

HANDOUT 3.3: HISTORY OF INDIGENOUS SELF-GOVERNMENT

The following provides an overview of the history of Indigenous self-government in Canada.

The First Treaties (1500s-1700s)

Before Europeans arrived in North America, Indigenous peoples organized themselves as independent nations. Each nation had its own way of life, political organization, culture, economy, language, laws and control over the land and resources within its territory. Europeans explored and settled in the territory, bringing with them different customs, languages, technology and cultures. Relationships between Europeans and Indigenous peoples varied across the territory and changed over time. For example, during the early days of European contact, some of these relationships were based on fur trade agreements and/or military alliances, and were mutually beneficial. In most cases, Indigenous peoples continued to govern themselves independently and the rights to their lands and resources were respected. However, at other times, Europeans and local Indigenous people clashed violently and left a legacy of mistrust. As Europeans began to settle in North America more permanently, more formal agreements were initiated.



Potlatch in Alert Bay, British Columbia (c. 1897).



Tsimshian village in Metlakatla, British Columbia (c. 1890).

British Colonization (1763)

After defeating the French in the Seven Years War, the British government issued the *Royal Proclamation of 1763*, which set out the terms and rules for transferring Indigenous land to the British. Indigenous people became official subjects under British terms, which expanded Britain's legal authority across the continent. Not all First Nations agreed to sign treaties, but those who did were promised particular legal rights. Some treaties set up reserved territories and guaranteed traditional rights, such as hunting and fishing. Many of these treaties broke traditional alliances, while other promises and legal protections were unfulfilled by future Canadian governments. In all cases, the balance of power in these relationships systematically favoured the British.

Assimilation and the Indian Act (1867-1876)

The *British North America Act* of 1867 (known today as the *Constitution Act, 1867*) established the exclusive power and control of the federal government of Canada over Indigenous peoples and their lands. In 1876, the Canadian government put in place the *Indian Act*, a law that governs First Nations in regard to their status, their land, and their system of governance. Among other legislation, the *Indian Act* gave the Canadian government the legal authority to replace traditional Indigenous governance systems with an imposed system of elected chiefs and band councils. It also banned many traditional Indigenous practices, such as the potlatch, meaning 'to give' in the Nuuchah Nulth language, a gift-giving feast ceremony performed in British Columbia. The *Indian Act* also introduced the residential school system across Canada, which forced children between the ages of 3 and 15 to attend boarding schools and assimilate (forcibly integrate) to Canadian society. Thousands of children were taken from their families and were often subjected to abuse. During this time, the majority of lands and resources that had once belonged to the Indigenous population came under the authority of the Canadian government. First Nations were put on small parcels of land, called reserves, could not own businesses, houses, or territories as they were, and still are today, considered subjects of the Crown.

Negotiating Citizenship (1950s-1960s)

While Indigenous people fought for Canada in both world wars, it was only in 1951 that the restriction on pursuing land claims was removed from the *Indian Act* and in 1960 that Indigenous peoples, specifically Status Indians (those registered under the *Indian Act*), could vote federally without losing their treaty rights or registered Indian status. In 1969, the *White Paper* put forth the federal government's 'Aboriginal policy' and proposed eliminating the *Indian Act*, abolishing the

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federal department of Indian Affairs and transferring responsibilities to the provinces. Indigenous peoples widely opposed these policies (believing them to be another form of assimilation) and argued for the respect of historical treaties and the protection of their distinct cultures. In response, the *Indian Act* remained intact and the federal government retained its responsibility to oversee Indigenous affairs.

Comprehensive Land Claims, Self-Government Agreements and Recognition (1973 onwards)

The Canadian government (referred to as the Crown) negotiated 11 land agreement treaties, called the 'Numbered Treaties', between 1871 and 1921 across the country. Treaty 8, which covered Northern Alberta, the North West of British Columbia, and parts of Southern North West Territories, was signed in 1899 to give the federal government freedom over the exploitation of the newly discovered minerals and resources over the area. No treaties were signed after this period until 1973. The Crown outlined the new policies in 1951, but it took 20 years before the first treaty was signed (the 1975 James Bay and Northern Quebec Agreement signed between the James Bay Cree and the Government of Québec). The current treaties, referred to as modern treaties, are more comprehensive than the Numbered Treaties, and seek to improve living conditions in communities and to share or transfer rights to natural resources in the territories concerned. The negotiations of these modern treaties show a willingness to settle or renegotiate past treaty rights violations, such as the unlawful taking of lands.



Map of modern treaties in British Columbia.

In 1995, the federal government undertook a process to negotiate practical arrangements to make Indigenous self-government a reality. Today's land claims agreements are intended to respect self-government as an Indigenous right under the Canadian Constitution and recognize First Nations' rights to make decisions on matters relating to their own communities, cultures, traditions and languages. The *Constitution Act*, 1982 has recognized existing Indigenous and treaty rights under Section 35 and has defined the Aboriginal (or Indigenous) peoples of Canada as including First Nations, Inuit and Métis peoples. However, many agreements or treaties remain unsettled or are currently in the negotiation process.

In 2008, the Government of Canada apologized for the assimilation agenda of the residential school system and the trauma it caused and continues to cause Indigenous peoples. Following the apology, a Truth and Reconciliation Commission was put in place to uncover the events and offered suggestions on how to move forward while recognizing the significance of the past. In May 2016, Canada adopted the *United Nations' Declaration on the Rights of Indigenous Peoples* after several years of opposing it, and is working toward its implementation.

Sources: "A Brief History of Our Right to Self-Governance: Pre-Contact to Present" (Centre for First Nations Governance, www.fngovernance.org), "Governance" (Indigenous and Northern Affairs Canada, www.aadnc.gc.ca)

THE NISGA'A TREATY: AN EXAMPLE OF SUCCESSFUL SELF-GOVERNANCE IN B.C.



The Nisga'a settled in northern coastal British Columbia thousands of years ago, and have lived there since. In the late 1800s, the Nation attempted to negotiate a land ownership treaty with the federal government, but was forced to abandon its pursuit because, for nearly thirty years, laws forbade Indigenous peoples from raising money to advance land claims. When the laws were repealed in 1951, the Nisga'a Tribal Council was created to begin treaty negotiations, first with the federal government, and in 1990, with the British Columbia government as well. The Nisga'a treaty came into effect in 2000 and included a \$196 million settlement, over 2,000 square kilometres of land and granted self-government to the Nation.

The autonomous Nisga'a government, which represents Nisga'a people who live both in and outside the territory, is aligned with Nisga'a values and traditional systems of governance. It also respects Canada's interest, its constitution and the *Charter of Rights and Freedoms*. The Nisga'a government has principal authority over matters of membership, language, culture and land, although all its policies must align with federal and provincial laws.

The Nisga'a Treaty is the most important and comprehensive modern-treaty land claim agreement signed in British Columbia and has transformed the process of settling land claims across Canada.

The Government of British Columbia put in place, in 1993, the B.C. Treaty Commission, an independent organization that oversees the treaty-making process in the province, and ensures that all parties involved, and their demands, are respected and taken into account.