 - Truth Before Reconciliation Education & Advocacy Network Contact:
 - russdiabo@rogers.com
- Website: <https://www.russdiabo.com/national-day-of-action>