

Commentary

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aboriginal policy studies Vol. 3, no. 3, 2014, pp. 109-114

This article can be found at:

<http://ejournals.library.ualberta.ca/index.php/aps/article/view/22230>

ISSN: 1923-3299

Article DOI: <http://dx.doi.org/10.5663/aps.v3i322230>

aboriginal policy studies is an online, peer-reviewed and multidisciplinary journal that publishes original, scholarly, and policy-relevant research on issues relevant to Métis, non-status Indians and urban Aboriginal people in Canada. For more information, please contact us at apsjournal@ualberta.ca or visit our website at www.ualberta.ca/nativestudies/aps/.



UNIVERSITY OF ALBERTA
FACULTY OF NATIVE STUDIES



Aboriginal Affairs and
Northern Development Canada

Affaires autochtones et
Développement du Nord Canada

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Over the last five years, I have tried to use academic resources to add to my own lived understanding of Indian Act registration and the ways that it has crafted notions of who is a credible Indian in Canada. I have read, heard, and doled out a lot of well-placed criticism about the Act's perversity, not to mention Canada's general self-affirmed claim to name and govern Indigenous peoples. The incessant hate-on toward this piece of legislation makes it seem as if, for many, it is *the* physical manifestation of colonialism in this country. To be clear, the Indian Act has never defined Indigenous identities in their vast and dynamic richness; rather, through the label “Indian,” it and the band membership codes that it has inspired have crafted a particular representation of Indigeneity based not only on a patriarchal model of ascription, but on a racialized veneration of the antiquity of so-called “Indian blood.” These criteria have served to physically and symbolically separate many Indigenous people (and peoples), and disenfranchised women and their descendants in particular, from their respective reserves and ancestral lands and families. This is the common narrative that is told about Indian Act registration. While completely accurate, there is also more to this story.

Despite the recent and successful political and activist efforts that have sought, and continue to seek, a rejection of the language of “Indian-ness, Aboriginality, and Indigeneity” to one that rightly recognizes our distinct peoplehoods, there still remains, for many, an emotional investment in Canadian legislative determinations of Indian status. In other words, being a Canadian Indian also referred to as being “Status,” or, inaccurately in the Prairie provinces, as being “treaty,” is important to many people. Among those in my own First Nation, at least, it is evident that the Indian Act's version of Indian-ness has, unfortunately, become more than an external state category. It has made its way into some processes of self-definition in the development of individual identities and community perceptions of authenticity. As a result, Indian registration has come to determine degrees of relatedness between community and family members dividing them legally and (at times) physically, while setting people on treacherous journeys of Indigenous existential crisis. All this stems from the Act's definitional framework (i.e., who or what is an Indian), without even getting into any of the guts of its heavy-handed administration of Indian and band life.

Academic literature on the matter remains heavily jurisprudential, and distills law from the local and personal ways in which legal categories impact everyday life. As a result, I have found that the academic literature does not tend to reflect the ways in which people emotionally *feel* the impacts of the Indian Act categorization scheme and, more importantly, how they *resist* its rigid boundaries.

My commentary here is to inject an element of life and everyday “livedness” into the legal categories that have such a heavy impact on us as Indigenous peoples. I would not be able to reflect on this uniquely Canadian brand of colonial violence without considering the ways in which state legislation moves across and between generations. This is related to my inability to think about my own *Nehiyaw* (Cree) identity outside of the contexts of my intergenerational relationships. What follows, then, is a letter to my hypothetical (future) daughter. The point of this exercise is to demonstrate the depth to which my own family has felt the Indians Act’s presence (often without being cognizant of the Act itself) and to demonstrate that the next generation will likely still be affected by the Indian Act’s regulating influence. I do not write this commentary to saturate my own experiences and those of other Indigenous peoples with feelings of victimhood; rather, it is to explore personal experience in the context of law and identity to show that the two interact. This thought experiment points to ways that colonial power, and legal categories in particular, have an impact on everyday life. We need such a focus on the proximate and personal experiences of colonialism in order to understand the ways in which power and resistance operate in and through our immediate and, often, daily experiences.

My girl,

I love you. If you’re ever going to see yourself like I see you, I need you to understand something.

You’re not an Indian.

It’s not that you are not Indian enough. It’s just that you’re not an Indian ... legally. Let me explain this to you.

I didn’t grow up in my (mother’s) community—my grandmother’s marriage to a non-Native man and my mother’s subsequent loss of what is called Indian Status made this impossible. You see, since the mid-1800s, it has been important to Canada to decide who we are. Canada, in general, has wanted to separate us from our land bases in order to establish itself as a legitimate political entity on the world stage. In order to do this, it needed to identify who we were—or, rather, who it thought we were and, also, who it needed us to be.

In 1867 Canada gave itself authority over what it called Indians and our lands. At that time, it didn’t define what it meant by “Indians.” Instead, it left this job for a body of laws that would eventually become known as the Indian Act. In 1876, this Indian Act created a narrow, not to mention foreign measure of who was an Indian.

In our family, we have not met the original criteria set out by the Act for three generations, and so that definition alone has, unfortunately, perforated our experiences and history with a legacy of exclusion. Upon marriage to a Non-Status man, my grandmother (your great-grandmother), and consequently, her children (my mother/your grandmother and our uncle), lost their legal Indian status, and, with it, geographic inclusion into the on-reserve part of our

community. Your great-grandmother's loss of Indian status marks an important moment in our family's experience with the Indian Act.

Your great-grandmother was born on the Indian reserve of her forebears: well, not entirely. Our initial reserve was located on our ancestral territories, but government authorities took that land and sent us further north. In any case, she grew up on the reserve with her large family, and life was hard. She experienced a time when assimilationist government policies and everyday racism were unrelenting. She went to residential school, although she says it wasn't that bad. When she finished Grade 10, her father sent her to work as a maid for a wealthy Jewish family in the city. She worked for them for years and began co-opting aspects of their identity. For most of her life after that, your great-grandmother told people she was a "Mexican Jew"—in her mind it was better than admitting that she was, in fact, an Indian. When she married your great-grandfather, a recent Dutch immigrant, the Department of Indian Affairs sent her a cheque for sixty-three dollars and a letter welcoming her to a place where she had been told countless times in her life was better ... within the "white race." At twenty-one years old, after growing up on the Indian reserve, going to residential school, and concealing her Cree identity from city folk, the Canadian government assigned your great-grandmother her new white citizenship, the result of her marriage to a non-Indian man.

Your grandma's sister, our auntie, also lost her Indian status when she married a non-Indian. She described this event as having had a profound impact on the core of who she believed she was. As she tells it, she had always been very proud of being "Indian" and, in particular, as being a "treaty Indian." When she lost her status, she felt a certain emptiness. She believed that she was being stripped of a very important part of her identity. For her, Indian-ness was and is more than a legal status. It is a symbol of her identity and set of relationships as a Cree woman. Your grandmother and her sister remained in this uncertain situation until after 1985, when status was returned to them and my mother (your grandmother).

As you can see then, your grandmother was not an Indian when she was born, but became one when the Indian Act was changed in 1985. This new law was meant to make up for the historic discrimination against Indian women, like your great-grandmother, who had married non-Indian men. For the first time in Canada's history, and as a result of their requests, Indian bands were given administrative authority to determine their membership standards. Theoretically, they could have constructed membership codes in any number of ways that stepped away from the language of the Indian Act. Our band didn't. It chose a 50 percent Indian blood quantum for the basis of its membership. According to a similar equation, Canada named a whole new class of Indians that had never before existed. Your grandmother was ascribed to this new category, called 6(2). What this meant was that she was considered to be a "half" Indian, essentially, because of her mixed (50/50) Indian and non-Indian parentage. Your grandmother fit into both the criteria for band membership and 6(2) Indian status. However, being placed in this lesser-than-full status category has caused her to feel a lot of inner turmoil throughout her life. She has never quite felt like she fits into the "Indian world," but because of her strong connections to our Cree family, neither has she felt like she belongs in the "white world."

Now in her fifties, she's still trying to figure out where her place is. Your grandmother is beautiful, but her light skin has caused her to feel guilty almost all of her life. She knows that, unlike her, most of our family members don't experience the unearned privileges that looking white secures. For years, she felt that, because she didn't experience racism in the same way that her brown cousins did, she was not entitled to publicly identify as the proud Cree woman that she is. To me, her struggle is an important demonstration of how this thing that we call colonialism gets stitched into and onto our individual bodies. She simultaneously felt denied the ability or right to outwardly identify as an Indian, while living according to and passing on the Cree values that she was raised with. Being a 6(2) Indian meant that she wouldn't be able to pass status and band membership to her children (your uncle and me), unless she had children with another Indian. She didn't. I wasn't born as an Indian or a codified member of our band.

I became an Indian when I was twenty-five years old. In 2010, Canada again tried to get rid of gender discrimination in the way that it defined Indians. About a year later I applied for status. I laboured over whether or not I should do this. The experiences of each generation of women in our family have been mired by a different version of the Indian Act. Each one told us who we supposedly were and who we could not be. Laws don't stay within the walls where they were forged, just like categories don't stay on paper. I have lived them, your grandmother and great-grandmother have lived them, and so will you. What you need to remember is that Canada's version of Indian-ness isn't everything. It should be nothing. More importantly, you are a part of a family and a history and a people. Remember that.

I applied for Indian status for reasons that were as important as they were completely hypocritical. On one hand, by having my name listed on the Indian Register, I gave into Canada's self-proclaimed jurisdiction to regulate my legal identity in the manner in which it conceives of my Indian-ness. The thing is though, that in a sense, this is how colonialism works. Whether I became an Indian or not, Canada still determines my legal identity. I am, after all, a citizen of this nation state—if not in spirit, then in (Canadian) law. So, complicity doesn't necessarily come from a lack of our agency, knowledge, or will. The way that Canada's legal system is designed shapes the ways that we can struggle for emancipation within it. Maybe, then, we need to look somewhere else if change is what we seek.

It was important to your grandmother that I get my status. In her words, she said that being an Indian was my "birthright" and she wanted me to have the benefit of any advantage that being status might bring. I think that the advantage she had in mind was related to the weight that some people give to Indian status. Throughout her own life, that status card was a form of currency that she didn't always have and she didn't want me to experience the same sense of inadequacy and insecurity that she had felt without it. Even though I believed that she, my grandmother, and my aunts had already given me everything that I needed in order to develop my own sense of being a self-assured Nehiyaw iskwew, it was important for her to transmit this inter-generational (legal) connection and for me to receive it. Consequently, as the new Indian Act works, my procurement of Indian-ness elevated her status to 6(1). Considering her own internal struggles about who she is and where she fits, becoming a "full"

Indian was really satisfying for her. Her investments (along with those of many people from our First Nation) remain steeped in the idea that 6(1) Indians are “real Indians” and she believes that the elevation to her “rightful” 6(1) status is validation, not the sole determinant, of who she knows herself to be.

While I don’t completely agree with her, I deeply understand why she feels this way and I certainly didn’t want to stand in the way of her receiving what she wanted. To intellectualize her feelings, it seems like she was and is misrecognizing the ways in which she is immersed in her own colonial domination, but to think about her investments in Indian-ness in this way diminishes the very real and hard realities of her life, first as a Non-Status Indian, then as a 6(2) and, finally, as a 6(1).

So, as you can see, becoming an Indian was not easy for me. This is true at the existential level, and I’ll add, it wasn’t easy in a practical sense either. The Department of Indian Affairs and Northern Development (I know its name has changed, but on my card, it still reads Indian Affairs) doesn’t make it easy to become an Indian. I first applied for status on 12 October 2011. The application itself required the completion of three forms, the inclusion of my original long form birth certificate, passport-like photographs, as well as the statutory declaration of a professional guarantor to confirm that I was who I said I was (a requirement that is no longer even necessary for Canadian passport applications). By 16 May 2012, I became a 6(2) Indian. At this time I was provided with a file number and a Temporary Confirmation of Registration Document. On 29 January 2013, my status card was issued to me. It came in the mail with instructions on how to validate my card through activation. If I didn’t activate this card within 30 days of the date of its issue, it would become invalid and I would need to re-apply for my status. The activation process proved difficult to accomplish but, in the end, after what seemed like a lot of unnecessary bureaucratic incompetence, it was successfully completed. The reputation of the administration at INAC has never been based on expedience and convenience, but this multi-year process of becoming an Indian (and I must say, my case is one of the most straightforward) seems enough to dissuade even the most committed individuals from following through.

My girl, after having gone through this process and becoming an Indian, you should know that I’m not a codified member of our First Nation. You see, the ways that the Indian Act has determined legal inclusion and exclusion have been, to some degree, adopted by Indigenous peoples themselves. We have helped to create meaning for Indian-ness. This process, however, has not been entirely on, and certainly not in, our own terms. What this means for us is that the band membership code of our First Nation is now even more racially exclusive than the registration criteria of the Indian Act. But don’t ever think that this means that we don’t belong. Outside of our band’s Indian Act-inspired membership code, our community has ways of ensuring that people are not lost. Family connects you to the past, present, and future relations of our nation. They know you and they love you. It is our responsibility to be accountable to those relationships.

While Indian status has come in and out the lives of all of the women in our family, in turn affecting just how Indian we are perceived to be and how we perceive ourselves, we have

always been and lived as Nehiyaw iskwewak (Cree women)—a consideration not accounted for in the violence of colonial legislation. Our family's experiences with Indian registration are not separate from those of others. They are local manifestations of historic and recent configurations of Indian status into and through our lived realities. Canada's sense of owning this land, and the resulting authority to name and govern those people who reside within it, means that it can determine whom Indians are. But remember, something can be possessed without being rightfully owned. Canada does not own us and we maintain a proprietary claim over who we are, as we have always and continue to live as Nehiyawak in this land.

My girl, remember that you are your mother's daughter, your grandmother's granddaughter, your great-grandmother's great granddaughter, and the living spirit of all the grandmothers before them. You are our girl. You are nikawiy—you are my girl.