



# Aboriginal People and the Canadian Federation

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**Abstract:** Following the European colonizer arrived at and invades Canada, the Aboriginal people-who are considered as the natives, have been oppressed for many centuries. Their land was taken by the settlers and their economy become too sluggish and subsistence; they were marginalized in the social, economic, cultural and political arenas. This paper is aimed to assess the root causes of conflict between the aboriginals and settlers and to identify measures taken by the government to address the problems. We used intensive secondary data through reviewing different books and international journals. Lose of land ownership, deterioration of health and economic development, worst assimilation of Aboriginal People to the main stream culture, Political marginalization such under representation of them under government office, Economic exploitation of Aboriginal People are some of the real causes of conflict between Aboriginal and non- Aboriginal People. Besides, they are not also allowed to run their own business activities, exercise their cultural ways of life, improve and develop their culture and traditions. Federalism, multiculturalism, empowering Supreme Court and the constitution act of 1982 were of the institutional arrangement recognized typically to deal with the existing real conflict and to accommodate diversity. Some of possible measures taken by the government are- the recognition of the right to land title; the right to self-government on their internal matters, to develop their culture, language and identities. It also allowed developing laws like laws on customary marriage for their people though subject to the approval of the minister responsible for their affairs have also been recognized to exercise.

**Keywords:** Aboriginal, Accommodation, Conflict, Diversity, Federalism

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## 1. Introduction

Canada has a population of more than 33 million. It covers an area of about 10 million square kilometers in which it is the second largest country in the world in terms of area (Carla *et al*, 2010).

Canada becomes a federation in 1867 with two distinct echelons of political authority: the federal and ten provincial governments. The federation grew out of efforts to overcome the political difficulties and deadlock within the united province of Canada created by splitting it in to the two provinces of Ontario with an English speaking majority and Quebec with a French speaking majority; and by the addition of Maritime Provinces, Nova Scotia and New Brunswick both for trade and defense purposes (Watts, 1999).

The typical feature of the Canadian federation is that the strong regionalism and dual distinction between the French-speaking inhabitants concentrated on and the English-speaking inhabitants. This dichotomy brought a tension between the two and hence, Federalism enabled the co-

existence of the French and English speaking communities (David, 2004).

The federation also gave an increasing attention to recognize the aboriginal people within the federation. The 1867 constitution was characterized by strong central powers including some powers enabling the federal government to supersede the provinces in certain circumstance (Watts, 1999). In terms of division of power between the federal and provincial governments, the constitution designated three forms of legislative powers namely; exclusively federal, exclusively provincial; and concurrent; with major residual powers assigned to the federal government (Joshee, 2010; Simeon, 1998).

Its initial centralized form, however, gradually become relatively a decentralized and the constitutional act of the 1982, recognized the distinct character of Quebec by awarding some recognition of asymmetry in provisions relating to language, education and civil law. Civil law in Quebec is based on the French legal system rather than the English system. But an effort that has done to recognize the

reality of Quebec's distinctiveness by increasing constitutional asymmetry has been highly an open controversial (Watts, 1999).

Culture is a nation's deepest historical accumulation and a country's most distinctive spiritual banner. The overall cultural strength and competitiveness of the country, an important symbol of national rejuvenation, and is an important part of the overall national strength (Yabo, 2015). National identity is a power for one nation to have a good image in most societies of the world (Vladislav and Sotirović, 2013). Canada now is a terrain of immigrants and indigenous people. All people of Canadians, except the indigenous one, come in to Canada from other countries. Consequently, it has experienced an increase of diversity in culture, language, race and religion. Such diversity was officially recognized with the implementation of the Multiculturalism Act in 1988 (Voyageur, 2000).

Prior to the commencement of multiculturalism policies, indigenous and all newcomers to Canada were expected, either officially or privately, to accept and strive towards a western European cultural model. This meant discarding anything that made them distinctively ethnic (Joshee, 2010). According to the 2006 Census, the Aboriginal population in Canada accounts approximately 1,172, 790 people, 3.8% of the country's total population. Internationally, Canada's Aboriginal people ranks 2<sup>nd</sup> next to New Zealand, where the Maori represent 15% of the total population (Tonina, 2011).

In spite of their number and lived for centuries before French and English settlers came to create what is now Canada, Aboriginal peoples were not part of the negotiations leading to Confederation. They were deprived of the right to vote provincially until 1949 and federally until 1960s. Many aboriginal children also obliged to go very distant kilometres to join in residential schools to assimilate them in to the mainstream Canadian culture and convert in to Christianity (Ibid).

Thus, this paper try to assess how Canadian federation respond to or manages the ever growing tensions because of the domination of non-aboriginal people over the aboriginal people. To deal with such issues, the following questions raised and thoroughly discussed:

- What are the different typologies of diversity/identities /that actually exist in Canada?
- Who are aboriginal people and who composed of it? Are they homogenous?
- What are the causes of conflict between aboriginal and non-aboriginal people?
- Is there any institutional mechanism designed to accommodate conflict?
- How can the federal government address the issues Aboriginal rights?
- What kind of policy measures being taken by the Canadian government?

## 2. Features of Diversity in Canada

The Canadian cultural diversity is a result of three cultural

groups: Aboriginal peoples, the English and French speakers, and immigrants. Roughly 250,000 people at this instant immigrate to Canada every year from all parts of the world, and in recent years the population has been increasing more from immigration than from natural growth. An open immigration policy has made Canada one of the most ethnically cultural, religious, and linguistically diverse nations (Timothy Maloney, 2011). The chemistry of Ethnic composition of population is the composition of many ethnically diverse groups. It consists of 28% British origins, 23% French origins, 26% mixed, 15% other Europeans, 6% Africans, Asia and middle east, and 3.8 % aboriginal (Robert *et al*, 2008). From here, although, Canada is a multi-ethnic diverse country, British and French ethnic groups are still dominant.

In terms of religion, the immense majority of Canadians people are Christians (Joshee, 2010). In spite of the fact that, Catholicism and protestant are the two dominant religions, regardless of the number they have, there is minority religion groups existed besides the dominant one. In short the quantitative values of each religion are: 42% of the total is Roman Catholic, and 40% protestant, 18% others ( the sum of Judaism, Buddhism, Sikhism, Hinduism, Islam and chines religions, and orthodox Christians and non religious are also there because of immigrants from eastern Europe (Robert *et al*, 2008).

Linguistically, Canada is officially bilingual, and the federal government services are provided in English and French in all regions (Chevrier, 1996). However, there are also Aboriginal people who lived across Canada and speak about 450 languages and dialects from 11 language families (David, 2006).

Culturally, even though there are more than 33 million people resides in Canada, the French and British cultures remained dominant than aboriginal's cultures. Moreover, immigrants also brought other Europeans, Asian and African minority culture. The government encourages each cultural group to hold on to its culture. As a result, Canada becomes a multicultural country (Ibid).

## 3. Who Are the Aboriginal People in Canada

The question regarding to who is aboriginal is subjected to varieties of definitions. For example, the United Nations resolution defines aboriginal people as:

*Indigenous or aboriginal peoples are those who were living on their lands before settlers came from elsewhere; they are the descendants ... of those who inhabited a country or a geographical region at the time when people of different cultures or ethnic origins arrived, the new arrivals later becoming dominant through conquest, occupation, settlement or other means.*"(General Assembly of the United Nations, 1995).

Aboriginal peoples are, therefore, the native or indigenous people lived in Canada prior to the coming of settlers. There

are three groups of Aboriginal peoples in Canada as it is defined in the *Constitution Act, 1982* (section 35): namely Indian, Inuit and Métis. These three groups of aboriginal people are different from each other. They have considerable differences among them because of their difference in historical and cultural developments of the groups. However according to World Bank report, indigenous peoples have some similarities and possess the following commonalities (WB, 2001). They are closely attached to their land and the natural resources, had old age customary social and political institutions, their economic systems mainly oriented to subsistence production, have home-grown language, often different from the predominant language, and self-identification and identification by others as members of a distinct cultural group (Robert *et al*, 2005).

**First Nations /Indians/-** First Nations is a term used to represent the Indian peoples in Canada. Indians (First Nations) can be divided into three main groups: Status Indians- is an aboriginal person who registered as an Indian under the Indian Act; non-Status Indians- People who are of Indian ancestry and cultural affiliation, but are not registered as Indians under the *Indian Act* or lost their right to be registered as Indians under the Indian Act; and Treaty Indians- is a Status Indian who belongs to a First Nation that signed a treaty with the Crown (Tonina, 2011).

**Inuit-** the term '*Inuit*' implies people in the Inuit language, *Inuktitut*. The Inuit are an Indigenous people in Northern Canada who live in their home land of Nunavut. It comprises of more than 5% of all Aboriginals in Canada; and form a part of the Eskimo people who are distributed in Greenland, speak a different language. Métis- Métis as the descendants of first nations people and early Europeans. They are people of mixed Aboriginal and non-Aboriginal ancestry who recognize themselves as Métis (Tonina, 2011).

#### **4. The Cause of Conflict Between Aboriginal and Non-Aboriginal People**

Primarily, Land resource: aboriginal peoples are primordial attached with land. They believed that their creator endowed them the right to land; and no one could take it. The conflicts immediately broke out right after the colonizers arrived at and settled on their inherent lands. Secondly, social inequality- there is pervasive incidences of toxic dumping and diseases such as cancer among Indigenous and the prevalence of undue emotional, physical and sexual abuse. Secondly, Lack of political Autonomy: they are underrepresented at different levels government structure. Those who could not speak official languages, though he/she possesses necessary knowledge to deal with communal problems; is not entitled to be part of government officials like judge, lawyer. Shockingly, the government denied their right to vote provincially until 1949, and federally until 1960. Fourth, Lack of cultural recognition such as marginalization and assimilation of aboriginal cultures and identities in the mainstream Canadian cultures.

Children at school are not allowed to speak their language and forced to be taken away from residential homes and schools. Fifth, Economic disparities- there are wide-ranging and chronic poverty in all indigenous people. They are usually among the poorest and most vulnerable sections of the society (Native Women's Association of Canada, 2007; WB, 2001; Richard, 1998).

#### **5. The Institutional Arrangement in Accommodating Diversity**

**Federalism-** federalism as a form of government enables distinct groups to live harmoniously with others under one state while maintaining their differences. Following the adoption of federalism in 1867, the government gave due attention to aboriginal people for the quest to give self-administration and to develop their culture, languages and history. Of the three territories of Canada, Nunavut, split from the northwest territory, being an independent territory, is because of the ambition to give for Inuit self-administration since the area is predominantly Inuit's.

**Multiculturalism-** The policy of multiculturalism acknowledges that all ethnic and aboriginal groups have the right to preserve their own cultures and identities within the Canadian society, and that cultural pluralism is a hub for Canadian value (David, 2006).

**Supreme Court-** the supreme court of Canada serves as an umpiring institution in adjudicating conflicts arising at different levels of government. Now the decisions of the court brought positive effects on aboriginal people; aboriginal people allowed to be employed at different factories, permitted to be owners of business enterprises, assured them to control their land and resources *e.t.c*.

**The constitution act-** the *Constitution Act of 1982* under article 35 provides the constitutional protection of aboriginal people as follows- The existing aboriginal and treaty rights of the aboriginal peoples of Canada are recognized and affirmed; the *aboriginal peoples* of Canada include the Indian, Inuit and Métis peoples defined and recognized of Canada (*constitution act, 1982; article-35*); the aboriginal and treaty rights are guaranteed equally to male and female persons, and "treaty rights" in the form of written agreement between crown and aboriginal that includes rights to hunting, fishing and trapping were recognized (Badger, 1996).

#### **6. What Measures Being Taken by the Canadian Government to React with the Conflict**

Recognition for existing aboriginal peoples' identities and treaty rights- Aboriginal rights refer to the practices, traditions and customs; integral to the distinctive cultures of aboriginal peoples. The government recognized those aboriginal rights of land, hunting, fishing, trapping, self-government, and recognized traditional customary laws

including marriage.

Award Self-determination rights to aboriginal people- the right of self-determination of peoples is a fundamental principle in international law. It is embodied in the Charter of the United Nations and the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Under Article 1, provides that: the right to self-determination is fundamental and inalienable human rights.

Moreover, UN Declaration stated that “*All people have the rights to self-determination; so that one freely determines their political status and freely pursue their economic, social and cultural development (UN Charter XI, Art.-3.*” Accordingly, the 1995 Canadian federal policy guide and the 1996 Canadian Royal Commission on Aboriginal People accord the right to self- determination to Aboriginal peoples. Subsequently, *Legal recognition was given to Aboriginal People empowered to negotiate freely with Canadian government and to establish governmental structures that they consider suitable for their needs.*

## 7. Conclusions

The colonial legacy, government’s cultural assimilation policies and the control of aboriginal land were the fundamental causes for the conflict between aboriginal and non- aboriginal people. These facts are responsible for the marginalization of Aboriginal people in their socio-economic and political arenas. As a result, there is an acrimonious struggle exerted by Aboriginal people that forces the Canadian government shifts its approach with Aboriginal claims from contention to negotiation. This shift in policy in Canadian has contributed a considerable enhancement of the negotiation position of between indigenous people and business corporations that require access to land and resources. Negotiations between aboriginal and the government play a marvelous role in resolving land issues related problem.

Furthermore, now, the government also recognize the right to land title; although it is remain a matter of policy than law, recognize the right to self-government on matters fall internal to them, develop their culture, language and identities; develop laws for their communities though subject to the approval of the minister responsible their affairs. Customary laws of aboriginal such as customary marriage have also been recognized to exercise.

Though there are viable change and important measures has taken to by the government, the problems of aboriginal people still persist. Unequal distribution of resources and opportunities such as adequate education, health facilities, and employment between the aboriginal and non- aboriginals; persistence of income gap; lack of commitment to implement policies that are promised to aboriginal people; and absence of international community responsible to facilitate the protection of aboriginal rights; and even the country itself until 2010 did not sign on UN rights of indigenous people- which is not binding document.

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