



The Silence of the People

The politics of Indigenous powerlessness.

Sheilla Jones

Introduction

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The federal government is moving full-speed ahead to dramatically reform the relationship between the Crown and Canada’s Indigenous people through a new Indigenous Rights, Recognition and Implementation Framework and through a suite of legislative changes. However, the voices of the people who will be most directly affected by these changes—ordinary Indigenous people—are nowhere to be heard.

In the early 1970s, the federal government selected and funded four Aboriginal Representative Organizations (AROs) to exclusively represent Status Indians, Inuit people, Native women, and for Métis and non-Status Indians. The AROs and band governments, already beholden to Indian Affairs (IA) for their power and funding, were further co-opted when IA employed them to administer a rapidly expanding array of IA programs on IA’s behalf. They were accountable to IA, not the people, yet the people were denied any other means to make their voices heard at the federal level.

Ordinary Indigenous people continue to live with the social pathologies that are the consequences of systemic powerlessness. The most fundamental evidence of their powerlessness is the fact that the means for empowerment of individuals, written into the historic treaties more than 150 years ago, has yet to be honoured. Until ordinary Indigenous people have the resources—outside the control of the 50-year-old power triad of IA, the AROs and band governments—to develop their own independence and their own organizations, they will remain silenced.

Language note: For simplicity, the acronym IA refers to the department responsible for administering the *Indian Act* in its various iterations, from the historical Indian Affairs branch to the current Indigenous and Northern Affairs Canada.¹

Historical Overview

The Crown's motivation for negotiating land surrender treaties was straight-forward imperialist expansion; for Indian leaders, it was a means to ensure peace and negotiate assistance...

Up until the 1960s, the political structure in First Nations communities in Canada was simple. Indian Affairs (IA) held all the power over Indian and Inuit people under the *Indian Act* of 1876² and its amended versions. It delegated power downward to Indian Agents employed to manage reserves and Inuit communities. The Indian Agents wielded enormous authority,³ while elected band leaders exercised only the limited authority permitted to them by the Indian Agent. The IA minister or the Indian Agent had the authority to appoint or replace chiefs and councillors at will, so there was no need to include a requirement that elections be free and fair.⁴

When nascent Indian political organizations started pushing back against IA policies in the 1920s, federal officials responded by criminalizing the raising of money to make claims against the department.⁵ In the years following the Second World War, IA discouraged political organizing through coercive actions by Indian Agents (such as withholding rations⁶ and by imposing restrictions such as a 25-cent per person limit on fundraising.⁷ Older organizations like the Indian Association of Alberta (formed in 1939) knew that it would take more than collecting quarters from people on reserves to have a voice in Ottawa, but they were adamant that, to be free to fight for their peoples' rights, the money must not come from IA.⁸ In 1968, the Alberta organization, the Federation of Saskatchewan Indian Nations (formed in 1958), and Manitoba Indian Brotherhood (formed in 1968) managed to get funding through a federal/provincial agriculture program.⁹ It provided enough funding to build organizational capacity and set the groundwork for the National Indian Brotherhood,¹⁰ all of it outside the control of IA.¹¹

Thus, when the government of Pierre Trudeau stunned Indian leaders with the 1969 White Paper on Indian policy,¹² the new organizations, led by the Indian Association of Alberta, had the resources—outside the control of IA—to successfully force the Trudeau government to back down on its plans to do away with the *Indian Act*, dismantle the Indian Affairs department, devolve programs and services to the provinces and band governments, and limit treaty rights.

However, the Trudeau government deliberately took control of Indigenous organizations in 1971, through the Interdepartmental Committee of Indian and Eskimo Policy,¹³ by designating and funding four Aboriginal Representative Organizations (AROs) to be the sole voice of each Indigenous constituency in dealing with the federal government: the National Indian Brotherhood to speak for Status Indians; the Native Council of Canada to represent non-Status Indians, Métis and southern Inuit;¹⁴ the Native Women's Association of Canada to represent all Native women and girls;¹⁵ and the Inuit Tapirisat of Canada to represent northern Inuit.¹⁶ (The Métis National Council was added in 1983.)

A 1973 internal IA report by a wealthy Cree businessman, acting as a special adviser to the IA minister, stated unequivocally that the AROs could not be considered legitimate "voices" of the constituencies assigned to them by the federal government because:

- Their legitimacy was “bestowed” by the Government, not the people they were to represent;
- The people they claimed to speak for had no means of withdrawing their support.¹⁷

The report also noted that the representative associations were effectively one-party “political” systems that silenced all dissenting voices.

Through the AROs, Indigenous leaders now had, for the first time, a formalized seat at the table in Ottawa. However, for IA bureaucrats, the AROs, their provincial and territorial counterparts, and band governments all presented ideal vehicles for delivering its message and its programs to Indigenous communities, under the firm control of IA. While some Indigenous leaders feared being compromised by dependency on core funding and program funding controlled by IA,¹⁸ others dismissed concerns that they were being co-opted as agents of IA.¹⁹

Sensitivity about legitimacy remained, leading the National Indian Brotherhood to restructure itself in 1984 so that, instead of representing its provincial and territorial counterparts, it would instead represent First Nations chiefs as the Assembly of First Nations. The chiefs would be able to withdraw their support, even if the AFN remained entirely dependent on federal funding and continued to claim to be “the sole voice” of all First Nations people.

If the federal government’s purpose in creating the AROs during the societal upheaval of the civil rights movement was to suppress political activity in Indigenous communities by limiting it to only those organizations officially sanctioned by the government, and then to employ those same AROs as program delivery agents for IA, it ultimately never really mattered whether or not the AROs were legitimate. In the same vein, IA retained control over band governments that were dependent on IA for their power and money, so it still didn’t matter whether or not elections were free and fair. The AROs and band governments were not designed to give voice to ordinary Indigenous people or to be held accountable to them, yet the people were denied any other means to be heard.

Facing ongoing criticism for excluding ordinary FN people from a direct role in the AFN, a 2005 restructuring committee recommended allowing FN people to directly elect the national chief.²⁰ The plan was never implemented, and the legitimacy and the role of the AFN continues to be questioned by Indigenous leaders.²¹

Ordinary Indigenous people have, occasionally, refused to be silenced by IA, the AROs and band governments, and initiated grassroots uprisings, such as the short-lived First Nations Accountability Coalition²² in 1999 and the Idle No More²³ movement started in 2012. Both movements were sparked by outrage over the failure of the federal government and Indigenous leaders to address the issues of poverty and social dysfunction suffered by so many Indigenous communities.

Jody Wilson-Raybould, former BC Regional Chief for the AFN, co-authored a significant 2012 report on self-governance, and clearly articulated the issues:

“Far too many of our people are poor, dispossessed of their lands, uneducated, dependent upon state services and generally unhealthy. Most families have direct experience of sexual abuse, violence, alcohol and substance abuse and suicide at levels far greater than in any other segment of Canadian society. Sadly, for a lot of our citizens there is still a sense of hopelessness. This sense of hopelessness can be overwhelming at times and is evidence of a far greater pathology that many of our citizens need to overcome—namely apathy, alienation, dependency and powerlessness... Rather than ignore these problems, we need to have a plan for attacking the root causes of them.”²⁴

Apathy, alienation, dependency and powerlessness are the logical consequences of a system of governance that, from the implementation of the *Indian Act* of 1876, allocates power downwards from IA. Today, some authority is allocated to AROs, and an increasing amount is allocated to First Nations band governments. However, there is still no requirement that AROs be legitimate voices of the people, or that band governments be chosen in free and fair elections.^{25/26} Indeed, the wealth of programs and services being delivered by AROs and band governments has perversely created a disincentive to addressing the root cause of the hopelessness and suffering that justify those same programs.

Current Issues

“...policy analysts concluded that the fact that the Robinson and Numbered Treaties “did not deliver on the original intention of providing livelihood assistance for future generations in exchange for land can be demonstrated simply by the socio-economic disparity that continues to exist today.

The federal government announced in 2017 that it intended to do away with the *Indian Act*, dismantle much of the Indigenous Affairs department, and devolve programs and services to the provinces and municipal-style band governments.²⁷ The federal government, at the time of this writing [July 2018], was introducing nine pieces of legislation affecting the governance of Indigenous people, and was preparing to introduce four additional government bills, including enabling legislation for the new Indigenous Rights, Recognition and Implementation Framework.²⁸

But the current federal government does not know if this is what First Nations people want, any more than Pierre Trudeau’s government did nearly fifty years earlier when it proposed many of the same ideas.

While there are more than 4,000 Indigenous groups and organizations in Canada,²⁹ funded by Indigenous Affairs (IA) and its federal co-delivery partners,³⁰ only the five Aboriginal Representative Organizations (also referred to as National Indigenous Organizations)³¹ are recognized as having a seat at the table when the federal government is making policy decisions affecting the lives of Indigenous people.

However, as the federal government is developing its new Indigenous Rights Framework, the AFN is the only ARO involved.³² Its national chief—whose own power and income is dependent on Indigenous Affairs (IA)—is the lone Indigenous person negotiating at a “nation-to-nation” level with IA.³³

Canada’s Justice Minister, Jody Wilson-Raybould, is one of the key architects of the Framework³⁴ that will devolve more power to band governments even as she has called for First Nations people needing “the strength to take back responsibility for their own lives”.³⁵ The issue of how FN citizens are suddenly supposed to be able to hold powerful band governments accountable to them has been left to the citizens to somehow figure out for themselves.³⁶

It should be clear that the means of empowerment of ordinary Indigenous people cannot come from the 50-year-old power triad of Indigenous Affairs, the AROs and band governments, because if they had the willingness and ability to do so, it would already have happened. The solution to powerlessness lies in the historic treaties, which contain a single provision intended to provide autonomy and independence—empowerment—for individuals and families within the collective. The treaty annuity, payable to every man, woman and child in bands signing onto the treaties, was intended as a form of livelihood assistance outside the control of the collective. The fact that it has yet to be honoured speaks loudly and clearly to just how powerless ordinary Indigenous people have been for the past 150 years.

The Treaty Annuity Working Group³⁷ has proposed empowering First Nations people by modernizing the annuity of \$3 or \$5 per person per year to \$5,000 per person, payable to all First Nations people, outside the control of Indigenous Affairs, the AROs and band governments. Only when the people are empowered to speak, empowered to create their own organizations that will be accountable to them, and able to make their voices heard on the political stage in Ottawa, will Canadians know what Indigenous people think and want. That's when reconciliation with honour can begin.

ENDNOTES

1. At the time of writing [July 2018], the process is underway to divide the Indigenous Affairs department into two: Crown-Indigenous Relations and Northern Affairs (CIRNA) and the Department of Indigenous Services Canada (DISC), with the legislation pending.
2. Full text of *The Indian Act, 1876*, An Act to amend and consolidate the laws respecting Indians: <https://www.aadnc-aandc.gc.ca/eng/1100100010252/1100100010254> (viewed July 2, 2018).
3. For an overview of the historic role and authority of Indian Agents in Canada, see: Vic Satzewich and Linda Mahood, 1994, *Indian Affairs and Band Governance: Deposing Indian Chiefs in Western Canada*. *Canadian Ethnic Studies* 26:40-58; James Miller, 1996, *Shingwauk's Vision: A History of Residential Schools*, University of Toronto Press; Katherine Pettipas, 1994, *Severing the Ties that Bind*, University of Manitoba Press; Vic Satzewich, 1996, *Where's the Beef?: Cattle Killing, Rations Policy and First Nations "Criminality" in Southern Alberta, 1892-1895*, *Journal of Historical Sociology* 9: 188-212.
4. *The Indian Act, 1876*. Sections 61 and 62 govern elections of chiefs and councils.
5. INAC, Section 149A was added to the *Indian Act* in 1924. The Historical Development of the *Indian Act*, 1978, Treaties and Historical Research Centre, p121; www.kitselas.com/images/uploads/docs/The_Historical_Development_of_the_Indian_Act_Aug_1978.pdf (viewed July 2, 2018).
6. Keith D. Smith, 2009, *Liberalism, Surveillance, and Resistance: Indigenous Communities in Western Canada, 1877-1927*, Athabasca University Press, p 105.
7. Harold Cardinal, 1977, *The Rebirth of Canada's Indians*, Hurtig Publishers, p 171.
8. *Ibid*, p 177.
9. The Prairie Indian organizations received \$180,000 under the federal Department of Agriculture's *Agriculture and Rural Development Act* (ARDA). See Cardinal, 1977, p 170.
10. William Wuttunee, 1971, *Ruffled Feathers: Indians in Canadian Society*, Bell Books, p 10. There were other Indian, Métis and Inuit provincial organizations, as well as national organizations that were vying to get the attention of the Indian Affairs department.
11. Cardinal, 1977, p 171.
12. Government of Canada, *A Case for a New Policy, Statement of the Government of Canada on Indian Policy, 1969*, pp 11-24.
13. Yale D. Belanger, David R. Newhouse and Kevin Fitzmaurice, 2008, *Creating a Seat at the Table: A Retrospective Study of Aboriginal Programming at Canadian Heritage*, *The Canadian Journal of Native Studies*, Vol. 28, No. 1, p 37.
14. Tony Belcourt, 2013, *For the Record: On Métis Identity and Citizenship Within the Métis Nation*, *Aboriginal Policy Studies*, Vol. 2, No. 2, p 129.
15. <https://www.nwac.ca/home/about-nwac/about-us/>.
16. <http://nunasi.com/blog/history/inuit-tapiriit-of-canada/>.
17. Jean Allard, 1999, "Big Bear's Treaty: The Road to Freedom", an unpublished manuscript, referencing a 1973 report by Indian Affairs consultant Jack Beaver, provided by Robert Connelly, Assistant Deputy Minister, Indian Affairs, p 45.
18. Cardinal, 1977, p 175; George Manuel, National Indian Brotherhood president in 1971, stated, "But the more money we get, the more money we seek, and the more entangled we get in the economic and political institutions of the white man and lose track of our Indian culture, identity and values." Quoted in J.R. Ponting and R. Gibbins, 1980, *Out of Irrelevance*, Butterworth & Co., p 244.
19. The Union of B.C. Chiefs stated in 1970, "There is no need for us to be deprived of self-determination merely because we receive federal monetary support, nor should we lose federal support because we reject federal control." Quoted in Wuttunee, 1971, p 62.

20. AFN Renewal Commission: Report of Recommendations 2005, *A Treaty Among Ourselves*, Assembly of First Nations, Recommendation #6, p 29.
21. See, for instance, Niigaan Sinclair, National chief elections matters, Winnipeg Free Press, July 7, 2018; Russell Diabo, 2018, Platform: Truth Before Reconciliation, <https://www.russdiabo.com/platform/> (accessed July 4, 2018); Arthur Manuel and Chief Ronald Derrickson, 2017, *The Reconciliation Manifesto: Recovering the Land and Building an Economy*, James Lorimer & Company.
22. James Brook, 2001, Women Seek Accountability in Tribal Governments, *New York Times*, January 1, 2001, <http://www.nytimes.com/2001/01/01/world/canada-s-tribal-women-fight-mostly-male-graft.html>.
23. www.idlenomore.ca. The Polaris Institute is the fiscal sponsor for the Idle No More. https://www.polarisinstitute.org/alliances_partners.
24. Jody Wilson-Raybould and Tim Raybould, 2012, *BCAFN Governance Toolkit: A guide to Nation Building*, Part 3: A Guide to Community Engagement, British Columbia Assembly of First Nations, p 14.
25. INAC, First Nations Elections Regulations Interpretations, 2014, Section 2.1.
26. Gerry St. Germain, 2010, *First Nations Elections: The Choice is Inherently Theirs*, Report of the Standing Senate Committee on Aboriginal Peoples, p 48.
27. Prime Minister's Office: New Ministers to support the renewed relationship with Indigenous Peoples, News Release, August 28, 2017, <https://pm.gc.ca/eng/news/2017/08/28/new-ministers-support-renewed-relationship-indigenous-peoples>.
28. Hayden King and Shiri Pasternack, 2018, *Canada's Emerging Indigenous Rights Framework: A Critical Analysis*, Yellowhead Institute, p 22.
29. Belanger, 2008, p 41.
30. There are 33 federal government departments and agencies that act as co-delivery partners with Indigenous Affairs, including Health Canada, Heritage Canada, CMHC, Employment and Social Development Canada, Solicitor General of Canada, Corrections Canada, and Fisheries and Oceans Canada.
31. The five current Aboriginal Representative Organizations (also referred to as National Indigenous Organizations) are: Assembly of First Nations, Congress of Aboriginal Peoples, Native Women's Association of Canada, Métis National Council, and Inuit Tapiriit Kanatami.
32. Inuit Tapiriit Kanatami is not involved because negotiations over Inuit modern treaties are largely completed; the Manitoba Métis Federation (the most powerful organization on the Métis National Council) is negotiating behind closed doors with Indigenous Affairs to create a prairie Métis Nation; and the Congress of Aboriginal Peoples and the Native Women's Association of Canada have been sidelined because they have not signed a bilateral Memorandum of Understanding with the federal government.
33. King, 2018, p 9.
34. Jody Wilson-Raybould, as Justice Minister, co-chairs the Working Group of Ministers on the Review of Laws and Policies Related to Indigenous Peoples along with the Attorney General of Canada (Prime Minister's Office New Release, August 29, 2017); Wilson-Raybould's *BC AFN Governance Toolkit*, 2012, and her earlier work on drafting a self-government policy in BC are credited with setting the vision for the 2017 Trudeau policy (King, 2018, p 12).
35. Wilson-Raybould, *Ibid.*, p 16.
36. Gloria Galloway, Feds to give 10-year grants to First Nations, with less reporting on how money is spent, *The Globe and Mail*, December 27, 2017.
37. The Treaty Annuity Working Group was a special committee of the Social Planning Council of Winnipeg, established in 2002 to examine the implications and consequences of modernizing treaty annuities. Its report, *Modernizing Treaty Annuities: Implications and Consequences*, 2004, is available at <http://archive.li/6LAKY>.



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Sheilla got a lively introduction to Indigenous politics while writing Canada's first book on Métis politics, *Rotten to the Core: The politics of the Manitoba Métis Federation* (101060, an imprint of J. Gordon Shillingford Publishing, Winnipeg, 1995). In 1998-2000, Sheilla served as researcher for Jean Allard's *Big Bear's Treaty: The Road to Freedom*, published in 2002 in the policy journal *Inroads*.

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