

Canada's indigenous peoples

A policy that is outdated, expensive and unworkable

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Why reforming Canada's unpopular laws on indigenous rights is so hard

WITH its vineyard, golf course, resort and spa, the Osoyoos reserve in British Columbia does not fit the usual picture of misery associated with Canada's 600-odd Indian bands. Its successful businesses were built under the constraints of the Indian Act, a 19th-century law governing every aspect of reserve life, from land use to the two-year tenure of chiefs. Clarence Louie, the BlackBerry-wielding chief of the 460-member Osoyoos band, says the lease negotiations required five times as much time and money as comparable off-reserve businesses because final approval rests with bureaucrats in Ottawa.

Osoyoos Indian Band



Chief Louie of the Osoyoos: making the best of a flawed system

Surely that is reason enough to want rid of legislation whose origins go back to when the thrust of British colonial policy was to assimilate the Indians? No, says Mr Louie: "Natives hate the Indian Act, but at the same time, do you trust government to replace it?" he asks. "With what?"

Every Canadian federal government has faced this question since the first one took office in 1867, taking over a patchwork of reserves and treaties negotiated under British rule. In the absence of a convincing answer that satisfied both governments and governed, Canada has opted for incremental change. The result is a system that is increasingly outdated, expensive and unworkable (a fate Canada shares with other postcolonial societies like Australia).

There have been attempts at sweeping change, such as a 1969 push for total assimilation and a 2002 bill which among other things sought to "Westernise" the governance of reserves with rules for elections and secret ballots. But all failed, often amid overwhelming opposition from chiefs.

Even a hint of change causes controversy, as Chuck Strahl, the federal minister of Indian affairs, discovered this month when leaked documents suggested the minority Conservative government planned to accomplish by

stealth what the previous Liberal government tried to do in 2002. Mr Strahl has been trying ever since to persuade Indian chiefs, and the army of lawyers, consultants and bureaucrats with a vested interest in the current system, that he is only reviewing programmes representing about C\$300m (\$245m), a tiny fraction of his department's budget.

The government, says Mr Strahl, is trying to be pragmatic, seeking things that can be done "in bite-sized pieces". These include its creation of a tribunal to hear a backlog of disputes about treaty implementation, the apology offered last year for abuses aboriginal children suffered in residential schools, and the creation of a related truth and reconciliation commission (which still lacks commissioners).

This incremental approach contrasts sharply with the sweeping proposals announced this month by British Columbia's aboriginal-relations minister. By some interpretations, the plans, drawn up in secret with indigenous leaders, would allow Indian groups—which claim almost the entire province as their traditional territory—to gain vast chunks of land without proving their claims in court; and give them a veto over natural-resources developments. Such were the howls of protest that greeted the proposed bill that British Columbia's premier, Gordon Campbell, who faces the voters in a May 12th provincial election, hastily postponed it.

Not even Indian chiefs themselves can agree on what a new system of aboriginal rights should look like. Paul Chartrand, a former member of the Royal Commission on Aboriginal Peoples, says progress may be delayed until the next generation of better-educated and more assertive Indians take charge. "There are a lot of bright young people in university and they are looking at all of this very carefully," he says. One of them, Ethan Baptiste, a postgraduate studying aboriginal governance, ran against Chief Louie in the Osoyoos Indian band's election last month. Mr Baptiste promised accountability and wider consultation among band members, whereas Chief Louie ran on economic development and jobs. Chief Louie, who has learnt how to navigate a flawed system, won his tenth consecutive term. But Mr Baptiste plans to run again in two years.

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