

**An Introductory Guide to**  
**Understanding**  
**Indigenous Rights**

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## Table of Contents

<b>Introduction</b> .....	<b>ix</b>	<b>Chapter 2: Canada’s Treaty Relationship with Indigenous Nations</b> .....	<b>23</b>
<b>Chapter 1: Indigenous Peoples Are Nations</b> .....	<b>1</b>	Key Terms: Chapter 2 .....	21
Key Terms: Chapter 1.....	vii	Canada and Indigenous Nations	
What Does it Mean that Indigenous Peoples are Nations?.....	1	Have a 300-Year-Old Treaty Relationship .....	23
Sovereign Indigenous Nations .....	2	Treaties Around the World .....	24
What does Sovereignty Mean? .....	3	What is a Treaty? .....	25
Distinct Nations .....	5	What is a Law? .....	25
Government Structure .....	6	Treaties Between Indigenous Nations .....	25
Resources .....	7	Commemorating Treaties .....	26
Healthcare .....	8	Two Row Wampum .....	26
Language .....	9	Canada’s Treaty Medals .....	27
Christopher Columbus .....	11	Historic Treaties Before 1923 .....	28
Doctrine of Discovery .....	12	The Numbered Treaties .....	30
Terra Nullius .....	12	Case Study: Treaty 8, 1899 .....	32
Eurocentrism .....	13	Who was Chief Kinosayoo? .....	37
Canada Asserts Sovereignty .....	13	Written Treaty 8 Rights .....	38
Early Colonization Efforts .....	14	Verbal Treaty Promises .....	40
Seven Years’ War, 1756-1763 .....	15	What Indigenous Leaders Understood .....	41
Who Was Jeffery Amherst? .....	16	Disputes over the Spirit and Intent of Historic Treaties .....	42
Pontiac’s War, 1763 .....	17	Disputes About the Historic Treaty Relationship .....	43
The Royal Proclamation, 1763 .....	18	Challenges to Treatymaking .....	44
Footnotes: Chapter 1 .....	20	Nisga’a Nation Lawsuit .....	45
		Modern Treaties After 1973 .....	46
		Case Study: Tsawwassen First Nation .....	50
		Métis and the Treaty Relationship .....	52
		Inuit and Treaty Relationship .....	56
		Footnotes: Chapter 2 .....	58

<b>Chapter 3: Assimilation</b> .....	<b>61</b>	<b>Chapter 4: Indigenous Rights are Constitutional Rights</b> .....	<b>97</b>
Key Terms: Chapter 3 .....	59	Key Terms: Chapter 4 .....	95
What is Assimilation? .....	61	What is a Constitution? .....	97
Efforts to Control and Change Indigenous Peoples .....	62	The Civil Rights Movement .....	98
Canada is Open for Business .....	63	Just Society or Unjust Society? .....	100
1885 North West Rebellion .....	64	Canada's 1969 White Paper .....	100
Assimilation Efforts .....	65	Harold Cardinal's Red Paper .....	102
Indian Reserves .....	65	Canada's New Constitution .....	104
The <i>Indian Act</i> .....	66	New Components of the Constitution .....	106
Effects of the <i>Indian Act</i> .....	68	The Constitution Express .....	108
Indian Agents .....	70	Section 35 .....	109
The Pass System .....	71	Confusion and Disputes Over Indigenous Rights .....	110
The Indian Registry .....	72	The Oka Crisis .....	111
Assimilation of Métis .....	74	The Royal Commission on Aboriginal Peoples .....	112
Assimilation of Inuit .....	76	South Africa's Truth and Reconciliation Commission .....	113
Residential Schools .....	80	Canada's Truth and Reconciliation Commission .....	114
Residential Schools Across Canada .....	82	United Nations Declaration of the Rights of Indigenous Peoples .....	116
Effects of Residential Schools .....	84	Legal Challenges .....	117
Formal Apologies .....	90	Missing and Murdered Indigenous Women and Girls.....	118
The Resilience of Indigenous Peoples .....	92	300 Years of Treaties .....	120
The Failed Implementation of the Treaty Relationship .....	93	Book Summary .....	122
Footnotes: Chapter 3 .....	94	Footnotes: Chapter 4 .....	126
		References .....	127

# Key Terms

## Chapter 1: Indigenous Peoples Are Nations

### **Aboriginal**

Term used in the *Constitution Act, 1982* to collectively describe Indian, Inuit and Métis peoples of Canada.

### **Britain**

The names of those claiming governance over the British Empire, including North America, have evolved over time. Britain is used in this book to generically refer to the monarchs and their elected governments.

### **Canada**

The names of those claiming governance over Canada has evolved over time. Canada is used in this book to generically refer to the elected governments in Canada since 1867.

### **First Nations**

One of the Indigenous peoples identified in the *Constitution Act, 1982*.

### **Indian**

Indian was the name given to Indigenous peoples when Europeans began invading the Americas and Christopher Columbus mistakenly believed he had landed in India. It remains a legal term for one of three groups of Indigenous peoples in Canada today due to its inclusion in Sections 91(24) and 35 of the *Constitution Act, 1982*.

### **Inuit**

One of the Indigenous peoples identified in the *Constitution Act, 1982*.

### **Nation**

A group or collective of peoples united by a common history, culture and language who are politically connected and live in a territory they control and use.

### **Métis**

One of the Indigenous peoples identified in the *Constitution Act, 1982*.

### **Treaty**

A nation-to-nation agreement or pact.

### **Sovereignty**

Having supreme power or authority over a defined territory. Sovereignty usually refers to an autonomous nation-state or country. Autonomous means the nation has control over internal and external elements, including its own people, lands and resources.

### **Terra Nullius**

A Latin term meaning '*nobody's land*'.

### **Colonization**

The act of settling and establishing control over a geographic area and the peoples who live there.

### **Eurocentrism**

The tendency to interpret the world in terms of European or Anglo-American values and experiences.



Key principles and protected rights and interests outlined in the *Constitution Act, 1982*.



# Introduction

**This is the story of how a unique set of collective rights made it into Canada's constitution.**

Few Canadians have been exposed to the history of Indigenous rights; who holds them, what they are or why they are constitutionally protected. Even fewer understand Indigenous rights or how Indigenous rights *fit* into the history of Canada. History, after all, is a story written and understood from different perspectives.

This side of the story describes how a unique set of collective rights became reflected in Canada's *Constitution Act, 1982*. It is not simple or straightforward; nor is it a version everyone agrees with.

To properly understand Indigenous rights would require much more information than is contained in this book. However, the four following concepts are a good way to begin conceptualizing Canada's history and the protection of Indigenous rights.

- 1. Indigenous peoples are nations and were sovereign before Canada became a country.**
- 2. Canada and Indigenous peoples have a treaty relationship.**
- 3. Canada's policies of assimilation distorted the treaty relationship.**
- 4. Treaty relationships are protected by Canada's constitution.**

Understanding these four concepts will help you understand Canada's history and, in turn, begin to understand Indigenous rights.



## Chapter 1

# Indigenous Peoples are Nations

### What Does it Mean that Indigenous Peoples are Nations?

In 1996, Canada launched an important investigation called the Royal Commission on Aboriginal Peoples (RCAP) to identify the many challenges Indigenous peoples face and possible solutions to address those concerns.

As a first step to finding solutions, the authors of the RCAP report indicated Canadians must learn the history of Canada and the central role Indigenous peoples have played. And understanding the history of Canada begins with understanding that *Indigenous peoples are nations* and were sovereign before Canada became a country in 1867.

In 1996, the RCAP commissioners clarified that it was their understanding most Indigenous nations did not want to be their own country, stating:

*This is not to say that [Indigenous nations] are nation-states seeking independence from Canada. Indigenous peoples are collectives with a long-shared history, a right to govern themselves and in general a strong desire to do so in partnership with Canada.<sup>1</sup>*

Today, there is lack of awareness that Indigenous nations are, in fact, nations and were sovereign before Canada became a country. How did the ability to be self-governing change for Indigenous nations since 1867?

The idea that Indigenous peoples are nations is easier to understand if you break the phrase down into two concepts:

### Indigenous Peoples.

Indigenous peoples (with an “s”) refers to a group or collective of Indigenous people who share a history, culture, land base and set of rights and interests with each other. Shared rights are called collective rights. Collective rights are different than individual rights. Individual rights are held exclusively by one person; collective rights are held equally by the group.

### Are Nations.

A nation means a group or collective of people united by a common history, culture and language. A nation means a group or collective of people are politically connected to each other and agree to live together. A nation means that a group or collective of people live in a territory they control and use for their citizens.



## Sovereign Indigenous Nations

For thousands of years, from long before Canada was ever a country, every square inch of the Americas was controlled by numerous sovereign Indigenous nations.

It was common for some Indigenous nation territories to overlap with one another. Some Indigenous nations shared control over lands and resources with neighbouring nations, requiring cooperation and mechanisms for dispute resolution. Some nations held exclusive control over their territory.

Territorial boundaries were not set in stone; it was common for them to shift over time. Territory size sometimes changed in response to nation population or availability of resources.

Every nation intimately knew their territory's extent due to years of control.

## What does Sovereignty mean?

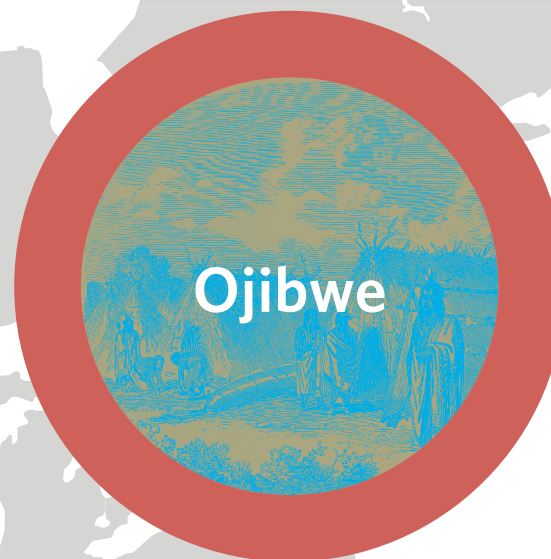
A sovereign nation has exclusive control over internal and external elements, including its own people, lands and resources. A sovereign nation may do all things necessary to govern itself, including:

- Determine who is and who is not a citizen
- Determine governance structure and methods for selecting leadership
- Control of language
- Procedures for making and enforcing laws
- Determine wealth distribution, commerce and trade with other nations
- Determine healthcare system, including use of medicines and well-being
- Control territory, including use of land and resources
- Determine education system, including passing of knowledge from one generation to the next

A sovereign nation has no obligation to share authority over lands and people with any other sovereign government or nation.







## Distinct Nations

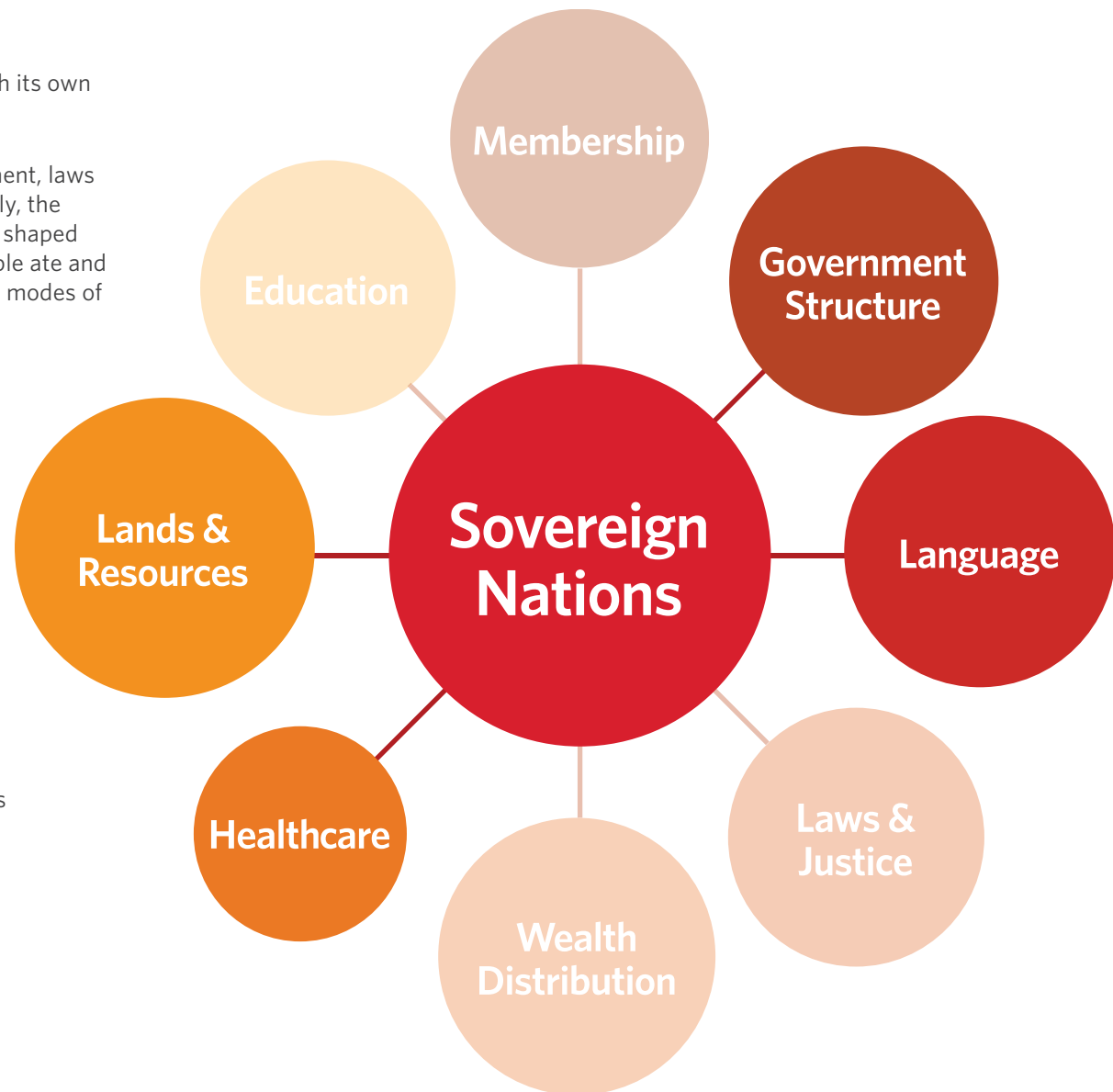
Each sovereign Indigenous nation was unique, with its own history, language and territory.

Nations each had their own structures of government, laws and language across the Americas. Not surprisingly, the culture and way of life of Indigenous nations were shaped by where they lived. Climate influenced what people ate and wore, while landscape influenced their homes and modes of transportation.

For example, the Indigenous nations who controlled the grassy plains were nomadic — managing resources such as bison. Some nations who controlled the woodlands practiced agriculture and had large permanent settlements. Some nations that controlled the Arctic above the tree line lived in smaller family groups with strong ties to their larger political collective. Other nations controlled the coastlines, where commodities such as cedar, fish and shells provided tremendous wealth to their societies.

One way to understand the diversity of Indigenous nations is to look at cultural and language differences of four distinct groups:

- **Haida**
- **Cree**
- **Inuit**
- **Ojibwe**





### Haida

Organized into a system of rank and class with two main clans: Raven and Eagle. Sea mammals, such as whale, seal and walrus provided essential materials used for fuel, shelter, tools, clothing and food.

The rank of chief passed down by inheritance through the matrilineal, or mothers', lines; usually to a leader's oldest sister's son.

Structure dictated the transfer of wealth among clans and their members.

### Inuit

Applied through family groups, which generally consisted of five to six people who lived and hunted with between six and ten other families.

Incorporated values such as self-restraint, discipline and sharing — all necessary strategies for surviving in a harsh environment.

## Government Structure

### Cree

People generally travelled in small groups — except when they came together for ceremonies and communal hunts.

Leaders were not traditionally elected, but rather selected on the basis of prestige and family ties.

Leaders' titles generally passed from father to son.

Leaders did not exclusively make decisions; they usually incorporated advice from several sources, including councils.

Nations were often led by non-traditionally chosen leaders during wartime.

### Ojibwe

Based on each village having several leaders, including civil leaders and war leaders.

Civil leaders were generally responsible for decisions about treaties, village locations and trading relationships; they also participated in village council meetings and settled disputes.

