



**1** Aboriginal  
Canada and the  
Natural Resource  
Economy Series

# NEW BEGINNINGS

How Canada's Natural Resource Wealth Could  
Re-shape Relations with Aboriginal People

KEN COATES AND BRIAN LEE CROWLEY

MAY 2013



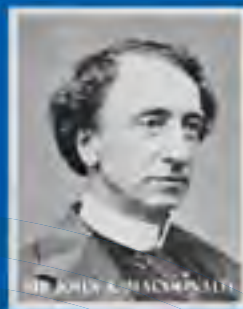
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# PREFACE

**T**his year, 2013, is the 250th anniversary of the Royal Proclamation of 1763 (pictured on the cover). The Royal Proclamation is widely regarded as having been one of the cardinal steps in the relationship between Aboriginals and non-Aboriginals in British North America – what eventually became Canada.

A quarter of a millennium later it is our judgment that that relationship has often not been carried out in the hopeful and respectful spirit envisaged by the Royal Proclamation. The result has been that the status of many Aboriginal people in Canada remains a stain on the national conscience. But it is also the case that we face a new set of circumstances in Aboriginal/non-Aboriginal relations. Indigenous peoples in Canada have, as a result of decades of political, legal, and constitutional activism, acquired unprecedented power and authority. Nowhere is this truer than in the area of natural resources.

This emerging authority coincides with the rise of the demand for Canadian natural resources, a demand driven by the increasing integration of the developing world with the global economy, including the massive urbanisation of many developing countries. Their demand for natural resources to fuel their rise is creating unprecedented economic opportunities for countries like Canada that enjoy a significant natural resource endowment.

The Aboriginal Canada and the Natural Resource Economy project (of which this paper is a part) seeks to attract the attention of policy makers, Aboriginal Canadians, community leaders, opinion leaders, and others to some of the policy challenges that must be overcome if Canadians, Aboriginal and non-Aboriginal alike, are to realise the full value of the potential of the natural resource economy. This project originated in a meeting called by then CEO of the Assembly of First Nations, Richard Jock, with the Macdonald-Laurier Institute. Mr. Jock threw out a challenge to MLI to help the Aboriginal community, as well as other Canadians, to think through how to make the natural resource economy work in the interests of all. We welcome and acknowledge the tremendous support that has been forthcoming from the AFN, other Aboriginal organisations and leaders, charitable foundations, natural resource companies, and others in support of this project.

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# EXECUTIVE SUMMARY

Canada finds itself today in the midst of one of the most important resource development booms in national history. The scale and intensity of resource development in Canada has kept the national economy strong in the midst of global difficulties; equally important, the vast treasure trove of Canadian resources provides solid assurance that the Canadian economy will remain robust well into the future.

These exciting and important opportunities, however, hinge on Canada's ability to establish fair, clear, and durable agreements with First Nations. This paper sets the stage for the Macdonald-Laurier Institute's major new three year project on Aboriginal Canada and the Natural Resource Economy by drawing attention to the experience of Aboriginal engagement with resource development, growing Aboriginal empowerment over the last 40 years, and the constructive, mutually beneficial collaborations that have emerged between Aboriginal groups, governments, and developers informed and shaped by recent court decisions and modern treaties. We believe that this overview gives reasons for hope for Aboriginal and non-Aboriginal Canadians alike that the natural resource economy may provide the basis for shared prosperity and progress. Other papers over the course of this project will develop some of the themes in this paper in greater detail.

As this paper shows, the argument that future Aboriginal participation in the resource sector can be significantly better than the past need not be based on pie-in-the-sky forecasts of what might be but rather on existing best practices in Aboriginal engagement with the resource sector. The last couple of decades yield promising examples of successful, positive collaborations.

## Significant court cases

After the government nearly lost a court case in 1973 on the issue of Aboriginal claims to land and resources, then Prime Minister Pierre Trudeau started negotiating comprehensive modern treaties, and opened an era of Aboriginal legal empowerment. In the following years, a series of major Supreme Court decisions expanded Aboriginal harvesting rights, reinvigorated existing treaties, and provided a new legal context for treaty negotiations.

In 2004, the Supreme Court determined that the government had "a duty to consult and accommodate" affected Aboriginal communities when planning major resource developments. The ruling proved of pivotal significance, making it clear to participants that Aboriginal people were to have substantial influence over resource decisions, while stopping short of giving them a legal veto. Governments and corporations now had an obligation to consult with the Indigenous peoples upon whose territories they wished to work. Furthermore, they had to make good faith efforts to accommodate Aboriginal needs and interests. In short order, extensive community-based discussions, impact and benefit agreements, and a complex network of joint ventures, Aboriginal business development, training and employment schemes, and community participation in approval and oversight arrangements became commonplace.

## Development corporations

The emergence of development corporations – Aboriginally-run, community-based, and collectively-owned commercial enterprises – is perhaps the most significant development in the field. Many have received funds from modern treaties, legal settlements, and revenue from resource activity, and are already significant players in Indigenous economic development.

## Impact and benefit agreements

Impact and benefit agreements (IBA) between Aboriginal groups and mining corporations provide for significant sharing of opportunity around resource developments. The companies realized, even

before the judicial recognition of the duty to consult and accommodate, that working collaboratively with Indigenous peoples provided significant returns in terms of building a regional labour force, developing ties with area service and supply companies, and providing a noticeable return to the Aboriginal communities for activities on their traditional territories.

## **Collaboration on large-scale projects**

Sizable projects, like the Vale Newfoundland and Labrador deposit at Voisey's Bay, Labrador, illustrate the extent and impact of Indigenous collaboration, in this case involving the Innu Nation and the Nunatsiavut government. The complex impact and benefit agreement, supported and enhanced by modern treaty agreements, has provided an economic and employment foundation for Innu and Nunatsiavut aspirations in their homelands.

## **Examples from British Columbia**

British Columbia has emerged as an innovator in provincial approaches to resource development. The BC government has signed several forestry revenue-sharing agreements with communities across the province, ensuring a direct return to the First Nations from logging activities on their traditional territories. Even more significant, the Government of British Columbia has committed itself to sharing government mineral tax revenue – over and above what might be negotiated between the mining company and the First Nation – for each new mine.

## **Oil sands development**

Suncor, in particular, has developed an extensive community outreach and engagement process with Aboriginal peoples, focusing particularly on skills and job training but including contributions to community infrastructure and commitments to regional social planning. The firm created an Aboriginal Affairs department to focus company efforts in the area, gaining recognition for its efforts to hire and retain more Indigenous employees.

It took quite some time for Indigenous businesses, both community based companies and individually owned enterprises, to emerge as significant players in the regional economy, but the number and size of the companies has expanded substantially. The financial success of Dave Tuccaro, from Mikisew Cree First Nation (Fort Chipewyan), whose wealth has been described as exceeding \$100 million, has been widely cited as an illustration of the declining barriers to Aboriginal entrepreneurship in the oil sands.

Canadians as a whole have as much of a choice in the months ahead as do Aboriginal peoples. There is a tendency to expect, unrealistically, unanimity among Indigenous leaders and organizations and to withhold support for Aboriginal aspirations unless there is an Aboriginal consensus on how to proceed. There will be no easy consensus, nor is it reasonable to expect one to emerge. It is fundamentally important, therefore, to connect with Aboriginal leaders and communities that favour engagement, primarily to demonstrate that significant and sustainable partnerships are attainable with government, the private sector, and the country at large.

Aboriginal participation in resource development is essential for Canadian prosperity and for a fair and appropriate pathway for the improvement of the situation of Indigenous peoples. The history of Aboriginal-newcomer relations in Canada has not been kind to Indigenous peoples. They have borne most of the negative effects of resources and settlement, with the impacts still painfully evident in the 21<sup>st</sup> century. The legal empowerment of Aboriginal peoples in recent years has given the Indigenous governments much greater ability, while still far from absolute, to shape development projects to better suit community needs and aspirations. It is vital that the historic pattern be changed and that models of more positive engagement come to the fore. This paper shows that, far from being a vain and pious hope, such models are already emerging and provide guidance on where to go from here.



# SOMMAIRE

**L**a mise en valeur des ressources naturelles connaît aujourd'hui l'un des plus importants essors de l'histoire du Canada. L'ampleur et l'intensité de cette mise en valeur ont permis à l'économie canadienne de maintenir toute sa vigueur malgré la morosité du climat mondial, et, facteur tout aussi important, l'abondance de ces richesses garantit que l'économie canadienne demeurera forte longtemps.

Toutefois, le Canada ne pourra saisir ces occasions formidables et importantes que s'il est en mesure de conclure des ententes justes, claires et durables avec les Premières Nations. Le présent article sert de point de départ au projet de trois ans sur le Canada autochtone et l'économie des ressources naturelles nouvellement entrepris par l'Institut Macdonald-Laurier. Il examine l'exercice de la participation autochtone à la mise en valeur des ressources, le renforcement croissant de l'autonomie des peuples autochtones depuis 40 ans et les liens de collaboration constructifs et mutuellement bénéfiques qui se sont tissés entre les groupes autochtones, les gouvernements et les promoteurs à la suite des décisions récentes des tribunaux et de la signature des traités modernes. Nous croyons que le présent aperçu de la situation fournira à tous les Canadiens, autochtones comme non-autochtones, des raisons d'espérer que l'économie des ressources naturelles puisse assurer à tous la prospérité et le progrès. Des articles suivront dans le cours du présent projet pour approfondir certains thèmes abordés dans celui-ci.

Comme le démontre cet article, l'argument selon lequel la participation des Autochtones au secteur des ressources pourrait être nettement supérieure ne doit pas être fondé sur des prévisions utopiques mais il doit plutôt reposer sur les meilleures pratiques en matière de participation autochtone qui ont cours actuellement dans le secteur des ressources. Les deux dernières décennies fournissent de multiples exemples de collaborations réussies et positives qui sont prometteuses.

## Affaires judiciaires importantes

Comme le gouvernement avait presque perdu une cause en 1973 dans une affaire judiciaire relative aux revendications autochtones sur les terres et les ressources naturelles, cela avait amené le premier ministre du temps, Pierre Elliot Trudeau, à entreprendre la négociation de traités modernes complets, pavant ainsi la voie à une ère d'autonomie juridique autochtone. Au cours des années qui ont suivi, une série de décisions clés de la Cour suprême a grandement accru les droits d'exploitation autochtones, renouvelé les traités existants et fourni un nouveau cadre juridique pour la renégociation des traités.

En 2004, la Cour suprême a statué que le gouvernement avait « l'obligation de consulter et d'accommoder » les communautés autochtones touchées au moment de planifier les grands projets de mise en valeur des ressources naturelles. La décision s'est avérée d'une importance capitale, car elle indiquait clairement aux principaux intervenants que les peuples autochtones devaient exercer une influence majeure sur les décisions touchant les ressources, sans toutefois leur accorder un droit de veto juridique. Les gouvernements et les entreprises avaient désormais l'obligation de consulter les peuples autochtones dont ils souhaitaient exploiter les territoires. En outre, ils devaient déployer tous les efforts possibles pour répondre de bonne foi aux besoins et aux intérêts des Autochtones. En peu de temps, les discussions ont pris de l'ampleur dans les communautés et des ententes sur les retombées et les répercussions ont vu le jour et sont devenues monnaie courante, de pair avec un réseau complexe de programmes conjoints, de projets de développement autochtones, de plans de formation et d'emploi et d'initiatives visant à faire participer les communautés aux mécanismes d'approbation et de contrôle.

## Corporations de développement

L'apparition de corporations de développement – entreprises commerciales exploitées par les Autochtones, établies au sein de leurs communautés et de propriété collective – constitue peut-

être le développement le plus important dans ce secteur. De nombreuses corporations ont obtenu du financement en vertu des traités modernes, bénéficié d'accords négociés, tiré des revenus de l'exploitation des ressources et sont déjà des acteurs importants du développement économique autochtone.

## **Retombées et répercussions des ententes**

Les ententes sur les retombées et les répercussions conclues entre les Autochtones et les sociétés minières fournissent aux deux groupes la possibilité de partager pleinement les opportunités liées à la mise en valeur des ressources. Les entreprises avaient déjà réalisé, bien avant la reconnaissance judiciaire de l'obligation de consultation et d'accommodement, que le travail effectué en collaboration avec les peuples autochtones était rentable, car il permettait de créer une réserve de main-d'œuvre régionale, de tisser des liens avec les entreprises d'approvisionnement et de services tout en fournissant aux communautés autochtones une rétribution notable pour les activités effectuées sur leur territoire traditionnel.

## **Collaboration à des projets de grande envergure**

Les projets de grande envergure, comme celui du gisement exploité par Vale Newfoundland and Labrador à la baie de Voisey, au Labrador, ont bien démontré l'ampleur et l'impact de la collaboration des Autochtones, faisant appel à la Nation Innu et au gouvernement du Nunatsiavut. L'entente complexe sur les retombées et les répercussions, qui a été soutenue et renforcée par les traités modernes, a permis aux peuples Innu et Nunatsiavut de satisfaire leurs aspirations économiques et leurs besoins d'emploi, dans leurs territoires.

## **L'exemple de la Colombie-Britannique**

La Colombie-Britannique est la province qui s'est le plus distinguée par son approche novatrice en matière de mise en valeur des ressources. Ce gouvernement provincial a signé plusieurs dizaines d'accords de partage des recettes forestières avec des collectivités de partout dans la province, assurant ainsi aux Premières Nations une rétribution directe pour les activités d'exploitation forestière sur leur territoire traditionnel. Mais plus important encore, le gouvernement de la Colombie-Britannique s'est engagé à partager les recettes fiscales qu'il tire de l'exploitation minière – au-delà des termes négociés entre la société minière et la Première Nation – pour chaque nouvelle mine qui ouvrira.

## **Projets d'exploitation de sables bitumineux**

L'entreprise Suncor en particulier a mis au point un important processus de sensibilisation et de mobilisation communautaires des peuples autochtones, en mettant surtout l'accent sur les compétences professionnelles et la formation, y compris des contributions spéciales à l'infrastructure régionale communautaire et des engagements en matière de planification sociale. La société a créé une division des affaires autochtones afin de concentrer les efforts de l'entreprise dans ce secteur, ce qui lui a valu une reconnaissance pour ses efforts de recrutement et de rétention des employés autochtones.

Il s'est écoulé un certain temps avant que les entreprises autochtones – entreprises communautaires et sociétés à propriétaire unique – ne puissent devenir des acteurs économiques importants dans leur région, mais le nombre et la taille des entreprises ont considérablement augmenté. Le succès financier de Dave Tuccaro, de la Première Nation crie Mikisew (Fort Chipewyan), dont la fortune dépasserait, selon ce qui a été rapporté, 100 millions de dollars, a été largement cité pour démontrer l'impact de la baisse des obstacles à l'entrepreneuriat autochtone dans les sables bitumineux.

La population canadienne dans son ensemble sera confrontée aux mêmes choix que les peuples autochtones au cours des mois à venir. On a tendance à penser, de façon bien irréaliste, que les



dirigeants et les organisations autochtones sont unanimes sur les façons de procéder et à retirer notre appui aux aspirations autochtones qui ne font pas consensus. Il n'y aura pas de consensus facile et il n'est pas raisonnable de s'attendre à en voir un émerger. Il est donc essentiel de tisser des liens avec les dirigeants autochtones et les communautés qui favorisent la participation pour démontrer essentiellement que des partenariats significatifs et durables entre le gouvernement, le secteur privé et le pays dans son ensemble sont réalisables.

La participation des Autochtones à la mise en valeur des ressources naturelles du Canada est cruciale pour assurer la prospérité du Canada et trouver des moyens justes et appropriés pour améliorer la situation des peuples autochtones. Dans le passé, les relations entre les Autochtones et les nouveaux arrivants au Canada n'ont pas été à l'avantage des peuples autochtones. Ces peuples ont subi presque tous les effets négatifs de l'exploitation des ressources et de la colonisation, effets qui se font encore cruellement sentir au 21<sup>e</sup> siècle. L'émancipation juridique des peuples autochtones au cours des dernières années a renforcé la capacité des gouvernements autochtones à influencer sur le développement de projets pour qu'ils répondent mieux aux besoins et aux aspirations de leurs communautés, même si cette capacité demeure bien relative. Il faut absolument modifier cette tendance historique pour faire place à des modèles positifs de participation. Le présent article démontre que de tels modèles, loin d'être des chimères, émergent déjà et qu'ils peuvent servir de guide pour désigner les voies à suivre.

## INTRODUCTION

Canada finds itself, c. 2013, in the midst of one of the most important resource development booms in national history. The list of major projects gets longer each month: oil sands, shale gas, hydroelectric projects, and new and proposed mines are all in full swing. Global commodity demand remains strong, allowing the Canadian resource economy to ride out fluctuations in prices. Investment continues to flow in from around the world, with discoveries moving step-wise toward producing mines. The scale and intensity of resource development in Canada has kept the national economy strong in the midst of global difficulties; equally important, the vast treasure trove of Canadian resources provides solid assurance that the Canadian economy will remain robust well into the future.

These exciting and important opportunities, however, hinge on Canada's ability to establish fair, clear, and durable agreements with First Nations. For generations, major policy initiatives related to Aboriginal people have focused on possibilities and prospects, rather than practical and viable solutions. Experimentation has been the foundation of Indigenous programming since the 19<sup>th</sup> century, from the establishment of reserves and the Indian Act to residential schools to various attempts to configure band governance.<sup>1</sup> In the case of Aboriginal engagement with the resource economy, Canada has a long history of projects that disrupted Indigenous communities and provided few direct benefits to local people, leaving unrestored scars on the landscape.

The launch of the Macdonald-Laurier Institute's (MLI) extensive research project on Indigenous engagement with resource activities is designed as a contribution to this crucial national conversation. Over the next three years, MLI will engage with Aboriginal and non-Aboriginal Canadians, government officials, and business executives and will identify models for Indigenous participation in the resource sector. We believe that this work is of fundamental importance to Indigenous peoples and

*The vast treasure trove of Canadian resources will keep the Canadian economy robust well into the future.*

the rest of the country. This paper focuses on the experience of Aboriginal engagement with resource development, growing Aboriginal empowerment over the last 40 years, and the constructive, mutually beneficial collaborations that have emerged between Aboriginal groups, governments, and developers informed and shaped by recent court decisions and modern treaties.

*There is no shortage of examples of Aboriginal protests against resource projects.*

There are good reasons for Indigenous concerns about the pattern, pace, and impact of resource developments. There have been protests over everything from ski hill projects to hydroelectric dam construction, and some bitter and angry confrontations over proposed mines. Bitter confrontations slowed some of the major dam construction activities in northern Manitoba. For years, First Nations in northern Alberta criticized the oil sands companies for not responding more effectively to local Indigenous communities, particularly on issues related to employment and downstream environmental impacts. Aboriginal complaints helped close down Alcan's Kemano Completion Project (hydroelectric) in northern British Columbia, just as Indigenous opposition slowed the Mackenzie Valley pipeline construction for so long that changing market conditions rendered it uneconomic, at least for now. In Northern Ontario, Indigenous frustrations around what they describe as incomplete consultation about the "Ring of Fire" mines have the potential

to derail large-scale mining operations. Over the last year, there have been sustained Aboriginal protests about the Northern Gateway Pipeline, potentially stopping a multi-billion investment that the industry and government see as critical to delivering Canadian oil to Asian markets. There is no shortage of examples of Aboriginal protests against resource projects; more than 20 years ago, the Government of Canada and British Columbia used the uncertainty surrounding Aboriginal land title and the realization that the province was losing billions of dollars in investment to push for support for the resolution of land claims through modern treaties.

It is vital to remember that each of the major resource-based court cases originated with Aboriginal disagreement with planned development activities on their traditional territories. One of the most recent decisions, related to Yukon First Nations' complaints about the failure to consult with Aboriginal peoples before proceeding with mineral exploration, resulted in a 2012 judgment (now under appeal) that confirmed the First Nations' right to be engaged from the outset in mineral activities in their territories.<sup>2</sup> It is fair and appropriate to say that Indigenous peoples in Canada are suspicious of resource activity, are unwilling to count on governments to protect their interests, and are concerned about the actions and motives of resource companies wishing to work on their territories. Even where Aboriginal groups have been willing to support a resource project, they remain concerned that the promised accommodations and benefit agreements will either not be honoured in full, will leave significant environmental damage following the development, or will have resulted in the Indigenous people "leaving money on the table", or not putting the correct price on access to the resource. Concern, uncertainty, memories of previous experiences, and the realization that a major project might be the one and only opportunity a specific Aboriginal community has to benefit from a large-scale economic initiative in their territory all serve as a brake on Indigenous engagement. But brakes can be applied gently and often do not mean that things must come to a full stop.

At present, therefore, the country faces the prospect of hundreds of billions of dollars of investment in the resource sector being held up by Aboriginal protests, with Indigenous demands buttressed by a long string of court victories that legally reinforce the assertion that mines and other natural resource developments cannot proceed without proper consultation and accommodation. There is no single Aboriginal approach to natural resource development, constitutional change, or any other major policy initiative, any more than there is a single non-Indigenous stance on significant economic and political choices. The challenge for non-Aboriginal Canadians, including government officials, politicians, business leaders and the citizenry at large, is to find ways to work constructively with Indigenous groups where they currently stand, including those willing to collaborate with resource projects and those who distrust non-Aboriginal approaches to economic development generally. Building bridges to both groups – working cooperatively with Indigenous communities that support

resource activity and listening carefully to those who are wary of the development agenda – will stand both Aboriginal people and the country as a whole in good stead.

Happily, the search for solutions need not start with theory and concept, as if there were no working examples of successful collaboration between Aboriginals and non-Aboriginals on natural resource development. We can instead focus on existing practice and the partnerships that have already developed between Aboriginal communities, governments, and non-Aboriginal people and organizations. The demonstrations associated with Idle No More spring from real frustrations and must not be dismissed as the protestations of a small number of radicals or angry people. They do reflect the belief of many Aboriginal Canadians that people are simply not listening to Indigenous demands, needs, and aspirations. But they should also not be mistaken for being the only response of Aboriginal people and communities to the risks, challenges, and opportunities of the 21<sup>st</sup> century. In an era of modern treaties, Indigenous self-government, joint ventures with private sector firms, resource revenue sharing, and collaborations with business, many Aboriginal people have opted for engagement and participation in the mainstream economy, including in particular in natural resource development.

*The challenge for non-Aboriginal Canadians is to find ways to work constructively with Indigenous groups where they currently stand.*

## SECTION ONE

# THE RAPIDLY CHANGING FACE OF ABORIGINAL CANADA

To understand the evolution of the First Nations' role in resource development, it is important to understand the demographic changes in the Aboriginal populations during the same time period. In the 19<sup>th</sup> century, government officials and missionaries noted, with sadness and resignation, the looming collapse of the Aboriginal population. Indigenous people, it seemed, were destined to disappear over time, unable to adapt and flourish in the agricultural and industrial realities of British North America. The official reports were wrong.

### The Aboriginal population boom

The Indigenous population hit the nadir in the early 20<sup>th</sup> century, and then rebounded rapidly. By the post-World War II period, Aboriginal Canadians had the highest birth rate in the country. In the 1950s, large numbers of Aboriginal people continued to follow harvesting lifestyles, with a strong reliance on hunting, fishing, and gathering. The hand of government squeezed tighter, through intrusive residential schools, compulsory education, the creation of government-constructed villages, and often poorly designed federal economic and social welfare programming. Aboriginal leaders decried the fast-emerging economic dependency on government, which the rapidly expanding government interventions seemed to encourage. But languages remained reasonably strong and substantial social and physical distance separated most Aboriginal people from the growing non-Indigenous population. This era also saw the rapid expansion of the resource frontier, with mines opening up across the middle and far North, and new roads, railways, hydroelectric projects, airfields, and



communication systems spreading onto Indigenous territories. In short order, vast expanses of the country felt the pressure of development, with substantial impact on Aboriginal communities that played no role in the planning or approval of the various projects. In the 1980s and 1990s, while non-Aboriginal birth rates plummeted, Indigenous populations continued to grow dramatically. By the early 21<sup>st</sup> century, the face of Aboriginal Canada was very young indeed.

*The face of  
Aboriginal Canada  
is very young.*

At a time when the age of the general population of the western nations was rising, Aboriginal Canadians followed a different trajectory. As of 2006, a full 29.7 percent of the First Nations population was under the age of 15 years, and 61.6 percent were under 35. For the Canadian population at large, which included the youthful Aboriginal population and a young new Canadian cohort, only 17.4 percent were under 15 years and 43.4 percent were under 30.<sup>3</sup> This, in turn, placed tremendous pressure on community facilities and added to the employment challenges in many remote communities.

### **Advancement of Aboriginal women**

This past generation also witnessed the dramatic empowerment of Aboriginal women. While educational outcomes for young Aboriginal men languished and even fell, young women generally did better in high school and many more proceeded to college or university. Across the country, Indigenous women moved into leadership roles at the community level, particularly in health and education agencies, and became more active in regional and national politics. The emergence of a large cohort of talented, well-educated community activists altered the face of Aboriginal engagement with government and the broader society, carrying a sense of urgency into debates that hitherto had often been more abstract in their approach.

Many of the women also left the reserves, often taking their children with them. Various reasons propelled what was actually a mass Indigenous migration, one of the largest and most sustained in Canadian history (as a percentage of the population involved). Pull factors, such as educational and employment opportunities, more social and recreational services, better health care, and

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considerable social networks ensured that Aboriginal Canadians joined a global movement from remote and rural communities into larger centres. Aboriginal families also experienced many push factors, ranging from family and community dysfunction to the absence of work and training programs, decrepit housing, and widespread despair. For many, the move to the city proved extremely difficult, as the vestiges of poverty, discrimination, and marginalization provided comparatively few options beyond continued reliance on government. For the educated, entrepreneurial, and persistent, however, migration to cities proved economically advantageous. Many non-Aboriginal observers fixated on the statistics of off-reserve migration and declared reserve life to be undermined, if not quite dead. They missed, in the process, the extensive social and economic ties that survived and even flourished, often over hundreds of miles, keeping town and city dwellers well connected to their home communities.

### **The push for education**

Education factors featured prominently in the migration to the cities and to the revitalization of Aboriginal communities. Many schools in remote communities are substandard and poorly funded, with the low level of government support for education being a driving force behind Idle No More and general Aboriginal unhappiness with Ottawa. While overall high school graduation rates lag far behind Canadian standards – only 25 percent of Aboriginal students graduate from Grade 12 compared to a national rate of 85 percent, and there is growing evidence that Aboriginal performance is declining – Indigenous interest in education remains high.<sup>4</sup> Most reserve schools are band controlled and have adapted provincial curricula to accommodate cultural and local knowledge. Educational attainment

is restricted by a general lack of confidence in schools and teachers – a long-term legacy of the residential school experience – and the pernicious effects of poverty, traumatized lives, community dysfunction, and poor housing on the students' academic performance.

The best news rests with the surge in Aboriginal participation in college and university studies. The scale is impressive, fueled in part by federal government support for Aboriginal post-secondary education (PSE). The grants, it must be noted, are considerably smaller and fewer in number than many commentators believe; the number of post-secondary education grants is not tied to the number of eligible students and has, for years, been well below demand. Many of the PSE students from urban areas are more likely to attend college or university, largely because of the lower costs of participation. In the late 1960s, only a few hundred Aboriginal students attended universities and colleges. By the second decade of the 21<sup>st</sup> century, the number enrolled at universities alone is estimated by the Association of Universities and Colleges of Canada at between 20,000 and 25,000 students. Special programs to train Aboriginal teachers, social workers, nurses, and lawyers produce hundreds of graduates each year.<sup>5</sup> Colleges are training many skilled tradespeople and others to work in business, the health sector, or wildlife management. The national associations of Aboriginal health care professionals, managers, entrepreneurs, accountants, psychologists, ministers, and other specialists are an excellent illustration of the formidable impact of post-secondary education among the Indigenous peoples of Canada.

*The best news rests with the surge in Aboriginal participation in college and university studies.*

## SECTION TWO

# ABORIGINAL EMPOWERMENT

If Indigenous people have been changed by Canada over the past 40 years, Aboriginal people have also profoundly changed Canada over the same time period. Indigenous leaders and communities struggled with the pressures of rapid economic and social change, with most of the pain associated with the transition being borne inside the Aboriginal population. The people stirred. Aboriginal people started to press for respect, recognition, rights, and an appropriate place within Canadian society at large. The effort was led by a combination of returning veterans, angry about limits on their rights in post-World War II Canada, and young activists inspired by decolonization movements and Indigenous rights protests in the United States (US), Australia, and New Zealand. Aboriginal political organizations had been around for generations, and Indigenous communities had been pressing governments to pay attention to their rights and aspirations, but with only occasional success and little national attention. As the large younger generation came of age in the 1960s, raised in communities rallied by activists and craving access to societal goods like education, they brought new intensity to these efforts. Other groups – the Inuit, off-reserve status Indians, non-status Indians, and Metis – have their own organizations and spokespeople and perspectives on Canadian affairs distinct from those portrayed by the Assembly of First Nations.

*The Indian Act, a vestige of 19<sup>th</sup> century colonialism, straightjacketed Aboriginal governments.*

For several generations, Aboriginal peoples had few resources in their struggle to bring socio-economic improvements to their communities. The Indian Act, a vestige of 19<sup>th</sup> century colonial thinking, served

as a straightjacket around Aboriginal governments. Bands had no powers of self-government, worked under the close oversight of the local Indian Agent, and had to be very creative in exercising effective agency over their lives. The combination of physical separation from most non-Aboriginal people and widespread discrimination blocked many from access to advanced education, professional careers, business, and social engagement with other Canadians. The expansion of government programs in the 1960s and 1970s brought more money to the band governments, but typically with extensive bureaucratic regulations and oversight. Only after the 1970s, with the advent and expansion of self-government and decentralization of the Department of Indian Affairs, was much of the money coming into the communities for housing, education, health care, and economic development dispersed by Aboriginal politicians, band councils, or local managers. The system worked poorly, and added to the weight of non-Aboriginal dominance and the consequences of Indigenous marginalization.

*The rapid expansion of the Canadian resource frontier helped sustain the rise of the Aboriginal rights movement.*

In the distant past, Aboriginal people had a very limited national profile. Physically separated from the Canadian mainstream in remote regions and isolated reserves, Indigenous issues rarely made it into the national media. Canadians interpreted the Aboriginal silence as acceptance and assumed that the fact that few Indigenous peoples spoke up indicated a general level of comfort with government policy and their experience with non-Aboriginal people. Canadians misunderstood the silence in the past, just as they generally misunderstand the silence of the majority of the Indigenous people now. Much of the silence can be explained by the challenges that individuals and families face when coping with poverty, social problems, and community issues. When communities struggle with crisis after crisis, individuals and families often have few resources or energy left to fight on a broader scale.

## **The impact of resource development on Aboriginal rights**

The rapid expansion of the Canadian resource frontier coincided with and helped sustain the rise of the Aboriginal rights movements in Canada. This was also the era when company towns like Schefferville (Quebec), Elliot Lake (Ontario), Thompson (Manitoba), Uranium City (Saskatchewan), Kitimat (British Columbia), Pine Point (NWT), and Faro (Yukon) opened up across the Canadian North. These large and more permanent settlements brought both more sustained dislocations to Aboriginal communities and only limited opportunities for Indigenous engagement in the resource sector. The same resource developments that the country as a whole lauded as being the foundation of national prosperity brought serious socioeconomic challenges for Aboriginal people, who saw their hunting and fishing activities curtailed, experienced often tense relations with the development communities, and witnessed substantial long-term damage to their traditional territories, with few offsetting benefits. This was also a time of national mega-projects, ranging from the construction of railways into the North, the opening and expansion of highway systems, a proposed pipeline down the Mackenzie River valley, and all manner of grandiose hydroelectric and water diversion schemes.

Indigenous people and leaders, connected to broader national and international Aboriginal rights movements, became more assertive and found southern audiences among environmentalists and supporters of Indigenous peoples. Small-scale protests about local developments gathered momentum, peaking during the federal inquiry led by Thomas Berger into the Mackenzie Valley pipeline. The Mackenzie Valley experience in the 1970s surprised a country unused to Aboriginal assertiveness and, even more, not prepared for such a sustained and articulate defence of traditional territories and the insistence by Indigenous peoples that they be permitted to shape the pace and nature of development and benefit economically from such activity.

Governments and the private sector awakened to the new political realities. Governments provided local benefits, typically in the form of improved roads, schools, hospitals, and regional economic development programs for communities facing sudden development pressures. Companies offered job training and employment opportunities, although the take-up and the number of long-



term employees proved to be limited due to the inadequacies of educational and skill acquisition opportunities in the often-remote Aboriginal communities, the social crises that engulfed many settlements, and the culture of welfare dependence that had emerged since the 1960s. Consultations became more common, as did concern about remediation and worry about Indigenous protests, which garnered increasing attention from the national and international media.

These efforts had few successes, however, and were often more than offset by severe dislocations associated with the resource activities. Exploration activity brought newcomers into the most remote corners of the country, areas that were critical to Indigenous harvesting. The same roads that reduced the costs of supplying isolated communities brought in non-Aboriginal hunters and made it easier to bring alcohol and drugs into the settlements. Relations with the resource workers ranged widely, from professional, family-oriented company towns to hard-drinking, hard-living interactions between Indigenous peoples and miners and construction workers.

The socio-economic improvements that governments and the general public naïvely assumed would follow the resource frontier failed to materialize in most instances. Instead, Aboriginal communities remained disconnected from the resource developments, marginalized economically, and shunned socially.

The period from 1970 to 2000 brought fundamental transformations to Indigenous communities: the decline of Aboriginal languages and traditions, reduced levels of Aboriginal harvesting, greater access to drugs and alcohol, outmigration to towns and cities, sharp increases in rates of crime, spousal abuse, teenage pregnancy, diseases associated with nutrition (particularly diabetes), and even the arrival of television, radio and, eventually, video games.

The last 30 years of the 20<sup>th</sup> century, in fact, produced decidedly mixed messages about the transitions in Indigenous communities. With few examples of constructive relationships between the resource developments and the Indigenous populations and with very little say over the pace and shape of the commercial activity, at best Aboriginal people viewed resource projects as economically irrelevant and more commonly, as a serious threat to their cultural and social existence.

*The period from 1970 to 2000 brought fundamental transformations to Indigenous communities.*

## Significant court decisions

Conditions started to change in the 1960s, and accelerated rapidly in the next three decades. Aboriginal leaders fought every step of the way, initially through the courts. They won small but significant victories, like the *Bob and White* decision on Aboriginal hunting rights in 1964 and the 1970 *Drybones* judgment that ruled that the Indian Act violated aspects of the Canadian Bill of Rights. Meaningful change seemed elusive, however, and social and cultural challenges mounted.

The Government of Canada wrestled with the long-standing question of how to best address the aspirations of Aboriginal peoples. Under Jean Chrétien, then the Minister for Indian Affairs and Northern Development, the government released a White Paper on Indian Affairs in 1969. The document recommended the elimination of Indian status and the Indian Act and the assimilation of Aboriginal people into the Canadian mainstream, and was viewed by the Liberal government as a declaration of support and concern for Aboriginal peoples. The Government of Canada was shocked by the response from Aboriginal people, leaders, and organizations across the country. It became immediately clear that Aboriginal people rejected the White Paper and further realized that the defense of their position within the country rested on the mobilization of Indigenous communities.

It is hard, in the 2010s, to recall how little recognition there was of Aboriginal rights in the early 1970s. Aboriginal governments had little autonomy, the Indian Act dominated Indigenous affairs, national

organizations had a low (but growing) profile, and Aboriginal rights extended little beyond harvesting rights. The transition started in earnest in 1973, ironically with a lost court case. The Nisga'a asked, in the *Calder* case, the Supreme Court of Canada to agree that they had unresolved Aboriginal claims to land and resources. The Court voted 3-3-1, with the deciding vote ruling against the Nisga'a on a technicality. The Government won, and the Nisga'a lost, but the tide had started to turn in the First Nations' favour.<sup>6</sup>

*It is hard now to recall how little recognition there was of Aboriginal rights in the early 1970s.*

Realizing that the Government of Canada could lose a subsequent court decision, Prime Minister Pierre Trudeau reversed direction on the matter of land and treaty rights, started negotiating comprehensive modern treaties, and opened an era of Aboriginal legal empowerment. The jump from 1969, when serious political thought was being given to eliminating Indian status, to the negotiation of Indigenous treaties in 1973, was stunning in both speed and impact. In the following years, a series of major Supreme Court decisions expanded Aboriginal harvesting rights, reinvigorated existing treaties, and provided a new legal context for treaty negotiations.

The victories – each of which reinforced the ability of Aboriginal people and governments to realize some of their aspirations within the existing Canadian legal and political system – emboldened Indigenous leaders and organizations. First Nations leaders pressed the government for greater recognition, additional funding, increased autonomy, and support for economic and community development. Protests morphed into meetings with the prime minister and provincial premiers. Articulate and forceful Aboriginal leaders – particularly national chiefs Georges Erasmus, Ovide Mercredi, Matthew Coon Come, and Phil Fontaine – raised the profile of Indigenous issues, becoming as well known nationally as most provincial premiers.

The pressure culminated in a series of constitutional controversies, leading to the inclusion of Aboriginal and treaty rights in the Canadian constitution of 1982, Elijah Harper's principled opposition to the Meech Lake Accord in 1990, and a commitment to entrench the Aboriginal right to self-government in the Charlottetown Accord in 1992, which was later rejected in a national referendum.

While the precise meaning and authority of these constitutional rights remain to be fully defined through the court system – an open-ended and ongoing process – the new legal powers redefined the place of Aboriginal people in the country.

## **A DUTY TO CONSULT AND ACCOMMODATE**

The pattern of Indigenous participation in resource development took a sharp turn in 2004, with Supreme Court decisions in the *Haida* and *Taku River* cases, which built on the earlier *Sparrow* and

*Guerin* decisions.<sup>7</sup> The Supreme Court determined that the government had “a duty to consult and accommodate” Aboriginal communities when planning major resource developments. The ruling proved of pivotal significance, making it clear to participants that Aboriginal people were to have substantial influence over resource decisions, while stopping short of giving them a legal veto. Governments and corporations now had an obligation to consult with the Indigenous peoples upon whose territories they wished to work. Furthermore, they had to make good faith efforts to accommodate Aboriginal needs and interests, albeit without precise instructions as to the nature of either the consultations or the accommodations. Businesses, in particular, quickly realized that the combination of political realities and legal requirements made negotiations with regional Aboriginal communities an essential component in the development process. In short order, extensive

community-based discussions, impact and benefit agreements, and a complex network of joint ventures, Aboriginal business development, training and employment schemes, and community participation in approval and oversight arrangements became commonplace.

*The “duty to consult and accommodate” gave Aboriginal people substantial influence over resource decisions.*

## Land agreements

As the legal struggles were unfolding, the Government of Canada launched negotiations to resolve Aboriginal land claims. The pre-Confederation and Numbered treaties (1870-1921) had resolved Aboriginal title claims in much of the country, but across vast expanses – the territorial North, northern Quebec, Labrador, and almost all of British Columbia – Indigenous peoples lived without treaties. Quebec's desire to develop the hydroelectric potential of the North led to the James Bay and Northern Quebec Agreement of 1975. After the *Calder* decision of 1973, negotiations opened across the territorial North, with agreements following with the Inuvialuit, most of the groups in the Mackenzie valley, the Inuit of the East Arctic (as part of the division of the Northwest Territories that led to the creation of Nunavut in 1999) and the Yukon. The Nisga'a, who first demanded a treaty in the late 19<sup>th</sup> century, signed a modern agreement in 1999.<sup>8</sup>

The agreements changed the trajectory of Aboriginal affairs, at least for the beneficiaries of the modern treaties. The deals provided Indigenous control of sizeable portions of traditional lands, millions of dollars in immediate compensation, royalty revenue arrangements, assured roles on regional land and resource management committees, the right to negotiate for self-government, and the capacity to introduce Aboriginal cultures and traditions into government systems. Co-management systems for environmental planning, wildlife management, and development permits reinforced the growing authority of Indigenous peoples and communities, giving them greater control over regional affairs.

The agreements were not like the simple treaties of the 19<sup>th</sup> and early 20<sup>th</sup> century; instead, they were complicated, long, and highly technical accords, requiring a great deal of post-signing effort to implement properly. Amidst the pages upon pages of the agreements lay the legal and political foundations for a fundamental recasting of the role of Aboriginal peoples in regional affairs. The modern treaties also removed all beneficiaries from most of the provisions of the Indian Act, ending the long-term domination of the Government of Canada over many aspects of Aboriginal affairs in the agreement areas.

The growing authority of Aboriginal people and communities through legal decisions and modern agreements convinced regional governments and businesses to explore more constructive relationships with Indigenous residents. The impetus rested initially with individual businesses and governments, resulting in a patchwork of agreements and special arrangements. Some communities engaged with the development companies, launching joint venture companies, securing service contracts, and engaging in training and employment programs. While these arrangements occasionally proved controversial, often exposing generational and cultural differences within communities, they provided a much greater economic return from resource development.

The informal approach did not serve all of the communities equally well, with wide variations in the local agreements, substantial differences between development companies, and very different levels of Aboriginal engagement.

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*Modern land agreements changed the trajectory of Aboriginal affairs.*

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*Young Aboriginal people are substantially engaged in advocacy and activism.*

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## The future of the Aboriginal rights movement

Aboriginal youth, the fastest growing cohort in the country, have grown up in the maelstrom of Indigenous protest, legal engagement, and socioeconomic change. While many young people have followed the path from high school graduation through college or university and into the work force, most have struggled in the first years of the 21<sup>st</sup> century. The statistics of Aboriginal despair are well-



known: staggeringly high rates of teenage suicide, shocking numbers of unemployed young men, over-incarceration, challenges with mental health and HIV-AIDS, and the other numerous contours of Indigenous social pathology. Young Aboriginal people are substantially engaged in advocacy and activism. While more distant from traditional activities than their parents and grandparents, young Aboriginals are deeply immersed in the politics of Indigenous aspiration.

Collectively, the size, mobilization, engagement, and frustrations of young Aboriginal people are transforming Indigenous affairs in Canada. A major generational shift is underway, with young people divided in their approach. For the past 40 years, Indigenous leaders focused on constitutional, legal, and political issues. Some youth, well represented in the Idle No More movement, share a fundamental belief in treaties and constitutional and legal empowerment. Others share the approach of National Chief Shawn Atleo of the Assembly of First Nations and focus on participating in the mainstream economy, particularly around resource development, building stronger and healthier communities through job and business creation, improved governance, and major advances in education and health care. These streams, embodied in Idle No More and Chief Atleo, are not diametrically opposed, but rather concurrent streams that intersect and diverge depending on the circumstances. Aboriginal communities, therefore, face serious choices in the coming years as they decide how to search for solutions to the many and formidable challenges facing Indigenous people.

*Canadians must connect with Aboriginal leaders and communities that favour engagement, primarily to demonstrate that significant and sustainable partnerships are attainable.*

Canadians as a whole have as much of a choice in the months ahead as do Aboriginal peoples. There is a tendency to expect, unrealistically, unanimity among Indigenous leaders and organizations and to withhold support for Aboriginal aspirations unless there is an Aboriginal consensus on such matters. There will be no easy consensus, nor is it reasonable to expect one to

emerge. It is fundamentally important, therefore, to connect with Aboriginal leaders and communities that favour engagement, primarily to demonstrate that significant and sustainable partnerships are attainable with government, the private sector, and the country at large.

It is equally important to listen carefully to the dissenting voices and the communities that are not currently participating in resource development. These communities, in time, will become partners with the mainstream economy, at a time of their choosing and in terms that they find acceptable.

*The transformation of Aboriginal rights has been both fast and comprehensive.*

More generally, however, if those who have risked their political careers by declaring a willingness to work with non-Aboriginal partners are not met by equally eager partners, authority will, by default, fall to those who reject collaboration and demand more substantial legal and constitutional changes. Non-Aboriginal business people, politicians, government officials, and citizens need to make it clear that they are open to new and mutually beneficial relationships with Indigenous peoples and that appropriate outcomes are possible for Aboriginal communities without constant recourse to the courts.

## Summary

The transformation of Aboriginal rights has been both fast and comprehensive. In 1970, most of the Aboriginal legal, political, and constitutional powers that Canadians now take for granted existed only on the lists of the aspirations of

Indigenous leaders and communities and in the unrealized application of Canadian law. In historical terms, the changes came with surprising rapidity. From a government commitment to comprehensive land claims to Indigenous self-government agreements, extensive recognition of Aboriginal harvesting rights, and compulsory requirements to consult with Indigenous communities before proceeding with resource projects, Aboriginal people have secured extensive legal, political, and constitutional authority. Conditions that non-Aboriginal Canadians rejected as unrealistic in the late 1960s and early

1970s were widely accepted by the 2010s. A revolution in Aboriginal rights had occurred, one that would permanently transform both the place of Indigenous peoples within the Canadian political and legal system and that could well provide a foundation for the economic and social engagement of Aboriginal communities.

## SECTION THREE

# VOLUNTARY AND CONSTRUCTIVE ENGAGEMENT: THE WAY FORWARD

In the years since these important changes in the legal agency of Aboriginal peoples, Indigenous communities have engaged voluntarily and constructively with the resource sector and resource companies, which in turn adapted their operations to better respond to local conditions and needs. Continued recourse to the courts drains time and money, and is not the ideal starting point for dispute resolution. The argument that future Aboriginal participation in the resource sector can be significantly better than the past need not be based on pie-in-the-sky forecasts of what might be but rather on existing best practices in Aboriginal engagement with the resource sector. The last couple of decades yield promising examples of successful, positive collaborations.

*Aboriginal development corporations are significant players in Aboriginal economic development.*

### Development corporations

The emergence of development corporations – Aboriginally-run, community-based, and collectively-owned commercial enterprises – is perhaps the most significant development in the field. Many have received funds from modern treaties, legal settlements, and revenue from resource activity, and are already significant players in Indigenous economic development. The Inuvialuit Regional Corporation, which arose out of the 1984 Inuvialuit settlement, has close to half a billion dollars in total assets and is already a significant participant in northern economic and resource development. Similarly, the Nunavut Trust received over \$1 billion from the Nunavut land claims settlement, a sum that will be supplemented by significant revenue from resource royalties.<sup>9</sup> The substantial Inuit engagement with the massive Baffinland Mine is but one sign of the effect of the modern treaty on Inuit willingness to participate in resource development in a careful and considered fashion.

With modern treaties spanning much of the Canadian North, the participation and empowerment of Indigenous communities and governments will ensure that they play a major role in determining the pace and direction of resource development. They will also be recipients of significant financial, employment, infrastructure, and other benefits from the agreements.

### Impact and benefit agreements

Impact and benefit agreements (IBA) between Aboriginal groups and mining corporations provide for significant sharing of opportunity around resource

*IBA between Aboriginal groups and mining corporations provide for significant sharing of opportunity around resource developments.*

developments. The companies realized, even before the judicial recognition of the duty to consult and accommodate, that working collaboratively with Indigenous peoples provided significant returns in terms of building a regional labour force, developing ties with area service and supply companies, and providing a noticeable return to the Aboriginal communities for activities on their traditional territories. The agreement signed in 2012 between the Pinehouse Metis community and two uranium companies, Cameco and Areva, for example, provided corporate investment in community infrastructure, jobs training and hiring programs, support for locally-owned businesses, and corporate commitments to engaging with the community on an ongoing basis and to support regional efforts at environmental stewardship.<sup>10</sup> The local funding, tied to production figures and market prices, has the potential to return substantial financial and other benefits directly to the community and to ensure ongoing Indigenous participation with the resource economy. The agreement generated considerable controversy when first released, in part because of a perceived “gag” order that required community leaders to support the mining companies. The statement had been included in a draft of the report and was not included in the final agreement.

## Hydro developments

Hydroelectric developments in Manitoba have been very controversial and were not well managed in terms of relations with Aboriginal peoples in the early years. More recently, the Northern Flood Agreements have provided a more favourable foundation for Aboriginal peoples and communities affected by the projects. Cross Lake (Pimicikamak) has received over \$100 million in compensatory expenditures, with annual spending of between \$5 to \$6 million. The funding is not used primarily to connect First Nations to work in the hydro sector. Support is provided for traditional harvesting activities, for example, and to allow for remediation from the original flooding. Local workers and firms are hired for such diverse activities as reservoir clean up, school and community food programs, cultural activities, elders’ support, sporting facilities for the community, business development, and environmental management.<sup>11</sup> The Northern Flood Agreements, which remain the subject of considerable debate, are designed to respond to overlooked or unanticipated challenges associated with hydroelectric development.

*The Northern Flood Agreements provided a foundation for mutually beneficial hydro developments.*

New hydro developments, some of which are being undertaken by, or in partnership with, Indigenous groups (which generally favour less intrusive “run of the river” operations), would be developed under more substantial agreements.

The multi-phase development of the hydro potential of northern Quebec, facilitated by large scale and comprehensive agreements with the Cree and Inuit people of the region, are a good illustration of the engagement of Indigenous people and governments with hydro projects.

## Collaboration on large-scale projects

Sizable projects, like the Vale Newfoundland and Labrador deposit at Voisey’s Bay, Labrador, illustrate the extent and impact of Indigenous collaboration, in this case involving the Innu Nation and the Nunatsiavut government. The complex impact and benefit agreement, supported and enhanced by modern treaty agreements, has provided an economic and employment foundation for Innu and Nunatsiavut aspirations in their homelands.<sup>12</sup> Like the other accords, the IBA with Vale NL covers such diverse topics as environmental protection and restoration, employment and skills training, business development, financial compensation, and Indigenous participation in planning and evaluation.

The Voisey’s Bay initiative, however, has to be seen as part of a broader empowerment of Indigenous groups, with the terms of the modern treaty and self-government strategies combining with the relationships with corporations to ensure that the Innu and Nunatsiavut had a substantial and assured presence in the economic and social development of Labrador.

## Best practices in British Columbia

British Columbia, long a national outlier in terms of recognition of Aboriginal rights and claims, has emerged as an innovator in provincial approaches to resource development. The province has accepted resource revenue sharing, an idea that Saskatchewan, for example, has rejected. The BC government has signed several dozen forestry revenue-sharing agreements with communities across the province, ensuring a direct return to the First Nations from logging activities on their traditional territories.

Even more significant, the Government of British Columbia has committed itself to sharing government mineral tax revenue – over and above what might be negotiated between the mining company and the First Nation – for each new mine. For people who have followed provincial politics for the past three decades, the statement by Minister of State for Mining Randy Hawes in 2011 is simply stunning in its reversal of past practice: “Our support for revenue sharing is unequivocal. We are determined to continue engaging with First Nations as fully as possible. For the benefit of both the province and the First Nations, it is vital that First Nations play a significant role in the mining industry.”<sup>13</sup> The agreements vary by project, and are subject to negotiations with the First Nations affected by the mine.

*BC has mineral tax and forestry revenue-sharing agreements with First Nations.*

The process was launched in 2010 with the signing of agreements with McLeod Lake (Mt. Milligan mine) and Stk'emlupsemc, part of the Secwepemce Nation (New Afton mine). These agreements, as is often the case, generated considerable debate and opposition within the affected communities. According to the Chief of McLeod Lake, the agreement had a total benefit of between \$60 and \$120 million, including direct payments, contracts for band-owned firms, and training and job creation opportunities, plus a variety of measures to support Indigenous culture, language, and traditional practices. Some community members rejected the Council's consultations as incomplete, occupied the band offices, and challenged the legality of the agreements with the mine and company. Furthermore, First Nations groups that did not sign comparable agreements, in this instance the Nak'azdli First Nation, did not gain a share in the revenue generated from the resource activity. As with other agreements and processes, the BC arrangements give an advantage to First Nations who support the mining activity.<sup>14</sup>

## Oil sands development

In the early years of oil sands development in northern Alberta, Aboriginal people and communities attracted little attention or support. Syncrude did make significant efforts, particularly on the job training and Aboriginal employment front, but broader participation in the regional economic boom was minimal.

The situation has changed significantly in the past 20 years. Suncor, in particular, has developed an extensive community outreach and engagement process with Aboriginal peoples, focusing particularly on skills and job training but including contributions to community infrastructure and commitments to regional social planning. The firm created an Aboriginal Affairs department to focus company efforts in the area, gaining recognition for its efforts to hire and retain more Indigenous employees.<sup>15</sup>

*Various programs have made Aboriginal entrepreneurship in oil sands development a reality.*

It took quite some time for Indigenous businesses, both community based companies and individually owned enterprises, to emerge as significant players in the regional economy, but the number and size of the companies has expanded substantially. The financial success of Dave Tuccaro, from Mikisew Cree First Nation (Fort Chipewyan), whose wealth has been described as exceeding \$100 million, has been widely cited as an illustration of the declining barriers to Aboriginal entrepreneurship in the oil sands.<sup>16</sup>



While criticism continues about the downstream environmental impacts of oil sands activities, companies have made considerable and high profile investments to remediate the problems and to lessen the impact of subsequent developments. Critics remain unmollified.

## Current tensions

These examples illustrate the range and scale of Indigenous participation in resource development in different parts of the country, and the potential for much greater engagement is very real. Problem areas remain, and local protests against resource activity are still common, although increasingly in the form of internal community disputes about the appropriateness of cooperating with resource companies or the extent of the return and reinvestment directed to the community.

*Problem areas remain, and local protests against resource activity are still common.*

Attawapiskat, the much examined community in northern Ontario represented by Chief Theresa Spence, has also benefitted from a significant agreement with a mining company, in this case De Beers' Victor diamond mine. The mine, which produces about \$400 million per year, provided substantial funds by way of compensation and pays some \$2 million annually to Attawapiskat in a royalty. In addition, the mine contributes job training programs, local infrastructure improvements (including cell phone service), and contracts for First Nations businesses and other contributions.<sup>17</sup>

All has not gone smoothly. The mine reports several blockades of the ice road serving the community, usually focusing on personal matters and rarely interrupting mining operations significantly. In the aftermath of Chief Spence's prolonged protest fast, several groups blockaded the ice road again. Complaints ranged from the local belief that the compensation was insufficient given the disruption of traditional activities and the financial value of the mine, to more specific complaints about the perceived lack of support for community infrastructure and various personnel and work-related issues.

That Attawapiskat, the country's 2012-2013 symbol of harsh living conditions in First Nations communities, was participating in a substantial financial and benefits arrangement with a major international mining company surprised most observers, who believed that the community was totally cut off from the wage economy and income-producing opportunities. Equally, the Attawapiskat situation demonstrates that resource development, even with attending benefits, is not a panacea for communities at risk and in difficulty.

*Resource development, even with attending benefits, is not a panacea for communities at risk and in difficulty.*

As the Idle No More movement spread across the country in December 2012 and as Chief Theresa Spence's controversial protest in Ottawa came to an end a month later, Canadians could no longer mistake the level of anger and frustration among the Aboriginal people of the country. The Idle No More demonstrations, overwhelmingly peaceful and culturally rich, brought hundreds of young people and adults onto the streets, into the malls, and onto university campuses. Their message was simple: the Aboriginal people of Canada would no longer be silent about the pain and hardship that engulf their communities. Chief Spence's demands, circular and imprecise, nonetheless drew First Nations Chiefs from across the country to Ottawa to press the Government of Canada to change its approach to Aboriginal policy. Decades of anger with the inability of the country to produce equality of opportunity and equality of experience for Aboriginal Canadians stood at the centre of the protests and demonstrations.

Canadians, many upset about the protests and often-inchoate demands coming from the numerous Indigenous spokespeople, could not escape the passion and desperation behind the movement. For

weeks on end, the news carried stark reminders of the abject poverty, governance challenges, and deep social crises that engulfed many Indigenous communities. Shawn Atleo, the progressive Grand Chief of the Assembly of First Nations, struggled to find an approach and message that would get the attention of the Government of Canada and placate the more radical Chiefs in his organization. In fairly quick order, the country came to realize that, protests or not, the aspirations and frustrations of Aboriginal people in Canada had to be addressed. The status quo, long since rejected by Indigenous communities and their governments, could no longer hold.

Amidst the protests, and underlying much of the anger, was a simple message: Aboriginal Canadians insist on receiving a fair and appropriate share of the country's wealth. Many non-Aboriginal people have expressed frustration with the level of government spending on Indigenous affairs and the patterns of dependency that define most Aboriginal communities. That the Indigenous protestors focused so much effort on the financial and economic injustice of Canada surprised observers, who are used to demands focusing on constitutional and legal processes. This vital subtext, of Aboriginal people wanting in on Canadian prosperity and of communities frustrated with bearing the brunt of dislocations and sharing in few of the benefits associated with resource development, points both to the depth of the challenges and possible solutions to this crucial Canadian dilemma.

*Aboriginal Canadians insist on receiving a fair and appropriate share of the country's wealth.*

There are other aspects of the contemporary Canadian resource boom that need to be acknowledged. Given that most of the major resource projects occur in remote regions, the development pressures are often focused on remote Aboriginal communities. Historically, this has meant that ill-prepared, vulnerable settlements bore the brunt of often overwhelming change. With the new legal and political realities, these same development pressures potentially carry significant benefits for these communities. Across the country, communities, regional Indigenous governments, and Aboriginal people generally face significant decisions about their future and the best means for capitalizing on the financial, employment, and business development opportunities.

While the potential of the Canadian resource boom is impressive, Aboriginal leaders and governments understand that each decision about participating in resource development is unlikely to be unanimously accepted. At the community level, each project represents one of the very few chances the people have to reconfigure their place in the national economy. Equally important, commercial resource opportunities are not evenly distributed across the country. Unsurprisingly, this unequal distribution results in some Indigenous communities having impressive commercial opportunities while others, sometimes only a relatively short distance away, have few resource options.

*Each project represents one of very few chances a community has to reconfigure its place in the national economy.*

Because the stakes are so high, it is not surprising that considerable unrest remains in Indigenous communities around resource development. There are tensions between outsiders and Aboriginal people, the former typically eager to move the projects forward and the latter suspicious and uncertain about the benefits of such major undertakings. Within some Aboriginal communities, opinion is sharply divided between those favouring the jobs and business opportunities that accompany large-scale projects and those opposed to disruptions of harvesting grounds and nervous about the community-level consequences of major infrastructure, construction, and resource development projects. Prior to the 'duty to consult and accommodate' decisions and the many other legal and political changes that have occurred, Aboriginal communities had very good reasons to be concerned about their ability to both influence and benefit from resource activities in their territories. Even now, with considerably more political and legal authority than in the past, many Indigenous communities are not yet convinced that they have the tools they need to ensure that resource development is managed properly and serves community

interests. Finding ways to reassure them and to build together on the many successes outlined here will be the biggest challenge facing both Aboriginal and non-Aboriginal Canadians as they seek to obtain the very highest value for the country's bountiful natural resource endowment.

## CONCLUSION

There is a sense in the country – inaccurate and poorly defined – that Aboriginal people are opposed to resource development. This has never been the case, and is less so now than ever. As with every other community, Indigenous settlements are opposed to poorly supervised projects that damage the local environment, have harmful effects on the local population, and return few benefits to the community. While there are communities that are very concerned about development, as the response to the Northern Gateway pipeline project demonstrates, the evidence is that most Indigenous governments are open to properly managed resource activities that bring significant long-term benefits to their communities. The legal empowerment of Aboriginal peoples in recent years has given the Indigenous governments much greater ability, while still far from absolute, to shape development projects to better suit community needs and aspirations.

It is here, in the prospect for beneficial Aboriginal engagement in national resource development, that the country has the great potential for sustainable reconciliation between Indigenous and non-Indigenous Canadians.

Another stereotype – that Indigenous peoples are not interested in work and business – has also been challenged by recent experience. Many Aboriginal peoples and communities are eager for jobs, business opportunities, and revenue from resources. Until recently, however, they lacked the resources, workforce, and political ability to extract proper returns from the development frontier. Indeed, Aboriginal Canadians have waited, worked, and struggled for generations to gain the legal and political power necessary to define their future. Over the past 40 years, the communities secured the power they sought by engaging with Canadian legal and political processes, and in a manner that non-Aboriginal people, corporations, and governments find acceptable and compatible with national procedures and aspirations. It turns out, in the end, that workable, mutually beneficial, and sustainable partnerships with Aboriginal people are not as difficult as Canadians typically believe.

*Workable, mutually beneficial, and sustainable partnerships with Aboriginal people are not as difficult as Canadians typically believe.*

There is abundant evidence that Aboriginal Canadians want fuller, more equitable participation in the country, and are deeply frustrated that the national system has not yet provided the benefits and resources necessary to strengthen and sustain their communities. The battle over treaties, self-government, Aboriginal rights, and government support for Indigenous peoples is, for most Aboriginal Canadians, really a pursuit of the tools and authority necessary to participate in national prosperity. While there is no

single model of resource and economic development that has or will work in Aboriginal communities across the country, it is increasingly clear that most Indigenous peoples are open to partnership approaches. Collaboration makes sense for Aboriginal people, communities, companies, governments, and Canada at large.

Canada is, once again, at a crossroads, but on this occasion the Aboriginal peoples, communities, and governments have, for the first time in Canadian history, significant authority and resources in their hands. Through treaty agreements, court settlements, and Supreme Court decisions, Indigenous

participants have won a reasonably well-defined role in future development and the opportunity to push for even greater rights, if they wish to devote the time and collective energy to this uncertain goal. Development corporations give Aboriginal groups both a source of cash and a means of capitalizing collectively on returns from resource investments in their traditional territories.

But Aboriginal assertiveness shows up in more than increased engagement, greater training and employment, and expanded entrepreneurial activity. Protests against resource projects continue as well, and there is growing frustration with the pace and extent of accommodations and outreach by governments, corporations, and the non-Aboriginal community at large. The peaceful Idle No More movement has a more assertive counterpart, shown in the threats of boycotts, high-profile protests, and inflamed rhetoric about the ability and determination of Indigenous Canadians to shut the country down economically if their legal, constitutional, treaty, and Aboriginal rights are not fully recognized.

The urgent need for change is driven, in substantial measure, by the realization that the growing population of Aboriginal young people is restless and impatient, potential recruits for protests against resource development if appropriate rules, benefits and safeguards are not in place. Often unemployed, having difficulties with schooling, and coping with the challenges of social despair, Aboriginal youth are in the forefront of Indigenous anger. They led the protests at Caledonia and Burnt Church and have been on the front lines of blockades and demonstrations across the country. When there is talk of blockades, Warrior societies, and violent confrontations, the power behind these efforts rests with young people, particularly the large army of disenfranchised Aboriginal men. Anger is a prominent element in Aboriginal politics and community life. Left unaddressed, the continued frustration of young Aboriginal people could be a seriously disruptive force in Canadian life.

*Left unaddressed, the frustration of young Aboriginal people could be a disruptive force in Canadian life.*

A companion Macdonald-Laurier Institute paper by Douglas Bland describes Canada's vulnerability to widespread Aboriginal protests and documents how the conditions that led to such outbursts exist in many Indigenous communities in this country. While he makes it clear that confrontation is *not* inevitable, Mr. Bland's analysis also makes it obvious that steps must be taken to prevent the current level of dissatisfaction, particularly among young people, from boiling over. The growing Canadian resource economy has the potential to be a primary bridge between Indigenous and non-Indigenous Canadians. If the right steps are taken, in the spirit of collaboration and long-term mutual benefit, the rapidly expanding resource sector could and should be transformed from a field of confrontation and disruption of Aboriginal communities into a much-needed middle ground where Indigenous and other interests demonstrate the benefits of cooperation and purposeful collaboration.

*The growing Canadian resource economy has the potential to be a primary bridge between Aboriginal and non-Aboriginal Canadians.*

Canada's future is unlikely to come down to a simple dichotomy between shared resource development and Indigenous protests over the use of traditional territories, although both possibilities exist. In a country as large and diverse as Canada, with so many Indigenous communities and governments at such different stages of interest in cooperating with non-Indigenous governments and resource companies, there will be examples of excellent and sustained partnerships and places where good intentions go awry and dissolve in conflict.

Recent experience, which is marked by both some of the most significant Indigenous partnerships with business and government in Canadian history and bitter confrontations along the resource frontier, makes it clear that the nation and the Aboriginal people and their governments do have choices before them. There is also growing evidence of one of the more promising developments in recent



times, namely the willingness of non-Aboriginal private sector leaders to work collaboratively with Indigenous communities and to speak up with government about Aboriginal aspirations and needs. The corporate engagement is a critical part of the alternative that supports Aboriginal participation in the resource economy. It should be very clear which option is in the best interests of Indigenous peoples, non-Indigenous Canadians, and the national economy.

*It is vital that the historic pattern be changed and that models of more positive engagement come to the fore.*

Aboriginal participation in resource development is essential for Canadian prosperity and for a fair and appropriate pathway for the improvement of the situation of Indigenous peoples. The history of Aboriginal-newcomer relations in Canada has not been kind to Indigenous peoples. They have borne most of the negative effects of resources and settlement, with the impacts still painfully evident in the 21<sup>st</sup> century. It is vital that the historic pattern be changed and that models of more positive engagement come to the fore.

Canada is an incomplete nation, scarred by the poverty and marginalization of Indigenous peoples and communities. Canada needs properly managed resource development to prosper as a nation. Aboriginal people need new approaches to resource development if they are to participate appropriately and fairly in the development of natural resources on their traditional territories. In this 250th anniversary year of the Royal Proclamation that gave such a promising start to relations between Aboriginals and non-Aboriginals in our part of North America, it is time for the country to get to work on what may be the most important effort at collaboration, partnership, outreach, and engagement in the country's recent history.

# AUTHOR BIOGRAPHIES



## Ken Coates

Ken Coates is MLI's Senior Fellow in Aboriginal and Northern Canadian Issues. He is the Canada Research Chair in Regional Innovation in the Johnson-Shoyama Graduate School of Public Policy at the University of Saskatchewan. He has served at universities across Canada and at the University of Waikato (New Zealand), an institution known internationally for its work on Indigenous affairs. He has also worked as a consultant for Indigenous groups and governments in Canada, New Zealand, and Australia as well as for the United Nations, companies, and think tanks. He is currently finalizing a book called *Treaty Peoples: Finding Common Ground with Aboriginal Canadians*. He has previously published on such topics as Arctic sovereignty, Aboriginal rights in the Maritimes, northern treaty and land claims processes, regional economic development, and government strategies for working with

Indigenous peoples in Canada. His book, *A Global History of Indigenous Peoples: Struggle and Survival*, offered a world history perspective on the issues facing Indigenous communities and governments. He was co-author of the Donner Prize winner for the best book on public policy in Canada, *Arctic Front: Defending Canada in the Far North*, and was short-listed for the same award for his earlier work, *The Marshall Decision and Aboriginal Rights in the Maritimes*. Ken contributes regularly, through newspaper pieces and radio and television interviews, to contemporary discussions on northern, Indigenous, and technology-related issues.



## Brian Lee Crowley

Brian Lee Crowley has headed up the Macdonald-Laurier Institute (MLI) in Ottawa since its inception in March of 2010, coming to the role after a long and distinguished record in the think tank world. He was the founder of the Atlantic Institute for Market Studies (AIMS) in Halifax, one of the country's leading regional think tanks. He is a former Salvatori Fellow at the Heritage Foundation in Washington DC and is a Senior Fellow at the Galen Institute in Washington. In addition, he advises several think tanks in Canada, France and Nigeria.

Crowley has published numerous books, most recently *Northern Light: Lessons for America from Canada's Fiscal Fix*, which he co-authored with Robert P. Murphy and Niels Veldhuis and two bestsellers: *Fearful Symmetry: the fall and rise of Canada's founding values* (2009) and MLI's first book, *The Canadian Century; Moving Out of America's Shadow*,

which he co-authored with Jason Clemens and Niels Veldhuis.

Crowley twice won the Sir Antony Fisher Award for excellence in think tank publications for his health care work and in 2011 accepted the award for a third time for MLI's book, *The Canadian Century*.

From 2006-08 Crowley was the Clifford Clark Visiting Economist with the federal Department of Finance. He has also headed the Atlantic Provinces Economic Council (APEC), and has taught politics, economics and philosophy at various universities in Canada and Europe.

Crowley is a frequent commentator on political and economic issues across all media. He holds degrees from McGill and the London School of Economics, including a doctorate in political economy from the latter.

# ENDNOTES

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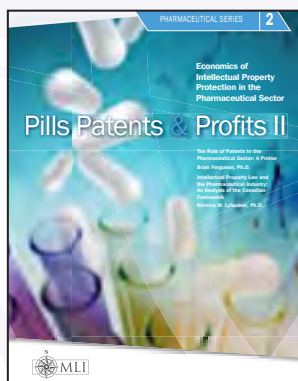
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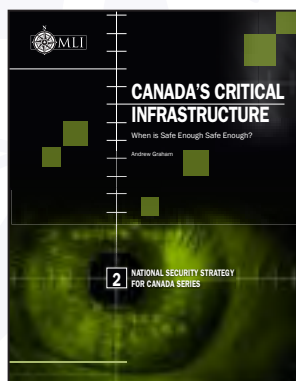
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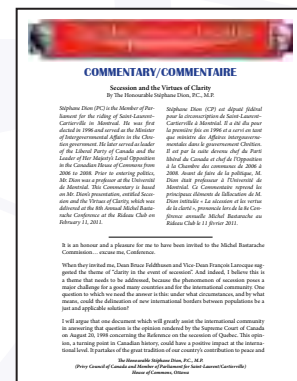
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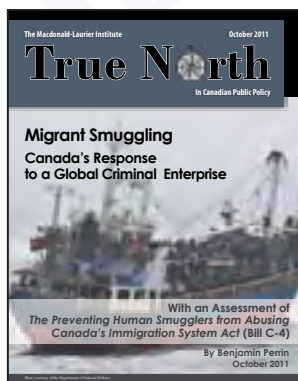
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