

**History of Indian policy**

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## Background Paper 2

# History of Indian Policy

### Responsibility for a people

In spite of differences in specific aspects of Indian policy, all the European powers who colonized the Americas shared one basic assumption: the aboriginal inhabitants of the land were subjects of the heads of the colonizing states. This assumption has remained to this day the basis of Indian policy in North America. Whatever the peculiar regional or chronological conditions, or the attitudes of the natives themselves, Indian people were not, and still are not, considered to be sovereign peoples.

### Trade, war, or settlement: Indian allegiance – the key

For the first two centuries of the European presence in Canada the bases of Indian-white relations (and hence of the white governments' Indian policies) were two: economic and military. The Indians were suppliers of the resources of the country and consumers of European goods. They were also either potential allies and protectors or enemies. The relationship, it should be remarked, was reciprocal; for the Indian usually sought the alliance of the newcomer in his struggles with other Indians – Champlain's tragic first contact with the Iroquois is an early example – and eagerly exchanged the fruits of the country for those of European technology. Fundamental to aboriginal culture was an exchange of presents (usually at repeated intervals) to symbolize the making or maintaining of pacts of friendship. In this can be seen the origin of the system of "presents", annuities, or treaty payments which came to characterize the Indian policy of the several colonial governments and their successors.

During the 17th and most of the 18th century the Indian policy of both the French and British colonial governments was confined principally to attempts to regulate commerce with the Indians, to ensure that the Indians would not attack the European settlements, and to enlist their aid in the American phases of what were essentially European wars. As long as the white population remained small and hence dependent on the natives, relations between Indian and white seemed to be between sovereign powers, although all colonial and European governments held to the principle that the natives were, in fact, subject peoples, a principle that governed their colonial policies in many other parts of

the world. As the numbers of colonists increased, this assertion of European sovereignty over the Indians became overt, and gradually the technological superiority of the Europeans, both as a coercive force and as the source of increasing Indian material dependency, enabled them to make good this claim.

### British Settlement – and a military Indian Department

In the British colonies, where settlement took priority over trade with the Indians, the military aspects of Indian policy predominated over the commercial and, since in 1763 the British conquest of Canada removed France from North America, it was this policy which formed the basis of subsequent dealings with the natives for the next seventy years. The Indian Department, which had first appeared in New York in the 1660's, was concerned primarily with the making of treaties and the distribution of "presents" designed to safeguard settlements and to ensure Indian alliances against the colonies' enemies (both Indian and white). It was to be expected, therefore, that the formulation and administration of British Indian policy would be in the hands of military, or quasi-military authorities. Indian presents, for example, were issued through the army commissariat.

### A matter of justice and a military necessity

A second aspect of British Indian policy stemmed from the fact that in most (but not all) cases the authorities recognized not native sovereignty but the existence of native rights in their lands. Both as a matter of justice and as a military necessity, it became British policy not to occupy land until native rights in it (and hence the possibility of armed native resistance) had been removed. In practice, recognition of native rights followed the same procedure as military or commercial alliance – through a treaty solemnized by the giving of presents.

The obverse of the coin was the guaranteeing to the native his hunting grounds, if necessary with military as well as statutory protection. This policy found expression in the Proclamation of 1763 and the Treaty of Fort Stanwix in 1768, which set limits to European settlement and reserved the land outside these limits for exclusive Indian use. The policy was administered by the military, and the practice of giving presents to maintain the alliances continued.



Following the American Revolution, in which most of Britain's Indian subject-allies held to their allegiance, there was an increasing influx of population (both white and Indian) into the hitherto unsettled parts of British North America. The authorities continued the policy of systematic commutation of native rights in land before settlement, together with reservation of specific areas for Indian use. This created certain problems of administration, for disposal of land often resulted in money payments, which were held in trust for the Indians by officers of the Crown. The relationship was losing its purely military character, and with it whatever appearances there were of one sovereign power dealing with another.

### **The civilians take over. Indians and British Yeoman: a new policy**

After the War of 1812, the military threat to British North America gradually disappeared, and with it, the remaining necessity for maintaining Indian affairs on its old military basis. At the same time there were two new forces at work in Great Britain which would affect the Indian policy. On the one hand, there was an increasing desire to economize, to get rid of any unnecessary expense of Imperial administration; and the maintenance of the old system of presents and alliances was certainly that. On the other hand, there was a growing humanitarian movement, which found expression in attempts to ameliorate the lot of the disadvantaged at home, and especially of the native peoples within the Empire.

These two forces came together in the late 1820's to produce a new Indian policy. In 1830, Indian administration was placed in the hands of the civil authority, whose job would be, not merely to preserve the alliances as previously, but to "civilize and settle" the Indians. The natives were to become self-sufficient farmers in the British yeoman mold. This policy had been foreshadowed by similar attempts by the Jesuits in New France, and some of the religious communities in New England. Presents were to be replaced by implements, seed, livestock and instruction in their use. The successful settlements of the Mississaugas at the mouth of the Credit River, and of the Six Nations in the Grand Valley, seemed to indicate the potential of such a policy.

### **Inclusion versus exclusion: a continuing dilemma**

But the new policy soon found itself in the midst of a paradox. Its evident end was to make the Indians just like all other residents of the provinces; yet the humanitarian impulse behind the policy saw a major danger to the "civilization" of the Indian in exposure to the less desirable aspects of that very non-Indian culture to which he was to become assimilated. One answer which suggested itself was the removal of Indian people to

some place free from the baleful influences of white society in order to "inculcate in them the ways of civilization" and, in 1835-36, an attempt was made to create such a haven on Manitoulin Island. A tension had been created in Indian affairs which is still present today: the Indian was to be made a part of the larger society, but to do so he had to be protected from that society.

The tendencies which had given rise to the new Indian policy of the 1830's continued apace into the 1850's. The Imperial government became more anxious to rid itself of Imperial encumbrances, and to this end announced that the role of the Indian Department was to be "expiring as the Indian progressed towards civilization". The policy of trying to help the Indian develop in isolation was abandoned in favour of creating Indian enclaves in the midst of white settlement which could act as an example and a potential home for the Indian, although the belief that a protective function had to be exercised continued. At the same time (in 1860), responsibility for Indian affairs was transferred to the Canadian government and vested in the Crown Lands Department, which had already assumed responsibility for administration of Indian funds held in trust. This Department, which after Confederation became the Department of the Interior, was the predecessor (through several intermediate stages) of the present Department of Indian Affairs.

### **1867-1969**

By the time of Confederation the Province of Canada had a fully developed Indian policy, inherited from the British Imperial and Colonial governments, and administered by the Crown Lands Department. This policy was, in turn, inherited by the new federal government which was given legislative authority over "Indians and lands reserved for Indians." The bases of the policy were: alienation of Indian interest in land through treaties, treaty reservation of lands for Indians, and the existence of a government department charged with managing the affairs of Indians. The aim of the policy was to effect a transition from the native way of life to that of the white majority, and the basic assumption was that the Indian required not only assistance, but also protection, in making the transition.

In 1868 the Dominion embodied this policy in legislation which became the basis of the Indian Act of 1874. Despite subsequent revisions and modifications, this is the Indian Act which is still in effect today.

The Dominion's first great challenge in the field of Indian affairs came with the acquisition of the Hudson's Bay Company territories (now the three Prairie Provinces, the two Territories, and the northern parts of Ontario and Quebec) in 1870. Prior to this, Indian policy had been merely a matter of accommodating previously

made provincial arrangements into an over-all federal system. In 1870, the government found itself with a vast territory with few non-aboriginal inhabitants, and the responsibility imposed by an Imperial Order in Council of making its own settlements with the Indians. The response was the extension of the older policies into the new Territories. Beginning in 1871 a series of treaties transferred the native rights to the land to the Crown. In return, the Indians received annuities and lands reserved for their use. In keeping with the intention that the Indian was to be made over in the mold of other Canadians, materials and implements (and sometimes rations) were provided or promised to enable the Indian to make the transition. The government also undertook to educate the Indian for this new role and to act, as it were, in *loco parentis* during the transition period.

Many of the irksome restrictions were removed in a revision of the Indian Act in 1951, but the resulting Act continued to draw Indian criticism. The Department of Indian Affairs which is the successor to the earlier administrative mechanisms was to a large extent the sole arm of government which Indian people encountered and consequently it attracted their bitter criticism.

### 1969–1975

In June, 1969 the Honourable Jean Chretien, then Minister of Indian Affairs and Northern Development, stated in the House of Commons: "The Indian people should have the right to manage their own affairs to the same extent that their fellow Canadians manage theirs."

This established the Government's position, in accord with the expressed desires of Indian leaders, that Band Councils be recognized as a local level of government responsible to their electorates for the levels of programs and services provided.

A White Paper on Indian Policy was also tabled in 1969. It proposed more complete integration of Indian people into the Canadian cultural mosaic, while preserving some of the more unique aspects of Indian life and protecting Indian lands.

Indian spokesmen rejected the proposals fearing that the special status of Indians might be jeopardized. The Government agreed to delay implementation of the White Paper, and to support a more gradual process of involvement of Indian people in the mainstream of Canadian society.

To give effect to the process, the Government has provided financial assistance to Indian associations in each province and in the northern territories to enable them to develop their own proposals as to what future policy should be. Grants are also made for research into treaties and other matters of rights so that representations can be made to the Government.

A 1973 departmental task force report dealing with "Contributions to Bands" contained many recommenda-

tions from Indian people for transfer of control of local affairs to Band Councils. Virtually all of these recommendations were accepted by the Department and incorporated into its Indian local government program. The development of local government on reserves is gradual and takes place only at the request of individual Band Councils. Those wishing to accept responsibility for their affairs usually do so on a step by step basis. Today, many Bands are administering nearly all programs on their reserves; others are administering varying numbers according to their capabilities and state of managerial development. There are a few Bands which rely solely on the Department to administer all programs on their behalf, but these are mostly located in remote areas and are small in size.

The Department provides funds to Band Chiefs and Councils to assist them in their leadership and representational roles. As well, financial resources are available for both the administration and the execution of specific programs after negotiation with the Department. The principal thrust of this program is responsible Indian local government, and it reflects the Federal Government's desire to promote local involvement of Indians in matters of concern to them. Local government in no way changes the special relationship between the Indian people and the Federal Government. It does not jeopardize the reserve system, nor the status of Indians, nor the funds, services or programs which are available from the Government. It is simply recognition of the right of the Indian people of Canada to self determination and also recognition of Indian Band and Inuit Settlement Councils as a level of local government with jurisdiction to act within designated powers.

The Government has given its undertaking to consult with Indian people on all aspects of policy and program planning, preparation and implementation. Objectives for some programs have been agreed upon and a consultative mechanism established to enable further productive talks to take place. Future policy will emerge in the light of joint discussions.

