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TOWARD AN INTERNATIONALLY RECOGNIZED POLITICAL STATUS:
Indigenous National Coexistence with the State of Canada

by

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When the British Parliament enacted the Canada Act of 1982, two significant political changes resulted. Canada was released from 116 years of colonial legislative control and was, in essence, granted full political independence by the British government. A federal state was constituted with a central government, eleven provincial governments and two territorial governments. The second result was that the long-standing trusteeship between the United Kingdom and the indigenous nations surrounded by the Dominion of Canada was unilaterally dissolved. All responsibilities and obligations of trusteeship assumed by Britain toward upper North American indigenous nations (under treaties, the Royal Proclamation and other instruments of agreement) were abrogated; and rendered null-and-void. By virtue of this single legislative act, the British government formally withdrew from the exercise of its political responsibilities for the Dominion of Canada and the indigenous nations.

Britain's less than perfect statesmanship left upper North America with two separate and distinct political groups of peoples which neither share common origins nor common aspirations. More importantly, while Britain aided Canada in its achievement of a political status as an independent nation-state the political status of the indigenous nations was left undefined and unsettled. The political future of indigenous nations was left unclear, and that future is now threatened by the expansionist and domineering aspirations of independent Canada. For the health and security of both the State of Canada and the indigenous nations the question of indigenous national political status must be formally resolved. Whether indigenous nations outside of the Canadian Confederation will coexist with the State of Canada, or whether indigenous nations will be absorbed into the society of Canada is the central question.

For a decade, the governments of indigenous nations sought to join with the Canadian federal government and the governments of the provinces in a new confederation under a new constitution. The indigenous governments sought to participate in the

formulation of the Canadian Constitution as partners sharing in the political power of Canada. Neither Britain nor Canada chose to seriously consider Indigenous proposals for equal participation of indigenous governments in the formulation or ratification of the Canadian Constitution. Formal indigenous participation as legitimate sovereign governments was rejected repeatedly. Had the indigenous governments been permitted to participate as equal political authorities their future political status would have been resolved at the same time as Canada's. They would have been politically absorbed into a new Canadian Confederation as an order of government sharing political power with the federal government and the provinces. Canada would be essentially politically united.

The failure to resolve the question of indigenous national political status has created a situation where the federal state of Canada claims sovereignty over all territory within its boundaries, while many indigenous nations claim independent sovereignty over enclave territories scattered throughout Canada. These competing claims of sovereignty can only serve as the basis for future political or violent conflict.

Having had their political power-sharing proposals rejected (Canada's final constitution does not provide a political role for indigenous governments in the confederation) indigenous nations still claiming sovereignty have now the alternatives of seeking political association with a state or seeking total independence. The sovereign indigenous nations have rejected assimilation into Canadian society. They are left with the need to pursue strategies of violent resistance, passive resistance or peaceful negotiations to achieve their national aspirations. One or a combination of these strategies may be adopted by any or all of the sovereign indigenous nations to achieve an internationally recognized political status either in competition or coexistence with Canada.

The indigenous nations which have relinquished their sovereignty to Canada pose no threat to the stability of Canada. Those indigenous nations which tenaciously hold to their claims of inherent sovereignty will remain a challenge to Canada until their political status is assured.

Since April 17, 1982 indigenous nations which claim original sovereignty have been without a political status. They have suffered the unilateral abrogation of their treaties with Britain and they experience increasing interference in their internal affairs by the State of Canada. Britain's withdrawal and the unsettled political status of sovereign indigenous nations has created a political vacuum which threatens the stability of Canada and the political future of these indigenous nations.

The political vacuum into which indigenous nations have been thrust is analogous to the conditions experienced by the Timorese peoples when Portugal withdrew from East Timor, in the 1970's, after a long period of colonial occupation. Once Portugal withdrew from that island country, the Indonesian government filled the resulting political vacuum by simply confiscating East

Timor and asserting its sovereignty over the Timorese. Though the Timorese people did not willfully invite or accept Indonesian authority over them, Indonesian claimed and enforced (with colonial occupation forces) their asserted right of sovereignty over East Timor. The Timorese responded by acting on two fronts (military insurgency against occupying Indonesian forces, and diplomatic contacts at the United Nations and with individual states) to win independence from Indonesia.

The Papuan people of West Irian experienced a similar takeover of their homelands by Indonesia when Dutch colonial occupation was withdrawn from their country, in the 1960's. Indonesia claimed Papuan territory as its own and sent troops to enforce their claim despite Papuan objections. Through military insurgency, passive resistance and limited diplomatic efforts the Papuans continue their struggle against Indonesian expansionism in an effort to secure either independence or political association with Papua New Guinea. Indonesian ambitions have attempted to fill the political vacuum left by Holland at the expense of the indigenous Papuans.

When the British withdrew from Indian in 1947, many indigenous nations, including the Nagas and the tribal populations of Assam, Meghalaya, Mizoram, Pripura and Manipur (now including about 25 million people), were cut-off and left to be recolonized by the newly independent Indians. Again, despite indigenous population objections, a state extended its sovereignty over tribal territories and imposed its authority over the tribal peoples. This decolonization and recolonization process was repeated in 1980 when Britain withdrew colonial administration over British Honduras -- then granted independence to the new state of Belize. Britain's departure created a political vacuum for the Kekchi people (a branch of Mayan speaking people who number about 12,000) who were taken over by the newly independent Belizian government.

While all of these indigenous nations had little sympathy for their former colonizers (Britain, Portugal and Holland) they have even less sympathy or loyalty to their new colonizers. All efforts to peacefully negotiate a separate political status by these indigenous populations have been rebuffed by the neo-colonial state. The result has been protracted violent conflict or passive resistance against the state. International state organizations and their members have viewed the recolonization of these indigenous territories with mild dismay or outright endorsement of the colonizing state. Despite such state hypocrisy indigenous nations continue to pursue their place among the family of nations.

The withdrawal of former colonizers and the violent or passive neocolonization of indigenous populations and territories by newly independent states has, during the last thirty years, created a global condition where states have taken control over more than 200 million people against their will. Since the formation of the League of Nations, more than a half a billion indigenous people have fallen under the control of colonizing powers or neocolonizing powers. Only on rare occasion have

colonized indigenous peoples and territories been able to avoid recolonization after a former colonizer withdrew.

Saudi Arabia, Papua New Guinea, Vanuatu, Nauru, Federation of Micronesia, Lesotho and Swaziland are examples of indigenous populations which have successfully achieved either independence or free associated state status -- thus avoiding the neocolonial syndrome. Either through violence, the threat of violence, passive resistance or negotiations these indigenous nations have created a movement toward decolonization of indigenous homelands.

At the root of the indigenous population decolonization movement, which accelerated during the last decade, is the STRUGGLE TO ACHIEVE AN INTERNATIONALLY RECOGNIZED POLITICAL STATUS AND THE BREAKING OF STATE COLONIZATION OF INDIGENOUS POPULATIONS AND TERRITORIES.

Now "Indians, Inuits and Metis" are being absorbed under the neocolonial control of the newly independent state of Canada in much the same way as other indigenous populations have been, and are being, absorbed. The indigenous nations which have rejected Canadian sovereignty and claimed their own inherent sovereignty have a slim opportunity to win international recognition of their sovereignty through peaceful negotiations with Canada. The achievement of peaceful negotiations and international recognition among the family of nations hinges on how well organized indigenous leaders will be, and whether they can develop significant political support within the international community. Failure to do these things will result in the need to depend on passive resistance, violent resistance or passive acceptance of Canadian rule.

Despite the efforts of other indigenous nations elsewhere in the world there is no road-map or model to follow which will lead to the fulfillment of their political and economic aspirations. However, the sovereign indigenous nations surrounded by Canada could learn a great deal from the experiences of Tanzania, Vanuatu, Swaziland and Nauru and the Federation of Micronesia. Each of these "indigenous states" achieved a separate political status through a combination of peaceful bi-lateral negotiations, careful internal organization and on occasion, passive resistance. Further-more, each of these states organized significant international opinion to influence the behavior of a former colonizing state. The experience of each of these states will be instructive, but not necessarily repeatable. Strategies, tactics and methods of political action and diplomacy must suit the specific circumstances and the present international climate instead of a magical model.

There are two things of which sovereign indigenous nations can be certain: Canada will seek to intervene in the internal affairs of the various indigenous nations to compel (through economic and political subversion) compliance with her policies, her sovereignty and what she perceives as her national interests. Secondly, indigenous national governments must move swiftly to establish economic and political security for their peoples. Beyond these two points, it is clear that separated indigenous

nations face many domestic and international uncertainties. Some of the uncertainties include whether the indigenous national economy is so fragmented that it will be possible to reorganize quickly enough to meet the pressing needs of the internal population. A further uncertainty is whether the internal population's capabilities can be organized to focus on a common national will sufficient to advance the economic and political interests of the indigenous nation. Finally, there are uncertainties about the reception the indigenous nation will receive within the international community.

To reduce these uncertainties, the sovereign indigenous nations must now consider their external affairs options while simultaneously reordering and consolidating their internal affairs. The first external obligation is to resist Canada's attempts to interfere with indigenous internal affairs, and to deflect Canada's attempts to undermine the indigenous nation's international initiatives. A second, but equally important, necessity is for the indigenous nation to define its national goals and formulate strategies to achieve these goals. Each separated indigenous nation is obliged to FORMULATE INTERNAL AND EXTERNAL PLANS WHICH ENSURE THE CAPACITY TO PROVIDE FOR NATIONAL DEFENSE WHILE SIMULTANEOUSLY WORKING TO ESTABLISH A PEACEFUL ALTERNATIVE TO ASSIMILATION INTO CANADA.

Indigenous nations claiming inherent sovereignty, and which reject Canadian sovereignty over their peoples and territories may attempt either to assert their INDEPENDENCE, or their intention to POLITICALLY ASSOCIATE THEMSELVES WITH AN EXISTING STATE. Under either of these political alternatives the indigenous nation retains its original sovereignty, inherent right of self-government and right of self-determination. Under conditions of political absorption (joining the Canadian confederation as a first order of government, joining in commonwealth or territorial status) or assimilation the indigenous nation either renounces original sovereignty or it severely reduces its claims to sovereignty.

The achievement of either independence or a form of political association may result either from violent conflict or from a process of peaceful negotiations. It is clearly in the best interest of everyone that indigenous national political aspiration be won by peaceful means. On the basis of this view many indigenous leaders have called for BI-LATERAL NEGOTIATIONS with the government of Canada. Such negotiations, it is thought, would produce internationally recognized agreements for mutual coexistence between Canada and sovereign indigenous nations. The more specific focus of such negotiations would be:

1. Future political relations between Canada and the sovereign indigenous nation,
2. formalization of boundaries,
3. definition of economic relations,
4. resolution of past land-claims conflicts and agreement on land trades and land consolidation,
5. bi-lateral agreement on defense and strategic matters,
6. Postage, currency, civil and criminal, and transport

agreements.

While all of these issues are essential to an effective treaty or compact with Canada none is more important than settling the question of the indigenous nation's political status. Assuming the status of independence is self-evident, we will turn to the various alternatives which may be considered under the broad category of "political association".

Political association between nations exists in one degree or another between many nations. It is an intermediary political status between total independence and political absorption. The United Nations recognizes one primary form of political association which ensures that a nation retains its original sovereignty: Free Associated State. Under U.N. General Assembly Resolution 1541 the concept of free association is described as follows:

Free association should be the result of a free and voluntary choice by the people of the territory concerned, expressed through informed and democratic processes. It should be one which respects the individuality and cultural characteristics of a territory and its people, and retains for the people of the territory which is associated with (an) independent state, the freedom to modify the status of that territory through the expression of their will by democratic means and through constitutional processes.

U.N. Resolution 1541 also advises that the U.N., itself, reserves the right to supervise "these processes" and asserts that outside interference in these processes should be on a cooperative basis. Variations on political association which imply a tendency toward political absorption include: Commonwealth, trust territory, protectorate and colony. While each of these latter forms of political status can be negotiated the indigenous nation is compelled to relinquish a greater degree of its inherent sovereignty to the independent state.

Assuming that the sovereign indigenous nation has defined a political goal in the direction of a specific form of political association or independence coexisting with Canada, we can now discuss the various conditions necessary for the conduct of future bi-lateral negotiations between sovereign indigenous nations and the State of Canada.

1. IN ORDER FOR BI-LATERAL NEGOTIATIONS TO BE CONDUCTED THERE MUST EXIST TWO DISTINCT AND IDENTIFIABLE ENTITIES WHICH HAVE THE CAPACITY TO REPRESENT THEIR OWN INTERESTS, AND ARE CAPABLE OF CARRYING-OUT THE RESPONSIBILITIES OF A FULL PARTICIPANT IN BI-POLAR NEGOTIATIONS.

Canada is already an identifiable political entity. In the case of the sovereign indigenous nation it may be necessary to consolidate or confederate several bands or tribes within a specific geographic area to form a single governing body capable

of representing externally the various interests of the various community units. Such a single and united nation is more likely to contain the resources sufficient to sustain the whole population. It would also be more likely to contain the necessary political power to enforce a treaty or compact. If two hundred bands, for example, attempt to undertake negotiations of a treaty, such negotiations would be nearly impossible to coordinate for maximum political advantage. Without a single government over all 200 bands, the negotiations would in fact become "multi-lateral" in character and exposed to external manipulation.

The practical reality of indigenous nations is that they have been divided into small enclaves called reserves with governments created by the Canadian government. A traditional or internally defined governing system which reaffirms the whole nation and unites it has the greater potential for executing relations with other nations. The Micmac, Cree and Shuswap are nations which have been divided into enclaves, resulting in division. Each indigenous nation can effectively engage in external relations with Canada (even to the extent of conducting bi-lateral negotiations) if, and only if, each nation is politically united internally under a system of governance which has the authority to represent the nation externally.

2. BI-LATERAL NEGOTIATIONS CAN TAKE PLACE WHEN BOTH PARTIES REGARD SUCH NEGOTIATIONS AS NECESSARY TO ACHIEVE CERTAIN SELF-DEFINED NATIONAL GOALS, AND WHEN EACH PARTY ACCEPTS SUCH NEGOTIATIONS AS ADVANTAGEOUS (I.E. MORALLY, ECONOMICALLY, POLITICALLY, ETC.).

While government-to-government, bi-lateral negotiations may clearly advance indigenous national goals, they may not presently serve the national interests of the State. The State's willingness to enter into such negotiations may depend on how well the indigenous nation understands the State's goals, and the extent to which the indigenous nation can create compelling international and domestic Canadian pressures sufficient to force or encourage the State to agree to bi-lateral negotiations.

3. BI-LATERAL NEGOTIATIONS MUST BE CARRIED OUT THROUGH QUALIFIED EXTERNAL MECHANISMS AND NOT BETWEEN ESSENTIALLY INTERNAL ORGANS.

The heads of nations have the capacity to carry out external relations or their designated external affairs ministers. Internal officials generally advise external officials when external agreements are concluded. Proper external agreements which achieve international standing are concluded by those officials playing the appropriate authoritative role. It is for this reason that all relations between the sovereign indigenous nation and Canada should be carried out in appropriate settings (New York, Geneva, etc.) instead of Canada's capital, Ottawa. Unless formal political relations exist, demonstrated by an exchange of ambassadors, the indigenous nation must deal with Canada ONLY at the international diplomatic level.

4. BI-LATERAL NEGOTIATIONS REQUIRE AN IMPLICIT, IF NOT AN

EXPLICIT RECOGNITION BY EACH PARTY OF THE OTHER'S NATIONAL RIGHT TO EXIST: INHERENT SOVEREIGNTY, INHERENT RIGHT OF SELF-GOVERNMENT, AND INHERENT RIGHT OF SELF-DETERMINATION.

These principles are artful diplomatic terms of reference intended to create an atmosphere of equality and good-faith. While it is obvious that nations vary in their degree of national unity, national purpose, economic capability, size of population and territory, capacity to govern internally, conduct external defence and conduct external relations, the minimal presumption is that a nation is capable of assuming responsibility for its actions. The terms of reference are not absolute, but relative. The absence of these terms being applied to each party in bi-polar negotiations signifies an unwillingness to behave on the basis of equality and good-faith.

The sovereign indigenous nation is likely to recognize these principles as applied to the State; although such recognition may not be desirable unless it is reciprocated by the State prior to formal bi-lateral negotiations.

It is not at all certain that the State will recognize the indigenous nation as having sovereign attributes. Bi-lateral negotiations cannot proceed without each of the parties at least respecting the national integrity of the other.

5. INTERNATIONAL RECOGNITION OF BI-LATERAL COMPACT WILL ENHANCE THE ENFORCEABILITY OF THE AGREEMENT IF A THIRD-PARTY PARTICIPATES IN NEGOTIATIONS AS A SUPERVISOR OR ARBITOR.

The advantages of this condition for the State and indigenous nation are relative. For the State, such third-party involvement may be considered a slight advantage if its image as a fair and responsible member of the international community is enhanced. However, the State may regard such involvement as "interference in its internal affairs". Third party supervision or arbitration must be regarded as a delicate matter.

To the sovereign indigenous nation, third party involvement may be considered an advantage simply as a measure of international legitimacy. It would also be an advantage for the long-term enforcement of the final negotiated agreement. External involvement may be a distinct disadvantage to the indigenous nation if the third party is not fully fair and tends to favor the State's goals and interests.

Both the State and indigenous nation, as well as the third party, must agree to the conditions, procedures and methods which guide the bi-lateral negotiations. Of course, the State and the indigenous nation must agree to having a third party, and they must agree to who the third party will be.

To achieve the level of respect necessary to conduct internationally supervised negotiations, the indigenous nation must organize itself to exhibit the national will and capacity to be accepted as a sovereign, self-governing and self-determining nation. The cooperation and support of the international

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