

## ABORIGINAL PEOPLES' NAMES

Throughout history, different names may have been used in reference to specific First Nations, Métis, and Inuit peoples. Some of these names were attributed incorrectly or inappropriately. Others may have been correct, but the Aboriginal group has come to prefer a different name, usually derived from their own language. To the best of our ability, we have used names and terms preferred by contemporary Aboriginal peoples in this textbook.

When you are conducting research, however, you may find different names in history books and Web sites. The following chart, while by no means a complete listing of the First Nations, Métis, and Inuit peoples of Canada, offers some guidance for the correlation of contemporary and historical names of peoples, particularly those that you might find mentioned in this textbook.

Generally Preferred Name	Other Names You May Encounter	Notes
A'aninin (ah-nin-in)	Gros Ventre, White Clay People, Aaninen	United States nation
Ahiarmiut	Cambridge Bay mainland Inuinnait	Sub-group of Inuinnait
Anishinabé (a-nish-na-bay) or Saulteaux (so-tow)	Ojibway, Ojibwa, Anishnaabe, Anishnabe, Bungee	The language is often called Ojibway; in Alberta it is called Saulteaux. Called Chippewa in the United States
Aamskaapipikani	South Peigan, South Piikani, Blackfeet	Refers to United States nation related to Blackfoot Confederacy
Blackfoot Confederacy	Blackfoot	
Cayuga	Cris	Member of Six Nations Confederacy
Cree or Nehiyaw		
Dakota	Sioux	
Dené Tha' (de-nay-thah)	Slavey, Slave, Dene-thah, Dene Dha	
Dene Sųłiné (de-nay-soong-lin-ay)	Chipewyan, Dene Souline, Denesuline	
Dunne-za (da-nay-za)	Beaver, South Slave	
First Nations	Indian, Tribe, Native	
Gitxsan	Tsimshian, Gitksan	
Gwich'in	Loucheaux, Kutchin, Tukudh	
Haisla	Kitimat	
Heiltsuk	Bella Bella	
Innu	Montahfais, Montagnais-Naskapi	
Inuit	Eskimo	
Inuvialuit/Inuinnait	Western Inuit	
Haudenosaunee (how-den-o-show-nee)	Iroquois	Six Nations Confederacy
Kainai	Blood	Member of Blackfoot Confederacy
Kichesipriini	Algonquin	
Kiilinirmiut	Cambridge Bay and Victoria Island Inuinnait	Sub-group of Inuinnait
Ktunaxa (doo-na-ha)	Kutenai, Kootenay	
Kwak'waka'wakw or Oweekeno	Kwakiutl, Kwagiutl, Kwakwawaw, Kwagiulth	

Continued...

Generally Preferred Name	Other Names You May Encounter	Notes
Lakota	Sioux	
Métis	Half-breed, Country-born, Mixed-blood	
Mi'kmaq	Mi'maq, Micmac, Micmaw	
Mohawk		Member of Six Nations Confederacy
Nakoda	Stoney, Assiniboine, Nakota	The Paul First Nation in Alberta prefers the name <i>Stoney</i> .
Nakota	Assiniboine, Sioux	
Nisga'a	Nishga, Nisga	
Nlaka'pamux	Thompson	
Nuu-chah-nulth	Nootka	
Nuxalk	Bella Coola	
Odawa	Ottawa	
Oneida		Member of Six Nations Confederacy
Onondaga		Member of Six Nations Confederacy
Ouendat	Huron, Wendat	
Piikani	Peigan, Pikuni, North Peigan	Member of Blackfoot Confederacy
Puivilirmiut	Coronation Gulf Inuinnait	Sub-group of Inuinnait
Secwepemc	Shuswap	
Seneca		Member of Six Nations Confederacy
Siksika	Blackfoot	Member of Blackfoot Confederacy
Stl'atl'imx	Lillooet	
Tł̨chǫ	Dogrib	
Tlingit		
Tsilhqot'in	Chilcotin	
Tsuu T'ina	Sarcee, Sarsi	
Tuscarora		Member of Six Nations Confederacy
Wet'suwet'en	Babine Carrier	

In Alberta, the major Aboriginal languages spoken in the province include Blackfoot, two variants of Plains Cree (one sometimes known as Woodland Cree), Dene Sųłiné, Dené Tha', Dunne-za, Métis Cree, Michif, Nakoda, Saulteaux, and Tsuu T'ina. A basic greeting in these languages is included in the chart below, along with Inuktitut, the language of the Inuit. Your teacher can help you to pronounce each of these greetings with a pronunciation guide.

Language	Greeting	Translation
Blackfoot	óki	"hello"
Cree	tân'si	"hello"
Dene Sųłiné	edláneté	"how are you?"
Dené Tha'	dané thé	"hello"
Dunne-za	neeah	"welcome"
Inuktitut	ullaakkut	"good morning"
Métis Cree	tâ'nisi	"hello"
Michif	tánishi	"hello"
Nakoda	abawästet	"good day"
Saulteaux	âñin	"hello, how are you?"
Tsuu T'ina	da ni t'a da	"how are you?"

# CHAPTER ONE

## Inherent Rights

### AS YOU READ

This book is about the contemporary political, economic, and social issues that Aboriginal peoples (First Nations, Métis, and Inuit) face in Canada today. Many of these issues involve the protection of various kinds of rights. A right is the authority to act or be treated in a particular way. How would you define *inherent rights*, the title and subject of this chapter? Refer to a dictionary, if necessary, to write a definition in your own words.

The reading that begins this chapter is one of many declarations that you will learn about in this course. It was adopted on July 19, 1975, by the Indian Brotherhood of the Northwest Territories (now called the Dene Nation) at a meeting in Fort Simpson, Northwest Territories. As you read this declaration, make a list of the rights the Dene Nation is asserting. What goals seem most important? Upon what or whose authority does the Dene Nation assert its rights?

### FOCUS QUESTIONS

As you read this chapter, think about these questions:

- ▲ Who are indigenous peoples?
- ▲ What do the terms *inherent rights*, *self-determination*, *self-government*, and *sovereignty* mean?
- ▲ What inherent rights do indigenous peoples have?
- ▲ What is the difference between collective rights and individual rights?
- ▲ How has colonization affected the rights of Aboriginal peoples in Canada?
- ▲ How did treaties function in traditional First Nations political systems?

### Dene Declaration\*

Indian Brotherhood of the Northwest Territories, 1975

#### STATEMENT OF RIGHTS

We the Dene of the N.W.T. insist on the right to be regarded by ourselves and the world as a Nation.

Our struggle is for the recognition of the Dene Nation by the Government and people of Canada and the peoples and governments of the world.

As once Europe was the exclusive homeland of the European peoples, Africa the exclusive homeland of the African peoples, the New world, North and South America, was the exclusive homeland of Aboriginal peoples of the New World, the Amerindian and the Inuit.

The New World like other parts of the world has suffered the experience of colonialism and imperialism. Other peoples who have occupied the land — often with force — and foreign governments have imposed themselves on our people. Ancient civilizations and ways of life have been destroyed.

Colonialism and imperialism is now dead or dying. Recent years have witnessed the birth of new nations or rebirth of old nations out of the ashes of colonialism.

As Europe is the place where you will find European countries with European governments for European peoples, now also you will find in Africa and Asia the existence of African and Asian countries with African and Asian governments for the African and Asian peoples.

The African and Asian peoples — the peoples of the third World — have fought for and won

\* At the request of the Dene Nation, the spelling, capitalization, and punctuation in this document have been reproduced exactly as in the original.

the right to self-determination the right to recognition as distinct peoples and the recognition of themselves as nations.

But in the New World the native peoples have not fared so well. Even in countries in South America where the Native peoples are the vast majority of the population there is not one country which has an Amerindian government for the Amerindian peoples.

Nowhere in the New World have the Native peoples won the right to self-determination and the right to recognition by the world as a distinct people and as Nations.

While the Native people of Canada are a minority in their homeland, the Native people of the N.W.T., the Dene and the Inuit, are a majority of the population of the N.W.T.

The Dene find themselves as part of a country. That country is Canada. But the Government of Canada is not the Government of Dene. The Government of the N.W.T. is not the government of the Dene. These governments were not the choice of the Dene, they were imposed on the Dene.

What we the Dene are struggling for is the recognition of the Dene Nation by the governments and peoples of the world.

And while there are realities we are forced to submit to, such as the existence of a country called Canada, we insist on the right to self-determination as a distinct people and the recognition of the Dene Nation.



We the Dene are part of the Fourth World. And as the peoples and Nations of the world have come to recognize the existence and rights of those peoples who make up the Third World the day must come and will come when the nations of the Fourth World, will come to be recognized and respected. The challenge to the Dene and the world is to find the way for the recognition of the Dene Nation.

Our plea to the world is to help us in our struggle to find a place in the world community where we can exercise our right to self-determination as a distinct people and as a nation.

What we seek then is independence and self-determination within the country of Canada. This is what we mean when we call for a just land settlement for the Dene Nation.

#### REFLECTION

The Dene Declaration refers to the Dene Nation as part of the fourth world. With a partner, use an Internet search engine to find definitions for the term *fourth world*. Try using "*fourth world*" definition as a search term. How is the fourth world different from the third world (today known by the preferred term *developing world*)? What cultural biases are inherent in terms such as first world and third world? A **cultural bias** is an attitude that favours one culture over another.

# Nations, Peoples, and Inherent Rights

## AS YOU READ

The Dene Declaration from pages 2–3 states the Dene people's right to be recognized as a nation. It also declares Dene rights to self-determination and independence. How does it define *self-determination*?

This section defines many terms related to rights. These terms will be the foundation of your work in the rest of this course. Each time you encounter a bold-face term, write a definition for it using the information on the page and the glossary at the back of the book.

A NATION IS AN IDENTIFIABLE GROUP OF PEOPLE. HOWEVER, THE CRITERIA USED TO IDENTIFY A NATION VARIES FROM DEFINITION TO DEFINITION. ALTHOUGH ARGUING OVER THE MEANING OF A WORD MIGHT SEEM TRIVIAL, DEFINING THE

- factors that unite a group of people into a nation is key to understanding the kinds of rights that group is able to exercise.

One definition of nationhood involves a sense of common identity. The Haudenosaunee (Iroquois) word for the concept of nation, *kanakerahsera*, has the root *naker*, which means “to be born.” Similarly,

*Indigenous peoples from around the world further their rights by co-operating and learning from one another. Here, Grand Chief George Manuel of the Secwepemc (Shuswap) First Nation greets a delegation of Ainu women from Japan in the late 1970s. The Ainu are indigenous to the Japanese island Hokkaido. The women were part of a delegation from Japan sent to learn about First Nations in Canada. George Manuel spent much of his life helping indigenous peoples around the world. Learn more about George Manuel and write a two-page profile of his life and work.*



the English word *nation* is from a Latin word meaning “birth.” In both languages, the concept of nation flows from a sense of birthright and family. In this view, a nation is a group of people who share common kinship, culture, history, language, beliefs, and values. This sense of nation links people by identity, but not necessarily physical location or territory.

A different definition maintains that a nation is a group of people occupying a particular territory with a common government. For example, Canada and the United States each have a distinct territory and independent government. Each is a nation that includes people with a variety of languages, cultural identifications, beliefs, and historic ties of kinship.

Neither of these definitions easily includes all **Aboriginal peoples** in Canada: **First Nations**, **Métis**, and **Inuit**. Some Aboriginal peoples that share a territory have a sense of common identity, such as the Inuit in the Arctic or First Nations with reserves. Other people who share a territory have different cultural identities, such as First Nations and Métis people in the Northwest Territories. Still others, like the Métis of western Canada, share a sense of identity, but lack a common territory.

## INDIGENOUS PEOPLES

A discussion of nations and their rights is not limited to Canada. Aboriginal peoples are indigenous to Canada, but indigenous peoples exist all over the world. **Indigenous peoples** originate from a particular territory, which they consider their

place of origin and their homeland. They are descendants of the land's original inhabitants. Aboriginal languages have their own ways of defining indigenous peoples. Nehiyaw (Cree) describes indigenous peoples as *ota ê-kî abikoyabk kisê manitô*, which means “where the Creator placed us.” Blackfoot describes indigenous peoples as *Itoomitsipo'toaksi*, *iitoomita'pawaawhkaaksi*, or “those who were put here first, those who were here first.”

Indigenous peoples stand in contrast to immigrants, who move from one territory to make a new home in another territory. In some cases, immigrants are supported by their homeland in an effort to colonize the new territory. **Colonization** is the attempt to control another country and transform it into a replica of the colonizing country.

A significant difference between indigenous and immigrant peoples is illustrated by the following example, often used by Aboriginal peoples to explain the importance of preserving their languages. Immigrants to Canada might lose their languages, but could always return to their original countries to re-learn them. Their languages have their origins in other places. For Aboriginal peoples, Canada is their original country. Aboriginal languages that cease to exist in this country become extinct.

The word *nation* is sometimes used interchangeably with the word *people*. Used in this way, *people* is not the plural of *person*, referring to a group of individuals. In this special meaning, *people* is the group as a whole. A people has special rights recognized by international law. When we use the term *indigenous*



Indigenous communities, peoples, and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop, and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions, and legal systems.

— United Nations Special Rapporteur  
J. Martinez Cobo

According to Martinez Cobo, what history do indigenous peoples share? What goals for the future do they share? Why do they have these goals?

*peoples*, we mean indigenous nations — the groups who were first to inhabit specific territories around the world.

Around the world, each indigenous people has a different culture, history, and contemporary situation. The term *indigenous peoples* is broad and includes diverse groups. For example, some indigenous people, such as the Sámi people from northern Europe, are Caucasian, unlike many other indigenous peoples around the world. In Canada, because of their unique history and the language used in Canadian legal documents, indigenous peoples are more commonly referred to as Aboriginal peoples. *Aboriginal peoples* is an umbrella term that includes highly diverse First Nations, Métis, and Inuit groups.

## A SUMMARY OF COLONIAL HISTORY IN CANADA

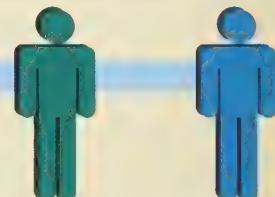
As you learned from the words of United Nations Special Rapporteur J. Martinez Cobo on page 5, indigenous peoples around the world have histories of colonization by other nations. Pages 6–7 review the history of the relationship between Aboriginal peoples and the governments that colonized Canada. Each group of Aboriginal people in Canada was affected differently by colonial policies, so all aspects of this summary do not apply to all Aboriginal groups. You will learn more about the specific experiences of First Nations, Métis, and Inuit peoples in later sections of this textbook.

The information on these pages is adapted from *People to People, Nation to Nation: Highlights from the Report of the Royal Commission on Aboriginal Peoples*, which was published in 1996. It summarizes many centuries of history into four stages.

Most of this information is likely a review of material you learned in other courses. If this history is unfamiliar, do some of your own research. You might start by reading the full Royal Commission highlights document at [www.ainc-inac.gc.ca](http://www.ainc-inac.gc.ca).

### Stage 1: Separate Worlds

There was a time when Aboriginal peoples (First Nations and Inuit) in the Americas and European peoples lived on separate continents and knew nothing of one another. Before 1500, societies in the Americas and in Europe developed along separate paths. The differences in their languages, cultures, and social traditions were enormous. On both sides of the Atlantic, independent peoples with their own social, economic, and political systems flourished and grew.



### Stage 2: Nation-to-Nation Relations

In the years after first contact, First Nations and European nations developed fragile relations of peace, friendship, and rough equality. Cautious co-operation, not conflict, was the theme of this period, which lasted into the eighteenth or nineteenth century, depending on the region. Early contact unfolded roughly as follows:

- mutual curiosity and apprehension
- an exchange of goods, tentative at first, then expanding steadily
- barter and trade deals, friendships and intermarriage, creating bonds between individuals and families
- military and trade alliances, creating bonds between and among nations



For the most part, First Nations and European nations saw each other as separate, distinct, and independent. Each was in charge of its own affairs. Each could negotiate its own military alliances and trade agreements. This co-operation was seen in treaties, both those in writing and those recorded by First Nations oral history and wampum belts, as well as in the Royal Proclamation of 1763.



### Stage 3: Respect Gives Way to Domination

In the nineteenth century, power tilted towards Euro-Canadian peoples and their governments. European settlers displaced First Nations and Métis peoples from much of their land and tried to impose European ways upon them. Euro-Canadian peoples gained power during this period from four changes that were transforming the country:

- The population mix was shifting to favour settlers. Immigration continued to add to their numbers, while disease and poverty diminished Aboriginal nations. By 1812, immigrants outnumbered Aboriginal people in Upper Canada by a factor of ten to one.

- The fur trade was dying, and with it the old economic partnership between traders and trappers. The new economy was based on timber, minerals, and agriculture. It needed land — not labour — from Aboriginal peoples, who began to be seen as impediments to progress instead of valued partners.
- Colonial governments in Upper and Lower Canada no longer needed Aboriginal nations as military allies. The British had defeated all competitors north of the forty-ninth parallel. South of it, the United States had fought for self-government against the British and won. The continent was at peace.
- An ideology proclaiming European superiority over all other peoples on Earth was taking hold. Europeans travelled throughout the world, taking charge of colonies to add to their countries' wealth. The ideology of superiority provided a rationale for policies of domination and assimilation that slowly replaced policies of partnership in the North American colonies.

Ironically, the transformation from mutual sovereignty to domination by Euro-Canadian laws and institutions began with the documents of the era of nation-to-nation relations: treaties and the Royal Proclamation of 1763. These documents offered First Nations peace and friendship, respect and some degree of equality, but also “protection.”

The government's policy of protection was the leading edge of domination. At first, it meant preservation of First Nations lands and cultural integrity from encroachment by settlers. Later, it meant assistance, which in reality meant help in assimilating into Euro-Canadian settler society. Policies of protection took the form of compulsory European-style education, economic adjustment programs, social and political control by federal agents, and more.



#### Stage 4: Renewal and Renegotiation

Policies of domination and assimilation battered traditional Aboriginal institutions, sometimes to the point of collapse. Poverty, ill health, and social disorganization grew worse.

Resistance to assimilation went underground. In the fourth stage of the relationship, resistance caught fire and began to grow into a political movement. One stimulus was the federal government's White Paper on Indian policy, issued in 1969.

First Nations were nearly unanimous in their rejection of the proposed changes. With Inuit and Métis communities, they began to realize the full significance of their cultural survival in the face of sustained efforts to assimilate them. They began to see their struggle as part of a worldwide human rights movement of indigenous peoples. They began to piece together the legal case for their continuity as peoples — nations within Canada — and to speak out about it.

This is the stage of contemporary Aboriginal political, economic, and social renewal in Canada.

#### REFLECTION

1. As a class, discuss each of the four stages, contributing additional information that you know from other courses or reading that you have done. In particular, think about how First Nations, Métis, and Inuit people's experiences differed from one another.
2. How useful do you find the Royal Commission's summary? Does it adequately portray the changing relationship between Aboriginal peoples and other Canadians? Would you divide the history into different stages or represent the history in a different way? If so, how and why would you do this?
3. Research background on the Royal Commission and prepare a summary that answers the following questions: Who? What? When? Where? Why? How?

## HUMAN AND ABORIGINAL RIGHTS

The period of renewal and renegotiation described on page 7 gained momentum in the 1970s, but actually began many years earlier. It began with a fundamental change in the way colonizing countries viewed colonized nations.

This change in attitude was expressed on December 10, 1948, when the United Nations adopted the Universal Declaration of **Human Rights**. This declaration asserted that no cultures and no individuals are superior to any others. The declaration stated that all people are equal and deserving of rights and dignity. These human rights are above any rights guaranteed by a constitution, set of laws, or government. A person has these rights simply by virtue of being human. Human rights are an inherent part of human existence.

Throughout colonial history, Europeans had acted under the belief that societies with more advanced technologies also had people who were more advanced. In centuries past, when European countries colonized new territories — Asia, Africa, and the Americas — they felt

justified, under this belief of superiority, in attempting to change, control, or destroy the cultures they encountered.

To a great extent, World War II changed this thinking. In Germany, the Nazi government's extreme **racism** proclaimed that Aryan (non-Jewish Caucasian) people were genetically superior to others. These beliefs led to the systematic murder of millions of people. Individuals and countries around the world were horrified. Even before the war ended, a group of nations were working together to try to prevent anything similar from ever happening again.

In 1945, fifty-one countries formed the United Nations. According to the declaration of human rights adopted three years later, all peoples have the right to determine their own political, economic, social, and cultural futures without external interference from other nations.

In the years following World War II, most European colonial empires were dismantled, creating many more independent countries in the international community. European countries were recovering from an expensive war and could no longer justify having colonies — financially or politically. Nor could they justify them morally in the face of changing attitudes about equality and human rights.

Some countries, such as India, Sri Lanka, and Burma, became independent, as they had been before European colonization. Other countries, such as many of those in East and West Africa, were created from groups of formerly independent territories or kingdoms.

*Indigenous Knowledge*

Despite the Universal Declaration of Human Rights, the situation for indigenous peoples around the world did not always change for the better. In response, the United Nations issued its Draft Declaration on the Rights of Indigenous Peoples in 1989. The statement has been revised many times. With a partner, use the Internet to find copies of the Universal Declaration of Human Rights and the most recent Draft Declaration on the Rights of Indigenous Peoples. How do the two documents compare?

In other parts of the world, such as the United States and Canada, the situation for indigenous populations remained unchanged. Aboriginal peoples in North America were not recognized by the world community as independent nations.

### Aboriginal Rights

In the civil rights movement of the 1960s, African Americans demanded to have the same rights as other American citizens. This inspired Aboriginal peoples to make their own demands. In the United States, the American **Indian** rights movement expressed the rights of indigenous peoples in that country.

In Canada, First Nations, Métis, and Inuit political groups gained strength in their assertion of Aboriginal rights. **Aboriginal rights** belong to a group of people because of their position as indigenous peoples. They and their ancestors have a long history of occupying and using the land. This history entitles them to certain cultural and land rights.

The Aboriginal rights movement gathered momentum during the 1960s, but Aboriginal peoples' demands for self-determination began much earlier. For example, Métis calls for autonomy date back to the Red River settlements in the early nineteenth century. Many people consider the Battle of Seven Oaks in 1816 as the beginning of Metis nationalism. Leaders from the Six Nations Confederacy have declared their independence from British and Canadian authority since the late eighteenth century. Throughout Canadian history, First



*In 1923, a Cayuga chief named Deskaheh travelled to Geneva, Switzerland, to visit the League of Nations. Following World War I, the league was formed to resolve disputes between countries. Deskaheh asked the league to support the Haudenosaunee right to independence from Canada. Why do you think Deskaheh is wearing a feathered headdress that is part of Plains First Nations cultures, not his own?*

Nations, Métis, and Inuit groups have resisted Canadian government policies and legislation in ways that range from quiet **resistance** to armed conflict.

Most Aboriginal rights involve land. A **land claim** is when a group of people asserts its right to title or other rights regarding certain territories. **Aboriginal title** is a legal right to the exclusive use and occupancy of a specific territory, which is usually ancestral land. Both these terms will be explored in more detail in Chapters Three and Four.



Research the basic history of the American civil rights movement using a resource such as an encyclopedia. As a class, compare demands for equal rights to demands for Aboriginal rights. How are these rights different?

## COLLECTIVE AND INDIVIDUAL RIGHTS

All Aboriginal rights are **collective rights**, which means they belong to a group of people. For example, the traditional knowledge of a particular First Nation or Inuit group belongs to the whole group, including ancestors of the group and those who are yet to be born into the group. Traditional knowledge includes generations of experience with aspects of life such as the behaviour of animals, seasonal change, traditional medicines, and plant cycles. A few individuals in a group might be entrusted with this knowledge, but the information itself is collective property.

In Blackfoot, the concept of a collective right to land is described as *O'kiowaisksaabko. Kimaatotamsksaabkoominnoona. Manaakitapiiwa mattsito'tobkoikiwai.* (The land is collectively owned by our people. It is not ours alone. The ones who have not yet been born have a right to it, too.) In the Cree language, a similar concept is expressed by *Kisê manitô ôta ê-kî abikoyabk ta nâkatteyibtamabk ôma askiy.* (The Creator has placed us here to look after this land.) The Dene Sųliné say *Setsune adi nubni theb dja nahide bib.* (Grandmothers say that this is our land. The Dene Sųliné are the first people of North America.)

In contrast, cultures based on Western European philosophical thinking tend to define rights in individual terms. **Individual rights** protect people's ability to pursue their lives in their own self-interest. This worldview asserts that what is good for an individual might not be

good for the group. For example, individuals living on the land might want to hoard food to make sure they have enough to survive a long winter, even if this means other people in their group will not have enough to eat.

In reality, most governments protect people's rights to pursue their own interests only as long as this pursuit does not infringe upon other people's ability to do the same. The purpose of a government is to ensure balance between various individual self-interests. If the act of hoarding food did not prevent other people from hoarding their own food, that right would be protected.

Traditional Aboriginal forms of governance did not distinguish between individual self-interest and the interests of the group. They were seen as one and the same. Individuals who act against the good of the group would be perceived as acting against their own interests as well.

Using the example of the individual hoarding food, such selfishness would be perceived as a foolish depletion of the individual's support network. What if the individual survived the winter, but became sick or injured and unable to hunt in the spring? Without the support of the group, the person might not survive.

The collective rights that belong to an Aboriginal group vary from nation to nation and community to community, depending on their history and culture. For example, one First Nation may have an Aboriginal right to fish, while another may have a right to hunt moose. Aboriginal leaders maintain that these rights include everything necessary to live

a good life, including rights to land and the right to preserve language, values, and political, economic, cultural, legal, and spiritual systems. In the Canadian legal system, Aboriginal rights are defined on a case-by-case basis by the courts. Chapters Two, Three, and Four explore the implications of this process.

## INHERENT RIGHTS

Aboriginal rights are inherent rights. **Inherent rights** cannot be taken away, transferred, or surrendered. Inherent rights cannot be given, but can be recognized, by a government. These rights are sometimes called **inalienable** rights.

Aboriginal leaders often stress that their nations have the inherent right to **sovereignty**, or independence, and have had this right from time immemorial. The right was never lost, although the ability to exercise the right may have been.

Some people misunderstand and respond negatively to a demand for sovereignty, seeing the demand as the desire to separate from Canada. Most Aboriginal leaders do not want to pursue separation, but want to prevent the federal government from imposing rules upon or interfering in Aboriginal ways of life.

Perhaps because sovereignty can be a controversial term, most Aboriginal leaders call instead for the right to self-determination. **Self-determination** allows control over such areas as education, cultural preservation, economic development, and government. Self-determination is ultimately the right of a nation to determine its own future.

Many leaders frame this demand as the desire for self-government, through which they hope to achieve all the goals of self-determination. **Self-government** is a community's right to make decisions about matters internal to the community. It is also the most common means of achieving self-determination in Aboriginal communities today, and has become an integral part of land-claims negotiations.

### A Declaration of First Nations

We the Original Peoples of this land know the Creator put us here.

The Creator gave us laws that govern all our relationships to live in harmony with nature and mankind.

The Laws of the Creator defined our rights and responsibilities.

The Creator gave us our spiritual beliefs, our languages, our culture, and a place on Mother Earth which provided us with all our needs.

We have maintained our Freedom, our Languages, and our Traditions from time immemorial.

We continue to exercise the rights and fulfill the responsibilities and obligations given to us by the Creator for the land upon which we were placed.

The Creator has given us the right to govern ourselves and the right to self-determination.

The rights and responsibilities given to us by the Creator cannot be altered or taken away by any other nation.

— Assembly of First Nations

## LOOKING BACK

Create a concept map that shows relationships between all the bolded words in this section. Add details or examples that will help you remember what each concept means.

# Independence and Interdependence

## AS YOU READ

When Europeans first arrived and began to explore North America, the First Nations and Inuit peoples they encountered had diverse political, economic, social, and spiritual systems. Each group was an independent nation. Relationships between groups were conducted accordingly, with nation-to-nation negotiations and agreements.

For many years, European nations worked within these systems. Until the end of the eighteenth century, Europeans, First Nations, Inuit, and later Métis people, negotiated relationships with one another as independent nations. Pages 12–18 describe traditional First Nations ways of thinking about their world and the place of other nations within it. As you read, make a list of the values that underpin this view of the world and how agreements between different nations showed these values.

**A** WORLDVIEW IS THE PERSPECTIVE FROM WHICH A PERSON PERCEIVES, UNDERSTANDS, AND REACTS TO THE WORLD AROUND THEM. AN INDIVIDUAL'S WORLDVIEW IS SHAPED BY AGE, GENDER, EXPERIENCE, FAMILY HISTORY, AND LANGUAGE,

among other characteristics that make individuals unique. However, people from the same culture tend to share relatively similar worldviews. This results from a shared cultural history, spiritual or religious beliefs,



*First Nations and Inuit oral traditions include creation stories, such as the one represented by Bill Reid's sculpture The Raven and the First Men. Creation stories explain how First Nations and Inuit peoples came into existence and how they and other elements of creation should live on the land. Find the Haida creation story represented by this famous sculpture and compare it to a creation story from a local First Nation. How do the stories show the people to be an indigenous part of their land?*

language, institutions, geographic environment, and other factors.

There is no single First Nations culture or worldview. First Nations differ from one another just as European nations differ from one another. That said, First Nations cultures share many general features in their approach to the world. Inuit people and some Métis people share similar cultural beliefs. Despite the similarities, keep in mind as you read this section that each Aboriginal group has its own way of expressing these beliefs through unique symbolism, customs, and institutions.

This discussion focuses upon **traditional** First Nations worldviews, which were those common before regular contact with European cultures began in the sixteenth century. Some traditional First Nations people today hold beliefs that stem back to this time period.

In general, First Nations worldviews are **holistic**. This means they focus on the whole of creation, rather than on individual parts of creation, such as humans. In this sense of the world, people are simply one part of the universe, no more or less important than any other. The Creator put humans on Earth and provided everything needed to live a good life. In return, humans are required to respect **natural laws**. Natural laws are those that can be learned over generations by closely observing how the natural world works.

Although each First Nation traditionally lived in a specific territory, it did not see itself as the owner of the land in the European sense. Nations, clans, and family groups sometimes asserted control

over their **traditional territory** — determining who could hunt or farm there, for example — but the concept of individual land ownership was alien. Rather, traditional beliefs hold that the people and the land are intertwined, along with other living things and spirits — all living under the Creator's laws.

The Creator's teachings are reinforced through the **oral tradition**, which is the collection of spoken words that pass down a culture's teachings from generation to generation. This tradition is the philosophical basis of First Nations cultures.

A holistic attitude applies to interpersonal relationships as well. As you learned in the discussion of collective rights on pages 10–11, First Nations cultures traditionally focus on the interests of the group rather than the interests of the individual.

This worldview translates into economic practices of sharing and **mutual support** — key strategies for living on the land. Each person depends on others and in turn is depended upon. By supporting one another, the group as a whole is stronger. Individuals are seen as **interdependent** components of a whole.

Politically this worldview translates into practices such as **consensus** decision making and community participation. Decisions made through consensus are reached through discussion and general agreement among members of a group, rather than by voting or the will of the strongest. Individuals have **personal autonomy** — independence, or the freedom to choose their own course of action. Leaders are supported by their community

Under Cree law, the traditional lands of the Pimicikamak people do not belong to them. Rather, the people belong to the land. They are the stewards of the land. The land provided the means of their survival since the last Ice Age more than 10 000 years ago.

— Pimicikamak Cree Nation, *Power Positive Project: Legal and Human Rights Issues*

Our roots are deep in the lands where we live. We have a great love for our country, for our birthplace is here. The soil is rich from the bones of thousands of generations. Each of us was created in these lands and it is our duty to take great care of them, because from these lands will spring the future generations of our peoples. We walk about with great respect, for the Earth is a very Sacred Place.

— Sioux, Navajo, and Iroquois Declaration, 1978

because of their wisdom, rather than their ability to coerce others. Harmony depends on balance between personal autonomy and the needs of the group, or independence and interdependence.

The cultural importance placed on living in harmony within a group was traditionally extended to other nations. First Nations recognized and respected each other's right to exist, make decisions, and pursue ways of life according to different spiritual and cultural beliefs. Most First Nations have traditional practices of non-interference in the affairs of other nations. In return, they expected the same respect from others. For example, most groups respected one another's traditional territories. Where conflicts occurred, **treaties** were a traditional method of resolving problems. Treaties are agreements between sovereign nations.

## EARLY TREATIES

First Nations had always encountered other groups, whether through trade, exploration, or seasonal **migrations**. Such encounters sometimes led to conflict, but more often to a peaceful exchange of goods, ideas, and values.

Some treaties ended war, while others affirmed trading ties and promoted marriages among families of different nations. The principle of mutual respect governed all treaties. Each participant in a treaty process treated other participants with respect in a reciprocal relationship of giving and taking. Treaties worked well between First Nations because participants generally shared a similar worldview.

As in Europe, some First Nations treaties settled conflicts about land. However, First Nations land disputes were significantly different from European land disputes. First Nations conflicts involving land generally concerned use of the land's resources, not ownership of the land itself. Such ownership was not even possible in traditional First Nations worldviews. Treaties sorted out how each nation would relate to each another and the available resources.

Early treaties (those before European domination in North America) reflect traditional First Nations values and goals for relations with other peoples: mutual respect, independence, and interdependence between sovereign groups and the land.

### The Great Law of Peace

One of the most famous treaties between First Nations was the Great Law of Peace. Sometime before 1450, the Haudenosaunee nations of the Mohawk, Oneida, Onondaga,

Cayuga, and Seneca agreed to form a **confederacy** in which each nation would live with the others in peace and harmony. Before this agreement, these nations had endured years of conflict: nation against nation, village against village, clan against clan.

According to Haudenosaunee oral history, a prophet named Dekanawideh (Peacemaker) came across Lake Ontario, from the north, to deliver a vision of peace and union to the Haudenosaunee. Some stories have him travelling in a white stone canoe so that others would see proof of his message's power. Despite this proof, he was unable to convince any Haudenosaunee leaders to heed his word. Some stories say that Dekanawideh travelled with his message of peace for over forty years before finding success. Most versions of the story say a woman named Jikonsahseh took Dekanawideh in and fed him. She was the first to accept his message of peace and she encouraged him to continue his mission.

The first leader to accept Dekanawideh's message was Hiawatha, a Mohawk-Onondaga man who was searching for an alternative to the conflict hurting his people. Over time, Dekanawideh and Hiawatha spread the message of peace throughout Haudenosaunee lands. They won over their last opponents at a great assembly of leaders on the southern shore of Onondaga Lake.

The Great Law of Peace this assembly agreed upon became the founding constitution of North America's first federal democracy. A **constitution** is a set of institutions and principles that govern a country or group of people. The Haudenosaunee Confederacy and

its constitution is thought by many to be one of the models used by the men who framed the United States constitution many years later.

The Great Law of Peace defined the rights of individuals and the rights of member nations. Each nation was considered independent. The Grand Council of the Confederacy was established as a forum to discuss issues of common concern, such as resolving disputes or defence. Each nation was represented by its leader in the Grand Council, and each leader was considered equal to the others.

Leaders did not vote, and instead discussed all issues until consensus was achieved. Even if it took time, consensus was the only way a decision could be made. This kept harmony between the nations because there was never a dissenting minority.

Besides defining the rights and responsibilities of the confederacy government, the Great Law of Peace also outlined the rights of foreign nations and the rights of war. Foreign nations had the right to a national territory, to join the confederacy, and to promote peace with member nations. In times of war, the confederacy had the right to self-defence, to occupy the territory of an enemy, and to establish treaties of peace and friendship.

The Great Law of Peace was recorded in the Hiawatha Belt, a series of belts and strings made of wampum, which are beads made of shell. Wampum belts and strings were used to record significant events and agreements. In 1722, the Tuscarora people entered the confederacy and it became known as the Six Nations Confederacy.



The territories shown for each nation of the confederacy are main areas of occupation. Each nation also used the resources of a wide surrounding region.

### Indigenous Knowledge

A photograph of the Hiawatha Belt is inset in the map of the Confederacy of Five Nations. From left to right, each figure on the belt represents the original five nations of the confederacy from west to east. The nations are joined by a bar that links them all. How does the wampum belt's symbolism reinforce principles of independence and interdependence?

### The Guswentah (Two Row Wampum) Treaty

One of the earliest treaties between First Nations and Europeans was the Guswentah (Two Row Wampum) Treaty of 1645. It was the first treaty the Haudenosaunee Confederacy negotiated with Europeans. The Dutch wanted to establish a trading fort on Haudenosaunee lands, so the confederacy proposed a treaty of mutual respect and peaceful co-existence.



*One dark row of the Guswentah Treaty wampum belt represents a canoe and the other a European sailing ship.*

*Each vessel is symbolic of the people's customs and laws. The parallel paths on the belt mean that the nations should remain separate and equal forever.*

According to the Two Row Wampum Treaty, the nations declared their intention not to interfere in each other's internal affairs. The treaty recognized the rights of each nation to maintain its own traditions, customs, values, and ways of living. In addition, the treaty allowed the nations the right to establish relationships with other groups in accordance with their own laws, traditions, and customs. In other words, the treaty established a relationship, but allowed each people to retain complete political, economic, and cultural independence.

After much discussion and debate, the Grand Council of the Confederacy approved the treaty. The Grand Council declared that the treaty was an expression of the right of the confederacy to retain its full independence and sovereignty as a nation. The terms of the treaty were symbolized by two rows of purple beads on a wampum belt.

This treaty became the standard of all future treaties between the Haudenosaunee and European nations. For example, in 1674, the British accepted the Guswentah Treaty when they took over the Dutch colony. In 1701, in Montreal, the Haudenosaunee signed a treaty of peace and mutual understanding with the French, ending almost a century of hostilities.

With the Treaty of Fort Stanwix, signed in 1768 between the British and the Haudenosaunee, the Crown

tried to honour the spirit of the Guswentah Treaty. It sought to end the sale of traditional Haudenosaunee lands to British settlers without the British monarch's approval. Unfortunately, the treaty did not stop settlers from seizing First Nations land. Britain was losing control of settlers in its Thirteen Colonies, which are now part of the United States.

When the Thirteen Colonies rebelled against British rule in 1775, some Haudenosaunee joined the American side against the British. Others sided with the British. However, most Haudenosaunee did not view the conflict as their own and refused to take sides. Some American rebels saw this neutrality as support for the British, and drove thousands of Haudenosaunee from their homes.

In 1794, following the end of the War of American Independence, the American government signed a treaty with the Haudenosaunee. The Canandaigua Treaty is the only formal agreement signed between the United States and the Haudenosaunee Confederacy. In it, the United States agreed to respect Haudenosaunee territory. All Haudenosaunee nations sent representatives to the treaty signing and accepted the agreement with a large wampum belt. Today, Haudenosaunee nations view the Canandaigua Treaty as the United States's admission that the Haudenosaunee Confederacy is a sovereign nation.

### Agreement of 1844

In the early 1840s, the Dakota Nation had come to resent the Métis people living to the north. Both peoples relied on the buffalo hunt for their livelihood. For the Dakota, the animal also had great spiritual significance. Around this time, Métis people were hunting larger numbers of buffalo for trade and food for the expanding Red River settlements. This led Métis hunters farther south into traditional Dakota hunting grounds.

Dakota resentment built up until one day a dozen Dakota hunters killed Métis hunter Louison Vallé after finding him and his son cutting up a buffalo in Dakota territory. The Métis retaliated by killing eight Dakota. The matter was settled that year through negotiation between Métis leaders and one of the Dakota Nation's leaders. The peace did not last.

During the 1844 buffalo hunt, Cuthbert Grant, leader of the Métis hunt, witnessed several conflicts between Métis and Dakota hunters. After the hunt, four Dakota leaders sent a letter to Grant requesting compensation for the deaths of sixteen young men.

In reply, Grant refused compensation, but offered peace. The excerpt that follows is from the response by the Dakota leaders who accepted Grant's offer.

*Friends, — I, the afflicted father of one of the young men killed by you, wish that he who killed my son should be my son in his stead. He had two feathers on his head. Ne Tai Ope*

*Friends, — Among the young men killed by you, I have a nephew. He who killed him I wish to be my nephew. He was the smallest of all the unfortunates.*

*Friends, — You killed my son, he was brave, San-be-ge-ai-too-tan. He who pointed the gun at him, I wish to be my son. He had a feathered wand in his hand. I send it by Lange [the messenger] to my adopted son. Tab Wah Chan Can...*



Cuthbert Grant, Jr., was born in 1793 in Red River. His father, Cuthbert Sr., was a partner and trader with the North West Company. His mother was a Métis-Cree woman.

Following First Nations traditions of forming **alliances**, or partnerships, the leaders most offended by the conflict — those who lost family — offered to accept their enemies as kin. Kinship ties, whether through adoption or marriage, were traditionally one of the most significant means of forming alliances between groups. The system of mutual support and interdependence between individuals within one nation would extend to relationships between nations.

The peace agreement was tested the following year. During the 1845 hunt, a Métis hunter killed a Dakota hunter. Grant had the Métis man arrested. He was convicted and hanged for his crime. Grant's word and the agreement stood.



Research the life of Cuthbert Grant and his contributions to the Métis Nation. From the perspective of someone who lived in his community, write a tribute to Grant as a leader. The tribute could be in a letter or speech.



## EVALUATING EARLY TREATIES

Contemporary Aboriginal demands for self-determination and self-government often refer to early treaties as examples of Aboriginal people's historic sovereignty over the land. Early treaties followed traditional First Nations leadership and governance practices rather than European customs. All treaties, whether signed by European nations or First Nations, have the same legal status in international law.



**Do early treaties support the right to self-government?**

### WHAT TO DO

1. Form groups of three or four students. Imagine that your group is to make a presentation to a Royal Commission on Self-Government. Your job is to research the circumstances of an early treaty between First Nations or between First Nations and European nations. Try to answer each of the questions that follow in your research:
  - What groups were involved in the treaty?
  - Were their worldviews different or similar? Explain.
  - What were reasons on both sides for supporting the treaty? Were goals compatible?
  - What were immediate results of the treaty?
  - What is the treaty's significance today? Analyze any long-term effects. Some effects may be indirect. For example, the Haudenosaunee were an influential force in the early fur trade because the Great Law of Peace had made their confederacy so strong.
  - How did the treaty recognize independent First Nations governments?

- How did the treaty recognize interdependence between sovereign nations?
  - How does independence and interdependence reflect traditional First Nations worldviews?
2. Compile your research in a concisely worded one-page document that can be read aloud to the Royal Commission. Select one member of your group to present your findings to the rest of the class.

### Thinking About Your Project

As a class, discuss whether you think early treaties reinforce contemporary Aboriginal rights claims. List specific examples.

### LOOKING BACK

Refer to the notes you began making on page 12 about the values governing early treaties. What kinds of expectations towards the treaty process might these values create? What kinds of rights are guaranteed by these early treaties? How are these rights related to independence and interdependence? Before moving to the next section, create a timeline of events discussed in this chapter so far.

# Colonization

AT THE TIME OF FIRST CONTACT WITH NORTH AMERICA'S INHABITANTS, EUROPEAN CULTURES COULD NOT HAVE BEEN MUCH MORE different from First Nations and Inuit cultures. In the sixteenth century, European cultures were in the midst of radical changes. For centuries, most of Europe had operated under a **feudal** system. This meant that countries had monarchs, but power was spread out among the nobility. Nobles ruled over large estates and peasants worked for the nobles or paid them taxes for use of the land. It was a hierarchical system with little or no opportunity for advancement. People were born into and lived their lives in rigid social classes.

By the 1600s, however, power had become much more concentrated in the hands of monarchs, and nations had become much more clearly defined. As the power of monarchs grew, so did their ambition. They began to look beyond their borders, and even beyond their continent, in the quest for greater power, influence, and resources. The age of **imperialism** had begun. European countries began to acquire colonial empires around the world. The colonies were considered possessions; their purpose was to contribute to the mother country's wealth and prestige.

Most Europeans in the sixteenth century shared a worldview: they saw themselves as entitled to power over non-Europeans. In their view, European cultures represented the peak of human civilization and military strength.

## AS YOU READ

The Guswentah Treaty's terms of peace and friendship were typical of early treaties between First Nations and European nations. In the 1600s and 1700s, Europeans wanted to ensure friendly relationships with the Aboriginal peoples who surrounded and outnumbered them. Europeans often depended on these nations to assist them with their military goals towards other European nations on the continent. They also wanted Aboriginal peoples as trading partners.

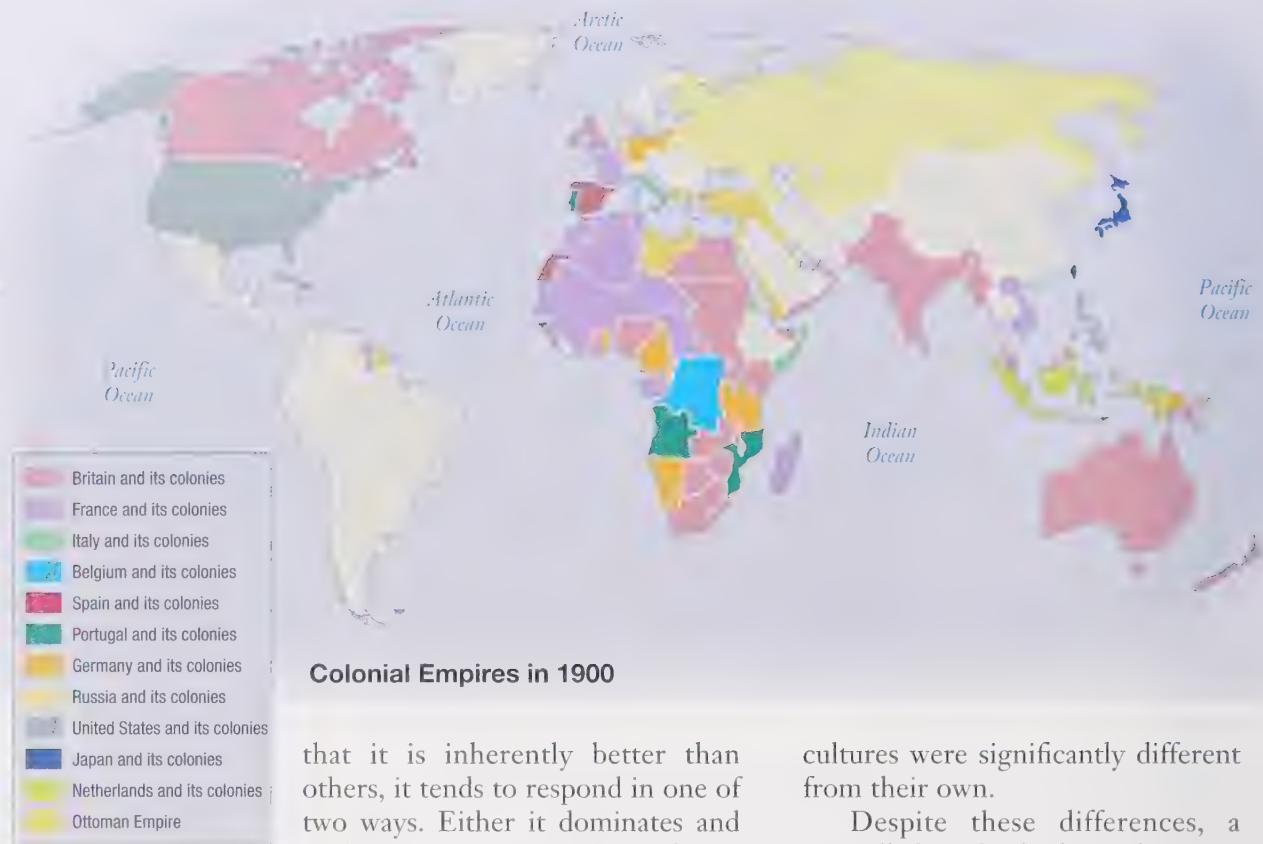
Underneath this peaceful co-existence, however, lay significant differences in worldview. By the mid 1800s, those differences started to become more apparent. As you read this section, add to the timeline you began on page 18.

Their concept of time was linear, with their countries at the leading edge of progress. The rest of the globe was theirs for the taking, to be divided up among the strongest and best.

This worldview reflected the concept of Social Darwinism. Social Darwinism proposed that the evolutionary theories of the naturalist Charles Darwin (1809–1882) could be applied to human society. According to this belief system, people who get ahead in society are the most fit and deserving. Inequality is a natural condition of life.

In general, European belief in their own superiority was so firm that colonial powers felt they were doing the rest of the world a favour by spreading European culture far and wide.

Different cultures can successfully co-exist under the right conditions. First Nations and Inuit peoples had managed this for centuries. Problems emerge, however, when one culture views itself as superior to another. Once a nation decides



*The system of colonial empires shown on this map was not dismantled until after World War II. Consider the importance of geography in the development of colonies. Why do you think Africa had so many different colonizing countries? Why did North America have relatively few?*

that it is inherently better than others, it tends to respond in one of two ways. Either it dominates and exploits nations it considers inferior, or it tries to “help” them, which usually means coercing the colonized to be more like the colonizers.

Many colonizers saw themselves as performing God’s work. Christian churches believed they had both a right and a duty to convert non-Christians to their faith. Along with political colonization, European nations pursued religious colonization. They saw non-Christians as those needing spiritual salvation — by force, if necessary. The Roman Catholic church placed a particularly high priority on converting people with other belief systems.

## CLASHING WORLDVIEWS

When Europeans and First Nations in North America began to interact regularly in the early sixteenth century, they were curious about one another. They quickly recognized that the other peoples and

cultures were significantly different from their own.

Despite these differences, a mutually beneficial relationship grew over time. Each group had something to offer the other. The Europeans brought trade goods that made First Nations peoples’ lives easier. First Nations helped early settlers survive and their land supplied them with natural resources. Each group contributed knowledge to the other with benefits to all. Over time, they developed many agreements and alliances that led to relatively peaceful co-existence. A new people — the Métis — were a result of this partnership at the social, economic, and personal levels.

Beneath this relationship, however, lay profound differences. First Nations and Europeans viewed the world (and their role in it) in fundamentally different ways. As time passed, the differences between First Nations and European worldviews became more significant. By the eighteenth century, the time of

peaceful co-existence was beginning to draw to a close.

Once the colonists felt securely established and their numbers grew, they became more assertive about reshaping the colony into familiar institutions. They began to need First Nations' land more than their co-operation and guidance. As their priorities changed, Europeans became less willing to accept co-existence with First Nations. Increasingly, Europeans wanted to control and change First Nations cultures.

This change in attitude coincided with the weakening power of First Nations because of many factors, including disease and the decline of the fur trade. European and First Nations cultures began to clash, with long-lasting harm to First Nations people and their cultures.

Canada's history would have been far different if the relationship between First Nations and Euro-Canadians had remained one of peaceful co-existence. Instead of allowing their two worldviews to collide, they might have been able to shift them so that they were both headed in the same direction. First Nations' oral history indicates that this was the intention of First Nations in making agreements with the newcomers. In 1763, the British government seemed to affirm this same understanding when it issued the Royal Proclamation.

## ROYAL PROCLAMATION

According to the British government's own system of **common law**, a set of unwritten legal precedents, First Nations held title to their land. They had rights to the land because

they were the original occupants. This view was formally written into law in the Royal Proclamation of October 7, 1763. The events leading up to the proclamation illustrate how First Nations were on the cusp of a change in their relationship with colonizing powers. These events began three years earlier, with the end of French power in North America.

In 1760, the Capitulation of Montreal ended Britain's war with France in North America. Britain took control of all North American territory east of the Mississippi River. However, in the spring of that year, the British found themselves scrambling to contain an uprising known as Pontiac's Rebellion.

Pontiac's Odawa (Ottawa) First Nation, along with several allied First Nations, were unhappy with the British regime for several reasons. Immediately after taking over North American territories from the French in 1760, British Commander-in-Chief Jeffrey Amherst ordered the end of gift distributions to First Nations. In his view, the annual gifts amounted to bribes that the colony could not afford.

To First Nations, the gifts and associated ceremonies were a symbolic renewal of friendly relations between nations as well as a price for using their land. Gift-giving was an essential part of traditional treaties. It symbolized the reciprocal relationship of giving and taking that formed the basis of mutual support and harmony.

First Nations did not view the French defeat as their own defeat. They had seen the French as tenants

*In 1763, Chief Pontiac signed treaties with the British government to end a series of armed conflicts he had led against the colonizing power.*

*At the treaty signings, he was clear that he was making peace, not surrendering land.*



on their land and, when Britain took over, First Nations believed they would continue the same relationship with the British.

As First Nations experienced shortages of the guns and ammunition they had grown to depend on during French tenure, many viewed Amherst's ruling as a sign of disrespect. In addition, the British did little to discourage settlers from moving onto First Nations lands, and many British traders acted without regard for the needs of their First Nations partners.

After three years of growing discontent, many First Nations had had enough. In the spring of 1763, a group allied under Pontiac's leadership put Fort Detroit under siege and captured nine other forts. Not interested in the forts themselves, the First Nations generally took what they needed from fort supplies and left for their winter hunting grounds. Pontiac's military success made British officials nervous about their ability to hold on to power in the territory.

The Royal Proclamation was designed to prevent future uprisings and to strengthen British government control over formerly French territories. It is significant today for several reasons.

The proclamation uses the phrase "nations or Tribes of Indians." This phrase provides support for First Nations assertions today of their rights as sovereign nations. A sovereign nation has independence, the right to a specific territory, and the ability to conduct its own affairs without interference. First Nations argue that they were not conquered in a war. The proclamation does not refer to them as subjects of the Crown. Therefore their right to sovereignty has never been extinguished, or ended permanently.

The proclamation also acknowledged that First Nations held title to the lands west of the Appalachian Mountains and said that these lands, "not having been ceded to or purchased by Us [the Crown], are reserved to them, or any of them, as their Hunting Grounds."

In addition, the proclamation forbade colonists to enter into any private land negotiations with First Nations because "great Frauds and Abuses have been committed in purchasing Lands of the Indians, to the great Prejudice of our Interests, and to the great Dissatisfaction of the said Indians." The document stated that, in the future, only Crown representatives would be able to negotiate the purchase of First Nations territory.

In recognizing First Nations' title to the land, and in asserting the Crown's exclusive right to negotiate with First Nations, the Royal Proclamation laid the foundation for all future land agreements between First Nations and the government in Canada. Its importance and continued relevance was affirmed

again when the Royal Proclamation was specifically mentioned in the Canadian Charter of Rights and Freedoms in 1982.

However, the Royal Proclamation also established a **paternalistic** attitude towards First Nations. This means it took a tone of superiority and assumed powers over First Nations. For example, the proclamation unilaterally put the Crown in the position of intermediary between First Nations and settlers. From this position, it had the power to decide what agreements could be made to take First Nations' land and what kinds of compensation First Nations could receive in return. First Nations had no voice in these decisions. This paternalism became even more significant in subsequent treaty negotiations during the late nineteenth century.

## BRITISH NORTH AMERICA ACT

Throughout the 1800s, European settlers gradually occupied more and more of what is now Canada. The British colonial government signed treaties with First Nations whenever it needed more land for these settlers.

In 1867, the British North America Act created the Dominion of Canada. As part of creating the new country, it transferred the British Crown's relationship with First Nations to the Canadian federal government. This act is significant today because it means that a First Nation has the right to negotiate self-government and land claims with the federal government as one sovereign nation to another.

Chapter Two discusses this relationship in the past and present in terms of Aboriginal peoples' ability to be self-governing nations.

### ROYAL PROCLAMATION OF 1763

The introduction to the Royal Proclamation stated that it was

Just and reasonable, and essential to our Interest, and the Security of our Colonies, that the several Nations or Tribes of Indians with whom We are connected, and who live under our Protection, should not be molested or disturbed in the Possession of such Parts of our Dominion and Territories as, not having been ceded to or purchased by Us, are reserved to them or any of them as their Hunting Grounds.

### REFLECTION

How might this preamble be interpreted as stating British possession of the land to which it refers?

How might it be interpreted as affirming First Nations possession of the same land? Which words or phrases give rise to this confusion?

### LOOKING BACK

In your notes, use a concept map, table, or other technique to describe key ways European and First Nations worldviews differed from each other in the sixteenth century. In your opinion, do these differences still exist today? Explain your answer.

Explain the significance of the following in terms of Aboriginal rights: Great Law of Peace, Guswentah Treaty, colonialism, Royal Proclamation, British North America Act. Be sure each is noted on your timeline.

# Numbered Treaties

## AS YOU READ

After Confederation in 1867, treaty-making between First Nations and Canada became increasingly systematic. Between 1871 and 1921, the Canadian government negotiated eleven treaties with First Nations across the West to free up more land for settlement. These treaties, known as the numbered treaties, were supposed to balance the needs of incoming settlers with the traditions of the First Nations.

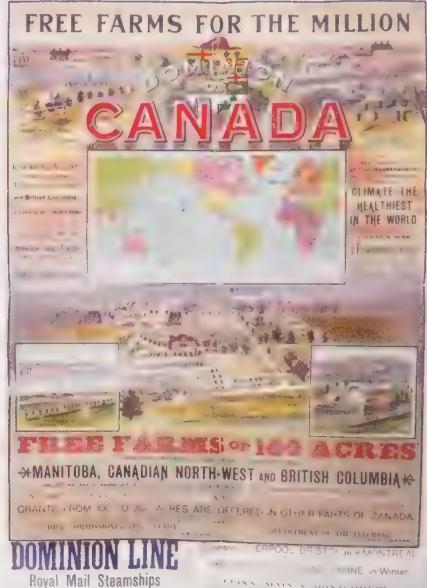
First Nations approached treaties with Europeans the same way they had always approached treaties with each other. The overall objective was to establish a relationship based on peaceful co-existence and shared resources.

Write the questions that follow in your notes: Why did the Canadian government pursue the numbered treaties? Why did First Nations agree? What rights are part of these treaty agreements? How were Euro-Canadian and First Nations understandings of the agreements different? How did treaties fit into Canada's evolving colonial policies? As you read this section, make notes that answer each question.

BEFORE CONFEDERATION IN 1867, TREATIES BETWEEN FIRST NATIONS AND EUROPEANS RECOGNIZED THE POLITICAL AUTHORITY OF EACH SIGNATORY. PRE-CONFEDERATION TREATIES DID NOT OFTEN INVOLVE LAND

transfers and compensation; most instead dealt with political, trade, and military issues. European colonial governments dealt directly with First Nations until 1867, when the newly created Canadian government took over treaty-making responsibilities.

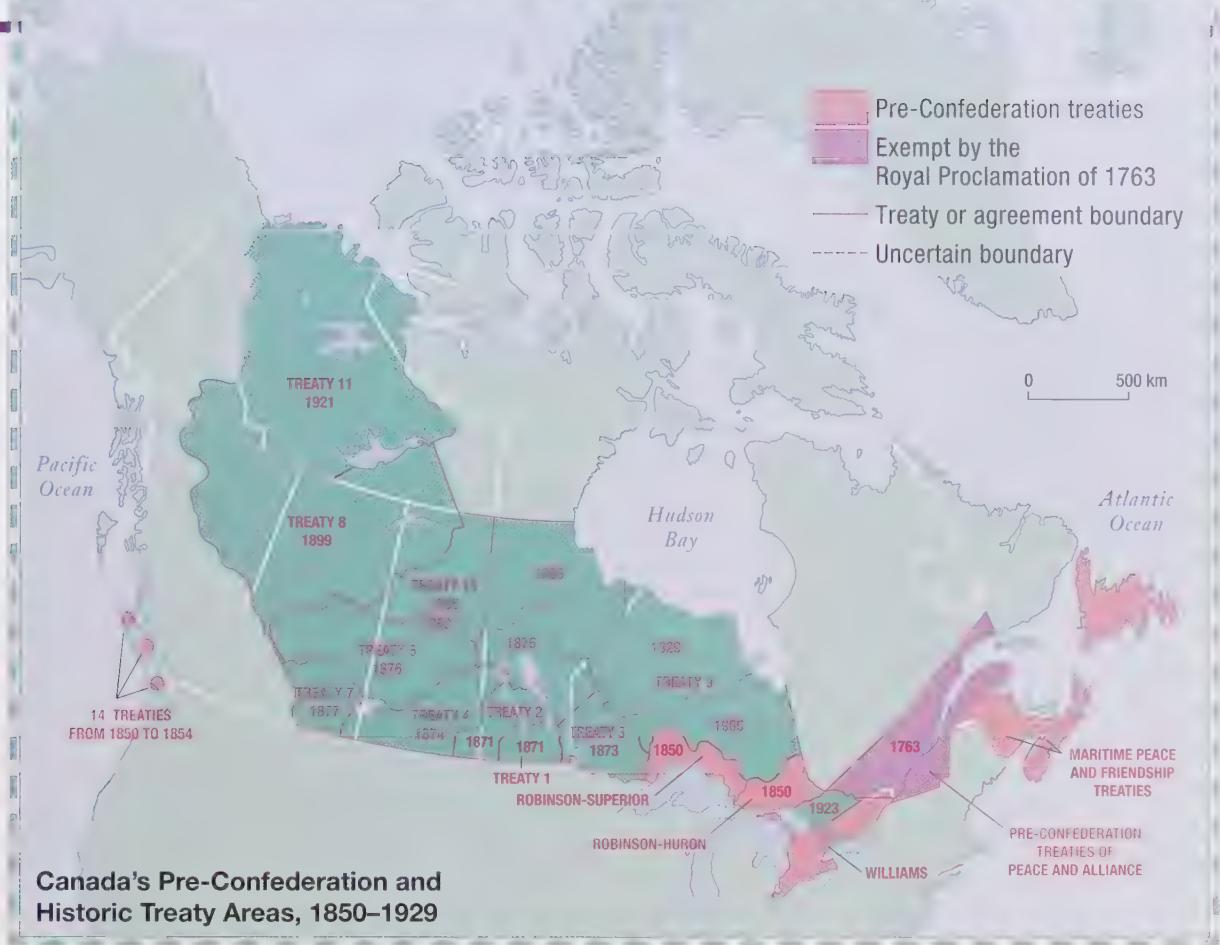
With Confederation in 1867, the Canadian government inherited the British Crown's relationship with First Nations. The Royal Proclamation required the federal government to negotiate with First Nations in order to open up more territory for settlement. This was the primary goal for the new Canadian government.



After Confederation, the federal government actively recruited settlers from Europe with posters such as this one from 1890. What do you think about the government's assertion that the land is free? What costs did European settlement have for First Nations? Create a poster or other artwork that shows a different perspective.

By 1867, Europeans in Upper Canada already outnumbered First Nations people by a wide margin. Before long, the pressure for land began to spread westward. On December 1, 1869, the Canadian government bought Rupert's Land from the Hudson's Bay Company for \$300 000. Suddenly Canada was responsible for vast new areas, from northern Quebec to the Rocky Mountains and Arctic.

The government began to negotiate treaty agreements with First Nations in the region so it could open up the West to settlement. The treaties were numbered in order as they were settled.



Treaties in Canada usually fall into three categories: pre-Confederation treaties that were concluded prior to 1867, the numbered treaties, which were concluded up to 1921, and the modern treaties, which are settled land-claim agreements.

## NUMBERED TREATIES (1867–1921)

1871 Treaty One	The federal government wants land for farming. First Nations are expected to adapt to an agricultural economy instead of hunting, fishing, and trapping.	1870
1871 Treaty Two		1875
1873 Treaty Three	The federal government wants land for construction of a railway across the West.	1880
1874 Treaty Four		1885
1875 Treaty Five		1890
1876 Treaty Six		1895
1877 Treaty Seven		1900
1899 Treaty Eight	The federal government wants to secure overland access to Yukon gold discoveries.	1905
1905 Treaty Nine	The federal government wants to secure access to natural resources such as timber in northern Ontario.	1910
1906 Treaty Ten		1915
1921 Treaty Eleven	The federal government initiates treaties after discovery of oil at Fort William.	1920
		1925

This poster was displayed in public places during the summer and fall of 1898. The government hoped it would encourage First Nations and Métis people to meet with the treaty commission.

# PUBLIC NOTICE.

NOTICE is hereby given that a Commission representing Her Britannic Government of the Dominion of Canada will hold Sessions at the places and on the dates hereinafter stated, for the purpose of treating with the Indians and Half-breeds of the Provisional District of Athabasca and such territory immediately adjacent thereto as may be deemed advisable to include within the said Treaty for the extinguishment of their title to the lands within the said Provincial District and territory, viz:

Lower Slave Lake	26th	June, 1898
Peace River Landing	13th	do do
Fort Dunvegan	16th	do do
Fort St. John	21st	do do
Fort Chipewyan	20th	do do
Rideau River Post	3rd	July, do
Fort Chipewyan	8th	do do
Winnipeg	11th	do do
White Horse Lake Athabasca	24th	do do
Winnipeg	10th	August, do
Yellowknife	23rd	da d

Indians and Half-breeds resident within the said Provisional District and those Half-breeds who claim the land described in the section of the Manitoba Act, 1870, as being within the same, are invited to attend the Sessions of the Commission at the above mentioned points as may be most convenient to their places of residences.

CLIFFORD SIFTON,

OTTAWA, June, 1898

## SHIFTING PRIORITIES

The numbered treaties mark a significant change in the government's goals and priorities for treaty-making. At this time, the fur trade was beginning to decline and the Canadian government's focus was shifting towards settlement and industry. The government needed more land — land that was occupied by First Nations, Métis, and Inuit people.

In the United States, the tension between settlement and First Nations land rights led to armed conflict. In the mid to late 1800s, the American government spent millions of dollars

each year fighting frontier wars. Much blood was shed on both sides. The Canadian government could not afford to make the same mistakes. Instead, it chose to negotiate treaties with First Nations.

First Nations priorities had shifted from pre-Confederation times as well, although their expectation for the basis of the treaties — agreements between sovereign nations — had not. The lives of First Nations people had changed with staggering swiftness since the beginning of the sixteenth century. They now faced wave upon wave of incoming settlers. Whether they liked it or not, they were now living in a shared land.

First Nations were understandably concerned about losing use of their territory little by little. They saw that the settlers would be difficult to move once they established themselves. Unless First Nations concerns were dealt with, the situation would become increasingly uncertain and tense.

In exchange for allowing the settlers on their land, First Nations wanted to ensure their people would get the assistance they needed to adapt to the new way of life. They wanted their people to have a place to live, to be free to pursue their traditional lifestyles as much as possible, and to have support in adjusting to the new way of life taking shape around them.

Negotiations for the numbered treaties, therefore, started on an uneven basis. The government saw the treaties as First Nations agreements to surrender their claim to the land. First Nations leaders saw the treaties as agreements to share the land.

By signing [the treaties], British authorities appeared to recognize the nationhood of Aboriginal peoples and their equality as nations. But they also expected First Nations to acknowledge the authority of the monarch and, increasingly, to cede large tracts of land to British control — for settlement and to protect it from seizure by other European powers or by the United States.

— *People to People, Nation to Nation: Highlights from the Report of the Royal Commission on Aboriginal Peoples*

What contradiction is noted in this statement?



## PROFILE

### JAMES AHNASSAY

#### Dené Tha' First Nation

"To get an idea of how my ancestors approached land entitlement and treaty signing, refer to what Chief Chateh did at Fort Vermilion back in 1899, when he signed a Treaty Eight adhesion," says James Ahnassay, former chief of the Dené Tha' First Nation.

"Chief Chateh held off signing treaty for a week, I've heard, because he wanted to make sure all traditional lands of his people would be protected for years to come," Ahnassay explains. No wonder the chief was hesitant. How could he be sure officials understood his demands when he spoke only the language of the Dené Tha', the Europeans spoke English or French, and the hired translator was said to have only been fluent in Cree, with English as his second language?

"I doubt the translator was able to capture what the chief and Elders wanted. I do know that our Elders appreciated European assurances that the treaty entitlements would last 'as long as the sun shall shine and the rivers shall flow.' To this promise, Dené Tha' Elders and other leaders at the time added 'and as long as the stars of the Big Dipper move forward in the sky.'" The Elders' worldview was based on the natural creations of earth and sky, not on human creations of legal titles, ownership, and profits.

In 1899, Dené Tha' traditional lands were vast, stretching west into what is now British Columbia and the Northwest Territories. Following the great cycle of life of their ancestors, the people migrated seasonally to take advantage of the many resources of their territory. They hunted animals, fished in various lakes, wintered in sheltered areas, and summered near berry patches. According to Elders, their

people did not know that the written treaties had given most of these lands to the newcomers, leaving only a few small areas they could choose as reserves.

After signing the treaty adhesion, the Dené Tha' continued with their lives much as they had before, until oil companies started to encroach upon their traditional lands in the 1960s, followed by lumber companies a decade later. "Until then, the land was pristine, but by the 1970s, our hunters complained about the decline in the moose and other animal populations and the negative effects industry had on their trap lines."

A traditional way of life was quickly disappearing and employment and other income options were severely limited.

"What we were left with was welfare payments, social problems, and small areas to live in," explains Ahnassay. Optimistically, he hopes his generation has and future generations will gain "education that will put us in a much better negotiating stance to gain back much of what we have lost. This includes implementing the true spirit and intent of the treaties, as understood by our Elders."



James Ahnassay

#### REFLECTION

With your teacher's assistance, use correct community protocol to invite an Elder to your classroom to discuss the spirit and intent of Treaty Six, Seven, or Eight. Use the Elder's visit, plus all that you have learned about treaties in this course so far, to prepare a five-minute speech called The Spirit and Intent of Treaties. Give your speech to the class.



The Treaty Eight negotiations pictured here took place at Lesser Slave Lake, Alberta, in 1899. Research which First Nations in Alberta are part of this treaty, as well as Treaties Six and Seven.

## DIFFERENT VIEWS

Not only did the Canadian government and First Nations differ in their reasons for signing treaties, but they also differed in how they saw treaties as agreements. In the European tradition, nations signed treaties recognizing one another's sovereignty, regulating trade, and promising to keep peace.

First Nations made treaties for similar reasons, but their outlook had a spiritual component as well. They sealed treaties with ceremonies such as pipe smoking, not by signing paper documents. European worldviews saw treaties as business contracts, whereas First Nations worldviews saw them as sacred oaths.

## DIFFERENT LANGUAGES

In addition to having different ideas about treaties and different reasons for entering into treaties, government representatives and First Nations leaders also spoke different languages. They needed interpreters in order to communicate with each other.

Interpreters had a difficult job because the issues were so important and complex. They had to convey not only the precise meaning of the words that were being said, but also the larger implications. They had to bridge the culture gap as well as the language gap. Some words, such as *ceded*, may not have had easy translations into First Nations languages.

Did the interpreters do their jobs well? Not everyone thinks so. Some argue that, because the interpreters were government employees, they were under pressure to present the government's terms in the best possible light. First Nations leaders may not have fully understood the implications of being asked, for example, to "cede, release, surrender and yield up to Her Majesty the Queen and successors forever all the lands [being included in the treaties]."

In 1973, sixteen chiefs from the Northwest Territories argued in court that their ancestors would never have signed treaties if they had fully understood the government's intentions. "In my language, there is no word for 'surrender,'" said Chief François Paulette. "I cannot describe 'surrender' to you in my language, so how do you expect my people to [have] put their X on 'surrender'?"

## NEGOTIATIONS BEGIN

When it sold its interest in Rupert's Land to the government of Canada, the Hudson's Bay Company recognized that the land transfer would bring huge changes to the lives of Aboriginal peoples. For that reason, the company made sure that the deal contained at least some protection for Aboriginal interests. The deed of surrender contained a requirement that the Canadian government be responsible for "[a]ny claims of Indians to compensation for lands required for purposes of settlement."

The settlers, though, would not wait for land questions to be resolved. They began to move into Canada's new territory in increasing numbers.

Métis leaders at Red River resisted Canadian occupation of their land until Canada was forced to negotiate Manitoba's entry into Confederation as a province. Chapter Three discusses these events.

First Nations leaders, who were already upset at being left out of the Rupert's Land sale, pressed the government for treaties. They knew of recent treaties, including the Robinson Treaties, that had been signed in the east. They hoped to get similar protection from the government, to avoid being completely displaced by the new arrivals. **Displacement** occurs when people are forced to move from their homelands.

In 1870, a large group of Anishinabé, Swampy Cree, and other First Nations converged on Lower Fort Garry to negotiate a treaty with A. G. Archibald, Manitoba's first lieutenant-governor. After days of intense negotiation, they signed the Stone Fort Treaty (Lower Fort Garry was built of stone). It later became known as Treaty One.

By the terms of Treaty One, First Nations gave up their title to 16 700 square miles (43 253 square kilometres) of land. In return, the government promised certain **treaty rights**, including reserves. A **reserve** is land set aside by the government for the exclusive use of a First Nation. Reserve sizes would be calculated for each nation on the basis of "one hundred and sixty acres [64.8 hectares] for each family of five, or in that proportion for larger or smaller families." To fulfill this obligation, the treaty promised "Her Majesty's Commissioner shall,

as soon as possible after the execution of this treaty, cause to be taken an accurate census of all the Indians inhabiting the district."

During the negotiations, Archibald assured First Nations leaders that the treaty would not restrict their people to reserves. He promised they would still have rights to hunt, fish, and trap throughout their traditional territories. This promise was not included in the written treaty, however.

Treaty One also promised the right to a gift of \$3 for each person and an annual payment of \$15 per family of five (or \$3 per person in larger or smaller families). It promised a school and made the sale of liquor on reserves illegal.

Eighteen days later, Archibald negotiated Treaty Two, the Manitoba Post Treaty. Its terms were virtually the same as the terms of Treaty One.

Beginning with Treaty Three, the agreements promised to maintain First Nations' hunting and fishing rights within traditional territories. These rights were "subject to regulation," however, and did not include areas that may "be required or taken up for settlement, mining, lumbering or other purposes."

First Nations leaders proved to be tough negotiators. Realistically, they had little choice but to sign the treaties — settlement was going to happen no matter what they did —

**These Chipewyan lost no time in flowery oratory, but came at once to business, and kept us, myself in particular, on tenterhooks for two hours. I never felt so relieved as when the rain of questions ended, and satisfied by our answers, they acquiesced in the cession.**

— Commissioner J. H. Ross, *Through the Mackenzie Basin*

Montgomery, Gaule Commissioners and the 1<sup>st</sup> of Oct  
Indian Chief and Headman to be sent  
Subscribed and set their hands to the 1<sup>st</sup> of Oct  
the twenty first day of October the year  
of our Lord one thousand eight hundred and forty five  
Signed by the parties named  
in the presence of the  
Indians - witnesses the sum  
of my first payment of  
to the Indians \$1000.00  
to the Indians \$1000.00  
Alexander Morris  
Lieutenant Governor of the  
 Creek were territories  
and John  
Indian Commissioner  
W. J. Christie  
Indian Commissioner  
Henry McElroy  
et al non plus / Steven  
McIntosh  
mark  
Atlanta, Georgia  
on the 1<sup>st</sup> of October  
in the year of our Lord  
one thousand eight hundred and forty five  
John McIntosh  
X

Treaty Four, shown here, was signed in 1874. Some First Nations who negotiated later treaties had the benefit of learning about problems in earlier numbered treaties. Treaty Six nations, for example, received promise of a medicine chest that earlier treaties did not include.

but they fought for and won important concessions. Government negotiators quickly learned not to underestimate them.

First Nations also learned from each other. Those that signed later treaties had the benefit of learning about problems that resulted from the earlier treaties. This led leaders to insist upon concessions such as larger annuity payments in later treaties.

Government negotiators also learned to be careful what they said. With their tradition of preserving and passing along information orally, First Nations leaders could remember precisely what was said and what was promised during negotiations, even years later.

## TREATIES SIX, SEVEN, AND EIGHT

The territory that later became Alberta was largely covered by Treaties Six, Seven, and Eight.

Treaty Six, which stretched through southern Saskatchewan and Alberta, was signed with the Plains Cree in 1876. The Cree had suffered a devastating smallpox epidemic in

the early 1870s and continued to suffer due to the decline of the buffalo.

Because of this, negotiators fought for and won two major concessions in Treaty Six. First, the government promised to assist the Cree if they were struck "by any pestilence, or by a general famine." The government also promised that "a medicine chest shall be kept at the house of each Indian Agent for the use and benefit of the Indians at the direction of such agent." This "medicine chest" clause later led to the provision of universal health coverage for all First Nations with treaty rights.

Treaty Seven, signed in 1877, covered most of southern Alberta. It provided the last parcel of land the government needed to complete the national railway. Terms were similar to those for Treaty Six.

Treaty Eight, which covered the northern half of Alberta plus parts of Saskatchewan, the Northwest Territories, and British Columbia, was not negotiated until 1899. The Klondike gold rush was then in full swing and the government needed to clear a path northward.

Treaty Eight was somewhat unusual because the government did not immediately set aside specific areas for reserves. "There is no immediate necessity for the general laying out of reserves or the allotting of land," the treaty commissioners wrote in their report. "It will be quite time enough to do this as advancing settlement makes necessary the surveying of the land." To this day, many Treaty Eight First Nations believe that they have yet to receive the reserve land they were promised.

## TERMS AND REALITY

In a perfect world, the signing of the treaties would have solved everyone's problems. The government would have cleared the way for immigration and settlement and First Nations would have been left with ample land, support, and resources to prosper.

The treaties were certainly successful from the government's point of view. As the negotiators moved westward, thousands of immigrants followed, eager to settle the "new" land. In the eyes of European law, First Nations' title to the land had been extinguished and western Canada was open for business.

Compared with the violent clashes south of the border, Canadian treaty negotiations were characterized by compromise and good faith. Government negotiators operated under severe constraints. They were expected to eliminate First Nations' claims to the land. Yet many tried to protect First Nations' interests — at least, their interests as the government negotiators understood them.

As a mark of good faith, treaties promised First Nations leaders that they could "know and be assured of what allowance they [were] to count upon and receive year by year from Her Majesty's bounty and benevolence." The treaties seemed to promise traditional ties of friendship.

### Problems with Implementation

From a First Nations point of view, however, the reality of the numbered treaties did not live up to promise.

Leaders soon discovered that the promises made during negotiations were not always reflected in the documents they signed. They argued frequently that the government violated either the terms or the spirit of the agreements. Some First Nations convinced the government to revise the treaties. In some cases, the government increased the annual payments and provided some of the promised farm animals and implements.

Circumstances sometimes made it difficult for the government to fulfill the terms of the treaties properly. For example, treaty talks often left out groups living in the areas included in the treaties. These groups had to be added later to existing treaties. Such adhesions continued up to the 1950s.

It was also difficult for the government to get the accurate count needed to allocate the reserves and to make treaty payments properly. If a portion of the community happened to be away at the time of counting, those people might be left off the census lists.

In other cases, the government lacked a motivation to meet treaty terms. For example, if the land was not in high demand by settlers, neither government officials nor First Nations leaders felt pressure to agree upon reserves. In areas such as northern Alberta and the Northwest Territories, pressure to assign reserve lands did not arise until the early twentieth century, when companies began exploring and exploiting natural resources in the region.

## TREATY PROMISES

Talking circles are a type of organized discussion for a topic that has no right or wrong answer. The purpose of a talking circle is to share ideas, feelings, and points of view, but not to reach a decision or consensus. You may wish to have a discussion as a class, or you may prefer to divide the class into smaller groups so that people have more opportunity to talk.



*Talking circles follow a protocol — a set of rules — to ensure that all participants are respected.*

This textbook will offer several opportunities for you to participate with your classmates in talking circle discussions. Each talking circle in this book will include one or more quotations that you may read aloud or to yourself before you begin. Each discussion includes an activity to help you put together what you learn through the discussion and your other work in the chapter.

Before you begin your first talking circle, work as a class to develop a talking circle protocol, a set of rules to govern the discussion. Talking circle protocols vary from community to community, but common practices include the principles that follow:

- Everyone has an opportunity to speak, but people can also choose not to speak.
- Only one person speaks at a time. All other participants should listen attentively until the person has stopped speaking.
- Comments should address the topic rather than comments another person has made.

## REFLECTION

Artist Gerald McMaster was born on the Red Pheasant reserve near North Battleford, Saskatchewan. His work often explores history from a First Nations perspective. *Trick or Treaty* was painted in 1990. Sir John A. Macdonald, who is pictured in the painting, was Canada's first prime minister. What do you think McMaster's perspective on the treaty process is? In your journal, write your own ideas and responses to his painting, your talking circle discussion, or any other material from this chapter.



Trick or Treaty by Gerald McMaster

The following passage is from *The Unjust Society*, an influential book written by Harold Cardinal in 1969, shortly after the federal government announced its White Paper on Indian Policy. In short, the White Paper suggested abolishing separate legal status for First Nations. Cardinal, from the Sucker Creek Reserve in Alberta, responded to the government proposal with stinging satire, eloquence, and the passion that inflamed his generation to renewed political action. The excerpt that follows contains his view on the treaties his people signed with the federal government.

To the Indians of Canada, the treaties represent an Indian Magna Carta. The treaties are important to us, because we entered into these negotiations with faith, with hope for a better life with honour. We have survived for over a century on little but that hope. Did the white man enter into them with something less in mind? Or have the heirs of the men who signed in honour somehow disavowed the obligation passed down to them? The Indians entered into the treaty negotiations as honourable men who came to deal as equals with the queen's representatives....

Our people talked with government representatives, not as beggars pleading for handouts, but as men with something to offer in return for rights they expected. To our people, this was the beginning of a contractual relationship whereby the representatives of the queen would have lasting responsibilities to the Indian people in return for the valuable lands that were ceded to them.

The treaties were the way in which the white people legitimized in the eyes of the world their presence in our country. It was an attempt to settle the terms of occupancy on a just basis, legally and morally to extinguish the legitimate claims of our people to title to the land in our country. There never has been any doubt in the minds of our people that the land in Canada belonged to them. Nor can there have been any doubt in the mind of the government

or in the minds of the white people about who owned the land, for it was upon the basis of white recognition of Indian rights that the treaties were negotiated. Otherwise, there could have been nothing to negotiate, no need for treaties. In the language of the Cree Indians, the Indian reserves are known as *the land that we kept for ourselves or the land that we did not give to the government*. In our language, *skun-gun....*

As far as we are concerned our treaty rights represent a sacred, honourable agreement between ourselves and the Canadian government that cannot be unilaterally abrogated by the government at the whim of one of its leaders unless that government is prepared to give us back title to our country.... The treaties are doubly significant and important because they represent or imply principles that are intrinsically part of the concept of justice and respect for other men's property. They have a symbolic importance to Indians that cannot be ignored.



## LOOKING BACK

As you learned in this section, the Canadian government expanded its territory through a series of treaties with First Nations that were negotiated between 1873 and 1921. How did these treaties reflect a more European than First Nations worldview? Why did First Nations leaders sign the agreements?

# Chapter One Review

## Check Your Understanding

1. This chapter includes many terms that will be important to your understanding of the rest of this book. Write a definition for and sentence using each of the terms listed below. If a term has more than one meaning, indicate this by writing more than one sentence.
  - Aboriginal rights
  - Aboriginal title
  - collective rights
  - indigenous peoples
  - individual rights
  - inherent rights
  - nation
  - numbered treaties
  - peoples
  - self-determination
  - self-government
  - sovereignty
2. What are inherent rights?
3. What is an oral tradition? How does it support an indigenous people's claim to certain rights?
4. Compare the African American civil rights movement to the Aboriginal rights movement.
5. Name an early treaty and describe how it enacts traditional First Nations worldviews.
6. Summarize Canada's colonial history as it affected Aboriginal peoples.
7. How did European worldviews differ from First Nations worldviews at the time of first contact? Why didn't these differences immediately cause conflict?
8. Explain how Pontiac's Rebellion is related to the Royal Proclamation of 1763.
9. Explain why First Nations claim the right to deal primarily with the federal government rather than other levels of government, such as the provincial or municipal governments.
10. What is the significance of the Universal Declaration of Human Rights?

11. What were the federal government's reasons for negotiating the numbered treaties? Why did First Nations agree to sign them?

12. What problems were associated with the negotiation, signing, and implementation of the numbered treaties?

## Reading and Writing

13. Write an essay supporting Aboriginal inherent rights to self-determination. You might use evidence from oral traditions as well as events from international human rights movements.

Be sure that your essay has a clear thesis and at least three paragraphs supporting your thesis. Each of these supporting paragraphs must have your ideas clearly stated and evidence to back your ideas up.

## Viewing and Representing

14. Visual communication techniques, such as cartoons, illustrations, paintings, or photographs, often convey their points much faster than words can. Create your own visual representation of a topic from this chapter, such as human rights, self-determination, or inherent rights. Be sure your project conveys your opinion on the topic.

## Going Further

15. Review newspapers and magazines to find examples from current events that show issues of individual rights or collective rights. Bring examples to class to discuss. You might make this an on-going class project throughout this course. Create a bulletin board or binder of clippings that will help you refine your ideas about rights issues in Canada and around the world.

16. Why do Aboriginal peoples in Canada have issues of common concern with indigenous peoples from other places in the world? Explain how working with international groups might benefit Aboriginal peoples in Canada.
17. Examine the photographs of the Canandaigua Treaty and the George Washington Covenant Belt on this page. Both represent the same agreement. Each object is symbolic of the different worldviews of the culture that created it. For example, one is a piece of paper and the other a belt and strings made of wampum. One has written letters that convey meaning and the other a set of symbols that convey meaning.

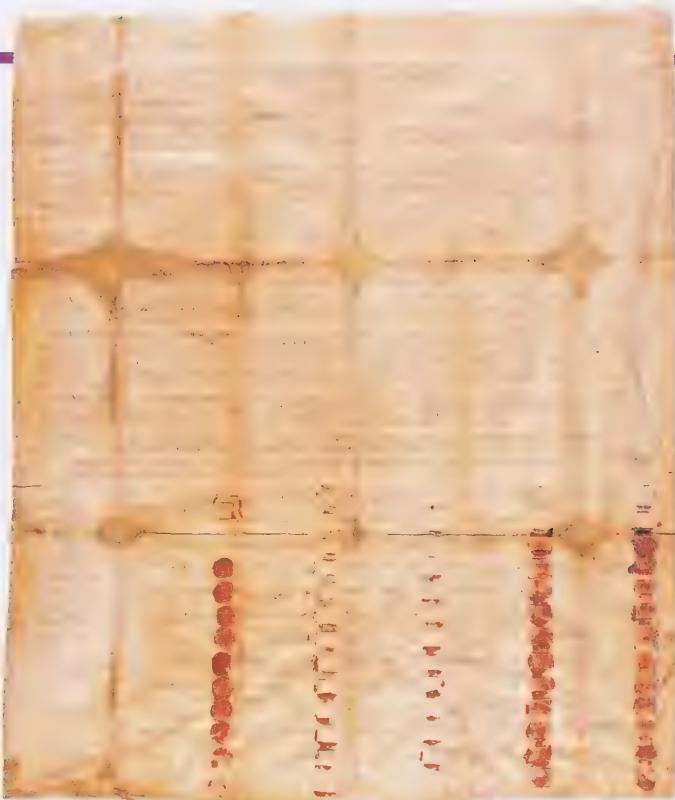
Compare the two objects as symbols. Relate as many features of each object as possible to the originating culture's worldview.

Using elements from this comparison in your opening paragraph, write an essay about Aboriginal sovereignty. You can write about conflict, clashing worldviews, self-government, or any other topic, as long as you can relate it to the comparison of the written treaty and wampum belt. This comparison could be the attention-grabbing opening to your thesis.

Ideally, your conclusion will sum up your ideas, relate back to your thesis, and refer in some way to the comparison of the Canandaigua Treaty objects that began your essay.

### LOOKING BACK

Re-read the Dene Declaration from pages 2–3. Review the chapter to find two more declarations and compare the three. What rights are described? Use some of the terms introduced in this chapter to explain your answer.



Compare the photographs of the Canandaigua Treaty (top) with the George Washington Covenant Belt (bottom). Both are from an agreement reached between the Haudenosaunee and the United States in 1794. This agreement was discussed on page 16.

## CHAPTER TWO

# Traditional Governance and Colonization

### AS YOU READ

As you learned in Chapter One, First Nations, Métis, and Inuit peoples believe they have an inherent right to sovereignty and self-government. All had fully functioning forms of government before colonization by European and Canadian governments. Inherent rights cannot be taken away by any action or decision, although the ability to exercise the rights can be. Aboriginal peoples lost the ability to exercise many of their inherent rights during the first hundred years of Canadian history.

Alberta Elder Peter O'Chiese provided the statement on pages 38–39 as part of an Elders' Think Tank to discuss Treaties Six, Seven, and Eight. O'Chiese is a well-known spiritual, cultural, and political leader in Alberta. His ancestors did not take treaty, but his insights into the agreements influence many First Nations leaders.

His guidance, and that of other Elders about the spirit and intent of treaties, makes an important contribution to self-government negotiations between First Nations organizations and the federal government. Why is oral history a significant part of interpreting treaties? Why are treaties a significant part of many First Nations' self-government negotiations? Why are treaties not part of all Aboriginal peoples' self-government negotiations?

### FOCUS QUESTIONS

As you read this chapter, consider these questions:

- ▲ What are traditional forms of First Nations, Métis, and Inuit governance?
- ▲ What values are connected to traditional forms of governance?
- ▲ How do Aboriginal cultures understand their relationship with the land?
- ▲ How were First Nations, Métis, and Inuit governance traditions affected by the formation and growth of the Dominion of Canada?
- ▲ What provisions did treaties make for self-government?
- ▲ How is the Manitoba Act significant for Métis rights?
- ▲ What is the Indian Act and how did it affect First Nations' right to self-determination?

### Symbolism of the Pipe

A statement by  
Peter O'Chiese on  
March 1, 1976, as translated  
by Harold Cardinal and  
published in *The Spirit of  
the Alberta Indian Treaties*

TODAY WE TALKED ABOUT THE POWER THAT WE WERE GIVEN FOR AS LONG AS THE SUN WAS THERE, FOR US TO USE OUR MINDS. YOU WERE asked today what were the treaties. You have talked about the aboriginal man, the first man. It is because of him that we have what there is today. There were, at that time, two aboriginal beings, and they were given separate things. Our man or our people were given one thing and that was to be kind and to have a gentle heart. We were given something that was straight so that our lives could be straight, and we were given something that was strong so that we could be strong. All of that taken together is life, and that which is talked about is passed on from generation to generation...

Sweet-grass and incense are symbols for our pipe and stem, for the gentleness that has to be for all of us who are Indian. The stem symbolizes for our people the straight road that we have to follow. When you see the pipe made out of stone, it symbolizes for our people the strength that we must have in order to keep our faith and our way of life. The fire that is

there symbolizes a source of life, wildlife, or food. So all of you who are sitting around the table talked about it today.

When the old men said, "We do not give you our timber," what they meant was that they did not give their pipe stem.

When they said, "We do not give you our grass," they meant that they did not give their sweet-grass or incense.

When our people said, "We do not give you the rock of the mountains," they meant they did not give their pipe bowl. They use the term rock out of which the pipe is made.

When they said, "We do not give you our animals," it was meant that they did not give their fire, the fire that is used in our ceremony.

All these things we have, and from there we should be able to talk about the discovery of things the white man wrote about our treaties. He wrote his treaties from his understanding and we wrote ours from our understanding.

When we go back to the point of the original men with the Indian and the white, they were made by the same creator; the creator who made both these people was kind. Because he was a creator and he was good, he dealt with both the original men with peace and fairness, so that neither of the original men would have anything to be unsatisfied about.... The other thing we should keep in mind is that since the creator dealt fairly with both the



original men, and since he tried to make them both equally happy, we also have a responsibility today, whatever we come up with, to make sure that both sides are happy.

*In Bonne Fête Canada,  
do you think artist  
Jane Ash Poitras is  
really celebrating  
Canada Day? How is  
her work ironic?*

## REFLECTION

1. Write down the main ideas from Peter O'Chiese's statement and explain each in terms of self-government, inherent rights, and treaties.
2. Jane Ash Poitras was born in Fort Chipewyan, but was raised in Edmonton by a foster family. Her style is easily recognized through its use of photographs, text, and paint in collage, as well as for the topics she addresses. Create your own collage in response to her work or to Peter O'Chiese's statement on this page.

# Traditional Governance

## AS YOU READ

Since Confederation in 1867, the federal government has played a dominant role in the lives of Aboriginal peoples in Canada. For about a century following Confederation — until the late 1960s and early 1970s — Aboriginal peoples in Canada had their self-governing abilities severely restricted by federal government legislation.

To understand how federal government decisions affected Aboriginal governance so profoundly, you must understand the nature of traditional forms of governance. Pages 38–49 describe some of the diverse traditions of government and the place of government in traditional Aboriginal communities. Before you begin reading, think about the role of government in Canada today. With a small group, discuss your ideas and list the ways in which government operates and the roles and services it provides to its citizens. As you work through this section, compare these roles to those of traditional Aboriginal governments.

THE LAND SHAPED VIRTUALLY EVERY ASPECT OF TRADITIONAL FIRST NATIONS AND INUIT LIFE. IT HELPED DETERMINE DAY-TO-DAY activities, social and political structures, language, and even art and spirituality. It lay at the centre of people's very identity. Governance for the people often meant governance for the land.

Although First Nations and Inuit people inhabited North America for thousands of years before Europeans arrived, they left little impact on the landscape. They found ways to live in balance with their environment. Their needs were the land's needs and the land's needs were their own.

## GEOGRAPHY AND GOVERNANCE

Canadian territory can be divided into six **geographic environments**: Arctic, Subarctic, Eastern Woodlands, Plains, Plateau, and Pacific Northwest. Each geographic environment provides different resources and challenges to the people who live there, shaping both their lives and their cultures. As a result, people within the same environment frequently share many similar cultural characteristics. Each geographic environment corresponds to a general **cultural environment**.

### The Arctic

Many aspects of Inuit culture directly reflect the demands of life in the Arctic. Inuit people developed many unique technologies that allowed them to live in an extreme environment. The people received much of what they needed for life



*Traditional First Nations and Inuit governments were inherently related to how each group of people lived with its specific environment. The Canada/United States borders are shown to provide contemporary reference points for these geographic regions. The borders have only existed since the end of the nineteenth century.*

from just a few resources, such as seals, caribou, and whales.

Traditional Inuit societies were built around extended family groups. Families came together in larger camps when hunting was good and moved apart when food was scarce. They built dwellings of snow, ice, skins, whalebone, driftwood, and other available materials, and designed highly specialized clothing to keep themselves warm and dry. They travelled by dogsled across the land, by *qayaq* (kayak) on the sea, and by *umiak* (large boats with bone runners on the bottom) over ice.

### The Subarctic

The Subarctic covers the largest proportion of Canada. Except for the tundra in the north, the Subarctic is largely covered by dense forests, with many lakes, rivers, and wetlands.

First Nations of the Subarctic traditionally supported themselves by hunting, trapping, and fishing, and by gathering edible plants. Like the people of the Arctic, they lived mostly in extended family groups, moving seasonally to take advantage of different resources. As a result, their home included a large territory. Family groups would gather at specific times of the year to celebrate, participate in ceremonies, and socialize with friends and relations.

### The Eastern Woodlands

In the Eastern Woodlands, migratory movements were not usually required to take advantage of the region's animal and plant resources. In the southern parts of this region, for example, people lived in year-round settlements and grew crops such as squash, corn, and beans.



*In traditional First Nations and Inuit cultures, people's sense of identity as human beings came from their relationship to the land and its resources. Each nation's specific connection to the land varied with the landscape. For example, Plains First Nations, such as those from the Blackfoot Confederacy, had ways of life and spiritual beliefs that centred on the buffalo, a significant resource of their region.*

These settlements had large populations, so the people had more structured political systems than the mobile groups of the Arctic and Subarctic.

In northern regions of the Eastern Woodlands, agriculture was less common. As a result, ways of life and political institutions reflected the needs of smaller, more mobile groups.

### The Plains

On the Plains, First Nations life revolved around the buffalo. For thousands of years, the buffalo provided the people with food, fuel, clothing, bedding, tools, ceremonial objects, and shelter. It was the centre of many spiritual traditions.

For much of the year, Plains First Nations lived in groups of 80 to 240 people. In the summer, several such groups gathered for communal buffalo hunts, social events, and ceremonies. Political institutions adapted to the size of the group, becoming more structured when larger numbers of people gathered.



*Like symbols of the buffalo, which appear in the artwork of Plains First Nations, images of salmon often appear in the work of artists with a Pacific Northwest heritage. This house post was carved by Xwa-Lack-Tun (Rick Harry) as part of the Emily Carr Institute's carving apprenticeship program. Such symbols reinforce the significance of the salmon in traditional ways of life.*

### The Plateau

First Nations of the Plateau region supported themselves by hunting, by gathering edible plants, and by fishing in the region's many rivers and streams.

For most of the year, people migrated in seasonal patterns, living in temporary wooden lodges or hide-covered tipis. In the winter, they gathered together in larger, semi-permanent villages along the rivers. Their systems of leadership and government, like those of other First Nations, adapted to the needs of the community and size of the group.

### The Pacific Northwest

In the resource-rich coastal areas of the Pacific Northwest, First Nations lived in large, relatively permanent settlements. The forests had abundant game and edible plants, and the enormous trees provided excellent building materials. The ocean offered fish, shellfish, and marine mammals, and the rivers teemed with salmon. As in the Eastern Woodlands, the high concentration of resources encouraged people to live in large groups. This resulted in highly structured social and political lives.

These geographic and cultural classifications serve as only a rough framework. First Nations and Inuit peoples of long ago did not always conform to such neat categories. Groups living in similar environments sometimes had very different ideas, languages, and lifestyles. Cultures evolved naturally, and ways of life adapted to suit specific circumstances, not arbitrary categories.

For example, the Métis culture that developed in the West was a combination of European and First

Nations traditions. This was a natural response to social and economic conditions of the fur trade, in which Europeans and First Nations were partners.

In general, however, the geographic divisions described in this section offer a way to make reasonable generalizations about highly diverse First Nations and Inuit cultures. In turn, the generalizations point to how closely the cultures are tied to particular lands.

## TRADITIONAL TERRITORIES

To the eyes of the first European arrivals, Canada looked like a wilderness, largely uninhabited and undeveloped. The Europeans came from a continent of cities, factories, and farms. To them, Canada was a land of untapped potential.

To First Nations and Inuit eyes, of course, the land looked very different. It was their home, the provider of life — not a resource to be tamed and exploited.

Most First Nations people did not see one particular spot on the landscape as home, the way somebody from London or Paris might. Their way of life encompassed large territories. Even groups from the Pacific Northwest and Eastern Woodlands used large territories around their permanent settlements. Many people moved from place to place throughout the year in a **circular seasonal time frame**. Their movements followed traditional trails that corresponded to seasonal change and the availability of resources. Land and resources might be shared, depending on circumstances. Territories might overlap or shift

over time, but people generally lived in much the same territory as their ancestors and travelled the same routes each season.

As part of seasonal movements, people encountered other groups and had various ways of ensuring harmonious relations. These included gift-giving, intermarriage, treaties, and other kinds of alliances.

At certain times of the year, many different groups would gather at specific locations to trade, renew alliances, and socialize. In Alberta, two regular meeting areas included Head-Smashed-In in southern Alberta and Ena K'ering Ká Tuwe (Cree Burn Lake) in northern Alberta. People gathered regularly at these spots to use communal resources and trade with one another.

Despite a certain degree of territorial flexibility, First Nations derived much of their identity from their relationship with specific places on the landscape. These relationships did not change. Many First Nations' names reflect the environments in which they lived. The Huron called themselves Ouendat — “the people of the peninsula” — because their territory was surrounded on three sides by water. The Maliseet of New Brunswick call themselves Welestuk — “of the beautiful river.” The Gitskan are the “people of the Skeena [River]” and the Toquaht are the “people of the narrow beach.”

The people of such territories had many rules about respecting and preserving the integrity of the area. Ensuring that the Skeena River was healthy was tantamount to ensuring that the Gitskan, the people of the river, were healthy.

## CONTROLLED BURNS

Many traditional forms of Aboriginal governance reflected the need to care for the land. One traditional technique was the use of controlled burns — deliberately set fires — to increase the diversity and productivity of animals and plants. Through traditional knowledge, gained from generations of observation and experience passed down through the oral tradition, First Nations knew

that more abundant game and plant life lived in areas regenerating after a fire. The nutrients from the ashes of the burned vegetation encouraged the rapid growth of trees, shrubs, grasses, legumes, bulbs, berries, and other plants. The lush new growth attracted bison, moose, deer, elk, hares, and grouse, as well as predators, such as coyotes, wolves, and bears. Rivers and lake shores cleared of dead reeds and grasses attracted beavers and muskrat.

The ways First Nations used fire varied according to their needs and the time of year. Controlled burns were used to create or enlarge meadows for game, to clear sloughs and lake shores of dead plant material, to clear trails of brush to make travel on foot or horseback easier, and to clear forested areas of deadwood.

As contemporary forest managers now understand, deliberately set fires in early spring or late autumn are less dangerous than natural fires started by lightning in the summer. Humidity and wet vegetation in the spring and autumn help to keep the fires small and easy to control.



*As First Nations have known for generations, contemporary forest managers have learned that periodic fires help maintain healthy forest ecosystems.*

### REFLECTION

How are traditional land management techniques a form of governance? How might First Nations and Europeans see this aspect of governance differently?



## LAND AND GOVERNANCE

The excerpt on this page is from research by Paulette Fox and Duane Mistaken Chief, members of the Blood Tribe. Fox, mother of five-year-old Austin, works in environmental research and protection and has completed her Master of Science thesis. She will graduate in June 2005. Mistaken Chief is a past member of the litskinaiyiiks (Horn society). Along with others, he assisted in bringing back the Kakkoiksi (Dove society). He works at Red Crow Community College, where he researches and teaches Blackfoot Language and Culture.



Paulette Fox

For the Blackfoot, the land is a source of life, just as a human mother is a source of life. The Rocky Mountains border the traditional territory on the west; the Blackfoot people refer to these mountains as the Backbone of the Earth, or *mistaakii*. In other words, She carries us on her back. In an interview, Pablo Russell, a member of the Blood Tribe in Southern Alberta, said

*...Our hair is the grass on the prairie; our bones are the mountains; our veins and arteries are rivers, streams, creeks; our breath is the wind; our heart is in the middle of the earth.... So for us Mother Earth is more than just a provider. For us, She's our teacher, our protector; we learn from Her... we heal from Her.*

From this quotation, we see that, in many ways, the land is alive, it is real, it is the Mother of all life on earth. The Blackfoot hunted and harvested for their sustenance. As a result, the minerals in their bodies and the minerals in the plants and animals were very much the same, and, therefore, there was equilibrium between the people and the surrounding environment. So, we begin to see, as Mr. Russell implies, that the Blackfoot are the land.



Duane Mistaken Chief

How do the Blackfoot view the land? They view the land in terms of their alliances, as themselves and as other life forms. Therefore, when they view the land, they see themselves and all life. So when managing the land, they are really managing the relationships with their family, friends, and also their relationships with plants and animals, like the beaver and the bison. These relationships are critical to understanding the way in which the Blackfoot view and in turn manage the land they call *nitawahsinnaan*. Translated, this means source of food/sustenance.

[During the winter, various Blackfoot clans] would come together and this was the time to tell stories, to carry out the oral custom. After winter, the clans would move to other parts of the territory, and at these times, Russell provides that the people "would move every three days so the grass could stand back up, we didn't overuse an area." He also comments that if the clans camped in twos, or more, they would camp a couple kilometres apart. They wanted to be able to have clean water and this space between them allowed the water to filter itself and be clean for downstream users. Some clans preferred the hummocky terrain of the prairie regions and were named for this. Some preferred the mountain terrain and were named for this. No matter their preference, wherever they were, they had a responsibility to care for and treat the land with respect.

### REFLECTION

In your own words, explain the form of traditional governance described by Fox and Mistaken Chief.

## TRADITIONAL GOVERNMENT

Aboriginal people's traditional leadership and decision-making methods were closely connected to how groups lived on the land. For example, small groups that migrated seasonally had different needs from large groups that lived in permanent settlements.

Small groups can be more flexible about leadership and decision making because it is easier to ensure that everyone has a voice. Leaders can be called upon when needed, and group members consulted informally. For example, in migratory groups of the Plains, Arctic, and Subarctic, leaders were often not selected in a formal way. They were more often recognized by their community in a process that was informal and fluid, depending on the needs of the group. Members of a community might turn consistently to particular individuals for guidance on spiritual matters and others for guidance on hunting or conflict resolution. Sometimes several individuals would be held in high regard as leaders for a group.

Other circumstances, such as large ceremonial gatherings or communal buffalo hunts, might require more formal leadership and peacekeeping. Each nation and community had its own ways of dealing with large groups, but governance always responded to the needs of the people and the land.

For example, the Dunne-za did not have laws. According to Dominique Habitant, a Dunne-za First Nation Elder, the people instead asked Teegay Ontlay (He Who Made the World) for guidance.



*Blueberry pickers like Flora Venn, pictured here at La Ronge, Saskatchewan, traditionally scattered a few berries and prayed as a way of giving back to the earth and saying thank you. How could this spiritual practice be considered a technique of land management?*

People would then get direction through dreams or signs. Sometimes a prophet or wise person would get special knowledge.

In traditional worldviews, one area of life cannot be separated from another. Government was traditionally not an aspect of society that was separate from other aspects, such as hunting, spirituality, and culture. All were woven into customs and practices that made a way of life. The source for all customs and laws was the Creator.

For many First Nations, the Creator's laws were apparent in the way the world functioned. The Creator's laws governed all of existence, not just human interactions. People were reminded how they should live by observing the natural world around them — animals, plants, weather, stars, and the moon. Laws of governance could not conflict with economic, social, or spiritual laws, because all followed natural laws. Natural laws are the Creator's laws written upon the world.

## LAND GOVERNANCE AND THE SUNDANCE

Paulette Fox and Duane Mistaken Chief, whose work you began reading about on page 42, also write about the *Akoka'tssin* (Sundance) and its significance in terms of Blackfoot land management and governance. Their work demonstrates how traditional Blackfoot culture expressed and reinforced its system of law in daily life, symbolism, and ceremonial gatherings. An excerpt from their work follows.

There are four tribes in the Blackfoot Confederacy. Each moved and had their own general areas that they occupied. In turn, each tribe had several clans. Clans would gather resources and then share them. You might think of clans like a group of family and friends working together....

Throughout Blackfoot territory are ancient rock formations that record a lived experience that goes back many generations. Allan Wolf Leg, member of the Siksika Nation, talks about the rock formations as “memorializing” some important aspects of the Blackfoot way of life; the Blackfoot refer to this as *kipaitapiisinnooni*. These memorials or monuments became *living* memorials about 2000 years ago. The rock formations were visited but no new ones were constructed. Instead, a living circle of clans was formed once a year, during *Akoka'tssin*, the “time of all people camping together”: the Sundance. Inside the living circle are Societies.

Wolf Leg talks about these Societies as law libraries. The people are walking files who record the lived experience and the relationship with the surrounding environment is renewed in the ceremony processes. The rules of these Societies make up the rules of governance, and because the people were so close to the land as in their relationships, it also translates as the rules of land governance.

The roles of clans and Societies are interconnected. In this diagram of the Kainai *Akoka'tssin*, the clans are on the outside, or the rim of the circle. In this way they are protectors of the Societies, who in turn hold sacred, holy information. These are the laws. This information is meant only for Society members, but all the people take part in feasts. The Societies that feed the people are, in the words of Beverly Hungry Wolf, essentially *giving them life*. And life is sacred.

Each clan has its own specific place in the circle and in turn it has its own region in the territory that they occupy. In this way, the direction in the circle where they set up camp for the *Akoka'tssin* also extends to the land, *nitawahsinnaan*. The way they come together to make a living memorial, they also leave and go about their business, keeping in mind these ways of the *Akoka'tssin*.

### Your Project

Using correct protocol, invite an Elder to visit your class to discuss his or her culture’s traditional land management or governance system. How was this system an integral, living part of people’s lives? How did the people use various types of symbolism and expression to reinforce their system of governance?



## MÉTIS GOVERNANCE

Traditional Métis governance was also tied to the land, but in a different way than First Nations and Inuit governance. Like many First Nations, Métis people at Red River relied upon the buffalo hunt for food, clothing, and trade. Hundreds of men, women, and children needed to be organized and prepared for their roles in the hunt. At the beginning of each hunt, captains, soldiers, and guides would be selected by the group, with one captain as senior leader. These leaders formed a council that developed strict rules to ensure the hunt's success and to deal with any problems.

This structure and style of leadership was easily adapted to military situations, which was part of the reason Métis people were a powerful force in situations of conflict. Métis history includes many military victories, such as the Battle of Seven Oaks in 1816 and the Battle of Grand Coteau in 1851.

Métis settlements had organized systems for governing life outside the hunt as well. Rules reflected the values and priorities of the community. As early as 1870, the Métis people from the Lac Ste Anne, St. Albert, and St. Joachim parishes in present-day Alberta had a comprehensive set of laws for their communities, along with a clear system for enforcement. These laws are known as the Laws of St. Albert.

Church leaders were instrumental in developing the laws, reflecting the cultural importance of the Roman Catholic Church to the communities. A number of the laws reflected moral attitudes about



Around 1892, when this photograph of St. Albert was taken, the Roman Catholic mission played a dominant role in the lives of Métis people in the area. The mission is visible on the hill to the left of centre.

correct behaviour that came from the church's teachings. However, the rules also reflected how the community made their living off the land. Of the thirty-nine Laws of St. Albert, fourteen dealt with horses, cattle, and the management of land and fences. The importance of horses to the community is clearly revealed by comparing the penalties for offences. The fine for horse theft — four pounds, ten shillings — was the same as the fine for assaulting a person with a weapon.

### Rules of the Buffalo Hunt at Pembina, 1840

1. No buffalo to be run on the Sabbath-day.
2. No party to fork off, lag behind, or go before, without permission.
3. No person or party to run buffalo before the general order.
4. Every captain with his men, in turn, to patrol the camp, and keep guard.
5. For the first trespass against these laws, the offender to have his saddle and bridle cut up.
6. For the second offence, the coat to be taken off the offender's back, and be cut up.
7. For the third offence, the offender to be flogged.
8. Any person convicted of theft, even to the value of sinew, to be brought to the middle of the camp, and the crier to call out his or her name, three times, adding the word "Thief" at each time.

— from *Métis Land Rights in Alberta: A Political History*

## ABORIGINAL LEADERS AND LANGUAGES

Blackfoot	<i>kinniina</i> (head chief, literally “chief with the medallion”)
Cree	<i>onikanîw</i> (leader)
Dene Sųłiné	<i>k'o theri</i> (male chief, literally “big boss”) <i>k'o teri ts'ekwi</i> (female chief) <i>naiyati</i> (council, literally “they get together to discuss something”)
Dené Tha'	<i>ndagha lo ndadedi</i> (the person who stands up first for us)
Dunne-za	<i>maytee</i> (chief)
Inuktitut/ Inuvialuktun	1. <i>hivulliuktit</i> (person who is a leader) 2. <i>itqillit ataningat</i> (First Nations leader) 3. <i>atanikpak</i> (a person who people look up to, literally the “big boss”)
Métis Cree	<i>kiskinoh'tahi wew</i> (leader)
Michif	1. <i>chef</i> 2. <i>la tet</i> 3. <i>le bos</i>
Nakoda	<i>hunga</i> (chief)
Saulteaux	1. <i>okimahkan</i> (chief) 2. <i>kikitowinini</i> (band councillor)
Tsuu T'ina	<i>ha ki gi</i> (chief)

## ABORIGINAL LEADERSHIP THEN AND NOW

In Métis history books, leaders are individuals with gumption and fire, people like Gabriel Dumont and Louis Riel. They are crisis leaders who emerge when Métis communities are threatened. They fight for their people’s rights, without any kind of personal agenda.

However, these leaders were not the only or even most common kind of leader. Many more Métis leaders, like those of First Nations and Inuit peoples, were admired for particular skills and abilities. They led because others looked to them for advice and guidance.

In Aboriginal communities today, leadership can be informal and more traditional, or formal and more contemporary. Some people lead with a combination of both styles.

Formal leadership is structured and involves governance over a particular group, often for a fairly long period of time. Expectations are clear and the leader has assigned



Athletic competition offers many opportunities for individuals to excel and become role models for others. The North American Indigenous Games (NAIG) were first held in 1990 in Edmonton. First Nations people from Alberta, such as Willie Littlechild and John Fletcher, were instrumental in the vision guiding the formation of the games. The NAIG offers many young Aboriginal people the opportunity to meet and compete against one another in a variety of sports.

What Aboriginal athletes can you name? In what sports do they excel? Do you consider them leaders? Explain why or why not.



Team Alberta is shown here at the North American Indigenous Games in 1995, which were held in Minneapolis, Minnesota.

duties. Chiefs and band councillors are the most obvious example.

Informal leadership is less structured. Informal leaders often evolve as others naturally turn to them for guidance because of their skill, experience, or wisdom. In traditional societies, someone who was a skilled hunter might act as leader of a hunt and then, when the hunt was over, return to his usual position in the group. Another leader might be a gifted artist, speaker, cook, or storyteller.

The characteristic of many Aboriginal leaders that makes them distinct from many non-Aboriginal

leaders is that they often do not seek leadership roles. Even political leaders who run for office and are elected through popular vote frequently take this step only at the request of Elders or others in their community.

Persistence and the ability to make a difference are valued leadership qualities in both Aboriginal and non-Aboriginal communities. Both cultures also require that leaders foster the trust of their followers. The best leaders, whether formal or informal, are those who inspire others to achieve tasks and attain high goals.

## COMPARING CULTURAL FORMS OF GOVERNANCE

How does culture affect systems of government?

### WHAT TO DO

1. Research traditional Aboriginal leadership and government systems through oral history and other stories from oral traditions. You might use published collections of Elders' stories or, if possible, approach an Elder from a local community to share knowledge with you. If you do approach a community Elder, be sure to use proper protocol.
2. Examine ideas of leadership in non-Aboriginal society. You might look at news stories about people considered to be leaders, biographies, books about leadership skills, or even career ads for management positions. What leadership qualities and styles seem to be most desired in non-Aboriginal society?
3. Create a collage or other work of art that captures the ideas you find in your research. Consider using symbolism appropriate to the leadership style you are trying to convey.
4. Present your work to your class. What do leadership styles convey about a people's culture? Are there significant differences between contemporary Aboriginal leadership and non-Aboriginal leadership? Explain your answer with specific examples.



Issues for Investigation



## ROLE OF ELDERS IN THE SCHOOL

Elders are traditional leaders found in all Aboriginal communities. Yet their precise role can be difficult to pin down. Some are keepers of traditional ceremonies and practices. Others have special kinds of knowledge or wisdom. However, their leadership roles are usually informal. Finding an Elder can take many discussions with community members.



*Bob Cardinal has been an Elder at Amiskwaciy Academy for many years.*

**Humility is an important part of being an Elder.** For example, once someone quite bluntly asked me “Are you a pipe carrier?” I replied that the pipe carries me. I’m honoured to use it.

I don’t proclaim who I am, but when protocol (tobacco) is made, that’s when you come as an Elder. Being an Elder is being a servant of our Creator, of the people, and lastly of yourself.

The first time I was called an Elder was ten or fifteen years ago. I was in a

large group where everyone introduced themselves. I said that I was an *oskapis*, a cultural helper. An old man who I didn’t know, an Elder, said I was “a baby Elder.” I’m just learning.

Being an Elder is learning how to discipline yourself in a spiritual manner. Being a humble servant of the Creator is to walk where no one has walked before and to open doors to anyone who wants to listen.

Elders have earned the respect of the community. I try to follow the teachings of Joe P. Cardinal, whose gentle, patient, humble wisdom showed me that Elders are people who walk softly on Mother Earth. If you follow your heart, you cannot go wrong. The greatest gift is love. With anger you cannot grow anything.

If you respect other people and the ceremonies, that respect comes back to you.

— Bob Cardinal, Enoch First Nation

Amiskwaciy Academy in Edmonton is a high school that operates with Aboriginal values and beliefs at its core. In contrast to informal leadership roles, the school has several Elders on staff to assist with various functions. Assistant Principal Theresa Cardinal wrote the description of Elders’ roles at Amiskwaciy that follows.

### Summary

The title Elder does not necessarily mean a certain age. In Aboriginal society, one is designated an Elder after acquiring significant wisdom, experience, and knowledge, and after he or she has been accepted by the community as worthy of the title. Some Elders possess a wide range of knowledge and skill in several areas. One Elder may be recognized for expertise in the field of past, present, and future politics, while another may be recognized for expertise in oral history, storytelling, legends, spiritual beliefs, or arts. When Elders share, the traditional knowledge can expand a student’s insight beyond the perspectives of the teacher and classroom resources.

Prior to approaching an Elder to share his or her knowledge, it is essential that the individual seeking information initiate the cycle of giving and receiving through an appropriate offering. This offering represents respect and appreciation for the knowledge that will be shared by the Elder.

I was sent to the Fourth World Women's Conference (Beijing, 1995) on behalf of the National Métis Women of Canada. I was co-chair of the Canadian Beijing Facilitating Committee. When the meetings got going, I was very busy and hadn't been to the Indigenous Women's Caucus tent for two days. I remember rushing over to the tent and into a circle of women. I heard someone say "Here comes our Elder," and I looked behind me to see who they were talking about. When I realized they meant me, I was shocked. That was the first time anyone honoured me with the title of Elder. Shortly after that time, I was named to the provincial Elder's Council for the Métis Nation and have been an Elder Advisor at Amiskwaciy Academy in Edmonton for five years.

— Marge Friedel, Métis Nation of Alberta



What role do Elders, such as Marge Friedel, shown here with a student at Amiskwaciy Academy in Edmonton, have in the future of indigenous peoples' cultures? Why do Elders and youth often share a special relationship?

## Responsibilities

1. Provide guidance, support, and counselling to students and staff.
2. Provide support and offer advice to the teaching staff.
3. Conduct ceremonies and other spiritual events as required.
4. Assist in the development of culturally relevant lesson plans.
5. Assist in the instruction of crafts and other culturally related activities.
6. Offer individual and group consultations. Be able to lead healing circles.
7. Provide cultural meanings to events and experiences.
8. Assist in the recording and collection of various cultural events or activities.
9. Provide support within resolution circles that deal with crisis or re-entry to school after suspension.
10. Provide support for staff for de-briefing, especially after stressful situations in school or other locations.

## REFLECTION

How are Elders leaders at Amiskwaciy Academy? How does their leadership differ from other leaders at the school, such as teachers or administrators? If you have Elders available as resources in your school, invite them to your class to discuss their ideas about leadership.

## LOOKING BACK

In your own words, explain the historical relationship between First Nations and Inuit peoples and their traditional territories. Describe how this relationship was seen in traditional forms of government. How was government related to other aspects of life, such as spirituality? How was traditional Métis governance different from First Nations traditions? What aspect of Métis culture likely influenced these differences?

# Self-Government and the Growth of Canada

## AS YOU READ

As you learned in the last section, traditional Aboriginal forms of government are intimately connected to ways of life on the land. Laws govern not only people's relationships with one another, but also with other groups of people, and with the land and its resources.

Pages 50–57 examine how Aboriginal peoples' self-governance was impacted by the creation and early growth of the Dominion of Canada. As you read, think about how and why First Nations, Métis, and Inuit peoples' relationships with the federal government followed different paths. As you read, try to answer the questions that follow: What powers of self-government are essential? What attitudes shaped federal government policies? What were First Nations' expectations for self-government as established by the numbered treaties? What happened to First Nations' cultural and political traditions under the Indian Act? How were Inuit and Métis peoples' self-government affected by federal government attitudes and policies?

AS YOU LEARNED IN CHAPTER ONE, THE NUMBERED TREATIES ESTABLISHED THE BASIS UPON WHICH CANADA EXPANDED ITS TERRITORY AS A NATION AND UPON WHICH FIRST NATIONS TOOK THEIR PLACE WITHIN THE COUNTRY.

- These treaties and the legislation enacted to implement them continue to shape the federal government's role in the lives and governments of First Nations people.

- Métis and Inuit peoples' relationships with the federal government followed different paths. Neither group signed a treaty with Canada. This has led to relationships with the federal government that differ from each other and from First Nations.



*This silver medal, which has Queen Victoria's head on the back, was presented to the chiefs and councilors of Treaty Eight. Most First Nations leaders argue that the right of First Nations people to self-government has never been given or taken away. How does the symbolism on this medal support their position?*

## WESTERN FIRST NATIONS IN EARLY CANADA

The federal government began making treaties with First Nations soon after Confederation. Between 1871 and 1921, they signed eleven numbered treaties with First Nations across the West.

First Nations that signed treaties believed that the agreements made provisions for their traditional way of life, including government, to continue. The basis for this belief includes oral promises made during treaty negotiations and interpretations of written treaty terms.

Also significant is the nature of traditional forms and roles of government in the lives of First Nations people. For example, to First Nations treaty negotiators, a guarantee of hunting rights was not and could not be separate from a guarantee of traditional forms of government. For many First Nations, the people who led hunting parties *were* the government, or at least a significant part of it. Traditional hunting could not exist without traditional leadership.

For federal government treaty negotiators, however, culture, religion, economy, and government were separate, although intersecting aspects of society. Each aspect had its own set of institutions and priorities. A guarantee of hunting rights would have meant a guarantee of some economic independence, but government would not likely have been

considered part of the promise. To government negotiators, the right to traditional government would need explicit mention in the treaty agreement in order for it to be legitimate.

Furthermore, in a European worldview, priorities from one aspect of life could compete with priorities from another. Cultural priorities could compete with political priorities, for example. The best resolution of conflicts between different priorities would be one that satisfied a majority of people.

From a First Nations worldview, all aspects of life followed one set of laws and priorities: those of the Creator. Conflicts would be resolved with a holistic view to the resolution that would best satisfy these laws.

Given these different understandings of how the world functioned, it is not surprising that treaty negotiators misunderstood one another. When treaties included the statement that follows, for example, it is likely that First Nations believed their rights to their traditional way of life, including the right to govern themselves, were guaranteed:

Her majesty further agrees with her said Indians that they, the said Indians, shall have the right to pursue their avocations of hunting and fishing throughout the tract surrendered as hereinbefore described...

This understanding, plus oral testimony from Elders who were witnesses to the signing, give clear evidence that First Nations did not believe they were giving up their right to govern themselves when they signed the treaties.



*The presence of religious officials at treaty negotiations made some First Nations more willing to trust government officials. Here Father Lacombe is shown to the right of commissioner J. A. Cote at Athabasca Landing, Alberta, in 1899.*

Church officials in Treaty Eight and the Royal Canadian Mounted Police in Treaty Seven were influential in convincing First Nations to trust treaty negotiators. Their presence and support of the agreements often tipped the scale in terms of treaty acceptance, as shown in the statement that follows about Treaty Eight.

*My dad was there when they first signed the treaty. It took two days for the whitemen to convince Mikisew (Metkitin [Cree leader]) to take the treaty money. The whitemen were the Queen's workers, government people. On the third day a priest went with the whitemen to see Mikisew. He told Mikisew to "take the money and nothing would be taken away from your people, for example, hunting and trapping rights." Mikisew took the money, which was \$25.00 then.*

— Mary Rose Waquan,  
*Inkonze: The Stones of Traditional Knowledge*

In many cases, these influential officials felt misled by government negotiators in the decades following the treaty signings. Bishop Breynat states his disillusionment in the passage that follows.

*I was present at nearly all places in the north when the treaties were signed. In many places it was my influence which resulted in the Indians signing these documents.... It has been a great personal disappointment to see my word broken by the thoughtlessness of a nation.*

— Bishop Breynat, *Inkonze: The Stones of Traditional Knowledge*



## INTERPRETING TREATIES AND SELF-GOVERNMENT

Self-government, *aawattokakihtsimaani* in Blackfoot, *nehiyaw pimipayhisôwin* in Cree, and *i daa na hih na naa a* (we will determine for ourselves) in Nakoda, is an inherent part of First Nations life, identity, and spirituality. The Cree describe inherent rights as *pimâtisewin tân'si Kisemanito kâ kî isi miyikoyahk* (to live as the Creator intended). Similarly, the Blackfoot describe inherent rights as *iitoomita'paisso'p anno ksaahkoi* (The Creator gave us our way of life. We were here first on the land.) Given the significance of these ways of life, it is highly unlikely that First Nations would have willingly given them up during treaty negotiations. This concurs with oral history about treaty negotiations. As written in a 1979 paper titled "The First Nations: Indian Government and the Canadian Confederation,"

First Nations maintain that the written treaty documents do not adequately contain the full sense of agreement that was reached during negotiations. This full spirit and intent of the agreement can be accessed through oral history. Oral history indicates that First Nations ceded only specific, named rights, while retaining all others.... they granted some of their powers to the Crown in exchange for certain benefits and rights... Indian people entered into a political arrangement with the Crown so that they could live as Indian people forever... By signing the treaties, the Indian nations created an ongoing relationship with the Crown in Indian social and economic development in exchange for lands surrendered.

— Delia Opekokew for the Federation of Saskatchewan Indians

### What was the spirit and intent of Treaties Six, Seven, and Eight with respect to First Nations self-government?

#### WHAT TO DO

1. Working with a small group, research the terms of Treaties Six, Seven, and Eight. All can be accessed online at the Indian and Northern Affairs Web site at [www.ainc-inac.gc.ca](http://www.ainc-inac.gc.ca). You can also access an interpretation of each treaty at the same site. Which treaty area do you live in? From the federal government's perspective, how would each treaty be interpreted in terms of First Nations self-government? Use evidence from the treaties to support your ideas.
2. Find oral history accounts of the three treaties. You might refer to books or Elders from a local community. If you consult with Elders, be sure to use correct protocol. What are First Nations perspectives on the intentions of each treaty with respect to self-government?
3. Within your group, compare the written text of the treaties with the spirit and intent of the treaties as provided by oral history. How do you interpret each in terms of self-government? Justify your ideas using specific evidence from treaty terms or oral history.  
Keep copies of the treaty terms and a record of where you found the best oral history accounts. You will use these resources again in Chapter Three.

#### Thinking About Your Project

How do different worldviews account for the different perspectives on how treaties should be interpreted? How has this resulted in conflict over time?

## INUIT PEOPLE IN EARLY CANADA

In early Canadian history, Inuit land was not in demand for settlement or resources, so the Inuit way of life was left relatively undisturbed. In these early years, the federal government tended to consider Inuit people to be the same as First Nations. For example, although liquor laws that applied to First Nations reserves did not legally apply to Inuit peoples, many Canadian administrators in the Arctic applied them in northern communities.

Federal government attitudes of paternalism that characterized its relationship with First Nations applied to Inuit people as well. For example, Inuit did not traditionally have last names. Rather than accommodate this tradition, the government issued “dog tags” to Inuit people, with identification numbers inscribed on them. All Inuit were required to use these numbers in dealing with the federal government. Today, some Inuit still carry birth certificates identifying them with a last name like E3-568.

Whereas treaty agreements required legislation to enact them, the federal government had more flexibility to make and revoke policies affecting the Inuit. For example, the government established a relocation program that affected many Inuit communities for four decades, beginning in the 1930s. The government was, in part, responding to problems caused by decreasing game animals; its decisions were made without



consultation with the Inuit people affected. As a result, communities were sometimes forcibly relocated to areas where environmental conditions made life even more difficult.

The federal government felt no pressure to settle agreements with Inuit people until the 1960s, when companies began to explore the Arctic with the goal of exploiting the region’s natural resources. By then, Inuit had begun organizing themselves and were prepared to negotiate agreements that would serve their people. These agreements, in the form of land claims, are part of Canada’s modern treaty agreements. You will read more about these agreements in Chapters Three and Four.

*The federal government relocated many Inuit communities in an effort to maintain control of the Arctic during the early years of the Cold War with the Union of Soviet Socialist Republics. Here a group of Inuit in what is now Pangnirtuuq, Nunavut, watch the arrival of an Eastern Arctic patrol vessel in 1951.*

**The government's long-standing indifference to our part of the country was reflected in a remark by former prime minister Louis St. Laurent, who admitted in the early 1950s that the government "had administered those vast territories of the north in an almost continuing absence of mind." In the light of the historical experience of other native peoples in the south, we in the North should be thankful for this lack of interest on the government's part.**

**Our historical experience leads us to take a slightly different approach to the current discussions on aboriginal rights. Inasmuch as our culture and economy still remain closely tied to the land we see our chief task in the aboriginal rights debate as securing a guarantee from the federal government for the continuation of our historical rights.**

— Peter Ittinuar, *The Quest for Justice: Aboriginal Peoples and Aboriginal Rights*

## MÉTIS PEOPLE IN EARLY CANADA

By the early nineteenth century, Métis people could claim their own culture and sense of nationhood. In 1818, William McGillivray of the North West Company wrote “[T]hey one and all look upon themselves as members of an independent tribe of natives, entitled to a property in the soil, to a flag of their own, and to protection from the British government.” Despite this strong sense of cultural identity, Métis people were not, at first, recognized by the Canadian government as a distinct group of Aboriginal people with rights of its own.

In the federal government's eyes, Métis people were either First Nations or Euro-Canadian. Métis people who lived according to First Nations traditions were considered First Nations, even if they did not belong to a First Nations community. Those who lived more in line with European traditions were considered European.

This dismissive attitude towards Métis culture meant the government did not consider it necessary to sign treaties with Métis groups as they did with First Nations. Unlike Inuit land, however, Métis land was among the first areas the Canadian government wanted to bring under its administration.

*The Métis flag was first flown in 1816, the same year many historians mark as the birth of the Métis Nation with the Battle of Seven Oaks. The infinity symbol represents the coming together of two distinct cultures to produce the Métis people. Here the flag is carried as part of Back to Batoche memorials in 2001.*



## Red River Resistance

In 1869, the two-year-old Canadian government was uneasy about its ability to control the area that was to become western Canada. It knew the Americans had their eye on the region and feared they would move in to take it over. That year the government received the Hudson's Bay Company's agreement to sell Rupert's Land.

The Canadians showed no great concern for the rights or culture of the existing communities of the area, including the Métis settlement in the Red River Valley. Even before officially taking charge of Rupert's Land, the Canadian government sent in a survey team that showed plans to reorganize the system of land distribution at Red River.

Fearing their rights would be overridden by the new Canadian government, Métis people at the settlement demanded their right to enter Confederation on their own terms. Louis Riel emerged as the spokesperson for the Red River settlement and, in 1870, Métis people challenged Canada's right to their homeland in an event known as the Red River Resistance. Riel insisted that Red River was prepared to join Canada, but wanted guarantees of the Métis right to continue their culture.

## The Manitoba Act

Métis resistance forced the Canadian government to recognize the rights of the Red River Métis. The Canadians negotiated with a delegation from the settlement and agreed upon terms for the entry of Manitoba into Confederation as a province. The

We may be a small community and a Half-breed community at that — but we are men, free and spirited men and we will not allow even the Dominion of Canada to trample on our rights.

— Louis Riel, *Strangers in Blood*

Manitoba Act, which enacted the agreement, contained most of the guarantees the Métis people under Riel had demanded in the resistance.

The Manitoba Act is significant today for several reasons. It explicitly recognized that Métis people held “Indian Title” to Manitoba. This means the government recognized that Métis people have Aboriginal rights, such as those of self-determination and self-government.

The act went on to establish an exchange. The Canadian government wished to avoid future Métis claims to territory, so it promised parcels of land to families that would give up their Aboriginal rights. The act promised to set aside lands “for the benefit of the families of the half-breed residents.” Section 32 of the act went on to guarantee that those settlers “in peaceable possession of tracts of land at the time of the transfer to Canada” would be allowed to keep their land.

In practice, however, very little land ended up in Métis people’s hands. The government was slow to recognize the title of existing communities, such as the Red River settlement. The system it established to give away land used **scrip**, a paper certificate the bearer could exchange for land. For many reasons,



*At the time the government issued scrip, many Métis people had little interest in farming. Most preferred a traditional life of hunting and trapping. This made it easy for banks and developers to buy scrip for bargain prices.*

including fraud, confusion, greed, and incompetence, the scrip process was a disaster for Métis people.

The few land grants that were distributed scattered families throughout Manitoba, rather than creating a Métis homeland. Many people sold their allotment — 240 acres (about 97.1 hectares) — for much-needed cash. Banks, speculators, and developers ended up with most of the land. By the early 1880s, many of Manitoba’s Métis people had left the province, hoping to build a better life farther west.

The Métis attitude towards the Canadian federal government indicated a willingness to fit within the Euro-Canadian system. However, in exchange, they wanted a guarantee of land, language, and other rights. They demanded their right as an independent people to negotiate the terms of their entry into Canada. Once they secured their land base in Manitoba, status as a province should have guaranteed them a voice in the development of their province



Louis Riel was an astute Métis leader during the 1870 resistance at Red River. He was able to use the Canadian legal system to the benefit of his people.

and Canada. When the land transfer failed, however, many Métis people fell through the cracks.

The 1991 *Report of the Royal Commission on Aboriginal Peoples* concluded that “the promises made to the Métis population of Manitoba in return for their agreement to enter Confederation were violated or ignored on a massive scale.... It is certainly no exaggeration to describe it as a national disgrace.”

Many Métis leaders argue today that this historic violation gives them a continuing claim to the Aboriginal rights recognized in the Manitoba Act.

#### The Dominion Lands Act

After 1870, Métis communities along the North and South Saskatchewan

Rivers in the area that is now Saskatchewan grew quickly. Many Métis people who left Manitoba in the years following the resistance settled there, adding to an already sizeable Métis population.

As the decade passed, Canadian settlers began pushing beyond Manitoba in search of land. This forced the federal government to open up more land for settlement. In 1879, the Canadian government took steps to resolve First Nations and Métis land title in parts of western Canada beyond Manitoba.

The Dominion Lands Act promised to distribute the equivalent of 160 acres (64.8 hectares) of land to the head of every Métis family, plus the equivalent of 97.1 hectares to every Métis child.

## MÉTIS RIGHTS AND THE MANITOBA ACT, 1870

Many Métis people in western Canada are descendants of people from the Red River settlements. They feel a common bond culturally and in terms of their rights to land. They look to the Manitoba Act of 1870 as an official affirmation of their land rights.

### EXCERPT FROM THE MANITOBA ACT, 1870

31. And whereas, it is expedient, towards the extinguishment of the Indian Title to the lands in the Province, to appropriate a portion of such ungranted lands, to the extent of one million four hundred thousand acres thereof, for the benefit of the families of the half-breed residents, it is hereby enacted, that, under regulations to be from time to time made by the Governor General in Council, the Lieutenant-Governor shall select such lots or tracts in such parts of the Province as he may deem expedient, to the extent aforesaid, and divide the same among the children of the half-breed

heads of families residing in the Province at the time of the said transfer to Canada, and the same shall be granted to the said children respectively, in such mode and on such conditions as to settlement and otherwise, as the Governor General in Council may from time to time determine.

### REFLECTION

What other rights are guaranteed by the Manitoba Act? How would these rights guarantee Métis self-determination? You can find a copy of the full act online or in a book.

Scrip commissions met with Métis people as First Nations treaty commissions took place. In the government's view, it was settling all Aboriginal claims to land in the West at once — either through treaty or through scrip. Individual Métis people were sometimes offered the opportunity to "take treaty," officially becoming First Nations people in the eyes of the federal government, or "take scrip," giving up all future claims to Aboriginal rights. In some cases, First Nations people were offered the same choice.

Like the Manitoba Act, however, the Dominion Lands Act failed to produce any lasting benefit for most Métis people. Few ever received land. The Métis people who did found their close-knit families and communities scattered over a large territory, making it difficult to preserve Métis culture. Many chose to move in search of land where they could re-establish their communities.

### Road Allowance People

Some Métis people found themselves displaced over and over from the lands they settled. Some homesteaded raw land for many years, only to be forced to move when the government allocated their land to other settlers or for other purposes.

Some of these displaced people lived as squatters, building makeshift homes along road allowances, the thin strips of public land set aside for road construction. As a result, they became known as the Road Allowance People. Some Métis Elders have happy memories of those times. Many communities had



vibrant social and cultural lives, with regular parties and dance nights.

Life along the road allowance, however, was also precarious. Because the people held no legal title to the land, they lived in fear of continued displacement. During the 1930s, for example, the government forced thirty road allowance families from Ste Madeleine, Manitoba, to relocate so that their community could become a public pasture.

*Crooked Lake was a road allowance community in Saskatchewan that was established between 1885 and World War I. Many of the people in the community had relatives in the Qu'Appelle Valley and in North Dakota. This photograph shows four Crooked Lake residents (left to right): Lily Perrault, Lucy Pelletier, Celina Pelletier, and John Pelletier.*

### LOOKING BACK

Summarize how the early Canadian government approached First Nations, Métis, and Inuit peoples and their land. How did each of these groups approach their relationship with the new Canadian government? How did events and decisions affect each group's ability to govern itself?

# The Indian Act and First Nations Rights

## AS YOU READ

In 1876, as treaty negotiations and the scrip commissions were occurring in the West, the Canadian Parliament passed the Indian Act. The government claimed that the main purpose of the act was to consolidate all laws relating to First Nations into a single piece of legislation. Despite this, the act was passed without any consultation with Canada's treaty partners, the First Nations. As you read this section, think about how the Indian Act differed from traditional First Nations systems of governance, and how First Nations responded to the legislation.

BY 1876, THE CANADIAN GOVERNMENT HAD MANY LAWS THAT RELATED TO FIRST NATIONS PEOPLE. THESE INCLUDED LEGISLATION INHERITED FROM THE BRITISH COLONIAL GOVERNMENT AND THOSE THE CANADIANS HAD

passed since Confederation. The **Indian Act** was passed by the federal government to bring together all such legislation into a single act.

At its core, however, the act had another vision and purpose. As noted by the superintendent general of Indian Affairs at the time, David Laird:

[The] true interests of the aborigines and of the State alike require that every effort should be made to aid the Red man in lifting himself out of his condition of tutelage and dependence, and that is clearly our wisdom and our duty, through education and every other means, to prepare him for a higher civilization by encouraging him to assume the privileges and responsibilities of full citizenship.

Reflecting Laird's point of view, the Indian Act set out a highly

paternalistic approach to the federal government's relationship with First Nations. It is an approach that continues to **alienate** many First Nations people to this day. As presented by Laird, the purpose of the Indian Act was to encourage assimilation. **Assimilation** is the process of absorbing or being absorbed by a group or system so that all parts of the group are the same. Previous legislative acts also promoted assimilation, but the Indian Act consolidated the government's policies.

The Indian Act should have been consistent with the terms of the treaties the government had signed or was in the process of signing with First Nations. Signatories to a treaty have an obligation to ensure that their legislation complies with the treaty agreement. A treaty has the force of international law because it is an agreement between sovereign nations.

In reality, the Indian Act gave the federal government many specific powers over First Nations living on reserves. Most of these powers were not mentioned in the written treaty documents. For example, the Indian Act defined who was and was not a First Nations person — in the terms used by the act, a **Status Indian** and a **non-Status Indian**. Status meant having certain rights and privileges — generally those established by treaties. The act stated that any male person of First Nations ancestry belonging to a particular **band** (the act's term for each First Nation group), any child of such a person, or any woman who is or was married to a Status Indian was entitled to status under the act.



David Laird was the first lieutenant-governor of the Northwest Territories who lived in the region. During his term from 1876–1881, he was involved in treaty negotiations throughout the region.

This definition meant that any First Nations woman who married a non-status man lost her own status under the act, as did her children. Yet a non-status woman (including a woman without any Aboriginal ancestry) who married a man with status would receive First Nations status, as would her children.

People without status had, at least in theory, the same rights as all other Canadians. The government's definition ensured that over time, fewer and fewer individuals would receive status under the act. This reflected its assimilation goals.

The government's definitions created divisions between families and communities, making united action against the policies difficult, if not impossible. In addition, the act gave the federal government control over administrative and financial matters on reserves, such as the sale and leasing of reserve land. Money received for timber or other reserve resources were mostly held in trust for the band — only 10 per cent was given to band budgets. The act established rules for **band councils**, which were to govern First Nations using European laws and systems. Traditional hunting, fishing, and trapping activities outside the reserve were subject to provincial government regulation. These activities were often permitted only within reserves, in spite of treaty provisions that explicitly promised otherwise.

## THE INDIAN AGENT

The federal government's representative on reserves was called the Indian agent. This agent, who was generally non-Aboriginal and male,

The Indian Act was passed with the intention of implementing the terms of the treaties and of establishing the status of Indians. It was made the main body of law from which the legal rights of Indians flow. This was one of the first major steps taken by the government of Canada to weaken the treaties signed with our people, for now it is from the Indian Act that the legal position of the Indian primarily stems, rather than from the treaties themselves. This piece of legislation that was supposed to implement the terms of the treaties was surely written by people who understood or cared very little about protecting human rights but who were thoroughly concerned and familiar with concepts and laws characteristic of colonial powers.

— Harold Cardinal, Sucker Creek First Nation, *The Unjust Society*

held great power. Most lived on the reserve and were responsible for its administrative affairs. The agent controlled the proceedings of band council meetings, approved all bylaws passed by the band council, and managed band finances. He explained and advised band council members on their powers and responsibilities.

In addition to these administrative duties, the agent had considerable political power. He could, and often did, remove chiefs and band councillors for their unwillingness to follow the federal government's rules and regulations. He also had the power to disband any political organization on the reserve that was not approved by the federal government.

Indian agents enforced band bylaws and punished those who broke rules and regulations. For example, First Nations people were not permitted to drink liquor on or off the reserve. The Indian agent could enforce this law or punish



*The Indian Act determined the educational needs and opportunities for First Nations. It permitted the government to establish a system of residential schools that removed children from their families and communities. Traditional languages and customs were forbidden in these schools. What do you notice in the photograph that would assist the government's assimilation goals? This photo is from 1900 at the St. Joseph Residential School, which was located a few kilometres south of Cluny, Alberta.*

those who broke it. At one point, the agent was even responsible for controlling the movement of First Nations people on and off the reserve. First Nations individuals were not allowed to leave the reserve without the agent's permission, a restriction that lasted until the mid-1950s.

The Indian agent also inspected reserve schools and health conditions. In personal matters, he presided over marriages, executed wills, and supervised estates. The agent even intervened in personal disputes among band members.

In short, the Indian Act gave one individual control over a vast array of political, economic, social, and cultural functions. Traditionally, such functions had been managed

communally through customs and traditions passed down through oral tradition. This substitution of the rule of one for the rule of community would have been bad enough. To make matters worse, that one person was usually from outside the community and rarely had much insight into the specific customs of the First Nation he administered.

### FIRST NATIONS GOVERNMENT UNDER THE INDIAN ACT (1876–1951)

Like the British colonial government before them, the Canadian federal government believed that traditional First Nations governments were inferior because they did not resemble their own. Traditional systems of leadership and governance were often subtle and indirect. Non-Aboriginal people, familiar with more structured institutions, often believed that First Nations had no government. Through the Indian Act, the federal government removed traditional First Nations government systems and replaced them with European systems.

We find the Indian Act of 1876 is not calculated to promote our Welfare if we accept it because it empowers the Superintendent General of Indian Affairs to manage, govern, and control our lands, moneys, and properties, without first obtaining the consent of the chiefs of the Six Nations...

— The Council of the Six Nations at the Grande River reservation, 1879

Indigenous Knowledge

How did the Indian Act affect First Nations individual, economic, social, and educational rights? List at least one example for each. How did the act contradict treaty promises?

## Band Councils

Under the Indian Act's terms, each reserve was to have a band council. The act allowed one chief for every thirty band members. For larger bands, it stipulated one chief and two councillors for every 200 people. No band could have more than six chiefs and twelve councillors.

The membership of each band defined by the Indian Act did not necessarily coincide with traditional First Nations political, economic, and social groups. Traditional groups were more flexible, and were based on factors such as kinship, alliances, clans, societies, and available resources.

The federal government had the right to override band councils on almost any issue, including bylaws. Councils were expected to implement decisions made by the federal government. Band councils did not have the power to levy taxes on reserve residents, so bands had few options for fundraising and pursuing projects on their own initiative. They received money from the federal government, but how the money was spent was decided by federal policy and the Indian agent.

The Indian Act also stripped Elders and women of any formal role in the decision-making and governing process. However, on many reserves, their influence continued indirectly. For example, many band councillors still consulted with Elders and other leaders from the community before voting on decisions. In other cases, the only individuals who ran for election were those suggested by Elders.

## Elections

The Indian Act introduced a European-style election process on reserves. The government believed that elected governments would encourage First Nations to give up their traditional political systems. Most traditional systems chose leaders through a combination of hereditary status and community assessment of an individual's skills. The federal government envisioned reserve governments one day operating as municipal governments do, with powers delegated from the federal or provincial levels of government.

### A DIFFICULT TASK

Chiefs and councils during the early years of the Indian Act had to see their people through some of the most difficult times they had ever experienced. For example, Papaschase, like several other Cree leaders and their people, was reluctant to settle on a reserve when Treaty Six was signed. Papaschase and his followers hunted buffalo in Montana as long as they could to maintain their independence.

Finally, faced with starvation due to decline of the herds and the effects of disease such as smallpox, Papaschase signed an adhesion to Treaty Six in 1877, taking a reserve south of Edmonton. (Today this land would be in the popular shopping and entertainment district known as Old Strathcona or Whyte Avenue.) The new reserve immediately faced an outcry from a small group of vocal Edmonton residents, who demanded that it be relocated. With their reserve status in limbo, the band was denied its treaty rights for many years. It was finally forced to give up rights to the reserve in 1888. Some people joined neighbouring First Nations and others accepted scrip, giving up their treaty rights.

### REFLECTION

Research some of the problems faced by a local chief and council during the difficult transition years under the Indian Act.

According to the Indian Act, chiefs and councillors were to be elected by males twenty-one years of age and older. Women could not vote for or serve on the band council. Voting was conducted in public, usually by a show of hands. Elected candidates had to receive a majority of votes and had three-year terms. The time and place of the elections were decided by the Superintendent General of Indian Affairs or by an Indian agent.

The designation of “chief” was formalized [after the Indian Act] and the twelve councillors we call *Maohkotooksskaiksi* was established after *kinniinaysini* was introduced by the government.

Voting as we have it today was another new practice established to choose our leaders. Prior to this, the process was not so formal. A leader was simply chosen by how he lived his life. There was evidence that a person selected as leader lived an orderly life and that he was a compassionate person.

There was no such thing as “If you vote for me I will do this.” A person did not need to boast about what he was going to do if he was selected. The process was very different.

— Adam Delaney, Kainai First Nation, *Kipaitapiiwahsinnooni* (Alcohol and Drug Abuse Education Program)

Few bands adopted this system in the first years of the Indian Act. Most were reluctant because the process conflicted with traditional practices. For bands accustomed to consensus decision making, gender equality, and flexible leadership, the competitive and male-dominated European system went against many cultural traditions and beliefs.

In addition, the leadership style needed to succeed in the European system went against tradition. The European tradition requires an assertive leader who actively solicits support from others. In contrast, traditional Aboriginal leaders were often unassuming and modest. They were given leadership roles by the community and did not purposely seek them out. In a traditional worldview, seeking a leadership role by presenting others with one’s skills and accomplishments would be seen as boastful and inappropriate. Many people were reluctant to participate in the European system because it placed them in an awkward position in the community.

## BAND COUNCIL POWERS UNDER THE INDIAN ACT

- providing basic public health services
- maintaining order at public assemblies
- prohibiting alcohol consumption
- keeping cattle fenced in
- maintaining reserve roads, fences, schools, and public buildings
- operating dog pounds
- registering land use on the reserve

### REFLECTION

Given this list of powers, what might be one reason the Indian Act led to a decrease in First Nations participation in local government?

## Resistance

One intention of the Indian Act — to gradually train First Nations in the European ideals of local government — largely failed. Municipal-style governments were never implemented, partly because the government never relinquished enough power to make them happen.

In addition, the government failed to understand the great diversity between First Nations cultures and the reasons for their ongoing resistance to the Indian Act. Such resistance took many forms. For example, First Nations consistently resisted the federal government's authority overturn their chosen leaders. Many First Nations elected

individuals who would have likely been their leaders anyway. In some cases, the Superintendent General of Indian Affairs overturned these elections, preferring leaders who would fall in line with the federal government's priorities. If a leader was overturned, the superintendent would call for another election. First Nations often responded by electing the same person again.

*The federal government removed Piapot as chief of his Cree band in 1899 because he permitted an illegal ceremony to take place.*

*Disregarding the government decision, his band continued to regard him as chief until his death in 1918. Chief Piapot is shown here in the 1880s wearing a Hudson's Bay Company blanket coat.*



## Indigenous Knowledge

In the late 1880s, the federal government arrested Chief Piapot for performing a Sundance and other related rituals. The exchange that follows between Chief Piapot and A. E. Forget, the Assistant Indian Commissioner, demonstrates the issue at stake for many First Nations people: their spiritual freedom.

Forget: Ask him, Peter, [Hourie, the translator] why, when he knew that it was contrary to the policy of the department, he allowed a sun dance to be held.

Piapot: (rising to his feet, dropping the blanket from his shoulders and holding it on his outstretched arm in the gesture of the great Indian orator.) When the commissioner gets up in the morning he has many varieties of food placed before him, and if he doesn't like what is in one dish, he has a number of others from which to choose. He does not know what it is to have an empty belly. My people, however, are often hungry and when they cannot get food, they pray to God to give it, and their way of praying is to make a sun dance.

Forget: He has an argument there. Tell him, Peter, that we are two big chiefs here together. I ask him as one big chief speaking to another, not to make any more sun dances.

Piapot: Very well, I will agree not to pray to my god in my way, if you will promise not to pray to your god...in your way.

Forget: By jove, he has me there. The old rascal should have been a lawyer.

— as told by W. P. Stewart in *My Name is Piapot*

How is Commissioner Forget's paternalistic attitude toward Piapot evident in this exchange? How does Chief Piapot demonstrate dignity and leadership?

First Nations soldiers made many contributions to the Canadian war effort during World War II. The Canadian military's most decorated First Nations soldier, Sgt. Thomas (Tommy) Prince, poses here with his brother in front of Buckingham Palace in 1945. Prince, on the right, was in London to receive two medals for gallantry. The heroism of soldiers such as Tommy Prince made many Canadian politicians more empathetic to First Nations' rights claims.



Other resistance concerned revisions to the Indian Act in 1884 that banned certain aspects of ceremonial gatherings, such as the Sundance and Potlatch. Many First Nations continued to practise their traditions in secret, risking jail sentences if caught.

#### Coercion

As attempts to assimilate First Nations culturally and politically failed, the Canadian government passed progressively more coercive legislation in response. Ironically, First Nations' resistance to assimilation was seen by the federal government as evidence that they were incapable of governing themselves.

Various amendments to the Indian Act in the 1920s and 1930s further eroded First Nations rights. The federal government took the power to **enfranchise** First Nations people without their consent. This meant that if the government believed a First Nations person was able to fit into non-Aboriginal society, the government could unilaterally remove an individual's status under the Indian Act. First Nations people who wanted to vote, serve in the army, consume alcohol, become a member of the clergy, or get a university degree had to be enfranchised first.

By this time, most band councils were powerless supervisory bodies for the federal government. Many were not passing bylaws or were even aware of their authority to pass bylaws. By the 1940s, only 194 of the 594 bands in the country had adopted the European election system. The remaining 400 continued to choose their leaders according to traditional customs. The federal government did not seem interested in helping band councils become effective governments on reserves and did little to help them work within the system.

In an attempt to force First Nations to comply with the Indian Act, the federal government refused to honour treaty promises, such as annuity payments and provision of services, to bands that did not follow the federal government's rules.

## REVISIONS TO THE INDIAN ACT (1951)

In the 1940s, after decades of government control and neglect, First Nations leaders began to speak out openly about their peoples' rights. Pressure to revise the Indian Act intensified after the end of World War II. In 1946, a joint committee of the Senate and the House of Commons was created to study the Indian Act. Two years later, after many hearings and witnesses, the committee called for substantial changes.

In the 1951 revisions to the Indian Act, voting by secret ballot replaced open voting. Two years later, the number of bands electing their leaders rose to 263. For the first time, women were given the right to vote in band council elections. They

were also able to run for the office of chief or councillor. In many First Nations, women began resuming traditional political roles. Bans on ceremonies and customs were lifted, including restrictions on political organizations and Elders councils.

The revisions expanded band council powers, although the federal government still retained authority to intervene in their decisions. The Indian agent no longer controlled council meetings and band administration. Councils were given the authority to enforce bylaws and manage reserve lands and band funds. They were also given the authority to spend their funds on matters of interest to the band. Other revisions removed laws that made it illegal for First Nations to sue the federal government. These latter two changes meant that some bands spent money on lawsuits to pursue land claims in the courts.

The revised act also allowed for the application of provincial laws to reserves. First Nations people were to be charged under provincial laws for crimes they committed off-reserve, such as driving offences or hunting and fishing violations. Provincial social service agencies were also given the power to apprehend children from reserves in some situations.

The 1951 amendment ended the practice of involuntary enfranchisement. However, the revisions also created the **Indian register**, which was to be a complete listing of all First Nations people with status under the Indian Act. Bands submitted lists of members to the federal government but, for various reasons, many people were left off

the lists. This meant that many people lost and were unable to later gain status. To this day, many First Nations people across Canada are denied rights and services because of mistakes and oversights that occurred at this time.

### Indigenous Knowledge

With your teacher's assistance, use community protocol to invite an Elder into your classroom to describe what life was like on reserves before and after the 1951 Indian Act revisions.



*In 1960, First Nations people were given the right to vote in federal elections. These members of the Rice Lake Band, near Peterborough, Ontario, were the first to vote in a federal by-election.*

### LOOKING BACK

The revised Indian Act of 1951 did not immediately change the lives of First Nations people for the better. However, it did mark the beginning of a gradual resurgence of political activity on reserves across the country. As First Nations leaders gained confidence and experience in band management and Canadian political systems, they began to demand greater control over the administration and governance of their reserves. In the next section, you will look at how band councils function today.

## Band Councils since 1969

### AS YOU READ

Under the Indian Act, First Nations people's ability to determine their own futures almost disappeared. The federal government controlled First Nations political, economic, cultural, educational, and even spiritual rights. The aftermath of World War II, however, sparked a worldwide trend of restoring rights to colonized indigenous peoples. In Canada, this movement was first seen in the 1951 Indian Act revisions.

Pages 66–73 discuss how today's band councils operate. As you read, note how these governments do and do not offer effective self-determination and self-government. Why do many First Nations leaders argue that the Indian Act can never be the vehicle for Aboriginal self-government?

IN 1969, THE FEDERAL GOVERNMENT UNDER PRIME MINISTER PIERRE TRUDEAU PROPOSED MAJOR CHANGES TO THE INDIAN ACT. THE GOVERNMENT SAW THAT THE INDIAN ACT WAS NOT WORKING, BUT ITS SOLUTION WAS TO

- assimilate First Nations once and for all.

Jean Chretien, then the Minister of Indian Affairs, called for the end of the Indian Act and of the special status of First Nations people. The

Aboriginal leaders from across the country, such as Harold Cardinal (seen standing in the photograph) spoke up against the 1969 White Paper. Opposition to the White Paper prompted many Aboriginal people to strengthen their political organizations. Aboriginal organizations today play a strong role in all federal government relations with Aboriginal peoples.



*Statement of the Government of Canada on Indian Policy, 1969* — most commonly known as the White Paper — proposed to transfer administration of all services for First Nations to the provinces and reserve governments. First Nations people would no longer have a special status in Canadian Confederation, as set out by treaties. First Nations people would have the same rights and freedoms as all other Canadian citizens.

First Nations leaders argued that that federal government could not unilaterally disregard treaty relationships. First Nations people were *not* the same as other Canadians. They, along with other Aboriginal peoples, are indigenous to Canada and, as such, have special rights.

Their protests were so strong that the government withdrew the White Paper in 1973. This withdrawal marked a significant shift in the federal government's policies and attitudes towards First Nations, ending its formal policies of assimilation.

Since the 1970s, many changes have taken place in the relationship between First Nations and the federal government. The role of Indian agents has been eliminated. In 1973, the government ended the residential school system on advice from the National Indian Brotherhood (now the Assembly of First Nations), which called for First Nations control over their own education. The government then established programs to help First Nations develop modern educational systems organized around their traditional values and cultures.

In 1988, further changes to the Indian Act gave band councils authority to levy taxes on First Nations and non-First Nations reserve residents, to lease reserve land to non-First Nations people, and to manage money received from mineral rights and resource royalties.

## DEVOLUTION

Since the 1970s, the federal government has given more administrative control to band councils in a policy of **devolution**, or decentralization, of First Nations programs and services. Devolution is a shift away from policies of assimilation and integration, and towards policies of cultural self-sufficiency and local government.

For decades, almost every aspect of reserve life was controlled by the federal government. Devolution allows more decision making at the community level. Band councils now have authority over areas such as education, public health, reserve roads, and band administration. In many ways, band councils act as self-governing bodies.

However, in the eyes of many First Nations leaders, the current powers of band councils fall far short of self-government. Some call the current system one of self-administration, where bands simply implement programs. This is quite different from policy-making — the power to set direction and decide what programs will be offered. The federal government still has much control over policy-making, although devolution has increased First Nations involvement in discussions about programs. Significantly, the



The Indian Act was revised in 1985 to recognize First Nations peoples' right to never lose their status. Bill C-31 ended many years of discrimination against women in the Indian Act. As a result, many First Nations people had their status restored.

Research the events leading to the passage of Bill C-31 and its significance for First Nations. Find out why some people argue today that band membership rules discriminate against them. Why do many bands face difficult choices in deciding what to do about people reinstated by Bill C-31? What are different perspectives on the band membership issue? Write a newspaper article that discusses this issue.



Jenny Margetts, left, of Edmonton, Alberta, and Monica Turner of Geraldton, Ontario, speak to reporters in 1973. Margetts fought a lifelong battle against gender discrimination in First Nations band membership codes.

federal government cannot introduce new programs without first consulting with local band governments.

Many bands have pushed for changes to the Indian Act, in order to gain more control over their lands and money. In the past ten years, the federal government has concluded funding arrangements with many band governments to support greater autonomy for spending decisions. Some band councils negotiate directly with provincial governments for services such as education, health care, and social services.

The pace of devolution increased significantly during the 1990s. In 1994, the federal government reached an agreement with Manitoba First Nations to transfer control of all programs and services in the province to local reserve governments. In

2001, it signed similar agreements with the Yukon and Northwest Territories First Nations to give control of programs and services to their communities.

The dismantling of Indian and Northern Affairs Canada in Manitoba was initially expected to be completed by the end of 1999. However, problems in funding arrangements and in establishing program management on reserves delayed completion of the devolution agreement. Not every reserve had the money and expertise to operate the programs and services. This issue of funding and training is one that many First Nations argue must be addressed before their communities can effectively take control of their services.

In 1969, Jean Chretien gave a speech that highlights problems with band governments under the Indian Act. First Nations leaders would likely agree with him, yet they found the government's solution — the White Paper — completely offensive. Why did attitudes held by the federal government and First Nations differ significantly?

First the band council decides that they want to do something constructive and reasonable with a piece of their land, as many of them do. They pass a council resolution which they hand over to the Department's agency office. It is sent from there to the regional office. The regional people, anticipating that their superiors in Ottawa will ask questions, ask questions themselves. Back it goes to the agency and back to the band. The band gets another meeting organized. They answer the questions and put the proposal back into the mill. It goes to the agency, to the region, and it finally reaches the head office where the lawyers get at it. They ask more questions that the region had not thought of. Back it goes. Eventually all the questions are answered and it comes to me.

— Jean Chretien, "Indian Policy...Where Does it Stand?"  
Speech at Empire Club, Toronto, Oct 16, 1969

## BAND COUNCILS TODAY

As of 2003, the Assembly of First Nations counted over 630 band councils in Canada.

These councils have more autonomy from the federal government than under the Indian Act of 1876, although band councils on reserves with strong financial and human resources have significantly more autonomy than those without these resources.

### Band Council Resolutions

Band councils pass bylaws called Band Council Resolutions (BCRs). BCRs can be passed if a quorum of council members are present at a meeting and a resolution receives a majority vote. BCRs have the force of law, although they must receive federal approval.

Band councils must have community approval for some types of resolutions. These include decisions to surrender reserve land, changes to membership codes for the band, and revisions to alcohol bylaws. If the band council wishes to pass one of these laws, it must hold a meeting at which members of the community can hear about the proposal and then vote in a referendum.

Many bands argue that the BCR system does not meet their needs because it conflicts with their traditional decision-making methods. Others say they don't always have the resources to enforce their BCRs. Although it rarely happens today, the federal minister or provincial legislation can override any band council decision, making BCRs, in the eyes of many, a long way from self-government.

## JOYCE METCHEWAIS

### Cold Lake First Nations

The late Charlie Blackman, a Cold Lake First Nations Elder, used to shake his finger at fellow band-member Joyce Metchewais, joking that he was going to give her trouble if she didn't run for chief.

"I wish he could see that I finally did run for chief," says Metchewais, who's been leading her people towards self-sufficiency and strong self-identity for more than four years. Under her leadership, unemployment has been reduced from 80 to 25 per cent and new cultural programs such as the Daghida (We Are Alive) Dene Sųliné language project have been developed.

"I surround myself with good people," Metchewais answers when pressed for the secret to her successful leadership. Among her closest advisors is Wilma Jackknife, an in-house lawyer who assists with resource company negotiations that create jobs for band members. Experienced band councillors also helped Metchewais with leadership continuity since she was first elected in 1999.

Ironically, Metchewais anticipated a comfortable retirement after raising her four children. "My husband and I made a good living as owners of a

school bus company, and I enjoyed the winters we spent in Arizona," says the sixty-two-year-old former nurse. "But the Elders asked me to run for chief and with my husband's support, I let my name stand. Now people are already asking if I'll be running again."

Metchewais's brand of leadership can be stated in a word: integrity. She is a team player who avoids the abuse of power that some leaders fall into. "I have always told council that we have to stick together. We make decisions as a group. If the group votes something down, the decision stands," she insists. Metchewais has demonstrated, as have natural leaders of the past, an inclination for hard work and getting things done, not to mention healthy respect for her co-leaders, her people, and herself.

"My mother, Nora Matchatis, has been my role model. She showed me, by example, to be assertive, honest, hardworking, and diligent in everything I did. She continues to be my advisor and greatest supporter."

### REFLECTION

How does Joyce Metchewais's story show examples of traditional leadership from both herself and others?



Joyce Metchewais



The Sikhska First Nation has taken steps to make its economic development as efficient as possible. They have legally separated control of a major economic development arm — Sikhska Resources Development Ltd., from its elected officials. The Sikhska Nation's band council members in 2005: (Back left to right) Hector Winnipeg Jr., Kendall Panther Bone, Vincent Yellow Old Woman, Clarence (Agar) Wolfleg, Eldon Weasel Child, Leroy Good Eagle, and Emery Medicine Shield. (Front left to right) Jason Doore, Richard Right Hand, Janice Doore, Chief Strater Crowfoot, Scotty Many Guns, and Stewart Breaker.

### Elections

As of 2002, almost all bands in Canada elect their leaders. Bands that follow guidelines in the Indian Act hold elections by secret ballot every two years. Many bands choose instead to have custom elections, in which the band can set and administer the rules. For example, all Treaty Seven First Nations have custom elections. The Kainai First Nation elects a new council every four years, as does the Piikani First Nation. In most cases, First Nations that choose custom elections follow basically the same rules as the Indian Act. However, a custom election procedure carries a symbolic message that the people have a right to choose their own system of government.

Some bands have incorporated traditions of choosing leaders by consensus and kinship ties into their custom election. For example, the Swan River First Nation in Alberta bases its election on its traditional

clan system. The First Nation has six family name clans: Chalifoux, Courtoreille, Davis, Giroux, Sowan, and Twin. Not all members of a clan are in the same family. A person can join any clan, as long as the other clan members approve.

In the band's custom election, members of each clan elect a member for the band council. The members of all clans then elect a chief from among the band council members.

In some First Nations, an incorporation of traditional methods of choosing leaders has led to greater public participation in reserve politics. On other reserves, the change to traditional ways has created tension between groups who support traditional methods and those who prefer the non-Aboriginal procedures. Several bands use a combination of traditional and non-Aboriginal procedures.

A significant change came in 2000, when the right to vote for band council members was extended to band members living off the reserve. This change may help keep urban First Nations people connected to their home communities. You will learn more about this issue in Chapter Six.

### Political Institutions

After 1951, traditional customs re-emerged on most reserves. Ceremonial gatherings play a central role in many communities, reinforcing political, social, cultural, and spiritual ties. The potlatch ceremony is again a significant event among Pacific Northwest First Nations in strengthening community ties. The ceremonial dances of Plains First

Nations are also important occasions for celebration, community solidarity, and spiritual renewal. For many people from the Six Nations Confederacy, restoring traditional councils and decision-making procedures has strengthened their sense of identity.

Elders have also regained an important leadership role in many band governments. On the Plains, band governments have established Elders councils to provide advice and guidance in decision making. For example, the Kainai Council of Elders provides the band council with historical information, formulates referendum questions, and is available for consultation. The Elders do not have voting power, but they are often influential in assisting with band council policy-making.

## TRIBAL COUNCILS

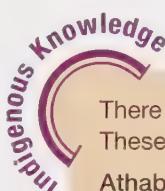
Many band governments have established tribal councils to pool resources for programs, services, and policy-making. Tribal councils, unlike band councils, are not regulated under the Indian Act, although they receive funding from the federal government. They are registered societies under provincial law.

Tribal councils allow small bands, which may have few resources, to benefit from the resources of larger, wealthier bands and from a tribal council staff. Tribal councils also develop initiatives for areas not governed by the Indian Act such as justice, public safety, and law enforcement.

Most significantly, tribal councils also reinforce traditional political, economic, and social systems of mutual support and interdependence.



*The Tribal Chiefs Institute of Treaty Six (TCI) staff pose for a photograph with David Suzuki, who was in Edmonton to attend the eleventh annual Knowing Our Spirits conference in 2004. (Left to right): Toni Young Chief, Alain Joly, David Suzuki, Bernie and Gloria Makokis. The conference provides a forum for new ideas and an exchange of information with various Aboriginal groups. David Suzuki is an honorary chief with TCI. He spoke at the conference on the importance of traditional Aboriginal knowledge for the world's environmental concerns.*



There are currently eight tribal councils in Alberta. These include:

- Athabasca Tribal Council, Fort McMurray**  
Athabasca Chipewyan, Chipewyan Prairie, Fort McKay, Fort McMurray #468, Mikisew Cree
- Kee Tas Kee Now Tribal Council, Atikameg**  
Loon River Cree, Whitefish Lake, Woodland Cree
- Lesser Slave Lake Indian Regional Council, Slave Lake**  
Driftpile, Kapawe'no, Sawridge, Sucker Creek, Swan River
- North Peace Tribal Council, High Level**  
Beaver, Dene Tha', Little Red River, Lubicon Lake, Talcree
- Treaty Seven Management Corporation, Tsuu T'ina Reserve**  
Bearspaw, Chiniki, Kainai, Piikani, Siksika, Tsuu T'ina, Wesley
- Tribal Chiefs Ventures Inc., Edmonton**  
Beaver Lake Cree, Cold Lake, Frog Lake, Heart Lake, Kehewin Cree
- Western Cree Tribal Council, Valleyview**  
Duncan's, Horse Lake, Sturgeon Lake
- Yellowhead Tribal Development Foundation, Enoch**  
Alexander, Alexis, Enoch Cree, O'Chiese, Sunchild

Research one tribal council program or service and evaluate its importance to local communities. How does it help achieve self-determination goals?

## DEBATING BILL C-7

Despite many positive changes, many First Nations feel that the federal government's approach to self-government has not changed significantly since 1969, when it proposed the White Paper.



*If possible, invite someone involved with the Assembly of First Nations to participate in your talking circle about Bill C-7.*

In 2002, Robert Nault, the federal government minister in charge of Indian and Northern Affairs, announced the First Nations Governance Act (Bill C-7) in the House of Commons. The proposed act was shelved in 2003, but provides a useful issue with which to examine how the perspectives of the federal government and First Nations can be at odds.

Pages 72–73 include notes from a speech Nault delivered on April 18, 2002, at a conference called Beyond the Indian Act. Read his notes and then research why the Assembly of First Nations and other leaders were opposed to Nault's proposal.

After you familiarize yourself with the issues at stake, hold a talking circle with your class to discuss ideas about the government's approach to self-government issues and the approach of First Nations. Why did the First Nations Governance Act generate so much controversy?

### Excerpt from the Speaking Notes for the Honourable Robert D. Nault, P.C., M.P.

... The fact is that this Act [the Indian Act] never contemplated the day when First Nations would stand as full partners in our society, when they would take their rightful place and play their full part in the life of this country. The Act itself is clear on this.

For all practical purposes, the Chief and Council were powerless, with all of the authority left in the hands of the Minister of Indian Affairs. The Act makes 120 references to how "the Minister may" do this or that, but only three references to how "the band may." And in those areas where bands could act, they were responsible to the federal government, not to their membership directly.

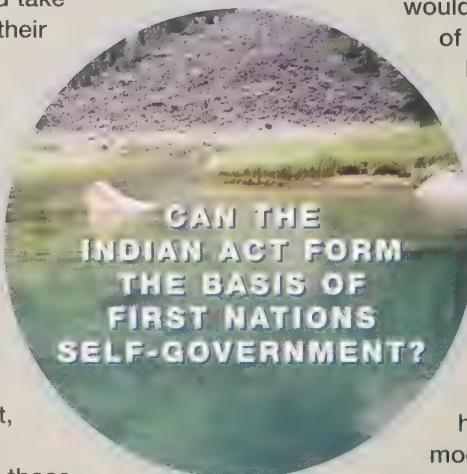
The Indian Act took away traditional systems of Aboriginal government and replaced them with one alien to their culture. And because it was premised on the assumption that First Nations would gradually

be absorbed into the larger Canadian society, the Act was silent on many key areas.

These include how band councils would deal with the businesses of their communities and how First Nations would exercise control over their band leadership: in other words, over issues of governance.

This absence of any reference to governance, or to the institutions of government, is not just of theoretical or intellectual interest. It is not just some historical omission; it is a modern-day roadblock to economic development, to self-reliance, and to self-government. This isn't just my opinion or the opinion of the Government of Canada — it is the opinion of First Nations themselves.

In a recent EKOS poll of First Nations, 71 per cent of respondents agreed that providing the tools for good governance will improve conditions for economic and



social development. And 68 per cent agreed that conditions for economic and social development will be improved by strengthening the accountability of First Nations leaders.

This is only common sense. Businesses will not invest on reserves, for example, unless they believe that there is an effective administrative regime. And there is increasing evidence — both academic and empirical — that suggests that the ability to pursue economic development, to create healthy communities with adequate infrastructure, and to develop the skills and potential of people, all depend on good governance.

First Nations people understand this connection between effective governance and economic progress. They understand that leaving the Indian Act as it is means leaving First Nations without the tools they need to make the progress they want. More, they want a direct say in how the Indian Act is changed. Fully 67 per cent said ordinary First Nations' members should have a voice.

I couldn't agree more. That's why we went out into the communities to hear directly from the people, holding more than 450 consultation sessions, with more than 200 First Nations communities. That's why we established a 1-800 number, created a Web site, and prepared a questionnaire soliciting input. All told, more than 10 000 First Nations people took advantage of these opportunities and expressed their views....

To get as much input as possible, a joint ministerial advisory committee was established. It was made up of representatives from the Congress of Aboriginal People, the National Aboriginal Women's Association, and leading lights from the communities themselves. And a

## REFLECTION

Write notes from your talking circle discussion. Use them and your other research from this chapter to write an essay for or against the proposals suggested by the federal government in Bill C-7.

seat was held for representatives from the AFN had they chosen to participate....

Now some have advised us to simply "set aside" the Indian Act and focus exclusively on implementing treaty rights....

And let's take a closer look at just what "setting aside" the Indian Act would mean in real terms. It would mean perpetuating the vacuum of governing structures in the Act. In other words, we would continue with a system under which there is no requirement for a band council to have an annual budget; no requirement for conflict-of-interest guidelines; no provision making First Nations legal entities and, therefore, able to borrow money on better terms. It would mean leaving in place a system in which there are no rules protecting band public servants, who can be hired and fired at the whim of each incoming council. It would mean perpetuating a system with no redress for anyone who disagrees with a band council's decision, other than by going to court. It would mean continuing to deny First Nations the tools they themselves have said are necessary to make real progress.

## LOOKING BACK

How has the administration and governance of reserves changed from past to present? Research the history of a local First Nation government and prepare a report that includes changes in the

- influence of Elders
- process of selecting leaders
- powers of the leadership
- role of the federal government
- role of women
- role of the provincial government

Evaluate the effectiveness of the current system of government. What issues face the community today? Is the current governance system able to resolve the issues effectively? What are differences between elected and traditional government systems? How do the values in each system compare?

## Chapter Two Review

### Check Your Understanding

1. Create a table of the six geographic environments in Canada. In point form, list one or more significant characteristics of each region and how these characteristics influenced the traditional ways of life of the Aboriginal people who lived there.
2. How do the names of some First Nations reflect their relationship to the land? Provide an example.
3. From memory, write a list of as many points about traditional First Nations, Métis, and Inuit governance as you can. Re-read pages 38–49 and then immediately try the exercise again.
4. Explain how the buffalo hunt is related to traditional forms of Métis governance.

5. How does the oral tradition support traditional forms of Aboriginal governance? Give at least one specific example.

6. How do the numbered treaties make provisions for self-government? Explain, using an example, why First Nations and the federal government might answer this question differently.

7. Why didn't Métis and Inuit peoples sign treaties with Canada? How has this affected their relationship with the federal government? Give a specific example for each group.

8. Explain the Manitoba Act's significance in terms of Métis rights.

9. How did the scrip process affect Métis people's rights?

10. Who are the Road Allowance People?

11. What is the Indian Act and why did the federal government enact it?

12. How did the Indian Act affect First Nations' political, economic, social, individual, and educational rights? Give one example for each.

13. In what ways are treaties fundamentally different from the Indian Act?

14. How did the Indian Act affect First Nations' ability to govern themselves?

15. Why and how was the Indian Act revised in 1951?

16. What is a BCR?

17. What is devolution?

### Reading and Writing

18. Re-write at least five clauses of the Manitoba Act in plain language. Each clause should be significant in terms of Métis rights. This means you will need to read the original act and then re-write it in language that is easier to read and understand. Check your work with a partner to see if you have been successful.

Wilf Tootoosis was born on the Poundmaker Reserve in Saskatchewan in 1930. In the following excerpt, from an interview with him for *In the Words of Elders: Aboriginal Cultures in Transition*, he offers his ideas of traditional Plains Cree governance and changes under the Indian Act.

...Then the Indian Act came in and they had to get a permit to leave the reserve. That was to discourage the assembly of our people. So they don't get into contact with other Chiefs and people. They [the government] were afraid of the Indians. They knew they might start shooting again. The guns were all removed from Poundmaker, except one, one Indian went out into the bush and hid a gun, and everybody used that in the winter. They took all the horses away. So that's the Indians' self-government. The other one they have today is the Indian Act. Indian Act, self-government, is what they're talking about now, where the Chiefs are the bosses not the community, that's happening now, on Poundmaker. Prior to that, the whole community had a say, why they don't like it, others talked about why they like it, why they won't accept it, and then had a vote, and it was rejected or approved. But what's happening now is the Chiefs have all the say of the Indian Act, not the band, not the community, no more, just Chiefs.



Sharing resources, such as land and the results of a hunt, were important parts of traditional land management techniques. Just as hunters would work together to kill an animal such as a moose, their families would share in the meat and work together, as in the photograph on the right, to stretch the hide. Contrast this tradition of sharing with the tradition shown in the photograph of the fence and sign. How would you expect these different values to affect a treaty-making process?

19. Research and write a report about the scrip process and its effects on Métis people in Manitoba or Saskatchewan.

#### Speaking and Listening

20. Find an example of a story from a First Nations or Inuit oral tradition from your area that teaches an aspect of land management or land governance. You might consult books or Elders from a local community. Learn the story well enough that you can re-tell it to the class. Following your story, lead a discussion about how the story conveys principles of land management. You might want to have a few questions prepared to stimulate the class discussion or prompt students to better understand the story.

21. Interview someone affected by Bill C-31. Record your interview on tape or video, and prepare a presentation for your class using all or part of your recording. In your presentation, discuss how Bill C-31 solved some problems, but created others. Be as impartial as you can in presenting the issues at stake.

#### Viewing and Representing

22. Read the caption and compare the photographs shown on this page in terms of values and ideas about land governance.

23. First Nations and Inuit place names show how groups historically used and occupied particular territories. Create a map of a local region that shows significant landmarks and names of specific places in First Nations languages. You may need to consult with community members familiar with First Nations languages.

#### Going Further

24. Read the statement by Wilf Tootoosis on page 74. What seems to be his main concern with the system of band council government on his reserve? Why might reserve communities be divided in how they see the best role and process of governance? How has colonial history created some of these divisions? What else might cause people to have different ideas? Discuss these ideas in small groups or as a class.

#### LOOKING BACK

Re-read Peter O'Chiese's statement from pages 36–37 and look carefully at Jane Ash Poitras's work, *Bonne Fête Canada*, on page 37. Using this material and others as inspiration, create a work of art that expresses the state of Aboriginal peoples' rights in the early years of Canadian colonization.

## CHAPTER THREE

# Aboriginal Rights and Self-Government

### AS YOU READ

In the last chapter, you learned how Aboriginal peoples began to regain control over their lives after World War II. These changes accelerated in the 1970s until a significant step forward was made in 1982. That year, all Aboriginal peoples — First Nations, Métis, and Inuit — and their rights were recognized in Canada's constitution.

Since that time, Aboriginal peoples and their political organizations have become adept at working within Canadian institutions to further their people's rights to the land and its resources, as well as their inherent right to self-determination.

Canadian institutions are slowly adapting to make Aboriginal goals more possible. For example, the Supreme Court has ruled that oral history regarding land use and governance should be given as much consideration as written evidence when making decisions about Aboriginal rights. Testimony such as that on pages 76–77, by Mushkegowuk Cree Elder James Carpenter, is now of much value in pursuing Aboriginal political and economic goals.

Carpenter was born in 1924 in northern Ontario. In this statement, he describes his people's traditional relationship to the land and to other people on the land. In your own words, write a set of principles governing land use as described by Carpenter. How are these principles a form of governance? How might this system of governance contrast with non-Aboriginal ideas about land use and government? Discuss your ideas with a partner.

### FOCUS QUESTIONS

As you read this chapter, consider these questions:

- ▲ What Aboriginal rights does the Canadian constitution recognize?
- ▲ What have First Nations, Métis, and Inuit peoples done to assert their Aboriginal rights since 1982?
- ▲ What role does the Supreme Court play in Aboriginal rights?
- ▲ How do First Nations, Métis, and Inuit perspectives on self-government compare to one another?
- ▲ What are federal and provincial governments' perspectives on Aboriginal self-government?
- ▲ How are Aboriginal leaders establishing self-government in their communities today?

### Principles of Land Use

Excerpt from a statement by James Carpenter from *In the Words of Elders: Aboriginal Cultures in Transition*

I HAVE NEVER HEARD NATIVE PEOPLE SAY THEY OWN THE LAND. THE LAND IS FOR US TO USE AND TO LIVE, THIS IS WHERE THE FOOD IS, FISH, RABBITS, otter or any other animals for food. We know when freeze-up will happen. The Native person will know what he will need in order to hunt and fish. Wherever he meets another Native person on the land and if he has an abundance of fish, he will invite the person to fish there with him or he will tell another person you can trap with me where there are weasel, muskrat, and otter. That's what the Native person says to his fellow Natives. The Native person treats others with love. The Native person will not say to another Native person, "Don't trap there." He will never say to another person, "That is my land."

Before the mapping of this area and the boundaries were set, the Native people respected one another and their hunting grounds. It still goes on despite these limitations and boundaries. People took care of each other. If I see your trap with a fox, I would hang it on the tree for you so animals won't get at it. Before the metal traps were used, Native people used deadfall traps made of wood. The Native person had intelligence as he has survived for a long time. The Elders have taught how to make these



A mace is a symbol of the power of the Speaker in a legislative or parliamentary assembly. Nunavut's mace is made of polished narwhal tusk and is embedded with northern jewels and tiny figurines of three types of seal — harp, bearded, and ringed. The crown consists of four interconnecting silver loons. The mace rests on four carved stone figures. The first represents an Elder, the second a woman carrying a baby, the third a child, and the last a man. Based on the symbolism of its mace, what principles would you expect Nunavut's government to uphold? How would a mace look that is based on principles described by James Carpenter?

deadfall traps, as I have seen. People would tell each other about where there were rabbits, too, and they would go there to hunt. Native people used to gather and sit and tell each other where there is food and where they were going to hunt.

The lifestyle that the Native people had is gone. The lifestyle of the bush is gone. If a person happens to find moose tracks and night is falling, he will wait until the next morning. He will then ask someone to help him track the moose and they will wait for the wind. The wind blows the trees and makes noise so the moose will not hear them. That is how it is done. If you wanted to make a map, you would draw on the snow or on the ashes of the fire. Why do I ask you to join me in this hunt? The reason is that I want you to live too. The earth is not here just for me. Just like the river that you see, it is not there for only me to drink from, it is for all the Native Nations. I won't tell another Native person, "Don't get water from there." That is not the Native law.

If I were to come to Moosonee Ministik from Attawapiskat and I didn't know where they get nets around here, I would ask you where I [could] get them. You would tell me where the nets are set and you would also tell me where the water

does not flow swiftly. The information you tell is that you expect me to live too. I will live from the food you told me about....

Native people did not use compasses. They used their hands. They used the wind, [observing] which direction it would blow in the morning. You walked along the bay and when [it was] a blizzard, you [were] able to go anyway. First you look at the way the snow lays, blown by the wind.... For example, if I want to go to Attawapiskat, I'll go towards the bay, the bush is too thick to walk in and the snow is too deep. If you walk along the bay, you also look at the creeks and how they lay from the west. The blown snow also shows which way the wind blows, usually from the north. The sun also gives direction when you look to where it rises. If it is a grey day, you use the snow to give the direction. If you use all these things to help you find your destination, you will not be lost.

## ■ REFLECTION

1. Reflecting on James Carpenter's statement, describe his relationship to the land in your own words. Describe his relationship with other people on the land.
2. If possible, talk to an Elder about how they view the land and people's relationships with one another on the land. Compare the Elder's ideas with James Carpenter's views to find similarities and differences.

## The Era of Rights and Freedoms

### AS YOU READ

Pages 78–85 describe Aboriginal people's involvement in the process leading to the signing of the Constitution Act of 1982. As you read this section, make notes about why this event could be considered a turning point in Aboriginal peoples' history in Canada.

**I**N 1982, THE LANDSCAPE OF RIGHTS FOR ABORIGINAL PEOPLES IN CANADA CHANGED SIGNIFICANTLY. THIS WAS THE YEAR THAT CANADA'S CONSTITUTION WAS PATRIATED. THIS MEANT CANADA GAINED COMPLETE INDEPENDENCE FROM

- Britain, including the right to revise or amend its constitution without Britain's approval.

The Canadian constitution is the ultimate legal authority in the country. It describes Canada's most important laws and principles, as well as the responsibilities the government has to its people. This document has evolved since before Confederation in 1867 and will continue to evolve as the needs of citizens change.

The constitution is a written document, but it recognizes many unwritten traditions of the Canadian government that were inherited from Britain, which has no written constitution at all. For example, the British North America Act, which

*Prime Minister Trudeau and Queen Elizabeth II signed the Constitution Act in 1982. Trudeau was known for his highly individualistic view of human rights. He rejected the idea of collective rights and any expression of nationalism, including Quebec nationalism. How might his views on Quebec nationalism affect Aboriginal rights?*



created the Dominion of Canada in 1867, did not refer to the prime minister, even though it was understood through common law that there was one.

When the federal government, under Pierre Trudeau, announced in the late 1970s that it intended to patriate the constitution from Britain, Aboriginal peoples across the country took notice. Many leaders were concerned about how the patriation would affect their rights.

Other leaders saw the patriation as an opportunity to push forward their goal of self-government. If the new constitution recognized Aboriginal people's inherent right to self-government, the federal government would have to move forward with self-government negotiations more quickly.

However, when Aboriginal leaders tried to secure an active part in discussions about the new constitution, they were denied an official place alongside the federal and provincial governments. Aboriginal peoples' efforts to protect their rights had to take place from the sidelines.

This situation only added to the mistrust surrounding the patriation process.

In general, the federal government supported giving Aboriginal peoples some rights protection in the constitution, but hesitated to recognize an inherent right to self-government. They were concerned about the practical issues involved in providing self-government to all Aboriginal peoples, no matter where they lived in the country. Provincial governments, fearing a loss of their own powers, were generally opposed to guarantees of self-government.

## ABORIGINAL CONCERN GROW

In 1981, a compromise was reached between the federal and provincial governments to complete the patriation process. When the agreement was announced, neither women nor Aboriginal peoples were specifically mentioned in the constitution. Women's groups and Aboriginal groups mobilized such convincing protests that their rights were added to the document before patriation.

However, the Aboriginal rights included in the constitution were a compromise between the federal and provincial levels of government. They did not fully address the concerns of Aboriginal leaders and did not recognize their people's inherent right to self-government.

Aboriginal leaders also had concerns about the Charter of Rights and Freedoms. The Charter protects the individual rights of all Canadians, including Aboriginal people. Sections 2 and 7–15 include rights such as freedom of expression, conscience, and religion; the right to vote or run for elected office; the right to enter, leave, and move within Canada; and a number of protections from unjust actions by courts or law enforcement agencies.

Aboriginal organizations supported protections for individual rights, but with a significant difference. A focus on the individual is not part of the cultural heritage of Aboriginal peoples, where the community is viewed as most important. Aboriginal leaders were concerned that an individual whose interests came into conflict with an Aboriginal group's rights might use the Charter to override Aboriginal rights.



Traditional First Nations constitutions were based on natural law, which was given by the Creator and preserved for generations through social custom and the oral tradition. Read the statement by the Wet'suwet'en chief below and discuss with a partner how Aboriginal law and European law compare. Consider the source of the laws, the ways the laws are taught, and the position of law in each society.

Now this Court knows I am Gisdaywa, a Wet'suwet'en Chief who has responsibility for the House of Kaiyexwaniits of the Gitdumden. I have explained how my House holds the Biibenii Ben territory and had the privilege of showing it to you. Long ago my ancestors encountered the spirit of that land and accepted the responsibility to care for it. In return, the land has fed the House members and those whom the Chiefs permitted to harvest its resources. Those who have obeyed the laws of respect and balance have prospered there.

The means by which instructions were conveyed are described consistently as "sacred gifts" received through dreams and visions, in fasting huts and sweat lodges, as well as from human teachers.

In times of great difficulty, the Creator sent sacred gifts to the people from the spirit world to help them survive. This is how we got our sacred pipe, songs, ceremonies, and different forms of government ...

Included in the spiritual laws were the laws of the land. These were developed through the sacred traditions of each tribe of red nations by the guidance of the spirit world. We each had our sacred traditions of how to look after and use the medicines from the plant, winged, and animal kingdoms. The law of use is sacred to traditional people today.

— Gisdaywa, Wet'suwet'en chief, *Report of the Royal Commission on Aboriginal Peoples*

These excerpts from the Constitution Act of 1982 include the clauses that refer specifically to Aboriginal peoples. Clauses followed by a number in parenthesis indicate the year a change was made to that clause.

## THE CONSTITUTION ACT

In the end, some of Aboriginal leaders' concerns were addressed by the constitution.

Section 25 declared clearly that Charter rights could not override Aboriginal, treaty, or other rights held by Aboriginal peoples.

The constitution advanced Aboriginal rights in several other important ways:

- For the first time, Aboriginal and treaty rights were protected from arbitrary removal by the government.

### EXCERPTS FROM THE CONSTITUTION ACT, 1982

Aboriginal rights and freedoms not affected by Charter

25. The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including
- (a) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and
  - (b) any rights or freedoms that now exist by way of land claims agreements or may be so acquired. (92)

Recognition of existing aboriginal and treaty rights

35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

Definition of "aboriginal peoples of Canada"

- (2) In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada.

Land claims agreements

- (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.

Aboriginal and treaty rights are guaranteed equally to both sexes

- (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. (94)

Commitment to participation in constitutional conference

- 35.1 The government of Canada and the provincial governments are committed to the principle that, before any amendment is made to Class 24 of section 91 of the "Constitution Act, 1867," to section 25 of this Act or to this Part,
- (a) a constitutional conference that includes in its agenda an item relating to the proposed amendment, composed of the Prime Minister of Canada and the first ministers of the provinces, will be convened by the Prime Minister of Canada; and
  - (b) the Prime Minister of Canada will invite representatives of the aboriginal peoples of Canada to participate in the discussions on that item. (95)

- Aboriginal peoples were given a constitutional opening to play a more active role in defending their rights.
- For the first time, Métis and Inuit peoples were specifically recognized as Aboriginal peoples, giving them a legal foothold to protect their Aboriginal rights.
- Section 35 gave Aboriginal peoples a place to begin negotiations for land claims and self-determination.

### MEECH LAKE ACCORD

Although the Constitution Act fell short of Aboriginal leaders' hopes, it did include a mandate for further discussion of Aboriginal issues. Section 35 promised a constitutional conference involving the prime minister, the premiers, and Aboriginal representatives. Over the next five years, three conferences on Aboriginal affairs were held. None of them resulted in significant progress.

Quebec, however, made some progress in its demands. The province had refused to sign the Constitution Act in 1982 because it did not contain an acknowledgement of its "distinct status" in Confederation. Despite its refusal, Quebec was legally bound by the constitution, a situation that rankled with many Quebec residents. The province's leaders maintained pressure on Ottawa to make changes that would "bring Quebec into the constitution."

In 1987, after several rounds of discussions, a new Quebec proposal had taken shape. By that time,

Canada had a new prime minister, Brian Mulroney. On April 30, during a conference at Meech Lake, Quebec, Mulroney, and the ten premiers unanimously approved a package of constitutional amendments. These amendments became known as the Meech Lake Accord.

The accord recognized Quebec as a "distinct society," different from all other provinces. It also stated that Canada was the product of "two founding nations" and increased provincial powers over a range of previously federal responsibilities.

Before the accord could come into effect, however, each provincial legislature had to approve the agreement. If any province failed to pass the accord before the end of June 1990, the whole deal would die.

By 1990, the accord had gathered considerable opposition. Critics claimed that it gave Quebec too much power and that the agreement had not included enough consultation. In particular, Aboriginal leaders said that the accord addressed none of the important concerns of Aboriginal peoples as partners in shaping the future of Canada. They were concerned that increased provincial powers might lead to an erosion of Aboriginal rights.

Some Aboriginal leaders were particularly offended by the accord's reference to "two founding nations." John Amagoalik of the Inuit Committee on National Issues declared "It hurts us very much when political leaders like the prime minister continue to say that the two founding nations of this country are French and English. We have been saying for years now that we are of



*John Amagoalik played a critical role in the creation of Nunavut. His quest for Inuit rights was shaped by the injustice his family experienced when he was a child. In August 1953, his family and seventeen others were relocated from their home in northern Quebec to the High Arctic as part of the Canadian government's assertion of sovereignty in the region. Amagoalik is shown here with the National Aboriginal Achievement Award he received in 1998.*

this country. We are of the soil. We did not come on a ship or immigrate to this country. We are of it. We are getting tired of being ignored in this respect.”

In Manitoba, the government left its passing of the Meech Lake Accord to the last minute. On June 30, the legislature found itself rapidly approaching the midnight deadline. In Winnipeg, as the clock ticked closer to midnight, the premier attempted a legal strategy to gain more time. A unanimous vote in the legislature could extend the debate period and allow a vote to take place after midnight.

It was then that a lone voice said “No.” Elijah Harper, an Ojibwa-Cree member of the legislative assembly, declared that he could not support an accord that ignored Aboriginal people’s concerns and that he would not vote to extend the debate. With the support of the Assembly of First Nations, he decided it was better to kill the accord than to betray his principles by ignoring the concerns of Aboriginal peoples across the country. The Meech Lake Accord expired.

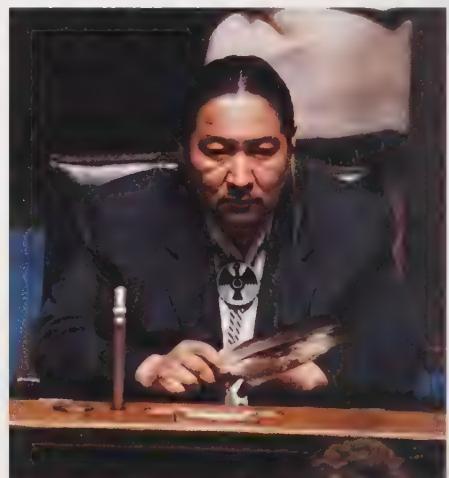
Research more about Elijah Harper’s actions during the Meech Lake Accord and the role the Assembly of First Nations played in supporting him. Write a short monologue that portrays some of the issues Harper may have wrestled with in making his decision.

*Holding an eagle feather, Manitoba MLA Elijah Harper halted passage of the Meech Lake Accord. This famous photograph of Harper in the legislative assembly ranks alongside the photograph on page 78, showing the prime minister and queen signing the Constitutional Accord. Both images symbolize this significant period of political history in the minds of many Canadians across the country.*

## CHARLOTTETOWN ACCORD

The Meech Lake Accord was dead, but the quest for constitutional change continued. In 1991, the federal government released its report. Called *Shaping Canada’s Future Together*, the document put forward proposals to address the concerns of both Aboriginal peoples and Quebec residents. This led to more talks, more reports, and negotiations involving the federal, provincial, and territorial governments. This time, however, the Assembly of First Nations, the Inuit Tapirisat of Canada, and the Métis National Council were invited to the negotiating table.

From these discussions emerged a new constitutional package: the Charlottetown Accord. The Charlottetown Accord proposed a number of constitutional changes that would have the overall effect of reducing the powers of the federal government and increasing the powers of the provinces. It also repeated Meech Lake’s recognition of Quebec as a distinct society.



For Aboriginal peoples, the accord included several key features. It recognized Aboriginal peoples' inherent right to self-government and defined how self-government related to land, environment, language, and culture. It also recognized Aboriginal governments as a third order of government alongside the federal and provincial governments and guaranteed Aboriginal peoples' representation in the Senate.

Instead of ratification by the individual provinces, the Charlottetown Accord was to be approved in a national referendum. On October 26, 1992, Canadians were given the opportunity to vote on the so-called Unity Package. The yes side would have to win a majority both nationally and in each province to make the accord law.

The referendum campaign began on an optimistic note. All ten premiers backed the accord, along with many Aboriginal leaders, women's groups, and the media. However, the momentum soon began to slip. Many Canadians felt uneasy about the accord, finding it too complex, vague, and wide-ranging to absorb and understand. Others, particularly in the western provinces, objected to Quebec's recognition as a distinct society. Former prime minister Pierre Trudeau published a scathing condemnation of the accord in *Maclean's* magazine, arguing that it would cripple the federal government.

By the time referendum day arrived, the accord was in serious trouble.

Nationally, 54 per cent of voters rejected the accord. Only in New Brunswick, Newfoundland, Prince Edward Island, the Northwest Territories, and Ontario did a majority approve it. In the end, large numbers of Aboriginal peoples also voted against the accord. Aboriginal women's groups, in particular, worried that women's rights would not be sufficiently protected in the vision of Aboriginal self-government described in the agreement.



What point are the Treaty Six and Seven First Nations making in the message that follows? Why do you suppose they took a stand apart from that of the Assembly of First Nations, which participated in the negotiations on their behalf? If possible, invite a community member to your classroom who can discuss this message and why Treaty Six and Seven did not support the Charlottetown Accord.

**The First Nations of Treaty 6 and 7 have reviewed the proposed "Unity Package." It is our opinion that the proposed constitutional amendments do not honour the binding sacred trust obligations set out in our sacred treaties.**

The primary and fundamental concern of our First Nations is that any discussions respecting our treaties must occur in a bilateral, nation-to-nation process between our respective First Nations and the Crown. These discussions have yet to occur, and yet our sacred treaties have been discussed in the multilateral constitutional process, and amendments to the constitution have been agreed to by the parties to that process. This is a flagrant violation of our agreements with the Crown under Treaties 6 and 7.

— Treaty Six and Seven First Nations,  
*A Message to all Canadians*

Since 1992, there have been no further attempts to amend Canada's constitution. Aboriginal leaders have instead focused their energies on building on the foundation of the rights enshrined under Section 35 of the constitution. Much of this work centres on legal action and court decisions, as discussed on pages 86–87.

## NATIONAL ORGANIZATIONS

After the success of the campaign to force the federal government to withdraw its 1969 White Paper, Aboriginal peoples became convinced of the effectiveness of speaking to the federal government with a united voice. However, Aboriginal peoples in Canada today are no more uniform than they were when Europeans first arrived on North American shores. If anything, Aboriginal peoples have become even more diverse.

Participation in the constitutional conferences led to an identification of diverse perspectives in the Aboriginal

Using the Internet, prepare a summary of the five main national Aboriginal organizations:

- Assembly of First Nations
- Congress of Aboriginal Peoples
- Inuit Tapiriit Kanatami
- Métis National Council
- Native Women's Association of Canada

You can link to the organization Web sites at [www.aboriginalcanada.gc.ca](http://www.aboriginalcanada.gc.ca). Research who the organization represents, its history, and its basic organizational structure. How does it keep in touch with Aboriginal people's views at the local level?

community. Today, these different perspectives are represented by five main national Aboriginal political organizations. These are the Assembly of First Nations, the Congress of Aboriginal Peoples, the Inuit Tapiriit Kanatami (formerly the Inuit Tapirisaq of Canada), the Métis National Council, and the Native Women's Association of Canada.

National political organizations are influential because they each represent the views of many individuals with common goals. Most national organizations have community branches or affiliates to ensure their policies and actions are informed by grassroots needs. For example, the Métis National Council has five provincial affiliates, including the Métis Nation of Alberta (MNA). The Assembly of First Nations also has grassroots organizations at the community level.

Aboriginal political organizations must use lobbying and influence to achieve their goals — they do not have the kind of formal political power that provincial and territorial governments have. Federal and provincial government powers are guaranteed by the constitution.

National organizations influence the attitudes, values, and behaviours of Aboriginal peoples as well as Canadians' views of Aboriginal peoples. Media outlets often interview organization leadership to present Aboriginal people's views on the issues that affect them. Representatives are usually included in government discussions about policies that affect Aboriginal peoples.

## PROMOTING ABORIGINAL RIGHTS

**How are Aboriginal leaders working today to affirm Aboriginal rights and freedoms?**

### WHAT TO DO

1. Choose a national Aboriginal political organization. Imagine that you are a public relations expert working for this organization. Your job is to get your organization in the national news tomorrow night with an attention-getting press release. A press release is a short document that tries to intrigue the media with a story idea in the hope of getting publicity for an organization or cause.
2. Research the organization's position on Aboriginal rights. What work is it doing in this area? Start by visiting the group's Web site and searching periodical indexes online or at the library for recent activities in the news.
3. If possible, interview a member of your local community who is involved in the organization. Be prepared with knowledgeable questions. With your interviewee's permission, record the interview or write their answers down exactly as they are said. Your press release will be more interesting with quotations from the person you interview, but you must be accurate in your record.
4. Write the press release. It should not be any longer than one page and should use precisely chosen language and information. Assume your audience knows nothing about Aboriginal rights. Check that your release has a date and headline before you hand it in. Include your name on the bottom as the person to contact for more information.

"The Constitution Act of 1982 was meant to be a landmark in Canada's dealings with the original peoples of this land, both in content and process," said [Matthew Coon Come, National Chief of the Assembly of First Nations in 2002].

"Section 35 of the Constitution recognizes three groups of Aboriginal peoples in Canada: First Nations (or "Indians"), the Métis, and the Inuit. Equally important, section 35 recognizes and affirms 'existing aboriginal and treaty rights.'

"This is an important distinction because it affirms that our rights as Aboriginal peoples are inherent rights. They are rights that have always been within us and that stay with us regardless of where we live in this land. Section 35 does not give us any rights. It recognizes and affirms the rights we have always held as self-determining nations. Those rights existed before any settlers arrived on our shores. We had those rights at contact and they exist today," said the National Chief.

— Excerpt from an April 17, 2002 press release issued by the Assembly of First Nations

### LOOKING BACK

What Aboriginal rights were and were not recognized in the Constitution Act of 1982? How is the constitution particularly important for Métis and Inuit peoples? Imagine that you have the power to insert a clause into the Canadian constitution that will recognize a traditional Aboriginal law. Decide where this addition should go and write it exactly as it should be. If you can, use an Aboriginal language in the wording.

# Aboriginal Rights and Canadian Law

## AS YOU READ

Although it did not expressly recognize the inherent right to self-government, the Constitution Act of 1982 did much to further Aboriginal rights in Canada.

This section examines developments in Aboriginal rights since 1982. In particular, it deals with how Aboriginal people's rights have been recognized through court interpretations of the numbered treaties, Indian Act, Manitoba Act, Natural Resources Conservation Agreements, and Section 35 of the Constitution Act. As you read, make a concept map to organize your notes and indicate relationships between decisions, laws, and their implications for Aboriginal rights.

CANADA'S CONSTITUTION RECOGNIZES "EXISTING ABORIGINAL AND TREATY RIGHTS," BUT DOES NOT PRECISELY DEFINE WHAT THOSE RIGHTS INCLUDE. THIS HAS MEANT THAT THE DEFINITION OF ABORIGINAL RIGHTS IS

- slowly evolving. It is the result of many court decisions as Aboriginal people sue the government, the government defends its perspective, and the Supreme Court rules how Aboriginal rights should be interpreted in light of the constitution.

*The Supreme Court plays a large role in determining Aboriginal rights. What are the benefits and drawbacks of using the court to determine Aboriginal rights? What are the benefits and drawbacks of using other methods, such as negotiation or constitutional change?*



The relationship between the government and Aboriginals is trust-like rather than adversarial, and...contemporary recognition and affirmation of Aboriginal rights must be defined in light of this historic relationship.

— Supreme Court of Canada, *R. v. Sparrow* (1990)

The process is costly and slow, but has resulted in significant gains for Aboriginal rights since 1982.

## ABORIGINAL TITLE

As you learned in Chapter Two, all aspects of traditional First Nations, Métis, and Inuit cultures were intimately connected to the land. Many Aboriginal rights claims therefore involve the land and its resources.

Aboriginal title is a legal term that refers to an Aboriginal group's right to a specific territory. An Aboriginal group with title to a piece of land has the right to exclusive occupation of the land and the right to economic benefits from the land's resources. These land rights are based on the nation's longstanding occupancy and use of the land.

Having Aboriginal title is not the same as owning land in **fee simple**. If people own land in fee simple, they may do anything they like with it — keep it, sell it, lease it, give it away, or even destroy it.

A group with Aboriginal title cannot make use of the land in such a way that the land is alienated from the group's historic connection to it. For example, if an Aboriginal group

The fact is that when the settlers came, the Indians were there, organized in societies and occupying the land as their forefathers had done for centuries.

This is what Indian title means...

— Supreme Court of Canada,  
*Calder v. Attorney General of British Columbia* (1973)

has title to a piece of land based on its significance as a hunting area, they cannot build a parking lot on it.

In legal terms, Aboriginal title is *sui generis*, which means it is unique and somewhat difficult to define in property law. Aboriginal title is a collective property right, not an individual property right. It is the right of the group to use, occupy, and determine the uses to which a piece of land will be put.

Aboriginal title is not the same as Aboriginal rights. Aboriginal rights can include a wide variety of activities, such as hunting, fishing, gathering, or ceremonial practices. Members of an Aboriginal group might have the right to hunt or fish on **Crown land**, for example, without actually having title to the land. Crown land is owned by the Crown and managed by the federal or provincial government.

A frequent legal argument that has important implications for Aboriginal rights concerns the source of Aboriginal title. First Nations and Inuit peoples maintain that their Aboriginal title comes from the Creator. As such, it long predates any legislative act of a European or Canadian government and is therefore an inherent right. It cannot be removed, limited, or even defined with certainty.

A different interpretation — one sometimes argued by Canadian governments — is that Aboriginal title stems from the Royal Proclamation. The proclamation declared that lands west of the Appalachian Mountains “are reserved” for “nations and Tribes of Indian.” The implication of this interpretation is

## TESTS TO ESTABLISH RIGHTS

In recent years, several Supreme Court decisions have outlined tests that can be used as guidelines for interpreting Aboriginal rights claims. These tests include one for Aboriginal title and one for Aboriginal rights.

### Aboriginal Title Test

- The group must have occupied the land before the Crown asserted sovereignty over the area. The group can prove occupation and use of the land using its traditional laws in relation to the land, as well as evidence of hunting, building, cultivation of fields, fishing, and so on.
- The group must have had exclusive occupation of the land.
- The group must still have a substantial connection to the land.

### Aboriginal Rights Test

- The activity the group is trying to protect must be integral to the group’s distinctiveness as a society.
- The group must have exercised the activity before contact with Europeans or before the Crown asserted effective control over the people.
- The group must still practise the activity, although it can be in a modern form.

### REFLECTION

Title claims are rooted in land, while rights claims are rooted in activities. A claim to Aboriginal title does not necessarily involve the right of self-government, but does imply possessing some authority over the uses to which land can be put. In small groups, research and briefly describe one court case dealing with Aboriginal title and one dealing with Aboriginal rights that highlight the distinction between the two.

that Aboriginal title comes from the Crown, not the Creator. This makes it a right that can be limited or extinguished by the Crown or by the government acting on behalf of the Crown.



Dr. John Snow is a respected Nakoda Elder, author, and storyteller who was chief of his band from 1968–1990. His book, *These Mountains Are Our Sacred Places*, contains the history of his people before, during, and after signing Treaty Seven.

## NUMBERED TREATIES

In legal terms, the Canadian government viewed the treaty process as the “extinguishment of Indian Title.” The government believed it was receiving title to the land in exchange for various treaty rights. From the government’s perspective, this made sense: First Nations had title to the land and they willingly agreed to surrender it to the government through treaties.

From a First Nations perspective, the treaties are agreements between nations to share the land and its resources. First Nations leaders maintain that their ancestors could not have given the land to the newcomers for one simple reason: it was not theirs to give.

In addition, many First Nations leaders argue today that written treaty agreements do not always include everything their ancestors agreed to during negotiations. The Supreme Court of Canada agrees. It maintains that interpretations of treaty agreements must go beyond the written text to include the “spirit and intent” of treaties as described through oral history. Where there is

This [treaty cession] was something that was difficult, if not impossible, for Indians to understand because we have no concept of individual land “ownership” in the European sense. In those days, we did not “own” the land by receiving title or patent from a tribal authority. My people had always believed that the land was created for its Indigenous inhabitants — animal, bird, and man. Our philosophy of life is to live in harmony with nature and in accordance with the creation of the Great Spirit. Anyone wanting to live by those principles is more than welcome, and, if he wants to, he may participate in our traditional ways, religion, and culture.

— Chief John Snow, Nakoda,  
*These Mountains Are Our Sacred Places*

doubt, the court suggests that treaty interpretations err on the side of generosity for First Nations.

According to oral history, for example, leaders of the Blackfoot Confederacy did not transfer ownership of the land in Treaty Seven. Rather, they promised to live in peace with settlers and, in return, asked for their help in adjusting to a new way of life. Oral history indicates that they were promised that they could continue to exercise control over most of their land and pursue their traditional livelihoods. The oral history from other areas report similar understandings of the treaty agreements.

For example, in the statement that follows, Lazarus Roan recounts stories told by his father and uncles, who were present at the Treaty Six signing:

He [the government negotiator] would indicate with his hands approximately one foot in depth: “That is the depth that is requested from you, that is what the deal is, nothing below the surface, that will always belong to you. Only land where agriculture can be viable; other areas where nothing can grow, that will always belong to you. You will always be the owner of that land.... And when the negotiation has been concluded, and settlers begin to homestead, it will only be their property that will be fenced off, that you will not be allowed to enter. Other areas which are not homesteaded and remain open will belong to you as long as the sun shines.”

As you learned on pages 50–52, different opinions about the nature of treaty promises stem from many factors. Translation issues and differences between oral agreements and the written treaties are among the most significant.

To further complicate Aboriginal title issues, many First Nations lost their traditional lands without signing any formal treaties. Most of the First Nations in British Columbia, for example, have never formally released title to their traditional lands. These First Nations believe that they still hold title to the land, in both the traditional and the European sense.

Land claims are legal actions taken by Aboriginal groups to restore their rights to the land and to address specific grievances with respect to

treaties or other agreements. The federal government established a process to deal with land claims in the 1970s, so most claims are pursued outside the courts. Aboriginal peoples generally resort to the courts to settle land claims only when negotiations fail. You will learn more about land claims in Chapter Four.

From a First Nations perspective, decisions about land rights covered by treaties or outside treaties need to consider oral testimony, such as that offered by Lazarus Roan. In the Supreme Court's landmark 1997 *Delgamuukw* decision, it ruled that oral history should be considered equal to other forms of evidence, such as written records, and that oral history can be used to establish Aboriginal title to land.

Issues for Investigation

## COMPARING TREATY PROMISES AND TREATY TERMS

In approaching the terms of a treaty... the honour of the Crown is always involved, and no appearances of "sharp dealing" should be sanctioned.

— Ontario Court of Appeal,  
*R. v. Taylor and Williams* (1981)

What characterizes a treaty is the intention to create obligations ... Once a valid treaty is found to exist, that treaty must in turn be given a just, broad, and liberal construction.

— Supreme Court of Canada, *R. v. Sioui* (1990)

What rights are promised by treaties and how should they be interpreted?

### WHAT TO DO

1. On page 52, you did an activity that used written and oral treaty agreements regarding self-government. In your groups, use the resources you identified in that activity to compare treaty terms regarding Aboriginal title or other Aboriginal rights.

2. Prepare a chart of written treaty promises compared to oral history accounts. Note areas where the accounts coincide and where they differ.
3. Using the Supreme Court's guidance on interpreting treaties, write a new treaty that incorporates both oral and written treaty promises.

## ORAL HISTORY SKILLS

In 1912, Onondaga Chief John A. Gibson demonstrated just how much talent oral history requires, when he dictated the only complete written version of the Great Law of Peace. For more than four-and-a-half centuries, this law had been passed down orally with reference to a wampum belt. Chief Gibson's dictation was 514 handwritten pages.

Songs, stories, ceremonies, and dances form the heart of First Nations and Inuit history, law, and governance. They are all elements of a group's oral tradition, which varies in form and content from Aboriginal group to group. Oral history, as a distinct part of an oral tradition, is history from an Aboriginal perspective. The courts have identified three types of oral history:

- contemporary or past accounts of past events
- present-day speakers' memories of past events
- sworn statements of pre-contact ownership of land

In the Delgamuukw case, the Gitksan and Wet'suwet'en chiefs offered evidence of their people's traditional system of land tenure through a description of the *adaawk* of the Gitksan and the *kungax* of the Wet'suwet'en.

The *adaawk*, for example, explains information about a particular house (clan group) and how that house owns the land. It includes information about crests, names, and fishing stations connected to the house. It also describes how the house first attained the land and territory associated with it.

Such testimony attests to the Gitksan people's system of land tenure and laws regarding land use. Other First Nations and Inuit peoples have their own customs that relate to each group's needs and the conditions in their specific territory.

### Your Project

1. Choose one of the following options as the basis of an oral history you will tell your class:

**Topic A:** a story from an indigenous people's culture that relates some element of their history. You will need to also research the culture the story originates from so that you will understand the story's full meaning and purpose.

**Topic B:** an historical incident that you would like to tell as an oral history. You will need to think about how you can make the historical event come alive. Be sure to follow the facts of the story, but remember that you do not need to tell every detail. To keep your audience's attention, be choosy in your selection of what you relate.

**Topic C:** an event from your own life that you would like to share. You might want to start by writing down key parts of the story that you think are significant.

2. Prepare or research your story. Think about why you are telling it. What might others learn? Be sure your story will be meaningful to your audience — in this case, your classmates. Practise the story until you can tell it naturally, without referring to notes.
3. Share your story with the class.
4. What did you find most difficult about relating the story? What does your experience teach you about the skill needed to relate oral history? Write your responses in a paragraph to submit to your teacher.



### Going Further

Invite an Elder from your community to visit the class to share part of the oral history of his or her people. You might specifically request oral history related to land use and occupancy.

## MANITOBA ACT

Since 1982, Aboriginal rights cannot be extinguished by federal or provincial legislation. The only way they can be extinguished is through explicit surrender or constitutional change.

The Manitoba Act is often used as an example of explicit surrender. It clearly states that its purpose is to “extinguish the Indian title preferred by the Half-breeds.” Individuals who took scrip relinquished their title to land, although not necessarily their other Aboriginal rights.

In the case of Morin and Daigneault, the Saskatchewan Court of Queen’s Bench affirmed that Métis harvesting rights had not been extinguished by the Dominion Lands Act or Manitoba Act. This is because neither document explicitly mentions the issues of hunting and fishing.

Other cases in the courts will deal with how the scrip process affects Métis land rights. Some argue that the many documented cases of fraud that deprived Métis people of their land rights leaves their Aboriginal title to land intact.

## INDIAN ACT

Under the Indian Act, First Nations have only **usufructuary rights** to reserve lands. This term means they can use the land, but they do not own it in fee simple. A First Nations member may “possess” a piece of reserve land in the sense that their home and business may be on it, but he or she cannot sell it.

Reserve lands belong to the Crown and are held in trust for First Nations in perpetuity — forever. This establishes a trust, or **fiduciary**,



*Louis Nabess and Pierre Carriere of Cumberland House, Saskatchewan, pose after a successful hunting trip for wildfowl in 1953. Ways of life that include hunting, trapping, and fishing are an integral part of traditional Métis culture. In your opinion, are traditional harvesting rights justifiably restricted to protect endangered species? Discuss this question in small groups.*

relationship between First Nations and the government. A government’s fiduciary obligation means that it must act in a First Nation’s best interests in dealing with the nation’s land. For example, if the federal government makes an agreement to sell a First Nation’s land or resources, it must do so at fair market value. Some land claims today deal with instances where First Nations believe the government did not fulfill its fiduciary obligations. In some cases, land or resources were sold for far less than market value.

The Indian Act withheld land ownership in fee simple to prevent First Nations from selling, trading, or giving away the land that their children and grandchildren would eventually live on. However, this decision severely reduced First Nations’ economic power. First Nations communities and individuals cannot sell or mortgage their land. This restriction makes it difficult for a community to raise capital for business ventures or even for an individual to borrow money to build a house.



Ranchers spearheaded the campaign for provincial control of natural resources. They needed Crown land for their cattle. To this day, many provincial parks in Alberta are designated as multi-use, which allows some industries and ranching operations to use park land.

Many First Nations leaders see land ownership in fee simple as an important prerequisite for achieving self-determination for their people. Other people worry that ownership in fee simple could lead to the loss of land for future generations if a group sells or forfeits a mortgage on their land.

Each community that accepts the benefits of ownership in fee

simple must also accept the accompanying risks. This makes ownership in fee simple a controversial step in many communities.

## NATURAL RESOURCES TRANSFER AGREEMENTS

When Manitoba, Saskatchewan, Alberta, and British Columbia first became provinces, they had different status from other provinces. In the rest of Canada, Crown lands and resources fell under provincial jurisdiction. In the four western provinces, Crown lands and resources were owned by the federal government.

For years, the governments of the four provinces fought for equal treatment. In 1930, the federal government finally agreed. The Natural Resources Transfer Agreements (NRTAs) turned Crown land over to provincial jurisdiction.

## EXCERPT FROM THE NATURAL RESOURCES TRANSFER AGREEMENTS

### Indian Reserves

10. All lands included in Indian reserves within the Province, including those selected and surveyed but not yet confirmed, as well as those confirmed, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada, and the Province will from time to time, upon the request of the Superintendent General of Indian Affairs, set aside, out of the unoccupied Crown lands hereby transferred to its administration, such further areas as the said Superintendent General may, in agreement with the appropriate Minister of the Province, select as necessary to enable Canada to fulfill its obligations under the treaties with the Indians of the Province, and such areas shall thereafter be administered by Canada in the same way in all respects as if they had never passed to the Province under the provisions hereof....
12. In order to secure to the Indians of the Province the continuance of the supply of game and fish for their support and subsistence, Canada agrees that the laws respecting game in force in the Province from time to time shall apply to the Indians within the boundaries thereof, provided, however, that the said Indians shall have the right, which the Province hereby assures to them, of hunting, trapping and fishing game and fish for food at all seasons of the year on all unoccupied Crown lands and on any other lands to which the said Indians may have a right of access.

### REFLECTION

Legalese is a slang term that is used to characterize the difficult language of legal documents. In plain and clear language, re-write the clauses from the Natural Resources Transfer Agreements.

Although Aboriginal peoples were not consulted about the transfer, the agreements had implications for their rights. First Nations reserves are on Crown land, and treaties guarantee signatories the right to hunt and fish on Crown land. Treaty agreements meant that the NRTAs needed to include a section outlining how reserves would be affected by the agreements.

In Section 10, the NRTAs clearly stated that the Crown land being transferred to provincial jurisdiction did not include reserves. Reserves would still be administered by the federal government. Furthermore, if the federal government needed more Crown land to fulfill its treaty obligations, the provinces would have to provide it.

This requirement could add up to a lot of land. For example, several Alberta First Nations believe that they never received the land they were entitled to by treaty. Since 1986, Alberta has turned over 72 146 hectares and paid \$57.6 million in compensation for land that remains under its control. Several other large claims are still in negotiation.

In addition, the NRTAs gave the provinces only limited power to regulate First Nations hunting and fishing. On unoccupied Crown land, First Nations people with treaty rights can hunt, fish, and trap year-round — provided they are doing so for food. Supreme Court decisions have ruled that they can even do so outside of the province in which they live.

In its 1996 decision in the Badger case, the Supreme Court ruled that Treaty Eight signatories

have the right to hunt on privately owned land if that land is not put to any obvious use. However, the court held that, although Treaty Eight protects the right to commercial activity on Crown land, the NRTAs limited harvesting to subsistence hunting, trapping, and fishing. In other words, the court interpreted the NRTAs as extinguishing commercial harvesting rights and overriding the treaty promise.

Whether or not Métis harvesting rights are protected in NRTAs is still being argued in the courts.

## SECTION 35

Since 1982, many court cases have clarified how Section 35's recognition of "existing Aboriginal and treaty rights" should be interpreted. This clarification is ongoing and will continue to be further defined in the future. In general, the court has indicated that Aboriginal rights are not absolute. Like other kinds of rights, they are subject to a balance of interests.

For example, the courts have been clear that they will not deprive innocent third parties of their rights in order to satisfy claims to Aboriginal rights. This means that settlements for land claims to areas such as Vancouver or Ottawa will not force all the non-Aboriginal people currently living there to move. Other ways of settling a successful claim in such cases would need to be found — most likely through financial compensation.

One question that is frequently tried in the courts concerns Aboriginal harvesting rights and the extent to which they can be limited



The Little Red River Cree Nation helps its members by developing traditional and non-traditional jobs on its land. Little Red River Forestry, for example, provides many full-time and seasonal jobs. It also consults with Elders, trappers, and other community members to be sure its forestry practices do not impinge on traditional ways of life and values.



As her ancestors did, Loretta Mercredi makes a living from the land's resources. However, Mercredi works in a modern way. She works in the Central Maintenance and Supply Services department at Syncrude Canada.

by federal or provincial laws. Harvesting rights include hunting, fishing, and trapping rights, but could potentially include the right to make a living from the land by logging or whatever other means necessary in the present time.

The Supreme Court's 1990 decision in the Sparrow case established a framework for assessing when aboriginal harvesting rights can be restricted by federal or provincial law. The court ruled that some objectives could override Aboriginal rights, such as economic development or the protection of endangered species. However, the government must have "compelling and substantial" reasons before taking this action. The court stated that any limitations must uphold the honour of

Crown and must be consistent with "the unique contemporary relationship, grounded in history and policy, between the Crown and Canada's aboriginal peoples."

In addition, the court clarified that Aboriginal rights are geographically specific. Just because one group has a right to fish off the west coast does not mean the rights will apply to other groups.

In a trio of 1996 decisions (Van Der Peet, Gladstone, and Smokehouse), the Supreme Court ruled that an Aboriginal right to sell fish commercially can exist if the right was an integral part of the culture and customs of the specific Aboriginal group before contact. The practice must be a part of the distinctive culture of the group, although it may have evolved into a modern form.

In its decision, the court affirmed that the constitution did not create Aboriginal rights — they already existed. Governments cannot extinguish rights, but can infringe upon or regulate them using guidelines established in the Sparrow case.

This page gives two examples of Aboriginal people who make a living from the land's resources. In your opinion, should Aboriginal harvesting rights include the right to make a living in any way from the land, including commercial, non-traditional practices? Discuss this issue with a partner.

In the Van Der Peet decision, the court was careful to say that the pre-contact provision for the rights test does not rule out Métis claims. It stated that other dates may need to be set for other groups of Aboriginal peoples, such as Métis groups that developed after contact. Each decision about Aboriginal rights would need to be reached on a case-by-case basis.

#### The Powley Case

In 2003, the Powley case established an important precedent for Métis rights under Section 35. In the case, the Supreme Court upheld an Ontario court decision that asserted that Steve Powley and his son Roddy had Aboriginal hunting rights under Section 35. The Ontario appeal judge noted in his judgement that

Surely, at the heart of s. 35(1), lies a recognition that aboriginal rights are a matter of fundamental justice protecting the survival of aboriginal people, as a people, on their lands. The Métis have aboriginal rights, as people, based on their prior use and occupation as a people. It is a matter of fairness and fundamental justice that the aboriginal rights of the Métis which flow from this prior use and occupation, be recognized and affirmed by s. 35(1) of the Constitution Act, 1982.

One of the arguments the Crown made in its case against the Powleys was that the uncertainty



Métis hunter Steve Powley attracted media attention across the country when the Supreme Court supported his Aboriginal hunting rights. How might this court decision impact Métis land claims?

surrounding the identification of people entitled to Métis rights made it impossible to guarantee those rights. In the Powley decision, Mr. Justice Sharpe rejected this argument. He stated

I do not accept that uncertainty about identifying those entitled to assert Métis rights can be accepted as a justification for denying the rights...The basic position of the government seems to have been simply to deny that these rights exist, absent a decision from the courts to the contrary...The government cannot simply sit on its hands and then defend its inaction because the nature of the right or the identity of the bearers of the right is uncertain.

The court's statement clearly indicated that the federal government needed to take action to address Métis concerns. Although the Powley decision only applies in Ontario, Métis leaders across the country hailed it as a strong precedent in support of Métis rights everywhere.



The status of Aboriginal women, such as Jeannette Corbiere Lavell and others who fought gender discrimination in the Indian Act, has improved since 1982. Section 35 of the Constitution Act gives explicit protection for gender equality. Supreme Court decisions have ruled that this equality takes precedence over even traditional practices that might otherwise be considered an Aboriginal right. What is your opinion on this issue?

## THE JUSTICE OF RIGHTS

As you learned in this section, Aboriginal leaders are actively working to define and clarify what Aboriginal rights are and who holds them. In your talking circle, discuss some of the issues and ideas you have read in this section, along with the perspectives on pages 96–97. Consider the questions that follow as you read:



*As you hold your talking circle, listen carefully to each person's point of view so that you can remember as much as possible for your notes following the discussion.*

One of the most persistent red herrings in public debates that consider Aboriginal rights of self-government, or treaties, is the idea that setting up Aboriginal governments, or negotiating treaties with people who are Canadian citizens, is “a form of apartheid, based on ‘racial background.’”... It is worth pausing to emphasize that “race” is an idea and not a biological fact. There are no biological races. The term is usually applied to a group singled out for special attention for political reasons. That the term has no scientific content is a fact that is beyond contention. Those individuals who happen to have one or more “Aboriginal” ancestors and who are treated adversely on that account, are entitled to the remedial benefits of the Charter [of Rights and Freedoms] as interpreted by the courts. But this does not mean that each such individual

has any Aboriginal rights. This is where the confusion often begins. Aboriginal rights are group rights, and not individual rights. They are expressly recognized and affirmed in Part II of the Constitution Act 1982, where they are carefully separated from the individual rights contained in the Charter, which makes up Part I of the Act.



The Supreme Court of Canada has explained that Aboriginal rights are held by historic groups that have lived and continue today to live in a particular territory or place. Aboriginal rights are specific to distinct historic societies in their own ancient homelands. They are not held by persons on account of their biological “heritage.” Aboriginal rights can only be exercised by persons by virtue of their membership in a particular historic community in a particular place.

— Paul Chartrand, “Debunking the ‘Race’ Myth in Debating B.C. Treaties”

Indian Nations in Canada were never conquered. European traders and, in later years, settlers, were made to feel welcome in a land and environment which was alien to them. Throughout years of European settlement and expansion, Indian Nations sought a mutual accommodation, one that would permit a bountiful land to be shared to the benefit of all.

Indian rights to land, resources, culture, language, a livelihood and self-government are not something conferred by treaties or offered to Indians as concessions by a beneficent government. These are the rights that Indian Nations enjoy from time immemorial. These rights are pre-existing and inviolable. A Canadian constitution can accommodate Indian rights, it cannot diminish, alter, or eliminate them.

Indian Nations understand the constitution to be a pact among founding peoples, among which we include ourselves. We understand our special constitutional relationship with the Federal Government to be in the nature of a partnership with the federative system, which was intended to permit us to survive and prosper as Indian Nations, while contributing to Canada's total development.

— Union of British Columbia Indian Chiefs



The ways that are remembered in story, song, and ceremony are the inherent rights of the Blackfoot people. That is, they have a right to determine how these traditional ways of governing relations can be interpreted in today's society. It is a big challenge, no doubt. But it starts with cross-cultural understanding. When you better understand the land that surrounds you, it comes alive for you and in turn, you treat it as you treat other life, with respect.

For the Blackfoot, much has changed, but the willingness to share the land has not. However, it must be done in a way that, like the many generations of Blackfoot that lived on the land, more generations to come from all races can continue to source the earth for sustenance, for life. It is the inherent right of the Blackfoot people to use their traditional land management and governance practices. It is the balance of the natural laws of the environment, and the spiritual laws of the ceremonies that allowed the Blackfoot to live so long and continue to live in their traditional territory. These rules are important not just for the Blackfoot people, but for biodiversity and the sustainable use of Earth's resources so that all people can benefit and live in balance and harmony with the earth.

— Paulette Fox and Duane Mistaken Chief, Kainai First Nation, "Blackfoot Land Governance"

## REFLECTION

What are Aboriginal rights? What ideas do each statement on pages 96–97 contribute to your understanding of Aboriginal rights? Think about ideas from your talking circle discussion and write notes covering your own ideas and those of your classmates.

## LOOKING BACK

Summarize your work in this section by researching one court case that relates to Aboriginal rights. Choose one mentioned in this section, or another that interests you. Prepare a summary that explains the case's significance in terms of Aboriginal title, Aboriginal rights, harvesting rights, self-determination, and so on.

# Re-Building Self-Government

## AS YOU READ

Since 1982, most progress on Aboriginal self-government has been made through negotiation, not court action, although court decisions continue to influence the federal government's policies and law-making.

As you read this next section, recall what you know about the diverse cultures and histories of Aboriginal peoples. Why might some communities have a harder time than others achieving self-government? Why do you think the greatest self-government progress has been made at the community level, rather than constitutional level?

MOST ABORIGINAL LEADERS AGREE THAT SELF-GOVERNMENT HAS GREAT IMPORTANCE FOR THE FUTURE OF THEIR PEOPLE. SELF-GOVERNMENT OFFERS THE OPPORTUNITY TO DETERMINE THE DIRECTION OF THEIR

- political, economic, cultural, and social futures. From this perspective, self-government promises
  - greater political control over decisions that affect their nations and independence from outside pressures and influences by Canadian federal, provincial, and municipal governments
  - greater opportunities for economic development to end poverty, unemployment, dependency, and the unequal distribution of wealth between Aboriginal peoples and other Canadians
  - greater opportunities for culturally sensitive services that will help overcome problems such as poor housing, ill health, inadequate education, and feelings of alienation

- greater protection of Aboriginal cultures, and support for Aboriginal languages, traditions, customs, and art

In addition, Aboriginal leaders agree that self-government is an inherent right. For First Nations and Inuit peoples, this right comes from the Creator. For Métis people, the right comes from their position as a uniquely Canadian people that are indigenous to this country in a way that no other people are. Métis people are a cultural, political, and economic blend of indigenous North American and immigrant European roots.

Aboriginal perspectives on self-government and many other topics were expressed in the *Report of the Royal Commission on Aboriginal Peoples*, published in 1996.

For this rebirth to be meaningful, anything short of true independence and complete freedom will not be acceptable. Trimmed to the bare bone, this means we must regain control over the basic decisions affecting our everyday lives, our communities, our children, our futures. Parents must regain the right to make decisions about the lives of their children; their education, the values they grow up with, their preparation for life. We are talking about the right to make the decisions that will allow our communities to flourish, the simple right to earn a living in the way we feel will best reflect our identity and our society.

— Harold Cardinal,  
*The Rebirth of Canada's Indians*

## ROYAL COMMISSION ON ABORIGINAL PEOPLES

The federal government established the Royal Commission on Aboriginal Peoples in 1990. The commission was charged with the task of assessing the social, cultural, and economic challenges facing First Nations, Métis, and Inuit peoples, and to recommend solutions.

Between 1991 and 1996, the Royal Commission held 178 days of hearings, with 3500 witnesses. In late 1996, the commission released its report in six volumes. It called for a far-reaching change in the relationship between Aboriginal peoples and the rest of Canada.

Among its many conclusions, the report recommended

- a proclamation by the federal government to admit past mistakes and establish a bilateral, nation-to-nation relationship between Canada and Aboriginal peoples
- constitutional recognition of the inherent right of Aboriginal peoples to self-government
- an Aboriginal constitutional veto on matters affecting the constitutional rights of Aboriginal peoples

The Royal Commission proposed that Canadian federalism be revised to include three orders of government: federal, provincial, and Aboriginal. The commission maintained that each level of government should have full powers over the areas in its jurisdiction, unlike municipal governments that have powers delegated to them by the provincial or territorial governments. The



Georges Erasmus, former chief of the Assembly of First Nations, was co-chair of the Royal Commission on Aboriginal Peoples in 1996. The commission also included Viola Robinson, former president of the Native Council of Canada and Mary Sillett, former vice-president of the Inuit Tapiriyat of Canada. What does their presence on the commission tell you about the influence of national Aboriginal organizations on the federal government?

commission noted three basic models for self-government, asserting that a one-size-fits-all system could not work. The diversity of First Nations, Inuit, and Métis cultures and history would require a diverse selection of self-government models.

### Responses to the Royal Commission's Report

Most Aboriginal leaders agreed with the report's conclusions. Many felt that it clearly outlined Aboriginal peoples' situation in Canada and provided practical ways to improve their people's lives.

In January 1998, the federal government released its response in a document called *Gathering Strength: Canada's Aboriginal Action Plan*. In the document, the government expressed its regret for past actions that damaged Aboriginal peoples and communities. It then set out a plan to develop a new relationship between the federal government and Aboriginal peoples.

The plan included a pledge to fully implement the terms of all treaties, strengthen Aboriginal self-government, provide new funding arrangements for Aboriginal governments, and develop programs in consultation with Aboriginal peoples to promote greater social, cultural, and economic development for their communities.



## NEGOTIATING SELF-GOVERNMENT

The Royal Commission on Aboriginal Peoples listed core areas of jurisdiction it considered essential to self-government. These core areas included

- citizenship and membership
- government institutions
- elections and referendums
- access to and residence in the territory
- lands, waters, sea-ice, and natural resources
- protection and management of the environment
- economic life, including commerce, labour, agriculture, hunting, trapping, fishing, etc.
- regulation of businesses, trades, and professions
- management of public monies and other assets
- taxation
- family matters, including marriage, divorce, adoption, and child custody
- property rights, including succession and estates
- health
- social welfare, including child welfare
- education
- language, culture, values, and traditions
- some aspects of criminal law and procedure
- administration of justice
- policing
- housing and public works

### What powers are most important for self-government?

#### WHAT TO DO

1. Compare the Royal Commission's core areas of jurisdiction to the current powers of band councils as listed in Section 81 of the Indian Act. What additional powers did the Royal Commission recommend? Why do you think these might be significant for a self-governing body? Which powers do you think are most significant?
2. In any negotiation, parties must be flexible on issues considered of less importance in order to gain on issues considered critical. Work with a partner to select a list of essential powers for self-government from the Royal Commission's list.
3. Imagine a scenario in which you are negotiating with the federal government and you get all the powers you consider essential except one. Would you agree to give up the one power in exchange for the rest? Are there any powers that you consider so important that you would risk losing the whole deal? Which ones?
4. Compare your list of essential powers with other pairs to see if you can find consensus. Once you do, approach another group with the same goal. Repeat the process until you have classroom-wide consensus or until you run out of time.

#### Think About Your Project

Think about this activity in terms of the task facing negotiators. What did you learn? Write a paragraph expressing your ideas.

## FEDERAL GOVERNMENT PERSPECTIVES

In 1995, the federal government established a policy that moved self-government negotiations forward, even without constitutional support. The policy asserted the principles that the government would follow in self-government negotiations. Key principles from the policy are as follows:

- The inherent right of self-government is recognized as an existing Aboriginal right under Section 35 of the Constitution Act, 1982.
- Aboriginal self-governments should operate within the framework of the Canadian constitution, and self-government powers should be harmonious with other levels of government under the constitution.
- Provincial and territorial governments must be part of negotiations for self-government because some of the powers under negotiation may affect



*The federal government's 1995 policy on self-government reflected what it had already learned through land-claims negotiations: solutions usually require the involvement of a provincial or territorial government. Here, representatives of the Janvier First Nation in Alberta receive its land-claim settlement in 1993. (Left to right: Councillor Edith M. Janvier, Chief Fred Black, Councillor Stuart Janvier, Councillor Jimmy Janvier) The First Nation received 1376 hectares of land and \$5 000 000. The Government of Alberta contributed the land and \$1 800 000. The Government of Canada contributed \$3 200 000.*

provincial and territorial areas of jurisdiction.

- Aboriginal self-government does not mean sovereignty in an international sense, but rather an enhancement of Aboriginal peoples' participation in the Canadian federal system.
- The Canadian Charter of Rights and Freedoms will bind Aboriginal governments.

## STAGES IN SELF-GOVERNMENT NEGOTIATIONS

### Framework Agreement:

The first stage of negotiation results in a Framework Agreement. The groups involved agree on the issues to be discussed, on how they will be discussed, and on deadlines for reaching an Agreement-in-Principle.



**Agreement-in-Principle:** The Agreement-in-Principle (AIP) is the second stage in the negotiation process. AIP negotiations are often the longest stage because negotiators must address and resolve the issues set out in the Framework Agreement. The AIP generally contains all of the major elements of the Final Agreement.



**Final Agreement:** The Final Agreement is based on the AIP. It must be ratified and signed by all parties. It is then made effective through federal and, in some cases, provincial legislation. Final agreements include implementation plans.

### Implementation Plans

Each self-government agreement includes an implementation plan. The government describes implementation plans as the “who”, “how”, “when,” and “how much” of the self-government agreements. Implementation plans ensure that each partner to the agreement clearly understands its obligations, including how and when the obligations need

to be carried out. The requirement to have implementation plans ensures that self-government agreements cannot be concluded without agreement upon crucial issues, such as time frames and financial contributions. The goal of implementation plans is to have fewer misunderstandings between partners once an agreement is reached.

## INVESTIGATING THE FEDERAL POLICY ON SELF-GOVERNMENT

The federal government's 1995 assertion that Aboriginal peoples have an inherent right to self-government made it possible for many communities to move forward with self-government proposals. Today, most land claims negotiations include negotiations for self-government.

### What is the federal government's policy on self-government negotiations?

#### WHAT TO DO

1. Divide the class into enough groups that each can investigate one of the topics listed below. All are found in the federal government's policy on self-government negotiations. The policy, called *Aboriginal Self-Government: The Government of Canada's Approach to Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government*, is available online.

#### Topics

- scope of negotiations
- fiduciary obligations
- accountability
- financial arrangements
- access to programs
- implementation of plans
- approach to First Nations
- approach to Inuit
- approach to Métis and First Nations groups that do not have a land base
- approach to Métis with a land base
- approach to the western Northwest Territories
- approach to the Yukon

2. Research your topic and prepare a lesson for the rest of the class. If possible, prepare notes that you can photocopy for your classmates or deliver using a tool such as PowerPoint™ or an overhead projector.
3. Prepare two or three questions related to your lesson and give them to the teacher. Your teacher will prepare a class quiz using questions from all the groups.
4. Deliver your lesson to the class and be prepared to answer questions. While other groups present, take notes and ask for clarification of any material you do not understand.
5. Take the quiz distributed by your teacher.



## PROVINCIAL GOVERNMENT PERSPECTIVES

First Nations relationships with Canada have historically been conducted through the federal government. The Royal Proclamation of 1763 and treaties established the relationship as one of nation to nation. First Nations leaders have been reluctant to include provincial governments in negotiations with the federal government because they did not want to lose any symbolic or real status as sovereign nations.

Métis and First Nations people without status have always fallen under provincial or territorial jurisdiction, but provincial governments have historically offered few, if any, programs to address their specific needs.

During the conferences to amend Canada's constitution during the 1980s, some provinces were vocal in their opposition to including self-government in the constitution. Most accepted Aboriginal peoples' right to self-government. The issue for them was how self-government would affect their own powers and financial obligations. Without a clear explanation, they refused to include the right to self-government in the constitutional amendments.

In addition, the provincial governments feared they would not be involved in self-government negotiations, preventing them from protecting their own political and financial interests. This concern was most evident in some western provinces, where Aboriginal peoples form a larger proportion of the

population than in eastern and central provinces.

In 1989, the federal government created a Federal–Provincial Relations Directorate to co-ordinate federal and provincial government activities. Since the federal government's 1996 policy on self-government negotiations, the provincial governments have become full participants in the process. Their inclusion alleviates many provincial concerns and makes them more receptive to self-government proposals.

First Nations leaders have generally accepted the practical reasons for inclusion of the provincial governments. Today, self-government agreements are generally **tripartite agreements**, which means they involve three partners: the federal government, a provincial or territorial government, and one or more Aboriginal governments.

At times, Aboriginal peoples' goals get caught up in the broad streams of issues the federal and provincial governments face. Each level of government has its own mandate and set of priorities. Sometimes these different mandates come to play at the self-government negotiating table, whether or not they have anything to do with Aboriginal peoples. This is the reason many Aboriginal leaders would prefer that Aboriginal peoples' right to self-government be recognized in the constitution. Such recognition would keep the governments focussed on Aboriginal people's rights and would keep negotiations progressing.

## MODELS OF SELF-GOVERNMENT

Aboriginal leaders agree that their communities have the right to self-government and that self-government is highly important to their communities' future. Most also assert the government's fiduciary responsibilities — meaning the government has an obligation to provide the resources needed to help communities achieve self-government. All agree that no single model of self-government will work for all communities. The diversity of cultures, histories, and current circumstances among First Nations, Métis, and Inuit communities across the country will, to a large extent, determine their views on what self-government should look like.

Where leaders sometimes disagree is whether individual communities should wait for self-government until all or most are in a position to achieve it, or whether communities should move forward individually as soon as they are able. This difference of opinion leads to different ideas about strategies for achieving self-government.

For example, the priority of the Inuit in Nunavut, who are a majority of the population in that territory, might be to increase the powers of provincial and territorial governments in relation to the federal government.

First Nations with land and many human and economic resources at their disposal often want to see the Indian Act and its history of paternalism gone forever. First Nations without

well-developed resources sometimes prefer a revised Indian Act that would keep their special status intact, along with more economic and political freedom. Some groups want a constitutional change that recognizes Aboriginal peoples as Canada's third founding nation. Others want stronger treaty agreements. Most models of Aboriginal self-government seek to maintain some special rights within the Canadian federal system.

Métis communities with a land base have a stronger case for self-government than those without, simply because they can propose self-government options that work within existing government systems. Urban Aboriginal peoples and others without a land base have different expectations for self-government. Aboriginal perspectives on self-government are too diverse to list completely, but these examples provide a sense of the complexity of the issues facing negotiators.

Pages 104–105 present several models of self-government from across the spectrum of hundreds or even thousands of options.

### Third Order Government

In this model, Aboriginal governments would form a third order of government in Canadian federalism alongside the federal and provincial governments. Powers of the Aboriginal governments would be detailed in the Constitution Act. Aboriginal governments would have the wide-ranging powers of provincial governments, with some areas of federal jurisdiction. Some guarantees for the rights of non-Aboriginal peoples living in areas governed by Aboriginal governments would need to be established.

**Benefits:** Enshrinement of self-government in the constitution would mean it could not be removed or changed by other levels of government. The change in Aboriginal peoples' status in Canada would have symbolic meaning along with practical powers. Aboriginal governments would be responsible to their communities, not another level of government.

**Drawbacks:** Reaching agreement for this level of change will be difficult and time consuming. It could take decades. The federal and provincial governments dislike the unknown and would likely insist on knowing the details of this model of government before inserting it into the constitution. This model might not be suitable for communities without significant resources.



*In November 2004, Enoapik Sageatok, an Elder from Iqaluit, lit the ceremonial qulliq to open the second session of Nunavut's legislative assembly. Although Nunavut has a public government, the Inuit majority in the territory ensures that Nunavut's government reflects Inuit culture and values.*

## Public Government

This model would be most appropriate for nations in which the majority of residents in the territory are Aboriginal people. In this form of self-government, both Aboriginal and non-Aboriginal peoples could participate equally in government. Public governments would likely be similar to other forms of government in Canada, with some adaptations related to Aboriginal heritage.

**Benefits:** This form of government may be easier to achieve because it uses existing breakdowns of government powers and systems of intergovernmental relations. Non-Aboriginal citizens do not need special rights guaranteed because all citizens in the public government's territory have the same rights.

**Drawbacks:** Few Aboriginal groups in the country would likely find that this model meets their needs. Nunavut is a current example of a public government. You will learn more about how Nunavut's government works on pages 153–155.

## Municipal-Style Government

A municipal-style Aboriginal government would receive self-governing powers through a change in legislation. Several First Nations in Canada have opted for this route and now have forms of community-based self-government. The first was in 1984, when the federal government passed legislation to give the Cree of Northern Quebec a municipal form of government.

In 1986, Bill C-43, the Sechelt Indian Band Self-Government Act, was passed to establish an “Indian government district,” a form of municipal government

### REFLECTION

In a small group, prepare a list of issues and questions that negotiators face in trying to establish self-governments.

Some questions include

- How will the government be funded?
- To whom are Aboriginal leaders accountable (their communities or the federal government)?
- How is self-government guaranteed (through the constitution, Indian Act, other legislation)?

Once you have your list, answer the questions using a particular self-government model. You can find many Final Agreements, Agreements-in-Principle, and Framework Agreements at [www.ainc-inac.gc.ca](http://www.ainc-inac.gc.ca).

with broad powers over education, health, social services, resource development, employment, and environment.

The Indian Act no longer applied to Sechelt territory.

**Benefits:** This kind of government can be created relatively quickly and tends to be favoured by the federal government. It can achieve practical goals of economic and social development. Precedents now exist from which communities can begin negotiations.

**Drawbacks:** If another level of government delegates powers to the self-governing body through legislation, the powers or rights can also be changed or taken away. In addition, many bands are small and do not have sufficient resources to take on additional responsibilities to administer programs and services. Symbolically, the model does not reflect an elevated position for Aboriginal peoples' contributions to Canadian history.

## Community of Interest Government

This innovative model, proposed by the Royal Commission on Aboriginal Peoples, would assist the growing number of Aboriginal peoples living in urban centres to achieve a measure of self-government. This form of government would likely include powers delegated from other Aboriginal governments or the provincial government. It would control areas such as education, health care, economic development, and culture.

**Benefits:** Urban residents from diverse Aboriginal backgrounds could achieve some degree of cultural and linguistic protection, as well as some economic development assistance. It is one of the only self-government models that meets the needs of diverse communities without a land base.

**Drawbacks:** The details would be difficult to arrange among diverse Aboriginal interests and between Aboriginal and non-Aboriginal governments. With many groups involved, funding this type of government would likely be a problem.

### LOOKING BACK

Create a diagram that shows as many perspectives on self-government as you can. As a minimum, include federal government, provincial and territorial governments, First Nations, Métis, Inuit, and non-Status Indian perspectives. Where do the various perspectives agree? Where do they disagree and why?

# Chapter Three Review

## Check Your Understanding

1. Who is Elijah Harper and what was his role in the Canadian constitutional process?
2. Why was the right to self-government not included in the Constitution Act of 1982?
3. What rights were guaranteed in the constitution?
4. What specific clauses refer to Aboriginal peoples?
5. Why is the constitution particularly significant for Métis and Inuit peoples?
6. Why do First Nations and Inuit communities consider self-government to be an inherent right?
7. Name five national Aboriginal political organizations and explain who each group represents.
8. What is the difference between Aboriginal title and Aboriginal rights?
9. Explain how each of the following are significant in terms of Aboriginal title: the Natural Resources Transfer Agreements, the numbered treaties, and the Manitoba Act.
10. Using two specific examples, explain how the Supreme Court has affected Aboriginal rights.
11. What was the Royal Commission on Aboriginal Peoples and what is its significance for Aboriginal rights?
12. What is the difference between inherent rights and the Aboriginal rights recognized by the Constitution Act of 1982?
13. How are land rights related to other rights, such as the right to self-government? Why might the second be dependent on the first?
14. What kinds of oral history has the Supreme Court recognized? Name at least five types of evidence an Aboriginal group might offer to establish its claim to rights or title.
15. Name two communities that have a form of self-government today and list characteristics that make them self-governing.

16. In what ways do First Nations view treaties as fundamentally different from the Indian Act? How does this impact their view of the rights in each?
17. List at least five issues or questions that must be addressed in self-government negotiations. Explain how each issue is significant to the negotiation participants (Aboriginal organizations and/or communities, federal and provincial governments).
18. In a chart, summarize the roles of Aboriginal organizations, the federal government, and provincial governments in self-government negotiations.
19. Name at least one contemporary Aboriginal political leader and describe how his or her organization is working for Aboriginal rights. In your opinion, is this leader and his or her group doing an effective job? Give reasons for your answer.
20. What is Crown land?
21. How did the Natural Resources Transfer Agreements affect First Nations land rights?

## Speaking and Listening

22. Find a story from the oral tradition of a First Nation from your area that could be used to support an Aboriginal rights claim, such as the right to hunt or fish.
  - (a) Learn the story and practise it until you can tell it in your own words without referring to notes.
  - (b) Working with a partner, tell each other your stories. Afterwards, the listener's job is to explain how the story supports a rights claim and to describe what kind of claim it might be used for.
  - (c) How does oral (traditional) teaching compare to contemporary forms of teaching and instruction? Work with your partner to describe the differences and similarities as well as you can.

23. Tell a story to your class from your own life and try to bring it to life so that students will remember it. After each story, listeners should recount what they remember about the story on a piece of paper and hand it in to the storyteller. Examine how well students understood your story. What does this tell you about the skill needed to transmit oral history so that other people will recall it accurately?
24. Hold a mock self-government negotiation. Divide your class into groups that represent the federal government, provincial or territorial government, and a First Nations, Métis, or Inuit community or organization. The type of Aboriginal group you choose will determine the kind of negotiation that will take place. For example, is the discussion about increasing a single nation's powers or inserting a clause into the constitution? Your teacher can help you set the class focus.

Each group should research its position thoroughly. Consider the demands other groups will likely make, and be prepared to be flexible on your own demands. As a group, reach consensus about what rights or powers you most want to achieve or protect.

### Going Further

25. How would self-government negotiations be different today if the right to self-government had been enshrined in the constitution? Would more communities have self-government? Explain your answer.
26. Instead of working for Aboriginal rights through an Aboriginal political organization, some Aboriginal people choose to participate in Canadian parliament. Two such people — James Gladstone and Ethel Blondin — are shown on this page. Research the names of all Aboriginal peoples who have ever served in parliament. What constituents did they represent? How can Aboriginal people make a contribution to the Canadian political system? How can they make a contribution to their own communities through this political system? How are their contributions different from people who work through Aboriginal political organizations? What goals are likely the same?

### LOOKING BACK

Look back to the photograph of the mace on page 77. Imagine that you have been assigned the job of creating a mace for a First Nations, Métis, or Inuit community that has just signed a self-government agreement. Design your mace on paper with an explanation of the symbolism you plan to use. Build a model of the mace.



*In 1958, Kainai First Nation member James Gladstone became the first Aboriginal Senator in Canada's parliament. He was instrumental in helping Aboriginal people receive the right to vote in Canadian elections.*



*In 1988, the Honourable Ethel Blondin-Andrew became the first Aboriginal woman to be elected to the House of Commons. She was elected as a Member of Parliament for the Western Arctic and was re-elected for a fifth term in 2004.*

## CHAPTER FOUR

# Land Claims

### AS YOU READ

The reading that begins this chapter is from a speech that marked the end of a long struggle for one First Nation in Canada. Nisga'a leader Dr. Joseph Gosnell delivered the speech in the British Columbia Legislature in 1998, more than one century after the Nisga'a first petitioned the B.C. and federal governments to recognize their land rights and negotiate a treaty.

Dr. Gosnell's speech and the land-claim settlement made news around the world.

Much has changed since the Nisga'a first presented their land claim. Governments and Canadian society have shown growing empathy for Aboriginal issues, increased respect for Aboriginal cultures, and a desire to resolve outstanding claims to land and other Aboriginal rights.

As you read this chapter, think about the different kinds of land-claims issues facing First Nations, Métis, and Inuit peoples. How are these issues a result of each group's unique history?

### FOCUS QUESTIONS

As you read this chapter, consider these questions:

- ▲ Why are land claims important to many Aboriginal groups?
- ▲ In what ways do Aboriginal peoples value land and land claims?
- ▲ What are different types of land claims recognized by the federal government?
- ▲ What are different methods for resolving land claims?
- ▲ How is self-government related to land claims?
- ▲ Governments and various groups of non-Aboriginal and Aboriginal peoples have often viewed Aboriginal land rights differently. What ideas and experiences have shaped their perspectives? How have their perspectives changed over time?

## Speech to the British Columbia Legislature

By Dr. Joseph Gosnell

Madame Speaker, Honourable Members, ladies and gentlemen.

Today marks a turning point in the history of British Columbia. Today, Aboriginal and non-Aboriginal people are coming together to decide the future of this province.

I am talking about the Nisga'a Treaty — a triumph for all British Columbians — and a beacon of hope for Aboriginal people around the world....

A triumph because, under the Treaty, the Nisga'a people will join Canada and British Columbia as free citizens — full and equal participants in the social, economic, and political life of this province, of this country.

A triumph because, under the Treaty, we will no longer be wards of the state, no longer beggars in our own lands.

A triumph because, under the Treaty, we will collectively own about 2000 square kilometres of land, far exceeding the postage-stamp reserves set aside for us by colonial governments. We will once again govern ourselves by our own institutions, but within the context of Canadian law.

It is a triumph because, under the Treaty, we will be allowed to make our own mistakes, to savour our own victories, to stand on our own feet once again.

A triumph because, clause by clause, the Nisga'a Treaty emphasizes self-reliance, personal responsibility, and modern education....

A triumph, Madame Speaker and Honorable Members, because the Treaty proves, beyond all doubt, that negotiations —

not lawsuits, not blockades, not violence — are the most effective, most honourable way to resolve Aboriginal issues in this country.

A triumph that signals the end of the Indian Act — the end of more than a century of humiliation, degradation, and despair.

In 1887, my ancestors made an epic journey from the Nass River here to Victoria's inner harbor.

Determined to settle the land question, they were met by a premier who barred them from the legislature....

Like many colonists of the day, Premier Smithe did not know, or care to know, that the Nisga'a is an old nation, as old as any in Europe.

From time immemorial, our oral literature, passed down from generation to generation, records the story of the way the Nisga'a people were placed on Earth, entrusted with the care and protection of our land.

Through the ages, we lived a settled life in villages along the Nass River. We lived in large, cedar-planked houses, fronted with totem poles depicting the great heraldry and the family crests of our nobility. We thrived from the bounty of the sea, the river, the forest, and the mountains.

We governed ourselves according to Ayuukhl Nisga'a, the code of our own strict and ancient laws of property ownership, succession, and civil order....

But there were dark days to come.

We took to heart the promises of King George III, set out in the Royal Proclamation of 1763, that our lands would not be taken without our permission, and that treaty-making was the way the Nisga'a would become part of this new nation.

We continued to follow our *ayuukhl*, our code of laws. We vowed to obey the white man's laws, too, and we expected him to obey his own law — and to respect ours.

But the Europeans would not obey their own laws, and continued to trespass on our lands. The king's governments continued to take our lands from us, until we were told that all of our lands had come to belong to the Crown....

Still, we kept faith that the rule of law would prevail one day, that justice would be done....

In 1913, the Nisga'a Land Committee drafted a petition to London. The petition contained a declaration of our traditional land ownership and governance and it contained the critical affirmation that, in the new British colony, our land ownership would be respected. In part the petition said

We are not opposed to the coming of the white people into our territory, provided this be carried out justly and in accordance with the British principles embodied in the Royal Proclamation. If, therefore, as we expect, the Aboriginal rights which we



*The Nisga'a Treaty, which Dr. Joseph Gosnell helped negotiate, was the first in modern British Columbia history. Dr. Gosnell is shown here standing outside the legislature building in Victoria, British Columbia.*



*This Nisga'a longhouse is in New Aiyansh, British Columbia, where the Nisga'a Treaty was initialised. What animals are represented on the longhouse? What do you think their presence says about the Nisga'a relationship to the land and its resources?*

claim should be established by the decision of His Majesty's Privy Council, we would be prepared to take a moderate and reasonable position. In that event, while claiming the right to decide for ourselves, the terms upon which we would deal with our territory, we would be willing that all matters outstanding between the province and ourselves should be finally adjusted by some equitable method to be agreed upon which should include representation of the Indian Tribes upon any commission which might then be appointed....

Sadly, this was not to be the case....

How the world has changed. Two days ago and 111 years after Smithe's rejection, I walked up the steps of this legislature as the sound of Nisga'a drumming and singing filled the rotunda. To the Nisga'a people, it was a joyous sound, the sound of freedom.

What does "freedom" mean? I looked it up in the dictionary. It means "the state or condition of being free, the condition of not being

under another's control; the power to do, say, or think as one pleases."...

People sometimes wonder why we have struggled so long to sign a treaty?...

To us, a treaty is a sacred instrument. It represents an understanding between distinct cultures and shows respect for each other's way of life. We know we are here for a long time together. A treaty stands as a symbol of high idealism in a divided world. That is why we have fought so long, and so hard.

I have been asked, has it been worth it? Yes, a resounding yes. But, believe me, it has been a long and hard-fought battle. Some may have heard us say that a generation of Nisga'a men and women has grown old at the negotiating table. Sadly, it is very, very true....

We have worked for justice for more than a century. Now, it is time to ratify the Nisga'a Treaty, for Aboriginal and non-Aboriginal people to come together and write a new chapter in the history of our nation, our province, our country and indeed, the world.

The world is our witness.

Be strong. Be steadfast. Be true.

## REFLECTION

1. What adjectives would you use to describe the tone of Gosnell's speech? What words and phrases contribute to this tone?
2. What features of self-determination does he highlight?
3. Find examples in this speech that demonstrate the Nisga'a people's approach to land-claims issues. What does this approach reflect about their culture?

# The Value of Land

MANY CANADIANS, BOTH ABORIGINAL AND NON-ABORIGINAL, FEEL A STRONG CONNECTION TO LAND. FARMING families, for example, often become emotionally attached to their land, particularly when a farm is passed from generation to generation. The longer people spend in one location and the more their lives revolve around the land and its natural life cycles, the stronger the bond becomes.

Modern society, however, has become very mobile. People are less likely to put down roots. They are also less likely to make their living directly from the land. To many people, land has become a commodity — something to be bought and sold. It has monetary value and practical uses, but little hold on their hearts and spiritual identities.

In contrast, land lies at the very soul of traditional First Nations and Inuit political, economic, social, cultural, and spiritual ways of life. According to the oral tradition, the land is physically and spiritually a part of people. It is part of their identity as humans. Teachings from the oral tradition maintain that the land has sustained humans, plants,

But nobody really owns land. This teaching is passed on from the Elders. There is only one owner and he is not a human being. He is the one who owns the land and we are here to live together and share the land.

— Wilf Tootoosis, Saulтеaux,  
*In the Words of Elders: Aboriginal Cultures in Transition*

## AS YOU READ

As you learned in Chapter Two, traditional First Nations and Inuit cultures were tied to the land and its resources. The land had value in complex ways that intersected with virtually every aspect of life, including spirituality.

Today, First Nations, Métis, and Inuit peoples in Canada are surrounded by value systems that frequently see the land in a different light. A value system is a set of standards or qualities considered desirable.

How might a resource company value the land? What about urban dwellers, a farmer, a national park conservation officer, and an environmental activist? How might these people's values compare to traditional Aboriginal values? How do they compare to your own values?

This section examines various First Nations, Métis, and Inuit cultural values regarding land as a way to understand why land claims play a central role in many Aboriginal people's aspirations. The values discussed represent general cultural beliefs, but do not represent the beliefs of all Aboriginal individuals by any means. As you read pages 111–117, consider how you value land. Are you connected to a particular reserve, settlement, or other place on the land? What experiences created this connection?

and animals for thousands of years and will sustain them in the future. People care for the land and it cares for them in return, in a reciprocal relationship of giving and taking.

Many Métis people hold similar ideas, although in general their cultural connection to land relates more to political, economic, and social pursuits rather than spiritual beliefs.

Native people did not feel ownership of land or homes, they felt the responsibility of preserving it through caring for it. They maintained the area for future use and productivity. Land was a shared, living entity.

— Twylah Hurd Nitsch, Seneca,  
*In the Words of Elders: Aboriginal Cultures in Transition*

## ECONOMIC VALUE

In non-Aboriginal society, the most prevalent value attached to land is economic. This value is what the land or its resources can be bought or sold for on the open market. In this sense, land value can be quantified in dollars. An individual must own land in fee simple to take full advantage of this kind of land value. This does not mean they have to sell it. People who own land can use it as a security to borrow money. They can then invest that money in ways that generate income.



*The Nakoda First Nation operates Nakoda Lodge, a hotel, restaurant, and conference facility that makes use of the First Nation's prime land in the Rocky Mountains to create economic benefits for the community. What other First Nations or Métis ventures can you name that use land to create economic benefits for their communities?*

From an Aboriginal worldview, land is also economically valuable. It provides a place for people to make a living, in both traditional and non-traditional ways. Hunting, fishing, and trapping still play a role in many Aboriginal people's lives. Without a land base and access to unoccupied Crown lands, many of these ways of life would be impossible.

An Aboriginal sense of economic value is inherently sustainable. Land is so much a part of other aspects of life that traditional Aboriginal people would no more destroy the land than they would destroy themselves. The end goal is the maintenance of a way of life and the community.

This is not to say that Aboriginal peoples today do not wish to take advantage of the revenue that can be generated from land. Forestry, energy, and mineral resources contribute to the prosperity of many Aboriginal communities. A wide range of other industries — from agriculture to tourism — also require land.

Aboriginal communities generally pursue such opportunities as a way to re-invest money in the

The one thing we have to be sure of is, our people have always lived off the land. Now define living off the land in today's terms. Today's terms would mean that if we are entitled to live off the land, as per agreement with Treaty No. 8 in this area, the definition has to change, today, because we cannot survive on the trapping and hunting economy. What else does the land provide: It provides trees, which should belong to the Native people, not to Japanese companies. The Athabasca District, this area has more stuff, minerals, oil and gas than the rest of the world. There are only 4000 of us Indians, maybe, in this whole area. They could pay us off a million dollars a day, a month and still have lots of profits for themselves. So that is what we have to push for. If people have to live off the land, we have to have some control of surface and sub-surface rights.

— Roland Woodward, *Inkonze: The Stones of Traditional Knowledge*

community to strengthen it. Development is done carefully, with an eye to future generations and their needs.

### CULTURAL VALUE

Aboriginal cultures are deeply connected to land. Aboriginal people's stories, histories, and traditions are tied to the land of their ancestors. By maintaining a link to that land and its resources, Aboriginal people can retain a connection to their culture.

For example, in the Métis culture, land means freedom and autonomy — it is a means to an end. It is what their people have demanded as their right throughout their history as a nation. Land is associated with an independent way of life that is inextricable from other cultural values.

In addition, land strengthens cultures and provides for their future. A common land base encourages people to live near one another and maintain elements of their culture, such as ceremonies, kinship ties, and language.

### SPIRITUAL VALUE

For many First Nations and Inuit peoples, the cultural value of land is intertwined with its spiritual value. Traditional First Nations and Inuit spirituality is not separate from other parts of life. Spirituality is involved in every aspect of life and in every part of the world.

Some First Nations people use the expression *Mother Earth* to express the sense that the land gave birth to the people and nourishes them. In return, the people must respect, nurture, and protect the land, as they would a mother. Land is an integral part of a person's identity.



The Keewatin Career Development Corporation helps co-ordinate the programs of career development agencies from northern Saskatchewan. At the organization's summer camp, pictured here, Charlotte Sylvestre gets ready to show students from Descharme Lake, Saskatchewan, how to make dried fish. Why might a career development organization have a program that teaches traditional pursuits, such as drying fish? Of what value is land to a program like this?

The land's spiritual value is sometimes tied to a specific piece of land. A particular location may be the place of traditional ceremonial gatherings, such as the Sundance. Another might be an ancestral burial ground or a site known for spiritual power.

Métis culture is more associated with Christian religions, such as Roman Catholicism, so it has less of this sense of spiritual connection to land. However, some Métis people may feel a strong bond to the spirituality of their First Nations ancestors and relatives. If they do, they may share these spiritual connections to land.

The day of my birth I was helpless and my mother took care of me.... The Northwest is also my mother, it is my mother country.... I am sure that my mother country will not kill me any more than my mother did forty years ago when I came into the world, because a mother is always a mother, and even if I have my faults, if she can see I am true she will be full of love for me.

— Louis Riel



*At the Turton Lake Trapping School in the Northwest Territories, 120 kilometres from the nearest settlement, a group of Dene teens spends the winter trapping marten and beaver, hunting geese, fishing — and hitting the books. Here students at the school are shown holding furs at the Fur Harvesters Auction House in North Bay, Ontario. How does this program demonstrate the educational value of land?*

### EDUCATIONAL VALUE

For countless generations, First Nations and Inuit peoples passed on their traditional knowledge through everyday teaching. Children collected plants with their parents, learning what each one was used for. They listened to Elders tell stories about their ancestors, often while working alongside them on the land. An uncle might teach a nephew how to set a snare, or a grandmother might guide her granddaughter's hand as she learned to prepare a buffalo hide. Education was informal and part of everyday life on the land.

People observed the natural world around them and were accustomed to reading its signs of weather, seasonal change, and animal activity. People observed and experienced natural laws at work — such laws showed the hand of the Creator,

which reinforced spiritual beliefs. Experienced people in the community modelled behaviour that showed respect for these laws. Knowledge and values were conveyed at the same time.

Today, students in many Aboriginal-run schools learn traditional knowledge and values as part of their overall education. As in the past, learning happens inside and outside the classroom.

Having a land base has another important educational value — it facilitates Aboriginal language use and preservation. People are encouraged to learn and use traditional languages if other people living around them speak those languages.

### SOCIAL VALUE

Land has a significant social value. It provides an anchor and focal point for Aboriginal communities — it is home. It provides the location for social gatherings and spiritual ceremonies — virtually all of which traditionally take place in natural settings, using natural materials. Such gatherings reinforce a sense of community, feelings of belonging, a sense of identity, and self-esteem.

### POLITICAL VALUE

The economic, social, cultural, spiritual, and educational values of land intersect with land's political value. Aboriginal leaders see land as an important component of self-government and self-determination. Land provides a springboard from which to work politically to meet community needs. Aboriginal peoples can work within or alongside the Canadian political system to ensure the success of their communities.

## PROFILE

### LAUNA LOYIE

#### Paddle Prairie Métis Settlement

For someone who loves the land as much as Launa Loyie does, becoming an environmental technologist was a real eye-opener.

Her mother, a traditional Cree woman, taught Loyie that there are repercussions to everything humankind does to the land. Now Loyie understands exactly what her mother meant.

"After some research on the Athabasca River, I realized that there are five to seven pulp mills and several municipalities that discharge waste into the river. There are also timber operations near the river. These activities cause temperature disturbances that upset the delicate balance of aquatic life. From the headwaters of Jasper to the Athabasca basin, a 1231-kilometre journey, the people of Fort Chipewyan are surrounded by water that is not as healthy as it once was," explains Loyie.

In 2000, the thirty-two-year-old single mother returned to school to complete a two-year environmental technology program at Fort McMurray's Keyano College.

"Most students found they didn't like being out in the heat and cold, sun and rain, to conduct field research. But I grew up on a farm picking roots in the fields. My father hunted and we grew a big garden. We chose to live without electricity or running water for years, and I hated it. I'd say to my parents, 'This is the twentieth century. Why can't we live like everybody else?' But now I look back and I'm glad for

those times. I can function without amenities better than most people my age."

In high school, Loyie had a penchant for sciences, and considered becoming a nurse. "But with the cutbacks and the work schedules in hospitals — double shifts and night shifts compromising the health of the staff — I decided on a career in environmental technology."

Originally from Keg River, Alberta, Loyie now works as an environmental monitor for the Paddle Prairie Métis Settlement. Her job is to ensure that oil and gas extraction on settlement land complies with environmental protection standards.

Loyie enjoys performing chemical analysis of air, soil, and water, but the results of her work are sometimes discouraging.

"From what I see, in general, it seems we are taking a lot more from the environment than we are reclaiming," she observes.

On the other hand, she counters, new companies continue to learn more about protecting the environment from their own research and from other companies that have been operating longer than they have. Innovation may be the key to restoring environmental health.

#### REFLECTION

How do Loyie's work and concerns reflect her heritage? What qualities make her good at her job? Write about your own career or work plans.



Launa Loyie

## THE VALUE OF LAND

Elders possess generations of knowledge about traditional values and how they can be understood and used today. The reading on pages 116–117 includes Russell Willier's ideas about the importance of land and traditional land management techniques. Willier is a well-known Alberta Elder from the Sucker Creek Reserve in Alberta. Authors David Young, Grant Ingram, and Lise Swartz spent time with Willier to write *Cry of the Eagle: Encounters with a Cree Healer*. In the excerpt on page 117, the authors describe Willier's reasons for wanting a section of the Swan Hills [in Northern Alberta] designated as a retreat for Aboriginal peoples. Read the excerpt and then discuss Willier's ideas or your own about Aboriginal land management techniques and how they can contribute to Aboriginal and non-Aboriginal societies today.



*You may wish to invite an Elder to your class to facilitate your talking circle. If you do so, be sure you use proper community protocol to issue the invitation. Your teacher will help you with this.*

What I can't understand is when they go logging in the Swan Hills or Hinton area, they leave the land next to broke; there are no trees there, no roots, herbs, nothing. Why don't they put the farmers there, since it's already cleared and wasted land anyway? They should put the farmers where the loggers have already done the damage. Then they try to plant little trees there. Why don't they just cut down and drag out the big trees they need without uprooting the entire area? If they left the smaller trees, the wind wouldn't knock them down and the trees would re-grow a lot faster. Even if the government says people and jobs come first, they still have to have respect for nature, because in the long run it works against people. They can't see the future. There's a lot of damage being done to the environment that should be discussed in order to realize what's happening to our country here. We call it the blessed country, but it is sure to go back to rock in no time. I might not see that, but our great-grandchildren will.



Russell Willier

— Russell Willier, *Cry of the Eagle: Encounters with a Cree Healer*

This land [part of the Swan Hills] is in the centre of the area traditionally used by natives for vision-quest purposes. Logging is being done nearby, and Russell is concerned that the vision-quest sites may soon be ruined. Russell would like to continue to have a place to take young people for a wilderness experience that would include instruction in the vision quest, survival skills, the Sweetgrass Trail, and other traditional native skills and knowledge. He would also like to instill in native young people traditional values connected with hunting, particularly a respect for the animals and a responsiveness to the delicate balance of nature. This means teaching them to exercise control over the numbers of animals killed, to vary the seasons and places in which animals are hunted, and to obey the fishing and hunting regulations....

It is important that more native people become Fish and Wildlife officers. This would give them the authority to discipline those few who create problems for everyone, and they would likely have a better understanding of native needs and environmental issues. As Russell says, his ancestors have been hunting in this area for many centuries while maintaining long-term ecological balance. Experienced hunters had a vast knowledge of the resources of the land and the changing conditions of game populations. Their hunting practices were characterized by their willingness to exercise self-control. Even today, successful hunters who exhibit competence, skill, and spirituality, and who do not hunt excessively, are respected and are often contrasted with those who hunt recklessly.

#### REFLECTION

How do Russell Willier's ideas about the land demonstrate traditional values? How do his ideas compare to those of James Carpenter on pages 76–77?



Russell sees a great deal of waste of animal remains that could be used to regenerate wildlife. Most big-game hunters dispose of moose remains and other large animal intestines by throwing them in the dump. They should be required to leave the remains behind in the forest or bring them to the trapline where other animals can eat them. This is particularly important for large, commercial fisheries. Although fisheries located on Lesser Slave Lake are regulated by quotas set by the government, their means of disposal of fish-heads and other remains is not only wasteful, but also destroys wildlife. The present practice is to dump the remains in a large hole, which is then covered with lye. An animal that comes along and eats the remains dies of lye poisoning. This, says Russell, is representative of the wrong attitude that many non-natives have developed towards the environment, namely "grab, make a dollar, and forget about the rest." Fisheries make considerable profits from their catch, and there are enough fish remains to feed many local animals. Dispersing these remains in areas where animals are starving should be mandatory. This would create jobs for native people in northern Alberta, where there is much unemployment.

— David Young, Grant Ingram, and Lise Swartz,  
*Cry of the Eagle: Encounters with a Cree Healer*

#### LOOKING BACK

Create a concept map that shows how the settlement of land claims could bring about political, economic, social, cultural, educational, and spiritual self-determination for Aboriginal peoples. In what aspect might you expect Métis culture to differ from those of First Nations and Inuit peoples? Why?