

# HOW DID WE GET HERE?

A CONCISE, UNVARNISHED  
ACCOUNT OF THE HISTORY  
OF THE RELATIONSHIP  
BETWEEN INDIGENOUS  
PEOPLES AND CANADA



SENATE | SENAT  
CANADA

INTERIM REPORT OF THE STANDING SENATE COMMITTEE  
ON ABORIGINAL PEOPLES

---

THE HONOURABLE LILLIAN EVA DYCK, CHAIR  
THE HONOURABLE SCOTT TANNAS, DEPUTY CHAIR

APRIL 2019



SENATE | SÉNAT  
CANADA

For more information please contact us:

by email: [appa@sen.parl.gc.ca](mailto:appa@sen.parl.gc.ca)

by mail: The Standing Senate Committee on Aboriginal Peoples  
Senate, Ottawa, Ontario, Canada, K1A 0A4

This report can be downloaded at:

<https://sencanada.ca/en/Committees/appa/Reports/42-1>

The Senate is on Twitter: @SenateCA,  
follow the committee using the hashtag #APPA

*Ce rapport est également offert en français*

## TABLE OF CONTENTS

THE COMMITTEE MEMBERSHIP.....	1
ORDER OF REFERENCE.....	2
NOTE TO THE READER .....	3
GLOSSARY OF KEY TERMS USED THROUGHOUT THE REPORT .....	4
EXECUTIVE SUMMARY .....	5
SETTING THE CONTEXT FOR THE HISTORY OF THE RELATIONSHIP BETWEEN INDIGENOUS PEOPLES AND CANADA .....	7
FROM SOVEREIGN NATIONS TO WARDS OF THE STATE: THE STORY OF FIRST NATIONS’ RELATIONSHIP WITH THE CROWN .....	9
A.    FROM TIME IMMEMORIAL: THE LIFE OF FIRST NATIONS BEFORE THE ARRIVAL OF SETTLERS .....	9
B.    EUROPEAN BELIEFS USED TO JUSTIFY THE COLONIZATION AND ASSIMILATION OF FIRST NATIONS .....	10
C.    THE ARRIVAL OF EUROPEANS AND THE FUR TRADE (1500S-1800S) .....	11
1.    The Royal Proclamation (1763).....	13
D.    THE NUMBERED TREATIES (1871-1921).....	14
E.    THE CREATION OF FIRST NATION RESERVES (1800s-1900s) .....	17
F.    MID TO LATE 1800S: THE PASSAGE OF LEGISLATION TO ASSIMILATE FIRST NATIONS.....	19
G.    THE CROWN’S ATTEMPTS TO ASSIMILATE FIRST NATIONS AND REMOVE THEM FROM THEIR LANDS .....	20
H.    ONGOING LEGACY OF THE POLICIES OF ASSIMILATION AND DISPOSSESSION OF FIRST NATIONS LANDS .....	22
I.    FIRST NATIONS’ RESISTANCE TO THE POLICIES OF THE GOVERNMENT OF CANADA.....	24
THE LONG ROAD TO RECOGNITION: MÉTIS AND THE CROWN .....	26
A.    THE CROWN’S EXCLUSION OF THE MÉTIS SERVED ITS ECONOMIC AND POLITICAL INTERESTS .....	27
B.    THE NORTHWEST LANDS AND MÉTIS RESISTANCE .....	28
C.    EFFECTS OF MÉTIS EXCLUSION: DISPLACEMENT AND SHAME.....	30

D.	FIGHTING FOR RECOGNITION THROUGH THE COURTS: THE STORY OF MÉTIS RESISTANCE .....	32
	INUIT RELATIONSHIP WITH THE CROWN .....	33
A.	THE ARCTIC IS CHANGING: WILDLIFE REGULATIONS AND THE ARRIVAL OF SETTLERS.....	34
B.	INUIT AND THE ESTABLISHMENT OF CROWN RELATIONS .....	36
C.	FROM INUIT SELF-RELIANCE TO RELOCATIONS, RESIDENTIAL SCHOOLS AND SETTLEMENTS .....	37
1.	Relocations .....	37
2.	Residential Schools .....	38
3.	Inuit Settlements and Dog Slaughter.....	39
D.	“WE HAD TO EVENTUALLY RISE UP” .....	40
	THE CONTEMPORARY RELATIONSHIP .....	41
A.	ACKNOWLEDGING THE PAST THROUGH REDRESS .....	42
B.	RESTORING SELF-DETERMINATION: LEGISLATIVE, JURISDICTIONAL AND FUNDING BARRIERS .....	44
C.	INDIGENOUS PEOPLES ASSERT THEIR SOVEREIGNTY .....	47
	CONCLUSION AND WAY FORWARD .....	50
	APPENDIX A – WITNESSES .....	52
	APPENDIX B – BRIEFS.....	58

# THE COMMITTEE MEMBERSHIP

## *The Honourable Senators*

Lillian Dyck, *Chair*

Scott Tannas, *Deputy Chair*

Daniel Christmas

Mary Coyle

Norman Doyle

Brian Francis

Patti LaBoucane-Benson

Sandra Lovelace Nicholas

Mary Jane McCallum

Thomas McInnis

Marilou McPhedran

Thanh Hai Ngo

Kim Pate

Dennis Patterson

Donald Plett

## *Ex-officio members of the committee:*

The Honourable Peter Harder, P.C., (or The Honourable Diane Bellemare, or The Honourable Grant Mitchell)

The Honourable Larry Smith (or The Honourable Yonah Martin)

The Honourable Joseph Day (or The Honourable Terry Mercer)

The Honourable Yuen Pau Woo (or The Honourable Raymonde Saint-Germain)

## *Other Senators who have participated in the study:*

The Honourable Senators Beyak, Boniface, Brazeau, Enverga, Hartling, Manning, Martin, McIntyre, Mégie, Oh, Raine, Sinclair and Watt

## *Parliamentary Information and Research Services, Library of Parliament:*

Brittany Collier, Analyst

## *Senate Committees Directorate:*

Mireille Aubé, Clerk of the Committee

Mark Palmer, Clerk of the Committee

Tracy Amendola, Administrative Assistant

Elda Donnelly, Administrative Assistant

## *Senate Communications Directorate:*

Síofra McAllister, Communications Officer

## ORDER OF REFERENCE

Extract from the Journals of the Senate, Thursday, December 15, 2016:

The Honourable Senator Dyck moved, seconded by the Honourable Senator Watt:

That the Standing Senate Committee on Aboriginal Peoples be authorized to examine and report on a new relationship between Canada and First Nations, Inuit and Metis peoples, including, but not limited to:

- (a) the history of the relationship between indigenous people and newcomers;
- (b) the main principles of a new relationship; and
- (c) the application of these principles to specific issues affecting indigenous people in Canada.

That the committee submit its final report no later than October 31, 2018 and that the committee retain all powers necessary to publicize its findings for 180 days after the tabling of the final report.

After debate,

The question being put on the motion, it was adopted.

Charles Robert  
Clerk of the Senate

Extract from the Journals of the Senate of Wednesday, October 3, 2018:

The Honourable Senator Dyck moved, seconded by the Honourable Senator Lovelace Nicholas:

That, notwithstanding the order of the Senate adopted on Thursday, December 15, 2016, the date for the final report of the Standing Senate Committee on Aboriginal Peoples in relation to its study on the new relationship between Canada and First Nations, Inuit and Métis peoples be extended from October 31, 2018 to September 28, 2019.

The question being put on the motion, it was adopted.

Richard Denis  
Clerk of the Senate

## NOTE TO THE READER

In December 2016, the Standing Senate Committee on Aboriginal Peoples (the Committee) agreed to undertake an ambitious three-part study to identify concrete steps that the federal government could take to move towards a new relationship with First Nations, Inuit and Métis Peoples. For more than 150 years, Canadian policies and legislation attempted to control Indigenous Peoples and decimate their cultures, ways of life and governance structures. The intergenerational legacy of these policies continues to have long-lasting impacts on the lives of Indigenous Peoples, families and communities, and has led to significant gaps in wellbeing between Indigenous and non-Indigenous Peoples. Understanding this history is important to avoid making the same mistakes, and to provide us with an opportunity to chart a path for a more equitable relationship in the future. For these reasons, the Committee believed that it was necessary to begin the first phase of the study by exploring the past. This interim report provides a non-exhaustive account of the history of the relationship between First Nations, Inuit and Métis Peoples and Canada based primarily on witness testimony from a diverse group of over 50 witnesses.

The Committee wishes to thank all those who contributed to this study. Importantly, we also acknowledge the voices raised in the past to make this history known and the work of other committees and commissions. In this report, for the most part, only events discussed by witnesses have been included in this document. The Committee recognizes that each group has its own history, and where possible and raised by witnesses, local and regional variations are incorporated into this report. Additional information, including all of the testimony and briefs, is available on the Committee's website.

This interim report is accompanied by a concise timeline which summarizes the events detailed in the report.

It is available at  
[info.sencanada.ca/new-relationship-phase-1](http://info.sencanada.ca/new-relationship-phase-1)

This interim report is intended to lay the foundation for the final report to follow, which will focus on the findings from the second and third phases of our study. These phases aim to explore the principles and vision for the way forward and to provide insight into what the new relationship could look like in several areas prioritized by Indigenous Peoples themselves. The final report will identify concrete steps that could be taken to move towards a new relationship between and a better future for Indigenous Peoples, Canada and all Canadians.

## GLOSSARY OF KEY TERMS USED THROUGHOUT THE REPORT

The Committee recognizes that Indigenous Peoples have their own terms to identify their nations, communities and peoples, and where possible these have been included throughout the report. However, in some cases, general terms were used to describe aspects of the history of the relationship affecting several Indigenous communities. The following glossary provides a guide for general terms used throughout this report.

**Aboriginal Peoples:** “Section 35(2) of the *Constitution Act, 1982* defines the Aboriginal peoples of Canada as including “the Indian, Inuit and Métis peoples.” Accordingly, *Aboriginal Peoples* is often used as an all-encompassing term that includes First Nations (Indians), Inuit and the Métis.”<sup>1</sup>

**Indigenous Peoples:** For many years, the term “Indigenous Peoples” was used primarily in the international context. In Canada over the past few years, the term “Indigenous” is often used interchangeably with “Aboriginal.” This shift in domestic usage relates in part to the adoption of the *United Nations Declaration on the Rights of Indigenous Peoples* by the United Nations General Assembly in 2007.<sup>2</sup> While four countries, including Canada, initially voted in opposition to the declaration, they have since reversed their positions.<sup>3</sup> In May 2016, Canada became a full supporter of the declaration.

**First Nation:** “First Nation” refers to both Status and Non-Status Indians. “*First Nation* and *First Nation community* are also frequently used in place of the term *band* provided in the *Indian Act*, with many communities altering their names to reflect this preference.”<sup>4</sup> There is no legal definition for First Nation.

**Status Indians:** Status Indians are people who are registered or entitled to be registered as Indians in accordance with the provisions of the *Indian Act*. Eligibility rules for registration have frequently changed since the first *Indian Act* was passed in 1876.

**Non-Status Indians:** First Nations individuals who are not entitled to be registered or who lost their status under the *Indian Act* are referred to as non-status Indians.

**Inuit:** “Inuit are a circumpolar people who live primarily in four regions of Canada: the Nunavut territory, Nunavik, Nunatsiavut and the Inuvialuit Settlement Region, collectively

---

<sup>1</sup> Tonina Simeone, *Indigenous Peoples: Terminology and Identity*, Library of Parliament, *Hillnote*, 14 December 2015.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

known as *Inuit Nunangat*. *Inuk* is the singular form of *Inuit* and is used when referring to a single individual.”<sup>5</sup>

**Métis:** There is no uniformly accepted definition of Métis. Some describe the Métis People as descendants of the historic Métis Nation, including those persons whose ancestors inhabited western and northern Canada and received land grants and/or scrip. A broader definition includes all persons of mixed Aboriginal and non-Aboriginal ancestry who identify themselves as Métis.<sup>6</sup>

**Aboriginal rights:** Aboriginal rights refer to the practices, traditions and customs “integral to the distinctive culture”<sup>7</sup> of Indigenous peoples. The hunting, trapping and fishing rights of certain Indigenous Peoples are examples of Aboriginal rights. Aboriginal rights vary from group to group depending on the customs, practices and traditions that have formed part of their distinctive cultures. Aboriginal rights are protected under section 35 of the *Constitution Act, 1982*.

**Treaty rights:** Treaty rights are recognized and affirmed through section 35 of the *Constitution Act, 1982* and refer to rights set out in either pre-1975 treaties or comprehensive land claims agreements between Aboriginal people and the Crown.

## EXECUTIVE SUMMARY

For more than 150 years, the Crown used policies and legislation to attempt to assimilate Indigenous Peoples into Canadian society and dispossess them of their lands. As part of this approach, Indigenous Peoples were removed from their homelands, and their distinct cultures, systems of governance, institutions, laws and ways of life were undermined. Today, Indigenous Peoples continue to live with the legacy of these policies, and are actively working to rebuild, revitalize and regain control over their communities.

However, many Indigenous communities are impeded from regaining control over their communities by federal legislation and policies. The *Indian Act*, with its roots in the colonial policies of the 19<sup>th</sup> century, continues to regulate many aspects of the lives of First Nations People. Federal funding of programs and services continues to be inadequate leaving First Nations, Inuit and Métis communities with ongoing crises. While some Indigenous groups have successfully regained control over their communities by asserting their sovereignty or signing modern treaties, for many, these options remain out of reach.

The relationship between Indigenous Peoples and Canada must change to ensure that Indigenous communities can determine their own futures. In 2015, the federal government

---

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> Supreme Court of Canada, *R. v. Van der Peet*, [1996] 2 SCR 507.

committed to a renewed relationship with Indigenous Peoples. In December 2016, building on the work of previous commissions and studies, the Standing Senate Committee on Aboriginal Peoples (the Committee) embarked on an ambitious study in order to provide recommendations and identify steps that the federal government could take to move towards a new relationship. This interim report includes what the Committee heard in the first phase of the study, which explored the history of the relationship between Indigenous Peoples and Canada. Initially, we anticipated this work would take a few months, but we soon realized that much more time was necessary to explore the diverse histories and experiences of Indigenous Peoples and to understand the complex intergenerational legacy of past policies that continues to affect Indigenous Peoples today.

Over 50 witnesses including Indigenous Peoples, communities, Elders, youth and academics, testified before the Committee and shared the stories captured in this interim report. Witnesses highlighted the unique First Nations, Inuit and Métis histories and relationships with the Crown. To honour these differences, this report is organized by Indigenous group.

For First Nations, the history of the relationship tells the story of self-governing, independent Peoples who became wards of the state in a few hundred years. While initial relationships between First Nations and the Crown were co-operative, in the 1800s those relationships changed. To obtain access to First Nations lands that it believed were needed for settlement and development to support an expanding agricultural economy, the Crown took a contradictory approach. On the one hand, signalling a return to early co-operative relationships, the Crown signed nation-to-nation treaties with First Nations. At the same time, contrary to the treaties, the Crown implemented legislation and policies intended to assimilate First Nations into Canadian society and dispossess them of their lands. These policies have continued into the present, contributing to an ongoing legacy of intergenerational trauma. In response to Crown actions, First Nations have actively fought – through protests, petitions, and the courts – for the recognition of their rights and protection of their homelands. Over time, these efforts have contributed to changes in federal legislation, policies and programs.

The history of the relationship between the Métis and the Crown is characterized by conflict, dispossession, exclusion and resistance. Initially the influence and role of the Métis in the fur trade and Métis resistance to protect their lands led the Crown to recognize the Métis as a group with collective rights to land. However, this approach shifted over time as the Crown ceased to recognize the Métis as an Indigenous group and emphasized individual land rights in an attempt to dismiss Métis claims to land. In 1885, Métis resistance to an influx of settlers on their lands led to punishment by the Crown and the execution of their leader, Louis Riel. Together, the loss of their leader and the process of allocating lands to individuals contributed to the marginalization and exclusion of the Métis, along with the loss of most of their lands. Métis exclusion persisted for many years. Although Métis experienced the policies of assimilation, such as residential schools, they were consistently excluded from any redress. In response, Métis have continued to fight for recognition of their rights in the courts and through advocacy, often with considerable success.

Beginning as early as the mid-1500s, Inuit played a pivotal role in early encounters with Europeans by trading and by working as guides and interpreters. However, compared to other Indigenous groups, the relationship between Inuit and the Crown developed more recently. The Crown's ignorance and neglect of Inuit shaped the relationship, since the Crown applied policies devised in the south to Inuit without consultation, explanation, or translation. These policies greatly affected Inuit families, cultures, lands, languages and well-being. The Crown consistently acted in its own interests to implement policies of assimilation including relocations, residential schools, and moving Inuit off the land into permanent settlements. Similar to other Indigenous groups, Inuit were affected by these changes, which disrupted their ways of life and contributed to an ongoing legacy of intergenerational trauma. Inuit actively resisted the Crown's involvement in their lives and their lands. Today, all four Inuit regions have concluded modern treaties with the Crown, paving the way for their independence.

Indigenous Elders reminded us that this history is not a common narrative. Most Canadians remain unfamiliar with the story of the relationship between Canada and Indigenous communities. We hope that this report contributes to ongoing work to reshape the understanding of Canadian history, which must include Indigenous Peoples telling their stories. We believe that by understanding the past, it is possible to lay the foundation for a better future between Indigenous Peoples and Canada.

## SETTING THE CONTEXT FOR THE HISTORY OF THE RELATIONSHIP BETWEEN INDIGENOUS PEOPLES AND CANADA

From time immemorial, Indigenous Peoples lived on the lands, waters and ice of their ancestral territories. Doris Young described the importance of the land:

Land is culture... The land connects us to our language and our spirituality, our values, our traditions and our laws of *mino bimatasiwin*, which is the good life. In short, the land personifies who we are. It is the heart of our identity. It is our very lives, our souls, which are connected to the land of our ancestors.<sup>8</sup>

Indigenous Peoples have unique histories, laws and cultures flowing from their relationship with their traditional territories. For thousands of years predating the arrival of Europeans, Indigenous Peoples developed different forms of governance, including rules on how to live together, solve problems and resolve conflicts. Some Indigenous Peoples lived in small

---

<sup>8</sup> Senate, Standing Committee on Aboriginal Peoples [APPA], *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 29 March 2017 (Doris Young, Member of the Indian Residential School Survivor Committee, as an individual).

communities, while others were centralized in structure and organized into leagues, which established common rules for peace, reciprocal obligations or other shared interests. Some witnesses identified co-operation, respect for Elders, sharing, inclusion and fairness as important organizing principles. Other values were common across different nations, for example, Anishinaabe Elder Fred Kelly raised the concept of “[g]izhewaadiziwin” or “kindness” as a value since it refers to the “the seven laws of Creation ... the laws of life: love, kindness, sharing, truth, courage, respect and humility.”<sup>9</sup> Examples of these principles underlie the earliest articulations of the relationship between First Nations and settlers.

For over a century, Canadian<sup>10</sup> policies aimed to assimilate Indigenous Peoples into the dominant settler society, disrupting First Nations, Inuit and Métis ways of life. Several common themes underlie the history of the relationship. The Crown acted in its own interest to gain access to Indigenous lands for the benefit of new settlers. Where these interests intersected with the lives and ancestral territories of First Nations, Inuit and Métis Peoples, the state attempted to assimilate them through policies, practices and legislation. Justifying its actions based on the myths of *terra nullius* and the doctrine of discovery, along with the flawed presumptions of European superiority, the Crown dispossessed Indigenous Peoples of their lands, restricted their movement, withheld food from them during famine, relocated communities, and attempted to replace or eliminate traditional cultures, laws, languages and governments. As the Crown exerted its power over Indigenous Peoples, many lost control over their communities. Assimilation affected Indigenous groups differently depending on the region and their relationship with the Crown, although the effects of relocation and dispossession were especially devastating for all, given the importance of the land as a source of identity, spirituality, governance and sustenance. These policies and the loss of lands have contributed to a complex intergenerational legacy which continues to affect Indigenous communities today. This legacy has led to disparities in areas such as health and education, and the over-representation of Indigenous Peoples in the child welfare and criminal justice system, among others.

This story is also one of resistance. Indigenous Peoples actively resisted the Crown’s actions by writing petitions, marching for equality, establishing advocacy organizations and battling through the courts to defend their rights. These actions put pressure on Canada to act, ultimately leading to fundamental changes, such as the recognition of Aboriginal and treaty rights in the *Constitution Act, 1982*. Indigenous communities continue to fight to restore their self-determination and regain control over their communities. Today, Indigenous communities are countering the effects of colonialism by breathing new life into Indigenous

---

<sup>9</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 27 September 2017 (Fred Kelly, as an individual).

<sup>10</sup> Throughout the history of Canada, different terms were used to refer to the government. As such, this report uses several terms including Crown, Dominion Government, federal government and Canada to reflect these historical changes. References to the Crown throughout this document before Confederation mean the British Crown, and after Confederation mean Canada unless otherwise noted.

laws, finding innovative ways to govern and asserting their inherent rights in the areas of education, governance, health and law-making.

It is important to acknowledge that First Nations, Inuit and Métis Peoples each have their own unique histories and relationships with the Crown. To honour these differences, this report is organized by Indigenous group, incorporating regionally specific experiences where raised by witnesses. The final section of this report explores the current relationship and the innovative work of Indigenous Peoples to rebuild and regain control over their communities.

## FROM SOVEREIGN NATIONS TO WARDS OF THE STATE: THE STORY OF FIRST NATIONS' RELATIONSHIP WITH THE CROWN

The history of the relationship traces how First Nations went from independent and prosperous communities to wards of the state due to Crown actions and policies. Initial relationships between First Nations and the Crown were co-operative, but by the 1800s, the Crown sought First Nations lands to support the construction of the railroad and the development of an agricultural economy in Western Canada. To achieve its interests, the Crown signed nation-to-nation treaties with some First Nations and dispossessed others of their lands, while, at the same time, implementing legislation and policies to make First Nations wards of the state. The loss of their lands, and policies such as Indian residential schools, child welfare policies, the *Indian Act* and the loss of Indian status (which perpetuated sex-based inequities) created a legacy of intergenerational trauma that continues to affect First Nations communities today.

First Nations dream of restoring their self-determination, and throughout history have resisted the Crown's actions with a view to regaining control over their communities. Today First Nations are actively working to rebuild and revitalize, while continuing to push for their rightful place as sovereign Nations in Canada.

### A. FROM TIME IMMEMORIAL: THE LIFE OF FIRST NATIONS BEFORE THE ARRIVAL OF SETTLERS

For thousands of years before the arrival of Europeans, First Nations lived on their traditional territories, depending on the lands and waters around them for sustenance. First Nations relationships to the land were a central part of their identity, as reflected in the diversity of cultures, laws, languages, ways of life and forms of governance that flourished across the area that is now Canada. In many First Nations communities, women played prominent roles as leaders in the governance and cultures of their communities. For instance, among the

Haudenosaunee, women are the head of each clan “and are responsible for a majority of the decision-making that affects the life of a Haudenosaunee person.”<sup>11</sup>

First Nations communities built strong relationships with each other by signing treaties,<sup>12</sup> laying the foundation for a tradition of treaty-making that would continue for several hundred years following the arrival of Europeans.

## **B. EUROPEAN BELIEFS USED TO JUSTIFY THE COLONIZATION AND ASSIMILATION OF FIRST NATIONS**

When newcomers first arrived on the shores of Eastern Canada, they brought with them ideas about the land and the Indigenous inhabitants of the country, embodied in the concepts of *terra nullius* and the doctrine of discovery. The 1493 papal bulls issued by Pope Alexander VI laid the foundation for these beliefs used to justify the colonization and assimilation of Indigenous Peoples. As explained by Elder Fred Kelly, the concept of *terra nullius* allowed “a discoverer ... [to] occupy the land by virtue of the fact that there is nobody there other than the animals”; this essentially allowed a discoverer to overlook the presence of Indigenous Peoples who were living on that land.<sup>13</sup> A related concept, the doctrine of discovery “held that the discovery of such lands gave the discovering nation immediate sovereignty and all right and title to it.”<sup>14</sup>

These concepts influenced how Europeans understood their relationship to the land. The Crown believed that lands could be ‘discovered’ and individually owned. Throughout much of the history of its relationship with First Nations, the Crown’s vision for land use was focused on deriving economic benefits from its natural resources. Despite meeting First Nations Peoples and seeing them living on the lands, the Crown believed the land was empty; as First Nations were not using the land in what the Crown considered to be a “civilized” manner.<sup>15</sup> The land, therefore, was considered *terra nullius*.

In contrast, First Nations relied on the land for their sustenance – hunting, fishing or farming to feed their families and communities. For the Cree, land is “not about ownership and money.” Instead, Cree People have a holistic understanding of land reflected in the concept of *uski*, which “includes all living things, such as the animals, plants, the trees, the fish, the

---

<sup>11</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 2 October 2018 (Aaron Detlor, Lawyer, Haudenosaunee Development Institute).

<sup>12</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 19 September 2017 (Sol Sanderson, Senator, Federation of Sovereign Indigenous Nations).

<sup>13</sup> APPA, *Evidence*, 27 September 2017 (Fred Kelly).

<sup>14</sup> *Report of the Royal Commission on Aboriginal Peoples*, “[Volume 1 – Looking Forward, Looking Back](#),” 1996, p. 661.

<sup>15</sup> *Ibid.*; Final Report of the Truth and Reconciliation Commission of Canada, [Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada](#), 2015, p. 46; APPA, *Evidence*, 27 September 2017 (Fred Kelly).

rivers, the lakes, and...the rocks...[and] also includes our concept of the sky world.”<sup>16</sup> The Cree view the land as integral to their culture, language and identity, and recognize that humans “are only a small part of our environment and...totally dependent on *uski* for their survival.”<sup>17</sup>

## C. THE ARRIVAL OF EUROPEANS AND THE FUR TRADE (1500S-1800S)

Most Canadians forget that at one time, relationships between the Crown and First Nations were co-operative. Newcomers arrived in small numbers with little knowledge of the climate, flora and fauna in North America. To survive, participate in economic activities, and engage in warfare, newcomers relied on their First Nation partners’ skills and expert knowledge of “the lands, transportation routes, food resources...[and] animals.”<sup>18</sup> Early contact also spread European diseases to First Nations who, with little to no immunity to these foreign pathogens, were greatly harmed. In some cases, entire communities were decimated, leaving those remaining to come together to survive.<sup>19</sup>

To establish relationships with newcomers, First Nations in Eastern Canada signed trade agreements (known as commercial compacts) and treaties with the Crown. While the Crown often recorded the treaties in writing, in some cases, First Nations affirmed agreements differently. The Haudenosaunee used wampum belts containing “two rows of purple beads signaling the courses of two vessels, Indigenous and non-Indigenous, travelling down the river of life together, parallel but never touching, in mutual respect and sovereignty.”<sup>20</sup>

For many years, First Nations greatly outnumbered settlers<sup>21</sup> and held the balance of power in the relationship. The Crown recognized the power of First Nations during the negotiation of Peace and Friendship Treaties with the Mi’kmaq, Maliseet (today known as the Wolastoqiyik) and Passamaquoddy between 1725 and 1779. If

“As a Cree person, I cannot separate myself from my land and my sacred obligations to preserve it for seven generations and beyond. This means we have been given the responsibility to protect the land and everything on it. Cree people respectfully acknowledge all living creatures as relatives. The Cree word is ni wakomakun nin anuk, ‘our relations.’”  
(Doris Young, Member of the Indian Residential School Survivor Committee, Evidence, March 29, 2017).

<sup>16</sup> APPA, *Evidence*, 29 March 2017 (Doris Young).

<sup>17</sup> Ibid.

<sup>18</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 31 January 2017 (J. R. (Jim) Miller, Professor Emeritus of History, University of Saskatchewan, as an individual); APPA, *Evidence*, 27 September 2017 (Fred Kelly).

<sup>19</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 31 May 2017 (Miles Richardson, Director, National Consortium for Indigenous Economic Development, University of Victoria, as an individual).

<sup>20</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 7 June 2017 (Jacquelyn Cardinal, as an individual).

<sup>21</sup> *Report of the Royal Commission on Aboriginal Peoples*, “Volume 1 – Looking Forward, Looking Back,” 1996, p. 114-115.

Europeans wanted to be trading partners, they had to “become and remain kinfolk with whom Indigenous People would do business.”<sup>22</sup> Negotiations therefore included ceremonies such as “formal welcomes, speeches of greeting, exchange of gifts and ... smoking the pipe.”<sup>23</sup> Europeans clearly perceived First Nations as powerful allies, since the Crown was motivated to sign Peace and Friendship Treaties to break apart the long-standing alliances between First Nations in the Maritimes and the French.

Unlike later treaties, Peace and Friendship Treaties in the Atlantic region did not attempt to extinguish Aboriginal title to the land; rather, they established peace following periods of warfare. In 1725, a treaty was signed in Boston by First Nations representatives, Massachusetts, New Hampshire, and Nova Scotia.<sup>24</sup> Ratified in 1726 by the Mi'kmaq, Maliseet and Passamaquoddy,<sup>25</sup> the treaty ended a war between the Wabanaki<sup>26</sup> and New England over its encroachment onto First Nations lands and fishing grounds. The treaty recognized the Mi'kmaq and Maliseet's settlements and ways of life, and it included provisions through which the parties agreed not to disturb existing British settlements, and Mi'kmaq and Maliseet fishing, hunting, planting and other activities. The commitments of 1726 were reaffirmed in many of the later Peace and Friendship Treaties, including a 1749 treaty signed between the British, the Maliseet and one Mi'kmaq community.<sup>27</sup>

Certain treaties created and strengthened trading relationships to exclude potential competitors to the Crown. In 1752, a treaty was signed to end a conflict between the Mi'kmaq and the Crown over the British decision to establish Halifax. The 1752 treaty created a trading relationship between the Crown and the Mi'kmaq.<sup>28</sup> A series of treaties were concluded after the 1760 defeat of the French in North America. In 1760, the British agreed through a treaty to establish a truck house to ensure exclusive trade between the Maliseet and the British.<sup>29</sup> Other treaties in 1760 and 1761 with the Mi'kmaq attempted to eliminate alliances between First Nations and the French. In 1778 and 1779, the Crown signed treaties with First Nations to undermine their possible collaboration with the Americans against the Crown.

---

<sup>22</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 28 March 2017 (J. R. (Jim) Miller, Professor Emeritus of History, University of Saskatchewan, as an individual).

<sup>23</sup> *Ibid.*

<sup>24</sup> William Wicken, *Mi'kmaq Treaties on Trial: History, Land, and Donald Marshall Junior* (Toronto: University of Toronto Press, 2002), p. 71, 86.

<sup>25</sup> The Treaty was ratified at Annapolis Royal in June 1726. William Wicken, *Mi'kmaq Treaties on Trial: History, Land, and Donald Marshall Junior* (Toronto: University of Toronto Press, 2002), p. 153.

<sup>26</sup> The Wabanaki was a political alliance comprising the Mi'kmaq, the Maliseet, the Passamaquoddy and a group of communities living between the Penobscot and the Kennebec Rivers, often called the Abenaki. (Indigenous and Northern Affairs Canada, Fact sheet on the Peace and Friendship Treaties in the Maritimes and Gaspé, prepared by William C. Wicken.)

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

<sup>29</sup> *Ibid.*

As the Crown became more powerful in the region, it relied on the written text of the treaties as the only interpretation. However, First Nations maintain that the oral terms agreed to during treaty negotiations were omitted from the written text.<sup>30</sup> First Nations maintain that the Crown failed to honour its promises. For years, First Nations unsuccessfully petitioned governments about the Crown's violation of their treaty promises, related to the protection of fishing, hunting and planting grounds.<sup>31</sup>

## 1. The Royal Proclamation (1763)

Commercial compacts and Peace and Friendship Treaties did not provide a process for the Crown to obtain access to First Nations lands. By 1763, the Crown feared conflict<sup>32</sup> from First Nations due to growing concerns about settlers encroaching on First Nations territories.<sup>33</sup> In response, the Crown developed and issued the Royal Proclamation of 1763. Often considered a foundational document in the relationship, the Royal Proclamation recognized the sovereignty of First Nations,<sup>34</sup> their land rights,<sup>35</sup> and their way of life.<sup>36</sup> In the words of Miles Richardson, the Royal Proclamation provided that "Any relations with Indigenous Peoples..., would be conducted on a nation-to-nation basis. Without a nation-to-nation treaty, the Indigenous Peoples would not be disturbed in their authorities and [in] the places that they called home for thousands of years, for hundreds of generations."<sup>37</sup>

While a foundational document in the relationship, the Royal Proclamation was contradictory, as it created a process whereby First Nations could only give up their land to the Crown.<sup>38</sup> This placed the Crown in a position of authority over First Nations lands, based on the myths of *terra nullius* and the doctrine of discovery.

Although the Crown unilaterally developed the Royal Proclamation, it obtained agreements to its terms through a conference in Niagara Falls in 1764. About 25 First Nations endorsed the vision of the relationship embodied in the Two Row Wampum and First Nations'

---

<sup>30</sup> William Wicken, *The Colonization of Mi'kmaw Memory and History, 1794-1928: The King v. Gabriel Sylliboy*, (Toronto: University of Toronto Press, 2012), p. 7-8; William Wicken, *Mi'kmaq Treaties on Trial: History, Land, and Donald Marshall Junior* (Toronto: University of Toronto Press, 2002), p. 3.

<sup>31</sup> William Wicken, *The Colonization of Mi'kmaw Memory and History, 1794-1928: The King v. Gabriel Sylliboy*, (Toronto: University of Toronto Press, 2012), p. 87; Indigenous and Northern Affairs Canada, Fact sheet on the Peace and Friendship Treaties in the Maritimes and Gaspé, prepared by William C. Wicken.

<sup>32</sup> *Report of the Royal Commission on Aboriginal Peoples*, "[Volume 1 – Looking Forward, Looking Back](#)," 1996, pp. 108–109.

<sup>33</sup> *Ibid*; John Borrows, [Wampum at Niagara: The Royal Proclamation, Canadian Legal History, and Self-Government](#).

<sup>34</sup> *Ibid.*; APPA, [Evidence](#), 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 19 September 2017 (Sol Sanderson).

<sup>35</sup> *Ibid.*; APPA, [Evidence](#), 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 3 May 2017 (John Milloy, Professor, Trent University).

<sup>36</sup> APPA, [Evidence](#), 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 14 February 2018 (Hon. Murray Sinclair, Former Chair, Truth and Reconciliation Commission of Canada, as an individual; Marie Wilson, Former Commissioner, Truth and Reconciliation Commission of Canada, as an individual).

<sup>37</sup> APPA, [Evidence](#), 31 May 2017 (Miles Richardson).

<sup>38</sup> APPA, [Evidence](#), 28 March 2017 (J. R. (Jim) Miller).

understanding of early agreements. As emphasized by Miles Richardson: “the Haudenosaunee and others ... talked about us living side by side respecting each other on a government-to-government basis but going down the river of daily life as partners and supporters of each other.”<sup>39</sup>

## D. THE NUMBERED TREATIES (1871-1921)

Early collaborative relationships were short-lived, as in the 1800s, the economy transitioned from the fur trade towards agriculture. The Crown no longer needed First Nations economically, and instead began to pursue its economic and political interests of “opening lands” for settlement and constructing the railway in Western Canada. However, First Nations were literally “in the way” since they lived, hunted, farmed and gathered on lands needed for settlement and the development of the railway. Justifying its actions based on the doctrine of discovery and the concept of *terra nullius*, the Crown removed First Nations from their lands through treaties, legislation, and the policies of assimilation.

In the Crown’s view, treaty-making provided the legal foundation necessary to access First Nations’ lands for the “development” and “settlement” of Western Canada. Through this acknowledgement, the Crown recognized that Indigenous Peoples owned and occupied the land prior to the arrival of Europeans. The Royal Proclamation of 1763 provided the framework for a new form of treaty-making based on First Nations’ lands rather than trade, peace or friendship. First Nations and the Crown signed many territorial treaties across Canada, including 11 numbered treaties between 1871 and 1921 covering Northern Ontario, Manitoba, Saskatchewan, Alberta, and parts of Yukon, the Northwest Territories and British Columbia. The Crown’s approach to the numbered treaties was “opportunistic and self-centered” since it only signed treaties when more First Nations lands were needed, or when resources were at stake.<sup>40</sup> This approach was also evident in northern Canada, where despite numerous petitions from First Nations for treaties, the Crown only began negotiations when oil was discovered in the region in 1920.<sup>41</sup>

---

<sup>39</sup> APPA, *Evidence*, 31 May 2017 (Miles Richardson).

<sup>40</sup> APPA, *Evidence*, 28 March 2017 (J. R. (Jim) Miller).

<sup>41</sup> *Ibid.*

When numbered treaties were signed in Western Canada, First Nations were facing an uncertain future. During the 1870s and later, First Nations saw an influx of settlers arriving on their territories. The bison, a primary food source for many First Nations communities in Western Canada, rapidly declined in large part due to the large-scale commercial bison hunt in the United States.<sup>42</sup> The bison eventually disappeared in the 1880s leaving famine and hunger in its wake. Some First Nations, including Moosomin, Thunderchild and Little Pine, had few options aside from signing treaties in exchange for much-needed food for their communities.<sup>43</sup>

The changes in their territories led many First Nations to negotiate treaties to secure their future. A few First Nations successfully negotiated their priorities and concerns into some of the numbered treaties. Plains Cree Chief Beardy observed that “the key to a successful future was the conversion from hunting to agriculture.”<sup>44</sup> Chief Beardy told the Crown’s representative “that he didn’t want his people to die like dogs,” which led to a written clause in Treaty 6 (1876) requiring the Crown to provide assistance in the event of famine or pestilence.<sup>45</sup>

For First Nations, treaties were nation-to-nation agreements that defined and created a “special sacred relationship”<sup>46</sup> between themselves and the Queen based on First Nations laws and values. Treaties were considered living and dynamic agreements that recognized and protected First Nations’ ways of life, forms of governance and “exclusive authority and jurisdiction over our lands and our people.”<sup>47</sup>

First Nations understood the treaties to encompass not only their written text, but also their spirit and intent. Jacquelyn Cardinal noted that the spirit and intent of the treaties comprises a vision similar to First Nations’ understanding of earlier treaties and the two-row wampum:

What we are seeking is, in fact, a resurgence of a specific parallel relationship which is part of the original spirit and intent of the

“There is the spirit and intent of those treaties, the sharing and coexistence of the land and the natural resources. The treaties were based on our laws. They contain that spirit. They contain the spirit of our ancestors, the spirit of Creator, the spirit of our prayers. They contain life. And they contain that special relationship between First Nations and settlers.” (Elder Claudette Commanda, Executive Director, First Nations Confederacy of Cultural Education Centres, *Evidence*, September 27, 2017).

---

<sup>42</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 3 May 2017 (James Daschuk, Associate Professor, Faculty of Kinesiology and Health Studies, University of Regina); APPA, *Evidence*, 3 May 2017 (John Milloy).

<sup>43</sup> APPA, *Evidence*, 3 May 2017 (James Daschuk).

<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

<sup>46</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 27 September 2017 (Claudette Commanda, Executive Director, First Nations Confederacy of Cultural Education Centres).

<sup>47</sup> Alexander First Nation, *Brief* submitted to the Committee, March 20, 2018.

treaties made between Indigenous nations on Turtle Island prior to contact and in the agreements made during the negotiations of our contemporary treaties between Indigenous nations and the Crown. It is one fundamentally rooted in peace, friendship and understanding, and one that facilitates us moving forward as sovereign, vibrant peoples travelling down the river of life together.<sup>48</sup>

As oral societies, First Nations believe the oral promises made by the Crown during the negotiations form an integral part of the agreements. When the treaties were signed, many First Nations spoke their own languages and relied on interpreters during the negotiations. Many of the Crown's oral promises to First Nations were not included in the written text of the treaties, leading to differences in interpretation.

Indigenous Peoples owned and occupied their lands prior to the arrival of Europeans; this was acknowledged by the Crown, even though the 11 numbered treaties sought to extinguish Aboriginal title to the land. However, First Nations believe that by signing the treaties they agreed to share the land and resources to the "depth of the plow," with all resource below this point belonging to First Nations.<sup>49</sup> As observed by Elder Fred Kelly, "In our traditional law, there is no concept of extinguishment or surrender, as is said in the treaties. In our language, we agreed to share...If our people had understood that, those treaties would never have been signed because there was no proper interpretation."<sup>50</sup>

To this day, First Nations maintain that their vision and understanding of the treaties has never been implemented by the Crown, which has led to ongoing concerns over treaty implementation. The Crown broke its commitments within 18 months after the signing of the treaties. For instance, in the wake of widespread starvation on reserves in the 19<sup>th</sup> century, First Nations turned to the famine and pestilence clause negotiated into Treaty 6. Officials disregarded their protests, and one told First Nations, "You're not starving; you're just hungry. Therefore, the famine clause doesn't apply."<sup>51</sup> First Nations have continuously demanded that their treaties be honoured; however, many promises were "never truly fulfilled."<sup>52</sup>

The Crown did not share First Nations' interpretations of the treaty promises, instead viewing the written text of the treaties as the only version. This perspective has remained dominant, leaving First Nations to address their concerns over treaty implementation through Crown processes and institutions such as the courts.

---

<sup>48</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 23 May 2018 (Jacquelyn Cardinal, as an individual).

<sup>49</sup> APPA, Committee Travel, Elder Vincent Yellow Old Woman, Siksika Nation, 19 March 2018.

<sup>50</sup> APPA, *Evidence*, 27 September 2017 (Fred Kelly).

<sup>51</sup> APPA, *Evidence*, 3 May 2017 (John Milloy).

<sup>52</sup> APPA, *Evidence*, 3 May 2017 (James Daschuk).

## E. THE CREATION OF FIRST NATION RESERVES (1800s-1900s)

Numbered treaties included provisions for the establishment of reserves, which comprised a small fraction of First Nations' home territories. Once treaties were signed, First Nations were forced onto reserves by the Dominion Government, which used "food as a weapon" to displace First Nations.<sup>53</sup> Police were provided with "strict orders that only those heading to their appointed reserves would be provided with rations,"<sup>54</sup> leaving many hungry and starving First Nations with few options aside from moving onto reserve.

On reserve, the Dominion Government used food to exert its authority over First Nations. In Western Canada, Indian Agents managed the distribution of rations, at times withholding food to punish First Nations for any "minor or ... perceived transgression."<sup>55</sup> Food rotted in government warehouses while people starved.<sup>56</sup> James Daschuk observed that Sir John A. Macdonald defended these policies in Parliament including in 1880 when he said:

In some instances, perhaps, the Indians have been fed when they might not have been in extreme position of hunger or starvation, . . . it is by being rigid, even stingy, in the distribution of food and requires absolute proof of starvation before distributing it.<sup>57</sup>

Officials distributed rotten food to hungry First Nations. In desperation, some First Nations turned to eating diseased animals for sustenance, eventually succumbing to disease themselves.<sup>58</sup> Government employees took advantage of their power and several were fired for exchanging food for sex.<sup>59</sup>

Dominion officials also restricted movement by establishing the pass system, which required First Nations to "obtain a pass signed by the [Indian] agent or farming instructor before leaving the reserve."<sup>60</sup> Even though Dominion officials likely knew that this policy "contravened the terms of the treaty and even the law," it kept "treaty Indians [as] virtual prisoners on their reserves until as late as the 1950s."<sup>61</sup>

---

<sup>53</sup> Ibid.

<sup>54</sup> Ibid.

<sup>55</sup> Ibid.

<sup>56</sup> Ibid.

<sup>57</sup> Ibid.

<sup>58</sup> Ibid.

<sup>59</sup> Ibid.

<sup>60</sup> J. R. Miller, *Compact, Contract, Covenant: Aboriginal Treaty-Making in Canada*, University of Toronto Press, 2009, p. 193.

<sup>61</sup> APPA, *Evidence*, 3 May 2017 (James Daschuk).

Taken together, the Dominion Government's policies contributed to poor health, social and economic conditions on reserves on the Prairies, including the spread of tuberculosis. James Daschuk suggested that the current gap in health outcomes between First Nations and settlers is rooted in the 19<sup>th</sup> century, when First Nations People "didn't lose their health...they had it taken away from them."<sup>62</sup> The social determinants of health are factors that affect the health of an individual, such as education, housing and access to health services. The history of the relationship negatively affected the social determinants of health for all Indigenous peoples and may be used to understand the complex legacy of intergenerational trauma, including Indigenous peoples' over-representation in the criminal justice system, which continues to affect many Indigenous communities today.

Although the Crown believed that the numbered treaties provided the legal foundation for settlement and development, they were not signed in many areas of Canada, including Quebec, New Brunswick, Nova Scotia, and parts of British Columbia, among others. In these areas, although they continued to retain title to the land, First Nations were pushed off their homelands by the Crown. In British Columbia, the first Governor of the province issued a proclamation in 1859 stating that all lands in the province, including mines and minerals, were the property of the Crown. This proclamation led First Nations lands to be taken "illegally and unilaterally by Crown actions."<sup>63</sup> Despite First Nations' ongoing requests for treaties, a series of commissions "forced band councillors and

leaders of the day, under threat of jail, to testify and demarcate the lands."<sup>64</sup>

Similarly, in Eastern Canada, the Mi'kmaq and Maliseet were forced off their territories and onto reserve lands in the 1840s and 1850s in accordance with Crown interests. These lands

"The reserve commissioners came out West in the late 1800s and the early 1900s on the two versions of the McKenna-McBride commissions. They forced our leaders to testify and to attempt to name lands that we needed for our communities without ever having addressed the title question... Consistently our leaders stated: 'Why are you telling me you're going to give me land? That's my land. You can't give me my land. The Queen cannot give me my land. It's all my land. If you want to talk about the title dispute, let's sit down and negotiate treaties. That's what your law bids. That's what your integrity bids.'" (Miles Richardson, Director, National Consortium for Indigenous Economic Development, University of Victoria, *Evidence*, May 31, 2017).

---

<sup>62</sup> Ibid.

<sup>63</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 14 June 2017 (Edward John, Grand Chief of Tl'azt'en Nation, as an individual).

<sup>64</sup> APPA, *Evidence*, 31 May 2017 (Miles Richardson).

were of poor quality and not valuable, leading to the economic, political and cultural marginalization of the Mi'kmaq and Maliseet.<sup>65</sup>

First Nations actively resisted the Crown's seizure of their lands. In 1924, the Allied Tribes of British Columbia travelled to Ottawa to ask for treaties to address concerns over First Nations' land title in British Columbia, without success.<sup>66</sup>

## F. MID TO LATE 1800S: THE PASSAGE OF LEGISLATION TO ASSIMILATE FIRST NATIONS

In the 1800s, the Crown attempted to assimilate First Nations and "move them to civilization"<sup>67</sup> through legislation and policies. For instance, the *Gradual Civilization Act*, passed in 1857, had as its premise "that by eventually removing all legal distinctions between Indians and non-Indians through the process of enfranchisement, it would be possible in time to absorb Indian people fully into colonial society."<sup>68</sup> The Crown solidified its authority over First Nations during Confederation as section 91(24) of the *Constitution Act, 1867* granted the federal government exclusive legislative authority over "Indians and lands reserved for the Indians." With this power, the Crown passed the *Gradual Enfranchisement Act* in 1869, which adopted assimilation as "the fundamental principle of federal policy."<sup>69</sup> Among other matters, the Act marked the beginning of federal government efforts to regulate and legislate First Nations' identity, which still continues today. The Act included discriminatory status provisions, as a First Nations woman and her children lost their Indian status if she married a non-Indian. However, status Indian men who married non-Indians did not lose their status.<sup>70</sup> In later years, the *Indian Act* continued to regulate identity in an attempt to erase First Nations' cultural affiliations, undermine the role of First Nations women in their communities and governance structures, and assimilate First Nations into Canadian society.

At the same time as the Crown was signing nation-to-nation agreements with First Nations, the *Indian Act* was passed in 1876, promising a completely different relationship with First Nations as "child[ren] or ward[s]" of the state.<sup>71</sup> This approach contradicted the treaties, which, from the perspective of First Nations, protected their governance systems and ways

---

<sup>65</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 30 May 2017 (William Wicken, Professor, Department of History, York University, as an individual).

<sup>66</sup> APPA, *Evidence*, 31 May 2017 (Miles Richardson).

<sup>67</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 14 February 2017 (Larry Chartrand, Professor, Faculty of Law, Common Law Section, University of Ottawa, as an individual).

<sup>68</sup> *Report of the Royal Commission on Aboriginal Peoples*, "[Volume 1 – Looking Forward, Looking Back](#)," 1996, p. 249.

<sup>69</sup> *Report of the Royal Commission on Aboriginal Peoples*, "[Volume 1 – Looking Forward, Looking Back](#)," 1996, p. 166.

<sup>70</sup> APPA, *Evidence*, 31 January 2017 (J. R. (Jim) Miller); Library of Parliament, Mary C. Hurley and Tonina Simeone, [Legislative Summary of Bill C-3: Gender Equity in Indian Registration Act](#), 18 March 2010.

<sup>71</sup> APPA, *Evidence*, 31 January 2017 (J. R. (Jim) Miller).

of life. Instead, the *Indian Act* and associated policies were tools of assimilation, establishing control over every aspect of the lives of First Nations while attempting to undermine First Nations' cultures, values, ways of life, governance structures and identities.

The *Indian Act* remains in force today and has been amended many times throughout its history. At different points in time, the Act targeted First Nations cultures and identities by outlawing the Sun Dance and the potlatch,<sup>72</sup> forcing First Nations communities to practice their cultures in secret. The *Indian Act* continued to regulate and legislate identity, with the goal of decreasing the number of status Indians over time.<sup>73</sup> A First Nations person could become enfranchised, losing their status for a variety of reasons, including if a status Indian woman married a non-Indian, if they earned a university degree, became doctors, lawyers or clergymen, and in some cases, if they enlisted in the military.<sup>74</sup> Discriminatory registration provisions were carried forward and continued to emphasize

"From the 1900s to 1950, we had chiefs and councils elected under the Indian Act, with the Indian agent in full charge of everything. One of the reasons for that, as you know, is that it was against the law for us to assemble under the Indian Act until 1950." (Sol Sanderson, Senator, Federation of Sovereign Indigenous Nations, *Evidence*, September 19, 2017).

patrilineal lineage, in many cases, preventing First Nations women from living in their communities and undermining their roles as leaders in many First Nations governance structures.<sup>75</sup> The *Indian Act* also replaced traditional First Nations' laws and governance structures with a system that vested power in the Minister of Indian Affairs to control the election process in First Nations communities.

## G. THE CROWN'S ATTEMPTS TO ASSIMILATE FIRST NATIONS AND REMOVE THEM FROM THEIR LANDS

For more than a century and a half, the Crown attempted to assimilate First Nations through residential schools. The federal government chose to invest in residential schools for several reasons, including to limit resistance to the federal government's dispossession of First Nations traditional territories for settlement and the development of the railroad.<sup>76</sup> The

---

<sup>72</sup> APPA, *Evidence*, 3 May 2017 (James Daschuk); APPA, *Evidence*, 31 May 2017 (Miles Richardson).

<sup>73</sup> APPA, *Evidence*, 14 February 2017 (Larry Chartrand); APPA, *Evidence*, 27 September 2017 (Claudette Commanda).

<sup>74</sup> *Report of the Royal Commission on Aboriginal Peoples*, "Volume 1 – Looking Forward, Looking Back," 1996, p. 257, 524.

<sup>75</sup> APPA, *Evidence*, 14 February 2017 (Larry Chartrand); APPA, *Evidence*, 3 May 2017 (John Milloy); APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 6 November 2018 (Ellen Gabriel, Indigenous Human Rights Defender, as an individual).

<sup>76</sup> APPA, *Evidence*, 3 May 2017 (John Milloy); Truth and Reconciliation Commission of Canada, *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada*, 2015, p. 61.

schools were “designed to produce graduates who, having been separated from their parents, could be socialized and educated as white.”<sup>77</sup> It was hoped that, upon graduating, students would “give up their [Indian] status and not return to their reserve communities and families,”<sup>78</sup> thus reducing the number of status Indians.

Residential schools were operated by the federal government and Christian churches for over 150 years between the late 1800s and the late 1990s. Attendance at residential school was legislated through the *Indian Act*, which “empowered the [federal] government to compel parents to send their children to residential schools.”<sup>79</sup> Children were often taken forcibly from their homes to attend the schools.<sup>80</sup> While there, First Nations practices and ways of life were undermined, as many First Nations children were subject to harsh punishment if they were caught speaking their language or practicing their cultures. European values, lifestyles and religions were emphasized as superior, leaving many First Nations feeling inferior and ashamed of their identities. Many children also experienced emotional, physical and/or sexual abuse, prompting some to risk their lives to run away from the schools.<sup>81</sup>

“I was held a prisoner from the age of four and a half, at a residential school, incarcerated for no other reason than that I am an Anishinaabe and to kill the Indian in this child ... [It] almost succeeded in taking away my language, in taking away my spirituality, in taking away my culture, in taking away my relationship to the land.” (Elder Fred Kelly, an individual, *Evidence*, September 27, 2017).

The federal government’s policies of assimilation continued well into the 20<sup>th</sup> century. The *Statement of the Government of Canada on Indian Policy*, known as the White Paper, 1969, proposed to assimilate First Nations and “terminate the federal government’s special relationship with Aboriginal peoples.”<sup>82</sup> First Nations rejected this proposal outright and in response the Indian Chiefs of Alberta prepared the “Red Paper” (Citizens Plus), highlighting the distinct cultures of First Nations communities and their desire to contribute to Canadian society while “exercising political and economic power at the community level.”<sup>83</sup> The federal

---

<sup>77</sup> APPA, *Evidence*, 3 May 2017 (John Milloy).

<sup>78</sup> Truth and Reconciliation Commission of Canada, *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada*, 2015, p. 58.

<sup>79</sup> Ibid, p. 54.

<sup>80</sup> Ibid, pp. v-vi.; APPA, *Evidence*, 14 February 2018 (Hon. Murray Sinclair, Marie Wilson).

<sup>81</sup> Ibid.; APPA, *Evidence*, 3 May 2017 (John Milloy).

<sup>82</sup> *Report of the Royal Commission on Aboriginal Peoples*, “Volume 1 – Looking Forward, Looking Back,” 1996, p. 187; APPA, *Evidence*, 14 June 2017 (Edward John).

<sup>83</sup> *Report of the Royal Commission on Aboriginal Peoples*, “Volume 1 – Looking Forward, Looking Back,” 1996, p. 187; Aboriginal Policy Studies, *Citizen’s Plus*.

government did not proceed with the White Paper, although the vision in the document persisted in federal policy in later years.<sup>84</sup>

The policies of assimilation continued to target children in the 20<sup>th</sup> century. Between the 1960s and approximately the mid-1980s, many First Nations, Inuit and Métis children were removed by child welfare agencies and placed in non-Indigenous homes across Canada, the United States and other countries.<sup>85</sup> Often referred to as the “Sixties Scoop,”<sup>86</sup> this system was similar to residential schools in that, First Nations lost control over their children.<sup>87</sup>

At the same time, First Nations continued to experience the loss of their lands. With the Crown’s transfer of lands and resources to Alberta, Saskatchewan and Manitoba in the early 20<sup>th</sup> century, provincial governments became involved in dispossessing First Nations of their lands. In Manitoba the province authorized the construction of hydro dams in the north, which flooded First Nations lands and forced entire communities out of their home territories. First Nations were provided with other, often less valuable land in return, but continued to protest the loss of their lands and “connection with their trees, their rivers, their animals and the land of their ancestors.”<sup>88</sup>

## H. ONGOING LEGACY OF THE POLICIES OF ASSIMILATION AND DISPOSSESSION OF FIRST NATIONS LANDS

Together, the Crown’s actions to assimilate First Nations and remove them from their lands contributed to a complex and ongoing legacy of intergenerational trauma in First Nations communities. Residential schools had a profound effect on First Nations families and communities, leaving some to feel ashamed of their identity and choose not to pass on culture and language to their children. As explained by Doris Young:

From my own experience of residential schools, being disconnected from my land caused me to feel disoriented, isolated and lost, for many, many years. The core of my identity was missing, like dago bi ji kana e be ko buni ki, as in ‘broken links in a chain.’<sup>89</sup>

---

<sup>84</sup> Report of the Royal Commission on Aboriginal Peoples, “[Volume 1 – Looking Forward, Looking Back](#),” 1996, p. 187.

<sup>85</sup> Truth and Reconciliation Commission of Canada, [Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada](#), 2015, p. 138.

<sup>86</sup> Ibid.

<sup>87</sup> APPA, [Evidence](#), 3 May 2017 (John Milloy).

<sup>88</sup> APPA, [Evidence](#), 29 March 2017 (Doris Young).

<sup>89</sup> Ibid.

Generations of First Nations children were removed from their families and communities through residential schools and the sixties scoop. Today, large numbers of First Nations children continue to be involved with the child welfare system, which, combined with the legacy of intergenerational trauma, is a factor contributing to the over-representation of Indigenous peoples in the criminal justice system. As observed by Edward John, Grand Chief of the Tl'azt'en Nation:

as they [children who are removed from their homes] get older, [they] become statistics in criminal courts in this province as youth, at juvenile detention centres. And those children, as they become adults, end up with the prison populations, in provincial and federal jail systems. It continually repetitions itself. How do we break that cycle?<sup>90</sup>

Policies of assimilation, including discriminatory status provisions, broke families apart, forcing some to leave their home communities. Over time, this has contributed to an increase in the number of First Nations People living in urban centres, in some cases for generations. Damon Johnston's story highlights the complex legacy of the policies of assimilation:

"The aftermath of residential schools has had a devastating impact on me as a human being. All my siblings went to residential schools, whether it be Alberni or Edmonton. Not one of us ever returned home to our community. That's the disruption that's still affecting us today. Not one of us are communicating with each other. They destroyed the family, but more importantly, they destroyed the community. I may be an exception to that in our family because I'm a drummer in our Gitxsan Gitsegukla dance group. Our daughter is a dancer. Our granddaughter is a dancer. We're doing our part, because to me, reconciliation starts with me and then it builds from there." (Willie Blackwater, Director, Gitsegukla Band Council, First Nations Major Projects Coalition, *Evidence*, December 5, 2017).

I have two homes because I was born here in Winnipeg in 1947 because my father was a hunter, trapper, and guide in Ignace, Ontario. But both my parents were born on the Fort William First Nation. My mother and dad were forced off because their mothers married non-Indians, so they lost their status...As a Canadian having lived 70 years in this country, having been born without status...What

---

<sup>90</sup> APPA, *Evidence*, 14 June 2017 (Edward John).

I lost was my culture, my language, any real knowledge of who I was as Anishinaabe or an Indigenous person.<sup>91</sup>

To address this legacy, many First Nations communities and people, including youth, female leaders, and community members, are currently working to reclaim, rebuild and recover their cultures, languages, identities, governance systems and laws that were undermined by federal policies.

## I. FIRST NATIONS' RESISTANCE TO THE POLICIES OF THE GOVERNMENT OF CANADA

Throughout the history of the relationship, First Nations actively resisted the policies and actions of the Crown by writing letters and preparing petitions. Between 1927 and 1951, the *Indian Act* prohibited First Nations from using band funds for claims against the federal government, which impeded First Nations from obtaining legal assistance to pursue their concerns in court.<sup>92</sup>

In the 1960s, First Nations mobilized. They formed national organizations and led historic protests to fight for their rights. In 1965, First Nations marched in Kenora in response to the "years of racism and hostility experienced by First Nations citizens in the town of Kenora."<sup>93</sup> In the summer of 1990, the Mohawks of Kanesatake defended their lands following the town of Oka's "plan to develop a golf course on Mohawk burial grounds."<sup>94</sup> This led to a confrontation between the Mohawk community, the Government of Quebec, the Quebec provincial police and the Canadian military, events which are often referred to as the "Oka crisis."<sup>95</sup>

First Nations also turned to the courts to pursue their concerns and achieve recognition of their rights. In many cases the courts ruled in favour of First Nations, leading Parliament to enact legislation and the federal government to amend policies or programs. For instance, the Supreme Court of Canada's decision in *Calder* (1973) recognized Aboriginal title, since Indigenous Peoples' historic occupation of the land gave rise to legal rights that had survived European settlement. This decision provided "First Nations with a powerful weapon to defend

---

<sup>91</sup> APPA, [Evidence](#), 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 23 March 2018 (Damon Johnston, Board Member, Ma Mawi Wi Chi Itata Centre).

<sup>92</sup> *Report of the Royal Commission on Aboriginal Peoples*, "[Volume 1 – Looking Forward, Looking Back](#)," 1996, p. 200.

<sup>93</sup> Chiefs of Ontario, [Ontario Regional Chief Isadore Day Statement on 50<sup>th</sup> Anniversary of Kenora Indian March](#), 20 November 2015.

<sup>94</sup> Truth and Reconciliation Commission of Canada, [Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada](#), 2015, p. 185.

<sup>95</sup> *Ibid.*, pp. 185–186.

their territorial interests”<sup>96</sup> and compelled the federal government to develop processes to address Indigenous Peoples’ claims.

As they had in the past, First Nations also used the courts and other forms of resistance to protect their territories. When a massive hydro-electric project was announced in 1971 by the premier of Quebec, the James Bay Cree and Quebec Inuit fought back by going to court in 1972. Although the court granted an injunction for the project, it was later overturned by the Quebec Court of Appeal.<sup>97</sup> However, the events, including the 1973 *Calder* decision and the desire for the project to proceed, led to the negotiation of the first modern treaty – the *James Bay and Northern Quebec Agreement* – signed in 1975.<sup>98</sup>

In addition, First Nations’ women used the courts to challenge ongoing discrimination in the *Indian Act* that continues to affect their lives and communities. Jeanette Corbiere Lavell and Yvonne Bédard challenged the registration provisions that led them to lose their status as a result of marrying non-Indigenous men, but they were unsuccessful when the appeal was heard by the Supreme Court of Canada.<sup>99</sup> Despite this loss, others continued to challenge the discriminatory registration provisions. Sandra Lovelace turned to international law to challenge the provisions of the *Indian Act* that caused her to lose her status and ability to live in her community. In 1981, the United Nations Human Rights Committee concluded that provisions denying Ms. Lovelace the legal right to reside on her reserve violated the *Optional Protocol to the International Covenant on Civil and Political Rights*.<sup>100</sup>

In response to court decisions, the federal government has enacted legislation in an attempt to address discrimination in the registration provisions of the *Indian Act*. For example, although Bill C-31 (1985) amended the *Indian Act’s* registration provisions, inequities persisted, leading to additional court challenges<sup>101</sup> and more revisions to the *Indian Act*.<sup>102</sup> The most recent amendments to the registration provisions of the *Indian Act* were contained in Bill S-3, which received Royal Assent in December 2017.<sup>103</sup>

In recent times, the relationship between First Nations and the Crown continues to evolve, with significant changes to policies, programs and legislation primarily driven by First

---

<sup>96</sup> APPA, *Evidence*, 28 March 2017 (J. R. (Jim) Miller).

<sup>97</sup> *Ibid.*

<sup>98</sup> Miller, *Compact, Contract, Covenant: Aboriginal Treaty Making in Canada*, p. 260.

<sup>99</sup> Supreme Court of Canada, *Attorney General of Canada v. Lavell*, [1974] SCR 1349.

<sup>100</sup> International Covenant on Civil and Political Rights, Human Rights Committee, Thirteenth Session, *Communication R.6/24*.

<sup>101</sup> Court of Appeal for British Columbia, *McIvor v. Canada (Registrar of Indian and Northern Affairs)*, 2009 BCCA 153; Superior Court of Quebec, *Descheneaux c. Canada (Procureur Général)*, 2015 QCCS 3555 (CanLII).

<sup>102</sup> [Bill C-3, An Act to promote gender equity in Indian registration by responding to the Court of Appeal for British Columbia decision in \*McIvor v. Canada \(Registrar of Indian and Northern Affairs\)\*](#).

<sup>103</sup> [Bill S-3, An Act to amend the Indian Act in response to the Superior Court of Quebec decision in \*Descheneaux c. Canada \(Procureur général\)\*](#).

Nations. Demonstrations, court decisions and the assertiveness of First Nations communities has pressured the federal government to respond and contributed to further recognition of First Nations rights.

## THE LONG ROAD TO RECOGNITION: MÉTIS AND THE CROWN

As early as the 1700s, the children born of relationships between First Nations and fur traders became the Métis. Over time, Métis communities developed which were distinct from their First Nations neighbours, with their own governance structures, languages and legal traditions. Similar to other Indigenous communities, Métis identities were tied to the land: “They weren’t socialized within the mother’s community because often the fur traders were at the Hudson’s Bay post or inland ... and they weren’t associated in European society. They were associated out on the land.”<sup>104</sup> John Morrisseau observed that the Métis was “a nation of mixed blood.”<sup>105</sup> Although different groups, some Métis and First Nations communities, such as “the Saulteaux, Assiniboine, the Cree,”<sup>106</sup> often hunted and worked together.

The history of the relationship between the Métis and the Crown is characterized by conflict, dispossession, exclusion and resistance. The Crown initially recognized the Métis as an Indigenous group with collective rights to land. Over time, this approach changed to emphasize individual land rights. The Métis lost much of their land base, and were pushed to the margins of society.<sup>107</sup> Like other Indigenous groups, the Métis were affected by the legacy of policies, such as residential schools, and the loss of their lands, which contributed to a complex legacy of intergenerational trauma.

This section of the report will explain how the Métis were influential in the fur trade, leading the Crown to recognize their rights to land at different points in time. However, when the economy shifted away from the fur trade, the Crown began to exclude the Métis as an Indigenous group, in an attempt to dismiss their claims for land. After the Métis and First Nations mounted a resistance movement for land rights, the punishment Métis experienced, including execution of their leaders, resulted in stigma and fear about identifying as Métis.

---

<sup>104</sup> APPA, *Evidence*, 14 February 2017 (Larry Chartrand).

<sup>105</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 29 March 2017 (John Morrisseau, Member of the Indian Residential School Survivor Committee, as an individual).

<sup>106</sup> APPA, *Evidence*, 14 February 2017 (Larry Chartrand).

<sup>107</sup> APPA, *Evidence*, 7 February 2017 (Brenda Macdougall, Chair, Métis Research, Department of Geography, Faculty of Arts, University of Ottawa).

## A. THE CROWN'S EXCLUSION OF THE MÉTIS SERVED ITS ECONOMIC AND POLITICAL INTERESTS

The early relationship was characterized by Métis resistance to any external control over their lands and their central positions in the fur trade. In the early 1800s, the Métis held key economic positions in the fur trade, with settlements in what is now northern Ontario and territories further west, working in the pemmican trade, and as interpreters and traders. The Crown, through its agent the Hudson's Bay Company, was increasingly interested in trade and lands in the West. Initially, the central role of the Métis in the fur trade left them "too powerful to ignore,"<sup>108</sup> and the Crown's "policy of non-recognition was not always possible."<sup>109</sup> Conflicts over control of the pemmican trade occurred between the Métis and the Northwest Company and their competitors the Crown and the Hudson's Bay Company. The attempt by the Hudson's Bay Company to establish a settler colony in the Red River Valley where some of the Métis lived was met with hostilities, which ceased upon the "signing of a treaty"<sup>110</sup> in 1815. Larry Chartrand describes this as the first Métis treaty, and proof that the Métis were once recognized as a collective entity by the Crown.

During the mid-to late 1800s, the Métis and First Nations were being pushed off their lands. The Métis formally raised their concerns with the British Parliament in a series of petitions: making specific claims to land because of their First Nations heritage; questioning the authority of the Hudson's Bay Company's monopoly in the region; seeking representation on a regional governing council; and protesting an unelected Lieutenant Governor governing the region, amongst other concerns.<sup>111</sup>

To bring Western Canada into Confederation and access "new" lands for settlers, the Crown began to deny Métis Indigeneity. At the same time, supported by the concepts of *terra nullius* and the doctrine of discovery, the Crown began to implement the policies of assimilation. As Larry Chartrand emphasized, recognizing the Métis at this juncture would have been "to acknowledge the Metis as a distinct group [and] would arguably be akin to acknowledging the failure of colonial policy designed to assimilate and civilize the Indians."<sup>112</sup> Therefore, by 1850, "colonial authorities had adopted a policy of Métis collective non-recognition."<sup>113</sup>

By the 1860s, the Crown focused on expanding its authority over lands west of Ontario, in the Northwest. The Métis, along with First Nations, still outnumbered European settlers, who

---

<sup>108</sup> APPA, *Evidence*, 14 February 2017 (Larry Chartrand).

<sup>109</sup> Ibid.

<sup>110</sup> Ibid.

<sup>111</sup> Keith D. Smith, *Strange Visitors: Documents in Indigenous-Settler Relations in Canada from 1876* (Toronto: University of Toronto, 2014).

<sup>112</sup> APPA, *Evidence*, 14 February 2017 (Larry Chartrand).

<sup>113</sup> Ibid.

were continuously moving west.<sup>114</sup> However, the relative power of the Métis within the fur trade was diminishing because of the sudden decline of the bison (which was due in large part to the large-scale commercial bison hunt in the United States) and the rise of agriculture pursued by a steady flow of new settlers.

## B. THE NORTHWEST LANDS AND MÉTIS RESISTANCE

The Crown continued to solidify its economic base by appropriating land in the Northwest, which contravened the Crown's recognition of Aboriginal title in the Royal Proclamation of 1763. Based on the myths of *terra nullius*, the Crown attempted to expand its territory in the Northwest through a series of land transfers. In 1670, King Charles I granted a large swath of the Hudson's Bay watershed, called Rupert's Land, to the Hudson's Bay Company and awarded it exclusive rights to trade in the region. In 1869, Prime Minister Macdonald arranged for the Northwest lands to be sold to the newly established Dominion of Canada. The land transfer was problematic to local First Nations and Métis, as they began to observe a steady flow of settlers moving into their territories and staking claims to agricultural lands in the Northwest. Even though they occupied their traditional territories, First Nations and Métis communities were not consulted on the land transfers. The Dominion of Canada, similar to the Crown before it, believed it was entitled to claim the "unoccupied lands" of the Northwest.

"The idea that the Crown could merely assert sovereignty, of course, has always been challenged, whether you're Métis or non-Métis. Under principles of international law, in terms of territorial acquisition, you can't just merely assert your sovereignty when there are already existing sovereign peoples on that territory. You need to engage in processes of negotiation to work out a way to share that sovereignty, if that's the desire of the peoples. I think that would be the same way that Métis would look at it, as well." (Larry Chartrand, Professor, Faculty of Law, Common Law Section, University of Ottawa, as an individual, [Evidence](#), February 14, 2017).

The Métis began to protest the expansion of the Dominion of Canada over the Northwest lands. By the 1870s, the Métis observed government surveyors in the Red River area (then a major fur trade centre), surveying lands to be distributed to settlers, while Métis petitions

---

<sup>114</sup> APPA, [Evidence](#), 7 February 2017 (Brenda Macdougall). The first census taken in an area which would today be a small part of the province of Manitoba enumerated 10,000 residents, with 8,000 of those people identifying as Métis.

to Ottawa for land were ignored.<sup>115</sup> Louis Riel organized the Métis in protest to defend their territory and a Provisional Government of the Assiniboia was struck in 1869.<sup>116</sup>

Representatives of the Provisional Government went to Ottawa and reached an agreement on rights for citizens of Assiniboia and the creation of a new province of Canada, Manitoba. Legal scholars have claimed that the agreement reached between the Dominion of Canada and the Provisional Government may constitute a treaty. Elements of this agreement<sup>117</sup> are found in the *Manitoba Act* passed in 1870, which brought Manitoba into Confederation and made Louis Riel a “founder of Manitoba.”<sup>118</sup>

The legislation set aside 1.4 million acres of land for the Métis and guaranteed that Canada would respect their existing land titles in the Northwest, including those of First Nations.<sup>119</sup> The legislation was a powerful achievement for the Métis, as the Dominion recognized Métis rights to land title along with their collective rights to land.

Despite this recognition, the Dominion Government’s implementation of the *Manitoba Act* emphasized individual land rights by allocating individual lots of land by scrip.<sup>120</sup> As part of the process, in Saskatchewan and other areas in Western Canada, the Métis either had to join a First Nation band or take scrip.

For the Dominion Government, scrip became a way to deal with Métis claims to land without creating ongoing obligations, as it had through treaty-making with First Nations. Scrip “essentially acted as a fast track to assimilation,”<sup>121</sup> and ultimately, from the perspective of the federal government, led to

“People who chose to take scrip I think were choosing not to be under the yoke of the *Indian Act*, but that's it. That didn't mean that they ceased to be a community. That didn't mean that they ceased to be a collectivity.” (Brenda Macdougall, Chair, Métis Research, Department of Geography, Faculty of Arts, University of Ottawa, as an individual, *Evidence*, February 7, 2017).

“the extinguishment of the Indian title of the Métis,”<sup>122</sup> while “absolving ... [the federal government] of any further responsibility”<sup>123</sup> to them. Larry Chartrand has argued that

---

<sup>115</sup> Larry Chartrand, “[Metis Treaties in Canada: Past Realities and Present Promise](#),” *Métis Treaties Research Project*, 2016 and *Report of the Royal Commission on Aboriginal Peoples*, “[Volume 4: Perspectives and Realities](#),” 1996, p. 207.

<sup>116</sup> APPA, *Evidence*, 7 February 2017 (Brenda Macdougall) and Larry Chartrand, “[Metis Treaties in Canada: Past Realities and Present Promise](#),” *Métis Treaties Research Project*, 2016.

<sup>117</sup> Larry Chartrand, “[Metis Treaties in Canada: Past Realities and Present Promise](#),” *Métis Treaties Research Project*, 2016.

<sup>118</sup> APPA, *Evidence*, 7 February 2017 (Brenda Macdougall).

<sup>119</sup> APPA, *Evidence*, 14 February 2017 (Larry Chartrand).

<sup>120</sup> Ibid.

<sup>121</sup> Ibid.

<sup>122</sup> Ibid.

<sup>123</sup> Ibid.

despite the Crown's intentions to allocate the land individually to eliminate any need to negotiate future treaties with the Métis, the *Manitoba Act* did not extinguish collective Métis rights to land,<sup>124</sup> an issue of concern to the Métis today, and a matter the courts may consider.

The Métis distrusted treaties and saw them as tools of the Crown to be "used against people"<sup>125</sup> to obtain land. For its part, the Crown did not see itself as having responsibility for the Métis and excluded them from a land base as a group. There were a few notable exceptions, as in some cases, Métis were given a choice: they could join the treaty to be subsumed under First Nation band membership or continue to live as Métis but without a land base. For example, when treaties were negotiated in the Great Lakes area in the mid-1850s, the Treaty Commissioner left it to the First Nations Chiefs to decide whether to share "the benefits of the treaty" with the Métis, indicating that "Canada would not deal [with] the half-breeds as a separate group."<sup>126</sup>

A number of factors came together that weakened the Métis position and led to the Dominion of Canada's denial of Métis rights. By the 1880s, in large part due to the large-scale commercial bison hunt in the United States, the bison were in decline and were disappearing from the plains, disrupting the centuries-old food economy. Hardship and starvation experienced by First Nations and Métis placed both in a more vulnerable position during treaty and other negotiations.

By 1885, tensions ran high between Canada and the Métis over a number of matters, including political representation, farming assistance and title to their traditional lands, which were rapidly being infringed upon by settlers. Led by Louis Riel and Gabriel Dumont, Métis and First Nations engaged in armed conflict with Canada beginning at Duck Lake, Saskatchewan, and ending with the Battle of Batoche in May 1885.<sup>127</sup> Louis Riel was later found guilty of treason and he, along with eight others, died in the "largest mass execution in Canada."<sup>128</sup> Other leaders, including First Nations Chiefs, were imprisoned, some without trial.<sup>129</sup>

## C. EFFECTS OF MÉTIS EXCLUSION: DISPLACEMENT AND SHAME

Taken together, the scrip process of allocating land to individuals rather than to communities, and the loss of their advocate and leader Louis Riel, led the Métis to lose their land base over

---

<sup>124</sup> Ibid.

<sup>125</sup> APPA, *Evidence*, 7 February 2017 (Brenda Macdougall).

<sup>126</sup> Larry Chartrand, "[Metis Treaties in Canada: Past Realities and Present Promise](#)," *Métis Treaties Research Project*, 2016.

<sup>127</sup> Legacy of Hope Foundation, *Forgotten Métis Exhibition Timeline*.

<sup>128</sup> APPA, *Evidence*, 7 February 2017 (Brenda Macdougall).

<sup>129</sup> Ibid.

time.<sup>130</sup> Scrip was still being allocated to Métis between 1885 and 1923; however, in some areas Métis were facing high tax rates on their lands, often as much as double or triple the amount being paid by European settlers. Many Métis could not afford the taxes and within 15 years of the enactment of the *Manitoba Act*, “two thirds of the Métis population left that province, and those people ended up landless.”<sup>131</sup> Without a land base, many Métis were left with the land that was not claimed by settlers: “the road allowance”<sup>132</sup> being the only land available for farming or to build homes. John Morrisseau described the continual displacement of his family further north. At the time, the European settlers “moved to the north to where we were, they were taking the land. We didn’t have any land. The only land that we had to keep the few cows and horses that we had was always picked alongside the road allowances.”<sup>133</sup> As Brenda Macdougall observed, the lack of land affected the lives of many people: “[T]he history of our people is one of movement, of being pushed further and further west and then north into the margins of Canadian society.”<sup>134</sup> However, not all Métis lost their land base. In Alberta, 12 Métis settlements were created in the northern and central parts of the province in the 1930s, eight of which remain today.

The exclusion of Métis from a relationship with Canada and the “punishment” Métis Peoples endured after the Resistance of 1885, led many to “hide” their Métis heritage, for fear of retribution. Métis People recalled the punishment and deaths of Métis and First Nations leaders during the late 1800s and carried the fear of persecution all their lives. John Morrisseau described his uncle’s warning in the 1970s that Canada was “going to kill” him upon learning that Mr. Morrisseau was becoming politically active.<sup>135</sup> As underscored by Elder Verna Porter-Brunelle: “My family would not admit that we were Métis and I’m sure part of it was that my father would not have had a job.”<sup>136</sup> Ultimately, this fear contributed to the decline of the use of the Michif language in Métis communities in Manitoba and across Canada.

“My parents always identified as Métis but never taught me anything about our culture because for my parents growing up, it was taboo to talk about or even acknowledge you were a Métis. But we’ve always appreciated who we are.” (Tiffany Monkman, as an individual, *Evidence*, June 7, 2017).

---

<sup>130</sup> Ibid.

<sup>131</sup> Ibid.

<sup>132</sup> APPA, *Evidence*, 29 March 2017 (John Morrisseau).

<sup>133</sup> Ibid. .

<sup>134</sup> APPA, *Evidence*, 7 February 2017 (Brenda Macdougall).

<sup>135</sup> APPA, *Evidence*, 29 March 2017 (John Morrisseau).

<sup>136</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 27 September 2017 (Verna Porter-Brunelle, as an individual).

Other forms of Métis exclusion occurred over time. For example, the lack of a direct relationship with Canada led Métis to be excluded from Canada's efforts to redress for some aspects of its policy of assimilation of Indigenous Peoples. Similar to First Nations and Inuit, Métis were also affected by the Crown's policies of assimilation, as some attended residential and day schools. In some cases, Métis children were subjected to harsh punishment or abuse while at the schools and were discouraged from, or punished for, practicing their culture or languages.

"Any apology that's been made by the federal government, any settlements that have been made by the federal government have not included Métis... Our residential and day school survivors were not a part of that apology. Our Métis people were not identified in the Sixties Scoop. And our Métis veterans have not been identified. This is incredibly important because to me it makes it feel like I'm a second-class Aboriginal person. In the Canadian Constitution there is no hierarchy in the way our Aboriginal groups are listed." (Colette Trudeau, as an individual, *Evidence*, June 6, 2018).

## D. FIGHTING FOR RECOGNITION THROUGH THE COURTS: THE STORY OF MÉTIS RESISTANCE

The Métis have continued to fight for recognition of their rights in the courts and through advocacy for well over 150 years. After many years of a limited relationship with the Crown, the Métis were recognized as an "Aboriginal people" in the *Constitution Act, 1982*. As stated by Larry Chartrand, "The recognition of Métis within section 35 of the Constitution, on the insistence of Harry Daniels...was very significant because it meant that Métis as a People were recognized in the Canadian Constitution, which was contrary to Canada's policy of denying Métis" rights.<sup>137</sup>

The Métis have also achieved recognition of their rights through several Supreme Court of Canada cases. In *R. v. Powley*,<sup>138</sup> the Court "recognized the Métis of the Sault Ste. Marie area as possessing the Aboriginal right to hunt." Other cases, such as the *Goodon* case and the *Lavolette* case, affirmed that Métis regions can exercise rights over resources.<sup>139</sup> Further, in the 2016 ruling, *Daniels v. Canada (Indian Affairs and Northern Development)*, the Court provided greater clarity on the nature of the Métis relationship with the federal government and "clarified that Métis fall within federal jurisdiction." Larry Chartrand noted

---

<sup>137</sup> APPA, *Evidence*, 14 February 2017 (Larry Chartrand).

<sup>138</sup> *R. v. Powley*, 2003 SCC 43, paras. 30–34; and *Ibid*.

<sup>139</sup> APPA, *Evidence*, 14 February 2017 (Larry Chartrand).

that “the excuse that the federal government is not responsible for dealing with Métis claims based on lack of jurisdiction is no longer available.”<sup>140</sup>

## INUIT RELATIONSHIP WITH THE CROWN

For time immemorial, Inuit have lived in the vast territories of the North, shaped by the land, ice, animals and sea around them. Inuit migrated to different seasonal camps, based on the availability of resources. The family unit was essential to survival in the Arctic, and Inuit built self-reliant societies that thrived in the harsh climate through their ingenuity and perseverance.

Inuit played a pivotal role in early encounters with Europeans, acting as guides and interpreters. Interactions began as early as the mid-1500s when Inuit communicated with some of the “early explorers” in Canada, such as Martin Frobisher and Samuel Hearne. Inuit traded with the early commercial whalers for tools such as knives, axes and sewing equipment and guided whalers into Cumberland Sound, Repulse Bay and Hudson’s Bay.<sup>141</sup> Elder Tagak Curley emphasized that Inuit from the Kivalliq region, Augustus Tattannoek and Junius Hoeootoerock, worked as interpreters and guards during John Franklin’s early expeditions.<sup>142</sup> Further, contrary to what was reported in the British press at the time, Inuit assisted the British explorer John Franklin and his crew.<sup>143</sup>

While Inuit reached out to support explorers and settlers, the Crown’s treatment of Inuit was marked by ignorance and neglect. For the most part, the Crown applied policies devised in the south to Inuit without consultation or even translation, in the process affecting their lands, languages, culture, and well-being. The Crown was uninterested in Inuit affairs until famine and public scrutiny prompted a more active federal role.<sup>144</sup> By the beginning of the 1960s, the Crown focused on a rapid policy of assimilation or “culture change”<sup>145</sup> for Inuit, which profoundly altered and disrupted Inuit ways of life. The effect of these policies led to a complex legacy of intergenerational trauma which continues to affect many Inuit communities today. As a result, for Inuit the “the colonial period is not just history, it is alive and well today.”<sup>146</sup>

As the Crown became more involved in the lives of Inuit, they resisted and employed the tools at their disposal, such as consultation, advocacy and negotiation, to assert their

---

<sup>140</sup> Larry Chartrand, “[Metis Treaties in Canada: Past Realities and Present Promise](#),” *Métis Treaties Research Project*, 2016.

<sup>141</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 26 September 2017 (Tagak Curley, as an individual).

<sup>142</sup> Ibid.

<sup>143</sup> Ibid.

<sup>144</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 1 March 2017 (Frank Tester, Professor Emeritus, University of British Columbia, as an individual).

<sup>145</sup> Ibid.

<sup>146</sup> Ibid.

vision for their People. The conclusion of modern treaties across all four Inuit regions has led to political autonomy while also achieving the vision of unity across *Inuit Nunangat*.<sup>147</sup>

## A. THE ARCTIC IS CHANGING: WILDLIFE REGULATIONS AND THE ARRIVAL OF SETTLERS

The Crown began to exert control over Inuit in the early 1900s through wildlife regulations developed in southern Canada. Federal wildlife regulations “were completely contrary to our Inuit way of life,”<sup>148</sup> as these measures affected the ability of Inuit to feed and clothe themselves. At the time, the Government of Canada administered the Arctic by way of a Northwest Territories Council, based in Ottawa. Under one of the first wildlife regulations, Inuit were subject to seasonal restrictions on hunting caribou, other animals and birds. Frank Tester emphasized that “[m]any of the laws were not translated into syllabics or Inuktitut so [Inuit] had no clue what was going on.”<sup>149</sup> People were charged with hunting caribou out of season, which led Inuit to be fearful of the government.<sup>150</sup>

“In the late 1800s, early 1900s...they started enforcing wildlife regulations in Canada that were completely contrary to our Inuit way of life. In order to survive in the winter, you need caribou fur for clothing material. You cannot just catch a caribou in the wintertime and make clothing for your children and your husband because the furs are so thick you won’t be able to move. You need brand-new furs that are coming out just last month, when they’re only about one inch or half an inch thick, to be exact. It’s illegal to catch caribou in the spring and summertime — only in the fall. And our people were charged by the Canadian government’s wildlife officers for violating Canada’s wildlife regulations. That signified...a ‘fear’ upon our people.”  
(Elder Tagak Curley, as an individual, Evidence, September 26, 2017).

In the years preceding the Second World War, the relationship between the Crown and Inuit can be characterized as “one of neglect.”<sup>151</sup> While there was no formal relationship established between Inuit and the federal government, the Arctic was beginning to change. Newcomers began to arrive in large numbers in the eastern Arctic in 1911, following the expansion of the Hudson’s Bay Company in the region. Inuit were heavily involved in the fur trade and sold pelts to Hudson’s Bay Company posts. As Tagak Curley pointed out, “It made a

---

<sup>147</sup> The term “Inuit Nunangat” is an Inuktitut term that includes land, water, and ice of the four Inuit regions: Inuvialuit, Nunavut, Nunavik and Nunatsiavut.

<sup>148</sup> APPA, *Evidence*, 26 September 2017 (Tagak Curley).

<sup>149</sup> APPA, *Evidence*, 1 March 2017 (Frank Tester).

<sup>150</sup> *Ibid.*

<sup>151</sup> *Ibid.*

lot of our Inuit people right across the Arctic very wealthy, including my father. He was good at catching foxes.”

Two significant legal developments related to Inuit also took place over this period. First, in 1924, legislation amending the *Indian Act* to include Inuit was passed, only to be repealed a few years later. Under the repealed legislation, Inuit were deemed Canadian citizens, in contrast to First Nations, who were considered wards of the state.<sup>152</sup>

The second was a Supreme Court ruling that clarified which order of government was responsible for Inuit. By the early 1930s, the collapse of fox pelt prices led to desperate conditions for Inuit with widespread hunger and famine.<sup>153</sup> The governments of Canada and Quebec contributed funds for famine relief, leading to a dispute over which government was financially responsible for Inuit.<sup>154</sup> Quebec brought its concerns to court, and the resulting 1939 Supreme Court of Canada ruling in *Re Eskimo*<sup>155</sup> found that Inuit were considered “another kind of Indian”<sup>156</sup> under the *Constitution Act, 1867* and were therefore under federal jurisdiction.

The development of relations between Inuit and the Crown differed according to the region where Inuit lived, leaving some without access to the same programs available to others. For example, Inuit from Nunatsiavut were not considered “Indigenous” in 1949 when Newfoundland and Labrador joined Confederation. James Igloliorte cited the reasoning of Premier Joey Smallwood: “[T]here were no Aboriginal people; they were all Newfoundlanders.”<sup>157</sup> As a result, Labrador Inuit had no formal relationship with the Crown, which led to their exclusion from federal funds, compensation and programs. Without a direct relationship with the federal government, funding “trickled down to the Labrador communities”<sup>158</sup> after being transferred to the province.

While the 1939 judicial ruling clarified that Inuit were under federal jurisdiction, the federal government had little interest in assuming any financial responsibility for Inuit until the mid-1950s. The Crown was “terrified ... that Inuit would become dependent on the state” and instructed the Royal Canadian Mounted Police (RCMP) to “chase Inuit out of town” when they began to establish settlements around some of the trading posts.<sup>159</sup> The absence of federal

---

<sup>152</sup> APPA, *Evidence*, 1 March 2017 (Frank Tester); and Sarah Bonesteel, *Canada’s Relationship with Inuit: A History of Policy and Program Development*, Indigenous and Northern Affairs Canada, June 2006.

<sup>153</sup> APPA, *Evidence*, 1 March 2017 (Frank Tester).

<sup>154</sup> Ibid.

<sup>155</sup> Supreme Court of Canada, *Reference as to whether “Indians” includes in s. 91 (24) of the B.N.A. Act includes Eskimo in habitants of the Province of Quebec*, [1939] SCR 104.

<sup>156</sup> APPA, *Evidence*, 1 March 2017 (Frank Tester).

<sup>157</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 28 February 2017 (James Igloliorte, Retired Judge of the Provincial Court of Newfoundland and Labrador, as an individual).

<sup>158</sup> Ibid.

<sup>159</sup> APPA, *Evidence*, 1 March 2017 (Frank Tester).

involvement in the Arctic meant that, for the most part, Inuit were able to continue to live on the land.<sup>160</sup>

## B. INUIT AND THE ESTABLISHMENT OF CROWN RELATIONS

Inuit experienced many hardships following the Second World War, when an outbreak of tuberculosis caused evacuations and deaths, devastating the extended family unit. Estimates suggest that as much as 33% of the Inuit population was evacuated to the South for lengthy treatment. In many cases, the ill person was the primary hunter of the family, altering the family unit and limiting the ability of Inuit to provide food for their families.<sup>161</sup> At the same time, a drop in the price of fur resulted in a fragile Inuit economy. The price of an Arctic fox pelt fell from \$25 in the mid-1940s to \$3.50 in 1949.<sup>162</sup> The winter of 1949–1950 brought famine and death from starvation in some areas, such as Padlei in the southern Kivalliq region.<sup>163</sup> Nearly a decade later, in the winter of 1957–1958, another Inuit community experienced death from starvation. The deaths of Inuit due to starvation received international press coverage and, coupled with American military criticism of how the Crown had failed to provide health and education to Inuit, compelled the Crown to act.<sup>164</sup>

Northern defence infrastructure was being constructed at the end of the Second World War through a partnership between Canada and the United States. By the mid-1950s, the American military presence in the Arctic had grown, with the construction of the Distant Early Warning (DEW) line or radar stations, providing Inuit with wage-based employment and altering the Arctic landscape.<sup>165</sup> The increased American military presence caused the Crown to focus on the sovereignty of the region and increased the number of civil servants delivering programs and services to Inuit.

---

<sup>160</sup> Ibid.

<sup>161</sup> Ibid.

<sup>162</sup> Ibid.

<sup>163</sup> Ibid.

<sup>164</sup> Ibid; and Legacy of Hope Foundation, *We Were So Far Away: The Inuit Experience of Residential Schools*.

<sup>165</sup> APPA, *Evidence*, 1 March 2017 (Frank Tester).

## C. FROM INUIT SELF-RELIANCE TO RELOCATIONS, RESIDENTIAL SCHOOLS AND SETTLEMENTS

### 1. Relocations

During the late 1950s and 1960s, Inuit experienced “the most rapid change– that is from a hunting culture to an industrial one – in 10 years.”<sup>166</sup> The Crown contributed to this rapid change by forcibly relocating several Inuit communities across the Arctic. The relocations were intended to address the federal government’s concerns about sovereignty over the Arctic and to improve access to health and education services for Inuit by establishing settlements. Relocations occurred throughout the Arctic, including in what is now Nunatsiavut, Nunavik and Nunavut, displacing Inuit from their traditional territories and moving them to places where food sources, weather patterns, seas, and landscapes were drastically different.

“This era, in the 1950s, saw Inuit go to the bottom of the power curve. In the words of an esteemed Elder, Rhoda Karetak from my home community, ‘We realized we had lost complete control over our lands.’ Can you just imagine the many negative feelings and attitudes that individuals must have been carrying within them at that time: the hurt, the confusion, the pain, the shame, the anger, the resentment and the mistrust?”  
(Ruth Kaviok, as an individual, *Evidence*, June 6, 2018).

One example is Inuit who lived at Ennadai Lake, who had a culture distinct from that of other Inuit since they lived inland, depending on fish and caribou herds for sustenance. In 1956, the federal government relocated one group to a nearby lake; the next year another group was forced to move to Henik Lake, where some Inuit died of starvation. Survivors were then evacuated to the coast of Hudson’s Bay at Arviat. Both Henik Lake and Arviat had different climates and game than Ennadai Lake.<sup>167</sup> Inuit were not told that they were leaving their homes in Ennadai Lake, nor were they able to bring items essential for survival, such as tools, tents or hunting supplies. Tagak Curley emphasized the trauma and hardship this caused for generations of Inuit, some of whom are still recovering today. Speaking of the Nunatsiavut Inuit experience of relocation, James Igloliorte recounted that in the mid-1950s, the Moravian Church and the Government of Newfoundland and Labrador, “[t]outing health, service provisions ... forced the relocation of Inuit to communities even further to the south ... [which] left traumatic consequences to the families who had lived up there and still exist now to the present time.”<sup>168</sup>

---

<sup>166</sup> Ibid.

<sup>167</sup> Ibid.

<sup>168</sup> APPA, *Evidence*, 28 February 2017 (James Igloliorte).

## 2. Residential Schools

Inuit lost control over the education of their children as the Crown's assimilation policies were implemented in the Arctic following the Second World War. This was difficult, as Inuit had well-established methods of teaching their children, via "stories, analogies"<sup>169</sup> and hands-on work, essential to life in the Arctic. Inuit see child-rearing as "the making of an able human being" so that children will contribute to the family and larger Inuit society.<sup>170</sup> As explained by William Komaksiutiksak "Inuit love doing hands-on work. That's how we learn, by watching and with stories."<sup>171</sup>

Inuit education became a pressing matter for the Crown following international press coverage and the American military's criticism.<sup>172</sup> The Roman Catholic Church and the Crown reached an agreement, resulting in the establishment of the Catholic-run Chesterfield Inlet Turquetil Hall residential school. Other Inuit regions also had residential schools that boarded children from across the Arctic region and where many "were mentally, physically and sexually abused."<sup>173</sup> The schools used curriculum from southern Canada, and children were required to use English rather than Inuktitut. As a result, Inuit children were alienated from their culture, their language, traditional food sources, families and social structures. Day schools were also established where Inuit children lived in hostels or with the families of church leaders or other community members.<sup>174</sup>

The Crown compelled families to send their children to the schools using the family allowance. In 1946, Canada introduced the family allowance, to which Inuit, as Canadian citizens, were entitled.<sup>175</sup> Tagak Curley noted that as the RCMP began to establish a permanent presence in the Baffin region, they began to incorporate settlements "at the expense of the Inuit hunters ... and saying that if they didn't put their kids in [residential] school, they wouldn't receive any family allowance."<sup>176</sup>

Inuit have specific ways of naming their children, drawn from their family, spirituality and culture. Few federal officials could communicate with Inuit in Inuktitut and did not understand Inuit names. In the early 1940s, the Crown attempted to displace Inuit naming systems with e-numbers. Inuit were issued discs stamped with unique identifying numbers which were used by federal officials to administer the family allowance and eventually became

---

<sup>169</sup> APPA, *Evidence*, 1 March 2017 (Frank Tester).

<sup>170</sup> Ibid.

<sup>171</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 20 June 2017 (William Komaksiutiksak, Youth Ottawa).

<sup>172</sup> Legacy of Hope Foundation, *We Were So Far Away: The Inuit Experience of Residential Schools*.

<sup>173</sup> APPA, *Evidence*, 1 March 2017 (Frank Tester).

<sup>174</sup> Ibid.

<sup>175</sup> APPA, *Evidence*, 26 September 2017 (Tagak Curley).

<sup>176</sup> Ibid.

mandatory when dealing with federal, provincial and territorial governments between 1945 and 1970.<sup>177</sup>

### 3. Inuit Settlements and Dog Slaughter

The federal policy direction for the Inuit-Crown relationship became apparent in 1958 when the Department of Indian and Northern Affairs released a paper entitled *Culture Change: Fast or Slow*. The main objective of this policy was that Inuit would be brought “kicking and screaming into modern Canadian culture as fast as we possibly can.”<sup>178</sup> An outcome of this policy was that the government developed social programs, including housing, for Inuit.

A housing policy for the North was first introduced in 1959, and the cost of rent was fixed so that it was “affordable” for Inuit, yet without wage-based employment, they could not afford to pay much.<sup>179</sup> This signalled the beginning of housing challenges for Inuit, as the resulting housing stock was “no better than dog kennels,” contributing to high rates of Inuit infant mortality in the 1960s and long-term health and social challenges.<sup>180</sup>

Encouraged by the Crown, by 1965 many Inuit had moved into settlements, resulting in drastic “cultural conflict and confusion.”<sup>181</sup> Inuit often had to travel great distances to procure food not available near the new communities. Further complicating matters, the Crown failed to “translate...[and] explain legislation and deal effectively with realities of what is required to live in a community.”<sup>182</sup> The slaughter of sled dogs provides an example of the resulting harm and confusion.

Inuit living in the new settlements with their dogs had no means of securing them or purchasing chains. New rules were introduced by the Government of the Northwest Territories authorizing the RCMP to shoot stray dogs, but they did not explain this to Inuit.<sup>183</sup> Taken together, the lack of communication between Inuit and the Crown’s officials -in this case the RCMP- and the absence of materials in Inuktitut describing the effects of the new rules for Inuit in settlements, led to many dogs being “slaughtered” by the RCMP.<sup>184</sup> In addressing the dog slaughter, Tagak Curley explained the effect of the loss of their dogs on Inuit: “[T]hey also slaughtered the dog teams of the hunters. How can you provide food security for your family and catch seals in the winter and summer without transportation? ... We’re still recovering from that.”<sup>185</sup>

---

<sup>177</sup> Sarah Bonesteel, [Canada’s Relationship with Inuit: A History of Policy and Program Development](#), Indigenous and Northern Affairs Canada, June 2006.

<sup>178</sup> APPA, [Evidence](#), 1 March 2017 (Frank Tester).

<sup>179</sup> APPA, [Evidence](#), 26 September 2017 (Tagak Curley).

<sup>180</sup> APPA, [Evidence](#), 1 March 2017 (Frank Tester).

<sup>181</sup> Ibid.

<sup>182</sup> Ibid.

<sup>183</sup> Ibid.

<sup>184</sup> Ibid.

<sup>185</sup> APPA, [Evidence](#), 26 September 2017 (Tagak Curley).

## D. “WE HAD TO EVENTUALLY RISE UP”<sup>186</sup>

Inuit began to organize across *Inuit Nunangat* due to fears of the rapid change occurring in the Arctic and the Crown’s push to “do away with our land and culture.”<sup>187</sup> First, Tagak Curley sent letters to Inuit Elders across the Arctic asking what Inuit should do. The Elders responded that they supported the creation of an advocacy organization to re-establish Inuit culture. Inuit began to work for change and gathered leaders from across the Arctic to discuss their rights at the Coppermine Conference in July 1970. One of Mr. Curley’s first tasks was to produce education materials in Inuktitut to “explain Canadian law to Inuit.”<sup>188</sup> Inuit successfully lobbied then Minister of Indian Affairs the Honourable Jean Chrétien for funding for an Inuit advocacy organization, leading to the creation of the Inuit Tapirisat of Canada in 1971. Now known as Inuit Tapiriit Kanatami, the organization continues to play a role in the Inuit-Crown relationship.

Through modern treaties, Inuit have redefined their relationship with the Crown on their own terms. In 1979, many people who supported the creation of a new territory in the eastern Arctic were elected to the Northwest Territories Legislature, including Tagak Curley, Nellie Cournoyea, Nick Sibbeston, James Wah-Shee and Dennis Patterson.<sup>189</sup> These members worked within the territorial government to consolidate support for the division of the territory and the creation of Nunavut. Over the same period, Inuit leaders negotiated the *Nunavut Land Claims Agreement*, which was signed in 1993. By 1999, when the territory of Nunavut was established, Inuit and their allies had achieved their vision, one of “*Tapiriit* [unity].”<sup>190</sup>

Modern treaties are remarkable achievements for Inuit, providing them with control and decision-making authority over significant parts of their traditional territories and in some cases, self-government and/or Inuit-led co-management regimes in areas such as wildlife management. At times, Inuit were under extreme pressure to secure agreements within a short timeframe before their territories were affected by development, as was the case for the negotiation of the *James Bay and Northern Quebec Agreement* (1975), which established Nunavik. Similar to modern and historic treaties signed with First Nations, Inuit had to relinquish Aboriginal rights to large swaths of their territory to allow for development to reach agreement. In exchange, some Inuit were provided with self-government and title to a portion of their traditional territories. However, given the significance of the land to Inuit, the extinguishment of title remains “a bitter and difficult pill to swallow.”<sup>191</sup>

---

<sup>186</sup> Ibid.

<sup>187</sup> Ibid.

<sup>188</sup> APPA, *Evidence*, 1 March 2017 (Frank Tester).

<sup>189</sup> APPA, *Evidence*, 26 September 2017 (Tagak Curley).

<sup>190</sup> Ibid.

<sup>191</sup> APPA, *Evidence*, 28 February 2017 (James Igloliorte).

The Crown was motivated by its own interests to initiate the negotiation of modern treaties with Inuit. Nunatsiavut offers an example, as it was “[f]inancial and commercial pressures”<sup>192</sup> related to potential mining sites that brought the Governments of Canada and Newfoundland and Labrador to negotiate with Inuit for land and self-government in Nunatsiavut. The resulting *Labrador Inuit Land Claims Agreement* included specific self-government provisions addressing culture, language, education, healthcare, social services, housing and environmental protection.<sup>193</sup>

Andrea Andersen stressed that the modern treaty supported Inuit control over activities taking place in the settlement area of the *Labrador Inuit Land Claims Agreement*. For example, during the development of the Voisey’s Bay Mine in the Inuit settlement area, Inuit leaders ensured that Inuit training, education, scholarships and employment programs were in place. There were also concessions to ensure that Inuit could use the ice to access their traditional territories.<sup>194</sup> The *Labrador Inuit Land Claims Agreement* and the *Nunavik Inuit Land Claims Agreement* also established Torngat Mountains National Park in 2008. The Nunatsiavut Government’s co-management agreement with Nunavik and Parks Canada enables Inuit to return “50 years later, back to an ancestral homeland at the southern entranceway to the national park”<sup>195</sup> after their communities were relocated decades earlier.

“For the Elders, these short forays back to the familial lands is a reminder of the wild and beautiful home they once occupied, and the trauma of the years of relocation is heightened by the memories they retain. However, even these bittersweet events do bring some degree of healing to the participants.” (James Igloliorte, Retired Judge of the Provincial Court of Newfoundland and Labrador, as an individual, *Evidence*, February 28, 2017).

## THE CONTEMPORARY RELATIONSHIP

The history of the relationship between First Nations, Inuit and Métis People and the Crown has left behind a complex legacy. Witnesses emphasized that Indigenous Peoples currently face systemic discrimination, racial and cultural prejudice and economic and social disadvantage resulting from the historical relationship. Such “ongoing colonialism”<sup>196</sup> creates a direct path for Indigenous People to come into conflict with state institutions such as the police, courts, corrections and child welfare systems.

---

<sup>192</sup> Ibid.

<sup>193</sup> Ibid.

<sup>194</sup> APPA, *Evidence*, 7 June 2017 (Andrea Andersen, as an individual).

<sup>195</sup> APPA, *Evidence*, 28 February 2017 (James Igloliorte).

<sup>196</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 18 October 2017 (Howard Sapers, as an individual).

Trauma has been passed from one generation to the next, resulting in “families disintegrating as a result of state policy.”<sup>197</sup> This has contributed to large numbers of Indigenous children in the child welfare system, as observed by Elder Garry McLean: “[W]e have more kids in care today than we had kids in residential schools.”<sup>198</sup> In the child welfare system, children grow up away from their families, culture, and language which “systematically strips those who go through it of identity and does not give them the same level of support and opportunity that would otherwise have been available to them had they been taken care of in a better way.”<sup>199</sup>

If an Indigenous child grows up in the child welfare system, that child is more likely to be incarcerated later in life, contributing to the over-representation of Indigenous Peoples in the criminal justice system. The social determinants of health, which include factors such as food security, employment and poverty, can help to explain this reality, since “the social determinants of crime are essentially the same as the social determinants of health.”<sup>200</sup> Factors that may lead to involvement in the criminal justice system were acknowledged by the Supreme Court of Canada in *R. v. Gladue* (1999) and summarized by Howard Sapers: “the effects of residential schools; the experience in child welfare or adoption systems; the effects of dislocation and dispossession of people being taken off their land and families being torn apart,” among others.<sup>201</sup> Witnesses emphasized the urgency of addressing this over-representation, since “we’re going to go bankrupt from building prisons and hospitals.”<sup>202</sup> Instead, Sol Sanderson that suggested the money spent on Indigenous peoples in the criminal justice system could be better used in the community: “Give us the \$120,000 per inmate in the community and we’ll show you what we can do with that in terms of their economic opportunities in education and training.”<sup>203</sup>

Addressing the intergenerational effects of trauma is critical in order to move toward a new relationship between Indigenous Peoples and Canada.

## A. ACKNOWLEDGING THE PAST THROUGH REDRESS

The recognition of Indigenous rights and the acknowledgement of past injustices has been a process initiated by Indigenous Peoples themselves. The activism of First Nations, Inuit and Métis Peoples throughout the 1960s, 1970s, and 1980s led to the recognition of Indigenous rights domestically, through the inclusion of section 35 in the *Constitution Act, 1982*.<sup>204</sup>

---

<sup>197</sup> Ibid.

<sup>198</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 23 March 2018 (Garry McLean, Elder, Youth Parliament of Manitoba).

<sup>199</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 30 January 2018 (Natan Obed, President, Inuit Tapiriit Kanatami).

<sup>200</sup> APPA, *Evidence*, 3 May 2017 (James Daschuk).

<sup>201</sup> APPA, *Evidence*, 18 October 2017 (Howard Sapers).

<sup>202</sup> APPA, *Evidence*, 3 May 2017 (James Daschuk).

<sup>203</sup> APPA, *Evidence*, 19 September 2017 (Sol Sanderson).

<sup>204</sup> APPA, *Evidence*, 30 May 2017 (William Wicken).

Section 35 broadly defines the Aboriginal Peoples of Canada as including “the Indian, Inuit and Métis peoples” and recognizes and affirms their existing Aboriginal and treaty rights. However, the *Constitution Act, 1982* does not include terms defining these rights, instead leaving Indigenous Peoples to turn to the courts to achieve greater clarity. For example, in *R. v. Powley*<sup>205</sup> the Court “recognized the Métis of the Sault Ste. Marie area as possessing the Aboriginal right to hunt.”

Indigenous Peoples have also worked to achieve recognition of their rights internationally. Following 25 years of negotiations, in 2007 the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) was adopted by 143 states in the United Nations General Assembly. The Declaration affirms a “wide range of political, economic, social, cultural, spiritual and environmental rights” of Indigenous Peoples around the world.<sup>206</sup> While four countries, including Canada, initially voted in opposition to the Declaration, they have since reversed their positions.<sup>207</sup> UNDRIP continues to be used by Indigenous Peoples in Canada to push for greater recognition of Indigenous rights.

Acknowledging the past and providing redress for past harms is fundamental to building a new relationship. The *Indian Residential School Settlement Agreement*, the largest class action settlement in Canadian history, is an example of redress. As with other forms of redress, the negotiations for the settlement agreement were led by Indigenous Peoples themselves, in this case, former students of residential schools. It provided eligible former students of Indian residential schools and their families with access to compensation, healing programs and services, and established the Truth and Reconciliation Commission of Canada. Notably, then-Prime Minister Stephen Harper apologized to former students of Indian residential schools and acknowledged that the policy of assimilation was wrong and “caused great harm.”

---

<sup>205</sup> *R. v. Powley*, 2003 SCC 43, paras. 30–34; and *Ibid.*

<sup>206</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 13 June 2017 (Paul Joffe, Legal Counsel, Grand Council of the Cree Eeyou Istchee).

<sup>207</sup> *Ibid.*

However, these redress efforts operated as another form of exclusion, since the historical relationship between the Crown and Indigenous Peoples determined eligibility. For example, the settlement agreement for losses endured at residential schools excluded the Métis, who were also “not a part of the Truth and Reconciliation Commission [of Canada].”<sup>208</sup>

In another example, because the Labrador Inuit were not considered Indigenous under the terms of Confederation, former students in the province were not eligible for federal compensation for Indian residential schools and participation in Truth and Reconciliation Commission of Canada processes. In 2017, after “10 agonizing years”<sup>209</sup> for the plaintiffs, the Government of Canada announced that it would settle the class action lawsuit regarding residential schools and abuse that was brought against the Government by three Indigenous groups in Newfoundland and Labrador.

“There were two calls to action for the Métis because we were not part of the Truth and Reconciliation Commission. But our story is the same. The sad part about it is that we have no avenue to tell that story. We were left out ... But surely we have a story to tell, and things that we need to do. What's happening to our people, we don't have the education that we should have gotten, we don't have the support, and we've always been dealing with those things privately and always afraid. So no one wants to fight, no one wants to stand up, no one wants to take that issue forward. It's been a difficult time.” (John Morrisseau, Member of the Indian Residential School Survivor Committee, as an individual, *Evidence*, March 29, 2017).

## **B. RESTORING SELF-DETERMINATION: LEGISLATIVE, JURISDICTIONAL AND FUNDING BARRIERS**

Indigenous Peoples have had to and continue to fight to regain self-determination over their communities, a vision that includes self-government and the restoration of Indigenous legal and socio-economic systems.<sup>210</sup> Control and jurisdiction over areas such as education, culture and language have led to positive outcomes for Indigenous communities. For instance, the northern village of Île-à-la-Crosse, Saskatchewan, where 75% of the population of 1,296 identifies as Métis, fought for control of their education in the 1970s. Today, the village has its own school division, and this local control has led to a substantial improvement in graduation rates.<sup>211</sup>

---

<sup>208</sup> APPA, *Evidence*, 29 March 2017 (John Morrisseau).

<sup>209</sup> APPA, *Evidence*, 28 February 2017 (James Igloliorte).

<sup>210</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 8 February 2017 (James Tully, Distinguished Professor of Political Science, Law, Indigenous Governance and Philosophy, University of Victoria, as an individual).

<sup>211</sup> APPA Committee travel, Duane Favel, Mayor, Île-à-la-Crosse, 21 March 2018.

While the federal government has developed specific processes to provide redress for the past and to support Indigenous communities as they seek to achieve self-government, witnesses identified several legislative, jurisdictional and financial barriers that continue to interfere with and prevent Indigenous communities from achieving control over their lives.

The *Indian Act*, with its roots in colonization and the policies of assimilation, continues to provide the Minister of Indigenous and Northern Affairs with significant powers over the lives and lands of status First Nations. The Minister's powers have led to an unequal relationship, where First Nations are "subjugated"<sup>212</sup> and ultimately prevented from restoring their self-determination. For instance, the Committee heard that for many First Nations, the *Indian Act* continues to determine eligibility for Indian status, preventing some women and children from participating in their communities and limiting access to programs and services, including healthcare, housing and education. Further, the *Act* prevents communities, like the Siksika Nation, from seizing economic opportunities.<sup>213</sup> While federal legislation and processes support First Nations to opt-out of key provisions of the *Indian Act* in areas such as land management, for the most part, First Nations continue to live under the *Indian Act*.

"In many ways, the contribution I was trying to make was that very one, which is that the jurisdiction in First Nations, Métis and Inuit communities should be recognized. Section 88 of the Indian Act, where the federal government gives the provinces jurisdiction over Indian lands, is not healthy. It's very destructive because it doesn't allow people to control their own affairs. It's not democratic. In Canada, we expect people to be able to have a voice in how they deal with their day-to-day affairs. Section 88 of the Indian Act gives it all to the provinces as laws of general application." (John Borrows, FRSC, Canada Research Chair in Indigenous Law, University of Victoria, as an Individual, Evidence, February 8, 2017).

Multiple jurisdictional barriers prevent First Nations from restoring their self-determination. The federal government has authority over "Indians and lands reserved for the Indians" under section 91(24) of the *Constitution Act, 1867*. Under this section, the federal government saw and continues to see itself "as sovereign over the land and over Indigenous peoples," limiting the possibility of an equal relationship between First Nations and the federal government.<sup>214</sup> The federal government has not fully exercised its power under this section instead passing it on to the provinces which have become increasingly involved in the affairs of First Nations over time. Amendments to the *Indian Act* in 1951 solidified the approach, allowing provincial laws of general application to apply to First Nations through what is currently section 88 of the *Indian Act*. As conveyed by John Borrows, this leaves First Nations

<sup>212</sup> APPA, *Evidence*, 27 September 2017 (Fred Kelly).

<sup>213</sup> APPA Committee travel, Elder Vincent Yellow Old Woman, Siksika Nation, 19 March 2018.

<sup>214</sup> APPA, *Evidence*, 8 February 2017 (James Tully).

to be “governed by other peoples,” and limits their ability to exercise their jurisdiction and authority.<sup>215</sup>

While the provincial and territorial legislatures have enacted legislation that forms the basis of standards and service levels for the provision of government services off reserve, Canada has not done so for First Nations. Michael Ferguson, the former Auditor General of Canada, has recommended for many years, “an appropriate legislative base that supports the desired level of services.”<sup>216</sup> For example, in 2011 the Office of the Auditor General of Canada found that there was no legislation for drinking water, health care or education for First Nations living on reserves. Service delivery on a policy basis means that there was no clear standard in place on the “level of service to be delivered.”<sup>217</sup> This situation leaves First Nations in a jurisdictional vacuum, where they do not always receive the same level and quality of services as non-Indigenous people, as they “are not always well defined and there is confusion about federal responsibility for funding them adequately.”<sup>218</sup>

Funding for programs and services both on and off reserve has been an ongoing concern for First Nations. Starting in 1997–1998, funding increases for First Nations programs and services were capped at 2%. While this cap was meant to be temporary, as explained by Scott Serson, former Deputy Minister of then Aboriginal Affairs and Northern Development Canada, “20 years of funding at 2 per cent” did not take into account inflation and population growth leading to “very significant gaps” in housing, education and infrastructure, among other services in First Nations communities.<sup>219</sup>

Underfunding, combined with a lack of a legislative base for service provision, has affected program and service delivery. As Jessica Gordon, Councillor from the Pasqua First Nation explained,

The grassroots have enormous amounts of knowledge that has been kept idle because their *Indian Act* leadership is constantly in crisis mode, just dealing with survival and tending to the basic needs of the people they are responsible for under the *Indian Act* administration.<sup>220</sup>

---

<sup>215</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 8 February 2017 (John Borrows, FRSC, Canada Research Chair in Indigenous Law, University of Victoria, as an Individual).

<sup>216</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 6 February 2018 (Michael Ferguson, Auditor General of Canada, Office of the Auditor General of Canada).

<sup>217</sup> Ibid.

<sup>218</sup> Office of the Auditor General of Canada, “[2011 June Status Report of the Auditor General of Canada](#),” Chapter 4 – Programs for First Nations on Reserves.

<sup>219</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 18 October 2017 (Scott Serson, former Deputy Minister, Aboriginal Affairs and Northern Development Canada, as an individual).

<sup>220</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 8 May 2018 (Jessica Gordon, Councillor, Pasqua First Nation, Idle No More).

Leaders struggle to provide basic services, such as clean drinking water, education and housing, to their communities.

Federal government funding for programs and services is based on geography and membership – primarily for status First Nations living on reserve. This excludes the growing numbers of First Nations People who have been forced or chose to move to urban centres to escape difficult conditions in their communities, to access services and to pursue educational, employment or training opportunities unavailable in their home communities. While this trend has been ongoing for decades, funding for programs and services has not kept pace with this demand. In the eyes of many witnesses, First Nations rights are not portable, since as soon as they leave the reserve, they are ineligible for many federal programs and services.<sup>221</sup> Instead, the federal government relies on the provincial governments to provide essential programs and services to First Nations living off reserve, another example of the increasing involvement of provincial governments in the lives of First Nations People. For many years, friendship centres have been working to provide Indigenous Peoples in urban centres with much-needed culturally relevant programs and services in areas such as education, language, justice, recreation, housing and economic development. However, funding for friendship centres is inadequate to support the needs of the growing urban Indigenous population. Ultimately, as observed by Christopher Sheppard, “the resourcing has never been adequate to properly support Indigenous people regardless of where they live.”<sup>222</sup> These significant funding gaps both on and off reserve leave First Nations disadvantaged in their pursuit of self-determination.

“We are Canadians. Although often, because we live on reserve, we are not treated like Canadians. Our rights are deemed not to be portable, so when I leave my reserve I am then dumped on the province and the city of Winnipeg.” (Damon Johnston, Board Member, Ma Mawi Wi Chi Itata Centre, [Evidence](#), March 23, 2018)

### **C. INDIGENOUS PEOPLES ASSERT THEIR SOVEREIGNTY**

As illustrated above, Indigenous Peoples have fought back against the federal government’s policies of assimilation. Their efforts have contributed to changes, such as the development of a federal policy to address Aboriginal title in areas where this has “not been dealt with by treaty or through other legal means.”<sup>223</sup> Since 1995, agreements reached through this policy can also include self-government provisions. Indigenous Peoples have asserted their

---

<sup>221</sup> APPA, [Evidence](#), 23 March 2018 (Damon Johnston).

<sup>222</sup> APPA, [Evidence](#), 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 9 May 2018 (Christopher Sheppard, President, National Association of Friendship Centres).

<sup>223</sup> Crown-Indigenous Relations and Northern Affairs Canada, [Comprehensive Claims](#).

sovereignty and jurisdiction in different ways. Some have opted to work through established federal processes, while others have developed their own strategies for moving towards self-determination.

Indigenous communities have raised concerns about the limitations of federal modern treaty and self-government policies and processes. Councillor Carlon Big Snake of the Siksika Nation raised concerns that the self-government process takes place according to the priorities of the federal government rather than those of the Siksika Nation. Further, when signing modern treaties, Indigenous communities only retain “small areas of their original land,” which “must have been a bitter and difficult pill to swallow.”<sup>224</sup>

Despite these concerns, some Indigenous communities have negotiated modern treaties and achieved authority over their communities in certain regions. For example, in 2005, the Labrador Inuit signed a modern treaty that created the Nunatsiavut Government, which took control over culture, language, education, healthcare, social services, housing and environmental protection. In some cases, Indigenous female leadership has played an important role in negotiating and implementing agreements. The Committee heard about the experience of Kim Baird, former chief of the Tsawwassen First Nation, who negotiated and implemented a modern treaty for her community. Despite these successes, the implementation of modern treaties continues to be a challenge for Indigenous governments. A 2015 audit observed that the Nunatsiavut Government was limited in fulfilling its responsibilities for housing by the absence of a federal program for Inuit housing south of the 60<sup>th</sup> parallel that provided appropriate and stable funding.

Other Indigenous communities have been forced to work outside federal processes to assert their authority and jurisdiction through the courts. First Nations who signed Peace and Friendship Treaties with the Crown have treaty rights and maintain that they continue to have Aboriginal title to their territories. Given that this reality does not easily fit into established federal policies and processes, the Mi’kmaq Nation developed its own negotiation tables to discuss issues related

“In the short time since the LILCA [Labrador Inuit Land Claims Agreement] was implemented, Inuit are proud of the accomplishments in social, health and cultural preservation. Under the umbrella of the Nunatsiavut government, the communities themselves have the autonomy to make fiscal and management decisions in which all the Labrador Inuit community leaders meet periodically, and people share and interchange ideas, hopes and frustrations.” (James Igloliorte, Retired Judge of the Provincial Court of Newfoundland and Labrador, as an individual, *Evidence*, February 28, 2017).

---

<sup>224</sup> APPA, *Evidence*, 28 February 2017 (James Igloliorte).

to treaty rights, Aboriginal rights and governance.<sup>225</sup> By creating a space for tripartite negotiations, the Mi'kmaq Nation established a First Nations-controlled education system for Mi'kmaq students.

The Haida Nation also asserted its authority after recognizing that resource development was taking a toll on the resources within the Haida Nation's traditional territories. In response, the Haida People said "enough is enough. This is our homeland. We are the owners and we make the rules."<sup>226</sup> The Haida Nation built institutions of governance and a constitution, developed its own legislation and plans covering land use, and designated Gwaii Haanas as "a Haida heritage site under Haida legislation." The provincial and federal government eventually "adjusted" to the Haida's assertion of sovereignty over their lands.<sup>227</sup>

Indigenous cultures, language and laws form an integral part of Indigenous communities. The Committee heard many examples of innovative work Indigenous communities are doing to rebuild and revitalize their cultures, languages and laws that were undermined or eliminated

as part of the historical relationship with the Crown. For example, Val Napoleon at the University of Victoria worked in "partnership with Indigenous communities to restate, research and articulate law relating to lands, water and governance."<sup>228</sup> Some of this important work is also taking place through Indigenous institutions, such as the Six Nations Polytechnic, which has a stand-alone degree in Ojibwe languages. This program is working to revitalize languages, like Cayuga, which is "on the verge of extinction."<sup>229</sup> Nunavut Sivuniksavut, meaning "our land is our future" is a college program for Inuit youth based in Ottawa. Students who attend the college study Inuit history, land claims, culture and language. The importance of the college was described by a former student, Ruth

"I am a Métis mother of one. My daughter is Métis Ojibway. It is important to embrace our culture and be proud of who we are. Since I worked in this position [as a First Nation, Métis and Inuit graduation coach], I have seen an increase in self-identification. I have seen an increase in parents being involved in the school system, specifically parents who have had experience with the residential school system and have that distrust. By building this relation with students and their families we're able to move forward and overcome that."  
(Kieran McMonagle, as an individual, Evidence, June 6, 2018).

---

<sup>225</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 26 September 2017 (Viola Robinson, Former Commissioner, The Royal Commission on Aboriginal Peoples, as an individual).

<sup>226</sup> APPA, *Evidence*, 31 May 2017 (Miles Richardson).

<sup>227</sup> Ibid.

<sup>228</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 17 October 2017 (Val Napoleon, Law Foundation Chair of Aboriginal Justice and Governance and Director of Indigenous Law Research Unit, Faculty of Law, University of Victoria, as an individual).

<sup>229</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 11 April 2017 (Rebecca Jamieson, President, Six Nations Polytechnic).

Kaviok: “Understanding who we are, why things are the way they are and how we got here, allows us to understand ourselves, our communities and our place in this country.”<sup>230</sup> The Committee was inspired by the effort of Indigenous youth working to revitalize their languages. Holly Jane Sock described her work at a young age to learn and create a nursery rhyme CD in Mi’kmaq.

Together these examples illustrate that, in a new relationship, Indigenous communities must be able to choose their own paths towards self-determination. The participation of Indigenous communities, organizations and groups whose voices are not often heard is vital to developing a new relationship and ensuring that Indigenous communities can pursue their own routes towards self-determination. Currently, several groups, including urban Indigenous Peoples, the grassroots and some Indigenous women’s organizations, have expressed concerns about their exclusion from federal government discussions and initiatives relating to the development of a new relationship. This ongoing challenge may limit the ability of Indigenous communities to actively participate and provide input as Indigenous Peoples forge a new way forward together with the federal government.

## CONCLUSION AND WAY FORWARD

Understanding the history of the relationship between Indigenous Peoples and Canada is important to chart a path for the future. Witnesses described histories of hardship and suffering on the part of Indigenous Peoples and emphasized the importance of transforming the relationship between Indigenous Peoples and Canada.

Indigenous Elders who testified before the Committee reminded us that their understanding of history is not a common narrative. Many Canadians do not recognize our shared history, continuing to believe that Indigenous Peoples did not play a prominent role. Indigenous leaders go uncelebrated, their traditions are viewed negatively, their struggles are dismissed, and their stories are ignored.

This interim report outlines what the Committee heard from witnesses about the history of the relationship, providing essential context for the next phases of our study, which explore what a new relationship could look like in the future. The Committee recognizes that this interim report is far from complete, as each Indigenous nation has its own history and story that needs to be told. Stephen Puskas, an Inuk youth leader, observed that many non-Indigenous people are telling Indigenous stories. The Committee firmly believes that Indigenous Peoples need the space to tell their own stories, and that Canadians should listen. This report is therefore only a starting point for non-Indigenous people to explore the Indigenous history of their communities, provinces and Canada as a whole.

---

<sup>230</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 6 June 2018 (Ruth Kaviok, as an individual).

The Committee acknowledges the work of previous commissions, including the Royal Commission on Aboriginal Peoples and the Truth and Reconciliation Commission of Canada, which studied the history of the relationship in great depth and provided comprehensive plans for the future. The extent of this work led Dr. Marie Wilson to voice the frustration among Indigenous Peoples about the continuous calls for more study in lieu of action. The Committee recognizes these concerns, and at the same time notes that, then Chief Commissioner Murray Sinclair said, “[E]ducation got us into this mess and education will get us out.” The Committee believes that if Canadians understand the history and how Indigenous Peoples got to where they are today, they will be more willing and able to chart a path forward to a more equitable relationship. Ultimately, the Committee believes that its study will lead to concrete actions to guide the development of a new relationship.

Since making its commitment to a renewed relationship, the federal government has taken several steps, including: the endorsement of the *United Nations Declaration on the Rights of Indigenous Peoples*, the creation of a working group of ministers to review laws and policies related to Indigenous Peoples, the launch of a national engagement strategy to develop a Rights Recognition Framework, and undertaking consultations on issues related to registration, band membership and First Nations citizenship. Despite this work, it is clear that more needs to be done to one day realize Indigenous Peoples’ aspirations for the future, such as the vision of Indigenous youth leader Holly Sock:

To me, a new relationship between Indigenous People [and] Canada means to be able to walk alongside each other in balance. There’s inequity. It’s not Canada with Indigenous People; it’s not Indigenous People with Canada. It’s Canada and Indigenous People working together in a positive way, in a good way, for everyone.<sup>231</sup>

---

<sup>231</sup> APPA, *Evidence*, 1<sup>st</sup> Session, 42<sup>nd</sup> Parliament, 7 June 2017 (Holly Sock, as an individual).

## APPENDIX A – WITNESSES

<b>November 6, 2018</b>	Tony Belcourt, O.C., Former President, Métis Nation of Ontario	As an Individual
	Ellen Gabriel, Indigenous Human Rights Defender	As an Individual
<b>October 24, 2018</b>	Noah A. Chapman, Executive Director	Kitchenuhmaykoosib Inninuwug (Formerly Big Trout Lake First Nation)
	Bob John Fox, Liaison, Child and Family Services	Kitchenuhmaykoosib Inninuwug (Formerly Big Trout Lake First Nation)
	Bill Lux, Chief Negotiator	Kaska Dena Council
	Michelle Miller, Treaty Coordinator	Kaska Dena Council
	Donald Morris, Chief	Kitchenuhmaykoosib Inninuwug (Formerly Big Trout Lake First Nation)
<b>October 23, 2018</b>	Harold Calla, Executive Chair	First Nations Financial Management Board
	C.T. (Manny) Jules, Chief Commissioner	First Nations Tax Commission
	Mark Podlasly, Director of Governance	First Nations Financial Management Board
	Dana Soonias, Board Director	First Nations Financial Management Board
<b>October 17, 2018</b>	Alastair Campbell, Senior Policy Advisor, Nunavut Tunngavik Incorporated	Land Claims Agreements Coalition
	Micah Clark, Legal Counsel, Nisga'a Lisims Government	Land Claims Agreements Coalition
	Eva Clayton, Co-Chair of LCAC and President, Nisga'a Lisims Government	Land Claims Agreements Coalition
	Les Doiron, Member of LCAC and President, Ucluelet First Nation	Land Claims Agreements Coalition
	Max FineDay, Executive Director	Canadian Roots Exchange
	Aluki Kotierk, Co-Chair of LCAC and President, Nunavut Tunngavik Incorporated	Land Claims Agreements Coalition

<b>October 2, 2018</b>	Aaron Detlor, Lawyer	Haudenosaunee Development Institute
<b>September 10, 2018</b>	Mike Aumond, Secretary and Deputy Minister, Executive and Indigenous Affairs	Government of Northwest Territories
	Garry Bailey, President	Northwest Territory Métis Nation
	Ethel Blondin-Andrew, Incoming Director	Norman Wells Land Corporation
	Roy Fabian, Chief	Kátl'odeeche First Nation
	Sherry Hodgson, President	Norman Wells Land Corporation
	The Honourable Bob McLeod, Premier of the Northwest Territories	
	Gladys Norwegian, Grand Chief	Dehcho First Nations
	Bob Simpson, Director, Government Affairs	Inuvialuit Regional Corporation
	Duane Smith, Chair and Chief Executive Officer	Inuvialuit Regional Corporation
<b>June 19, 2018</b>	Kim Baird, Owner	Kim Baird Strategic Consulting
	Cora McGuire-Cyrette, Executive Director	Ontario Native Women's Association
	Courtney Skye, Advisor	Ontario Native Women's Association
<b>June 13, 2018</b>	Robert Bertrand, National Chief	Congress of Aboriginal Peoples
	Robert Russell, Senior Manager of Engagement	Congress of Aboriginal Peoples
	Ron Swain, Former National Vice-Chair	Congress of Aboriginal Peoples
<b>June 12, 2018</b>	Karen Loran, Chief	Mohawk Council of Akwesasne
	Ghislain Picard, Chief	Assembly of First Nations of Quebec and Labrador
<b>June 6, 2018</b>	Kayla Bernard	As an Individual
	Bryanna Brown	As an Individual
	Amanda Fredlund	As an Individual
	Rae-Anne Harper	As an Individual
	Ruth Kaviok	As an Individual
	Kieran McMonagle	As an Individual
	Theoren Swappie	As an Individual
Colette Trudeau	As an Individual	

	Spirit River Striped Wolf	As an Individual
<b>May 29, 2018</b>	Abel Bosum, Grand Chief	Grand Council of the Cree (Eeyou Istchee)
	Brian Craik, Director of Federal Relations	Grand Council of the Cree (Eeyou Istchee)
	Isadore Day, Ontario Regional Chief	Chiefs of Ontario
	Bill Namagoose, Executive Director	Grand Council of the Crees (Eeyou Istchee)
	Paul Wertman, Advisor	Grand Council of the Cree (Eeyou Istchee)
<b>May 23, 2018</b>	Jacquelyn Cardinal	As an Individual
<b>May 9, 2018</b>	Francyne Joe, President	Native Women's Association of Canada
	Veronica Rudyk, Policy Advisor	Native Women's Association of Canada
	Christopher Sheppard, President	National Association of Friendship Centres
<b>May 8, 2018</b>	Jessica Gordon, Councillor, Pasqua First Nation	Idle No More
<b>March 23, 2018</b>	Dr. Catherine Cook, Vice Dean, Indigenous Health, Rady Faculty of Health Sciences and Head, Ongomiizwin, Indigenous Institute of Health and Healing, University of Manitoba	As an Individual
	Ainsley Krone, Children's Advocate	Manitoba Advocate for Children and Youth
	Melanie MacKinnon, Executive Director, Ongomiizwin Health Services, University of Manitoba	As an Individual
	Jack Park, Minister, Energy and Infrastructure	Manitoba Metis Federation
	Daphne Penrose, Children's Advocate	Manitoba Advocate for Children and Youth
	Dr. Ian Whetter, Medical Lead, Ongomiizwin Health Services, University of Manitoba	As an Individual
	Rachel Dutton, Executive Director	Manitoba Inuit Association
	Fred Ford, President and Board Chair	Manitoba Inuit Association
	Damon Johnston, Board Member	Ma Mawi Wi Chi Itata Centre

	Roberta MacKinnon, President	Manitoba Association of Friendship Centres
	Garry McLean, Elder	Youth Parliament of Manitoba
	Ry Moran, Director	National Centre for Truth and Reconciliation
	Ryan Paradis, Executive Director	Manitoba Association of Friendship Centres
	Adrienne Tessier, Premier	Youth Parliament of Manitoba
<b>February 14, 2018</b>	Senator Murray Sinclair, Former Chair, Truth and Reconciliation Commission of Canada	As an Individual
	Marie Wilson, Former Commissioner, Truth and Reconciliation Commission of Canada	As an Individual
<b>February 13, 2018</b>	Rose Mary Cooper, Political Advisor to the Executive	Pauktuutit Inuit Women of Canada
	Tracy O'Hearn, Executive Director	Pauktuutit Inuit Women of Canada
<b>February 6, 2018</b>	Michael Ferguson, Auditor General of Canada	Office of the Auditor General of Canada
	Joe Martire, Principal	Office of the Auditor General of Canada
	James McKenzie, Principal	Office of the Auditor General of Canada
	Glenn Wheeler, Principal	Office of the Auditor General of Canada
<b>January 30, 2018</b>	Natan Obed, President	Inuit Tapiriit Kanatami
<b>December 5, 2017</b>	Willie Blackwater, Director, Gitsegukla Band Council	First Nations Major Projects Coalition
	Harold Calla, Executive Chair	The First Nations Financial Management Board
	Niilo Edwards, Executive Director	First Nations Major Projects Coalition
	Sharleen Gale, Chair, Fort Nelson First Nation	First Nations Major Projects Coalition
	Jackie Thomas, Member, Saik'uz First Nation	First Nations Major Projects Coalition
<b>October 18, 2017</b>	Howard Sapers, Former Correctional Investigator of Canada	As an Individual
	Scott Serson, former Deputy Minister, Aboriginal Affairs and Northern Development Canada	As an Individual

<b>October 17, 2017</b>	Val Napoleon, Law Foundation Chair of Aboriginal Justice and Governance and Director of Indigenous Law Research Unit, Faculty of Law, University of Victoria	As an Individual
<b>September 27, 2017</b>	Claudette Commanda, Executive Director	First Nations Confederacy of Cultural Education Centres
	Fred Kelly	As an Individual
<b>September 26, 2017</b>	Verna Porter-Brunelle	As an Individual
	Tagak Curley	As an Individual
	Viola Robinson, Former Commissioner, The Royal Commission on Aboriginal Peoples	As an Individual
<b>September 19, 2017</b>	Sol Sanderson, Senator	Federation of Sovereign Indigenous Nations
<b>June 20, 2017</b>	Emma Buchanan, Coordinator, Ottawa Youth Engagement Committee	Youth Ottawa
	Theland Kicknosway	Youth Ottawa
	William Komaksiutiksak	
	Daxton Rhead	Youth Ottawa
<b>June 14, 2017</b>	Brenda Gunn, University of Manitoba	As an Individual
	Edward John, Grand Chief of Tl'azt'en Nation	As an Individual
<b>June 13, 2017</b>	Dalee Sambo Dorough, Associate Professor, Institute for Social & Economic Research, University of Alaska Anchorage	As an Individual
	Paul Joffe, Legal Counsel	Grand Council of the Cree (Eeyou Istchee)
<b>June 7, 2017</b>	Andrea Andersen	As an Individual
	Jacquelyn Cardinal	As an Individual
	Perry Kootenhayoo	As an Individual
	Modeste McKenzie	As an Individual
	Tiffany Monkman	As an Individual
	Jennifer O'Bomsawin	As an Individual
	Stephen Puskas	As an Individual
	Holly Sock	As an Individual
<b>May 31, 2017</b>	Miles Richardson, Director, National Consortium for Indigenous Economic Development, University of Victoria	As an Individual
<b>May 30, 2017</b>	Marie-Pierre Bousquet, Full Professor/Director, Indigenous Studies Program, Université de Montréal	As an Individual

	William Wicken, Professor, Department of History, York University	As an Individual
<b>May 3, 2017</b>	James Daschuk, Associate Professor, Faculty of Kinesiology and Health Studies, University of Regina	As an Individual
	John Milloy, Professor, Trent University	As an Individual
<b>April 11, 2017</b>	Rebecca Jamieson, President	Six Nations Polytechnic
	Rongo H. Wetere, Consultant and Special International Advisor	Six Nations Polytechnic
<b>March 29, 2017</b>	John Morrisseau, Member of the Indian Residential School Survivor Committee	As an Individual
	Doris Young, Member of the Indian Residential School Survivor Committee	As an Individual
<b>March 28, 2017</b>	J.R. (Jim) Miller, Professor Emeritus of History, University of Saskatchewan	As an Individual
<b>March 1, 2017</b>	Frank Tester, Professor Emeritus, University of British Columbia	As an Individual
<b>February 28, 2017</b>	James Igloliorte, Retired Judge of the Provincial Court of Newfoundland	As an Individual
<b>February 15, 2017</b>	David Newhouse, Professor, Trent University	As an Individual
<b>February 14, 2017</b>	Larry Chartrand, Professor, Faculty of Law, Common Law Section, University of Ottawa	As an Individual
<b>February 8, 2017</b>	Michael Asch, Professor, Department of Anthropology, University of Victoria	As an Individual
	John Borrows, FRSC, Canada Research Chair in Indigenous Law, University of Victoria	As an Individual
	Joshua Nichols, Faculty of Law, University of Victoria	As an Individual
	James Tully, FRSC, Distinguished Professor Emeritus of Political Science, Law, Indigenous Governance and Philosophy, University of Victoria	As an Individual
<b>February 7, 2017</b>	Brenda Macdougall, Chair, Métis Research, Department of Geography, Faculty of Arts, University of Ottawa	As an Individual
<b>January 31, 2017</b>	J.R. (Jim) Miller, Professor Emeritus of History, University of Saskatchewan	As an Individual

## APPENDIX B – BRIEFS

<b>Organization</b>	<b>Contact</b>
Alexander First Nation	Kurt Burnstick
Larry Chartrand, University of Ottawa	As an Individual
Federation of Sovereign Indigenous Nations	Sol Sanderson
Gwich'in Tribal Council (GTC)	Bobbie Jo Greenland-Morgan
Métis National Council	Clément Chartier
Native Women's Association of Canada	Veronica Rudyk





SENATE | SÉNAT  
CANADA

[sencanada.ca](http://sencanada.ca)

