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Canada and the Atrocious Indian Act

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This paper will use the terms Indian, Aboriginal, Indigenous, and Native interchangeably. These are terms to refer to the Original Peoples of Turtle Island (North America). No one can decide on which is the properterm to use. Different Nations prefer one term over the others, therefore, they are all used as meaning the same term.

Introduction

Canada is known around the world as a multicultural nation, which is an example that other Nation-States have tried to follow, especially when it comes to legislative policies. Yet, there is a darker side to Canada that seems to be overlooked. To examine this dark side, one only needs to look at the Indian Act. After a patchwork of policies to control Indigenous people, Canada declared itself into existence in 1867 and began to rework these policies into the most oppressive piece of legislation called the Indian Act (King, 2011). The Indian Act was a way to try to absorb Indians into mainstream Canadian society. Chief Mathias & Yabsley (1991) describe this process as an, "Extensive legislation was passed with the sole purpose to destroy the Indian identity and Indian values in Canada." By combining multiple policies into the Indian Act, the government now had complete control over every aspect of Indigenous peoples lives. Under the terms of the British North American Act of 1867, the responsibility for "Indians and Indian lands" was transferred from the British Crown to the Federal Government of Canada (Frideres & Gadacz, 2012). Today, the Aboriginal Affairs and Northern Development Canada (AADNC), formerly called the Department of Indian and Northern Affairs Canada, is the name of this department within the Canadian government that oversees Indians and their lands. AADNC was set up as a way to control the "Indian problem," which Minister Duncan Campbell-Scott had stated in 1920: "Our object is to continue until there is not a single Indian in Canada that has not been absorbed into the body politic, and there is no Indian question, and no Indian department" (King, 2011).

Since this speech, the view of AADNC has shifted so that they are trying to help Indigenous peoples in Canada today. This department, according to Frideres and Gadacz (2012), "conveys a lack of vision and operational means to bring about meaningful change to the lives of Aboriginal people." Instead of trying to help Indigenous peoples and the dire situation that many are in as a result of the oppression they have faced, the Canadian government seems to focus on trying to absorb Indigenous peoples into mainstream society. There have been many amendments to the Indian Act, which kept 'striking at the heart of what was most sacred to Indian societies, putting the survival of nations in question' (Chief Mathias and Yabsley, 1991). There haven't been recent amendments to the Indian Act, but in their place are Omnibus bills that are being passed in the Canadian government. These bills are still deeply affecting Indigenous communities across Canada.

This paper will focus on how Canada has developed as a racialized state, with special focus on the Indian Act. Through looking at how the lives of Indigenous peoples have changed and been affected by colonization, their resistance to these assimilative policies, the revitalization of their cultures, and the oppression still faced today, it will become evident that Canada continues to control the lives of Indigenous peoples.

Taking the "Red" Out of the "Red-man"

Aboriginals were seen as uncivilized people who needed to be civilized by their colonizers. Turpel (1989) brings up the view that Europeans had of Indigenous peoples while making their treaties with them: "Treaties between Aboriginal Peoples and the British Crown...do not amount to a genuine recognition of diverse Indigenous cultures; they were really Western-style methods to make way for progress... these agreements are not seen as agreements between sovereign peoples or nations [because] Aboriginal Peoples were not sufficiently 'civilized' to qualify as sovereign people." So why would Canada make treaties with Indigenous peoples if they did not view them as an equally sovereign nation? Looking at the history, no government has ever dealt with Aboriginal Peoples on an equal basis without viewing them as means to an economic goal (settlement and development), as noble savages, the pagans without civilization, or as specimens for anthropological investigation and scientific collection (Turpel, 1989). These treaties were made to further the goals of the settlers, without considering the other people affected by the treaty agreement, the Indigenous peoples'.

Through signing these treaties, it would seem as though the Canadian government believes that Indigenous peoples also signed over the right to govern themselves as sovereign nations. Many Indigenous communities had their own traditional governance structure prior to contact, the Haudenosaunee Confederacy as an example. Thomas Jefferson used the Haudenosaunee Confederacy as the basis for his ideas to create the U.S. Constitution (King, 2011). When the Canadian government realized these 'uncivilized peoples' weren't as uncivilized as they thought, they enforced legislation to try and assimilate the Indigenous communities to gain more control over them. One portion of the Indian Act that was forced upon Indigenous communities was the reserve system. This removed them from their traditional lands, and forced them to adopt an elected system of government called the band council system. This allows the Canadian government more control over the Reserves by destroying traditional governance structures (Watts-Powless, 2013).

The Reserves helped to marginalize Indigenous peoples, restricting them to a particular space, and splitting up whole Nations. The locations of the Reserves were in places considered to be less attractive to settlers. Indians also had to get permission from the Indian Agent if they wanted to leave the reserve. This form of permission was called the pass system, which allowed Indians to leave the reserve only if given permission. When the Indian Agents and the government realized that these restrictions did not "take the red out of the red man," they introduced residential schools (King, 2011).

Residential schools started out as day schools, meant to teach Indigenous children European ways. Once word got out about how bad residential schools were, parents stopped voluntarily sending their children to them. In the beginning of 1920, the Canadian government made it illegal for parents to keep their children out of residential schools (Jacobs & Williams, 2008). Now being forced to send their children to residential schools, parents could no longer protect their children from the atrocities committed in the residential schools. The children at these schools suffered tremendously. These children were given numbers and were spoken to by those numbers and not referred to by name. They were being ripped away from their parents and communities, with their hair chopped off, beaten if they spoke their language, and more extreme cases of physical, sexual, and psychological abuse. Weaver (2002) accurately describes residential schools as, "The educational system, historically used by the federal government as a venue for assimilation and cultural destruction."

Most parents were completely unaware that their children were at risk of physical, mental, emotional, spiritual, sexual, cultural, and verbal abuse while attending these institutions (Jacobs & Williams, 2008). No one really knew the full extent of it all. The nature, scope, and intensity of the sexual abuse that occurred in residential schools are not known with any precision (Miller, 1996). It was something that former students did not discuss once you left the school. In the film, Kuper Island: Return to the Healing Circle (1998), two brothers spent almost 35 years not speaking about their experiences with anyone, especially each other. In the film, they opened up and discussed how the kids would be playing at recess and none of them would relax until the priest called out certain numbers. As long as

our number wasn't called, you were safe and could play another day without the worry of being sexually molested by the priest.

Within the schools, there was a worrisome trend emerging. Children were not coming home from school at the allotted break times, like summer or after graduation. Some parents would travel to the schools to wait and camp out around the schools, but the waiting was for nothing. The students were not missing, they were dead. 25% of children had died within the early years of schools (King, 2011). With the death rate at almost 50%, many children were lucky to have made it out of these schools alive. Many of these deaths could have been prevented too. Due to inadequate staffing, injured children who only had bruises or broken bones were put in the same room with the sick and contagious children, causing more unnecessary infection and death.

There was a staggering amount of disease and deaths in residential schools that was being hidden from the public and especially the families. The public was made aware of what was happening in these schools by Dr. Robert Bryce. Dr. Bryce was one of the many doctors who sent to the residential schools in Canada to report how many children were becoming "civilized" (King, 2011). He found out that children were going to these school to die. His collected his findings and reported them to the government. In his report, he recommended that he become the medical inspector and requested additional funding for health care concerns in residential schools. His findings were not welcomed, especially by Duncan Campbell Scott who was the superintendent of Indian Affairs.

Residential schools severely weakened Indigenous families, which made them more susceptible to the second wave of governing policies. The children from residential schools went home, not learning the role of a parent. If they were kept in their families and communities, they would've learned how to be a parent. The second wave occurred when these children grew up and started to become parents, not knowing what to do and not having the knowledge that was stolen from them. This was called the 'Sixties Scoop,' which used the child welfare system to continue to remove Indigenous children from their parents and communities. According to Dance (2009), the worst manifestation of racism experienced by Indigenous peoples was the Stolen Generation, which was the forced removal of children from their parents. This was more permanent than residential schools because many of these children were adopted out by "white" families. These children grow up with absolutely no ties to their communities, sometimes being moved far away in America. Due to this, there are now more Aboriginal children in care of Child Welfare in Canada than there ever were in Residential schools (Trocmé et. al., 2004).

The Indian Act used the residential school system to attempt to destroy Indigenous cultures. Many children survived the experience and only a few were able to keep parts of their culture alive within them, although some were not as lucky. "Aboriginal children who survived the Residential schools emerged without knowing traditional practices, ceremonies, parenting, love, caring, and identity. They emerged as abused, broken, shells of the proud Aboriginal people they once were" (Bomberry, 2011). It has taken many years for these survivors to attempt to recreate a somewhat normal life for themselves. They tried to hide these shameful memories, turning to alcohol and drugs as a way to forget what happened to them. These coping mechanisms have been passed down to the next generation, that is still feeling the repercussions of the residential schools today. The last residential school in Canada closed in 1996 (Watts-Powless, 2013).

Continued Resilience

Given all that Indigenous peoples have faced in Canada, Hall and Fenelon (2004) have pointed out that, "Scholars have predicted the end of Indigenous peoples, globally, and especially for Native Nations in North America." Not many of those people realized the resilience of Indigenous people. Despite all of these claims for the extinction of Indigenous peoples and the repeated military and social actions directed against them, not only are they 'still here,' but they are the fastest growing

population (Hall and Fenelon, 2004). Indigenous people are strong people, who continue to fight for their future generations. They fight to maintain their culture and language, so that it can be passed onto future generations. Indigenous people always think seven generations into the future, and that's how they continue to persevere (King, 2011).

Although it seems as if the Indian Act was successful in breaking down the Indigenous cultures, Indigenous people are still fighting to keep their culture alive to this day. One way they are doing this is by converting old residential schools into places of cultural learning for future generations. An example of this would be the "Mush Hole," the Mohawk Institution in Brantford, Ontario. It is still called the "Mush Hole" by locals but it goes by the Woodland Cultural Center today. The former residential school is now a museum, displaying artwork made by people in the community. Many organizations on the Six Nations Reserve use the Woodland Cultural Center to hold traditional workshops, like moccasin making and other cultural activities. This shows the strength and determination of the Indigenous people to hold onto their culture, even after everything they have been through.

There were many protests due to residential schools, especially when children were not coming home. Building on the anger of residential schools, groups started to organize to bring nations together; League of Indians, National Indian Brotherhood, Assembly of First Nations (King, 2011). With the amendments to the Indian Act, Natives were now allowed to leave the Reserve. These amendments, along with the pressure of the Civil Rights Movement in the U.S., lead a reinforced desire amongst many communities to take back control over their lands and own affairs (King, 2011). This put additional pressure on the Canadian government to find out why Natives were angry and starting to protest for their lands back. This led to the publishing of the White Paper in 1969. It had a hopeful tone to it and many Native leaders thought they were finally being heard. After examining the White Paper, many became more angry. The Canadian government wanted to eliminate Indian status and completely ignore treaties.

Less than a year later, Harold Cardinal released The Red Paper, calling out Canada for being an unjust society. This paper stated that the White Paper was an embarrassment to the Canadian government, and even though the Prime Minister wishes he can remove treaties and treaty rights, there is no way Native people will let that happen (King, 2011). The White Paper essentially wanted to use legislation to completely remove Indians out of existence. After these papers and the passing of the Bill C-31 in 1985, and many other bills, it has put a severe strain on the limited resources that the bands have. Without increasing their resources, the government is doubling the number of registered Indians with these bills.

Indigenous peoples were no longer going to allow the government to try to eliminate them from existence, they were going to fight back. During the past couple decades, Indigenous peoples have engaged in several hundred separate protest events (Wilkes and Ricard, 2007). These protests mainly have to do with the Canadian government trying to take more rights and land away from Indigenous peoples. One-fifth of the over 600 bands in Canada had at least one or more events, which most often included tactics such as blockades, marches, and demonstrations (Wilkes, 2004). The well known protest is known as the Oka crisis. In 1990. Oka was the first contemporary First Nations-Canadian state conflict that involved death (Wilkes and Ricard, 2007).

While some Natives protested on the forefront, other Natives chose to fight politically. Deskaheh and Elijah Harper are the best known for politically fighting for their people. Deskaheh went to the governments in America, Canada, and Britain to ask for the treaties to be upheld. When the governments didn't listen to his concerns, he traveled to the United Nations. His attempt to be heard in Geneva failed. When he tried going back home to Six Nations in Canada, the government refused him entry, so he was forced to live out his life in America. Elijah Harper is the other well-known person to fight politically. He was a Member of Parliament in Manitoba when he famously stopped the Meech Lake Accord. The Meech Lake Accord was drafted to include Quebec into the Canadian constitution as the other founding people of Canada, while leaving out Aboriginal people all together.

When the time came to vote, Elijah shocked his colleagues by saying, "No" and standing firm when they tried to persuade him.

Although these two men are more known for their efforts, there have been many others who have fought politically for the rights of Indigenous peoples. Since the pass system was revoked, many Aboriginal people went to university, which was something they could not do before. Using the Western knowledge, many Aboriginal bands started the process of reclaiming their lands. The land claim process can take up to 13 years to go through, since there are so many bands applying, and so much land that needs to be returned (King, 2011). Once a land claim is settled, it allows the band to receive monetary compensation if they cannot receive their land back. An example of this would be with Toronto, Ontario. The city was built on the traditional land of the Mississaugas of the New Credit. After fighting for over 30 years, the government of Canada finally compensated the band for the loss of their lands in 2010 (King, 2011).

Using the Oppressive Policies for the Benefit of the People

One of the ways to revitalize cultures that were almost lost, is to guarantee the rights of Indigenous people throughout the world for future generations. After the common oppressive experience of Indigenous peoples throughout the world, the United

Nations (UN) released the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) to have Indigenous rights recognized. The only countries that refused to sign this agreement was Canada, United States, New Zealand, and Australia. These are the only countries that have Indigenous populations that these rights would apply to, meaning they would have to rewrite most of their policies already in place. ! While discussing UNDRIP, Erica-Irene Daes, who is a chairperson/rapporteur of the Working Group on Indigenous Populations at the United Nations has expressed the following: 'The draft Declaration is not a short or simple document, but long and complicated, as befits the complexity of the subject matter' (Kyl and Kly, 2001). This accurately describes the unique complexity behind UNDRIP, declaring the rights of Indigenous peoples, while also limiting their rights to self-determination. UNDRIP can be describes as a charter-based doctrine, which means that this doctrine is not legally binding to the Nations who sign it, but it sets standards that these Nation governments should try to follow (Watts-Powless, 2013).

Sadly, it is just a declaration based on a charter doctrine, which means that the Nation-States do not have to follow what it says. The doctrine also stood clear of using the term self-determination because, according to Roy (2001):

The UN is unwilling to grant Indigenous peoples access to the right of self-determination because self-determination is equated with independence, and independence for peoples sharing territory with established Nation-States is not possible without violating the territorial integrity of those states.

If you look at UNDRIP, the vast majority of the articles gives the impression that Indigenous peoples have the right to determine their own affairs, including the right to exercise their self-determination. Yet, the last stipulation, article 46, does not allow them to because exercising self-determination is going to go against a Nation-State, since Indigenous peoples' traditional territory in which they would exercise this selfdetermination has been taken over by the Nation-States.

The last section of UNDRIP that is limiting to Indigenous sovereignty is section 46, which Peang-Meth (2002) best summarizes: "Although all peoples have the right of self-determination, to break up a national state in pursuit of that right is not permitted." This section limits Indigenous self-determination in Canada because the Indigenous people in Canada would have to "break up" the Nation state of Canada in order to pursue their right to self-determination. Indigenous peoples in Canada do not have a so called homeland in which to practice, not only their self-determination, but every aspect of their distinct cultures, as they have been forcibly integrated into Canadian society (Fleras, 2013).

This seems to create even more problems within Canada today, because Canada doesn't seem to know what it wants to do with Indigenous people and their rights. In the 1982 Constitution Act, section 35(1) states that, "The existing Aboriginal and treaty rights are hereby recognized and affirmed" (Watts-Powless, 2013). Yet, Dickason (2009) sees this as a contradiction when the current federal Conservative government recently denied Indigenous rights in the international sphere by refusing to sign UNDRIP, even though in the constitution, it says that Aboriginals have rights. The UNDRIP doctrine declares that Indigenous peoples in the world have rights, yet places constraints on Indigenous peoples when exercising these rights.

All of this shows how UNDRIP can be viewed as unclear and vague, which was a basis that Canada used as their refusal to sign the doctrine. Signing UNDRIP doesn't make it an automatic law, it's merely a set of guidelines that the government should follow. Though UNDRIP is not a law, and has no authority over Nation States, it can be used as a yardstick against which to measure states' behaviour (Watts-Powless, 2013). The difficulty for self-determination of Indigenous peoples is, when Canada declared sovereignty from the British Crown, there was no transfer of treaties from the Crown to Canada. Yet, the Canadian government fails to recognize that the treaties are not made with them, and the British Crown fails to honor the agreements made within the treaties.

The United Nations (UN) should have more influence over these Nations, and really criticize the ones who are not measuring up to UNDRIP. "It seems ironic that the only Nations to deny UNDRIP are the ones with Indigenous populations" (Watts- Powless, 2013). Although it is reassuring that other Nations in the UN recognize that Indigenous peoples should have rights, it does nothing to reassure the Indigenous populations who do not have a homeland to turn to. These Nations need to learn to incorporate UNDRIP and recognize that they are located on Indigenous homeland. Indigenous peoples can now used UNDRIP to show that their country is not meeting up to the standard guidelines of rights. Although these countries did not sign it, it can still be used to show what the countries need to do. It just looks bad on U.S., Canada, New Zealand, and Australia for not signing, because they aren't respecting that Indigenous peoples should have the same rights as other people in the world. There is a relational nature of racism that Aboriginal people around the world experience. It was acknowledged at the 2001 World Conference Against Racism, that Aboriginal people are victims of racism, colonialism and globalization (Law, 2010). It seems as though the experiences of Aboriginal people are being recognized, but there isn't anything that the governments are doing to try to make up for their past discretions.

Racism in Canada Today

In the aftermath of the Oka Crisis and the Constitution Crisis, the Royal Commission of Aboriginal Peoples (RCAP) was established in 1991. It put forth extensive recommendations and a 20-year agenda on how to improve the lives of Aboriginal peoples in Canada. None of the recommendations have been seriously addressed by the Canadian government. Out of the 500 recommendations, the recommendation that was put into action in 1996 was to declare June 21st as National Aboriginal Day. Unfortunately, the roadmaps to improving Aboriginal people's lives have been ignored. The next recommendation that was put into place wasn't until 2008 when the Prime Minister of Canada, Stephen Harper, issued an official apology for the role the government played in residential schools. From this apology, the truth and reconciliation commission was established.

The apology and the commission are good steps in the right direction, but they have yet to achieve anything (King, 2011). Some people within the commission want to focus on reconciliation, and moving on from residential schools. While others acknowledge that the truth about residential schools need to be brought to light before the real healing can begin. Commisso (2013) writes about:

"Urging the federal government to extend the mandate of the Truth and Reconciliation Committee, which has been tasked with learning about what happened in the residential schools and to inform all Canadians, for "as long as necessary." Living in the aftermath of colonization in Canada means living below the poverty line. Commisso (2013) "Canada consistently ranks among the top of countries in respect to human development standards, and yet amidst this wealth and prosperity, aboriginal people live in conditions akin to those in countries that rank much lower and in which poverty abounds." If you look at Statistics Canada, there is a visible gap between Aboriginal people and non-Aboriginal people. Comparing the two, Aboriginal people have lower socioeconomic status, higher rates of poverty, poorer health, higher rates of suicides, and higher numbers in prison. Commisso (2013) points the blame at residential schools, "Many of the dire social and economic problems faced by aboriginal people are directly linked to that experience."

There is another statistic that is extremely alarming. There have been recent reports that have estimated over 1000 Aboriginal women who are missing or have been murdered. Yet, there seems to be no concern from the government of Canada for justice for these women. There is a national call for the government to investigate the missing and murdered Aboriginal women by the Sisters in Spirit campaign. This campaign has been supported further with the recent Idle No More movement. McMillan et. al. (2013) discusses the recent Idle No More campaign:

"Indigenous Nations in Canada have never been idle, they have resisted colonial oppression for centuries now. Through rallies, traffic slowdowns, rail obstructions, flash mob round dances, traditional fasts, national events, benefit concerts, videoconferences, myth-busting exercises, and extensive community outreach successfully create spaces for talk and action. These activities instill in youth a sense of responsibility for carrying on the work of their ancestors as defenders of Indigenous rights and stewards of future sustainable resource management."

Indigenous peoples want Canada to look into moving forward, and getting rid of the Indian Act so that they will have self-governance once more. "The elimination of legislated discrimination is absolutely essential. The Indian Act is a disgrace to all Canadians. It is a chain hindering progress towards equality for Canada's original and fastest-growing population" (Storms, 2010). The National Chief Alteo of the Assembly of First Nations does not think that getting rid of the Indian Act will be the silver bullet to end all oppression and discrimination in Canada. His vision includes a call to action on education, federal recognition and implementation of First Nation governments, development of economic partnerships, greater environmental stewardship, and end to discrimination and violence against women, and–as articulated as recently as Aug. 9– Canada's endorsement of the United Nations Declaration on the Rights of Indigenous Peoples (Storms, 2010).

The Indian was always intended as a temporary set of laws until Native peoples were successfully assimilated (Schertow, 2007). In order to move forward in Canada, the Indian Act needs to be removed. In 1969, Canada used the White Paper to proposed to abolish the Indian Act, but it was met with strong opposition from Natives since it wasn't on their terms. Today, both governments and Chiefs now call for an end to the Indian Act, which they claim is an obstacle to economic progress (Schertow, 2007). RCAP had released recommendations on exactly how to get rid of the Indian Act, the Canadian government has not listen. Storms (2010) "[We need to] support Atleo's drive to eliminate this apartheid-like legislation. And we should recognize that, like the continued struggles of African Americans since King's famous speech, Atleo's challenge to Prime Minister Stephen Harper and the citizens of Canada will undoubtedly require much more hard work if the great vision is to be achieved." Chief Atleo resigned recently, due to First Nations Education Act, which would strip away the rights of Indigenous people and give the federal government too much control over the education of their children (Rennie, 2014). The positive thing about Chief Atleo's resignation (first national chief to ever step down), is that it has stopped the politicians from discussion of the new bill and moving forward with it, until there is a new national chief.

Conclusion

By further examining the Indian Act and the implications it has on the Indigenous population in Canada, it has been shown that Canada operates as a racialized state. If Canada were truly a multicultural state, as it claims to be, there would be no need for an Indian Act. The Canadian government would no longer need to use the Indian Act as a way to control the Aboriginal communities in the country. Since there have been many debates over whether to remove the Indian

Act or not, the Royal Commission on Aboriginal Peoples released a 20 year plan to improve Indigenous lives within Canada. It's a basic plan to remove the Indian Act, and work together to uphold the treaties made with Indigenous peoples. It seems as though Canada disregarded this plan, and has not opted for anything else. The government does not want to recognize Aboriginal communities as self-determining Nations that are able and ready to control their own affairs. Unfortunately, it seems as though Canada will keep controlling Aboriginal people through their atrocious Indian Act.

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