



HARPER'S FIRST NATIONS TERMINATION PLAN

Presented By
Russell Diabo

Blue Quills First Nations College

March 19, 2014

Canada's Racist Colonial Origins

- Canada bases its territorial integrity and assertion of sovereignty over Indigenous (First) Nations by continuing to rely on the racist and outdated notions of **Terra Nullius** and the **Doctrine of Discovery**.

ROYAL PROCLAMATION OF 1763





FATHERS OF CONFEDERATION

First legislative Assembly July 1, 1867

Federal Powers – Section 91

- Public Debt and Property
- Regulation of Trade/Commerce
- Direct/Indirect Taxation
- Defence
- Navigation/Shipping
- Sea Coast and Inland Fisheries
- Ferries (interprovincial/ international)
- Currency, Banking /Incorporation of Banks/Paper Money
- Bankruptcy
- Patents, Copyrights
- **Indians & lands reserved for the Indians**
- Citizenship, Marriage/Divorce
- Criminal law, including Criminal Procedure

Provincial Powers – Section 92

- Direct Taxation within Province
- Management/Sale of Public Lands belonging to Province
- Prisons, Hospitals
- Municipalities
- Formalization of Marriage
- Property and Civil Rights
- Administration of Civil/Criminal Justice
- Education
- Incorporation of Companies
- Natural Resources
- Matters of a merely local or private nature

INDIAN ACT



CANADA

CONSOLIDATION

Indian Act

CHAPTER I-5

CODIFICATION

Loi sur les Indiens

CHAPITRE I-5

Indian Act

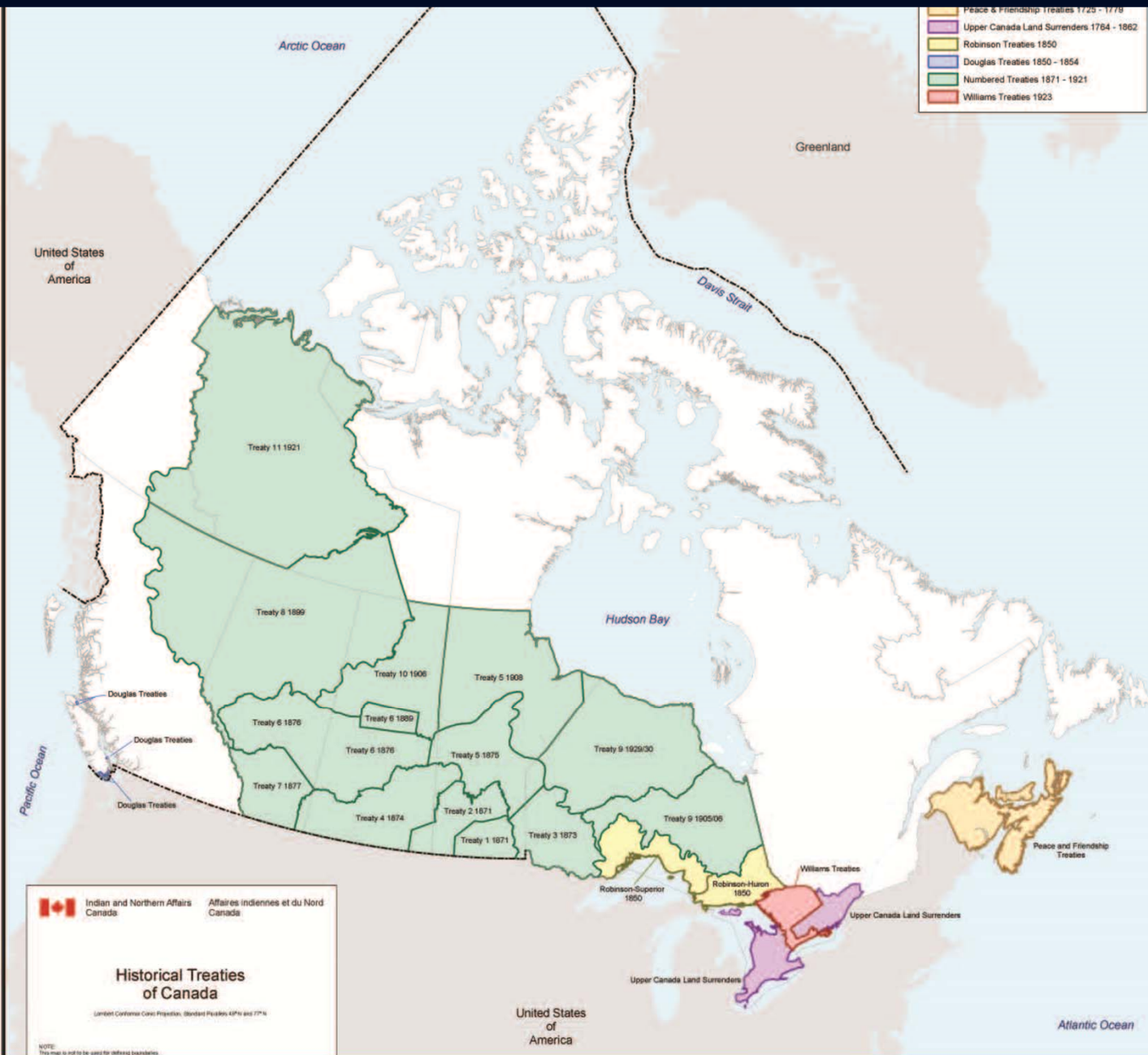
- The **Indian Act** has conflicting and parallel objectives:
- the **protection** of Indians and their lands on the one hand,
- and the **control, assimilation and civilization** of Indian peoples on the other.

Indian Act

- In 1951, a revised **Indian Act** was adopted by Parliament. In most respects it was the same as the 1876 **Act**. The protective obligations of the Crown were seen only as a temporary duty which would disappear once complete assimilation had been achieved.

Indian Act

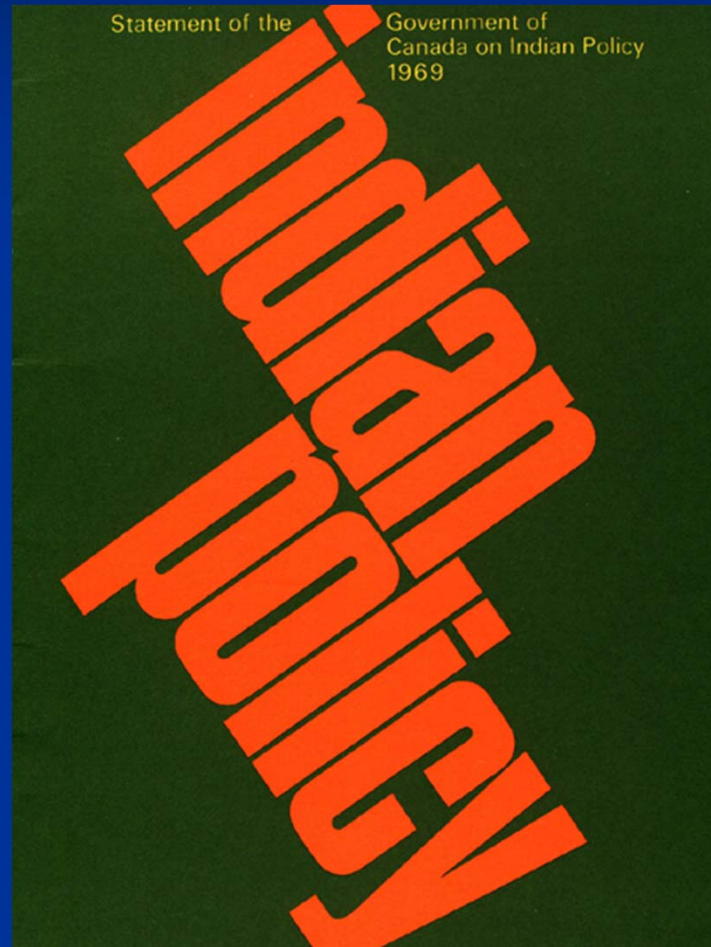
- Between 1968 and 1969, Canada once again took another look at Indian policy, in light of Prime Minister Pierre Elliot Trudeau's vision of individual equality for all Canadians and the dismantling of collective rights. As in the 1940's and 50's, extensive consultations were carried out, which were duly ignored by officials. The result was the release of the White Paper in 1969.



Chrétien and Trudeau



1969 WHITE PAPER ON INDIAN POLICY



1969 White Paper Proposals

- Eliminate Indian Status.
- Dissolve the Department of Indian Affairs within 5 years.
- Abolish the Indian Act & remove section 91.24.
- 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.

CONSTITUTION ACT 1982



Constitution Act 1982

- On April 17, 1982, the **Constitution Act 1982** became law.
- Section 35 of the new constitution “**recognizes and affirms the existing aboriginal and treaty rights of aboriginal peoples**”.
- A series of First Ministers’ Conferences were held in 1983, 1984, 1985 and 1987, to identify & define the scope and content of sec. 35, but these constitutional conferences ended in failure.

Proposed Distinct Order of Indigenous Government

Federal Powers
Section 91

First Nations Powers
Section 35

Provincial Powers
Section 92

1983 Amended Section 35

- 35. (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.

END OF MEECH LAKE ACCORD 1990



1990 ARMY IN KAHNAWAKE



Supreme Court of Canada: The Judges



Haida at Supreme Court of Canada



CROWN-FIRST NATIONS GATHERING



Harper's Termination Plan

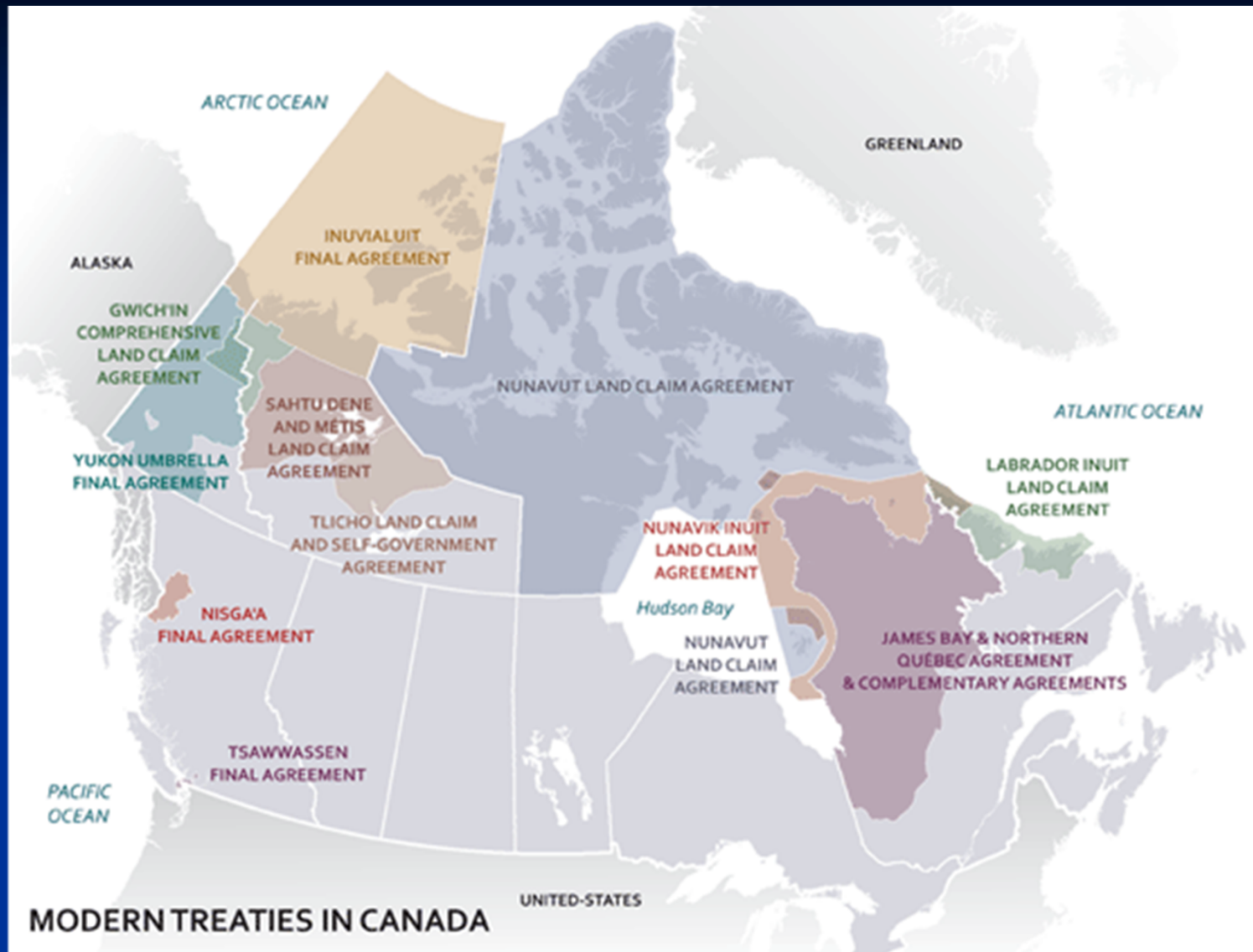
- On September 4th the Harper government clearly signaled its intention to:
- 1) Focus all its efforts to assimilate First Nations into the existing federal and provincial orders of government of Canada;
- 2) Terminate the constitutionally protected and internationally recognized Inherent, Aboriginal and Treaty rights of First Nations.

Harper's Termination Plan

- **Termination** in this context means the ending of First Nations pre-existing sovereign status through federal Indian Act legislation, or coercion of First Nations into Land Claims and Self-Government Final Agreements that convert First Nations into municipalities, their reserves into fee simple lands and extinguishment of their Inherent, Aboriginal and Treaty Rights.

Harper's Termination Plan

- A “**results based**” approach to negotiating Modern Treaties and Self-Government Agreements was done in 2013-2014. This was an assessment process of 93 negotiation tables, affecting 403 communities and 331,945 people across Canada to determine who will and who won't agree to terminate Inherent, Aboriginal and Treaty rights under the terms of Canada's Comprehensive Claims and Self-Government policies. As of today all 93 negotiation Tables are still listed on the AANDC website.



Comprehensive Claims Settlements

Harper's Termination Plan

- As of April 1, 2014, First Nation regional and national political organizations will have their core funding cut and capped. For regional First Nation political organizations the core funding will be capped at \$500,000 annually. For some regional organizations this will result in a funding cut of \$1 million or more annually.
- This will restrict the ability of Chiefs and Executives of Provincial Territorial Organization's to analyze Crown governments' laws & policies or organize and/or advocate for First Nations rights and interests.

Harper's Termination Plan

- By April 1, 2014, Tribal Councils cannot do advocacy or political activities under new policy.
- By April 1, 2015, First Nation Band and Tribal Council funding for advisory services will be eliminated further crippling the ability of Chiefs and Councils and Tribal Council executives to analyze and assess the impacts of federal and provincial policies and legislation on Inherent, Aboriginal and Treaty rights.



Chiefs Blocked in Parliament

1764 Treaty of Niagara Wampum Belt

December 4, 2012



Chief Theresa Spence – AFN General Meeting

January 9, 2013



AFN General Meeting – Evening Session

January 10, 2013



AFN-PM MEETING

January 11, 2013



INM Ottawa Protest March to PMO

January 11, 2012

AFN-CANADA “HIGH LEVEL” PROCESS

- AFN met with federal officials on February 5th and February 11th to discuss “high level” process.
- There were two Senior Oversight Committees (SOC’s) coming out of the January 2013 meeting with the Prime Minister: one on Treaty Implementation and one on Comprehensive Claims (Modern Treaties).

AFN-CANADA “HIGH LEVEL” PROCESS

- Federal SOC people are the same for both tables (Treaty Implementation & Comprehensive Claims).
- Gina Whiteduck-Wilson, Assistant Deputy Minister for Treaties & Aboriginal Governance, AANDC, was elected to be the federal Co-Chair of the SOC's along with Perry Bellegarde & Jody Wilson-Raybould as AFN Co-Chairs. For AFN only the Comprehensive Claims SOC remains.

TERMINATION PLAN

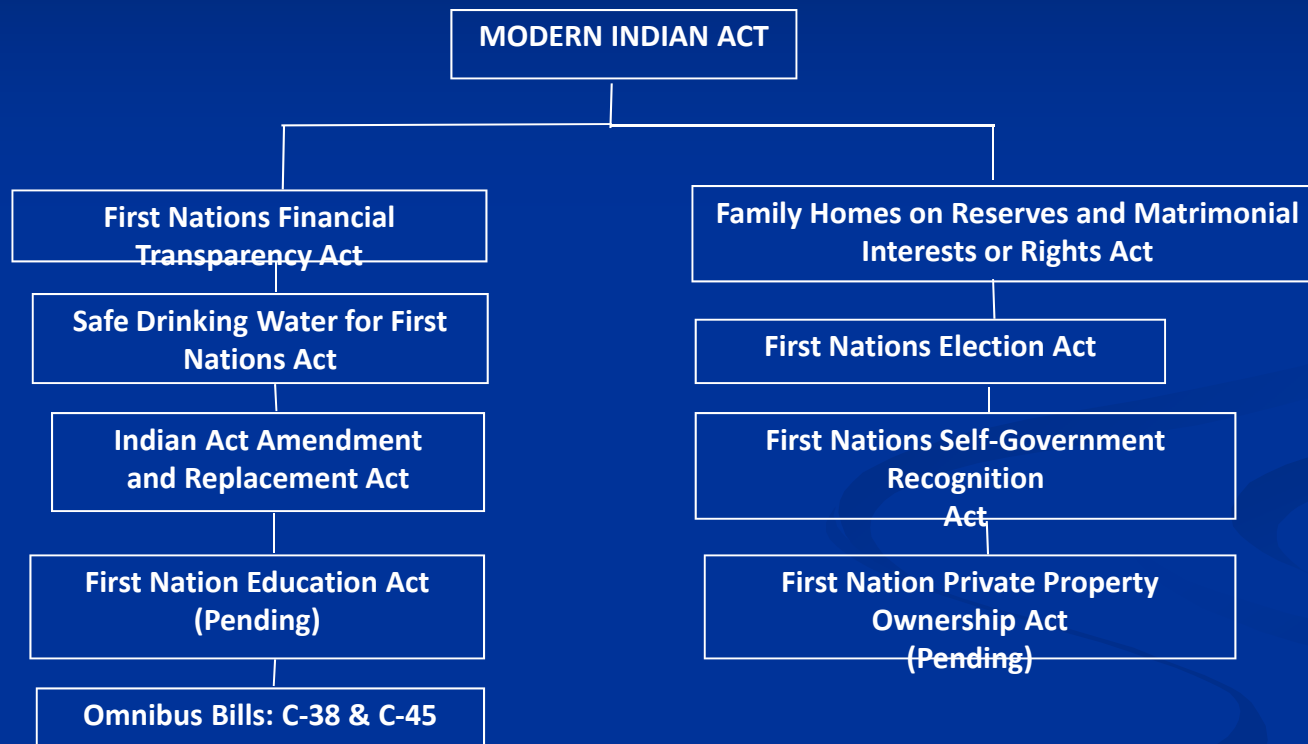
- In 2006, Stephen Harper's Conservative Platform promised to:
- *“Replace the Indian Act [and related legislation] with a modern legislative framework which provides for the devolution of full legal and democratic responsibility to aboriginal Canadians for their own affairs within the Constitution, including the Charter of Rights and Freedoms.”*

TERMINATION PLAN

- “modern” in Conservative terms means assimilation of First Nations by termination of their collective rights and off-loading federal responsibilities onto the First Nations themselves and the provinces.
- “Aboriginal Canadians” is the term the government of Canada uses to describe First Nations because the Termination goal is to convert “Indian Bands” into ethnic municipalities with fee simple lands under provincial jurisdiction.

TERMINATION PLAN

- The Harper government is implementing a First Nations Termination Plan through two tracks:
- 1) a “Modern” amended Indian Act; or through;
- 2) Self-Government/Comprehensive Claims Final Agreements.



TERMINATION PLAN

- The Termination Plan is based upon the following key federal objectives using federal laws, policies, funding and law enforcement (and if necessary military).

TERMINATION PLAN

- Getting First Nations consent to the extinguishment (modification) of Aboriginal Title;
- Getting First Nations sign-off on the legal release of Crown liability for past violations of Aboriginal Title & Rights;
- Getting First Nations acceptance of the elimination of Indian Reserves by accepting lands in fee simple;
- Getting First Nations acceptance to removing on-reserve tax exemptions;

TERMINATION PLAN

- Getting First Nations to respect existing Private Lands/Third Party Interests (and therefore alienation of Aboriginal Title territory without compensation);
- Getting First Nations to accept (to be assimilated into) existing federal & provincial orders of government;
- Getting First Nations to accept application of Canadian Charter of Rights & Freedoms over governance & institutions in all matters;
- Getting First Nations to accept Funding on a formula basis being linked to own source revenue;

CONCLUSION

- For First Nations not at a negotiating table, Canada is socially engineering First Nations into accepting assimilation-termination under an amended **Indian Act** & funding agreements.
- Canada's war on First Nation rights is heating up as First Nations are forced to respond politically/legally to aggressive development of lands/resources sponsored by the federal and provincial governments.
- For the first time in 40 years or so, First Nations & their organizations will have to reorganize due to major federal funding cuts & caps. First Nation Peoples will have to engage with their leaders to redefine their struggle for Aboriginal/Treaty rights.