

# Governance of Indian Nations



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# Overview

- Self-Termination vs Self-Determination
- Inherent Rights and Title
- Doctrine of Discovery and Colonial Policies
- International Treaties No. 1 to 11
- Legal and Political Framework
- Nation-to-Nation Government-to-Government Relationship







## SELF-TERMINATION

Federal/Provincial – 2012 Plans and Strategies for Implementation of the Colonial Policies of the 1830 Detribalization Policies, the 1947 Plan to Liquidate Canada's Indian Problem within 25 Years, the 1969 White Paper policies, the 1974-76 Native Policies and the 1980's Buffalo Jump policies.

Based on Objectives of Assimilation, Civilization, Christianization, Liquidation and Integration.  
Constitution Act 1982

Section 25(2)

Section 35(1) and (2)

Section 91 Powers

Section 92 Powers, Provincial Legislature

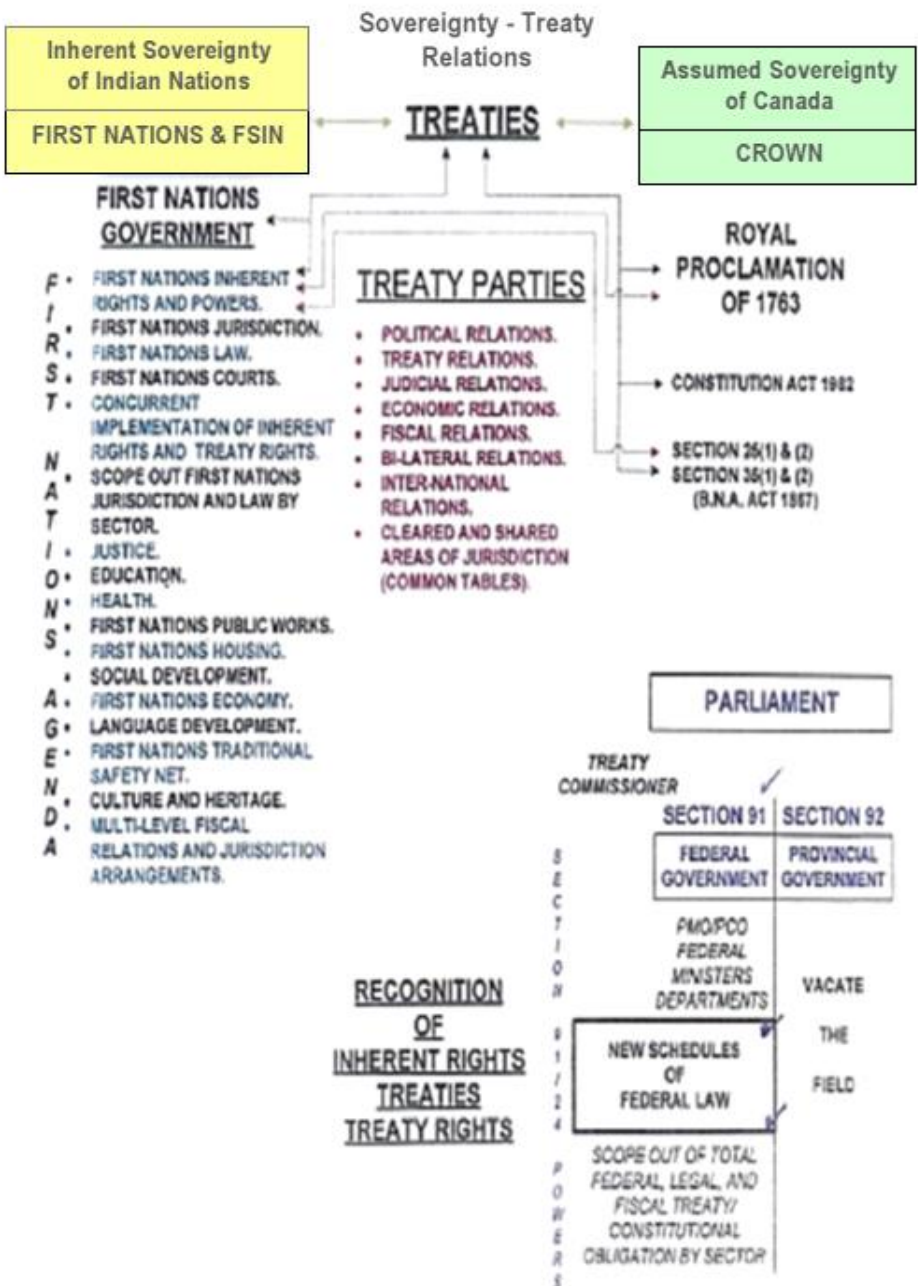
Parliament, Federal Government

- Section 91-(24) Federal Jurisdiction for Indians and Indian lands.
- Indian Act and Amendments.
- Terminating Indian Title to Lands that are reserved by Treaty Making and the Treaties;
  - Land Management Act – Fee Simple land Status on Reserves under Federal Jurisdiction;
    - Cowesses,
    - Muskoday,
    - Treaty Land Entitlement Bands.
  - Private Properties Act
  - Matrimonial Act.
- Indian Taxation Board.
- 1<sup>st</sup> Generation Devolution policies. →
- 2<sup>nd</sup> Generation Devolution policies. →
- Transparency and Accountability Act.
- Federal Self-Government Policies; →
  - Meadow Lake Tribal Council.
  - White Cap First Nation.
- Finance Administration Act June 2010 Amendment.
- Federal Corporate law.
- Federal Institute Act(s).
- James Bay Cree NISH CAPI Act.
- NISGA act.
- Indian/Métis Act. (Yukon)
- Saskatchewan Land Entitlement Act.
- British Columbia First Nation Education Act.
- First Nations Inuit Health Branch Health transfer.
- Indian Information and Data.
- Human Rights Amendment to include Individual Rights versus Collective Rights.
- First Nation Election Act.
- On/Off Reserve Policies.

Provincial Government

- Integration and Assimilation of:
  - Indian Education – Indian Education Authorities.
  - Indian Health – Indian Health Authorities:
    - All Nation hospital.
    - Athabasca hospital.
    - NETHA.
  - Indian Child Care – Child Care Agencies.
- The Authorities and Agencies are incorporated under Provincial jurisdiction and laws.
- Organizations and Institutions incorporated under Provincial jurisdiction and laws:
  - Federation of Saskatchewan Indians.
  - Meadow Lake Tribal Council.
  - Prince Albert Grand Council.
  - Saskatoon Tribal Council.
  - Touchwood/Qu'Appelle Tribal Council.
  - Battleford Tribal Council.
  - Battleford Agency Council.
  - Yorkton Tribal Council.
  - Treaty No. 4 – East Tribal Council.
  - Saskatchewan Indian Gaming Association, Saskatchewan Indian Institute of Technology, First Nations University of Canada.
- All Band, Tribal/Agency Councils, Federation of Saskatchewan Indian Nations Businesses are incorporated under Provincial jurisdiction and laws.
- Indian Information and Data.
- On/Off Reserve Policies.

## SELF-DETERMINATION



# Inherent Rights and Title of First Nations

The First Nations *"Inherent Rights and Powers for Self-Determination and Self-Government"* includes powers that are associated with the following:

- The powers to *determine our form of government.*
- The powers to *determine our form of justice.*
- The powers to *determine our form of laws.*
- The powers to *determine our citizenship.*
- The powers to *determine our internal affairs.*
- The powers to *determine our external affairs.*
- The powers to *determine our international affairs.*

*First Nations meet all the criteria of nationhood established under international law by the community of man; people, language, culture, territory and governments.*

The Inherent Rights and Title of First Nations are collective and individual rights that include:

- traditions, customs and practices;
- culture, spiritual and language;
- education, health and social development, justice;
- lands and resources, water and air;
- economics;
- shelter, etc.

We must identify how all authorities' impact on Inherent rights:

- Definition
- Application & Enforcement
- Rights Reserved
- Rights Negotiated
- Treaty Benefits
- Charter of Rights and Freedoms
- Human Civil (Political Rights) International Law
- Canadian Law/Policies
- Canadian Human Rights
- Constitution Act 1982, Sections: 25(1) & (2), 35(1) & (2), Section 91(24).

Inherent Rights	Definition	Application & Enforcement	Rights Reserved	Rights Negotiated	Treaty Benefits	Charter of Rights and Freedoms	Human Civil (Political Rights) International Law	Canadian Law/policies	Canadian Human Rights	Constitution Act 1982
Traditions										
Customs										
Values										
Practices										
Culture										
Language										
Self-Government										
Citizenship										
Membership										
Land										
Resources										
Water										
Health										
Education										
Social Development										
Economic										
Justice										
Shelter										
Air										

What form of First Nations Law is required respecting Inherent Rights?

What form of Federal Law is required respecting the recognition of Inherent Rights?

## First Nations' Duties and Responsibilities for Inherent Rights by Band and Respective First Nation (Indian) Nation

- Each member of the Band has duties and responsibilities for each Inherent (Indian) Right.
- Inherent (Indian) Rights are the responsibility of each Indian.
- Inherent Rights are the responsibility of First Nations, Individual Bands and Bands collectively.
- First Nations (Indian) laws will be similar for each Inherent Right from Band to Band; any specifics can be regulated from Band to Band to reflect specific Band concerns and their respective customs and traditions.

	Traditions	Customs	Values	Practices	Culture	Language	Self-Government	Citizenship	Membership	Land	Resources	Water	Health	Education	Social Development	Economic	Justice	Shelter	Air	
National (First Nation)																				
Band/Community Members																				
Collective																				
Individual																				
Duties/ Responsibilities																				
Plans																				
Laws																				
Policies																				
Institutions																				

(Not an exhaustive list.)



# Doctrine of Discovery and Colonial Policies

- 14<sup>th</sup> Century Papal Bull 1493

- Indigenous people are not human or Christian; they do not have sovereignty and government; they do not have title to lands and resources; they do not have rights.

- Doctrine of Discovery

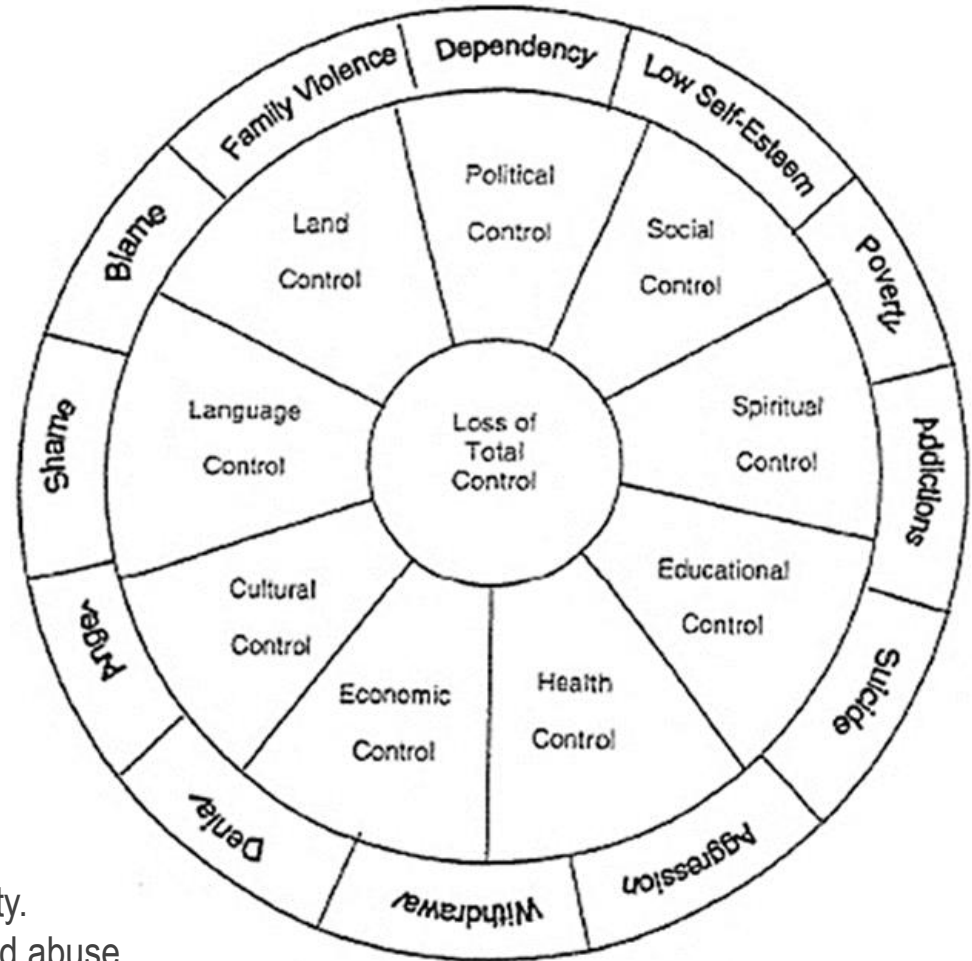
- Explorers of the empires took illegal control of indigenous land and resources. The empires implemented the doctrine of the "Law of Dominance" that made it legal to kill Indigenous peoples.

- The Empire and Canadian Colonial Policies

- Objectives: Christianization, Civilization, Integration, Assimilation, Liquidation
- 1947 Plan to Liquidate Canada's Indian Problem within 25 years.
- 1974/76 Native Policies
- 1980 Buffalo Jump Policies
- Amending or constructing new laws to terminate the Special Status and Rights of Indians.
- Provincial governments terminating the special and unique programs and services for Indians under the Treaties and Constitutions.

# Symptoms of Loss of Control

- Poverty.
- Poor life skills.
- High drop-out rates.
- High rates of suicide.
- High rate of substance abuse.
- High numbers of violent deaths.
- High rates of teenage pregnancy.
- Destruction of the Kinship/Clan systems.
- Loss of our cultural values.
- Loss of our spiritual beliefs.
- Loss of pride in heritage and culture.
- Loss of our traditions, customs and practices.
- Loss of original language skills and knowledge.
- Loss of individual responsibility and accountability.
- Poor parenting skills resulting in child neglect and abuse.
- Youth violence, gang activity, drug trafficking and other illegal activities.
- High number of children in the provincial child welfare system care and control.
- High rate of involvement with the justice system resulting in high incarceration rates.
- Poor relationship skills resulting in high rates of family dysfunction, violence, abuse and breakdown.
- Low employment rates resulting in high numbers of social assistance recipients.
- Loss of political control and systems resulting in political disruptions, turmoil and breakdown in our communities.





# Powers of Governing

Inherent Sovereignty

Band Status

Creator

Sovereignty

Inherent  
Rights

Natural Laws

Treaty

Before

During

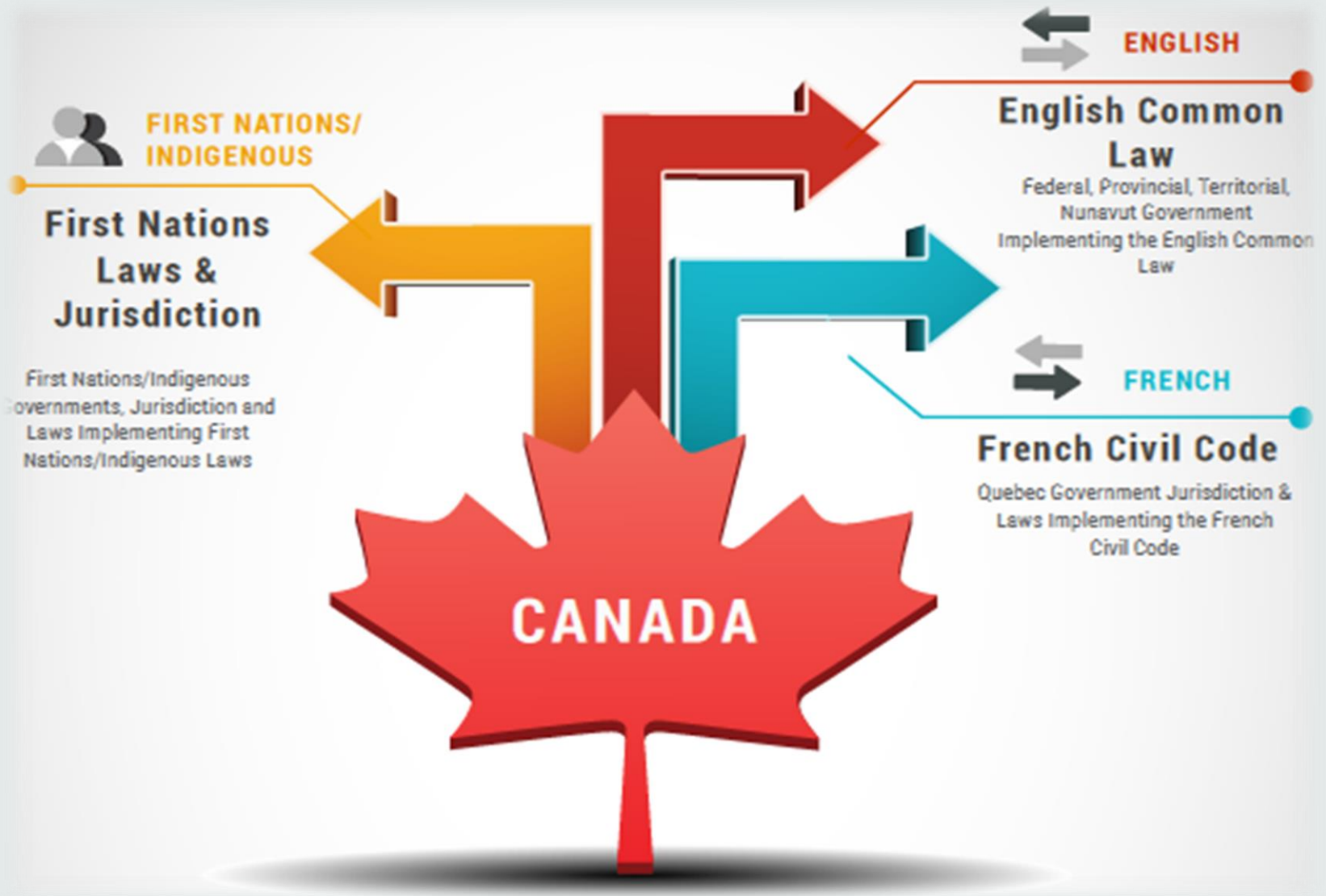
After

Indian Act

Status and  
powers defined  
by Federal  
Government

Local  
Government  
Status under  
Federal  
Jurisdiction

# Interface of Legal and Jurisdictional Relations



# Legal and Political Framework

A new framework does not need to be negotiated because the existing framework identifies the lawful and political mandate to implement everything that has been included in the processes of reconciliation.

The Framework is governed by:

- Sovereign Relations
- Inherent Rights and Title
- International Treaties 1 to 11
- Royal Proclamation of 1763
- Constitution Act 1982
- International Laws
- United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)
- American Declaration on the Rights of Indigenous Peoples



# Three forms of Frameworks and Implementation

**1**

**Crown and Indian  
Nation Relations**

**Inherent Rights  
and Title**

**Treaties and  
Treaty Rights**

**Nation-to-Nation**

**Government-to-  
Government**

**2**

**Parliament and  
Federal Government**

**Termination of the  
14th Century Paper  
Bulls, the Doctrine  
of Discovery and the  
Empire and  
Canadian Colonial  
Policies.**

**Unique and Special  
Laws**

**New Ministries of  
the Federal  
Government**

**3**

**Sovereignty of  
Indian Nations**

**Inherent  
Sovereignty  
granted to us by  
the Creator**

**Natural Laws**

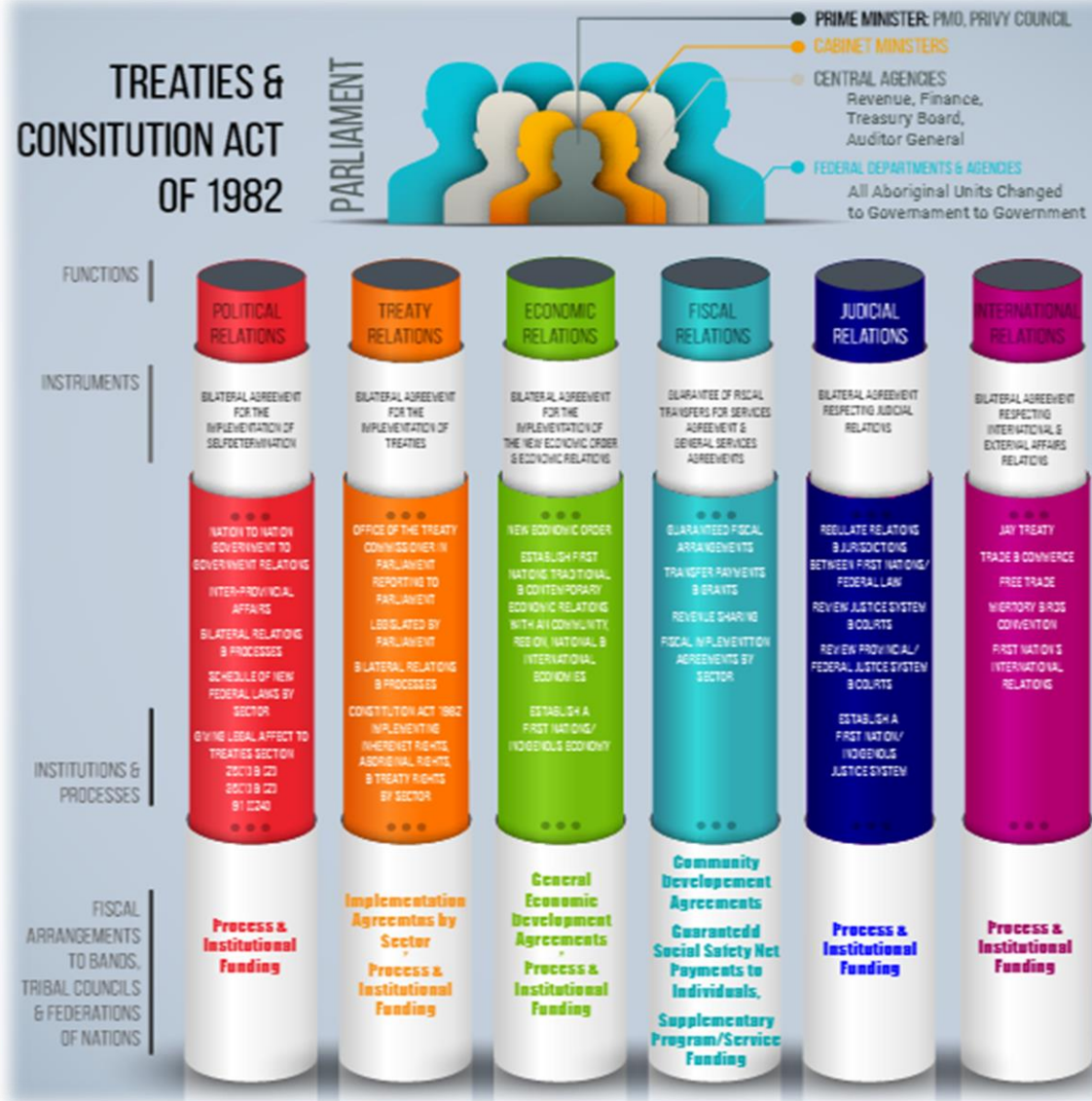
**Justice System  
of Indian Nations**

**FSIN Convention**

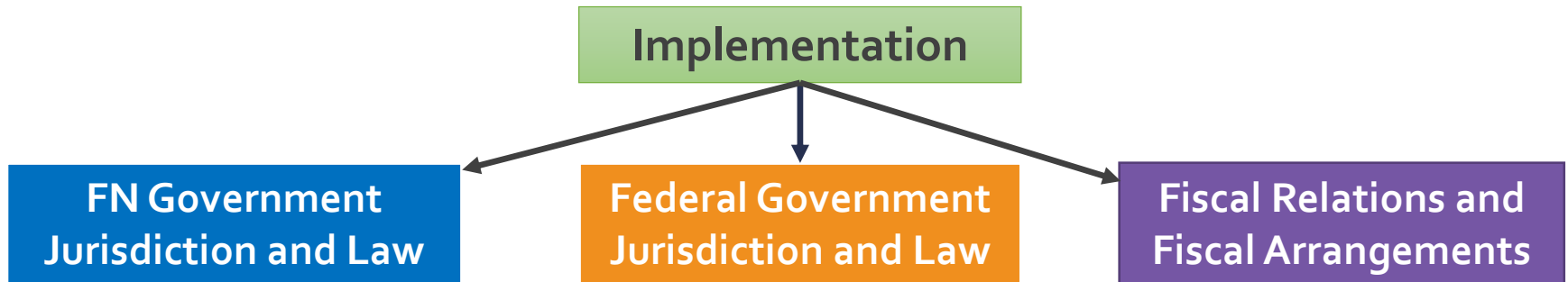
# Nation-to-Nation Government-to-Government Relations Ministries and Departments

Ministries and Departments with the functions for:

- Political Relations
- Treaty Relations
- Economic Relations
- Fiscal Relations
- Judicial Relations
- International Relations



# Schedule of Special and Unique Laws



**Sectors requiring laws based on inherent rights and treaty under the systems of FN communities and/or intertribal:**

- Justice and Judicial System
- Citizenship/Membership
- Inherent Rights and Title, Treaty Rights
- Culture, Language, Spirituality
- Education
- FN Title to Lands
- FN Title to Resources
- Parks and Protected Areas
- Resource Revenue Sharing
- Housing, Public Works and Infrastructure
- Hunting, Fishing, Trapping and Gathering
- Health and Social Development
- ICFS
- Social Safety Net
- Political Relations
- Administration and Enforcement
- Fiscal Relations
- Finance and Administration Acts
- FN Tax Regime
- Internal and External Affairs
- Economic and Development

*(Not an exhaustive list.)*



FIRST NATIONS/  
INDIGENOUS  
GOVERNMENTS  
&  
FIRST NATIONS  
INSTITUTIONS

FISCAL  
RELATIONS

BILATERAL  
RELATIONS

ENVIRONMENTAL  
CONSERVATION

ECONOMY  
ECONOMIC RELATIONS

INSTITUTES for  
LAW & GOVERNMENT

JUSTICE &  
LEGAL SYSTEM

LEADERSHIP & EXECUTIVE  
MANAGEMENT TRAINING

IMPLEMENTATION of  
TREATIES, TREATY & INHERENT RIGHTS

ICT INFRASTRUCTURE &  
DATACENTERS, INFORMATION SECURITY

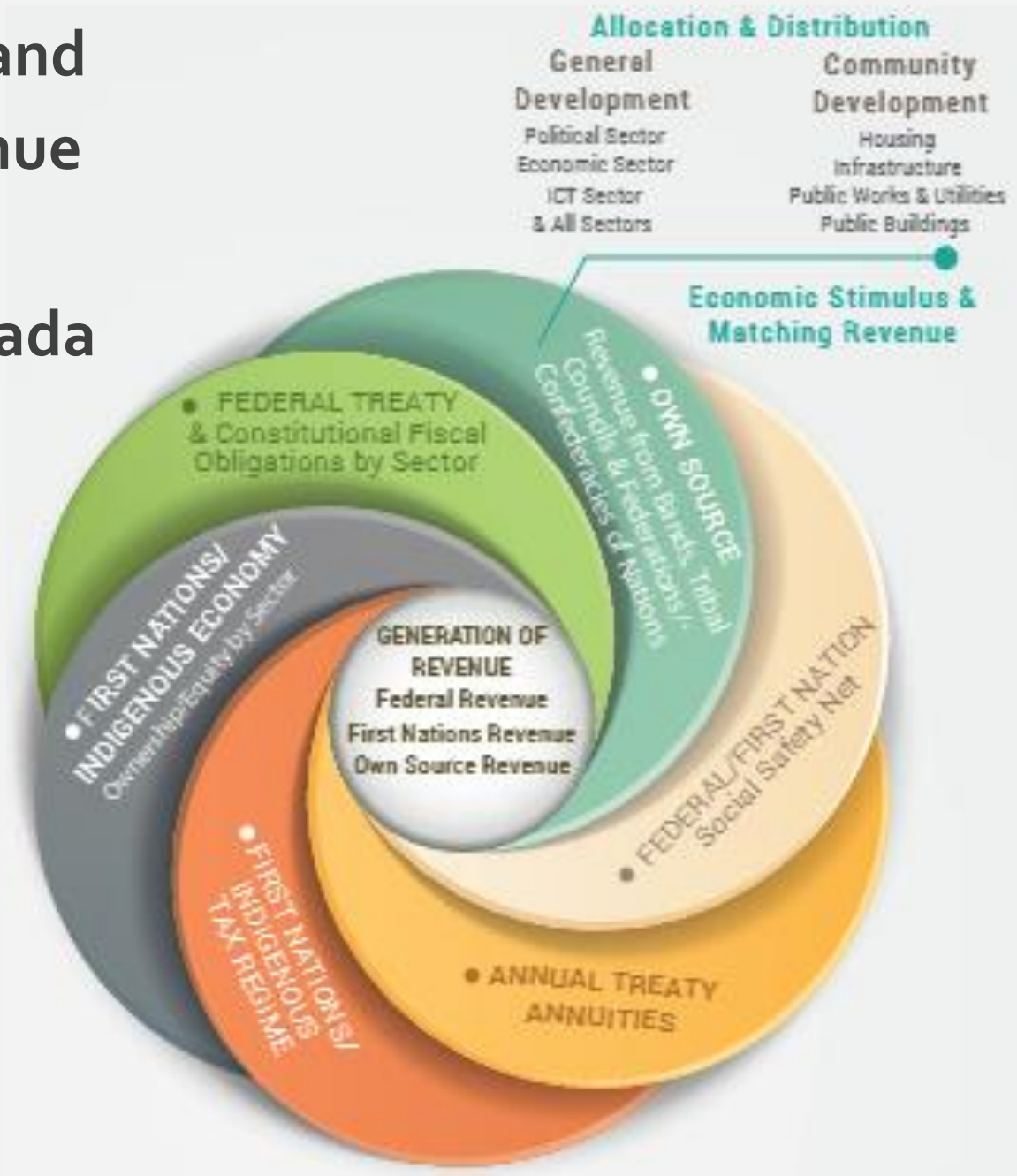
EDUCATION & HUMAN RESOURCES  
DEVELOPMENT & TRAINING by SECTOR

INTERGOVERNMENTAL AFFAIRS  
RESPECTING FIRST NATIONS, PROVINCIAL, FEDERAL

INTERNATIONAL RELATIONS  
UN DECLARATION/RIGHTS of INDIGENOUS PEOPLES

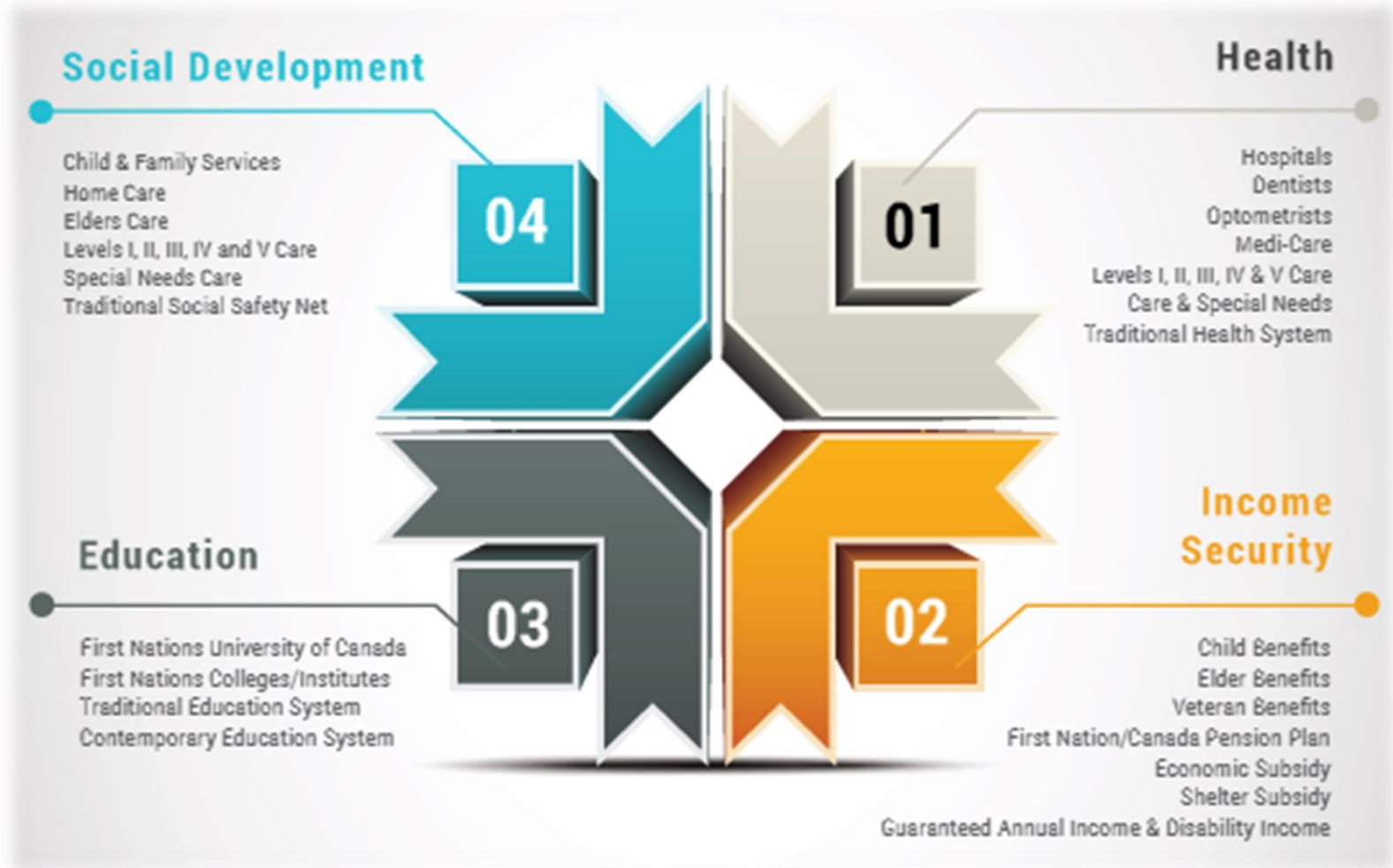
PLANNING & IMPLEMENTATION by SECTOR  
UNDER FIRST NATIONS GOVERNMENT, JURISDICTION & LAW

# Fiscal Relations and Sources of Revenue Between First Nations and Canada



# First Nations Social Safety Net

A Nation-to-Nation social transfer of supplementary funding and income security by sector for individuals and families.







**Questions or Comments?**