

FIRST NATIONS STRATEGIC BULLETIN

FIRST NATIONS STRATEGIC POLICY COUNSEL

Harper's "Great White Father" Approach Has First Nations Divided and in Disarray



L to R: Prime Minister Stephen Harper with National Aboriginal Leaders at Residential School Apology, June 11, 2008. (Photo courtesy of Chris Wattie/Reuters)

By Russell Diabo

Since coming to power in January 2006, Stephen Harper's minority Conservative government has acted to implement their neoconservative ideology over federal social and fiscal policy. Major signals to Aboriginal Peoples that the Harper government was different than the previous Liberals were quick to come. Off the bat, they dropped the **Kelowna Accord** from the federal political agenda, while agreeing to accept the "**targets**" identified at the **First Ministers' Meeting on Aboriginal Affairs** in Kelowna. Then Harper dropped Aboriginal Peoples altogether as a priority as the new

federal Conservative government set about changing the course of the ship of State.

Conservative Party Aboriginal Platform

The 2006 federal Conservative Aboriginal Platform remains in place and is as follows:

Opportunity and respect for aboriginals

Every year for twelve years the Liberals have paid lip service to aboriginal issues. But their real legacy is bad water, bad schools, and bad housing. Every year aboriginal spending goes up, but life for Canada's aboriginal peoples keeps getting worse. And meanwhile the disputes, claims, and law suits pile up.

The Liberals should be ashamed of themselves. It's time for a new approach.

The plan

A Conservative government will:

- **Accept the targets agreed upon at the recent Meeting of First Ministers and National Aboriginal Leaders, and work with first ministers and national aboriginal leaders on achieving these targets.**
- **Support the development of individual property ownership on reserves, to encourage lending for private housing and businesses.**
- **Let aboriginal parents choose the schooling they want for their children, with funding following the students.**
- **Replace the Indian Act (and related legislation) with a modern legisla**

Special points of interest:

- **Conservatives Implementing Assimilation/Termination Plan with First Nations Collaborators**
- **Canada Deliberately Keeping First Nations in Poverty**
- **History of Struggle for Self-Governmet**
- **Defenders of the Land Call Out Against G-8/G20**

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Then National Chief Phil Fontaine with Prime Minister Stephen Harper, June 11, 2008.

"While referring to "aboriginals" and "aboriginal Canadians" in their 2006 platform, most of the Conservative electoral objectives for change are actually directed towards First Nations"



Political Scientist, Tom Flanagan. Right wing proponent of First Nations assimilation.

tive 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.

- Pursue settlement of all outstanding "comprehensive claims" within a clear framework that balances the rights of aboriginal claimants with those of Canada.
- Adopt measures to resolve the existing backlog of "specific" claims so as to provide justice for aboriginal claimants, together with certainty for government, industry, and non-aboriginal Canadians.
- Implement all of the recommendations of the House of Commons Standing Committee on Aboriginal Affairs and Northern Development contained in its fourth report on Resolving Indian Residential School Claims, to expedite the settlement of claims and save money.
- Recognize the contributions of Aboriginal veterans, and redress 60 years of inequity by implementing the resolution of the House of Commons to acknowledge the historic inequality of treatment and compensation for First Nations, Métis, and Inuit war veterans, and take action immediately to give real compensation to these veterans in a way that truly respects their service and sacrifice. [Stand Up For Canada - Conservative Party of Canada Electoral Platform 2006]

While referring to "*aboriginals*" and "*aboriginal Canadians*" in their 2006 platform, most of the Conservative electoral objectives for change are actually directed towards First Nations.

Conservative Assimilation/Termination Plan

The "*Great White Father*" approach of Prime Minister Stephen Harper consists of instructing First Nations on their interests and affairs, because he knows what is best for us.

As their platform shows, the Harper Conservatives are committed to supporting individual rights to undermine/eliminate collective rights of First Nations as part of a larger assimilation/termination strategy. The focus is on individual property rights on-reserve and imposing a "modern legislative framework" that will unilaterally define the legal and political status (self-government) of First Nations.

Consistent with the Conservative Electoral Platform, Prime Minister Harper is implementing his Party's white colonial views of First Nations by pushing **Bill S-4, Family Homes on Reserves and Matrimonial Interests or Rights Act**, otherwise known as the **Matrimonial Property Act**, which promotes individual rights to property on Reserves under the guise of alleviating gender discrimination.

Meanwhile, Harper's former advisor Tom Flanagan, along with former Kamloops Chief Manny Jules, are working together to publicly peddle the idea of amending the **Indian Act** to allow for individual Real Property Rights on reserve, an objective in the Conservative platform.

What has not come out publicly yet are the proposed **Indian Act** amendments regarding reserve lands being promoted by former INAC Assistant Deputy Minister of Lands and Trusts, Warren Johnson, who has been hired as a consultant to INAC to look at their "**Additions to Reserve**" policy.

Like Flanagan and Jules, Warren Johnson is also proposing **Indian Act** amendments regarding reserve lands. In a draft discussion paper on "**Additions to Reserves**", dated October 10, 2009, Mr. Johnson suggests Indian Act amendments in the subject areas of:

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- Resource Management
- Land Management and Registration
- Delegation Instruments and Ratification Thresholds
- Environmental Management
- Band Law Making

The list of primarily land related areas Mr. Johnson is privately proposing as **Indian Act** amendments converge with the proposals that Flanagan and Jules are selling publicly.

Another area of **Indian Act** amendments being pursued by the Harper government is **Bill C-3, Gender Equity in Indian Registration Act**, which involves amending the membership sections of the **Indian Act** to create more status Indians. However, so far the Harper government hasn't committed to more fiscal resources to support the likely demands of the thousands of newly legislated Indians.

Added to the mix of legislative changes directed at First Nations, which are either underway or proposed, is **Bill C-44, Repeal of Section 67 of the Canadian Human Rights Act (CHRA)**, which passed in 2006, and set a target date of June 11, 2011 for when the CHRA will apply to Indians on-reserve. Prior to the passage of Bil C-44 in 2006, the CHRA did not apply to Indians on-reserve.

The CHRA prohibits discrimination in employment and services within federal jurisdiction. As of June 11, 2011, First Nations people living on reserves will have full access to and protection under the **Canadian Human Rights Act**. This will allow for Indian individuals to file complaints against Band Councils and Band Administrations, as well as First Nation organizations, if the individuals believe they are being discriminated against in service delivery or the hiring and firing practices of the First Nations and their organizations.

Well this is likely a positive development, the Assembly of First Nations has identified at least three areas where the legislation is deficient:

1. **It fails to provide any measures to safeguard and balance individual and collective Aboriginal and Treaty Rights for First Nation peoples;**
2. **It lacks a realistic transition period for First Nation governments upon the application of the CHRA; and**
3. **It provides no consideration for the potentially significant organizational impacts on First Nation governments resulting from the application of the CHRA, particularly in relation to critical capacity necessary to ensure the successful implementation and full application of the CHRA.**

Added to these legislative and policy changes targeting First Nations is the fiscal framework that First Nations and their organizations are bound by. The Harper government is now placing more restrictions on the funding criteria by introducing assessments of "risk" and "capacity" to determine the level of federal intervention into the financial affairs of bands and organizations.

Given the chronic underfunding and federally imposed terms and conditions within funding agreements, First Nations have no room to improve service delivery. The application of the CHRA to Indians on-reserve looks like a recipe for more in-fighting over the little monies that come into the band offices, while the federal government breaches its Treaty and fiduciary responsibilities and obligations.



CHRC, Chief Commissioner, Jennifer Lynch.

"The application of the CHRA to Indians on-reserve looks like a recipe for more in-fighting over the little monies that come into the band offices, while the federal government breaches its Treaty and fiduciary responsibilities and obligations"



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Right Wing Media Campaign

The Harper government seems to be taking a piecemeal approach to developing the "**modern legislative framework**" because they are in a minority government situation. However, the government and mainstream media appear to be waging a campaign with various right wing Aboriginal commentators like **Joseph Quesnel**, **Calvin Helin**, Osooyos Chief **Clarence Louie**, and former Kamloops Chief **Manny Jules**. These individuals are aided by non-Aboriginal right wing commentators like **Tom Flanagan**, **John Richards** and **Gordon Gibson**. The Canadian media have given them been a regular pulpit from which to advocate far-reaching changes to aboriginal policy.



Manny Jules, Chair, First Nations Tax Commission.
(Photo by R. Diabo)

The idea seems to be to soften up the Canadian public and of course the opposition parties to accept the coming legislative and policy changes that the "**Great White Father**" Stephen Harper still has up his sleeve. We will have to stay tuned since the Harper government doesn't believe in listening to what First Nations think should be done to improve our social, economic, political and legal situation. If Harper wants our opinion he will tell us what it is.

First Nations Divided and in Disarray

Because of First Nations' dependency on federal funding for the transfer payments that provide basic programs and services, First Nations' leadership is limited in the actions they can take without angering the Prime Minister, his Ministers, or the federal bureaucracy.

"The Harper government seems to be taking a piecemeal approach to developing the "modern legislative framework" because they are in a minority government situation. However, the government and mainstream media appear to be waging a campaign with various right wing Aboriginal commentators "

For example, the last AFN election was a contest between two different approaches by Chiefs. Perry Bellegarde's camp was backed by Phil Fontaine and his supporters, who also consisted of Fontaine's staff and advisors. After six (really nine) years in the office of AFN National Chief, Phil Fontaine was likely trying to keep control over the AFN structure not only for the jobs and funding, but in order to influence the approach AFN would take with Crown governments and the private sector.

The opposing Atleo camp was backed largely, but not exclusively, by the Chiefs from British Columbia, who felt "**it is [their] time**" to have a National Chief from the B.C. region. Shawn Atleo is a relative newcomer to national Indian politics, although he has a strong resume of local and regional activities. Atleo's electoral platform consisted of four themes, which included a rights agenda, something Fontaine had largely ignored during his tenure as National Chief, opting instead to pursue a program agenda.

While Fontaine was National Chief the numbered Treaties started a "**Treaty movement**", because they felt Fontaine and AFN were ignoring the Treaties. The Treaty groups named former AFN National Chief **Ovide Mercredi** as their "**spokesperson**".

Since becoming AFN National Chief, Shawn Atleo seems to be finding his feet on the many huge issues confronting First Nations locally, regionally, national and internationally. Atleo has consistently tried to be diplomatic in the face of Prime Minister Harper's "**Great White Father**" approach towards First Nations.

Let's not forget, despite Harper's delivery of the out of court agreement to issue a formal apology for the legacy of the Residential Schools, he has not met with the Chiefs-in-Assembly. Meanwhile, Harper has attended the Annual Assembly of the dubious organization known as the **Congress of Aboriginal Peoples** (formerly Native Council of Canada) and he has appointed the likes of **Patrick Brazeau** to a position in the Senate.

In addition, Harper has appointed Chuck Strahl, a Reform Party Conservative, as what is essentially the Minister of Aboriginal Affairs, since his responsibilities also include being Interlocutor for the Metis. All of these actions amount to the Dis-Assembly of First Nations.



Joseph Quesnel,
Metis critic of First Nations policies.

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Getting back to AFN, it seems the Bellegarde camp is already preparing for another run at Shawn Atleo to take over the AFN. Perry Bellegarde has recently told me personally that his term as local Chief of his band is a three year term. Meaning his term as Chief ends in time for the next AFN election.

As Perry Bellegarde takes on his new political role at home, the Dene Nation seems to be setting up a shadow AFN. They they have hired long-time Fontaine assistant, Ken Young, after he was let go by AFN, and it is no secret that the brothers Erasmus, Billy and Georges, campaigned last year against Shawn Atleo and for Bellegarde.

I wouldn't be surprised to learn that the Fontaine network is already busy collaborating with the federal government to try and limit AFN National Chief Atleo's efforts to make change based upon his platform. The evidence of this assertion will emerge as the AFN election looms closer in a couple of years.

Observers of First Nation politics will note the trajectory of Fontaine's personal fortunes as he is embraced by the Canadian White establishment. He is now an advisor to the **Royal Bank**, which is a big investor in the Tar Sands; he is a Senior Advisor to the law firm, **Ogilvy, Renault**, a law firm heavily involved in business law involving resource companies; and he is on the board of at least two mining companies.

As AFN National Chief, Phil Fontaine focused on the symptoms of First Nations poverty but not the causes, which are the theft of lands and resources, as well as the Crown denial of Inherent, Aboriginal and Treaty rights. Fontaine would promote jobs and training in the resource sectors while remaining silent on the First Nation's rights to those natural resources and lands. Fontaine also focused on programs while ignoring the Crown's Treaty and fiduciary duty to provide First Nations with programs and services.

The First Nation's "**rights agenda**" is always threatened by those First Nation leaders who collaborate with Crown governments for some program or capital dollars.

This federal system of control and management over First Nations won't change unless the community members themselves get active and demand change from the Crown governments, especially the younger generation.

If First Nations are to survive the 21st century, then a grassroots peoples movement has to develop, along with a growth in consciousness about the many way the Crown governments are controlling our lives and manipulating our leaders.

However good may be the intentions of AFN National Chief Shawn Atleo, if he doesn't have the people and a sizeable contingent of Chiefs behind him, he won't get too far on his platform for change.

There are already those within the First Nations side working for personal gain by collaborating with the Crown governments, undermining any serious political movement among our people and our leaders. The federal government has called such collaborators "**champions**" in the past. Keep your eyes peeled for such people.



Chiefs rush to shake Minister Strahl's hand as he leaves AFN Assembly. Is this healthy behaviour?



L to R: Shawn Atleo and Perry Bellegarde in between ballots during the 2009 AFN election for National Chief. (Photo by R. Diabo)

"However good may be the intentions of AFN National Chief Shawn Atleo, if he doesn't have the people and a sizeable contingent of Chiefs behind him, he won't get too far on his platform for change"



Chuck Strahl, Federal Minister of Indian Affairs addresses AFN Special Chiefs' Assembly in Ottawa, December 12, 2009. (Photo by R. Diabo)

Canada Entrenches First Nations Poverty

By Arthur Manuel, Spokesperson, Indigenous Network on Economies and Trade

In December 8 – 10, 2009 the **Assembly of First Nations (AFN)** held its annual **Special Chiefs' Assembly** in Ottawa, Ontario. I attended this Special Chiefs Assembly as a proxy for **Chief Judy Wilson of Neskonlith** in order to participate in the "**First Nations – Crown Relations Caucus Sessions**". This was the first time in many years that the AFN actually provided an opportunity to discuss First Nations and Crown relations through three separate workshops on "**Treaties**", "**Aboriginal, Title and Rights**" and "**Implementation/Land Claims Coalition**". The aspirations for First Nation and Crown Relations were monumentally different from the kind of relations that currently exist.

Current First Nations and Crown relations were exemplified by the way the elected Chiefs, staffers and attendants reacted to the **Minister of Indian Affairs, Chuck Strahl**, who addressed the AFN Special Chiefs' Assembly on December 10th. The Chiefs took time to prepare for this meeting with the Minister; the matters raised by the Chiefs were to challenge the Minister to address the extreme poverty we feel at the Indian Reserve level. The complaints raised were the same made by Chiefs across Canada ever since the establishment of the **Indian Act** and the **Department of Indian Affairs**.

The federal government constantly brags about the amount of money they spend on Indian programs and services, but what does this money buy us? According to the **United Nations Human Development Index (HDI)** Canada enjoyed level 1 for three years and is always at the top five in the world. When these same tests are applied to Indigenous Peoples living on Indian Reserves our HDI level is at 78.5. All the money spent through our Band Offices is only enough to allow us to live at level 78.5, the level of poor developing countries. That has been the case since we have been taken off our Aboriginal and Treaty Territories and restricted to live on our Indian Reserves.

Indian Reserves may be useful places for our families to gather and to shelter our language and culture, but in most cases they are too small to support the population they are supposed to support. There is no reason why Indigenous Peoples should be poor in one of the richest lands in the world; unless our poverty was purposely created by federal and provincial law. The Canadian government systematically impoverishes Indian people. The Canadian plan is to individually assimilate us into mainstream society and economy in order to overcome the poverty we suffer. Canada does not want to address the poverty we experience collectively only individually.

Canada's economy is based on the "**Colonial Doctrines of Discovery and Terra Nullius**" which under Western law legitimize the theft of our lands to make them wealthy. All the wealth in Canada comes from our Aboriginal and Treaty Territories. Canada and the provinces by not recognizing our proprietary ownership to our Aboriginal and Treaty Territories create our poverty because our ownership is not factored into the Canadian economy. Indigenous Peoples actually subsidize Canada's wealth with our poverty. The fact that we live at the HDI rank 78.5 is very important for Canada because it uses it as an argument to justify why Canada and the provinces should keep control over 100% of all decisions regarding our Aboriginal and Treaty Territories.

It is a very cruel and racist decision to impoverish Indigenous Peoples simply to maintain 100% control and benefit over land of peoples who were cheated, dehumanized and colonized by laws and policies. The **Supreme Court of Canada**, the **Canadian Constitution Act 1982**, the **World Trade Organization (WTO)** & the **North American Free Trade agreement (NAFTA)** and international human rights bodies all recognize Aboriginal and Treaty Rights as basic human and proprietary rights of Indigenous Peoples. Canada must politically implement these matters on the ground and has to do so by recognizing the Aboriginal and Treaty Rights and self-determination of Indigenous Peoples of Canada. The first step in this direction is to repeal the **Indian Act** and do away with the **Department of Indian Affairs (DIA)**.

It was disturbing to see at the AFN Special Chiefs' Assembly how much control the Minister



INAC Minister Chuck Strahl listens as Kitigan Zibi Chief Gilbert Whiteduck speaks during AFN Assembly, Dec. 10, 2010. (Photo by R. Diabo)

"The Canadian plan is to individually assimilate us into mainstream society and economy in order to overcome the poverty we suffer. Canada does not want to address the poverty we experience collectively only individually"



INAC Minister Chuck Strahl being swarmed by Chiefs as he leaves the AFN Assembly. (Photo by R. Diabo)

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of Indian Affairs still has over us. We have in fact invited the Minister of Indian Affairs in our communities by accepting to administer DIA programs and services through our Band Offices. In fact all the money we get from Canada through DIA makes us servants of the federal government. Our Band Offices do not have any power. They are just branch offices of DIA. It is DIA that sets the budget and establishes the line items in our financial statements that exclusively determine how we spend the money. In the 1970’s when our people discussed taking over DIA programs and services; those who supported this take over said, that we can agree with anything the DIA says but once we get the money we can do what we want to do. This has not been the case. It is actually the DIA that has taken over our right to self-determination by using federal money as the control mechanism to establish their control.

The Chiefs and Councils need to see that taking over DIA programs and services is a dead end street. The Band Office will really not accomplish much more than administering the poverty we are forced to live in. The money given to us must be given to us as recognition and affirmation of our Aboriginal and Treaty Rights. The money we get must not be given to us as charity, through discretionary programs and services. All money given to us by the federal and provincial governments must be given to us as recognition and affirmation of our Aboriginal and Treaty Rights.

It was a shame to see the Minister at the AFN walk into an AFN meeting like he was the “**great white father**” of us. **Chuck Strahl** like all other previous DIA Ministers is responsible to the House of Commons to manage, control and impoverish Indigenous Peoples, our level at the **UN Human Development Index** is testimony to this reality. The poor, especially our youth need to understand the link between recognition of our Aboriginal and Treaty Rights and the reduction and elimination of poverty on our Indian Reserves and among our people. A lot of things have not changed on the ground simply because all the recognition we have won regarding our Aboriginal and Treaty Rights has not been recognized by the government on the ground.

We have to take the political decision to change by taking direct action. We need to make the government want to change their policy from extinguishment and assimilation to recognition and coexistence. The Minister and DIA continue to promote policies of extinguishment and assimilation. That is why our repeated request for the Ministers and DIA to address our poverty has always fallen on deaf ears. It does not take a rocket scientist to figure out that something really stinks when you can have 600 plus Indian Reserves evenly distributed across Canada living at HDI Level 78.5, especially when Canada enjoys living in the top five HDI and at Level 1 for three years.

The real problem is that Canadians and the Indigenous Peoples have accepted this travesty of justice and violation of our human rights as Indigenous Peoples as normal. We need to change this now. We are at the crossroads that will never come to again. We have the responsibility to change.

We know that Canada and the BC government are negotiating “**modern**” treaties in BC because they know we own the land. There is no way on God’s Green Earth that Canada and BC would be negotiating with us brown Indians if we did not own our Aboriginal Territories.

Those areas which have historic Treaties need to realize that standing with us and supporting us who have Aboriginal Title can actually open up discussion regarding enforcement of existing Treaties in Canada. We are all fighting for recognition of our inherent rights. A major effort needs to be developed that will unite the forces between all our peoples who are not negotiating modern agreements, negotiating or have existing treaties. We need to force Canada to establish First Nation and Crown Relations that are based on recognition of our Aboriginal and Treaty Rights. The macroeconomic matters must be factored into the decision-making and determining access to and benefits of our Aboriginal and Treaty Territories so we immediately reduce and ultimately eliminate the poverty of our peoples.



INAC Minister Chuck Strahl giving a speech at the AFN Assembly, Dec. 2010. (Photo by R. Diabo)

“Chiefs and Councils need to see that taking over DIA programs and services is a dead end street. The Band Office will really not accomplish much more than administering the poverty we are forced to live in”



AFN head table during exchange with INAC Minister Chuck Strahl. (Photo by R. Diabo)

Parliamentary Report For First Nations

By Michael Posluns, PhD.

This is the first of what I hope will be a regular and continuing report on discussions of First Nations issues in Parliament, i.e., the Senate and the House of Commons and, most frequently the Senate Committee on Aboriginal Peoples and the Commons Committee on Aboriginal Affairs and Northern Development. (From time to time other committees also examine issues pertinent to First Nations policy development. I will try to cover those as well.)

In this note I want first to say a few words about how the committees are set up and the work they have been doing in their hearings in the session that started on March 3.

Committees of both Houses are legally dissolved when the Governor General prorogues a session of Parliament.

So, when this new session started each party had to name the Senators and Members who would represent them on the committees. The party representation on committees is in the same proportion as the parties' standings in the house to which they belong.

When a committee meets for the first time in a new session their first order of business is the election of their chair, and the first and second deputy chairs.

From the session that was prorogued in December to the new session there was very little change in the membership of the Aboriginal Affairs Committee but there is now a new chair, Bruce Stanton, the Conservative Member for Simcoe North in Ontario. Todd Russell, the Liberal MP from Labrador and Jean Crowder, the NDP MP from Nanaimo-Cowichan in British Columbia are the deputy chairs.

Hearings on the Federal De-funding of the First Nations' University

One of the newer developments in the evolution of parliamentary committees is that some committees now have the authority to initiate their own mandates, rather than having to receive authority to hold hearings on a given subject by a motion of the House (or Senate). That is what happened this session in the Aboriginal Affairs Committee. Jean Crowder raised the issue of the First Nations University of Canada and made a motion that the Committee call witnesses from the faculty association, the Federation of Saskatchewan Indian nations, the University of Regina and the Canadian Association of University Teachers, among others.

Jean Crowder said that her motion was partially in response to the Government's announcement that they were withdrawing their \$7.2 million contribution to the FNUC. The motion is intended to allow an all-party study both of actual, on-the-ground situation of the FNUC and of the Government's policy.

Readers who have followed this issue will recall that the FNUC's accreditation was suspended until such time as its governing board was re-organized so that the university would no longer be under the active political control of FSIN. But the expectation was that, once the problems of political interference were cleared up that the university's accreditation and its funding would be continued.

The decision of the federal government to withdraw its funding – regardless of the university achieving independence from FSIN – is a new and very different policy on the part of the federal government. This policy is not one that is shared by either the province of Saskatchewan or the Association of Universities and Colleges.

How was Jean Crowder's motion received?

Marc Lemay, of the Bloc Quebecois, said that his party would support the motion to study the issue. If funds had been wasted he could understand cutting the funding.



Canada's Parliament Building.

“When a committee meets for the first time in a new session their first order of business is the election of their chair, and the first and second deputy chairs”



Jean Crowder, NDP, M.P.
Nanaimo-Cowichan.

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But, he asked, whether it was necessary to throw the baby out with the bath water? If mistakes had been made, does that mean that the entire institution should be shut down. Do those mistakes justify depriving First Nations people of the only First Nations university in the country?

John Duncan, speaking for the Conservatives, accused Jean Crowder of speaking “with rose coloured glasses on.” FNUC has had a declining enrolment, he said.

Duncan said that the motion would be more appropriate if they were to talk to the chief financial officer.

More persuasively, he noted that the committee had only very limited time and this motion would need to be studied before the end of March. He suggested that if it were to be accepted the Committee should do the work required by the motion over-and-above their regular work.

Todd Russell said that the Liberal Party would be supporting the motion. He noted that significant efforts had been made to address the issues that led to the university’s accreditation being suspended. He noted the Committee’s chief source of information on this issue so far had been the media; and, that it was important that the Committee have its own independent sources.

LeVar Payne, a Conservative from Medicine Hat, took the opposite tack from the previous Conservative speaker. He argued that if the Committee were to hold hearings on the FNUC then the hearings should be opened up to a wide range of witnesses in order “to have a balanced view.”

The March 31 deadline is not in Jean Crowder’s motion. As near as I can tell that deadline comes from the fact that the government’s funding ends at the end of the fiscal year, which is March 31. The Government could, and usually does, introduce supplementary expenditures at a later time.

Jean Crowder assured the Committee she would happily accept an amendment that would include any other witness considered necessary.

The amendment carried without a recorded vote but over the dissent of the Conservative Members. The amended motion carried on a recorded vote of 6 to 4.

What is most striking to me, when I watch this committee today, is the way in which partisanship in comments, and more important, voting by party lines, has taken over a committee that, many years ago did not have party votes and rarely had a reference to partisan thinking.

[The Correctional Investigator – an independent ombudsman who answers directly to Parliament in regard to the management of federal correctional institutions – had made a report last year regarding the treatment of women in federal penitentiaries.

Jean Crowder then moved a motion to have Aboriginal Affairs committee study that report and make recommendations to the House of Commons. The main items in the report affecting Aboriginal women are the waiting time for educational and healing programs. The Investigator had also called for increased use of temporary absences and work release programs to increase the likelihood of inmates being properly prepared for parole and release.

After discussion, the chair ruled that motion to be beyond the mandate of the Committee and, therefore, out of order. Whether there is a Committee that would have that report within its mandate I’m not quite sure, at the moment.]

Continue with Oct 18]



John Duncan, Con. M.P.,
Vancouver Island
North.

“What is most striking to me, when I watch this committee today, is the way in which partisanship in comments, and more important, voting by party lines, has taken over a committee that, many years ago did not have party votes and rarely had a reference to partisan thinking”



Lavar Payne, Con.
M.P. Medicine Hat.



Colleen Swords, Associate DM, INAC.

“What struck me about that theme is that is that it completely over-rides any notion of First Nations self-government. The minister wants a stronger, healthier relationship with people, i.e., individuals, not with Aboriginal peoples, not with First Nations, and not with First Nations communities”

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June 11, 2009, then National Chief Phil Fontaine and Minister Chuck Strahl walk together on National Day of Reconciliation. (Photo by Katelin Peltier)

One of the most important things that Commons committees do is to study the spending estimates for the department that they oversee. This is a particularly important job because the Government has no money other than the funds voted by Parliament. The major way in which Parliament votes funds for the government to carry out its work is through the approval of Estimates.

The study of Estimates also give parliamentary committees the opportunity to focus on a particular area of departmental activity that is of special interest.

On March 18, Chuck Strahl, the Minister of Indian Affairs, with his Associate Deputy Minister, Colleen Swords and other members of the department appeared before the committee in regard to the Committee’s study of the Department of Indian Affairs Estimates.

The theme of the minister’s opening statement was the determination of the Conservative government to “build a stronger, healthier relationship with *Aboriginal people*.”

What struck me about that theme is that is that it completely over-rides any notion of First Nations self-government. The minister wants a stronger, healthier relationship with people, i.e., *individuals*, not with Aboriginal peoples, not with First Nations, and not with First Nations communities.

The emphasis on “Aboriginal people” also conflates the Minister’s two distinct responsibilities: He is the Minister of Indian Affairs; and, he is also the Minister responsible for federal policy regarding Metis.

The Harper Government is the first government to merge these two formerly distinct responsibilities. So far there has not been a public debate about the significance of this merger.

Endnote:

1. I don’t plan to include exact references in these notes. If you want the references to aid in your own work feel free to drop me a line at mposluns@accglobal.net.



November 28, 2008, Minister Strahl meets with Metis National Council (MNC) President Clement Chartier to discuss details of the Metis Nation Protocol.

A Short History of the Contemporary Struggle For First Nations' Self-Government

By Michael Posluns, PhD.

These are notes that I wrote for a presentation to an AFN policy conference in Saskatoon in March 2010. These notes represent a short history of the contemporary struggle for First Nations' Self-Government.

Some Personal Background

In 1972-73, I had the privilege of co-authoring **George Manuel's** memoir *The Fourth World: An Indian Reality*. George was the second president of the **National Indian Brotherhood**, the precursor of the **Assembly of First Nations**.

For the next few years I did what would later come to be called "**court work**" primarily with the traditional Longhouse at Akwesasne, a Mohawk community that strides the St. Lawrence River on lands occupied by Ontario, Quebec and New York State.

I returned to the AFN in 1976, to start the parliamentary liaison program under **Noel Starblanket** and I continued to do parliamentary relations through three later administrations.

What I mean by the contemporary struggle I would date from 1951, the year in which a long list of civil disabilities were removed from the **Indian Act**.

I take that as the starting point for the contemporary period partly because I learned from George Manuel about the struggle by the grandfathers and grandmothers who kept the struggle alive in the face of those civil disabilities. There are two chapters in *The Fourth World* entitled "**We honour our grandfathers**" and "**We honour our grandmothers.**"

In 1990, I began graduate studies at York University.

My master's thesis was on the efforts of senior officials to undermine the work of the **Commons Committee on Indian Self-Government – the Penner Committee** – that held hearings across the country in 1982 and 83.

My doctoral dissertation was on the testimony of First Nations leaders before parliamentary committees on the Constitution as well as the Committee on Indian Affairs in the 1970s – the decade before patriation and before the Penner Committee – about self-government.

Both these projects gave me the opportunity to stand back and view the period when I had worked with the NIB/AFN and with various provincial and regional organizations and to develop a broader overview than could come from having been in the trenches, so to speak, in the 1970s and early 80s.

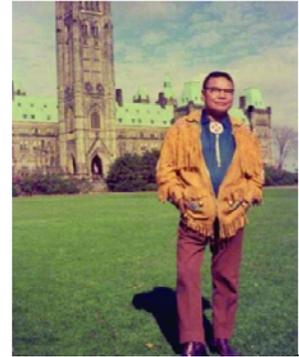
The Effects of Civil Disabilities

I need to say a word or two about the civil disabilities that were imposed on "**Indians**" between 1882 and 1951. If you're from the prairies you are likely familiar with the pass system that prohibited your ancestors from leaving the reserve without permission.

Not so well known is a 1927 provision that made it a punishable offence to raise money for the purpose of pressing land claims. Although that provision applied across the country it was adopted in response to a petition of the **Interior Tribes of British Columbia** under the leadership of **Andrew Paull** to have their claims referred to the British Privy Council.

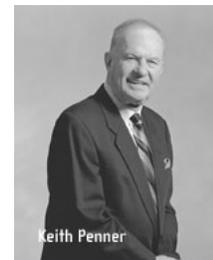
Another disability that came out of British Columbia was a provision in the B.C. Evidence Act – the law governing the conduct of trials regarding provincial matters – that defined an "**Indian**" as a person "**destitute of the knowledge of God**" and directed the judge to instruct such an Indian on the meaning of truth.

I need to start by acknowledging these disabilities because they illustrate that the contemporary struggle for self-government had to begin by overcoming both these legal disabili-



George Manuel on Parliament Hill. (Photo courtesy of George Manuel Institute)

"I need to say a word or two about the civil disabilities that were imposed on "**Indians**" between 1882 and 1951. If you're from the prairies you are likely familiar with the pass system that prohibited your ancestors from leaving the reserve without permission"



Keith Penner

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Jean Chrétien and Ojibway Leader Harold Sault in July 1969.

“Contrary to the Trudeau position on Aboriginal and Treaty rights, the **MacGuigan-Molgat** report devoted an entire chapter to the need to include recognition of the Aboriginal dimension of the Canadian Constitution.”



Canada Coat of Arms

ties and the influence that they had First Nations communities and their members. These disabilities, taken as a whole may well have had a destructive capacity on First Nations communities and individuals second only to the effects of the residential school system.

In my doctoral dissertation I described the effect of these disabilities as the baggage influencing leaders testifying in the 1970s.

The 1969 White Paper and the 1971 Report on Indian Education

If I can jump ahead to 1969, what George Manuel said about the **White Paper** was that it was written by the ghost of **Mackenzie King**. Far from being forward looking it carried on the campaign to separate First Nations communities from their lands and resources.

During the 1970s there were a series of parliamentary committees with which the **NIB** and various provincial organizations -- particularly the **FSIN** under the leadership of **Dave Ahenakew**, and later **Sol Sanderson** -- worked.

I think that it was the collaboration between First Nations leaders and the handful of parliamentarians who were seriously interested in a better understanding of First Nations perspectives that began to turn the tide in First Nations relations in Canada.

The first of these Committees was a subcommittee on Indian Education chaired by **Ian Watson**. Watson reviewed each chapter of his report, as they were written, with George Manuel.

When the Report was released George said that it was the first report of its kind that spoke about Indian issues from an Indian point of view.

Basically, the Watson Report laid the foundation for the **NIB** report the following year entitled **Indian Control of Indian Education**.

Indian education has been the cutting edge issue for self-government from the Watson Report and the Indian Control submission to this day.

Indian Control of Indian Education was presented to the Indian Affairs Committee in 1972, when the Trudeau Liberals were in a minority position.

Jean Chrétien responded by promising to adopt **Indian Control** as government policy.

Once the Government regained its majority, that promise was promptly forgotten.

Between 1970 and 1982 there were three Joint Committees of the Senate and the House of Commons on the Constitution. We are all more aware of the last committee, the Committee that overhauled Trudeau's 1980 patriation proposal.

But important things happened in the work of the two earlier committees which I want to mention briefly.

Each of these committees was set up in response to a Trudeau proposal on patriation. None of the patriation proposals made any mention whatsoever about First Nations.

The first committee, chaired by **Mark MacGuigan**, from Windsor and **Senator Gildas Molgat** from Manitoba, heard from a wide range of First Nations leaders across the country.

Contrary to the Trudeau position on Aboriginal and Treaty rights, the **MacGuigan-Molgat** report devoted an entire chapter to the need to include recognition of the Aboriginal dimension of the Canadian Constitution.

There is much that I have faulted in that report. During the proceedings of the Committee several MPs and Senators could not work their way past the condescending language and

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racist attitudes with which they had grown up. I don't think that the language in the chapter of the final report on recognition of Indigenous concerns is altogether appropriate.

But what I think is more important than its shortcomings is its insistence that First Nations be included.

The second committee was set up to consider a bill that would have patriated the Constitution in 1978. What is most memorable, to me, ten years after writing my summary of that committee is a confrontation between **Flora Macdonald**, a Conservative MP from Kingston, Ontario who had been Clark's Minister of Foreign Affairs and **Senator Joan Neiman**, a Liberal senator from Ontario.

Joan Neiman and Flora Macdonald wanted Starblanket to commit to supporting their campaign for reinstatement of women who had married out – a campaign that would eventually culminate in Bill C-31 in 1985.

Starblanket responded with a counter-offer: Would they assure him that there would be corresponding increases in the land base and the financial base.

This might be seen as something of a stalemate.

But I think it laid the groundwork for setting out an important difference of perspective.

When C-31 did come in, three years after patriation there was some recognition that expanding the population base of the people who could exercise Aboriginal and treaty rights without preserving those rights and implementing long neglected obligations.

The **Penner Committee on Indian Self-Government** was set up by a resolution of the House of Commons, on August 4, 1982, four months after the patriation proclamation gave Canada a formula for amending its Constitution at home, a Charter of Rights and Freedoms and the recognition and affirmation of Aboriginal and treaty rights in s.35(1).

The Penner Committee traveled across the country receiving briefs from almost every First Nation community and every First Nation political organization.

Several things are remarkable about the Penner Committee and its Report.

First and foremost, the seven MPs on that committee were prepared to set aside any partisan considerations and to work at understanding the perspectives offered in First Nations testimony.

Most of those seven members had served for a considerable time on that Committee and had made significant efforts to learn the vocabulary of First Nations' self-government, and had also learned to put aside their own partisan biases.

Secondly, the Committee included an *ex officio* member from the **AFN, Roberta Jamieson**. It also included representatives from the **Native Council of Canada** and the **Native Women's Association** on those issues of particular concern to them.

It is, I think, significant that all three representatives were women.

The Penner Committee interrupted its hearings, in the winter of 1983, for the First Ministers' Conference that had been mandated in the **Constitution Act, 1982**, to identify and define Aboriginal and treaty rights.

The Government lawyers at the FMC took the position that section 35 was an empty box. It would only have meaning when the ministers came up with their identification and definition of Aboriginal and treaty rights.

In contrast, the Penner Report took a viewpoint much more in line with the AFN's perspective.



Flora Macdonald, former
Con. M.P.

“Joan Neiman and Flora Macdonald wanted Starblanket to commit to supporting their campaign for reinstatement of women who had married out – a campaign that would eventually culminate in Bill C-31 in 1985”



AFN Logo



John Turner, former Liberal Prime Minister who buried "Penner Report".

“The Penner Report held that **Indian Affairs could not be the basis for a new relationship between the First Nations and the Crown**”



INAC-HQ, Gatineau, Quebec.

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It set out a course for implementing self-government without needing the consent of the provinces.

It called for a **panel on First Nations Recognition**, to work out of the Governor General’s office and that would recognize any First Nation that submitted a Constitution which included the essential elements of a democratic constitution.

Perhaps the most important recommendation of the Penner Committee was the establishment of a senior ministry, within the inner cabinet, on First Nations relations.

The Penner Report held that **Indian Affairs could not be the basis for a new relationship between the First Nations and the Crown**.

Indian Affairs, Penner argued, should continue to administer programs until the various areas of responsibility or jurisdiction could be assumed by First Nations.

In other words, **Indian Affairs** would become to the **Ministry of First Nations relations** what the **Canada Revenue Agency** is to the **Department of Finance**.

Sadly, even tragically, Mr. Trudeau handed the Penner Report to Indian Affairs for advice on its implementation. Not surprisingly, Indian Affairs did not favour its own dissolution.

John Turner, who succeeded Trudeau briefly, buried the **Penner Report**.

And there was no effort to resurrect it in the Mulroney years, at least until the **Charlottetown Accord**.

That, in a nutshell, is a brief history of the contemporary struggle for First Nations’ self-government at least as far as 1984.

ENDNOTES:

1. A civil disability is defined as a legal provision -- a provision in an Act of Parliament, a regulation, or some other legal instrument that prohibits or prevents one group of people from exercising a right enjoyed or possessed by members of the dominant culture.
2. This provision can be found in ss. 12-14 the B.C. *Evidence Act* as late as the Revised Statutes of 1960. It was not repealed until 1977.
3. This exchange and other discussions from parliamentary committees of the 1970s are all discussed in detail, with full citations, in a book based on part of my doctoral dissertation, *Speaking with Authority: The Emergence of the Vocabulary of First Nations’ Self-Government*, Routledge, 2006.



Dr. Michael Posluns, presenting at the AFN National Policy Forum, Saskatoon, March 24, 2010. (Photo by R. Diabo)

Call From Defenders of the Land for a Day of Action on Indigenous Rights, June 24, 2010

When the G8/G20 comes to Canada in June let's tell the world the real story about Canada's record on Indigenous rights: a continued policy that aims to terminate Indian Peoples by removing our land and resource base and denying us the right to self-determination, under the power of the Indian Act and the Department of Indian Affairs. Canada is the only country still opposing the UN Declaration on the Rights of Indigenous Peoples; the other three countries opposed to it have changed their vote or are reconsidering. Canada continues to criminalize Indigenous activists who stand up for Aboriginal and treaty rights - even though these rights have been affirmed by the Canadian constitution and the United Nations Declaration on the Rights of Indigenous Peoples. Canada's policies of dispossession and control continue to create extreme poverty and social distress for Indigenous Nations across Canada. Finally, Canada and the provinces have done nothing to investigate and stop the disappearance and murder of hundreds of Aboriginal women across the country. That is the record on Indigenous rights that lies behind the show of Aboriginal culture that Canada put on at the Olympics, and it is time the *whole world* came to know it.

We reject the G8 and G20 as decision-making bodies. They don't operate on behalf on Indigenous peoples and don't recognize or respect Aboriginal and treaty rights. The G8 and G20 are implicated in the ongoing colonization and destruction of Indigenous Peoples and their lands. This ongoing colonization in Canada and abroad is based on the racist doctrines of Discovery and *terra nullius*.

Defenders of the Land, a network of Indigenous Nations in land struggle, is calling for June 24, 2010, to be a cross-Canada day of non-violent action focusing on Indigenous rights.

Call to Indigenous nations and communities

To Indigenous nations and communities across Canada, including grassroots people, traditional leadership, elected leadership, elders, youth, women, and men: we call on you to engage in non-violent action in or near your communities on June 24, on issues and messages that are relevant to you and chosen by you. Actions could include blockades, occupations, rallies, or economic disruptions, in addition to spiritual ceremonies and community gatherings, all of which maximize respect for life and our rights as Indigenous Peoples. Non-violence is a guide for our hearts and our minds as we decide on appropriate actions to defend and protect our land, our communities, and our ways of life; it is not intended to do the work of the government by dividing us from one another or labelling each other. Communities should plan and engage in their own actions, and do what is comfortable and appropriate for themselves. Defenders of the Land can offer advice, assist with some coordination and communications, including media work, and may be able to provide some training assistance, depending on capacity. Defenders of the Land *does not* have capacity to offer legal support, so communities should choose their actions with this clear knowledge and be prepared to take responsibility for follow-up. Defenders of the Land may be able to connect people with offers of legal support, but this depends on availability and cannot be guaranteed.

Defenders of the Land main action

Defenders of the Land will also be hosting its own mass action in Toronto on June 24, to be planned in cooperation with other Indigenous and supporter groups. This action will focus on the following demands:

1. Canada must adopt and fully implement the UN Declaration on the Rights of Indigenous Peoples.
2. Jointly with Indigenous communities, Canada must change its Comprehensive Land Claims policy to recognize and respect Aboriginal title and Aboriginal and treaty rights; end the policy of extinguishment; and repudiate the racist doctrines of Discovery and *terra nullius*.
3. Canada must stop criminalizing Indigenous Peoples for defending their rights.



Sign at Defenders of the Land Gathering in Vancouver, Nov. 2009.

“When the G8/G20 comes to Canada in June let's tell the world the real story about Canada's record on Indigenous rights: a continued policy that aims to terminate Indian Peoples by removing our land and resource base and denying us the right to self-determination”



Algonquins of Barriere Lake representatives at Defenders of the Land Gathering in Vancouver, Nov. 2010.

Advancing the Right of First Nations to Information

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The First Nations Strategic Policy Counsel is a collection of individuals who are practitioners in either First Nations policy or law. We are not a formal organization, just a network of concerned individuals.

This publication is a volunteer non-profit effort and is part of a series. Please don't take it for granted that everyone has the information in this newsletter, see that it is as widely distributed as you can, and encourage those that receive it to also distribute it.

Feedback is welcome. Let us know what you think of the Bulletin—Russell Diabo, Publisher and Editor, First Nations Strategic Bulletin.

For Back Issues Go To: http://epe.lac-bac.gc.ca/100/201/300/first_nations_strategic_bulletin/index.html

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4. Canada and the provinces must take coordinated action to investigate and end the ongoing murders and disappearances of Aboriginal women.
5. Canada must comply with our right to say no to all activities on Indigenous territories that commodify the sacred: air, land, water, animals, plant and genetic materials, and our traditional ecological knowledge. Indigenous Peoples must be informed of such activities, and their right to say 'no' respected, through a meaningful process according with their customs and respecting Aboriginal and treaty rights and the standards set out in the UN Declaration on the Rights of Indigenous Peoples.

Indigenous summit

There will also be a "summit" of Indigenous representatives from around the world before the day of action.

Call to non-Indigenous supporters

If you are interested in organizing support actions for the Indigenous Day of Action in your area, please contact us by email at defendersoftheland@gmail.com so we can follow, network, and list simultaneous events on that day. We call on supporter groups to take guidance and respectful leadership on messaging and tactics from Defenders of the Land. We also recommend providing material support to, or joining with, nearby First Nations who have responded to the Defenders call.

TO BECOME A SIGNER: email defendersoftheland@gmail.com and let us know if you can speak for an Indigenous Nation, community, or group that would like to sign. Please include your contact information - this will not be published, it will be used only to verify your signing. You can also sign as an Indigenous individual. Write defendersoftheland@gmail.com with your name and how you would like to be identified. Supporter groups can also declare solidarity.