

First Nations and Canada

By Rudolph C. Rýser, Ph.D.

In this article, Dr. Rýser recounts the key events and strategies that led to the successful Indigenous movement to safeguard Indigenous rights during the Canadian Patriation. He tracks the movement's development from the 1969 "White Paper," in which Prime Minister Pierre Trudeau and Minister of Indian Affairs Jean Chrétien proposed eliminating the special status of Indigenous peoples in the new constitution, to Grand Cheif George Manuel's 1980 initiative, the "Constitution Express," in which he organized more than 600 Indigenous activists to travel across Canada by train to demand that the rights guaranteed in their Indigenous treaties with the British be upheld by the new Canadian Constitution.

This article was initially published in 2012 as Chapter 4 of his book *Indigenous Nations and Modern States: The Political Emergence of Nations Challenging State Power*.



Chief George Manuel

My first-hand participation in the political transformation of "band councils" into "First Nations" during the period from 1970 through to 2006 began when I became an advisor to

Chief George Manuel. I developed political strategies, drafted many of Manuel's speeches and sat with him for hours discussing best approaches to advance the Indian agenda in

Canada—traveling many times to Canada. The story is best told by describing how Grand Chief George Manuel single-handedly challenged the Canadian political establishment to win for Indian peoples on more than 500 reserves the recognized authority to practice nationcraft. Chief Manuel's story about reaching for other nations including those in the United States, the Maori in New Zealand and the Sami of Scandinavia to form an international alliance to prevent Canada from confiscating Indian territories, demonstrates the power of one man's commitment to aboriginal rights, aboriginal title and self-government. His story describes how Indian nations became a critical influence in the political development of Canada before and after Canada proclaimed an independently constituted state on April 17, 1981. Special attention is given to the "Constitution Express" where more than 600 individuals from as many First Nations organized into a massive lobbying force traveling across Canada by train to Ottawa to challenge government officials to recognize "aboriginal rights."

Given that the state of Canada and the United States of America were born from the same mother, and consequently possess a very similar legal and political system rooted in England's history, there are many similarities in the ways each state treats the original peoples of North America. The American Indian experience with the US legal and political system is, in many ways, mirrored in the First Nations' experience with the Canadian legal and political system. Consequently, the development of a First Nations' political movement in pursuit of political self-determination and the practice of nationcraft

paralleled American Indian actions in the United States. Chief George Manuel asked me to serve as a strategic planning and political advisor to him shortly before and during the mobilization of First Nations as they pressed for Canada's recognition of Indian self-determination. In this chapter, I briefly review the political tug-of-war between First Nations and the government of Canada over political control of lands, resources and the future shape of the Canadian state. Then I describe the thinking behind the Constitution Express involving more than 600 tribal participants traveling across the country organized to lobby the Canadian Parliament and eventually the British Parliament and the United Nations. First Nation efforts to internationalize their disputes with Canada met with varying degrees of success. In an effort to reduce tensions with First Nations, Canada sought negotiated treaties with individual nations to establish their social, economic, political and legal position in relation to the Canadian state and its new Constitution. The story of treaty negotiations and construction of a new relationship between Canada and First Nations may be instructive for other nations pursuing their political identity and self-government.

Canada's "White Paper"

A political drama that would define relations between Indian nations and the government of Canada far into the 21st century unfolded in Ottawa in 1969. Canada's dashing and popular prime minister Pierre Trudeau was poised to put Canada forward as a leader on the international stage and he was prepared to change the domestic constitutional structure of the country in order to

answer the separatist ambitions of the province of Quebec. Before it would be possible to make the fundamental internal changes, Trudeau determined that it was necessary to assure his home province that Quebec's separation would not be necessary if he "reclaimed the Canadian Constitution" from the British Parliament. He also must eliminate the claims of aboriginal rights to lands advocated by Indians living on hundreds of reserves across the Canadian landscape. Trudeau's intention was to become the first prime minister to establish Canada as a permanent state embracing a diversity of peoples including the French-speaking Quebecers and the many Indian peoples. Fragmented and uncertain about their identity, the provinces threatened to spin out of control and away from the quasi-federal state.

The 1931 Statute of Westminster provided Minister of Indian Affairs Jean Chrétien (later to become Canada's 20th prime minister from 1993 to 2003) the legal justification to answer Trudeau's call for an easy way to eliminate the "Indian problem" by authoring the "Statement of the Government of Canada on Indian Policy," popularly referred to as the "White Paper." As the Indian Affairs minister stood before the Parliament reading from the "White Paper" there was widely expressed satisfaction among the ministers, many pleased that the Indian problem would be resolved. His words called for understanding of the Indian situation:

Canada is richer for its Indian component, although there have been times when diversity seemed of little value to many Canadians.

But to be a Canadian Indian today is to be someone different in another way. It is to be someone apart—apart in law, apart in the provision of government services and, too often, apart in social contacts.

To be an Indian is to lack power—the power to act as owner of your lands, the power to spend your own money and, too often, the power to change your own condition.

(Canada, 1969)

He ended his opening remarks saying:

Obviously, the course of history must be changed. To be an Indian must be to be free [sic] free to develop Indian cultures in an environment of legal, social and economic equality with other Canadians.

(Canada, 1969)

The "White Paper" contained five specific doctrines that drew shocked opposition from Indian leaders across Canada. The proposed new approach to Indian Affairs offered by Trudeau and his minister of Indian Affairs called for:

1. Abolition of the Indian Act and all special status.
2. Care of the First Nations to be handed over to the provincial governments.
3. The Department of Indian Affairs would be dismantled within 5 years.
4. Natives would have control over their own lands.

5. All Canadians would recognize the “unique contribution” that natives had made to Canada.

(Canada, 1969)

Upon reviewing the document, Chief Manuel pronounced the paper “dead on arrival” and charged Prime Minister Trudeau with advocating a policy to confiscate tribal lands and natural resources while pushing Indian people under the control of provincial ministers. Manuel called for an emergency meeting of tribal leaders to denounce the “White Paper” and to authorize the development of a counter-policy. Indians organized protests at their reserves and at Indian Affairs offices in cities across the land. Additionally, many provincial prime ministers objected to Trudeau’s “White Paper,” citing the failure of the new policy to include new money for the provinces taking on the new responsibilities. The unintentional consequence of Trudeau’s idealized effort to eliminate “the Indian problem” was that it united what had long been a weak and fragmented Indian movement.



Indian Red Paper Brief to Government, 1970. Photo: Duncan Cameron / Library and Archives Canada / PA-193380.

Shocked by the sweeping dismissal of Indians bands, their relationship to the British Crown and the rights that Indian leaders had long asserted, Harold Cardinal’s Indian Association of Alberta called an emergency meeting.

The product was a moderate, but firm rebuke of the Trudeau government’s “White Paper” by Indians issuing the “Red Paper” entitled “Citizen Plus.” Cardinal, an attorney, political leader and writer from the Cree Nation, referred to the “Red Paper’s” central premise as “the red tile in the Canadian mosaic.” The idea was that Indians could be citizens and also exercise their rights as Indians with a special relationship to the British Crown and to Canada. Without specifically using the language, the “Red Paper” offered Canada the concept of “peoples associated with a state”—a common political arrangement in the international community between stateless peoples and a state. The “Red Paper” made the Indian argument with these main points:

- The legislature and constitutional basis of Indian status and rights should be maintained until Aboriginals are prepared and willing to renegotiate them.
- The only way to maintain Indian culture is to remain as Indians.
- Aboriginals already have access to the same services as other Canadians, plus additional rights and privileges that were established by the British

North America Act, various treaties and governmental legislation.

- Only Aboriginals and Aboriginal organizations should be given the resources and responsibility to determine their own priorities and future development lines. The federal government has a distorted view of treaty rights and is not to be trusted on this issue.

- The government wrongly thinks that the Crown owns reserve lands. The Crown merely “holds” such lands, though they belong to Aboriginals. The government also thinks that Aboriginals can only own land in the Old World, European sense of land ownership. Therefore, the Aboriginal peoples should be allowed to control land in a way that respects both their historical and legal rights.

- The Indian Act should be reviewed, but not repealed. It should only be reviewed when treaty rights issues are settled and if there is a consensus among Aboriginal peoples on such changes regarding their historical and legal rights.

- The Department of Indian and Northern Affairs should cease to exist in its archaic and paternalistic form. A similar federal agency should be established to look more closely at and be more attuned to the needs of the Aboriginal peoples particularly when it comes to ensuring that treaty and land rights promises are kept.

- Aboriginals reject the appointment of a sole commissioner on a Royal Commission,

because he will be appointed by the government itself to protect its interests without Aboriginal consultation. The government, instead, should call an “independent, unbiased, unprejudiced” commission that should have the power to bring any witnesses or documents that it or the Aboriginals wish to present. Its judgments should be legally binding.

(IAA, 1970)

The Indian response to the Trudeau government’s proposed Indian Policy was actually a constructive and sophisticated political proposal for the political organization and governance of Indian nations. The political association of Indian communities with Canada was not enthusiastically received in Ottawa.

Trudeau’s Indian policy caused alarm in Canada’s Indian Country, but the most active political capability rested in regional organizations. There was no countrywide ability to respond to the Canadian government. Only the nascent National Indian Brotherhood (NIB), financially broke and organizationally weak, seemed a logical political instrument. Meeting in Vancouver, British Columbia leaders from intertribal organizations from every province met and decided to appoint the 48-year-old leader of the Secwepemc people from south-central British Columbia to become NIB president in 1970. When asked what the NIB should do to respond to the “White Paper,” Chief Manuel responded that the role of the organization, made up of regional intertribal organizations, “should be to pressure Government for the national needs of Indian people across the country, for instance

Indian Rights” (SI, 1971: 6). Manuel’s experience as a community organizer in British Columbia became the basis for his plan to establish the NIB as an organization focusing on key issues affecting Indian peoples across the country. This countrywide effort was a new approach. Until then, Indian Affairs was a local and at best regional, but never a country- wide proposition. Manuel envisioned the NIB as being accountable to the regional organizations, vigorously pressing the Canadian government to develop and implement policies in education, housing, health, employment and other areas of importance to the lives of Indian people.

As the new president with the backing of regional intertribal organizations, Chief Manuel stepped onto the Canadian political scene defining a new approach to Canadian and Indian Nation relations: direct political confrontation. The “White Paper” and its counterpart the “Red Paper” provided the motivation for an “Aboriginal Rights Movement.” Supported financially by Cardinal’s Indian Association of Alberta, Chief George Manuel pushed the NIB agenda aimed at preserving the tribal land-base, promoting a Canadian constitutional basis for aboriginal rights, protecting Indian cultures and assuring that Indians receive their share of Canadian resources, advancing the proposition that Indians should decide for themselves and that the Canadian government’s Department of Indian and Northern Affairs should be dissolved. After reading the “White Paper” Chief Manuel declared: “We must oppose Trudeau and his ‘White Paper’ with all we can organize!”

It was during this period that the national Indian movement began to take shape and to draw on its greatest resource, the First Nations people from across Canada who saw the National Indian Brotherhood as a vehicle they could use to push the federal government for a just settlement on a range self-government, land title and treaty issues.

(Manuel, A., 1995)

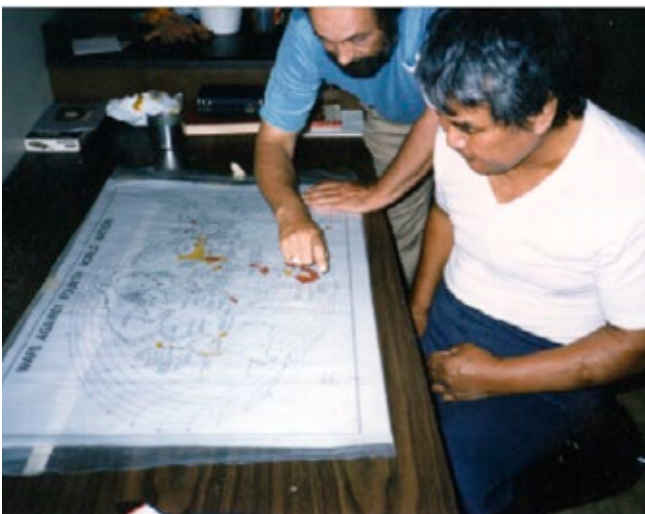
While intertribal organizations played a major role advancing the agenda, Chief Manuel began to reach out to potential allies in what was becoming a major confrontation between Canada’s Indian Affairs minister, Prime Minister Trudeau, and the National Indian Brotherhood. Chief George Manuel’s son Arthur (later to become a chief in his own right) reminded a new generation of Indian leaders meeting in Ottawa in 1995 about the significance of the political movement ignited by the “White Paper” in 1969:

For most of his six years as national chief, George Manuel found himself pitted against our current Prime Minister Jean Chrétien, then the Minister of Indian Affairs, in a series of battles that began over the White Paper and continued on almost every issue where the First Nations tried to rebuild or resurrect Indian conceived self-government institutions. There were many significant victories in the area of education, economic development and land claims, but George Manuel and the NIB staff were also confronted, on a daily basis, with the

frustrations of battling the artful dodgers at Indian Affairs and of trying to penetrate the bureaucratic fortress that protects Ottawa from forces of change.

(Manuel, A., 1995)

Chief George Manuel and the supporting regional tribal organizations created a new political force through the mechanism of the National Indian Brotherhood. No countrywide organizational effort advocating Indian rights had succeeded in Canada before Chief Manuel's imaginative political initiatives to deal directly with officials of the Canadian government. The NIB's actions in the 1970s opened a new era in Indian-Canadian relations that led to the formulation of new legal, political and international relations ideas about governance, land rights, and aboriginal rights that reached from the Indian households and tribal villages, to Ottawa and to the United Nations in New York and Geneva, Switzerland.



Rudolph Rýser working with Chief George Manuel, 1985.

Organizing Locally and Internationally

With the aid of Marie Marule, his key NIB staffer, Chief Manuel realized that organizing an effective native population opposition to the Canadian government's tribal population, assimilation and confiscations of tribal lands as the "White Paper" portended, could not be achieved without organizing political pressure on Canadian MPs and the government as a whole. That would have to be a major effort by native peoples. They began to organize. The NIB additionally turned to lobbying Third World country representatives at embassies and non-governmental organizations in Ottawa explaining the Canadian threat to Indian rights. One by one, the NIB received polite and sometimes interested responses, but no active political pressure was applied to Canada.

Due to his status as the president of the NIB (now matured in just one year), in 1971 Manuel traveled to Tanzania as a member of a Canadian government delegation designed to burnish Canada's human rights image and to recognize Tanzania's 10th anniversary of its independence. The Canadian official leading the delegation was unable, due to illness, to travel to Tanzania. The Canadian government's official representative left open the question just who would be officially meeting with the Tanzanian president. Upon landing in Dar Es Salaam, Chief Manuel was the first to disembark the jetliner. Tanzanian president Julius Kambarage Nyerere, who extended his hand to Manuel apparently thinking he was the leader of the Canadian delegation, greeted him in official

fashion. Nyerere had prepared an official dinner for the Canadian representative. Recognizing an opportunity when it presented itself, Chief Manuel decided to accept Nyerere's invitation to join the Tanzanian president for dinner. Surrounded by the fineries of the presidential palace dining room, Manuel and Nyerere entered into a lengthy dialogue about how Nyerere was a chief of his own people from an island in Lake Alexandria, and how he bound the tribes together through tribe-by-tribe persuasion in unanimous pursuit of the Tanzanian state. They talked also about how Tanzania could help "your brown brothers in Canada" as Manuel put it to Nyerere. President Nyerere, as Manuel retold the story to me, responded to Manuel's plea by describing how Tanzania achieved her independence in 1961 without a revolution or a shot fired.

"I traveled from village to village among all the tribes in what was then called Tanganyika," Nyerere recounted. "By meeting with the people directly, I was able to persuade them of how we could achieve independence and freedom."

"You have an independent country now. Won't you help the Indians in Canada?" George queried.

"No, I won't help now, not until you organize your people first. Only after the people decide on what they really want can I be of any help," Nyerere responded.

(Ryser, 1989: 70)

Manuel pointed to Nyerere's pragmatism when he quoted the Tanzanian president as saying:

"What will you give me for my help? You want me to stick my neck out, but you offer me nothing that will make the risk worth taking."

"I was so mad at what Nyerere had said, I couldn't believe a black man wouldn't help brown people," George later recalled. He thought he had wasted his time, and he was now deeply troubled that a leader of another tribe who was the president of a Third World state wasn't willing to help Indian people (Ryser, 1989: 70).

It is at this point in Chief Manuel's political experience that he began to recognize the essential ingredients to restoring the political identity and institutions of Indian communities—the elements for rebuilding Indian governance. Nyerere was at the time he met Chief Manuel both a chief of his own tribe from an island on Lake Alexandria and the leader of a bloodless revolution that joined together more than 150 tribes to form the state of Tanzania. The very principles Chief Manuel had long applied to community organization and his efforts to activate the near-moribund National Indian Brotherhood had been emphasized by the president of Tanzania—build from the ground up. Manuel took Nyerere's example of local organization as an important reminder, though he was deeply angered that a "black brother" wouldn't help a "brown brother" by putting pressure on Trudeau's government.

Recognizing anew the importance of local organization and international alliances, Manuel turned to the United States-based National Congress of American Indians (NCAI), led by Colville Confederated Tribes chairman Mel

Tonasket in Washington, D.C. He traveled to the United States in 1972 in an effort to form an alliance with the NCAI that he hoped would strengthen the NIB. He hoped to form an alliance of mutual benefit and in the meantime raise the visibility of his organization in Ottawa. The NIB began to become a well-known organization in other parts of the world as Chief Manuel traveled to New Zealand to meet the leaders of the Maori people. Meeting with other tribal leaders in the world proved helpful for Chief Manuel, strengthening his confidence and by extension Canada's aboriginal movement.

Seeing with his own eyes as he had through years of "political work," George concluded that the First World, Second World and the Third World would not come to the aid of his people. But he had made a profound discovery as a result of his travels to other parts of the world and his visits with other native peoples: "We share the same vision and the same experiences and we are alike in our traditional ways." He learned that the concepts of the "Sacred Four Directions" and the "Sacred Circle" were common to nearly all native peoples he had met. The original nations throughout the world, George reasoned, are the Fourth World.

(Ryser, 1989: 71)

Chief Manuel and the NCAI's president Mel Tonasket formed a working relationship, agreeing that they would exchange one technical staffer from each organization to help facilitate ongoing communications. There was also agreement on the importance of local organizing, and tentative

agreement that international cooperation elsewhere in the world should receive attention from both leaders. The NIB/NCAI alliance provided Manuel with new information by learning from the NCAI example about how an organization like his own could influence political opinion inside a state government. Together Manuel and Tonasket put the strength of their organizations behind the formation of a new international body that began to take shape and eventually would be called the World Council of Indigenous Peoples.

The ascendancy of Chief George Manuel matched the NIB's rise in importance and influence in Canadian politics. Manuel's commitment to meeting with regional Indian organizations and local community leaders as well as tribal communities in Africa, the United States, South America and the Pacific resulted in him traveling more than 100,000 miles in the first year of his term as NIB president. Chief Manuel's travels in the African continent exposed him to the tribal politics of Tanzania, and to other tribal calls for freedom "from the yoke of colonialism." He was impressed by the call for "Uhuru" (Nyerere's people have this word for "freedom") and the lessons of unity among tribal communities in Tanzania. These concepts liberated Chief Manuel, and at the end of his tenure at the NIB he decided to return home to his Niskonlith community in the Secwepemc Nation in western Canada. There, he became the president of the Vancouver, British Columbia-based Union of British Columbia Indian Chiefs in 1977. Organizing at the community level to achieve unity and "Uhuru" became the basis for

a new political thrust led by Manuel to force a change in policy in the Canadian government.

The positive and constructive response he received from his contacts with the NCAI and other indigenous organizations in New Zealand, Ghana, Sweden, and Chile encouraged him to believe that indigenous peoples around the world could organize to help each other. He recognized that what Tanzania's president had given him was a strategy for building a political movement in Canada that would not only defeat Canada's Indian policy but create a new approach to governing Indian communities.

Organizing From the Ground Up

In June 1978, the Canadian government announced that it would seek to "retrieve its Constitution from the British Government" to consolidate Canadian control over its claimed territory. The Union of British Columbia Indian Chiefs (UBCIC) became the spark plug for advocating political sovereignty for Indian communities as a counter to Canada's move to formalize its state identity separate from the British Crown. In anticipation of Canada's unflinching position denying Indian self-government and denying aboriginal rights, the UBCIC quickly drafted and published its own position paper on Aboriginal rights. It proved to be a powerful rebuke of Canada's claims over Indian lands and peoples. Its forthright assertion of pre-existing Aboriginal rights and fundamental principles of human rights showed Indian leaders unwilling to back down under Canada's self-proclaimed authority:

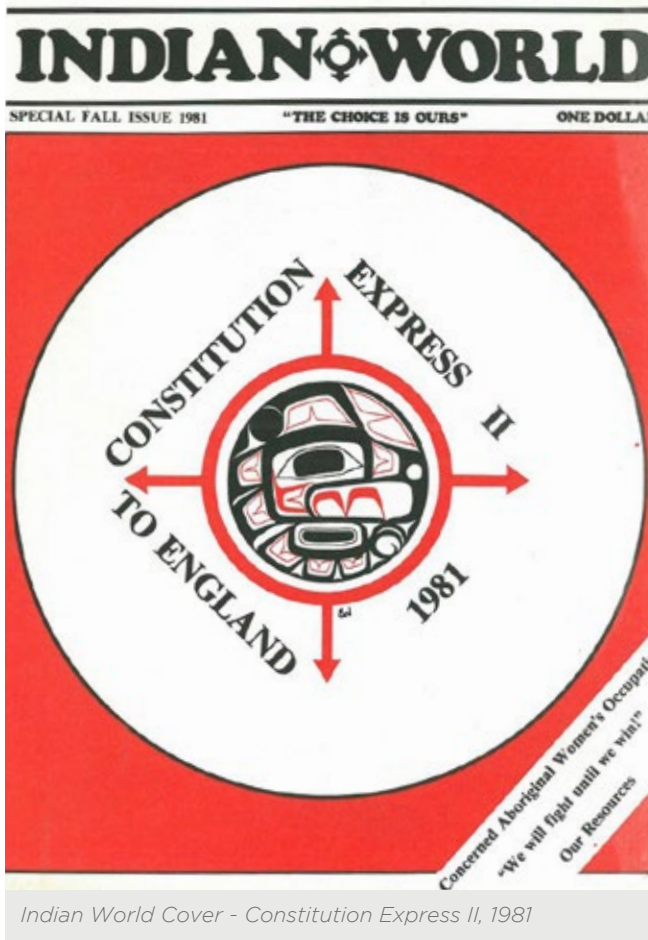
The Sovereignty of our Nations comes from the Great Spirit. It is not granted nor subject to the approval of any other Nation. As First Nations we have the sovereign right to jurisdiction rule within our traditional territories.

(UBCIC, 1978)

The leaders of UBCIC announced four basic principles that were fundamental to the Indian position: self-determination, inherent sovereignty of the First Nations, decolonization of Indian communities, and Canada's conditional sovereignty that ensures the realization of self-determination for Indian nations. The power of these ideas invigorated First Nation leaders in Canada. Indian consent and self-determination inspired a groundswell of political action from band communities, from the ground up.

The Constitution Express

Convinced that Canada's Indian policy of 1969 would not change until Indians organized their opposition and presented political alternatives from the local community, Chief Manuel accepted the leadership of the UBCIC in Vancouver. More than 180 band councils in British Columbia considered the UBCIC a weak and generally ineffectual organization, but Chief Manuel was determined to drive a new campaign organized at the community level, beginning in British Columbia, that would not only show UBCIC to be a strong influence, but the unity of Indian communities. Under Chief Manuel's leadership they began almost



Indian World Cover - Constitution Express II, 1981

immediately to command influence. Drawing on the creativity and organizational skills of his new aide Rosalee Tizya, Manuel began to mobilize a communications network and an internal advocacy system promoting the principles of inherent sovereignty, self-determination and the decolonization of native communities. The chiefs began to see a potent threat in Canadian government policies— one that they believed must be confronted. Canada's intention to dissolve Indian community legal and political rights appeared in bold terms in a document submitted to the Federal Cabinet in 1979:

- Indian title is to be extinguished for money and certain concessions, many of which would be of a temporary nature.
- Any confirmation of Indian title is explicitly rejected as a basis for agreement.
- Any powers or authority transferred to Indians are to be consistent with non-Indian political institutions, i.e. municipal-type administration which can be tied later into provincial law and institutions.
- The concept of Indian Government, as a way of confirming Indian special status, is explicitly rejected.
- Provincial participation in negotiating claims settlements is regarded as essential (aside from any legal requirements for this) because one important aim is to shift jurisdiction over Indians to the Provinces.

(Canada, 1979)

Ten years of vigorous challenges by Indian leaders, and Canada's 1969 position regarding its relationship to Indian government and Indian communities was unchanged. Chief Manuel, the UBCIC, the leaders of the Indian Association of Alberta and the Treaty Six Confederacy decided that they must escalate their opposition to Canada's policies. Planning began at UBCIC and then all across the country to organize the "Constitution Express"—intended to rally native communities, train a new cadre of political leaders, and focus political pressure on members of the Canadian Parliament, the

British Parliament and missions to the United Nations. Manuel and his political advisors concluded that the Canadian constitutional effort must be defeated, or if it was successful, must contain provisions recognizing aboriginal rights and Indian governments as a third level of government in the Canadian government.

In 1980, Chief Manuel pulled together a talented core of young Indians organized by Rosalee Tizya and Millie Poplar, along with a few advisors (including the author) to take over 600 Indians from Canadian reservations by train to Ottawa, New York and London to lobby in favor of aboriginal rights. These 600 Indians raised money in their own communities to board the Constitutional Express and set off to lobby the Canadian Parliament. Sixty of these community activists traveled on to New York City to lobby various countries' missions at the United Nations, and more went on to London to meet with Members of Parliament. From the western part of Canada to Ottawa, New York and London, Chief Manuel's general-like command of his troops ensured discipline and expert presentations to Canadian MPs, United Nations representatives and British MPs. Political warriors boarding the train participated in sophisticated training sessions to understand the political presentations they would make and the tactics they would use to ensure maximum influence. One by one, they would meet with Canadian and British parliamentarians, and ambassadors or their representatives from dozens of countries represented at the UN. Prominent among the countries on the list for the Constitutional Express's political warriors were Germany, Tanzania,

Britain, New Zealand, Denmark, and Australia.

The Constitutional Express was an unqualified success. It won the incorporation in Canada's new Constitution of language that recognized aboriginal rights.

1. The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.
2. In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada.
3. For greater certainty, in subsection (1) "treaty rights" includes rights that now exist by way of land claims agreements or may be so acquired.
4. Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons. [This subsection was added in 1983.]

(Canada, 1982)

The prodigious effort was also something of a failure in that the Canadian government was not dissuaded from its policy of assimilating Indian communities, their lands and their resources. Neither was the Canadian government willing to share political power with native communities as a "third level of government." Mobilization of Indians across the country on virtually every reserve also failed to build a sustained political movement aimed at winning self-sufficiency and self-government, which had become a major goal of the Constitutional Express.

With Article 35 recognizing aboriginal rights, the new Constitution did set in motion a series of Federal Court cases that won for Indians in Canada recognition as equal parties in the settlement of land claims. Canada's government with new leaders were in the mid-1980s directed by their courts to negotiate land agreements that address the right of self-government and the relationship between Canada's government and each negotiating band council. Throughout the 1980s Indian nations like the Haida, Nuu-Chah-Nulth, Nuxalk, Kwakiutl and the Nazko submitted their land claims for settlement with the Canadian government. Canada's government saw these land claim settlements as an opportunity to absorb native communities fully under its political control by subordinating them to provinces in the same manner as towns and cities. The Sechelt Indian Band negotiated and concluded in 1986 the first "self-government" agreement with the Canadian government, resulting in the Sechelt becoming a municipality within the jurisdiction of the Canadian province of British Columbia. This outcome was not what Chief Manuel and his followers had in mind. Contrary to the Sechelt result, Manuel had wanted native communities to stand on their own as self-governing polities drawing on their inherent sovereignty instead of falling under the rule of a Canadian province. The Sechelt decision to accept money, land and subordination to Canadian provincial rule caused native councils in British Columbia and others to be invited by the Canadian government to follow that example and pull back in acts of resistance.

As various tribal communities began negotiations with British Columbia and the Canadian government concerning their land

claims, the failure of such negotiations across Canada began to pile up, resulting in heightened conflict over land and self-government. UBCIC was beset by divisions over strategies to deal with British Columbia and the Canadian government resulting in the First Nations Congress (a group that had split off from the UBCIC in 1975) beginning to work with the Canadian government and BC to organize a treaty negotiation process to resolve outstanding land claims and issues concerning self-government. Despite the unwillingness of UBCIC to participate in talks with the British Columbia and the federal government, a comprehensive claims process went forward anyway.

In 1989, Chief George Manuel was in failing health and after a series of heart attacks he collapsed and died at the age of 60. With Manuel's death the aboriginal rights movement he had sparked in 1969 came to an end, and with it the sustained effort to promote aboriginal self-government and sovereignty. The collective movement shifted to the more bureaucratic leadership of the Assembly of First Nations (AFN) which replaced the National Indian Brotherhood and which received infusions of money from the Canadian government. By 1991, the Canadian government was ready to sit down with Indian governments to negotiate settlement of land claims.

At the First Nations Congress in 1992, Canada and the British Columbia government established the First Nations Summit and the British Columbia Treaty Commission to implement the BC Treaty Process, which strived for final agreements in which indigenous peoples would

surrender 95 percent of their territories to Canada in exchange for compensation and specific treaty rights. Within the following 10 years, 120 native bands entered negotiations under the BC Treaty Process; they borrowed \$250 million (Canadian) to be paid back out of their compensation packages. The assumption was that Canadian funds would purchase native lands and rights and the native bands would use the money to repay to Canada the loans given them to negotiate their rights. Oddly, few public figures noticed the circularity of this process where, in effect, Canada gained control over lands and rights without paying for them.

After many years of demands for recognition of aboriginal title (originally advanced by Chief Manuel and his UBCIC), the Canadian Supreme Court issued its decision in the case of *Delgamuuk'w v. British Columbia* upholding aboriginal title. On appeal from previous BC court decisions, the Gitksan and Wet'suwet'en hereditary chiefs amended their original assertion of ownership and control over their territories, replacing it with claims of aboriginal title and self-government. The British Columbia government argued that aboriginal title did not exist. But, suspecting they may not have a winning argument it then argued that aboriginal title is not a right of ownership, but a right to engage in traditional subsistence practices such as hunting and fishing. The Supreme Court of Canada rejected the trial judge's ruling that aboriginal rights had been extinguished before 1871. The Court didn't decide whether the Gitksan and Wet'suwet'en still held title to their land and instead offered the clarification that aboriginal title is not a right

of absolute ownership, but a proprietary right to "exclusive use and occupation of land" that "is a burden on the Crown's underlying title." The Court went on to assert that once aboriginal title is proven, federal and provincial governments may infringe upon that title for valid reasons, including resource extraction, economic and infrastructure development, settlement of foreign populations and environmental protection. The one saving grace in the decision as far as the latter opinion was concerned was that aboriginal people had to be consulted and compensated for any infringement or extinguishment of aboriginal title. At best, this had to be considered a partial victory for demands made in the 1980s for Canada to recognize aboriginal title as an inherent right.

Even as this case was being considered, the Nisga'a Nation negotiated and concluded an agreement with the Canadian government that followed the model of the Sechelt agreement earlier in the 1980s. The Nisga'a Treaty on land and jurisdiction became Nisga'a and Canadian law in 1998.

The Nisga'a surrendered 92 percent of their territory in exchange for expanded kilometers of land as Nisga'a territory with 6,000 people living in four reserve lands and \$190 million cash. The treaty set aside 2,000 square villages: Gitlakdamix, Tiwinkshilkw, Laxgalts'ap and Ginglox. The Nisga'a Lisims government was made subject to provincial and federal laws, leaving Nisga'a living in the reserved lands subject to British Columbian, Canadian, and Lisims taxation.

The Lheidli T'enneh in British Columbia after more than 20 years of negotiation concluded in 2003 an agreement in principle with British Columbian provincial authorities and Canada under the BC Treaty Process. The Lheidli T'enneh finally agreed in 2006 to surrendering their territory in exchange for expanded reserve lands and \$12.8 million. The Lheidli T'enneh is now subject to federal and provincial laws and taxation.

The Grand Council of the Crees (Eeyou Istchee) (GCC(EI)), formed in 1974 as a non-profit organization joining together nine Cree communities with a combined population of more than 14,000 people, took up the challenge to Canada with a strong emphasis on controlling territory, protecting culture and reclaiming the power of self-government. Under the 1984 Cree-Naskapi Act the Cree established the Cree Regional Authority (CRA) in an agreement with the Province of Quebec and the Canadian government where powers of governance regionally and locally were recognized in the CRA and local band councils, removing the impositions and impediments of the Canadian government's Indian Act. To satisfy the role of regional governance coincident with the political authority extended by band councils in the Grand Council of the Crees, membership in both the Grand Council and the Regional Authority were the same.

The Cree approach to establishing their political status was to take systematic and progressive steps toward the full exercise of self-governing powers. Under the present Cree-Naskapi agreement with recent amendments, the

Cree as of 2011 have formalized relations with Canada and the Province of Quebec recognizing their authority to regulate domestic affairs within and between Cree communities, and to among other things:

1. enter into any arrangements with any government or authority, municipal, local or otherwise, that may seem conducive to the GCC(EI)'s objects, or any of them, and to obtain from any such government or authority any rights, privileges and concessions that the GCC(EI) may think is desirable to obtain, and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions;
2. apply for, secure, acquire by grant, legislative enactment, assignment, transfer, purchase or otherwise, and to exercise, carry out and enjoy any charter, license, power, authority, franchise, concession, right or privilege, that any government or authority or any corporation or other public body may be empowered to grant;
3. apply for, promote and obtain any statute, ordinance, order, regulation or other authorization or enactment that may seem calculated directly or indirectly to benefit the GCC(EI);
4. do all such other things as are incidental or conducive to the attainment of the objects.

The struggle between Canada and the First Nations continues as many native band councils have bowed to political and economic

pressures to accept land settlement agreements that effectively integrated each nation into the political federation of Canada. Most have accepted the position equivalent to municipalities under provincial governing authority with local control. Judicial authority in virtually every instance is provincial, but in many instances, those courts are obliged to incorporate First Nation laws in their decisions and final opinions.

Last Thoughts

The long process of incorporating First Nations into Canada as “absorbed” nations has continued with only minor variations. Some of the variations, such as the Grand Council of Crees, may evolve into yet another political form since they retain their external identity as a presence in international forums, but most

First Nations now sit as tax paying communities under the rule of frequently hostile provincial governments. Chief George Manuel’s call for the recognition of aboriginal title and aboriginal rights was vindicated in the Canadian courts, but they are not absolute. The rule of Canadian authorities was made supreme, able to extinguish those titles and rights as long as Canada pays for them. The problem remains, that Canada continues to print its own money and Canadian money can only be spent purchasing Canadian goods. In other words, Canada will continue to pay itself for control over First Nations lands and rights. The circular pattern of Canadian rule that favors Canada’s interests remains in place, and stronger than when Pierre Trudeau first issued his “White Paper” in 1969 calling for the extinguishment of aboriginal land title and absorbing native peoples into Canada.

Originally published in:

Ryser, R. (2012). First Nations and Canada, In *Indigenous Nations and Modern States: The Political Emergence of Nations Challenging State Power* (pp. 73–87), Routledge N.Y.

Reprinted with permission.