The Welfare & Well-Being of Indigenous Peoples

Shiri Pasternak and Damien Lee

Creating a Post-Colonial Canada

The wealth of Indigenous peoples, their lands and resources, has effectively been stolen for generations. As a result of what is referred to as "colonialism" (or, more specifically, "settler colonialism"), Indigenous peoples have been targeted by a history of oppressive policies. They have also had their children targeted and their movement restricted. Policies such as these have resulted in a gap between Indigenous people and Canadians on every socio-economic indicator.

Any and all efforts to improve our collective relationship is commendable and welcome. But we seem continually to be getting it wrong. The changes underlying the 2018 Indigenous Rights Framework, for instance, which focus on reconstituting Indigenous communities and improving service delivery, do not address underlying issues of treaty rights and land claims.

Creating a Post-Colonial Canada

Successive governments have attempted to address this sorry state of affairs, however not enough change has resulted. The strategies are not working. This chapter provides an overview of the relationships between Canadians and Indigenous peoples and the underlying policy issues.

After completing this chapter, you should be able to:

- Discuss the importance of treaty rights and issues surrounding the Indian Act of 1876.
- Explain the origins and impact of the reserve system and the residential schools and the deep harm they caused
- Describe the historical significance of the Royal Commission on Aboriginal Peoples (1996) and the events leading up to it
- Understand the scope and impact of the Truth and Reconciliation Commission (2015) and its 94 "Calls to Action"
- Understand the importance of the UN Declaration on the Rights of Indigenous Peoples and Canada's delay in adopting the Declaration
- Gain a better insight into recent policy shifts expressed in the Principles Respecting the Government of Canada's Relationship with Indigenous Peoples (2017) and the Indigenous Rights, Recognition and Implementation Framework (2018)
- Appreciate why Indigenous peoples demand a "nation to nation" relationship with the government of Canada, respecting treaty rights and the right to self-determination.

Key Concepts

- Idle No More
- Numbered treaties
- Indian Act, 1876
- Reserve System
- Residential school system
- Self-government
- Constitution Act, 1982
- Royal Commission on Aboriginal Peoples (RCAP), 1996
- Indian Residential Schools Settlement Agreement, 2006
- Truth and Reconciliation Commission (TRC), 2015
- United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), 2007
- Principles Respecting the Government of Canada's Relationship with Indigenous peoples, 2017
- Indigenous Rights, Recognition and Implementation Framework, 2018

8.1 The Indigenous Peoples of North America

The Indigenous peoples of what is currently Canada are the original nations of North America. Sometimes referred to as "Aboriginal" peoples, Indigenous nations existed in organized political societies both before and after the arrival of settlers in their territories. Today, Canada's Constitution Act, 1982, recognizes three groups of Aboriginal peoples: Indians, Métis, and Inuit. However, it is important to note that these demarcations are legal categories created by non-Indigenous politicians for the purposes of governing. They reflect geographic and historic differences between Indigenous peoples, but they also obscure a tremendous amount of diversity.

The term Indian, for example, is defined in the Indian Act legislation and determines who has Status and is a Registered Indian under the Act. This definition does not reflect the citizenship and membership processes that define belonging according to Indigenous practices. Today the term First Nations has replaced the term Indian in an everyday sense, and, more broadly, "Indigenous" is generally preferred to the term "Aboriginal." While the latter is a pan-national term unilaterally applied by the Canadian federal government, "Indigenous" is a political category that unites struggles across the world of people colonized by European and other imperial forces.

The reality is that Indigenous people in Canada include 60 distinct nations, each with distinct histories, languages, cultures, economies, legal and political orders, and spiritual beliefs. Many Indigenous peoples prefer to be called "Indigenous" rather than "Aboriginal," but many would also prefer to be called by their own names for themselves, such as Anishinaabeg, nehiyaw, Kanien'kehá:ka, etc.

Idle No More

Indigenous communities have worked in good faith with successive governments to improve their overall well-being and social welfare, yet many continue to live in what George Manuel described as Fourth World conditions (1974). For Manuel the term referred to people living in third world conditions, within a first world country.

It is important to note that Indigenous people have never been prepared to sit and wait for governments to act. The broad-based Idle No More movement, for example, which began at the end of 2012 is part of a broader historical push by Indigenous people for distinct rights and lasting solutions. This broader push was re-sparked that year in response to further intrusions by the federal government on Indigenous rights.

Idle No More quickly became one of the largest Indigenous mass movements in Canadian history — sparking hundreds of teach-ins, rallies, and protests across North America and beyond. What began as a series of discussions in Saskatchewan to protest impending parliamentary bills that would erode Indigenous governance and environmental protections eventually changed the social and political landscape of Canada.

The Impact of Colonialism on Indigenous Peoples

The impetus for the Idle No More movement lies in centuries-old resistance of Indigenous nations to the impacts of exploration, invasion and colonization. The demands of Idle No More were varied and diverse, like Indigenous peoples, but there was a clear thread of unity around asserting inherent rights to exercise jurisdiction on their territories and social, political, and economic control over their lives.

For treaty nations (because not all nations have treaties), agreements with the British and Canadian Crowns are understood as land-sharing arrangements, rather than surrenders or contracts, as commonly depicted by the courts, politicians, and academics. Sharing meant that newcomers could have access to some land and resources, and to live in peace and friendship with First Nations. In exchange, those newcomers would provide health and education resources, among others, and share the wealth generated from Indigenous lands. This was the spirit and intent of the treaty relationship. Instead, First Nations have experienced a history of broken promises, which has resulted in outstanding land claims, lack of resources, and unequal funding for services such as housing and child welfare.

For First Nations that did not sign treaties, there is no agreement on how to share the land. The Supreme Court of Canada has designated these territories as "Aboriginal Title" lands. While a different set of rights applies to them, and Canada has sought to make new treaties in these areas, many First Nations have learned from the experiences of their neighbours and reject the idea of treaty all-together.

Each day that Indigenous rights are not honored or fulfilled, inequality between Indigenous peoples and the settler society grows.

Inequalities in Income and Unemployment

Colonialism has left Indigenous peoples among the poorest in Canada. The median income for Indigenous peoples is 30% lower than that of non-Indigenous Canadians, and it is showing very little improvement over time. What is more, the gap in earnings and employment persists regardless of community (First Nations, Métis, and Inuit), where they live (rural/urban), and despite increases in educational attainment over the past 10 years (Wilson & Macdonald, 2010).

There is one exception — Indigenous peoples with university degrees seem to have overcome much of the income differential. However, there continues to be a significant gap in the number of Indigenous peoples obtaining a Bachelor's level degree — 8 percent compared to 22 percent. Below the Bachelor's degree level, Indigenous peoples consistently make far less than other Canadians with the same level of education.

As Wilson and Macdonald argue, income and other disparities have historical roots and are deep-seated, and require policy intervention. They will not solve themselves. It starts by acknowledging that the legacy of colonialism lies at the heart of the problem. What is needed are new approaches and solutions that come from the Indigenous peoples themselves based the right of Indigenous people to self-determination and control over their own lands and communities.

Feature: Statistics Canada

The Indigenous Population of Canada

A demographic profile

The Indigenous peoples of Canada are the original nations of North America. Three groups are recognized by the Constitution Act, 1982: Indians, Métis, and Inuit.

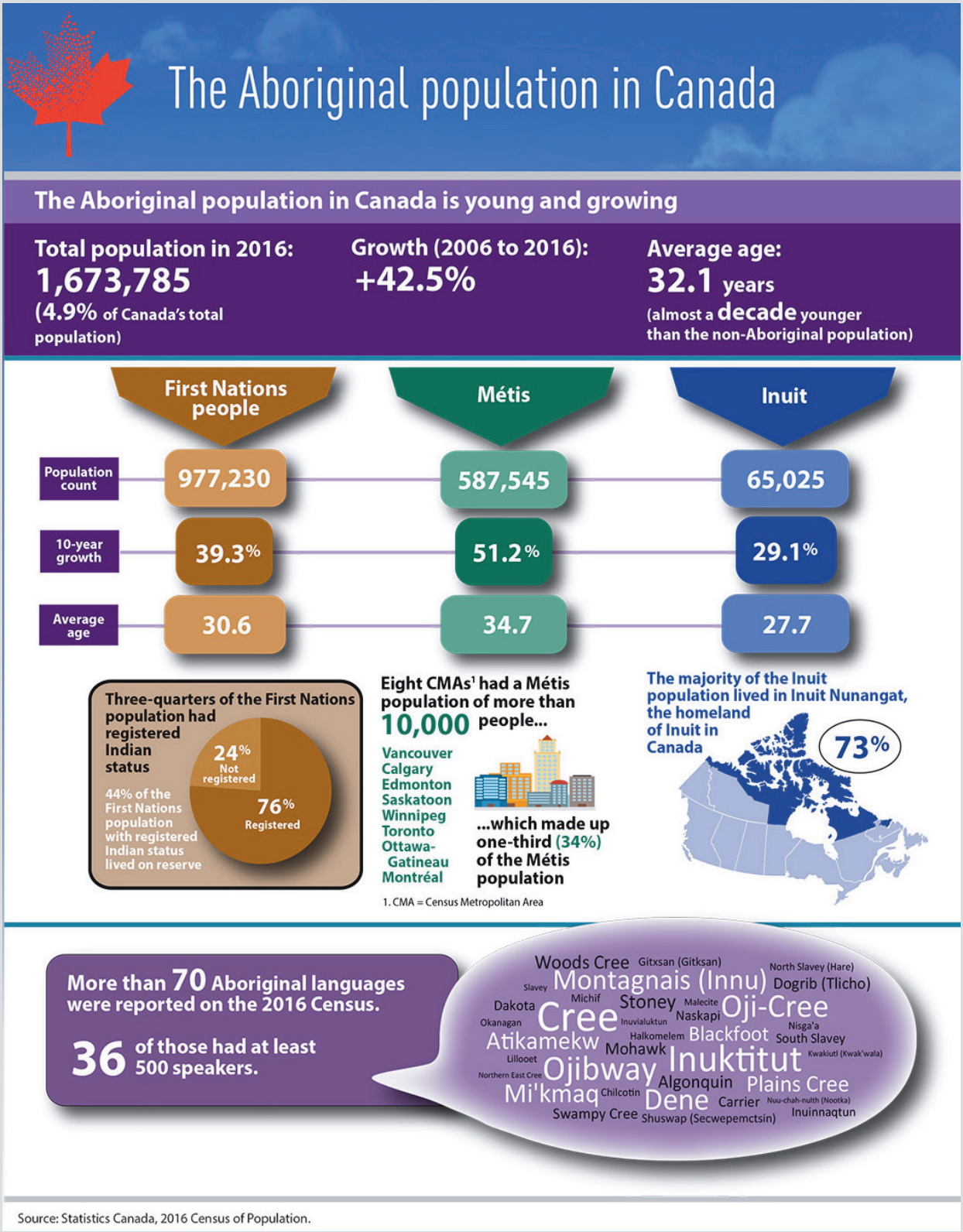
While the word "Indian" is still a legal term in Canadian law, many Indians now refer to themselves as either "First Nations," Indigenous, or by the name of their specific nation (example: Anishinaabe). First Nations communities are located in every province throughout Canada. The highest population numbers for First Nations are within the western provinces - British Columbia, Alberta, Saskatchewan and Manitoba - which contain two-thirds of total First Nations communities.

Almost three-quarters of Inuit in Canada live in Inuit Nunangat. Inuit Nunangat stretches from Labrador to the Northwest Territories and comprises four regions: Nunatsiavut, Nunavik, Nunavut and the Inuvialuit region.

The Métis represent 8 percent of the total population of the Northwest Territories, 6.7 percent of Manitoba's population, and 5.2 percent of Saskatchewan's population.

The Indigenous population is increasing at a much faster rate than the non-Indigenous population. The Indigenous population increased by 232, 385 people, or 20.1 percent between 2006 and 2011, compared with 5.2 percent for the non-Indigenous population. The Indigenous share of the total Canadian population was projected to increase to 4.1 percent by 2017, up from 3.4 percent in 2001.

The Indigenous population is also considerably younger on average than the non-Indigenous population. In 2011, the median age of the Indigenous population was 28 years; 13 years younger than the median of 41 years for the non-Indigenous population.



Source: Statistics Canada, 2016 Census of Population.

8.2 First Nations Peoples

The weight of Canadian history on First Nations peoples is truly overwhelming. This legacy can be captured in five key issues or themes: (1) the struggle for land and treaty rights; (2) the Indian Act; (3) the effects of the reserve system; (4) the experience of the residential schools; (5) the ongoing call by Indigenous peoples for full governance over their lives and communities; and (6) missing and murdered Indigenous women and girls.

(1) Treaty and Land Rights

The British government signed various treaties with Indigenous groups before Confederation (when Canada was formally created), such as the Peace and Friendship Treaty (1752) and the Robinson Treaties (1850), among others. After Confederation, the administration of Rupert's Land (which included much of what is currently Manitoba, Saskatchewan, and Alberta) was transferred to the Canadian government through sale. The development plan for the new Canada included the building of a national railway and the settlement of Rupert's Land; however, because Canadian law recognized that Indigenous people held title on that land, the government had to form agreements with Indigenous leaders.

The treaties signed by the newly formed Canadian government are known as the "Numbered Treaties," beginning with Treaty No. 1 in 1871 with the Ojibway and Swampy Cree of Manitoba. With the signing of these treaties, the Indigenous peoples agreed to share large tracts of land with the Canadian government in exchange for certain benefits in perpetuity. Between 1760 and 1923, the British Crown signed 56 land treaties with First Nations peoples. Many if not all treaties were written in such a way that it appears that First Nations surrendered all of their rights to the land in exchange for small reserves and meagre compensation. In some cases, the written version differ from what was promised verbally.

The land treaties generally stipulated the relinquishment of Indian right and title to specific land and provided for annual payments called "annuities." This amount never changed and was not generally indexed to inflation. Descendants of the Robinson-Huron treaty have recently challenged this in court, with the judge ruling that Canada had failed to increase treaty annuities in step with inflation rates. This is why many treaty annuities today amount to what might seem like an insignificant sum, such as $4 per year. Symbolically, however, an annuity payment is important because it represents the nation-to-nation relationship embodied in treaties themselves.

Almost half of the land in Canada is not under a treaty, which means that the Crown did not make an agreement with First Nations peoples to use the land. For example, no treaties were signed between the Indigenous peoples of Québec, the Maritimes, and most of British Columbia and pockets throughout the country were left out of treaty, as well. Only since the mid-1970s, when the "modern treaty" process was introduced, could nations and communities left out of the historic treaty process enter into negotiations for their lands.

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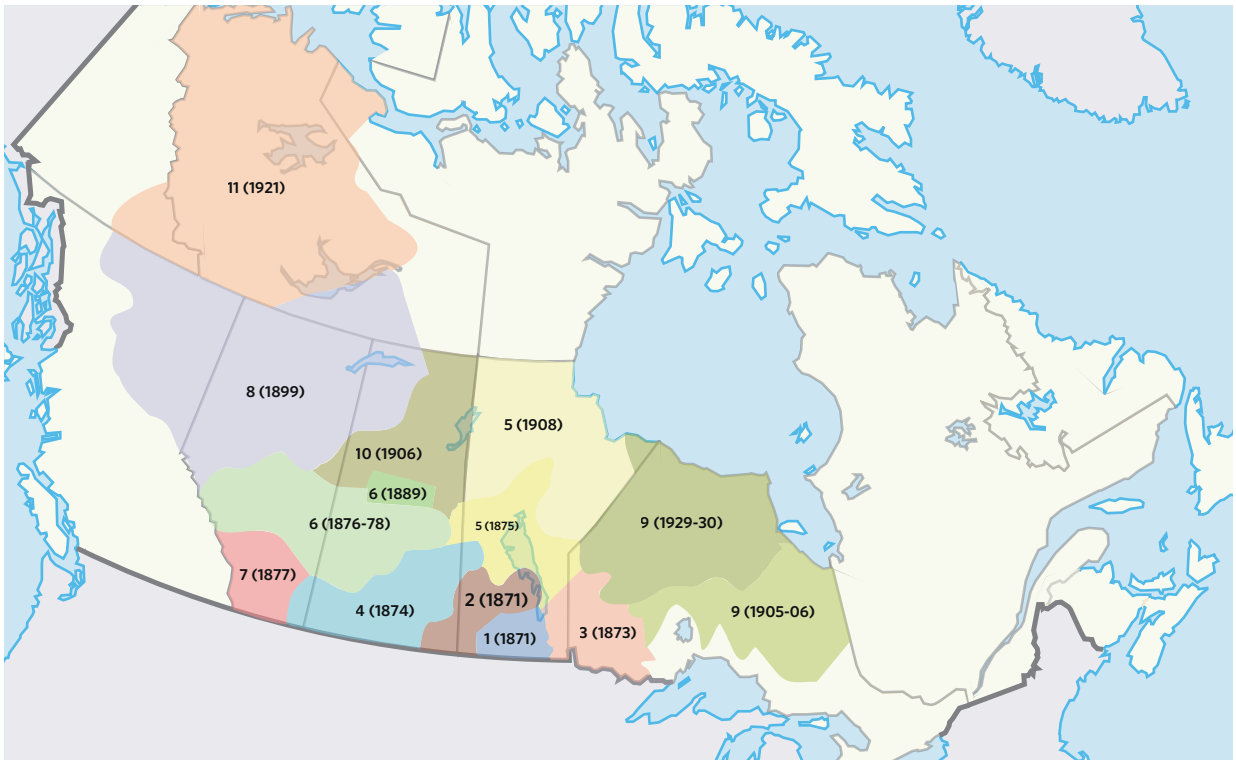
Acknowledging Indigenous Land Rights

It is these land treaties (or in many cases, the lack of them) that are currently in dispute across the country. First Nations leaders believe the very idea of surrendering land was not in their right to do. Indigenous territorial authority tends to extend from the land to the people, rather than from the people to the land — the lands were and are seen as part of Creation and the people were merely the stewards of it. The "surrender" of land rights is based on the concept of private property — and this a rejected concept in many First Nations cultures. Though their separate territories are bounded by borders and protocols, mutual hospitality is respected.

For those nations that did not sign treaties, dispossession was often treated as a de facto power of the state, despite foundational agreements like the Royal Proclamation of 1763 and treaties such as the Treaty of Niagara. The Royal Proclamation was issued by King George III during the transfer of European imperial claims from the French to the British over the colony. But it contained a provision to ensure that the Indigenous peoples of these lands would not be "molested" on their territories and could only relinquish land through a voluntary cession to the Crown. The Treaty of Niagara the following year affirmed in mutual agreement the terms of these conditions through Indigenous protocols of political alliance. Those nations that did not treaty, therefore, should have been protected under these agreements, but instead they were, and are, are forced continually to fight for recognition of their land rights.

The "Numbered Treaties"

The Numbered Treaties are eleven treaties signed between 1871 and 1921. Numbers 1-7 (1871-77) were key in advancing European settlement across the Prairies and the Canadian Pacific Railway. For Numbers 9-11 (1899-1921), resource extraction was the government's main motive.



Source: Map of Numbered Treaties of Canada. Borders are approximated. Wikimedia Commons. Canada location map.svg. Modifications made by Themightyquill.

(2) The Indian Act of 1876

The Indian Act of 1876 was, and still is, a piece of legislation that regulates virtually every aspect of First Nation life. The Indian Act ("An Act respecting Indians") was enacted under the provisions of Section 91 (24) of the Constitution Act, 1867, which delegates Canada's federal government exclusive authority to legislate in relation to "Indians and the Lands Reserved for Indians." The Indian Act was administered in First Nation communities by government officials known as "Indian Agents." The 1983 Special Parliamentary Committee on Indian Self-Government (the Penner Report) aptly called it a "mechanism of social control and assimilation."

The Indian Act remains largely intact today, though an increasing amount of issue-specific legislation also supplements it. The Indian Act is a paradigmatic symbol of Canada's oppressive social control over First Nation lives. It has undergone substantive amendments from 1876 to today, creating a record of state attempts to both segregate and assimilate First Nations. The Act determined who could call themselves "Indian," creating two classes of Indians — "Status" and "Non-Status" — based on racialized and gendered stereotypes. Attacking the role of First Nation women in governance, Status was further weaponized, for example, when Indian women lost it when marrying non-First Nation men, rendering their children White in law and deprived of the special rights of their people or formal access to their homelands. The Indian Act mandated the attendance of children in residential schools, prohibited First Nations from hiring lawyers to advocate for their land rights, and encouraged "enfranchisement" in exchange for giving up their identity and place in their communities to claim Canadian citizenship.

(3) The Reserve System

The reserve system is a by-product of the land treaties. As the main vehicle for regulating and controlling First Nations movement and ways of living, the federal government established the Department of Indian Affairs, which administered that reserve system.

An Indian reserve refers specifically to a parcel of land and is not synonymous with nation, community, or band; the community that occupies a reserve will often have a different name than the reserve itself. There are over 2,000 reserves in Canada with over 600 bands.

First Nations peoples were moved onto small parcels of land largely devoid of any economic potential and which could not be used as collateral to develop business ventures (land was held in trust by the Crown). The Government of Canada even created reserves in regions not surrendered through treaty, such as the Wikwemikong Unceded Indian Reserve on Manitoulin Island, Lake Superior, in Ontario and throughout Québec and British Columbia. Some reserves that were originally rural were gradually surrounded by urban development. Kahnawá:ke Mohawk reserve in Montréal, Tsleil-waututh First Nation, Squamish Nation, and Musqueam Indian Reserve in Vancouver and the Tsuu T'ina Nation in Calgary are examples of urban reserves.

(4) Residential Schools

The residential school system was especially active from the passage of the Indian Act in 1876. Residential schools were a range of institutions including industrial schools, boarding schools, student residences, hostels, billets, and day schools tasked with "educating" First Nations children. The hundred or so schools were operated by various Christian religious organizations in partnership with the Government of Canada. Most schools were closed by the mid-1970s, but seven were left open throughout the 1980s, with the last closing only in 1996.

The residential schools prohibited the use of First Nations languages, culture, and customs, and were ultimately predatory environments for the young, defenseless children. During the hearings of the Truth and Reconciliation Commission, hundreds of people came forward with painful personal stories of verbal, physical, and sexual abuse. Children also suffered from hunger and lack of nutritious food and died at a rate higher than soldiers perished in WWII from contagious diseases due to poorly ventilated and overcrowded buildings. One school even used an electric chair to punish children. Later, many people resorted to litigation to obtain compensation, forcing the federal government to negotiate and ultimately announce the Residential Schools Settlement Agreement in 2006. The Settlement involved 5 components: the Common Experience Payment, Independent Assessment Process, the Truth and Reconciliation Commission, Commemoration, and Health and Healing Services.

On June 11, 2008, Prime Minister Stephen Harper offered a public apology on behalf of the Government of Canada in the House of Commons. Nine days prior, the Truth and Reconciliation Commission (TRC) was established to uncover the truth about the schools. The Commission gathered about 7,000 statements from residential school survivors through public and private meetings across Canada. In 2015, the TRC concluded with the establishment of the National Centre for Truth and Reconciliation and the publication of a multi-volume report detailing the testimonies of survivors and historical documents from the time and issuing 94 Calls to Action to write the underlying wrongs of the system. The TRC report found that the school system amounted to cultural genocide.

(5) The Call for Indigenous Self-Government

The call for Indigenous self-government is the natural response to hundreds of years of colonial oppression. In fact, First Nation communities have maintained wherever and however possible their political orders of government, despite attempts by Canada to replace them with the Indian Band Council system, introduced in the Indian Act and forced on to First Nations communities. But efforts to restore recognition for these political orders was revived in the Penner Report of 1983. The Special Parliamentary Committee report, chaired by Liberal MP Keith Penner, stated that First Nation communities would prefer self-government and recommended that the Indian Act and the Department of Indian Affairs be phased out and replaced by local governments established by First Nation peoples themselves. With the election of a Conservative government under Brian Mulroney the following year, that process did not unfold. Instead, federal governments have since focused on "devolution" programs that offer increased control to First Nations over programs and services, however without providing sufficient funds to run them and while maintaining excessive oversight.

In 1995, Canada introduced "The Inherent Right Policy." This policy emerged from the rights affirmed in Section 35 of the Constitution Act, 1982, and set out a framework for negotiated agreement with First Nation, Métis, and Inuit governments to devolve governance powers to Indigenous communities. Twenty-two self-government agreements are currently in place, and more are being negotiated, but there is also criticism of the policy. The policy was passed unilaterally by Canada and is adjudicated by non-Indigenous courts. It is not a nation-to-nation agreement. As the policy itself states, "The Government takes the position that negotiated rules of priority may provide for the paramountcy of Aboriginal laws, but may not deviate from the basic principle that those federal and provincial laws of overriding national or provincial importance will prevail over conflicting Aboriginal laws."

The First Nations in Canada recognize that they are not alone in their decolonial struggle. The challenges Indigenous people face in Canada are intertwined with the struggles of colonized peoples all around the world.

In this context, it is important to note that "self-determination" is different than "self-government."Self-government is something "given" by Canada to First Nations peoples, whereas "self-determination" comes from within First Nations regardless of Canadian law. Canada is a party to the International Covenant on Civil and Political Rights and the International Covenant on Economic Social and Cultural Rights, also known as the "decolonization covenants," which Canada is bound to implement. These decolonization covenants share the same overarching provision on self-determination. Article 1, para 1, of both covenants states that: "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development." The same wording is replicated in Article 3 of the UN Declaration on the Rights of Indigenous Peoples, confirming that the right applies to Indigenous peoples.

(6) Missing and Murdered Indigenous Women and Girls (MMIWG)

The MMIWG Commission's findings point to hard truths about the impacts of colonization, racism and sexism — aspects of Canadian society that many are reluctant to accept. The Inquiry names their impacts as genocidal.

For years, the families of missing and murdered Indigenous women, girls, trans and Two-Spirit people could only turn to one another to express their outrage, sadness and fear at what felt like an epidemic of violence against their relatives and friends. But their advocacy fell on deaf ears. In 2002, serial killer Robert Picton was finally arrested after years of police nonaction. Women living in the Downtown Eastside Side had watched friends disappear for years but were ignored when they raised alarm about the pattern of loss. The Picton Inquiry, affirmed in 2012 what Missing Women Commissioner Wally Oppal called "blatant" police failure. Nearly all of these women — as many as 49, according to Picton — were Indigenous.

Many Indigenous women, trans, and Two Spirit advocates pushed for a national inquiry into the issue, as well, in the hopes that these systemic issues would be revealed and addressed. Former Prime Minister Stephen Harper responded to requests for an inquiry in 2014 by saying, "Um it, it isn't really high on our radar, to be honest ... Our ministers will continue to dialogue with those who are concerned about this."

Soon after he came to power, he formally launched the Inquiry in 2015. The report came out on June 3, 2019 after a long and difficult process. It concluded:

> The violence the National Inquiry heard about amounts to a race-based genocide of Indigenous Peoples, including First Nations, Inuit and Métis, which especially targets women, girls, and 2SLGBTQ+IA people. This genocide has been empowered by colonial structures, evidenced notably by the Indian Act, the Sixties Scoop, residential schools and breaches of human and Indigenous rights, leading directly to the current increased rates of violence, death, and suicide in Indigenous populations.

On the day that the report finally came out, it was the term "genocide," in particular, that rattled the media establishment — not the underlying conditions of gendered, racialized and heterosexist violence that led to the charge. Findings showed that Indigenous women and girls are 12 times more likely to be murdered or to go missing ~~than non-Indigenous people~~ in Canada and 16 times more likely to disappear or killed than white women.

The Inquiry was neither the beginning nor the end of the fight for justice for murdered and missing loved ones. Communities have taken prevention and protection into their own hands. For example, the Bear Clan was formed in 1992 in Winnipeg's North End and has spread to other Canadian cities, such as Thunder Bay. Indigenous community members patrol the street to protect the vulnerable, including women and children. Grassroots organizations like No More Silence work with Indigenous families to create resources and support to stop the murders and disappearance of Indigenous women.

Jeannette Corbiere Lavell, Sharon Mcivor, and Dawn Lavell-Harvard

Still Not Equal under Canadian law

Sex discrimination in the Indian Act

It sounds too archaic to be true in 2019, but "Indian" women and "Indian" men are still not equal in Canada's law.

The Indian Act defines who is an "Indian," in the legislation's anachronistic phrasing, and that definition has privileged men from the beginning. The early versions of the Indian Act defined an Indian as a male Indian, or his wife or child. From 1876 to 1985, there was a one-parent rule for transmitting status and that parent was male; in short, to be an Indian, a person had to be related by birth or marriage to a male Indian. There was also a discriminatory "marrying-out" rule: Indian women lost their status when they married a non-Indian, while Indian men who married out not only kept their status, but endowed it on their non-Indian wives.

In the early 1980s, when the Charter of Rights and Freedoms' equality guarantees were on the horizon, the Government of Canada decided to reinstate the women who had married out — but rather than give them equality with men, Bill C-31 amended the Indian Act to create separate and unequal categories of status. All those (mostly male) Indians and their descendants who already had full status were placed in one category. Women whose status had been denied, or taken away because of marriage to a non-Indian, were placed in another category, with lesser rights. These "reinstates" could transmit status to their children, but not to their grandchildren and beyond, as their male counterparts could. Despite further amendments in 2011 and 2017, the sex-based hierarchy, and the discrimination against the maternal line, remains.

This may seem technical. But First Nations women know from personal experience that the harms of this discrimination are extreme, and there is a lot at stake. Thousands of descendants of First Nations women are excluded from membership, statutory benefits, treaty payments, belonging, identity and decision-making about the future of their nations — simply because their First Nations ancestor is female, not male.

The second-class status that's been assigned has demeaned these First Nations women. It has denied them the legitimacy and social standing associated with full status. The so-called "Bill C-31 women" have been treated as though they are not truly Indian, or "not Indian enough," and so have their children.

In many communities, registration under this Indian Act subclass, through Section 6 (1) (c), is like a scarlet letter; the women are branded as traitors for marrying out — a burden their male counterparts do not share.

Because of the stigma and alienation from the community it causes, sex discrimination in the Indian Act has been identified by both the United Nations and the Inter-American Commission on Human Rights as a root cause of the current crisis of violence against Indigenous women and girls. A month ago, the National Inquiry into Missing and Murdered Indigenous Women and Girls recommended an immediate end to sex discrimination in the Indian Act, acknowledging that violence can only be tackled if Indigenous women are treated as equal in dignity and rights.

There are many reasons for the Trudeau administration to end the Indian Act's 143 years of sex discrimination before the election. It has made repeated public commitments to women's equality, a new relationship with Indigenous peoples, and the rule of law; it must square those commitments with action.

And then there's the fact that Canada is currently violating an international treaty. On Jan. 11, the United Nations Human Rights Committee ruled in favour of Sharon McIvor, who filed a petition challenging the sex discrimination in the Indian Act. The committee ruled that the sex-based hierarchy of status violates the rights of First Nations women to equal protection of the law and to equal enjoyment of culture — rights guaranteed by the International Covenant on Civil and Political Rights.

The committee noted that Canada has admitted the discrimination, demonstrated that it knows how to fix it — and simply has not done so.

Here's how easily the sex discrimination can be eliminated: It only requires a cabinet decision to pass an order-in-council. Cabinet simply has to decide to bring into force the provisions that were included in the 2017 amendment at the insistence of the Senate. These provisions would finally entitle women and their descendants to full status on the same footing as their male counterparts, and at last remove the discrimination against the maternal line. They are not in force yet, but only a cabinet decision is needed to make them law. And that can be done before the election.

This is a crucial moment for First Nations women. We have been in this fight for decades, and we have used every legal instrument available to us. We have proven that we are entitled to equality. This government can deliver it, and has promised to do so. We're waiting.

Jeannette Corbiere Lavell, Sharon McIvor, and Dawn Lavell-Harvard (2019). Ottawa can easily fix sex discrimination in the Indian Act — but we're still waiting. *The Globe and Mail* (May 23).

Jeannette Corbiere Lavell challenged the Indian Act's sex discrimination under the Canadian Bill of Rights in 1971, along with Yvonne Bédard, and lost. Sharon McIvor challenged the Indian Act's sex discrimination under the Canadian Charter of Rights and Freedoms and the International Covenant on Civil and Political Rights and won in 2019. Dawn Lavell-Harvard is the president of the Ontario Native Women's Association.

This op-ed was co-signed by partners and allies: Francyne Joe, president of the Native Women's Association of Canada; Viviane Michel, president of Québec Native Women/Femmes autochtones du Québec; Dr. Pamela Palmater, chair in Indigenous Governance at Ryerson University; and Shelagh Day, C.M., chair of the Canadian Feminist Alliance for International Action's human rights committee.

8.3 First Nations Children in Care

The over-representation of First Nations, Inuit and Métis Nation children in the child welfare system is a humanitarian crisis of the first order. First Nations, Inuit and Métis Nation children make up 7.7% of the population under 15 but represent 52.2% of children in foster care in private homes.

Every day, Indigenous children are separated from their parents, families and communities, often due to poverty, for example, conditions of poor housing, loss of lands, lack of proper clothing and food. Children may also be apprehended due to a lack of resources to heal inter-generational trauma, leading to addiction, mental health crises and feelings of rootlessness. Indigenous families are the most closely surveilled group in the country and most likely to be subject to intervention compared to non-Indigenous families. Systemic racism and cultural bias play a major role in child apprehension.

An Act Respecting First Nations, Inuit and Métis Children, Youth and Families, 2019

For First Nations, Inuit, and Métis Nation groups, this situation is totally unacceptable. Urgent action is needed by all orders of government — federal, provincial, territorial — to support Indigenous families to raise their children within their families, homelands, and nations; to increase efforts to address the root causes of child apprehension; and to reunite children with their parents, extended families, and communities and nations

On November 30, 2018, the Minister of Indigenous Services, together with Assembly of First Nations National Chief Perry Bellegarde, Inuit Tapiriit Kanatami President Natan Obed and Métis National Council President Clément Chartier, announced that the federal government would move forward with co-developed legislation. This legislation was introduced on February 28, 2019 and on June 21, 2019, An Act Respecting First Nations, Inuit and Métis Children, Youth and Families became an official law. The law is pursuant to a commitment made in January 2018 to six points of action to address the over-representation of Indigenous children and youth in care:

1. Continuing the work to implement all orders of the Canadian Human Rights Tribunal, and reforming child and family services, including to a funding model;
2. Shifting the programming focus to prevention and early intervention;
3. Supporting communities to exercise jurisdiction and explore the potential for co-developed federal child and family services legislation;
4. Accelerating the work of trilateral and technical tables that are in place across the country;
5. Supporting Inuit and Métis Nation leadership to advance culturally-appropriate reform; and,
6. Developing a data and reporting strategy with provinces, territories and Indigenous partners

Cindy Blackstock:

"Cumulatively, First Nations children have spent over 66 million nights away from their families. That's 187,000 years of childhood. And in too many cases those children are being placed in non-Aboriginal homes where they're not learning their culture, they're not learning their connections to their families, they're not learning their languages.

"So I would argue that we're going to see many of those same harmful effects in this generation of First Nations children that we saw in residential schools if we don't stop what we're doing right now and make sure these kids have a proper chance to grow up with their families because that's where they learn their cultures."

The Sixties and Millennial Scoops

According to Raven Sinclair (2016) the rise of the child welfare system emerged in response to the deterioration of the residential school programs in the 1950s. As provincial child welfare programs grew, Indigenous families were subject to intense scrutiny and intervention as they struggled to address the traumatic aftermath of abuse, neglect, and cultural degradation of the residential school system.

During the 1960s, thousands of Indigenous children were removed from their families and communities and adopted out to non-Indigenous families in a period of Canadian history that has come to be known as the "Sixties Scoop." This experience had devastating impacts to the health and well-being of Indigenous families and communities. Yet, after decades of wrestling with the impact of the residential school system — and then with the "Sixties Scoop" that placed so many aboriginal children in non-Indigenous homes — First Nations are now facing another tragedy in the new millennium. There are more First Nations children in care right now than at the height of the residential school system.

Indigenous community leaders insist that emphasis needs to be given to kinship care and customary adoption to ensure that Indigenous children grow up in a familiar environment, connected to their culture, language and members of their family and clan. Such an approach is consistent with Indigenous peoples' culturally-rooted approaches to caregiving, where child-rearing was seen as a communal responsibility. Such approaches might differ from those in mainstream Canadian society, but they are no less valid. There is strong evidence that when Indigenous peoples have sovereignty over their children and adequate resources, outcomes for children are better (Blackstock, 2010).

Recently, as a result of a class-action lawsuit, a Sixties Scoop Settlement was negotiated, offering financial compensation to those effected by apprehension. In his ruling on the Ontario class-action lawsuit by Sixties Scoop survivors, Justice Belobabastated that the Sixties Scoop might have been worse by measures of cultural genocide than the Indian Residential School system, since the residential boarding schools at least allowed children to remain within an Indigenous peer group and eventually return to their families and communities. By contrast, children taken in the Scoop often lived their lives as the only Indigenous person in their families and communities.

WE COULD USE A BIT MORE TEXT HERE.

Recognizing and Protecting The Best Interests of the Child

The United Nations Declaration on the Rights of Indigenous Peoples sets out the minimum standards, norms and rights applicable to Indigenous peoples and children. These standards, norms and rights are interconnected, inter-related and interdependent and serve as a framework for reconciliation in child, youth and family services.

The first five Calls to Action by the Truth and Reconciliation Commission (TRC) relate to child welfare, recognizing a continuity with the Indian Residential School system and child apprehension today. Call to Action #4 calls "upon the federal government to enact Aboriginal child-welfare legislation that establishes national standards for Aboriginal child apprehension and custody cases and includes principles that:

- Affirm the right of Aboriginal governments to establish and maintain their own child-welfare agencies.
- Require all child-welfare agencies and courts to take the residential school legacy into account in their decision-making.
- Establish, as an important priority, a requirement that placements of Aboriginal children into temporary and permanent care be culturally appropriate.

The number of Indigenous children in care has not changed significantly, however, since 2015 when the Calls to Action were issued. Very similar recommendations were made, after all, in 1985 in the No Quiet Place report produced about the Manitoba child welfare system. Taking stock of the "systematic, routine manner" in which Indigenous children were removed from their homes, lead author Justice Kimelman named this process as "cultural genocide" (51). As Raven Sinclair (2016) describes, Indigenous leaders rallied around the report, affirming this conclusion, and calling Canada to account under the Convention on the Prevention of the Crime of Genocide, to which Canada is a signatory.

The courts themselves could also prove a barrier to attempts to end the practice of mass adoption. The leading case on inter-racial adoption of Indigenous children, Racine v. Woods (1983) erroneously concluded that attachment bonding superseded the importance of cultural belonging. In other words, the judge declared that children could form secure bonds with White parents, thereby negating a need to be raised in their communities. However, as Sinclair describes, research studies show that the best interests of the child were in fact ensured when children stay in their communities, since emotional bonding can change over time while feelings of social dislocation tend to grow.

Nearly all of the Sixties Scoop survivors Sinclair has interviewed over the years eventually sought out and returned to their biological families.

Jordan's Principle

Jordan's Principle is a child-first principle intended to ensure that First Nations children do not experience denials, delays, or disruptions of services ordinarily available to other children due to jurisdictional disputes. It is named in honour of Jordan River Anderson, a young boy from Norway House Cree Nation in Manitoba. Jordan encountered tragic delays in services due to jurisdictional disputes in 2005. Jordan died in hospital — rather than at home in his community — while the service disputes were being resolved.

Jordan's Principle states that in cases involving jurisdictional disputes the government or government department first approached should pay for services that would ordinarily be available to other children in Canada; the dispute over payment for services can be settled afterwards.

In 2007, a motion endorsing Jordan's Principle was unanimously adopted by the House of Commons. However, there is growing recognition that the governmental response does not reflect the vision advanced by First Nations and endorsed by the House of Commons. Reviews by the First Nations Child and Family Caring Society, Canadian Pediatric Society and UNICEF Canada have highlighted shortcomings in the governmental response, including a lack of clarity on the ground about funding, implementation, and whether systemic change will be introduced to address gaps in service delivery.

In September 2018, the federal government announced that Inuit children are eligible under the federal Child First Initiative (CFI) program for Jordan's Principle funding. This followed a commitment made in June 2018, during a meeting of the Inuit-Crown Partnership Committee in Inuvik, Northwest Territories, to work with Inuit, as well as provinces and territories, to develop a long-term Inuit-specific CFI framework consistent with Inuit rights and self-determination.

The Human Rights Tribunal Ruling

In a landmark decision, the Canadian Human Rights Tribunal (CHRT) ruled on January 26, 2016 that the federal underfunding of child and family services on First Nations reserves and the failure to ensure that First Nations children can access services on the same terms as other children discriminates against 163,000 First Nations children. Since that time, the Canadian government was issued ten non-compliance orders by the Tribunal.

In a new ruling on September 6, 2019, the Tribunal ordered the federal government to pay potentially billions of dollars in compensation to First Nations children. The Tribunal ordered the government to pay $40,000 to each child — the maximum allowed under the Canadian Human Rights Act — who was apprehended or taken from their homes on reserve, no matter what the reason. In October 2019, the federal government said it would appeal the Tribunal's order.

"I think that is another sign that they are not accepting responsibility for their own behaviour," said Cindy Blackstock, the Executive Director of the First Nations Child and Family Caring Society, which first launched the complaint more than a decade ago along with the Assembly of First Nations.

Indigenous Resistance to Child Apprehension

There has never been a period of state child apprehension where Indigenous people have not done everything in their power to reunite families. The Saskatchewan Native Women's Association launched the "Native Home for Native Children" initiative in Saskatoon and the Métis Foster Home committee, led by Howard Adams, Phyllis Trochie, Nora Thibodeau, and Vicki Racette, fought the Adopt Indian and Métis (AIM) program in the 1960s.

In more recent years, Indigenous nations have obtained legislative authority to regain jurisdiction over families and children in care. For example, since 1980 Splatsin regained power over the welfare of their children through the Splatsin Stsmamlt Services, which strives to return the care of the nation's children to the community and to implement preventative care as well by supporting families and individuals so that children can remain in their care. The Anishinabek Nation passed the Anishinabek Child Well-Being Law, which is designed to restore the nation's inherent rights and jurisdiction over child welfare and care. In June 2019, they announced the creation of Koganaawsawin, a central body supporting the law, that will support the law's implementation.

Emma McIntosh & Alex McKeen

Indigenous People in Canada's Prisons

Systemic racism in the criminal justice system

The population behind bars continues to include a massive overrepresentation of Indigenous inmates, according to newly released government data.

Although comprising about 5 percent of Canada's population, Indigenous people accounted for 27 percent of the federal prison population in 2016–17, according to a Statistics Canada report released Tuesday. That's a 1-point increase over the previous year, and an 8-point increase from 10 years ago.

In Saskatchewan and Manitoba, where the Indigenous populations are proportionally the largest, they formed as much as three-quarters of prison admissions in 2016–17.

"When you're looking at what those statistics — they're saying not enough is being done to address the social and economic disparities of the most impoverished people in this country," said vice-chief Heather Bear of Saskatchewan's Federation of Sovereign Indigenous Nations. "A lot of these incarcerated First Nations people have been disconnected from their people, from their communities."

The actual rate of incarcerated Indigenous people may be even higher than what Statistics Canada reported, as Métis people who can "pass" as white may not be included, said Robert Henry, an assistant professor at the University of Calgary who studies Indigenous issues in justice and education. Often, he added, disclosing an Indigenous background in prison can make it harder for inmates to access services. "It's all these factors coming together, and they've slowly started to create this surge in what we're seeing," Henry said.

This is a continuation of a trend that's been ongoing since the late '90s, Henry said. Though a number of complex factors are involved — such as poor access to education, media portrayal of Indigenous people as criminals and the lingering effects of residential schools — Henry said he believes a major one is the "pipeline" of Indigenous youth moving from the child welfare system into the prison system. Removing children from families, he said, introduces instability that has consequences down the line.

"We shouldn't be surprised that we're seeing more Indigenous people being incarcerated, because they're already being removed at such young ages and being institutionalized," Henry said.

A spokesperson for Correctional Services Canada told the Star in an email that the overrepresentation of Indigenous people is a "complex" issue for them, because sentencing is outside of their jurisdiction.

"However, CSC can influence the time they spend in custody by providing culturally responsive programs and interventions to address an Indigenous offender's risk, leading to timely access to rehabilitation to foster their successful reintegration into their home and community," the email statement read.

A Supreme Court of Canada decision last week found CSC had failed to meet its obligation to Indigenous inmates in this regard, by using risk assessment scales unproven to be effective for Indigenous people to make decisions about their incarceration. CSC said it was reviewing the Supreme Court decision.

The service said it's implementing "several culturally responsive interventions to ensure the healing of Indigenous men and women offenders," including Aboriginal Intervention Centres for culturally appropriate case management.

Civil rights activists argue that a major factor leading to the uneven representation of Indigenous people in prisons is over-policing.

Josh Paterson, president of the BC Civil Liberties Association called the numbers "appalling," and said they were related to police performing a disproportionate number of checks on Indigenous people in cities like Vancouver.

"If one community is routinely — and over 100 years — over-policed, over-surveilled, over-interfered with, it's not a surprise they will wind up over incarcerated relative to others," he said.

In Alberta, where Indigenous people made up 42 percent of correctional admissions and only 6 percent of the total population in 2016–17, more than half of the women in custody in the province were Indigenous. And for both genders, the numbers are higher than they were a decade ago.

"The numbers of Indigenous women that are now entering this system and being charged is horrible," said Muriel Stanley Venne, president and founder of the Institute for the Advancement of Aboriginal Women in Edmonton. "The attitude as I see it is that these people are gonna go to jail, they committed crimes and they belong in jail. That's what I hear in response to the high numbers. I want that attitude changed."

Bear, too, says it's high time for action, "especially in the era of Truth and Reconciliation."

"You need a multi-faceted approach to deal with these issues," she said. That means investments from the provincial and federal governments in reforming both the justice system itself and social safety nets.

But to get it right, the government needs to equip First Nations so that they can take the lead, Bear said. "The system that we're in, you may have someone working with a probation officer who has never stepped foot in a First Nation," she said. "We know what works for us, we know what our problems are and try to fix them."

Henry noted that a section of the Truth and Reconciliation Commission's (TRC) 94 calls to action dealt specifically with the justice system. Across the Prairies, he said, very few of the recommendations have been implemented.

"It has not been followed through yet," he said. "The more difficult things, it doesn't seem to happen." Henry said reforming the child welfare system would also be a natural way to start fixing the issue.

These numbers aren't surprising, but with serious time and effort they need not be inevitable, Venne said. Many measures to improve the situation going forward have been identified by the TRC and others, Venne said, but she hasn't seen a change in attitude.

"This way, they're just building more jails," she said. "And we know who's going to be in those jails."

McIntosh, Emma and Alex McKeen (2018). Overrepresentation of Indigenous people in Canada's prisons persists amid drop in overall incarceration, by Emma McIntosh and Alex McKeen, *Toronto Star*, June 19.

Emma McIntosh is an environment, justice and investigative reporter with StarMetro Calgary. **Alex McKeen** is a Vancouver-based reporter covering wealth and work. Alexandra McKeen is a Vancouver-based reporter covering wealth and work.

8.4 Creating a Post-Colonial Canada

Movement towards self-determination for Indigenous peoples has occurred in several stages. One of the earliest developments was the introduction in 1969 of the White Paper (Statement of the Government of Canada on Indian Policy) prepared by the then Minister of Indian Affairs, Jean Chrétien.

The White Paper argued that First Nation peoples should be treated as regular citizens and that the Indian Affairs department should be disbanded. The report galvanized the First Nations in united opposition, arguing that ending "the special status of the Indians" was not a solution to the problem. Harold Cardinal of the Indian Association of Alberta wrote a response titled "Citizens Plus," which came to be known as the Red Paper.

Citizens Plus (the "Red Paper") mapped out an alternative view whereby Indigenous peoples would contribute to Canadian society while concurrently exercising rights and power at the community level.

Constitution Act, 1982

Initially, the Canadian government did not plan to include Indigenous rights so extensively within the constitution when the Act was being redrafted in the early 1980s. Early drafts and discussions during the patriation of the Canadian Constitution did not include any recognition of those existing rights and relationships. Through campaigns and demonstrations, Indigenous groups in Canada successfully fought to have their rights enshrined and protected.

Under Sections 25, 35, and 37 of the Constitution Act, 1982, the Government of Canada recognized the inherent right of self-government. Section 35 states:

> 35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.
>
> (2) In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada.
>
> (3) For greater certainty, in subsection (1) "treaty rights" includes rights that now exist by way of land claims agreements or may be so acquired.
>
> (4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.

Indigenous rights have been defined in part through Supreme Court cases such as R. v. Sparrow (1990) and Delgamuukw v. British Columbia (1997). However, such cases (and even parliament) cannot create Indigenous rights; at best, they can only recognize them. Indigenous rights and political responsibilities flow from inside Indigenous nations, and not from Canada or the courts. In terms of recognition, however, Indigenous rights have been interpreted to include a range of cultural, social, political, and economic rights, including the right to land, as well as to fish, to hunt, to practice one's own culture, and to establish treaties. But the courts have also circumscribed the limits of these rights owing to a biased understanding of Indigenous culture, expressions of ownership, and grounds of sovereignty.

The Royal Commission on Aboriginal Peoples, 1996

The Royal Commission on Aboriginal Peoples (RCAP) was an extensive study of Aboriginal people in Canada. It was established to examine the relationship between Canadians and Indigenous peoples in the wake of the Oka Crisis (1990) and the failed Meech Lake Accord (1990).

The RCAP's Final Report, released in 1996, reviewed a broad spectrum of Indigenous issues. A central conclusion was that "the main policy direction, pursued for over 150 years, first by colonial then by Canadian governments, has been wrong." At the core of its 440 recommendations was a rebalancing of political and economic power between Indigenous nations and other Canadian governments. As the Report noted: "Indigenous peoples must have room to exercise their autonomy and structure their solutions." It had six key themes:

1. Indigenous nations have to be reconstituted.
2. A process must be established for the assumption of powers by Indigenous nations.
3. There must be a fundamental reallocation of lands and resources.
4. Indigenous people need education and crucial skills for governance and economic self-reliance.
5. Economic development must be addressed if poverty, unemployment, and welfare are to change.
6. There must be an acknowledgement of injustices of the past.

The Indian Residential Schools Settlement Agreement, 2007

The Indian Residential Schools Settlement Agreement (IRSSA) between the Government of Canada, various churches, and the Indigenous peoples of Canada was the largest class-action settlement in Canadian history. The IRSSA, which came into effect in September 2007, has five main components:

- **Common Experience Payment (CEP).** Under the IRSSA, $1.9 billion was set aside for former residents of the schools. Every former student would receive $10,000 for the first year of schooling, and $3,000 for each subsequent year. According to Indigenous and Northern Affairs Canada (INAC), 98 percent of the estimated 80,000 eligible former students had received payment by the end of December 2012, with over $1.6 billion in total approved for payment.
- **Independent Assessment Process (IAP).** In addition to the CEP, funds were allocated for the Independent Assessment Process, an out-of-court process for resolving claims of sexual abuse and serious physical and psychological abuse. As of 31 December 2012, over $1.7 billion in total had been issued through the IAP. According to Dan Ish, chief adjudicator of the Indian Residential School Adjudication Secretariat, around three times more applications were received than expected, and the IAP continued hearings until around 2017.
- **Truth and Reconciliation Commission (TRC).** The Settlement Agreement also set aside $60 million for a five-year Truth and Reconciliation Commission that would provide opportunities for individuals, families, and communities to share their experiences. The Commission, established in 2008, was directed to raise public awareness through national events and its support of regional and local activities. It would also create a "comprehensive historical record" on the residential schools (and, budget permitting, a research centre).
- **Commemoration.** An important aspect of the IRSSA was the emphasis on acknowledging the impact of the residential schools and honouring the experiences of former students and their families and communities. To this end, the Settlement Agreement established a fund of $20 million for commemorative projects. This process involved the TRC, which would review and recommend proposals, and the AANDC, which would allocate the funds.
- **Health and Healing Services The Settlement Agreement.** The Health and Healing Services The Settlement Agreement also included $125 million for the Aboriginal Healing Foundation (AHF), and it established the Indian Residential Schools Resolution Health Support Program. This program would provide support for former students, with services provided by elders and Aboriginal community health workers as well as psychologists and social workers.

A decade later, and more than $3 billion paid out to survivors, it could still take several more years before the process to compensate students who suffered the worst abuses at residential schools is finally wrapped up. The initial budget for was $960 million. To date, more than 38,000 people have applied for compensation and $3.1 billion has been paid out. Combined with another payment that went out to all former residential school students as part of the settlement, more than $4.7 billion has been paid to survivors.

The Truth and Reconciliation Commission, 2015

Following the announcement of the IRSSA, the newly established Truth and Reconciliation Commission (TRC) spent six years travelling across Canada hearing from Indigenous persons who had been taken from their families and placed in residential schools. The TRC's mandate was to create an historic record about residential schools and their impact on former students, and then share this record with the public.

Under its Chair, Chief Justice Murray Sinclair (now Senator Sinclair), the TRC's final report was released in December 2015 and included 94 "Calls to Action." The Calls were for sweeping changes to child welfare, education, and healthcare; recognition of Indigenous language and cultural rights; an inquiry into missing and murdered Indigenous women; and recognition and visibility to Indigenous sovereignty and histories. One of the report's main messages is that too many Canadians know little or nothing about the roots of these conflicts. In government circles, the gap makes for poor public policy decisions. In the public realm, it reinforces racist attitudes and fuels civic distrust between Aboriginal peoples and other Canadians (TRC, 2015: 8).

In 2015, Prime Minister Justin Trudeau promised to implement all 94 of the TRC's recommendations. The TRC presented an opportunity to address the historic trauma caused by residential schools and to work towards meaningful change. Seventy-six of the Calls to Action fall under federal jurisdiction. CBC has kept track of implementation progress on its "Beyond 94" webpage, reporting that 10 of the Calls have been "completed" and 26 have "not started." In between, most are in the proposal stage and a smaller number are currently underway.

Pam Palmater

The True Test of Reconciliation

The right to say "No"

Canada will only truly give effect to reconciliation when Indigenous peoples have the right to say "no," argues Pam Palmater, Chair in Indigenous Governance at Ryerson.

Conflict is coming. There is no getting around that fact. Anyone who believes that reconciliation will be about blanket exercises, cultural awareness training, visiting a native exhibit at a museum or hanging native artwork in public office buildings doesn't understand how we got here.

Reconciliation between Canada and Indigenous peoples has never been about multiculturalism, diversity or inclusion. Reconciliation is not an affirmative-action program, nor is it about adding token Indigenous peoples to committees, advisory groups or board rooms. We cannot tokenize our way out of this mess that Canada created

Real reconciliation requires truth be exposed, justice be done to make amends and then Canada's discriminatory laws, policies, practices and societal norms be reconciled with Indigenous rights, title, treaties, laws and jurisdiction. That process of truth, justice and reconciliation will be painful. It requires a radical change. Nothing less than the transfer of land, wealth and power to Indigenous peoples will set things right.

UN Declaration on the Rights of Indigenous Peoples

The true test of reconciliation will be whether Canada respects the Indigenous right to say 'no.'

Canadian courts have been issuing decisions about Aboriginal rights and title and treaty rights, sending the strong message to governments that they must obtain the consent of Indigenous peoples before taking actions or making decisions that will impact our lives. Governments have not listened. Canada's failure to listen is one of the reasons why Indigenous peoples spent more than 25 years negotiating the United Nations Declaration on the Rights of Indigenous Peoples which guarantees the right of Indigenous peoples to free, prior and informed consent. Article 19 of UNDRIP provides:

> States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Consent is a legal concept which can be defined as the voluntary acquiescence of one person to the proposal of another. In general, it is the right to say yes or no to something and/or put conditions on an agreement. Consent must be free from misrepresentations, deceptions, fraud or duress. This is a very basic right, but one which has been denied to Indigenous peoples since contact.

Take for example, the actions of Indian agents and police, who used food rations to extort sex from Indigenous women and girls. In the context of being forced to live on reserves, not being allowed to leave the reserve and being dependent on food rations, what real choice would a young girl have? Similarly, when police officers or judges detain Indigenous women and girls, drive them to secluded locations and force them to perform sexual acts — there is no real consent when the threat of lethal force or arrest on false charges is ever-present.

Will the Kinder Morgan Pipeline Go Ahead against the will First Nations?

This is especially so given our knowledge of the number of assaults and deaths of our people in police custody. There was no consent when they stole our children and put them into residential schools, nor was there any consent when priests, nuns and others raped those children. There was no consent when doctors forcibly sterilized Indigenous women and girls — sometimes without their knowledge.

Today, the right of Indigenous peoples to free, prior and informed consent has become the central issue in Canada's reconciliation agenda. Justin Trudeau campaigned on the promise of implementing UNDRIP into law and respecting the right of Indigenous peoples to say no. When asked by APTN host Cheryl McKenzie whether no would mean no under his government, he responded "absolutely." Another way of putting this is that Indigenous peoples could exercise their legal right to refuse to approve or authorize a project. This veto right stems from various sources, but primarily our inherent rights as Indigenous governments with our own laws and rules which govern our traditional territories.

They may also come from specific Aboriginal rights, treaty rights and Aboriginal title. These rights are not only protected within our own Indigenous laws, but also section 35 of Canada's Constitution Act, 1982 and various international human rights laws, including UNDRIP. Yet, after Trudeau announced his latest idea to create a legislative framework to recognize Indigenous rights and avoid litigation, Justice Minister Raybould stated clearly that "consent doesn't mean a veto" for Indigenous peoples.

So, we are now back where we started. Canada has not yet reconciled its laws, policies or political positions to the fact that Indigenous peoples have the right to say no to development projects on our lands. This means that conflict will continue to grow over mining, forestry, hydraulic fracking and pipelines on Indigenous lands.

The true test of reconciliation will inevitably play out on the ground, like it did in Oka, Ipperwash, Gustafsen Lake, Esgenoopetitj (Burnt Church) and Elsipogtog. Will Canada force the Kinder Morgan pipeline to go ahead against the will of British Columbia and First Nations? Will Canada isolate and exclude First Nations who do not subscribe to the extinguishment requirements of Canada's land-claims process? What will happen to First Nations who stop provincial social workers and police officers from entering their reserves to steal more children into foster care? This will be the real test of our inherent right to say no.

The True Test Of Reconciliation

Canada will only truly give effect to reconciliation when Indigenous peoples have the right to say no — no to discriminatory government laws and policies; no to federal and provincial control over our Nations; no to racism from society, industry and government; no to sexualized violence, abuse and trafficking; no to theft of our children into foster care and the imprisonment of our peoples; no to the ongoing theft of our lands and resources; and no to the contamination and destruction of our lands, waters, plants, animals, birds and fish.

The right to say no is the core of any future relationship with the Canadian state and its citizens. It's a basic right — one which is grounded in our sovereignty as individuals and Nations to decide for ourselves the life we wish to live. Canada has made it clear we have no right to say no, only an obligation to say yes.

First Nations leaders and citizens should not wait to see how this plays out in court — they should assert and defend their right to say no now. □

Palmater, Pam (2018). True test of reconciliation: respect the Indigenous right to say No. *Canadian Dimension*, Vol 52, Issue 1 (Spring).

Pam Palmater is a Mi'kmaw citizen and member of the Eel River Bar First Nation in northern New Brunswick. She has been a practicing lawyer for 18 years and is Associate Professor and the Chair in Indigenous Governance at Ryerson University.

8.5 Principles Respecting the Government of Canada's Relationship with Indigenous Peoples, 2017

In the federal election in 2016, the Liberals ran on a platform of changing the relationship between the Crown and Indigenous peoples in Canada. They promised a new "nation-to-nation" relationship based on respect, cooperation, partnership, and the recognition of Indigenous rights. In February 2018, Prime Minister Trudeau announced the development of a new and transformational Indigenous Rights, Recognition and Implementation Framework.

The Ten Principles

The Rights Framework was preceded by the Department of Justice's Principles Respecting the Government of Canada's Relationship with Indigenous peoples, made public by the then Minister of Justice, Jody Wilson-Raybould, in July 2017. Some Indigenous leaders have criticized the government for failing to consult on the development of the Principles, but the ten principles became the basis of subsequent government policy.

According to the Government, these Principles were rooted in Section 35 of the Charter of Rights, guided by the UN Declaration, and informed by the Report of the Royal Commission on Aboriginal Peoples (RCAP) and the Truth and Reconciliation Commission's "Calls to Action." In addition, they are meant to reflect a commitment to good faith, the rule of law, democracy, equality, non-discrimination, and respect for human rights. Subsequently, the Principles have appeared in government literature in reference to their role guiding the Cabinet Committee review of Canada's laws and policies, and the "Nation-to-Nation" Memorandums of Understanding with the Assembly of First Nations (AFN). Indigenous leaders have approached things more cautiously.

Much of the Principles document attempts to grapple with how best to incorporate Indigenous peoples into pre-existing Canadian legal orders (largely neglecting Indigenous pre-existence). For example, Principle 3 asserts that governments should "ensure that Indigenous peoples are treated with respect and as full partners in Confederation," while Principle 4 motions towards "cooperative federalism" and supports "developing mechanisms and designing processes which recognize that Indigenous peoples are foundational to Canada's constitutional framework."

Similarly, Principle 7 states that, "any infringement of Aboriginal or treaty rights requires justification in accordance with the highest standards established by the Canadian courts and must be attained in a manner consistent with the honour of the Crown and the objective of reconciliation." Muskrat Falls, Site C, and the Kinder Morgan Trans-Mountain pipeline expansion — projects Indigenous peoples have vigorously contested — are all examples of so-called "justifiable infringement."

Principle 6 states that the Crown will "consult and cooperate in good faith with the aim of securing their *free, prior, and informed consent*" (emphasis added). This principle commits Canada only to attempting to honor free, prior and informed consent — even though it is a principle of international law.

IN SUMMARY

THE GOVERNMENT OF CANADA RECOGNIZES THAT

01 All relations with Indigenous peoples need to be based on the recognition and implementation of their right to self-determination, including the inherent right of self-government.

02 Reconciliation is a fundamental purpose of section 35 of the *Constitution Act, 1982*.

03 The honour of the Crown guides the conduct of the Crown in all of its dealings with Indigenous peoples.

04 Indigenous self-government is part of Canada's evolving system of cooperative federalism and distinct orders of government.

05 Treaties, agreements, and other constructive arrangements between Indigenous peoples and the Crown have been and are intended to be acts of reconciliation based on mutual recognition and respect.

06 Meaningful engagement with Indigenous peoples aims to secure their free, prior, and informed consent when Canada proposes to take actions which impact them and their rights, including their lands, territories and resources.

07 Respecting and implementing rights is essential and that any infringement of section 35 rights must by law meet a high threshold of justification which includes Indigenous perspectives and satisfies the Crown's fiduciary obligations.

08 Reconciliation and self-government require renewed fiscal relationship, developed in collaboration with Indigenous nations, that promotes a mutually supportive climate for economic partnership and resource development.

09 Reconciliation is an ongoing process that occurs in the context of evolving Indigenous-Crown relationships.

10 Distinctions-based approach is needed to ensure that the unique rights, interests and circumstances of the First Nations, the Métis Nation and Inuit are acknowledged, affirmed, and implemented.

Social Welfare in Perspective

Canada Finally Adopts UNDRIP, 2016

Advancing the Rights of Indigenous Peoples

Questions remain about what the United Nations Declaration on the Rights of Indigenous Peoples means and how fully it will be implemented.

There were cheers in the United Nations as Canada officially removed its objector status to the UN Declaration on the Rights of Indigenous Peoples Tuesday, almost a decade after it was adopted by the General Assembly.

"We are now a full supporter of the declaration, without qualification," [Canada's Indigenous Affairs Minister] Bennett said, as she addressed the Permanent Forum on Indigenous Issues at the United Nations in New York City on Tuesday.

"We intend nothing less than to adopt and implement the declaration in accordance with the Canadian Constitution."

The declaration recognizes Indigenous Peoples' basic human rights, as well as rights to self-determination, language, equality and land, among others.

Bennett — who received a standing ovation for her statement — is at the United Nations with Justice Minister Jody Wilson-Raybould.

"It was a very emotional moment for me," said Chief Wilton Littlechild, a Cree lawyer and former commissioner of the Truth and Reconciliation Commission of Canada who was at the UN on Tuesday. Littlechild has been involved with the UN for nearly 40 years and said he's rarely seen anyone receive a standing ovation.

Littlechild said today's announcement marks a beginning to what could be a long process of "harmonizing" Canada's laws with the standards set in the declaration, and improving the country's relationship with Indigenous Peoples.

"The declaration is much like the treaties, it calls on us to work together," he said. "Today would not be too late to start the journey together."

Implementing the declaration

Bennett told the UN that Canada is in a unique position to implement the declaration.

"Canada is now a full supporter of the [UN Declaration on the Rights of Indigenous Peoples] without qualification," Indigenous Affairs Minister Carolyn Bennett told the United Nations in New York on Tuesday. "Through Section 35 of its Constitution, Canada has a robust framework for the protection of Indigenous rights," she said.

"By adopting and implementing the declaration, we are excited that we are breathing life into Section 35 and recognizing it as a full box of rights for Indigenous Peoples in Canada."

Bennett also said implementing the UN declaration in Canada will require the full co-operation of Indigenous Peoples and the support of all provinces and territories. Ontario Aboriginal Affairs Minister David Zimmer also attended the UN meeting

"It can't be done unilaterally," said B.C. Grand Chief Edward John, who was also present for Tuesday's announcement.

John said that by adopting the UN declaration, more than ever Canada must now consult with Indigenous Peoples on any laws or administrative measures that affect them. "Indigenous governments are not some inferior form of authority," John said. "They are the original form of authority over their lands, resources and territories."

Historic day

Shortly after the 2015 federal election, Bennett pledged that the new Liberal government would implement the UN declaration as part of its effort to rebuild its working relationships with First Nations, Métis and Inuit peoples.

Canada actually officially endorsed the declaration in 2010, but the Conservative government of the day called it an "aspirational document" and not legally binding.

Assembly of First Nations National Chief Perry Bellegarde — who will also be attending the Forum later this week — tweeted that it was a "historic day" as Canada moves toward reconciliation with Indigenous Peoples.

CBC News. (2016) Canada supports UN Indigenous rights declaration: Now what? (May 11).

8.6 The Indigenous Rights Framework, 2018

On February 14, 2018, on the heels of the acquittal of Gerald Stanley for the shooting death of Colten Boushie, a resident of the Cree Red Pheasant First Nation of Saskatchewan, Prime Minister Trudeau outlined a new Indigenous Rights, Recognition and Implementation Framework that would include new ways to recognize and implement Indigenous Rights.

Though it was not ratified as law, a suite of related legislation and policy has been rapidly deployed. It includes fiscal policy, omnibus legislation, changes in negotiations for land and self-government, and splitting Indigenous and Northern Affairs Canada (INAC) into two ministries. There is the establishment of the National Reconciliation Council, a Working Group of Ministers to Review Laws and Policies Related to Indigenous Peoples (also known as the Cabinet Committee to "Decolonizing" Canada's Laws), and the Principles respecting the Government of Canada's relationship with Indigenous peoples.

The Indigenous Rights Framework

Certainly, progress has been made on a number of fronts. After a decade of a Conservative, anti-Indigenous governments, and really after 150 years of anti-Indigenous governments, Indigenous activists and leaders are making gains. The Idle No More movement has forever changed the discourse in this country, Indigenous women and Two-Spirit organizers intervened to demand justice, the Truth and Reconciliation Commission brought focus to our collective challenges.

There now are formal commitments to ensure the right of Indigenous peoples to say no to development in Indigenous territories, full implementation of the United Nation's Declaration on the Rights of Indigenous Peoples (UNDRIP), a federal inquiry into missing and murdered Indigenous women and girls, repealing laws that infringe on Indigenous rights, honouring the Truth and Reconciliation (TRC) Calls to Action, keeping land disputes out of the courts, funding for water infrastructure on reserve, resources slowly trickling into communities for education and a settlement for the victims of the Sixties Scoop.

All this is progress. But rather than move towards a recognition of First Nation territorial authority, which would mean a return of land to Indigenous peoples, the new Indigenous Rights, Recognition and Implementation Framework appeared to move the federal government towards a resource-specific approach that avoids the issue of Aboriginal title in any fulsome way. "Aboriginal title" is the legal right recognized for underlying proprietary interest in the land.

Government literature encourages more comprehensive land claims, while also moving away from them towards just fishing or forestry agreements. Moreover, the federal government insists the Aboriginal title aspects of the Rights Framework legislation will be "co-developed," while communities participating in the rights and recognition tables report frustration, little space for substantive dialogue, and apparent status quo federal mandates when it comes to Aboriginal title and self-government rather than self-determination.

The Dismantling of Indian and Northern Affairs Canada (INAC)

One of the recommendations of the Royal Commission on Aboriginal Peoples back in 1996 was splitting up the Indigenous Affairs department. The recurring complaint was that INAC is (1) colonial, paternalistic, and resistant to change; (2) its performance on Indigenous policy is inadequate; and, (3) it has failed to meet treaty and claims obligations. In 2017 that split finally occurred.

In a late-summer cabinet shuffle in 2016, Prime Minister Trudeau announced that INAC would be split into two ministries: Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) and the Department of Indigenous Services Canada (DISC). Explaining this surprise move, Bennett singled-out RCAP, noting that "we're doing what the Royal Commission on Aboriginal Peoples asked for twenty years ago, to actually have two departments, one that was a services department and one that was the relationship and building that Crown Indigenous relationship." However, the context today is much different than it was in 1996., observes Veldon Coburn in Policy Options.

There still remain crucial questions about how this split will be implemented. As an example of the confusion this split has caused, treaty First Nations have long insisted that education and health provisions, among other "programs and services" are very much international treaty obligations owed by Canada. Therefore, this responsibility should fall under the CIRNA mandate, i.e. due to the "nation-to- nation" and treaty nature of this responsibility. And yet, education and health fall under DISC's mandate.

The federal government has been clear that DISC is meant to fade away as bands transition into self-government agreements and begin to administer their own programs and services (there are outstanding questions on who designs these programs and services). As the DISC mandate letter states, "Over time, one fundamental measure of success will be that appropriate programs and services will be increasingly delivered, not by the Government of Canada, but instead by Indigenous Peoples as they move to self-government."

In the past three decades of Canadian fiscal federalism, as Coburn points out, devolution of programming and services has often been more burdensome than beneficial. Nowhere does this "coercive federalism" flourish more than when federal control is paired with funding relations.

The key to any success for First Nations communities is sufficient, reliable, and non-partisan funding strategies. Only time will tell if this foundation is firmly secured.

The New/Old Self-Government Model

In statements and government literature prior to and since the announcement of the Rights Framework, it became clear that central to the new legislation will be a process to recognize self-determining First Nation governing collectivities and offer alternatives to the Indian Act once and for all. The federal government insists this will be open-ended and that it will be up to First Nations to determine the shape of their re-constituted nation.

While the federal government is pointing to UNDRIP, the TRC, and Chapter Two of RCAP for inspiration, precedents for its vision for self-government may be found in Bill S-212 First Nations Self-Government Recognition Act. Though that Bill never became law in British Columbia, the ideas were repacked in the 2014 BC AFN Governance Toolkit, A Guide to Nation Building. Both emphasized constitution development with authority to legislate reserve-based affairs and established a process for amalgamating bands.

This appears to be the mechanism through which the federal government will prepare First Nations for post-Indian Act, reserve-based self-government. Opting in will likely be required to qualify for further steps along the self-government path. When federal officials speak of "removing barriers" to the expression of First Nation self-determination, they seem to mean the need for more capacity and transparency. First Nations themselves have identified the barriers rather differently — government paternalism, treaty violations, and dispossession of lands and resources.

Reconstituting Nations

When the federal government decides First Nations are ready to take on more administrative responsibility, a likely solution to service delivery will be via an aggregation model. "Reconstituted nations" will mean scaling up along regional, treaty or national lines and then creating new institutions to deliver programs and services. The choice would remain with First Nations as to how they decide to organize as aggregates.

With the Rights Framework legislation, we can expect to see all of the above formalized in legislation and framed as a movement away from the Indian Act. But this vision of self-government is limited and focused on entrenching a reserve-based administrative governance model with improvements in service delivery, transparency and accountability. It includes nothing of the "transformational" policy the government has promised.

First Nations will not be forced into this process, only encouraged to participate. But what kind of choice is voluntary if alternative models — ones that might focus on traditional territories, title lands, or expanded governing authority — are not an option? For those who object to this process, the Indian Act will likely remain in place but with pressure to conform or be labeled "dissidents" or criminalized (in the past a federal strategy has been to withhold or reduce federal transfers as leverage to obtain consent from those who object to policies).

"Incrementalism" as Federal Policy

Sectoral and incremental approaches to Aboriginal title were devised almost two decades ago within the BC Treaty Process as a solution to the lack of interim measures for bands during lengthy, decades-long processes. (They are also called "slim AIPs [Agreements in Principle] or "pre-treaty" agreements).

"Incrementalism" as a policy is almost 20-years old and has been a mechanism within the BC Treaty Process for about as long. The BC Treaty Commission has been recommending that First Nations, Canada, and BC shift the emphasis from final agreements to building treaties gradually over time, setting in place all the pieces to ensure the success of the broader agreement, once ready to be signed.

The movement away from the comprehensive claims and modern treaty model is already underway. In June 2016, INAC revealed the 20 "exploratory tables" on land claims and governance matters, but refused to reveal the list of communities with whom it was negotiating. A year later, the number of tables had jumped to 50 (now at 60), and the "exploratory tables" were renamed as "Recognition of Indigenous Rights and Self-Determination Discussion Tables."

Today, there are 60 discussion tables involving 320 communities affecting 700,000 Indigenous people in Canada. This is a tremendous number, nearly half the total population. It includes approximately 265,000 Métis represented by five provincially-organized groups. There is one Inuit group. And nearly half of the First Nations groups at the table are advocacy organizations, such as Political Territorial Organizational (PTOs) and tribal councils.

The Future of Aboriginal Title

This movement away from land claims settlements towards more sectoral, incremental agreements over particular issues and resources was also emphasized by former Conservative Prime Minister, Stephen Harper, his last government having commissioned a special report, "A New Direction: Advancing Aboriginal and Treaty Rights."

The Harper government's report reviewed the comprehensive land claims policy in Canada and recommended that Canada should "develop an alternative approach for modern treaty negotiations, one informed by the recognition of existing Aboriginal rights, including title, in areas where Aboriginal title can be conclusively demonstrated."

Sectoral agreements allow the federal government to insist it is no longer extinguishing or modifying title, yet, there are still "certainty" clauses that prevent First Nations from exercising jurisdiction over their lands and resources. First Nations temporarily suspend claims in exchange for financial compensation and/or a co-management regime. These agreements may then be re-visited and re-negotiated on a regular basis, offering some flexibility for First Nations but none of these agreements have recognized a substantive form of First Nation jurisdiction.

"Nothing about Us without Us"

Key questions arose in response to this strategy that can now also be posed to Prime Minister Justin Trudeau's government, such as:

- What guidance does the Rights Framework give as to the legal criteria for making a claim acceptable or unacceptable?
- Will these tables "test positions" for the Crown that they wish to advance in litigation?
- Is the Crown pushing positions that have failed in litigation or through the comprehensive land claims policy?
- Do sectoral agreements erode broader claims for Aboriginal title and rights of Indigenous nations?

Nearly all of Canada's proposed changes to its relationship with First Nation peoples neglect issues of land restitution and treaty obligations. Whether relational, policy or legislative reform, they focus on the creation of self-governing First Nations with administrative responsibility for service delivery on limited land bases. Provincial, territorial and federal governments will continue to patronize and intervene in the lives and lands of First Nation peoples.

While there are some welcome changes including resources for program and service delivery, there is also a clear attempt to maintain a modified version of the status quo. Such efforts only serve to mislead First Nations and the Canadians on the transformational nature of these changes.

There is still time to influence social policy.

Much More Work To Do

Since well before the time of the Indian Act in 1876, the Indigenous peoples of Canada have been subjected to colonial government policies concerned mainly with seizing their land and keeping it, first for the settlers and more recently for the economic gains of resource extraction. Government policies were aimed at "assimilating" Indigenous peoples by breaking their cultural and language ties. Through such policies, Indigenous families and communities suffered immeasurable harm, such that even today many communities experience poverty and housings conditions resembling Third World countries.

Positive developments are to be welcomed but many Indigenous leaders and scholars questioning the government's commitment to acknowledging Indigenous rights, saying that the high expectations stated in public are not matched by actions that would bring guarantee them in practice. They also maintain that the process has proceeded without adequate Indigenous consultation and full engagement with Indigenous communities, and especially that the core issue centring on treaties and land rights is not being addressed.

Social justice initiatives such as the Residential Schools Settlement Agreement and the Truth and Reconciliation Commission are steps in the right direction. Such measures provide opportunities for both compensation and healing. Underlying all this is the need for Indigenous self-determination — Indigenous control of Indigenous affairs, "nation to nation."

Social Welfare Policy in Action

Indigenous Women's Health

Hearing our voices

Hearing Our Voices is an Indigenous women's reproductive health curriculum designed to help health care professional learn more about the experiences of Indigenous patients and clients.

How often do you hear stereotypes about your ethnicity or cultural background? Could you rent an apartment in your ideal neighbourhood and feel comfortable living there? How would you react if someone thought you were homeless?

Having doctors, nurses and other health professionals consider these questions can help improve health care for Indigenous women in Canada, according to the creators of a new online training program launched on Tuesday.

The program, called Hearing Our Voices: An Indigenous Women's Reproductive Health Curriculum, aims to encourage those in health care, from medical residents to receptionists, to reflect on their own biases and learn about the experiences of Indigenous patients and clients.

This type of education has largely been overlooked in health training, but is fundamental to building patients' trust and helping them receive the care they need — especially when it comes to sensitive issues around reproductive health, says Lisa Richardson, strategic adviser in Indigenous health and associate professor at the University of Toronto's faculty of medicine, who co-led the development of the program.

"It's critical," she says. Yet, "when you're comparing it to sort of hard core basic science content, it's not necessarily been viewed with the same level of rigour or interest."

This attitude toward Indigenous health education is starting to change, however, Dr. Richardson says. Its importance has been amplified by the Truth and Reconciliation Commission, which called for mandatory training on Indigenous health issues for medical and nursing school students, as well as proposed class-action lawsuits on the forced sterilization of Indigenous women in Canada, which took place as recently as 2018, she says.

Understanding one's own biases and where patients come from can mean the difference between having them return for further appointments and making them feel too uncomfortable to come back, says Naana Jumah, an obstetrician-gynecologist at the Thunder Bay Regional Health Sciences Centre and researcher at the Northern Ontario School of Medicine, who also led the development of the program.

It can also mean the difference between creating a practice where women feel safe and welcome and one where they feel they cannot openly discuss their issues, Dr. Jumah added.

"One of the first principles about medicine is that we need to show care and compassion to our patients. And the way that we do that is by having an understanding of where they're coming from," she said.

The program was created with the input of members from 11 different organizations across Canada, many of which were Indigenous women's organizations. It consists of five learning modules, approximately 30 minutes each, which include lessons on self-reflection, the effects of trauma (including intergenerational trauma due to colonization and the residential school system), how to better communicate and traditional practices and cultural protocols.

While it is primarily intended for medical residents, anyone who works in health care can use it online, Dr. Richardson said.

Yolanda Wanakamik, a graduate student in education at Lakehead University in Thunder Bay, Ont., who

helped develop the program, said it was important to highlight the voices of Indigenous women themselves. The modules include videos, in which Indigenous women discuss issues such as racial stereotypes and their experiences with childbirth.

"In terms of women's reproductive health, there is nobody else who knows better than the women themselves," she said, adding she hopes health-care professionals will continue learning about the history, culture and social determinants of health of Indigenous patients long after completing the training program.

In sharing their input, many Indigenous women expressed it was important for them to build a relationship with their health-care providers first, before sharing personal information about their health or proceeding with intimate examinations, Ms. Wanakamik said.

Many had the same message for health care workers, she added: "They want to be respected. They want to be approached in a kind way."

New program aims to improve care for Indigenous women by having health professionals reflect on their biases.

Leung, Wency (2019). New program aims to improve care for Indigenous women by having health professionals reflect on their biases. *Globe and Mail* (October 1).

Questions for Reflection

1. What are some examples of the kinds of biases and prejudices that might arise in the context of the health care profession's interaction with Indigenous peoples?
2. Local initiatives such as this one were among the many recommendations of the Truth and Reconciliation Commission (TRC). What similar kinds of initiatives did the TRC call for in their Calls to Action.
3. To what extent might an initiative like this be extended on a larger scale to other areas of education — for example, to elementary and secondary schools, undergraduate colleges and university programs, and professional training? Or to businesses.
4. Is this an initiative that the federal, provincial and territorial governments should fund and support on a grander scale in their respective jurisdictions.
5. What would be the likely new costs involved in expanding programs like this, given that much of the infrastructure is already in place?

A Moment in Time: 1996

The Last Residential School

Cultural genocide

It wasn't until 1996 that the last residential school was closed. The TRC report found that the residential school system amounted to nothing less than cultural genocide.

In Canada, the Indian residential school system was a network of boarding schools that targeted Indigenous children for assimilation. The network was funded by the Canadian government's Department of Indian Affairs and administered by Christian churches.

The school system was created for the purpose of removing children from the influence of their own culture and assimilating them into the dominant Canadian culture. Over the course of more than hundred-years, about 30%, or roughly 150,000, of Indigenous children were placed in residential schools nationally. At least 6,000 of these students are estimated to have died while residents.

As a means of destabilizing Indigenous nations, the residential school system severely harmed Indigenous children by removing them from their families, by depriving them of their ancestral languages, and by exposing many of them to physical and sexual abuse. This effectively undermined Indigenous nationhood across Canada, since it robbed First Nations communities of the next generation of leaders who knew their languages and their peoples' political systems.

The legacy of the residential school system has been linked to an emerging syndrome — the Indian Residential School Syndrome — which manifests with increased prevalence of post-traumatic stress, alcoholism, substance abuse, rootless identity, cultural shame, and suicide, which persist within Indigenous communities intergenerationally (or, is passed down from one generation to the next).

Disconnected from their families and culture and forced to speak English or French, students who attended the residential school system often graduated unable to fit into either their communities or Canadian society. The system was successful in disrupting the transmission of Indigenous practices and beliefs across generations. It was also, for the most part, a dismal education, often forcing girls to learn domestic housework skills and boys to learn about farming and other skills deemed appropriate to their sex.

On June 11, 2008, Prime Minister Stephen Harper offered a public apology on behalf of the Government of Canada and the leaders of the other federal parties in the House of Commons of Canada. Nine days earlier, the Truth and Reconciliation Commission (TRC) was established to uncover the truth about the schools.

Chapter Review

Questions

1. How do the social and economic conditions of Indigenous people differ from those of non-Indigenous persons in Canada?
2. What was the residential schools system, and why did it have such a devastating effect on First Nations families and communities?
3. Why is Indigenous self-determination such an important idea for promoting the social welfare of Indigenous peoples?
4. The 10 "Principles Respecting the Government of Canada's Relationship with Indigenous Peoples" contains seemingly contradictory claims. What are they?
5. The Indigenous Rights, Recognition and Implementation Framework of 2018 opts for reconstructing First Nations and reaching sectoral agreements and avoiding treaty disputes and land claims. Is this a good thing?
6. Indian and Northern Affairs Canada has now been split into two separate ministries. What is the rationale for the spit and what is the responsibility of each new ministry?

Exploring Social Welfare

1. The Oka Crisis of 1990 was one of the defining events leading to the creation of the Royal Commission on Aboriginal Peoples (1996). Research the background to the crisis and the outcome. Using the Library and Archives Canada website, you can browse all the RCAP reports and transcripts by keyword, unlocking a deep vault of research.
2. Review the 94 Calls to Action resulting from the Truth and Reconciliation Commission report. Prime Minster Trudeau has committed his government to fulfilling all 94 recommendations. Do you think this is feasible? Why or why not?

Websites

The Yellowhead Institute
www.yellowheadinstitute.org
The Yellowhead Institute is a First Nation-led research centre focused on policies related to land and governance. It mission is (1) shaping new governance models and supporting governance work in First Nations communities and urban communities; (2) influencing policy development and holding governments accountable for policies affecting First Nations; (3) contributing to public education on the legal and political relationship between First Nations and Canada; (4) facilitating opportunities for, and supporting Indigenous students and researchers; and (5) building solidarity with non-Indigenous students and researchers

Assembly of First Nations (AFN)
www.afn.ca
The Assembly of First Nations (AFN), formerly known as the National Indian Brotherhood, is a body of First Nations leaders across Canada. The aims of the organization are to protect the rights, treaty obligations, ceremonies, and claims of citizens of the First Nations in Canada.

The Congress of Aboriginal Peoples (CAP)
www.abo-peoples.org
The Congress of Aboriginal Peoples (CAP) is an organization that represents off-reserve and Métis people. Founded in the 1970s, the organization's mission is to represent the interests of Indigenous people who are not legally recognized under the Indian Act, including non-Status Indians and Métis peoples.