

The 1949 Terms of Union:
Why did they think they could get away with it?

Frederick Campbell

Grenfell Campus, Memorial University

HUMN 3104

Kelly Butler

December 1, 2020

The Question

There is absolutely no doubt that indigenous people were excluded in the Terms of Union in 1949. The question on which this essay is focusing is, simply put – why did “they” (federal and provincial politicians and civil servants) think they could get away with it?

One could suggest that, thank God, we have come a long way since 1949 and it’s a different playing field.

However, one might consider what happened in Nova Scotia when Sipekne'katik/ Indian Brook took the provincial government to the Supreme Court (November, 2016) for approving Alton Gas, a subsidiary of Calgary-based energy company AltaGas, with a proposal to store up to 10 billion cubic feet of natural gas in underground caverns under the community.

The government of Nova Scotia’s legal team then appeared in court with a document that stated “the Crown’s obligation to consult extended only to ‘unconquered people,’ and that the band’s submission to the Crown in 1760 negated its claim of sovereignty and negated government’s constitutional duty to consult.” (Doucette, 2016)

Well, it was obviously a trial balloon and Premier Stephen McNeil quickly denied the attempt (one can imagine the public relations oriented calls from the Ottawa Liberal Party) and the court actually decided for Sipene'katik agreeing that the government did not consult and consultation is required.

But the story continues, as the Nova Scotia government marches on with its environmental degradation of waterways, the Mi'kmaq and their allies seem to be the only people fighting back as water protectors with pitched tents on the causeway (dam) across the Pesegitk – an ancient river in the region occupied by indigenous people for more than 11,000 years. Again, Sipekne'katik is challenging the Nova Scotia government based on the Alton court decision that consultation must happen. (Meloney, 2020)

So it seems that “they” won’t adapt easily to the return to “reality”. Yet I’ve been advised in personal communication that the turning point, The Awakening, happened about 1969.

Calvin White says The Awakening began in 1969 with the introduction of the federal government's White Paper. (personal communication, 2020)

St. Mary's University anthropologist S.A. Davis agrees: "The white paper of 1969 in which the 1969 Liberal government proposed to repeal the Indian Act of 1851 led to resistance and unprecedented unity among all Native groups across Canada. The spirit of Indian nationalism expressed itself in Nova Scotia with the formation of the Union of Nova Scotia Indians..." (Davis, 1997)

I think the question – Why did they think they could get away with it? – goes back in time to the first encounters of indigenous peoples with the European invaders – an encounter my world view perceives as The Humans (People) meet the Barbarians.

World View – Humans (People) and Barbarians

I recognize in the academic environment, as well as journalism, there is a concept of being neutral, not choosing sides, and being above (aloof?) the agitation of the masses. My personal opinion is this is not possible nor is it desirable.

We all have a perspective, a world view that influences us, whether we admit it or not. Here is mine.

Today I was reading an essay on Open Systems Theory and the introduction was written by Philip Deering, a Mohawk scholar. OST is a foundation of my Grenfell project.

"Open Systems Theory (OST) as primarily developed by Fred and Merrelyn Emery in Australia provides an integrated set of concepts and constructs in both theory and practice to more accurately describe reality. A major part of the work is to research participative democratic structures, processes and governance as an alternative to dominant hierarchies." (deGuerre & Deering, n.d.)

“An example of her (Merrelyn’s) work in the Torres Strait Islands that recovered the traditional culture of the Islanders (Paton & Emery, 1996), validating the anthropological evidence in *Searching* that the ancient cultures were predominately participative democratic.” (Cited by deguerre et al n.d.)

“She learned the Barkindji language of her river-people classmates. Merrelyn’s liberal (matriarchal, democratic) upbringing allowed her mind to experience thought beyond the limits of hierarchic-systems thinking to include the collaborative-systems thinking of the Barindji. Extensive and continuing research has concluded that peoples from oral cultures had large vocabularies and great flexibility of mind (e.g. Lounsbury, 1953; Chafe, 1994; Baker, 2001).” (Cited by deguerre et al n.d.)

“Various forms of evidence from all around the world support the theory that there was an old, predominately global, participative democratic culture –albeit one that took slightly different forms in different areas – until the beginning of the industrial revolution (M. Emery, 1982). Pockets of these cultures – such as the Australian Aborigines and the Mohawk in North America – have survived.” (Cited by deguerre et al n.d.)

I am suggesting that before the invasions of the Europeans, indigenous peoples around the world had sophisticated systems of organization and culture which today inform global modern systems theory.

Then came the Europeans – in general terms beginning about the sixteenth century. In a few generations, they destroyed a world of ancient human civilizations.

“The Australian Aborigines were among those who found it most difficult to adapt to the white strangers, so much so that they often died from a kind of quiet despair, unable to tolerate these people who did not believe that a child must first be conceived in a dream, who did not know the language of animals, who did not understand stones and trees and who could not identify a man by his footprint on the ground.” (Blackburn, 1979)

An Innuit elder told explorer Knud Rasmussen: “It is generally believed white men have the same minds as children. Therefore one should always give way to them. They are easily angered, and when they cannot get their will, they are moody, and like children have the strangest ideas and fancies”. (Blackburn, 1979)

But the threat was more than cultural; it is estimated that 80 to 90% of Mi'Kmaq died within a century of the first European contact (that is, after hosting and living with the French, about 1600).

According to Julia Blackburn, the equation of meeting Europeans and dying was global. “The white men had also brought with them countless and hitherto countless ways of dying. Lethal sicknesses accompanied them and even travelled ahead of them, presaging their arrival. People died of influenza, venereal disease, meningitis, whooping cough and dysentery. They died from changes of diet, from wearing clothes, from drinking alcohol, from fear. They died because they were driven from their land to places where they could not find food or were killed by hostile tribes. They died because they could not grow their crops or because the animals they hunted for food had all been shot. And they died on the battlefields.” (Blackburn, 1979)

In short, the People (Human Beings) met the Barbarians. The violence against the People by the Barbarians (mainly the British and especially the New England Yankees) in Atlantic Canada in 200 years is unbelievable but documented.

“Shirley (William, governor of Massachusetts, 1754) simultaneously declared war on the Abenakis, Maliseets, and Mi'kmaq, setting a bounty of 100 on the scalps of males, 50 for those of women and children.” (Faragher, 2005)

“(Captain John Gorham of Maine) led his rangers in a surprise attack on the MiKmaq encampment, killing women and children and mutilating their bodies”. (Faragher, 2005)

“New Englanders brought a number of enemy heads back to Canso, mounting them on pikes surrounding the village...Massachusetts authorities authorized a scalp bounty of 100, encouraging the indiscriminate murder of native people, regardless of tribal affiliation, gender or age. The leader of one group of bounty hunters wore a wig made of scalps as he lead his men triumphantly (1722) through the streets of Boston.” (Faragher, 2005)

This is probably enough evidence to support a world view that suggests for thousands of years (40,000 years for Australian Aborigines, 11,000 for Mi'kmaq) the People lived in continuous civilization until meeting the Barbarians who decimated their populations.

However, I also believe that change is happening – after a brief hiatus in terms of Human History – and there is now an Awakening (Calvin White's concept expressed in personal communication – 2020).

In *Hunters and Bombers*, Elizabeth Penashue has the same idea. “They thought they could destroy us, but now we are waking up.” (Markham & Brophy, 1990)

Terms of Union 1949

Calvin White told me that his father didn't like the word “democracy” suggesting that it only exists when you mark the ballot and disappears as soon as you drop the ballot in the box. This is remarkably similar to what Jean Jacques Rousseau says in *The Social Contract* remarking that the English think they are free, but actually they are only free one day every four years. (Rousseau, n.d.)

But after talking to Calvin, I read about the Terms of Union and now I think that Calvin's father's comment is a succinct critique of governments' policy at the time of Confederation. According to *Pencilled Out: Newfoundland and Labrador's Native People and Canadian Confederation, 1947-1954*: “The issue of enfranchisement was to play an important role during the second set of negotiations in 1948 and it was ultimately to provide the rationale for excluding the native people of Newfoundland and Labrador from becoming a Federal responsibility.” (Tompkins, 1988)

Reading the tortuous path of negotiations (excluding indigenous people) makes it clear that, simply put, enfranchisement meant assimilation.

Jerry Wetzel's *The Hidden Term of Union: Executive Summary Confederation and Federal Abandonment of the Newfoundland Mi'kmaq* (recommended by Leslie Harris) focuses on the federal government's official assimilation policy.

"The Special Committee's report (Special Committee of the Senate and the House of Commons on the Indian Act (1946-1949) emphasized that the goal of Canadian Indian policy should be the assimilation of Indian people so that they no longer had any special status as Indians." (Wetzel, 1999)

"The underlying motives for this attempt to avoid federal responsibilities were the policy objective that Aboriginal Peoples should be assimilated as quickly as possible and the cost savings the Federal Government would recognize. Bringing the Indian Act into force in Newfoundland would require federal protection of Aboriginal Peoples, additional federal financial commitments and would slow down the assimilation of the Newfoundland Mi'kmaq and other Aboriginal Peoples in Labrador." (Wetzel, 1999)

"What Canada has done to the Newfoundland Mi'kmaq people disregards the most basic human right, the right to one's culture and identity. The policy of discrimination the Federal Government has imposed on the Newfoundland Mi'kmaq for the past 50 years must end. It was not made pursuant to the Indian Act, but was a policy made by Cabinet to impose a new Indian policy of forced assimilation on the Newfoundland Mi'kmaq." (Wetzel, 1999)

It gets worse. In my opinion, forced assimilation is simply cultural genocide or ethnic cleansing.

According to the U.N. definition (1992): "Ethnic cleansing is a purposeful policy designed by one ethnic or religious group to remove by violent and terror-inspiring means the civilian population the civilian population of another ethnic or religious group from certain geographic areas. To a large extent, it is carried out in the name of misguided nationalism, historic grievances, and in a powerful driving sense of revenge. This purpose seems to be the occupation of territory to the exclusion of the purged group or groups". (As cited by Faragher, 2005)

“Comparative history strongly suggests that episodes of ethnic cleansing follow long periods of ethnic stereotyping and devaluation.” (Faragher, 2005)

“The Acadian ethnic other as constructed by Anglo-Americans relied on several discourses of identity and opposition, including anti-Catholic and anti-French ideologies, as well as systematic racial hatred of the Mi’kmaq, with whom the Acadians were linked.”¹ (Faragher, 2005)

“In 1755, the Massachusetts troops who sailed to l’Acadie both feared and hated the inhabitants and were convinced of their own moral superiority, a volatile combination.” (Faragher, 2005)

Fear has been a major factor of the relationship of The People and the Barbarians, but it’s important to note, as Calvin White suggests, the fear is on both sides.

Fear

When one considers the fear induced in Atlantic Canada by a few dozen cases of the pandemic, it’s difficult to imagine what it meant to see nine of ten of your neighbours and kin die. Combine this with Barbarian governments (such as Massachusetts) that actually paid to have Mi’kmaq women and children murdered and mutilated. Then, when the murder and violence subsided, we have mind control, disempowerment – education.

Calvin White describes the fear induced, years ago, when a man in a suit came to your community. The anonymous power of government officials was huge – they could jail you for living a traditional life style or take away your children. It wasn’t only residential schools. Women in La Grande Terre told me of being beaten and called savages for speaking French in a Lourdes school (personal communication, 1995) and I had a student from the Port au Port who wasn’t allowed by her parents to speak French (although her mother only spoke French) because they felt being an Anglophone was the only way to succeed (personal communication, 1985).

But the Barbarians themselves were afraid – fear of the unknown, fear of the domesticated within walls for the free people of the forest. And the Mi'kmaq were fighting back with a flotilla of sail boats on the Bay of Fundy and guerilla warfare on land – sometimes with their Acadian relatives and sometimes on their own.

They also tried diplomacy, writing to the kings of France and England and Barbarian officials, with eloquence, as this letter to Cornwallis attests: “ The place where you are, where you build, where you fortify, where you think to make yourself master – that place belongs to me. I have sprung from this land as surely as the grass. I was born here and my fathers before me.” (Faragher, 2005)

Although the Barbarians fought among themselves in successive wars, their ascendancy grew, as demonstrated by the Terms of Union (at least in the 18th century the Mi'kmaq were a recognized part of negotiations) when it was clearly demonstrated that the modern Barbarians thought they could simply erase an ancient civilization.

Patriarchy

It is somewhat ironic that when the French came to Port Royal in the early 1600s, they were welcomed by the Mi'kmaq who nursed and fed the strangers, almost treating them as helpless children. Indeed, when most of the initial company returned to France, Membertou took control of the fort and the remaining soldiers, saying he would look after them as if “they were his own children.” (Faragher, 2005)

How did the situation reverse? In the early years of the colony, the French merchants found it difficult to prevent their men from actually moving in with the Mi'kmaq where they intermarried and learned how to survive. They were outnumbered by the Mi'kmaq who seemed to find the newcomers amusing and they socialized together, even joining their festive events. (Faragher, 2005)

Probably the beginning of the decline were the Barbarian diseases which decimated the People. (It's more difficult to assess the effect of the patriarchal Roman Catholic religion – some Mi'kmaq probably just added the practice of the new religion to their own spiritualism.)² (Faragher, 2005)

But the coming of the colonial English and Yankees definitely made a change. They were inherently racist; they didn't intermarry or socialize; they were totally hierarchial; they believed in their innate superiority, and they were violent. They were also manipulative liars –as their stories of Mi'kmaq mercenaries destroying the Beothuk attest. As the numbers of colonists in Atlantic Canada from Britain, Ireland and New England grew, the remaining Mi'kmaq alive didn't stand a chance unless they lived in isolation.

Bonita Lawrence describes how Newfoundland Mi'kmaq were able to escape the worst of British and Irish colonization because of the remoteness of many communities – at least until the American military arrived. (Lawrence, 2009)

Calvin White (personal communication) says The Awakening happened in 1969; by the late 1980s in Labrador this awakening is clearly evident in the Innu fight against NATO low level flying – a popular resistance equivalent to the Nova Scotia Mi'kmaq guerilla warfare of the 1750s.

The climax of *Hunters and Bombers* comes as the Innu meet Pierre Cadieux, Minister of Indian Affairs and Northern Development. He arrives in a white summer suit (it's pouring rain in Goose Bay) and delivers a lifeless speech promising negotiation. But the Innu are in no mood to negotiate.

Elizabeth Penashue begins with a passionate verbal attack in Innu-aimun – no subtitles this time. Her statement is read in English by a translator (as the camera swings back and forth between the translator and a startled Cadieux. Elizabeth describes her time in jail with every statement punctuated by – and it's your fault! (Markham & Brophy, 1990)

By the time the Innu sum up their arguments, Cadieux is covering his face with his hand – you can feel the anger in the room – no place for patriarchs.

The Innu say:

“We have to find a way that the Canadian government will treat people, such as ourselves, like adults. That’s the only solution to do, because right now you are looking at me like a child.” (Markham & Brophy, 1990)

“We must show our strength or be silenced forever. Now we have spoken out, we will never be silenced again.” (Markham & Brophy, 1990)

“They thought they could destroy us but now we are waking up.” (Markham & Brophy, 1990)

Why did they think they could get away with it?

The modern world of global television and internet, constantly changing, can be perceived as a world without memory focused on individual gratification and dominance. Yet Open Systems Theory teaches: “Various forms of evidence from all around the world support the theory that there was an old, predominately global, participative democratic culture –albeit one that took slightly different forms in different areas – until the beginning of the industrial revolution (M. Emery, 1982)” (As cited by deguerre et al n.d.)

The European’s dominance of indigenous populations around the world has lasted about 400 years. My belief is that since The Awakening the Barbarian dominance is coming to a close.

Why did they think they could get away with it? There are obviously many answers but perhaps it’s simply because for many years they could.

Then why is the time of the dominance of the Barbarians over? Marie Battiste suggests humanity has no other choice. “In this time of fragile, vulnerable and tragic environments, humans are going to have

to redefine and reframe what it means to be a human in every knowledge system. At a time when every living system is declining- and the rate of decline is accelerating, mostly because of the human activities and technologies-we have come to understand that the Earth's resources are finite, for humanity has become a constructed fantasy of global Eurocentrism fashioned within economic necessity or efficacy.” (Battiste, 2016)

The People have endured a time of unbelievable violence in the past 400 years but now it is time to act according the 1645 spoken words of Mohawk diplomat Kiotseacton: “We will put an entirely new sun in the sky.” (deguerre et al n.d.)

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Appendix

The purpose of this appendix is to present an argument that I cannot prove – partly because living in university residence in a pandemic I have access to a limited number of resources. I am of the opinion that the Barbarian patriarchy was historically rooted in misogyny. John Allegro, in *The Sacred Mushroom and the Cross*, goes even further and argues that violence towards women thousands of years ago was actually based on fear of the patriarch for the power of women. A similar point of view is expressed in Donna Read's Goddess films. Certainly at the same time the Yankees were murdering and mutilating Mi'kmaq women, they were implementing the violence towards and fear of women Salem witch hunt. It is important to note that the horrendous violence suffered by Mi'kmaq women was officially sanctioned by the government of Massachusetts. I read (although I cannot identify the source) that the English (and Yankees) refused to negotiate with Mi'kmaq when Mi'kmaq women were present – as they would be in any indigenous matriarchy.

My own personal history includes my mother's great-great grandmother, Esther Faa Blythe, leader of the Scottish Gypsies from 1861 to 1883, so when Mi'sel Joe talks of matrilineal Miawpukek, it strikes a chord. “The clan you belong to comes from the mother, the boss, and not the father. I mentioned earlier that the different parts of the community were along the lines of the clan and that each one had eight or ten families.”

“Women were powerful in many ways. There was about half a dozen n'me, older women, doctoring, looking after people, and things like that.”

Calvin White (personal communication) describes how, after his mother's death, his father made it clear that she deserved full credit for raising his family.

Certainly it would seem that the discrimination and the exclusion from lineage of indigenous women in the Indian Act was clearly misogyny.

Footnotes

- 1 The Mi'kmaq and the Acadians were treated the same by the Barbarians – they were all scalped and mutilated. They intermarried and lived together for generations. Faragher describes how the Barbarians put a price on the head of two guerillas – one an Acadian and the other a Mi'kmaq. But it was likely the same person, says Faragher.
- 2 In the early 1990s, I spent a lot of time working with the Garifuna, principally in Belize. The Garifuna (or Caribs) are an indigenous group formed by the intermarrying of free Africans who came to the Caribbean before Columbus and the native Arawaks. They are Catholic but their beliefs and religious practice is clearly a combination of Catholic and African (maybe even indigenous). I remember attending Christmas Eve in a huge thatched church. Another time I was invited to go down the coast in dugout freight boats to attend a Nineth Night although I didn't participate. An aunt of the brothers had died and all week they sat around a table in her hut holding hands and reading from the bible. On the Nineth Night they burned her hut and held a wake in the community hall. But they would return nine months later and again in ten years. My own mother had recently died and I was struck at how much better they were in dealing with grief.
- 3 In *The White Men*, Julia Blackburn quotes Manu Islanders of Papua New Guinea: “ In the past all the white men have lied to us. All the missionaries have lied to us. They brought the name of Jesus and of his church. They told us of his coming to earth and of his work and of his death for our redemption. But the true talk of Jesus, this they didn't tell us. But now I have found this. I, myself, have found this.” In *Hunters and Bombers*, an unidentified Innu woman also talks of the lies – the promises made to get the Innu off the land and put their children in schools.

