

## FACTS ABOUT THE *INDIAN ACT*

1. It is the only legislation in the world designed for a particular race of people.
2. It was made by parliament and not by First Nations peoples.
3. Because parliament is supreme in Canada, it can therefore change the Act without consultation with the Indians.
4. First Nations peoples' weapons against revision without their input is through provincial and national Indian organizations.
5. The Act is basically not the source of substantive or basic First Nations rights; it merely tells how to administrate.
6. The Act has, however, been used through the courts to erode substantive First Nations rights.
7. The act does, however, have certain provisions which preserve First Nations rights.
8. There have been various other federal Acts dealing with the First Nations since the early 1800s.
9. All these Acts, down to the present one, have been consistent in their goals of assimilation, integration and eventual abolition of reserves and of special rights for the First Nations.

"The *Indian Act* – Part Two"  
<http://www.sicc.sk.ca/saskindian/a78apr20.htm>  
(Accessed 25/05/08)

# IMPACT OF THE *INDIAN ACT* ON FIRST NATIONS PEOPLES 1876 - PRESENT

1. First Nations cultures lost their customs, traditions and languages
2. First Nations family ties were broken
3. First Nations children were removed from their families
4. First Nations peoples' freedom of movement was restricted
5. First Nations women were discriminated against
6. First Nations peoples were not allowed to practise their spiritual ceremonies
7. First Nations peoples lost their identity through enfranchisement
8. First Nations peoples lost their self-confidence
9. First Nations parents lost their parenting skills
10. The First Nations lost the right to determine their own membership
11. The First Nations lost their traditional leadership
12. The First Nations lost their sovereignty
13. The First Nations have only limited access to education
14. The First Nations lost their lands
15. The First Nations lost their resources
16. The First Nations lost their traditional lifestyles
17. The First Nations lost their freedom
18. The First Nations have only limited opportunity to sell their agricultural goods

# THE INDIAN ACT OF 1876

"I want to get rid of the Indian problem... 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..."

Duncan Campbell Scott,  
Deputy Superintendent-General of Indian Affairs. 1920.

The *Indian Act* was not part of any treaty made between First Nations peoples and the British Crown. The sole purpose of the act was to assimilate and colonize First Nations peoples. However, it was presented to First Nations peoples as a form of protection and preservation of the First Nations lifestyle and culture for on-reserve Indians. This was an added legislative act that was introduced by the Canadian government as a means of addressing First Nations peoples of Canada and taking care of their problem, as they saw it, with any responsibility that involved the First Nations and Canadian government (formerly the British Crown).

- Passed in 1876, the *Indian Act* was put into place by the Canadian government which regulated and controlled many aspects of First Nations lives across Canada.
- Many First Nations peoples view the act as going against the treaties.
- The original treaty commissioners assured the First Nations that their way of life would continue without interference and that the Queen was offering benefits in addition to what the First Nations peoples already had.
- The treaties were seen as a mutual agreement entered into for the shared protection and the mutual benefit of both parties. A peaceful co-existence was key to the agreements.
- This act imposed several restrictions on First Nations peoples; the actual role of this act was to civilize First Nations peoples and eventually assimilate them.
- The conflicting goals between what was discussed during the treaty negotiations and what was imposed by the *Indian Act* caused poor relations between First Nations peoples and the Canadian government.
- With the introduction of the *Indian Act* came the bureaucracy of Indian Affairs.
- Through the *Indian Act*, the Government of Canada treated the First Nations as legal minors and approached them as a problem to be administered.

- With the implementation of Indian Affairs, it was made clear to the First Nations that the Canadian government viewed the First Nations as Indian minors and the government's role was to be guardian of the First Nations.
- This act was a consolidation of pre-existing colonial legislation including the *Gradual Civilization Act* (1857) and the *Gradual Enfranchisement Act* (1869).

### ***The Gradual Civilization Act (1857):***

Any First Nations male who was free of debt, literate and of good moral character could be awarded full ownership (owned but not to be sold) of 59 acres of reserve land. He would then be considered enfranchised and would have to cut all ties to his band and cease to be an Indian.

The main goal of this act was to have the First Nations assimilate, and eventually through assimilation cause the disappearance of First Nations communities.

### ***The Gradual Enfranchisement Act (1869):***

This act increased government control of on-reserve political systems. The First Nations' participation in their own governance was minimal and the Superintendent-General of Indian Affairs determined when and how First Nations elections of governance would take place.

The sole purpose of this act was to encourage First Nations peoples to assimilate and give up their treaty status. This was originally a voluntary program, however, First Nations peoples did not respond as the government would have liked, so enfranchisement became compulsory to certain people such as:

- First Nations women marrying non-First Nations men
- children of First Nations women and non-First Nations men
- people who had lived off the reserve for more than five years
- people who had obtained a higher education

Provisions to the *Indian Act* covered the following:

- defined who an "Indian" was
- provided for enfranchisement of First Nations peoples
- administered reserve land
- managed sales of timber
- administered band money
- determined the process of leadership (through chief and council)
- regulated intoxicants
- prohibited certain activities and ceremonies

With the establishment of the *Indian Act*, there were several implications for First Nations peoples:

- **Citizenship versus “Indian Status”:**

Loss of Indian Status:

- First Nations women marrying non-First Nations men
- children of First Nations women and non-First Nations men
- people who had lived off the reserve for more than five years
- people who had obtained a higher education

- **Cultural Heritage:**

Provisions to the *Indian Act* (1884) were designed to discourage and punish First Nations peoples for participating in cultural practices such as dancing.

In 1889, First Nations peoples were banned from conducting or participating in First Nations spiritual ceremonies.

- **Industrial/Residential Schools:**

Provisions to this act in 1894 provided for compulsory school attendance of First Nations children.

Industrial schools ran from 1883-1923. After 1923 these schools became known as “residential schools.”

Part of the federal government assimilation policy focused on eliminating First Nations children’s cultural beliefs and practices.

First Nations parents were fined or jailed if they did not send their children to residential schools.

- **Administrative Powers:**

- By 1880 the Department of Indian Affairs was created to administer the Government of Canada’s responsibilities under the *Indian Act*.
- Indian agents were appointed to regulate and enforce the *Indian Act*.
- Indian agents provided for agricultural or trade-training for men. Women were taught domestic skills.
- Indian agents had decision-making powers over every aspect of First Nations lives.

- **New Process for Leadership:**

- In 1869, the Canadian Government introduced the voting system for chief and council which took place every two years. This system replaced the traditional forms

of choosing First Nations leadership. Band council systems of government reinforced the rules and regulations created under the *Indian Act*.

- **Prohibitions:**

- The sale or gift of ammunition to the First Nations was prohibited. A pass system was introduced and First Nations peoples now needed permission from the Indian agent to leave the reserve.

### Contemporary *Indian Act*

- The *Indian Act* continues to exist today as a piece of Canadian federal legislation.
- The *Indian Act* continues to regulate, manage and direct many aspects of the lives of First Nations peoples across Canada.
- Many of the provisions of the *Indian Act* are the same today as those included in the 1876 act, including education, membership, elections for band government, taxation, liquor restrictions and management of First Nations lands and resources.

### Conclusion

- Despite the control that the *Indian Act* had over First Nations peoples, many did not give up traditional leadership. They continued to practise their spiritual ceremonies and to speak their First Nations languages and refused to follow the rules dictated by Indian agents.
- Major amendments were made to the *Indian Act* in 1951 and 1985.
- The 1951 amendments removed some of the provisions in the legislation, including the banning of dances and ceremonies and the prohibition on pursuing claims against the government. First Nations peoples were now permitted to hire lawyers to represent them in legal matters.
- In 1985, Bill C-31 was introduced which allowed First Nations women to marry non-Status or non-First Nations men without losing their Indian status. It also allowed First Nations women who had previously lost their status through marriage and First Nations individuals who had lost their status through enfranchisement to apply to have their status reinstated.

First Nations peoples have faced many problems and endured much difficulty through government-imposed legislation and policy. There have been and continue to be disputes over the meaning of treaties. The treaty relationship between First Nations and the Government of Canada has not been fully acknowledged or fully implemented.

Despite these problems:

- First Nations leaders continue to advocate for treaty implementation.
- Many First Nations peoples and communities continue to maintain ties to their traditional ways of life.
- The political leadership of Treaty First Nations has evolved and survived along with the spiritual, cultural and social systems inherent within First Nations communities.
- Policies of the federal government have also evolved and changed over time. Today the Treaty First Nations in Saskatchewan and the governments of Canada and Saskatchewan continue to dialogue and build upon their common understanding regarding the treaty relationship.

Taken from *Teaching Treaties in the Classroom Grade 7-12* resource binder,  
Office of the Treaty Commissioner. 2002.  
pp. 357-361.

## APPENDIX M

“The Impact of the *Indian Act* on First Nations Peoples —  
Student Activity”

&

“Impact of the *Indian Act* on First Nations Peoples 1876 - Present”



# IMPACT OF THE *INDIAN ACT* ON FIRST NATIONS PEOPLES — STUDENT ACTIVITY

Compare the lifestyle of First Nations peoples before and after the *Indian Act*, using the analogy of a car and gasoline.

Inform the students that you have a car and a tank full of gas. You are free to drive anywhere you want before the *Indian Act* was introduced. You have culture, language, strong family and kinship ties, a social life centred on traditional ceremonies, an economy dependent on nature and the land, natural and Creator's laws, values, principles, a code of ethics, spirituality and spiritual leaders, medicine people, a justice and education system, a political and government system. You have everything you need to exist and you do not need anything else. This all changes with the introduction of the *Indian Act*.

**Teacher Note:** To demonstrate for students the effects of the *Indian Act*, you will need a glass full of water, a thimble or another small container to scoop out the water, as well as a container into which you can pour the water from the glass.

Scoop out a thimbleful of water for each negative impact that occurred with the implementation of the *Indian Act*. Using the following handout "**Impact of the Indian Act on First Nations Peoples,**" name each negative impact as you take out a scoop of water. Continue to scoop out water until there is only a small amount left. Inform students that the amount of water left is the amount of gas they have left to go wherever they wish.

Ask students the following:

- How far will this amount of gas take you?

Tell the students that they are not allowed any more gas except with the permission of the Indian agent and ask them:

- How does it make you feel to be totally dependent on another person to make decisions for you rather than being able to do whatever you want?

This is an excellent example to help demonstrate the effects of the *Indian Act* on First Nations peoples.

After you have finished this activity, begin to discuss the fact that First Nations peoples are only now starting to fill up their tanks with the restoration of their cultural ways.

Begin refilling the glass with water and as you are doing this, tell the students that First Nations peoples today are refilling their gas tanks by doing the following:

- learning their languages
- learning their cultural traditions
- participating in spiritual ceremonies
- participating in cultural social singing and dancing
- learning about their cultures in school curriculum
- many are living healthy lifestyles
- proud of their cultures
- many are parenting in healthy ways
- parents are involving themselves with their children in cultural activities and events
- First Nations governments are being acknowledged

# What Is Policy and the Indian Act of 1876

Policy		Indian Act	
What is a policy?		What is the Indian Act?	
How is a policy developed?		How was the Indian Act developed?	
Who develops a policy?		Who developed the Indian Act?	
What should a policy contain?		What does the Indian Act contain?	
What is the policy going to achieve?		What is the Indian Act to achieve?	
How is the policy going to be implemented?		How is the Indian Act implemented?	
How is a policy maintained?		How is the Indian Act maintained?	

# ROYAL PROCLAMATION, 1763 AND THE BRITISH NORTH AMERICA ACT, 1867

(Taken from "The Royal Proclamation of 1763," The Office of the Treaty Commissioner,  
The Treaty Resource Binder (2002) – Grade Nine Unit, p. 179)

In this section, it is very important that teachers and students understand that the *Indian Act* was not part of treaty. It is a legal document that the Canadian government put in place to meet its obligations to "Indians and lands reserved for Indians." It also provided a way for the Canadian government to meet its obligations as outlined in the treaty agreements between the British Crown and the First Nations peoples.

- Formalized the guidelines for treaty-making with the First Nations and the British Crown (now known as the Canadian government)
- The Crown entered into treaty primarily to gain access to the First Nations' lands for settlement.
- The First Nations were concerned about protecting their way of life.
- There are three periods of treaty-making: the pre-Confederation treaties (prior to Confederation in 1867), the numbered treaties (after Confederation), and modern day treaties (in negotiation now).
- All treaties negotiated after 1763 stem from the *Royal Proclamation*.
- The proclamation served two purposes: it articulated the basic principles governing the Crown's relationship with the Indian Nations and it laid down the constitutions and boundaries of several new settler colonies.
- The proclamation stipulated that settlement could not occur on First Nations lands and was only permitted where the Crown had legally acquired the land through purchase or treaty with the First Nations.
- This proclamation did not include the West, although it established a precedent that only the Crown could negotiate for land from First Nations peoples; the precedent followed treaty-making on the prairies in the late 1800s.

### **The Royal Proclamation, 1763 guaranteed:**

(Taken from *Legacy: Indian Treaty Relationships*, Richard Price, 1991, pp. 6 & 7).

- Indian hunting grounds would be preserved.
- Indian peoples would be protected against fraud by private individuals.
- The British Crown held exclusive right to enter into negotiations with Indian peoples.
- Treaty negotiations between the British Crown and the Indian peoples would be at public assemblies.
- Indian treaties would be the result of the British Crown negotiating and purchasing the hunting grounds from Indian peoples.

### **The British North America Act, 1867:**

- The original Constitution of Canada in Section 91(24) deals explicitly with the First Nations. It states that the Canadian government has jurisdiction over "Indians and lands reserved for Indians."
- A very important legal document in establishing the federal right to make regulations affecting "Indians and lands reserved for Indians."
- Reserves are areas of land held in trust for Indian people; ultimately the government retained the rights for their disbursement, and also the right to expropriate or take away this reserve land (this has happened repeatedly).
- It also gave Indians the right to ask that the federal government not transfer this responsibility to another authority, such as the provinces.

Colonial legislation of the 1850s radically altered the standing of First Nations peoples. Other parties/regions that became part of Confederation were consulted, however, the Indian people were not consulted. This lack of consultation can be seen in the development and implementation of other acts prior to the *Indian Act*.