THE TERMINATION PLAN FOR INDIGENOUS PEOPLES’

Where: Everywhere on Turtle Island
Created by: Idle No More and Defenders of the Land
For: #J28 Teach-Ins

DEFENDERS of the LAND
UNDERSTANDING WHERE WE ARE

We have to know where we are and what we are up against in order to know where we are going.
Inherent Rights: Creator given rights we are born with; those responsibilities that come with being born into a Nation.

Aboriginal Rights: Are collective rights exercised before contact amongst Aboriginal Peoples/ Nations (ex: hunting, trapping, self-gov’t...etc.) recognized under Constitution (s. 35).

Source: http://indigenousfoundations.arts.ubc.ca/home/land-rights/aboriginal-title.html
Treaty Rights: Rights flowing from promises made by the Crown to First Nations under Treaty and recognized under s. 35 (ex: health, education etc.)

Aboriginal Title: The Aboriginal right to land or territory. Canadian Law (s. 35) recognizes this as right to the use of and jurisdiction over a group’s ancestral territories.

Source: http://indigenousfoundations.arts.ubc.ca/home/land-rights/aboriginal-title.html
What is ‘Termination’?
“Termination means the ending of First Nations pre-existing sovereign status through imposed legislation, policy and federal coercion of First Nations into Land Claims and Self-Government Final Agreements that convert First Nations into municipalities, their reserves into fee simple lands and extinguishment of their Inherent, Aboriginal and Treaty Rights”.

Canada’s Long-StANDING Plan to Assimilate & Terminate Rights of First Nations

Nations: Inherent Rights
- Education
- Health
- Housing
- Indigenous Laws/Orders
- Language
- Culture
- Land/ Territory
- Ability to Make Agreements

Imperial Crown
- Canada/ Provinces (BNA Act, 1876)
- Jurisdiction/ Legislation over “Indians” (s. 91.24)

Creator/ Original Instructions

Treaties

Nation 2 Nation Relationship
Constitution Act, 1982 (s. 35: Aboriginal rights/ title and Treaty rights

Canada’s Termination Plan
(Legislation, Agreements & Policy)
Terminating Control/ Jurisdiction of First Nations over lands, resources and rights
The Termination Framework

Canada’s First Nation’s Termination Plan

- Legislation
- Land Claim/ Self-Government Agreements
- Policies
Achieving ‘termination’ through Harper’s 3 new Policy measures:

1. A “results based” approach to negotiating Modern Treaties and Self-Government Agreements
2. Funding Cut and capped of First Nations regional & national political organizations.
3. Elimination of funding for advisory services for First Nation band and tribal councils over next 2 years.

## Status of Canada’s Termination Legislation

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Bill C-38: Omnibus Bill

- 450 page bill changed more than 70 Federal Acts without proper Parliamentary debate.

- Bill changed Canada’s environmental legislation, removing many protections for water, fish & the environment.

- Changes made without consulting First Nations.
Second Bill exceeded 450 pages and changed 44 Federal Laws without proper Parliamentary debate.

Bill removes many fish habitat protections & fails to recognize Aboriginal commercial fisheries.

Changes to the Navigable Waters Protection Act reduce number of lakes and rivers where navigation and federal environmental assessment is required from 32,000 to just 97 lakes, and from 2.25 million to just 62 rivers.
What does this Mean? A shocking 99% of Canada’s waterways have lost their protection for navigation and federal environmental assessment purposes.

These changes were made without consulting First Nations.

Changes made to the Indian Act under land designation and surrender sections.
Bill C-27: First Nations Financial Transparency Act

- Bill imposes reporting standards on FN’s governments that exceed those for: municipal, provincial and federal officials in other jurisdictions.

- Requires FN owned businesses (unlike non-Aboriginal businesses) to publicly report income and expenses, that undermines competitiveness.
Bill C-27: First Nations Financial Transparency Act

- Adds additional bureaucracy to the existing requirement that each FN provide Ottawa over 150 financial reports each year – that is contrary to recommendations of Canada’s Auditor General and Treasury Board.

- Changes in this Bill are based on racist assumptions that all FN’s officials/governments are corrupt, which is incorrect.
Currently, there are no laws determining how property on reserve is divided up when married couples divorce.

This Bill attempts to address the gap but doesn’t recognize FN jurisdiction over reserve property.

Many issues with MRP on reserve including: lack of housing, self-government rights, capacity to develop and enforce laws, access to justice and spousal violence. Bill doesn’t address how to deal with these underlying issues or provide funding for them.
Provisional laws in this Bill infringe on FN’s inherent self-government rights; also makes it difficult for people to ensure laws are enforced as they would have to go to provincial court (difficult because of distance and expenses).
Bill S-6: First Nations Elections Act

- Bill proposes to provide an alternative to the elections regime under the Indian Act.

- This will affect ALL FN’s and there was no meaningful consultation about it.

- Allows FN’s to opt into the regime. For those that do, the Minister can simply impose an election process against the will of a FN community and at the discretion of Minister (if Minister decides there has been a problem with an election).

- Imposes INAC/ Ministerial interference with FN elections.
Bill S-8: First Nations Safe Drinking Water Act

- Act allows Canada to over-ride First Nation laws, BCR’s and policies that protect safe drinking water.

- Minister has power to require FN’s to charge fees to members for receiving clean water.

- Act allows government to annul or destroy Aboriginal rights and treaty rights ‘to the extent necessary to ensure safe drinking water’. The gov’t wasn’t able to provide justification for why it needed this power.
Bill C-428: Indian Act Amendment and Replacement

- A private members Bill that would impose sweeping changes to the Indian Act.
- There have been no meaningful/proper consultation with FN’s about this Bill.
- An attempt to ‘modernize’ the Indian Act with all new legislation being introduced by the Conservative government.
Bill S-207: Act to Amend the Interpretation Act

- Bill says that no legislation will be interpreted as annulling or destroying Aboriginal or Treaty rights.

- However, if another Act showed a clear intention to destroy such rights, this Act would not prevent that from happening.
This Bill has been introduced for the 4th time.

This Act would make it possible for First Nations to take on authority currently given to provinces/ municipalities (such as Fisheries, wildlife and habitat management, education, child protection and adoption, and health care) in the name of ‘self-governments’.

If the government intends to support or proceed with this Act there must be extensive consultation with First Nations as there will be huge impacts on First Nation communities.
Proposed First Nations Private Property Ownership Act

- Government intends to introduce this legislation but it hasn’t be introduced yet.

- The Act would permit private property ownership within reserve boundaries. Individual bands would be able to adopt legislation on an optional basis.

- The notion of a ‘private property system’ is contrary to collective rights under Treaty, Aboriginal rights and title to lands.

- The Act would allow existing Aboriginal owned land base (which is already small) to be sold to non-Aboriginal buyers, forever losing their lands / title and jurisdiction over them.
Proposed First Nations Private Property Ownership Act

- First Nation communities who are already impoverished may be forced to sell their lands out of economic desperation for short term gain.

- Government should work with First Nations to address self-sufficiency by honouring jurisdiction and control over resources extracted in their lands is held with First Nations.
The Proposed First Nations Education Act (FNEA)

Why is this a PROBLEM?
STOP the First Nations Education Act

Poster and Art created by: Tannis Monkman Neilson
First Nations Peoples, Students and Leadership Say NO #FNEA
Key Timeline Leading to Proposed FNEA

- **Feb 2012:** “Report of National Panel on First Nation…” released. Recommends a FNEA.

- **Dec 2012:** INAC releases “Discussion Guide: Blue Print for Legislation” to begin intensive consultations

- **Jan – April 2013:** 8 Regional ‘Consultations’ held across Canada

- **July 2013:** “Blueprint for Legislation” released by INAC

- **Oct 2013:** INAC releases “Proposal for a Bill on First Nations Education”

Source: http://www.aadnc-aandc.gc.ca/eng/1358799301258/1358799341720
CONCERNS RAISED BY FIRST NATIONS ABOUT THE PROPOSED BILL

- The proposed Act is being imposed despite nationwide protests by peoples/ nations/ leaders.
- Federal accountability to ensure adequate funding has not been included or addressed.
- Imposes many requirements on First Nations but none for Canada.
- Imposes provincial standards on reserve without addressing inadequacies of why current education system is failing First Nations.
- There is no opt-in or opt-out clause – legislation will automatically apply to all First Nations.

REFERENCES


2. OKT Law “A Legislative Roadmap as Idle No More Revs Up”: http://www.oktlaw.com/blog/a-legislative-road-map-as-idle-no-more-revs-up/


5. Aboriginal Title and Aboriginal Rights: http://indigenousfoundations.arts.ubc.ca/home/land-rights/aboriginal-title.html
Thank You
From Your Friends at INM and DOL Networks

HELP SPREAD THE WORD – DO SOMETHING TO RAISE AWARENESS ABOUT THE TERMINATION PLAN, LEGISLATION AND PROPOSED FNEA

www.idlenomore.ca
http://www.defendersoftheland.org/