## WHAT IS THE 1969 WHITE PAPER ON INDIAN POLICY?

In 1969, about a century after the Indian Act became law, **Prime Minister Pierre Elliot Trudeau** and his then **Minister of Indian Affairs, Jean Chrétien**, argued that poverty in Indigenous communities was a result of discriminatory laws, and that the equal treatment of "*Indians*" was the solution. The Trudeau government published a **White Paper** that outlined a series of policy recommendations that centred around the elimination of "*Indians and Indian lands*" as a distinct legal status. The federal **1969 White Paper** suggested that Canada:

- ***Eliminate Indian Status.***
- ***Dissolve the Department of Indian Affairs within 5 years.***
- ***Abolish the Indian Act & remove section 91.24 referring to "Indians and Lands Reserved for Indians".***
- ***Convert reserve land to private property that can be sold by the band or its members.***
- ***Transfer responsibility for Indian Affairs from the federal government to the province and integrate these services into those provided to other Canadian citizens.***
- ***Provide funding for economic development.***
- ***Appoint a commissioner to address outstanding land claims and gradually terminate existing Treaties***.

Indigenous Nations and organizations across Canada fiercely opposed these proposals – which represented an attempt to assimilate Indigenous Nations and communities and shirk responsibility for upholding Aboriginal and Treaty rights. The opposition eventually forced the federal government to publicly withdraw the White Paper in 1971.

However, internal correspondence shows that the plan to terminate collective Aboriginal and Treaty rights has remained the federal objective ever since. In 1970, a deputy minister at the Department of Indian Affairs, **David A. Munro**, wrote a letter to another deputy minister, urging him not to abandon the white paper plan, but to instead simply change tactics: "***We need not change the policy content, but we should put varying degrees of emphasis on its several components and we should try to discuss it in terms of its components rather than as a whole***," wrote Munro.

A year later, **Chrétien** wrote to **Trudeau** confirming that the goals set out in the **White Paper** lived on:

> *…we are deliberately furthering an evolutionary process of provincial and Indian inter-involvement by promoting contacts at every opportunity at all levels of government, at the same time recognizing the truth of the matter – that progress will take place in different areas in different ways at a different pace. Experience shows that the reference of a time frame in the policy paper of 1969 was one of the prime targets of those who voiced the Indian opposition to the proposals.* ***The course upon which we are now embarked seems to present a more promising approach to the long-term objectives than might be obtained by setting specific deadlines for relinquishing federal administration***. [emphasis added]

While the federal government had publicly withdrawn the White Paper, the bureaucracy quietly continued to implement it, policy by policy, and over a longer timeframe.

The legal situation changed in 1982, as First Nations pushed for the recognition of Aboriginal and Treaty rights in section 35 of Canada's new constitution. During negotiations, representatives of First Nations and Canada's First Ministers failed to reach an agreement on the meaning of Aboriginal and Treaty rights in the new constitution. This failure to reach constitutional consensus created legal -- and political -- uncertainty about the constitutional definition of Aboriginal and Treaty rights of First Nations, until starting in 1990, the **Supreme Court of Canada** started defining (limiting & restricting) **section 35 Aboriginal and Treaty rights in court-cases**, making it possible for successive federal governments to continue attempts to extinguish Aboriginal and Treaty rights through negotiation of one-sided "*self-government*" and "*land claims*" agreements despite the recognition of Aboriginal and Treaty rights in the new constitution.

**WHAT IS WHITE PAPER 2.0?**

**White Paper 2.0 is the Recognition and Implementation of Indigenous Rights Framework** announced by **Prime Minister Justin Trudeau** in the House of Commons on February 14, 2018. It includes federal policies and laws forming a "***Framework***", the Trudeau government wanted a one window concept through a single law and proposed a First Nations, Metis, Inuit, pan-Indigenous Bill to be introduced into Parliament by December 2018.

According to a September 2018 "*overview document*" from the federal government on the "*Rights Recognition*" Bill, the federal "*overview*" stated how the federal government would control "*recognition*" of "*Indigenous Nations and Collectives*", now called "*Indigenous Governing Bodies*" in federal legislation. 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.***
>
> •***require Canada to co-develop further measures to support these elements***.

This proposed **Rights Recognition Framework Bill** was rejected by First Nations across Canada so the federal government announced in October 2018, that it would delay the "*Recognition*" Bill until after the 2019 federal election.

However, federal Minister of Crown-Indigenous Relations, Carolyn Bennett, announced at the same time, that:

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

So, as we see in 2018, while the Trudeau government stated it was delaying its proposed "*Rights Recognition Framework*" legislation and maintaining the Indian Act (for continued control & management of "*Indians*") it proceeded to implement its "*Rights Recognition Framework*" in separate components at different tables to "*go beyond*" the Indian Act on a "*Path of Reconciliation*" into a **New Relationship** through these options:

- ***Recognition of Rights & Self-Determination Tables.***
- ***Modern Treaty (Comprehensive Land Claim) Tables.***
- ***4th Level Ethnic Self-Government (Sectoral or Comprehensive) Tables.***
- ***Alternative Federal Legislation to the Indian Act Imposing Settler-Colonial National Standards (affecting First Nations lands, taxation, resources, languages, child welfare and governance regimes)***.

On June 21, 2021, the Federal **UNDRIP Act** (**Bill C-15**) became law entrenching the federal **Rights Recognition Framework** as the "*framework for the Government of Canada's implementation of*" **UNDRIP's 46 Articles**. Current issues in Canadian Aboriginal/Indigenous law remain unchanged. In other words, **CANDRIP** (**Bill C-15**) maintains the colonial status quo. **Section 2.2 of Bill C-15** on the "*Rights of Indigenous Peoples*" is based on the Section 35 common law **Doctrine of Discovery** (**assumed Crown sovereignty**).

**[NOTE: This information sheet was prepared by Russ Diabo, Truth Before Reconciliation Network on Education & Advocacy, January 2022]**

# 1969 White Paper Goals: Publicly Withdrawn - Secretly Implemented

| 1969 WHITE PAPER ON INDIAN POLICY | 2022 WHITE PAPER 2.0 |
|---|---|
| **Eliminate Indian Status** | **Change Indian Act Status of Bands & Band Members through Self-Government & Comprehensive Claims Agreements Defining Aboriginal & Treaty Rights Based on Surrender & Replacement of Pre-Existing Rights—Legal Technique (Section 35 Rights)** |
| **Dissolve the Department of Indian Affairs** | **Department of Indian Affairs & Northern Development Dissolved in 2019 Through an Omnibus Budget Bill C-79** |
| **Abolish the Indian Act & remove section 91.24 referring to "Indians and Lands Reserved for Indians"** | **Use a Two-Track Approach to Empty Out the Indian Act & Section 91.24 Constitutional Obligations by Defining Section 35 Rights Through Creation of Two New "Indigenous" Departments:**<br><br>**1) One Approach for Keeping Section 91.24 Legislation (Indian Act, First Nations Land Management Act, First Nations Fiscal Institutions Act, Indigenous Languages Act, Indigenous Child & Family Services Act, etc.) in Place: Indigenous Services Canada, to Control & Manage "Indians" Until They Are Converted into 4th Level Ethnic Governments—Band-By-Band & Until Transfer/Off-Loading of Programs & Services to 4th Level "Indigenous" Government's is Complete, Ending Treaty & Fiduciary Obligations Through Federal Government's Self-Government Fiscal Policy.**<br><br>**2) One Approach for Pan-Indigenous Relationships: Crown-Indigenous Relations (Indians, Metis, Inuit) Negotiating and Implementing Section 35 Self-Government & Comprehensive Claims Agreements with Indigenous Governing Bodies (Band Councils, 4th** |

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| | **Level "Indigenous" Government's & "Entities" with Section 35 Mandates).** |
| **Convert reserve land to private property that can be sold by the band or its members** | **Federal Government Has Several Approaches:**<br>**1. Where a Band Opts Out of Indian Act into First Nations Land Management Act to Develop a Land Code to Prepare for Residential Privatization of Lands Though a Proposed First Nations Property Ownership Initiative—Now Called the Indigenous Land Title Initiative.**<br>**2. Self-Government Agreements That Include Converting Reserve Lands Into Private Property (Fee Simple).**<br>**3. Comprehensive Claims Agreements That Convert Reserve Lands into Private Property (Fee Simple) While Modifying (Extinguishing) Aboriginal Title to Traditional Territory.** |
| **Transfer responsibility for Indian Affairs from the federal government to the province and integrate these services into those provided to other Canadian citizens** | **Using The Two New Departments The Federal Government Uses Indigenous Services Canada to Build Administrative & Fiscal Management Capacity of Bands to Prepare to Sign Section 35 Agreements Taking Over Responsibility for Programs & Services Without guarantees of Federal Support of Funding Levels to Meet Needs.**<br>**The Crown-Indigenous Relations Department Negotiates & Implements Section 35 Self-Government & Comprehensive Claims Agreements Defining Aboriginal & Treaty Rights for 4th Level Ethnic "Indigenous" Governments, which Ensure Provincial Domination is Maintained In Areas of Provincial Jurisdiction (Lands, Education, Health, Child Welfare, etc.)** |
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| **Provide funding for economic development** | **The Federal Government provides minimal Economic Development Funding to Indian Bands, but the First Nations Fiscal Institutions Act created 3 National Fiscal Institutions:**<br><br>**1. First Nations Financial Management Board.**<br>**2. First Nations Finance Authority.**<br>**3. First Nations Tax Commission.**<br><br>**In 2018 the First Nations Financial Management Board and Indigenous Services Canada started "The First Nations Governance Project" to prepare the "Roadmap" for federally defined Self-Determination & Economic Development. It can be found here** |
| **Appoint a commissioner to address outstanding land claims and gradually terminate existing Treaties** | **The Federal Government's Treaty Policy is to Negotiate Ending Ongoing Treaty Obligations Through One-Off Specific Claims Like Treaty Land Entitlement (Additions-to-Reserves) & Cows and Plows (Promises of Agricultural Instruments) and "Self-Government" rights under section 35:**<br><br>**1. in new treaties;**<br><br>**2. as part of comprehensive land claim agreements; or**<br><br>**3. as additions to existing treaties.**<br><br>**Under this Treaty Approach, Canada' says suitable matters for constitutional protection would include:**<br><br>**1. a listing of jurisdictions or authorities by subject matter and related arrangements;**<br><br>**2. the relationship of Aboriginal laws to federal and provincial laws;** |

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| | 3. **the geographic area within which the Aboriginal government or institution will exercise its jurisdiction or authority, and the people to be affected thereby; and**<br><br>4. **matters relating to the accountability of the Aboriginal government to its members, in order to establish its legitimacy and the legitimacy of its laws within the Constitution of Canada [Meaning as 4th Level Governments under the Federal & Provincial Constitutional Division of Powers].**<br><br>**In 2018, Prime Minister Trudeau Announced his government's "Rights Recognition Framework", which was rejected by First Nations, but the Trudeau government continues to pursue at all Discussion & Negotiation Tables, including Tables of First Nations with "pre-1975" & "post-1975" Land Claim Agreement "Treaties".**<br><br>**The Federal Government wants Self-Government/Comprehensive Claims Agreements that Define the Authority of an "Indigenous Government" as possessing "the legal capacity of a natural person", meaning a federal corporation.**<br><br>**In their 2019 the Liberal Party of Canada—now the Federal government—Committed to "To ensure that Canada implements the spirit and intent of Treaties…we will move forward with a new…process for the ongoing review, maintenance, and enforcement of Canada's treaty obligations between the Crown and Indigenous communities. This work will be supported by a new National Treaty Commissioner's Office which will be designed and established with Indigenous partners [like AFN]".** |