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## Indigenous people and land rights: The thin red line, Part 1



### Background

On October 6, 2013, I had a fascinating discussion and interview with Grand Chief Stewart Phillip, Union of B.C. Indian Chiefs (UBCIC). I was curious as to how and when the Union of B.C. Indian Chiefs formed. Essentially, it ended up being an important inquiry that gave a broad perspective of the First Nations journey and their struggles to maintain their distinct culture, heritage, and sacred spiritual practices.

The question I asked Grand Chief Stewart Phillip was, "What were the circumstances surrounding the emergence of the Union of B.C. Indian Chiefs?" Flashback to when Pierre Elliot Trudeau was elected as the Liberal Prime Minister in April 1968. After the government was formed, Jean Chrétien became Minister of Indian Affairs and Northern Development. Prime Minister Pierre Elliott Trudeau and Jean Chrétien crafted "The White Paper 1969." This paper would abolish the Indian Act and dissolve the established legal binding relationship between Aboriginal people and Canada. First Nations people fought back and prevented this from happening. The attempt to change the relationship between First Nations and government is exactly what Prime Minister Stephen Harper is currently proposing, namely, the repeal of the Indian Act which would dissolve the Indian Reserve system and force assimilation into mainstream society.

As Grand Chief Stewart Phillip spoke of Aboriginal history, I was drawn in when he described the Union of B.C. Indian Chiefs' emergence in support of Aboriginal people. This is how it went down. "There was a backlash from First Nations people that was instantaneous over 'The White Paper 1969.' In British Columbia, there was an emergency meeting of all Chiefs in the province of BC, about 200. During the third week in November, the meeting was held in Kamloops and it lasted 4 days. At the end of 4 days, the Union of B.C. Indian Chiefs was born. We were faced with being legislated out of existence by the stroke of a pen." The backlash reverberated across the country as it gave rise to what was known as "the Indian movement."

After 4 days of collaboration, the Union of BC Indian Chiefs came to some fundamental decisions: to seek a just resolution of the land question in B.C., to protect and support the Aboriginal right to self-determination. Grand Chief Stewart Phillip has been involved for the past 40 years with the Union of B.C. Indian Chiefs. "During all of my years involved with the UBCIC, I have never witnessed anything like this in the last six years since Prime Minister Stephen Harper was elected to office," explained Grand Chief Stewart Phillip.

The denial of the Kelowna Accord (<http://www.parl.gc.ca/Content/LOP/researchpublications/prb0604-e.htm>) was just the tip of the iceberg. The Kelowna Accord was the result of 18 months of intense roundtable consultations leading up to the First Ministers' Meeting in Kelowna, B.C. (November 2005). It was defined as "First Ministers and National Aboriginal Leaders Strengthening Relationships and Closing the Gap." Aboriginal leaders saw this accord as progressive since it involved cooperation and consultation that brought all parties to the table. Paul Martin was the Prime Minister at the time but his position was short-lived when he got voted out of office in 2006. The \$5 billion was to be spread out over a 5-year period and would have greatly enhanced the lives and education of First Nations people across Canada.

With the current PC government, their stance is unyielding and shows no sign of changing Aboriginal status for the better. Rather, it is very divisive and any cooperative progress that was gained has now been reduced to anger. The ramming through of Bills C-38 and C-45 that gutted environmental laws was the biggest outrage for many people. Conflict over the Enbridge Northern Gateway and Keystone XL pipelines added to the friction. Then the pending ratification of the Canada-China Foreign Investment Promotion and Protection Agreement (FIPA or FIPPA) made resource development the priority in favor of corporate interests for the next 31 years.

What happened to debate and collaboration with the elected representatives in Parliament about FIPA? MP Don Davies of Vancouver Kingsway riding, described how collaboration and discussion about FIPA could have taken place in Parliament among all parties, experts and First Nations but instead it was drafted in secret.

Other important groups were formed around the same time UBCIC emerged and it's a very long list of Associations in every province. The late Herald Cardinal, a Cree writer, political leader, teacher, negotiator and lawyer, led the Indian Association of Alberta. As a very outspoken and respected leader of his people, he wrote a book called *The Unjust Society*. On behalf of First Nations people, he consistently demanded the right to be "the red tile in the Canadian mosaic" and fought passionately for Aboriginal rights. To this day, the book is an important contribution as *The Unjust Society* describes a pivotal point in the history of First Nations people and their changing relationship with Canada.

In the 1800s, B.C. wasn't interested in joining the Confederation since it had operated up to that point as a colony and were doing quite well. But Canada needed B.C., the natural resources, and access to the Pacific Ocean. Though B.C. was reluctant to sign on, terms were negotiated and articles taken into consideration, in particular, the 13<sup>th</sup> article.

"This 13<sup>th</sup> article stated that the Government of B.C. would continue to treat the First Nations like they did in the past. There was a policy vis-à-vis the treaty whereby every man, woman and child represented 650 acres. This was the formula for establishing the Reserve system. B.C. didn't think they would accept this policy but the Dominion agreed to the articles including the 13<sup>th</sup> article," explained Grand Chief Stewart Phillip. But there was one problem; there were no treaties in B.C. to defend their titles.

The defense of their land claims continued into the 1900s. "There was the North American Indian Brotherhood, Native Brotherhood, and all of these groups were politically active. They petitioned Ottawa. There were historic agreements known as memorials that were statements resulting from meetings between First Nations and Government of Canada officials who came to BC," explained Grand Chief Stewart Phillip.

"In 1927, there was legislation passed which made it illegal for the native people in BC to gather in groups of 3 and 5 or discuss the Outstanding Land Question (land claims...these prohibition lasted until

1951). It was illegal for us to assemble politically, to discuss outstanding land questions or get legal advice from a lawyer. From 1927 – 1951, it was illegal for us to travel freely. We had to have a pass and ironically, the other people who were totally repressed at the same time were the Chinese people. Furthermore, during this same time, it was illegal for us to do our spiritual practice,” he added.

In 1951 all of this was repealed but it took from 1951 to 1969 to make the changes only to be presented with “The White Paper 1969” which would have obliterated the Aboriginal peoples’ way of life with the stroke of a pen. The Harper government has revived this unwelcome option again causing the relationship between Canada and First Nations to move backwards not forwards.

In an ironic twist of fate, the Pacific coast and protection of B.C. resources are at the focus of yet another fight in this time continuum due to the potential installation of the Enbridge Northern Gateway pipeline. As Grand Chief Stewart Phillip suggested, “Don’t take your eye off the ball. It’s all about the natural resources.” This time, everyone will be affected in Canada especially if foreign investors are given 31 years to extract Canada’s natural resources and have more rights than the people who live in Canada. Check out Canada-China FIPA: The Facts. <http://fipafacts.ca>

For the complete Historical Timeline of First Nations from 1700s to the present, this link on the Union of B.C. Indian Chiefs gives a comprehensive chronological overview of the First Nations history with Canada. <http://www.ubcic.bc.ca/Resources/timeline.htm#axzz2gxO1krNG>

## UBCIC Grand Chief endorses a collective vision for Canada, Part 2



### INTERVIEW

**GCV:** How is the dissolution of the Indian Act reshaping First Nations' social, political, and environmental objectives across Canada? Why do you think this is happening now and is it happening too fast for First Nations people to assimilate the changes especially since they have been codependent on the current social and political system for so long?

**GCSP:** To begin with, the first thing Harper did was rip up the Kelowna Accord. Prime Minister Martin gave funding to the First Nations to change their living standards. But Harper went in the opposite direction. Since he has been elected, he has cut and slashed programs and services. In terms of their legislative agenda regarding First Nations people, he has adopted a paternalistic and unilateral approach. My point is, that all of the bills the Harper government has passed were done without any consultation with Aboriginal people so our rights and interests have been continuously eroded. It's very much an adversarial and hostile relationship between the Harper government and the Aboriginal people of Canada.

The Harper government is deliberately seeking to undermine our rights and interests since the day they took power. There is no consultation or collaboration, working together on an agreed upon approach by moving out from under the Indian Act.

The impact is very detrimental because we are not being included in any of this. For example, regarding Bill S-8 for the drinking water...what this legislation does is...they opposed the bill on drinking water even though extensive submissions were made. By their unilateral approach they dumped the responsibility for good quality water on the Band Council without any concerns for liability whatsoever. Their unilateral decisions are done by virtue of their majority.

From the very beginning, First Nations have legal rights to the land. Through the residential schools, it was purposefully genocidal. (UN Urged to Declare Canada's Treatment Of Aboriginals 'Genocide' [http://www.huffingtonpost.ca/2013/10/18/genocide-first-nations-aboriginals-canada-un\\_n\\_4123112.html?utm\\_hp\\_ref=mostpopular](http://www.huffingtonpost.ca/2013/10/18/genocide-first-nations-aboriginals-canada-un_n_4123112.html?utm_hp_ref=mostpopular)) The real purpose was to destroy us as a people so they could take ownership of this land and resources of this country. The Conservatives and Liberals are no different. They want to assimilate us and it's the purpose of all government policy legislation where we are concerned so we will no longer be able to maintain our position and our Indigenous land rights.

The hope is that if Indigenous people are assimilated, then they will wipe out our unique legal status. We have propriety interest in the land of this country. The Crown wants an unfettered legal right to the resources that they do not have due to our Indigenous legal rights. The Supreme Court of Canada upheld many court cases with respect to the land rights of Indigenous people. This war against Indigenous people has been going on a long time because they want the land and resources. The Indigenous land rights are the fundamental obstacles to resource development across Canada.

It is the thin red line of the Indigenous land rights that stand in the way of Petro state obsession and pipeline issues. Harper can't move ahead with the land resource development for this reason.

**GCV:** If FIPA is ratified giving a foreign investor unprecedented rights to Canada's natural resources at the expense of First Nations and Canadians, is there any hope that the Canada Constitution Act of 1982 and the affirmation in the United Nations Declaration on the Rights of Aboriginal Peoples could work in our favor to stop it?

**GCSP:** The short answer is we have to make every effort as Indigenous people and Canadians against this blatant use of power to sell out the natural resource wealth to China. Quite frankly, it's Chinese economic imperialism. It was so ironic because they had such a long dark history of being invaded and ruled by Imperial powers and now they are doing the same. Right now what they are practicing is Chinese Economic Imperialism.

The most important point is we have to stand up together. There should be such outrage across this country that we should all be in the street. It is essential that we demonstrate to the Harper government that we will not put up with the sell out of our natural resources to China. We must fight for responsible resource development strategy.

**GCV:** In this Digital Journal article, <http://digitaljournal.com/article/344495> WCEL Senior Lawyer Jessica Clogg explains Bill C-45, First Nations Rights, FIPA, Jessica states: "In my experience change often occurs when a configuration of political, economic, legal and social pressures come to bear. I believe that true recognition of Aboriginal and Treaty Rights has the potential to be a force of progressive, transformative change for Canada at all levels." Can you comment on this statement and how do you foresee a new vision for Canada coming out of this current conflict for First Nations people and Canadians?

**GCSP:** To begin with, there needs to be a collective vision and it can't be self-centered or self-serving that contemplates Canada becoming a Petro power. Harper has no time to consider the environmental risks and Indigenous land rights and the fact that he pushed through 2 omnibus bills.

All Canadians have to understand the fundamental values of this country are being sold out from under us. The values that make this one of the greatest countries in the world are being sold out. Environmental values, social, human rights, political, everything we cherish in this country will be wiped out if we don't take a collective stand.

My vision of Canada is that all cultures and nationalities work together to maintain their cultural rights while maintaining a collaborative vision.

**GCV:** How could the Union of B.C. Indian Chiefs work together with the Chiefs of Alberta if FIPA is ratified and the Enbridge Northern Gateway pipeline rejection by B.C. is vetoed and approved by Prime Minister Stephen Harper? Since the passing of Bill C-38 and Bill C-45, is there any protection whatsoever from corporations coming on to First Nations' properties to extract natural resources?

**GCSP:** This question is somewhat moot because I have been up to Fort McMurray and participated in the Tar Sands Healing Walk. Last year we had over 500 people from Canada and the US participated. The First Nations people in the Fort McMurray area organized it. We are already working on these matters.

In the event that Harper vetoes the Joint Revue Panel...if they reject the pipeline proposals because there is too much risk attached...and he declares these projects in the national interest, we have to stop this and take it to the streets. There has to be hundreds of thousands of people demonstrating their collective outrage concerning this abuse of power. We can't sit idly by. We can't allow Harper to

prorogue parliament any time it is convenient for him to do that. We can't allow him to abuse our human rights, Indigenous land rights, and political democratic rights. He is blatantly thumbing his nose at the democratic values and rights of this country. How much longer are we going to stand for this?

There are thousands of Canadians who died on the battlefield who protected our democratic rights and this man is squandering them in his obsession with becoming a world Petro power. For goodness sake, he is in court now with the veterans where they are being forced to fight for their rights.

**GCV: In Calgary, Alberta, at one of the Idle No More rallies (December 2012) in front of Prime Minister Stephen Harper's constituency office a Councillor from the Alberta Tsuu T'ina Nation warned the crowd about the consequences when First Nations Treaty Rights are dissolved. He addressed not only First Nations but also Canadians when he said: "We're all in this together now." Will collaboration between First Nations people and Canadians of each provincial and territory jurisdiction make a stronger legal case against the dissolution of our land and water rights?**

**GCSP:** The obvious short answer is YES. Canada is a colonial construct otherwise known as a settlers' state to complete the colonization process. They need to deal with what governments have called "the Indian problem." If Harper calls a snap election in the spring, they would create fear in people stating that pipelines are in the economic interest of this country. This is how close to the edge we are. First Nations people are the spearhead. Our rights are reflected in Declaration on the Rights of Indigenous people, enshrined in the Constitution of Canada, and have been upheld by a multitude of Supreme Court decisions. As long as the left political parties remain divided, it gives them a majority to do what they want.

Harper could draft a White Paper and through the virtue of his majority, he could wrap it in the same type of rhetoric as Prime Minister Pierre Trudeau did in 1969 under the guise of equality. If this does occur, then there will be an uprising from sea to sea of Indigenous people. Our Indigenous land rights represent the thin red line.

We need the active support of Canadians. Idle No More is inclusive. It isn't an Indigenous movement but a human rights movement. We need to revitalize Idle No more.

A special thank you to Grand Chief Stewart Phillip for granting me this interview.

## **LINKS**

## **VIDEO**

**Breaking Down the Indian Act with Russell Diabo**

[http://www.youtube.com/watch?v=ECi\\_7G0QAgw](http://www.youtube.com/watch?v=ECi_7G0QAgw)

## **WEB**

**Canada, first nations have a road map. It was the Kelowna Accord.**

<http://www.theglobeandmail.com/commentary/canada-first-nations-have-a-road-map-it-was-the-kelowna-accord/article7210814>

**Sustaining Momentum: The Government of Canada's Fourth and Final Report in Response to the Kelowna Accord Implementation Act 2011-12**

<http://www.aadnc-aandc.gc.ca/eng/1338220678979/1338220793751>

**Kelowna Accord holds key to native renewal**

[http://www.thestar.com/opinion/editorialopinion/2013/01/03/kelowna\\_accord\\_holds\\_key\\_to\\_native\\_renewal.html](http://www.thestar.com/opinion/editorialopinion/2013/01/03/kelowna_accord_holds_key_to_native_renewal.html)

**The Kelowna Accord, Wikipedia**

[http://en.wikipedia.org/wiki/Kelowna\\_Accord](http://en.wikipedia.org/wiki/Kelowna_Accord)