

THE INDIAN ASSOCIATION OF ALBERTA'S 1970 *RED PAPER* PUBLISHED AS A
RESPONSE TO THE CANADIAN FEDERAL GOVERNMENT'S PROPOSED 1969
WHITE PAPER ON INDIAN POLICY

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Bachelor of First Nations Studies
Malaspina University College, 2001

A Thesis
Submitted to the School of Graduate Studies
of the University of Lethbridge
in Partial Fulfilment of the
Requirements for the Degree

Master of Arts

Department of Native American Studies
University of Lethbridge
LETHBRIDGE, ALBERTA, CANADA

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Abstract

This thesis explores the discourse on treaties and “self-sufficiency” between the 1969 Canadian federal government’s *White Paper* and the 1970 Indian Association of Alberta’s *Red Paper*. The *White Paper* advocated *individual* “self-sufficiency,” while the *Red Paper* emphasized treaties, rather than individualism, as a source of Indian “self-sufficiency.” The thesis examines the *Red Paper* as a political assertion and resistance to assimilation as proposed by the *White Paper* and, that the *Red Paper* regarded historical treaties as important to Indian people in Alberta and beyond. Michele Foucault’s concept of “power/knowledge” and Dale Turner’s critique of Western liberal ideas are used in the thesis to examine the idea of assimilation in the *White Paper* and used to illuminate the *Red Paper*’s position that treaties were essential to the “discourse” between the federal government and Indian leadership, such as the IAA, between 1969 and 1971.

Acknowledgements

I am pleased to thank the many people who have helped me in the completion of this thesis. I would like to express my deep appreciation and gratitude to my research co-supervisor, Dr. Carol Williams for always encouraging me to think deeply and critically.

I thank you for your patience and support, particularly during the difficult and challenging times in my research. I also would like to thank my second co-supervisor, Dr. Linda Many Guns for the many conversations around my thesis project; the conversations gave me the confidence to complete my thesis project. I also would like to thank my thesis committee for their time and patience and for believing in me throughout this project: Dr. Cheryl Currie, Dr. Bill Ramp, and Dr. Leroy Little Bear.

This thesis project would not be successfully completed without the invaluable support and assistance of the University of Lethbridge Library staff. I would also like to express my appreciation to my cohort past and present, Ann Asfrid Holden, Alan Santinele Martino, Mark Carolle, and Kurt Lanno for the valuable feedback and support during my writing stage.

I wish to thank the Post-Secondary Student Support Program at Old Sun College, in Siksika for your continued financial support throughout my thesis project.

Finally, I wish to thank my family for your patience and support during the writing of my thesis.

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Introduction: The *White Paper* and the *Red Paper*

In the month of June in 1969, the federal government announced its *Statement of the Government of Canada on Indian Policy* (hereafter, the *White Paper*). The *White Paper* proposed to call to end discrimination against Indians by abolishing all legal recognition of registered Indians within various federal legislation. In 1970, in response to the *White Paper*, the Chiefs of the Indian Association of Alberta (hereafter, the IAA) produced a counter document titled *Citizens Plus: the Red Paper* (hereafter, the *Red Paper*). The purpose of this thesis is to explore the dynamics of the *White Paper* and *Red Paper* including their intent and outcomes.

The *Red Paper* was an act of resistance by the IAA that was predicated on two key points of resistance to the content of the *White Paper*: first, the *Red Paper* emphasized the treaty connection between First Nations people and the federal government; second, the *Red Paper* articulated a model of “self governance” that reflected an indigenous perspective.¹ The model for the latter was reliant on the continuance and further maintenance of the treaty relationship with the federal government. The *Red Paper* was generated by mutual cooperation between indigenous leaders and members of indigenous communities in Alberta.² The radical difference in intent and vision between these two documents became the major catalyst for a changed

¹ Note on terminology: The use of the terms *Indian*, *native*, *First Nations*, *aboriginal*, and *indigenous* are used in this thesis interchangeably to refer to the original inhabitants of Canada. The use of the word “Indian” is used in the context of the period (1968/70). Indian is a legal term, such as the *Indian Act* and, used to describe First Nations people in primary source documents of the *White Paper* and *Red Paper*.

² Laurie Meijer-Drees, *The Indian Association of Alberta: A History of Political Action* (Vancouver, BC: University of British Columbia Press, 2002).

relationship between the two parties. This thesis explores the origins in the key concepts of treaties and “self-sufficiency” evident in both documents and determines the essence of those differences.

The federal government’s *White Paper*³ proposed to deal with the “Indian problem” by terminating the legal status of registered Indians thereby “ending” and permanently severing all legal responsibility owed to Indian people as embodied in existing treaties held with the Crown. In part, the *White Paper* appeared to be influenced by the recommendations found in the 1967 *Hawthorn Report, A Survey of the Contemporary Indians of Canada: Economic, Political, Educational Needs and Policies*, in 1967. The *Hawthorn Report* looked favourably upon extending provincial services for Indian people, while at the same time the *Report* recognized Indians unique legal status within the Canadian legal system. That is, the *Report* defined Indians as “Citizens Plus;” which the authors of the *Report* defined as, “...in addition to the normal rights and duties of citizenship, Indians possess certain additional rights as charter members of the

³ Sally Weaver, “The Hawthorn Report: Its Use in the Making of Canadian Indian Policy,” in Noel Dyck, and James B. Waldram, *Anthropology, Public Policy and Native Peoples in Canada* (Montreal, Quebec: McGill-Queens University Press, 1993), 75-97. Sally Weaver argued that the “Hawthorn Report was not commissioned with the White Paper in mind.” However, she stated: “If anthropologists seek to influence the policy-making process through their research, they must first understand the political and bureaucratic nature of governments and how the policy-making process operates within that context.” Weaver explained how the *Hawthorn Report*, which emphasized the “special status” of Indian, as “citizens plus,” became quickly politicized with the 1968 federal election of Pierre Trudeau. The *Report* did not fit with Trudeau’s philosophy against “special” rights for minority groups. In short, the Trudeau administration favoured policies that were to be “far sighted, to foresee future change, and to avoid creating further problems.” Weaver stated: “Because of this ethos, incremental policies were disparaged and fundamental change highly valued. This explains, in part, how the exercise to revise the Indian Act turned into an exercise which questioned the foundations of the act and produced the 1969 White Paper.”

Canadian community.”⁴ However, the *Report* ostensibly determined that the legal status of Indians as defined in the 1867 *British North American Act* (hereafter, the BNA Act) should be abolished, particularly Section 91 (24) of the BNA Act. The *Report* also hypothesized that treaties would have less significance in meeting the future and evolving needs of First Nations people. In other words, the *Report* found that the federal statutes pertaining to Indians, such as the Section 91 (24) of the BNA Act, be removed to allow First Nations people greater accessibility to provincial services.⁵ Essentially, the recommendations of the *Report* strongly influenced the federal government’s intentions as subsequently expressed in the *White Paper*.

Other features of the *White Paper* seemed to stem from the broader liberal ideas advocated by Prime Minister Pierre Trudeau and, to a lesser extent, by the Minister of Indian Affairs and Northern Development, Jean Chrétien. The federal government’s *White Paper* called for the repeal of the *Indian Act*, the abolishment of the Indian Department, and also the transfer of responsibility for Indian’s and all their affairs from federal to provincial government. Control of Indian lands, the *White Paper* also proposed, would occur through privatization under a land transfer plan.⁶ As James S. Frideres states, “the *White Paper* outlined a plan by which First Nations would be legally eliminated through the repeal of their special status and the end of their unique relationship with the federal government, and the treaties would cease to be living

⁴ H. B Hawthorn ed. *A Survey of the Contemporary Indians of Canada: A Report on Economic, Political, Educational Needs and Policies*, vol 1, (Ottawa: Indian Affairs Branch, 1966), 13. Also known as the *Hawthorn Report* in Canada.

⁵ *Ibid*, 240.

⁶ R J. Surtees, *Canadian Indian Policy: A Critical Bibliography* (Bloomington, Indiana: University Press, 1982), 55.

documents.”⁷ In response to these proposed changes, native organizations rallied against the federal *White Paper* proposal and were supported by non-native “social, political, and religious organizations.”⁸ The cumulative community and organizational resistance to the *White Paper* ultimately resulted in the government’s official withdrawal of its proposal on Indians in 1971.⁹

Various Indian organizations from across the country immediately responded to the federal *White Paper*.¹⁰ In 1970, the Indian Association of Alberta (IAA) produced a counter-narrative to the federal *White Paper*, with the drafting of the *Red Paper*. The *Red Paper* was adopted by the National Indian Brotherhood as the official response to the *White Paper*.¹¹ The *Red Paper* advocated for the continuance and legal recognition of treaty rights that First Nations people signed with the Crown over a century prior to 1970.

⁷ James S. Frideres, *First Nations in the Twenty-First Century* (Don Mills, Ontario: Oxford University Press, 2011), 15.

⁸ Ibid.

⁹ Aboriginal Affairs and Northern Development Canada, “Resolving Aboriginal Claims - A Practical Guide to Canadian Experiences,” <http://www.aadnc-aandc.gc.ca/eng/1100100014174/1100100014179>, (website, last accessed 21/9/2014).

¹⁰ The Union of British Columbia Indian Chiefs (UBCIC) developed the *Brown Paper* in 1970, opposing the federal *White Paper*, and officially titled its document: “A *Declaration Of Indian Rights: The BC Indian Position Paper*.” The *Brown Paper* focused on aboriginal rights and titles, http://www.ubcic.bc.ca/files/PDF/1970_11_17_DeclarationOfIndianRightsTheBCIndianPositionPaper_web_sm.pdf. UBCIC website, (Last access, 13/12/14). The Manitoba Indian Chiefs also produced a counter-proposal titled *Wahbung, Our Tomorrows*. This paper was divided into two sections, “Ongoing Relationships” (including treaties) and “Development Areas” (including economic development and reserve government). The *Position Paper* was the response to the *White Paper* from the Iroquois and Allied Indian, Brantford, Ontario, 1971. Taken from, Sally Weaver, *Making Canadian Indian Policy: The Hidden Agenda 1968-1970* (Toronto Ontario: University of Toronto Press, 1981), 204.

¹¹ See Sally Weaver, *Making Canadian Indian Policy: The Hidden Agenda 1968-1970* (Toronto Ontario: University of Toronto Press, 1981), 5; and Laurie Meijer-Drees, *The Indian Association of Alberta: A History of Political Action* (Vancouver: UBC Press, 2002), 169.

In his prefatory remarks in the *Red Paper*, Harold Cardinal, then president of the IAA, stated, “To us who are Treaty Indians there is nothing more important than our Treaties, our lands and the well-being of our future generation.”¹² The aim of the counter-proposal was to not only reject the federal policy articulated in the *White Paper*, but also to represent an alternative strategy reflective of First Nations people’s needs and aspirations for economic development and education, as an effective and grassroots or community driven means to reducing poverty and to gain “self-sufficiency.”¹³

In retrospect, these two documents collectively represented two very different visions of “self-sufficiency.” The *White Paper* consistently advocated for the immersion, or assimilation, of Indian people into the existing body politic. In the federal model, the government assured First Nations people that, once immersed into Canadian society, Indians would acquire the same rights, privileges, and freedoms as non-Indians; “society structured in a way to enhance individual freedom and to advance the individual the means to that freedom.”¹⁴ Alternatively, the counter-narrative in the *Red Paper*, argued that indigenous freedom and “self-sufficiency” were inextricably linked to the historical treaties. The authors of the *Red Paper* contended that Indian people signed treaties with the Crown as equals, that the treaties were sacred, and that treaties reflected continued promises made to the Indian people by the government. Further, the IAA argued that the treaties could potentially be “modernized” to meet the needs of treaty Indians of the present day and, that treaties remained of lasting and critical important to Indian people.

¹² The Indian Association of Alberta, *Citizen Plus: the Red Paper* (Edmonton, Alberta: reproduced with the permission of the Indian Association of Alberta, 1970), 1.

¹³ *Ibid*, 4-23.

¹⁴ See, Anthony Westell, *Paradox: Trudeau as Prime Minister* (Scarborough, Ontario: Prentice Hall of Canada), 358.

This research explores the differences in views, the political significance, and the community opposition with regard to the legal status of Indians, treaties, and lands first as proposed in the Canadian federal government's proposed *White Paper* on Indian policy and second, in the 1970s *Red Paper*. As result of this comparative analysis, the thesis claims that in 1970, the IAA regarded the historical treaties as sacred agreements and yet, treaties have not lost relevance for treaty Indian people in contemporary Alberta. This thesis is limited to a detailed comparative examination of the 1969 *White Paper* and the 1970 *Red Paper*, and does not include an overview of all legal decisions pertaining to treaties. The researcher is aware that on-going legal decisions paralleled the discussions of the 1969 *White Paper* and the 1970 *Red Paper*. Several significant decisions and cases also influenced government-Indian relations however these are not the focus of my discussion.

Methods

One of the primary interpretive methods used in this thesis is discourse analysis.¹⁵ While there is no consensus among scholars or across disciplines on the word "discourse" most theorists of discourse theory and critical discourse analysis are influenced by Michel Foucault's work (1972) *Archaeology of Knowledge*.¹⁶ Foucault's use of the term "discourse" was consistent within a context of power, knowledge, and truth.¹⁷ In this

¹⁵ In using the term "discourse" analysis, I do not claim to know the working of its many meanings and interpretation currently in use by many disciplines and theorists who use the term across time and space. The meaning and interpretation of discourse theory continues to evolve. My use to the term "discourse" is not meant as an exhaustive analysis of the term, but rather to use it flexibility to analyze the *White Paper* in relation to the *Red Paper*.

¹⁶ Sara Mills, *Discourse: the New Critical Idiom* (New York, NY: Routledge, 1997), 1-7.

¹⁷ Sara Mills, *Discourse: the New Critical Idiom*, 15.

context, Foucault argued that “discourse” did not exist in a vacuum but that discursive speech overlapped with power and knowledge. As a consequence of this overlap, knowledge arising from discourse is the result of the effect of power struggles between individuals or various constituents in any particular setting.¹⁸ For instance, as Sara Mills points out, if a student seeks to understand the geographic term “India” or “Africa,” using the resources of a library catalogue, she or he will find that in the nineteenth century the production of knowledge about these countries was primarily produced by British writers and coincided with the period of British colonial expansionism.¹⁹ Therefore as Mills demonstrates there exists a concrete connection between the production of knowledge and power relations. This is the relationship Foucault describes as “power/knowledge.”²⁰ Thus, the researcher of this thesis has utilized this concept of Foucault’s overlapping relationship of “power/knowledge” to illuminate my understanding of the federal production of a statement of policy and proposals identified as the *White Paper*. The *White Paper’s* rationalization to end indigenous rights, treaties, and “self-sufficiency” for Indian people was the discourse being produced by the federal government. But the proposals and policies for assimilation set forth by the *White Paper*, arose from pre-existing knowledge on indigenous people in Canada and was produced by Euro-Canadian policy-makers, scholars, and writers studying indigenous people for various purposes whether political, scholarly or literary, etc.... Historical agreements discussed in this chapter such as the 1763 *Royal Proclamation*, 1867 *British North American Act*, and the 1876 *Indian Act* are prime examples of knowledge produced by the discursive and

¹⁸ Ibid, 19.

¹⁹ Ibid.

²⁰ Ibid.

material relations between representatives of the government of Canada and Indian people. For example, the *Indian Act* seriously eroded the power of Indian people with the paternalism embedded in the *Act*. To a large degree, the *Indian Act* configured and disabled Indian identities and agency. However, the powerlessness of the *Indian Act* also represented a tool for Indians to gain some form of freedom and power against the *White Paper*; the *Red Paper* stated that the whole “spirit” of the *Indian Act* is paternalistic, but the *Act* provided the legal basis for Indians.²¹ The Canadian state as a knowledge producer has possessed the power to finance and support institutions, to staff and administer state law, and has in many ways tried to control and define the rights of indigenous people.²² In essence, the *Red Paper* which was the counter response to the proposals of the *White Paper* represented a significant expression, or discourse of, political resistance, or assertion. The friction that arose between the federal *White Paper* and the IAA *Red Paper* was a “power struggle” whereby Indians spoke back to the dominant narrative of assimilation rationalized by the *White Paper*. In examining a piece of discourse, the researcher must establish, or ask, who are the parties that contribute to the conversation? To analyze the discourse on indigenous rights, treaties, and “self-sufficiency” the researcher asked “who were the contributors”? More importantly, “from what perspective were these contributors speaking”? And, “what ideologies were employed, and to what end where these ideologies applied”?

Foucault’s use of the term “discourse” was complex. His use offers scholars like me flexibility. For instance, Foucault described “discourse” as “not root[ed] within a broader system of fully worked-out theoretically ideas...but, this lack of system is also

²¹ The Indian Association of Alberta *Citizen Plus: the Red Paper*, 13.

²² *Ibid.*

what makes for a certain flexibility” to fit changing social and political circumstances.²³ Although Foucault defined “discourse” within the overlapping context of power, knowledge, and truth, the flexibility of the term has allowed me to apply “discourse” within the context of the indigenous rights, treaties, and “self-sufficiency.” That is, the “discourse” on indigenous rights, treaties, and “self-sufficiency” in relation to power and knowledge, leaned in favour of the federal *White Paper*. The federal government, as authors of the *White Paper* possessed the financial means and access to the print and broadcast media to disseminate its “authoritative” knowledge of indigenous rights, treaties, and “self-sufficiency.” Thus, in my analysis of the discourse of the *White* and *Red Paper*, “discourse” is a tool to analyze a politically-charged context that arose when the federal government and politically alert Indian leadership came face to face when both chose to review the broader discourse on indigenous rights, treaties, and “self-sufficiency.” Essentially, this period in history was marked by the aggressive proposals expressed by the federal *White Paper* to completely assimilate Indian people into Canadian society without regard to its responsibilities as evident in the historical treaties signed with Indian people. As consequence, the *White Paper* was resolutely met with resistance by the IAA authors of the *Red Paper*. As the president of the IAA, Harold Cardinal stated, “The Liberal government of the day proposed doing away with Indian reserves, [Indian] status, and identity. It was, for Indian Nations, literally a question of survival.”²⁴

²³ Ibid, 15.

²⁴ Harold Cardinal, *The Unjust Society*, 2nd edition (Vancouver: Douglas and McIntyre, 1999), vii.

In order for me, as a researcher, to understand the friction that existed between the two documents during this critical juncture in history, the uses of discourse analysis has allows the researcher to understand what influential ideas and ideals were behind the *White Paper* and *Red Paper*. Both the *White Paper* and the *Red Paper* were political claims relative to the respective understandings of the parties about treaty and aboriginal rights. The *White Paper* advocated “ending” the treaty relationship with indigenous people in Canada, while the *Red Paper* argued for the legal recognition and implementation of the treaties made with the government. This particular circumstance and political conflict in history, as expressed in the contest between the discourses produced on one hand by the *White Paper* and on the other hand by *Red Paper*, continues to have relevance to date, as treaties have not been settled in 2015.

The flexibility of the term “discourse” has allowed me as author to analyze the discourse that arose in this politically charged debate, as shown in the opposition expressed by the IAA’s *Red Paper*. Sara Mills defines the approach to critical discourse analysis in this way: “This group of linguists has developed a political analysis of text and . . . they have integrated Michel Foucault’s definition of discourse with a systemic framework of analysis based on a linguistic analysis of the text.”²⁵ She explains how critical discourse analysts have integrated Foucault’s concepts of discourse to include settings or circumstances when political concerns or opposition intensifies: “the way that people are positioned into roles through discursive structures, the way that certain people’s knowledge is disqualified or is not taken seriously in contrast to authorized

²⁵ Ibid, 131.

knowledge.”²⁶ The notion of “authorized knowledge” used in this research is to imply that the federal government *White Paper* represented a vehicle to produce “official knowledge” in relation to Indians. The authors of the *White Paper* argued that treaties signed in the last century were not relevant in a modern context. Not only did the *White Paper* conceive that treaties did not meet the needs of Indians, but they suggested that treaties were also problematic because, according to their interpretation, only minimal promises were made in the original treaties. Therefore, the *White Paper* proposed, treaties should be “ended.”²⁷ In other words, the federal government’s interpretation of the treaties may be seen to discursively imply that government alone possesses “authorized knowledge.” In the counter argument against treaties as proposed by the federal government, the IAA’s understanding of treaties including their significance, value, and continued of relevance was correspondingly “disqualified.” Furthermore, the state—meaning the Canadian federal government—had access to the resources, including money and easy access to all forms of media, and was better able to publically articulate its position in relation to what they believed the Indians needed.

Equally important in the discursive environment and structure that gave rise to release of the *White Paper*, is how Indians were portrayed, by many authors including the *White Paper*, as a separate “race” apart from mainstream society.²⁸ Implicitly, the *White Paper* portrayed Indians and their cultures in wholly negative terms that needed to be incorporated into dominant white society. Mills explains how critical discourse linguists not only describe discursive structures, but deconstruct them to “show how discourse is

²⁶ Ibid, 133.

²⁷ Canada, House of Commons, *Statement of the Government of Canada on Indian Policy, 1969* (Ottawa: Minister of Indian Affairs and Northern Development, 1969), 11.

²⁸ Ibid, 1.

shaped by relations of power and ideologies,” and which, in turn, have an effect on “social identities, social relations and systems of knowledge” and belief.²⁹

In the researcher’s view, the *White Paper* grounded its discourse on indigenous rights, treaty and “self-sufficiency” using the concept of the “Just Society.” The “Just Society” was based on understanding liberal ideas of individualism, equality, and freedom.³⁰ Essentially, the “Just Society” borrowed Locke’s and Rousseau’s liberal ideas of individualism, equality, and freedom.³¹ The *White Paper* proposed applying Western liberal democratic idea of individualism, equality, and freedom to Indians and by so doing, believed the termination of the treaties relationship was essential. These broader liberal ideologies provided the central foundation for ideas of the government’s *White Paper*. However, contemporary author, Dale Turner has since shed light on the political, rather than purely philosophical, nature of the liberal ideals underlying the federal *White Paper*.³² Specifically, Turner exposed how the broader liberal ideologies— individual, equality, and freedom - embedded in the *White Paper* were the government’s rationale to terminate the legal, and collective, status of Indians with the ultimate purpose of assimilating Indians into mainstream society. In this respect, the *White Paper*’s proposal revolved around assimilation rather than sovereignty and was continuous with Eurocentric ideas of the 19th century.

²⁹ Sara Mills, *Discourse: the New Critical Idiom*, 133.

³⁰ Thomas S. Axworthy and Pierre Elliot Trudeau, *Towards a Just Society* (Ontario, Canada: Penguin Books, 1990), 263.

³¹ Pierre Trudeau, *Against The Current: Selected Writing 1939-1996* (Toronto, Ontario: McClelland & Stewart Inc, 1969), 183.

³² Dale Turner, *This Is Not a Peace Pipe: Towards a Critical Indigenous Philosophy* (Toronto, Ontario: University of Toronto, 2006), 13.

Turner assisted my understanding of the power dynamics that were ignited with the release of the federal *White Paper*. Turner examines the long history of the relationship between the federal government and indigenous people in Canada. He employs three key concepts to understand the prevailing discourses of indigenous rights in Canada: “‘White Paper,’ ‘Citizens Plus,’ and ‘Minority Rights.’”³³ Each of these concepts, Turner asserts, is guided by a “particular brand” of liberalism and as such, positions indigenous rights within the “larger account of political justice.”³⁴ In other words, the three key concepts commonly utilized by federal legislators accommodate indigenous people; however, Turner shows how these concepts are not “peace pipes.” Of particular significance is Turner’s contention that the 1969 *White Paper* emphasized cultural rather than political status of Indians.³⁵ Indeed, this distinction is important, as Turner shows, because the IAA, in the *Red Paper*, repeated their arguments that their status as Indians was rooted in the historical treaties.³⁶ Thus, the IAA continuously stated that treaties were, and remain, political agreements that created an ongoing political relationship with the state.

The IAA in the *Red Paper* resisted and challenged the prevailing norms of the Western liberal paradigm as it was articulated in the federal *White Paper*. In order to be acknowledged by the Canadian state, the *Red Paper* necessarily had to incorporate some discursive aspects and therefore the vocabulary of the Western paradigm. For instance, the IAA used the written word, to speak back to the federal government rather than employing what might have been seen as a more traditional approach of oral spoken

³³ Ibid, 5.

³⁴ Ibid.

³⁵ Ibid, 22.

³⁶ The Indian Association of Alberta, *Citizens Plus: the Red Paper*, 7.

response. Nevertheless, the *Red Paper* responded in writing to the *White Paper*'s attempt to end treaties, creating a well-shaped argument that described the Indian's understanding of treaties and what historical treaties meant to them. Harold Cardinal described the importance of treaties against the assertions made by the federal government's *White Paper* as follows,

The new Indian policy promulgated by Prime Minister Pierre Elliott Trudeau's government...is a thinly disguised programme of extermination through assimilation. For the Indian to survive, says the government in effect, he must become a good little brown white man [sic]. The Americans to the south of us used to have a saying: "The only good Indian is a dead Indian," The MacDonald-Chrétien doctrine would amend this but slightly to, "The only good Indian is a non-Indian."³⁷

Although Cardinal consistently, and effectively, criticized the government's *White Paper*, he also explained the discourse of the *White Paper*, and its effects, on Indian people's "identity."³⁸ In other words, Cardinal was stating that First Nations discourse on, and comprehension of, treaties was equally, if not more, valid and meaningful as those set out in the *White Paper*.

The exclusion of Indian people in the consultation process and development of the *White Paper* was also contentious. This dispute was largely due to divergent (or, discursively opposed) understandings of the interpretation of "participation," and how "participation" was exercised by the respective parties. Turner states that the consistent misunderstanding on this point regarding consultation lays in the meaning of aboriginal participation has in the legal and political practices of the state. According to the federal government, participation must include aboriginal input. And yet, documents show,

³⁷ Harold Cardinal, *The Unjust Society*, 1. Cardinal stated that two ministers were responsible for the *White Paper*: Minister of Indian Affairs and Northern Development, Jean Chrétien, and Deputy Minister of Indian Affairs, John A. MacDonald.

³⁸ *Ibid*, 14.

aboriginal people were not consulted in the development of the *White Paper*.³⁹ Although Turner's scholarship focuses primarily on contemporary aboriginal and state relations, I believe his analysis is relevant to the political process that occurred from 1969 to 1970. Seen this light, the IAA argued that they did not participate in the conceptualization stages or development process of the *White Paper* although the government claimed to have consulted.⁴⁰ As the *Red Paper* asserted, "no treaty Indians asked for any of these things and yet through his [Chrétien] concept of "consultation," the Minister said that his White Paper was in response to things said by Indians."⁴¹ Turner contends that the "key problem of participation arise because most Aboriginal peoples still believe that their ways of understanding the world are, de facto, radically different from Western European ways of understanding the world."⁴² From 1969 to 1970, these cultural, and discursive, differences in "understanding the world" caused tension between "aboriginal ways of knowing the world and the legal and political discourse of the state."⁴³ For example, the issue of "equality" meant something different and was interpreted differently by the government than by the Indian Chiefs of Alberta. Whereas, the authors of the government *White Paper* focused on equality of the individual, social, economic, and political rights, the Indian Chiefs authoring the *Red Paper* and other public declarations, conceived "equality" as nations based on the treaties. Specifically, the divergent interpretation of

³⁹ Dale Turner, *This Is Not a Peace Pipe*, 7.

⁴⁰ The Indian Association of Alberta, *Citizens Plus: the Red Paper*, 1.

⁴¹ *Ibid*, 1.

⁴² Dale Turner, *This Is Not a Peace Pipe*, 7.

⁴³ *Ibid*.

treaties exemplifies the “radical” and discursive difference between the parties involved. The IAA always held the view that the treaties were important and living agreements.⁴⁴

Similarly, to define and understand the *Red Paper* the researcher is inspired by the work of legal scholar, John Borrows.⁴⁵ Borrows’ *Canada’s Indigenous Constitution* offers a conceptual framework to understand the indigenous meaning of treaties. Treaties were relevant to the *Red Paper*’s argument that they are “solemn agreements.”⁴⁶ Borrows also emphasises the legal value of treaties as fundamental to the relationship between the federal government and First Nations people. As he notes, First Nation people practiced treaties as a form of governance prior to the arrival of, and after contact with Europeans on the new continent.⁴⁷ Borrows’ argument validates what the *Red Paper* had determined about the importance of treaties: that negotiated treaties in Canada stand as a testament of nation-to-nation agreements. Specifically, Borrows describes treaties as a sacred source.⁴⁸ Interestingly, Borrows suggests that the sacred view of legal traditions is also captured in Western legal traditions. He states that Western legal traditions, such as common and civil law, derive their source from the “metaphysical,” or are influenced by ideas about religion.⁴⁹ In this light, Borrows defines indigenous people of this continent as “diverse and their laws flow from many sources.”⁵⁰ By this statement I think Borrows means sources to include laws and protocols which are designed to relate to

⁴⁴ The Indian Association of Alberta, *Citizens Plus: the Red Paper*, 7.

⁴⁵ John Borrows, *Canada’s Indigenous Constitution* (Toronto, Canada: University of Toronto Press, 2010).

⁴⁶ The Indian Association of Alberta, *Citizen Plus: the Red Paper*, 7.

⁴⁷ John Borrows, *Canada’s Indigenous Constitution*, 129.

⁴⁸ *Ibid*, 23.

⁴⁹ *Ibid*, 129.

⁵⁰ *Ibid*.

each other (or other tribes) relative to, and with, the land. The relevance of Borrows' work is that, he reinforces the view early expressed by the IAA in the *Red Paper* in 1970: that the value and importance of treaties have not changed over many decades of changed social relations between governing European settlers and Indian people. Borrows' work usefully shows the significance of treaties, in harmony with the IAA's perspective, as "solemn agreements," and that treaties remain relevant today.

The tribes of Treaty 7 in Alberta and represented by the IAA did not see their treaty with the Crown, as static nor as residing as a relic of the past as the *White Paper* implied. Rather, the treaty is viewed as a living document, and sacred.⁵¹ Treaty 7 elders "unanimously" agreed that that their treaty with the Crown was a "peace" treaty, and as such the elders interpreted the treaty as "sharing" of the land rather than land surrender.⁵² Thus, in the context of "sharing," the researcher situate Borrows' work as a theoretical tool to illuminate the "sacred" view of treaties and, to show the diversity of indigenous law that "flow from many sources." He also refers to the Creation stories of indigenous cultures as another form of indigenous law that contain rules and norms to guide us on how to live with the world or to overcome conflict.⁵³ For instance, in the Blackfoot

⁵¹ Although Borrows uses the phrase "Indigenous Law Examples," in Chapter Three of his book *Canada's Indigenous Constitution*, I use the phrase "governance" in a broader sense to describe treaties.

⁵² Treaty 7 Elders and Tribal Council with Walter Hildebrandt, Dorothy First Rider, and Sarah Carter, *The True Spirit and Original Intent of Treaty 7* (Montreal: McGill-Queens University Press, 1996), ix.

⁵³ John Borrows, *Canada's Indigenous Constitution*, 25.

⁵⁴ *Report of the Royal Commission of Aboriginal Peoples, vol 1, part 1: the Relationship in Historical Perspective* [RCAP], (Ottawa: Minister of Supply and Services, 1996), 61-72. RCAP provides a description of the Blackfoot Creation Story that embodies a philosophy for the people to live by with the nature world. The Creation story contains rules and norms, territory, and renewal through annual ceremonies to ensure their survival.

Creation story the mythical figure “Napi” created the Blackfoot world which includes; how people should relate to each other and with other beings (rocks, birds, trees etc).⁵⁴

Treaty 7 is important to my thesis because all those governed and represented by Treaty 7 were a part of the IAA during the 1970 *Red Paper*. It is important to situate myself within this research project. I am a treaty Indian, whose ancestors signed Treaty 7 in 1877 with the Crown. The discourse on treaty and indigeneity⁵⁵ and their interpretations are important to me. Thus, the researcher positions himself first; as a researcher, and second, as a person whose ties are with the Indian Association of Alberta with my band affiliation as Siksika (Blackfoot). As such, the interpretation of the research materials, primary and secondary sources, are my own.

Chapter Summaries

Chapter One reviews pre-existing literature and addresses themes relevant to the *White Paper* and *Red Paper*. Themes relevant to this thesis include: the IAA its origins and history; the notions of nationalism held by the federal government and by the IAA; divergent conceptualizations of treaties, and the continuant relevance of treaties after the release of the *Red Paper*. Chapter Two examines the *White Paper* in closer detail, including the precedent setting *Hawthorn Report* of 1966; the political and cultural history of Prime Minister Pierre Trudeau, and the Minister of Indian Affairs and North Development, Jean Chrétien. The latter analysis determines how Trudeau’s concept of a

⁵⁵ Dale Turner, “White and Red Paper Liberalism,” in *Philosophy and Aboriginal Rights: Critical dialogues* (Don Mills, Ontario: Oxford University Press, 2013), footnote 4, 168. Turner describes the word “indigeneity” to include indigenous “cultural, practices, traditions, and world views, it also implies Indigenous nationhood.” I employ Turner’s definition of “indigeneity” to this research.

“Just Society” was understood as the route to bring equality to Indians. Chapter Two also explores the varied response to the federal proposed *White Paper* by the print press, by Indian leaders, and by the Anglican Church of Canada. Chapter Three focuses on the reactions to the *White Paper* articulated by the IAA’s *Red Paper*. The IAA, authors of the *Red Paper* argued that treaties were the foundation of the relationship between the federal government and Indian people rather than the federal legislation of the 1876 *Indian Act*. Chapter Four explores governance for Indian people, as advocated by both the parties; that chapter determines that the *White Paper* advocated the mainstream model, while the *Red Paper* advocated for a pre-existing model based on a common interpretations of the treaties.

Chapter One: Review of Literature

Introduction

In June 1970, the Chiefs of the Indian Association of Alberta (hereafter, the IAA) presented a document called *Citizens Plus: the Red Paper* (hereafter, the *Red Paper*) to the Right Honourable P. E. Trudeau. The *Red Paper* is the first indigenous-produced document that articulates a model of “self-governance” that reflects an indigenous perspective.⁵⁶ Further, as a validation of the importance of the treaty relationship with the federal government, the visionary concepts in the document were created by indigenous leaders and their communities from Alberta.⁵⁷ This review of secondary literature is organized around the *Red Paper* and the *Statement of the Federal Government of Canada on Indian Policy* (1969), (hereafter, the *White Paper*). This chapter is presented in four sections: the early history of the IAA; the *White Paper* discussion; the *Red Paper*; and the historical treaties.

Section One explores secondary literature on the Indian Association of Alberta (IAA). Secondary literature during this time period on the IAA is sparse, with the exception of Laurie Meijer-Drees’s (2002) *The Indian Association of Alberta: A History of Political Action*. The IAA was an important political organization during the inter-war and post-war years in Canada. The membership of the IAA comprised of Alberta Chiefs that represented treaty Indians of Alberta and who collectively authored the *Red Paper* in response to the federal *White Paper*. Meijer-Drees studies the IAA from its inception in

⁵⁶ Indian is a legal term used to describe First Nations people, as defined in the *Indian Act*. It was also a term used in both the primary sources of the *White Paper* and *Red Paper*.

⁵⁷ Laurie Meijer-Drees, *The Indian Association of Alberta: A History of Political Action* (Vancouver, BC: University of British Columbia Press, 2002).

1938 to the mid nineteen sixties and explores how they were influenced by farmer's cooperatives, the League of Indians of Canada, and the Métis Association of Alberta in the early years of the Association. Although the IAA was a response in part to poor social and economic conditions in First Nations communities, their political activism increased in the late nineteen sixties. During the post-war years, extremely poor political and social conditions fueled First Nation people's dissatisfaction with the federal government's proposed policy of equality and full citizenship. The federal government's approach triggered the demand for increased economic opportunities and desire for "separation and self-determination."⁵⁸

Section Two reviews secondary literature on the federal government's *White Paper*. Alan C. Cairns (2000) *Citizens Plus: Aboriginal People and the Canadian State*, and Sally Weaver's (1981) *Making Canadian Indian Policy: The Hidden Agenda 1968-1970* both examine the *White Paper*. Cairns, an author who contributed to H. B. Hawthorn's *A Survey of the Contemporary Indians of Canada: Economic, Political, Education Needs and Policies* of 1966-1967 (hereafter, *the Hawthorn Report*) reviews how Indians were what he called "Citizens," thus deserving of the standard rights and privileges of other non-indigenous Canadian citizens.⁵⁹ Cairns argues that Indians deserve "Plus" rights that stem from the relationship struck with Canada's government in treaties. Weaver discusses the financial expenditures of the federal Department of Indian Affairs and the relevance of this increasing expense as a rationale for the policies expounded by the *White Paper*. As she shows, for example, the total expenditures of

⁵⁸ Menno Boldt, *Indian leaders in Canada: attitudes towards equality, identity, and political status* (PhD diss., Yale University, 1973), 2.

⁵⁹ The *Hawthorn Report* will be discussed in more detail in Chapter two as a precedent for the *White Paper*.

Indian Affairs jumped from 64.8 million in 1965-1966 to over 165 million in 1968-1969 just prior to the *White Paper*.⁶⁰

Section Three of the literature review discusses Harold Cardinal's *The Unjust Society*, as his first edition in 1968 directly influenced the authorship and content of the *Red Paper*. Cardinal's second edition of *The Unjust Society* published in 1999 did not differ much from his first edition of 1968. However, in his revised introduction Cardinal discussed how the broader political landscape has moderately shifted. All concerns originally addressed in his first edition and in the *Red Paper*—poverty, unemployment, education, community needs—remained the same.

Section Four of the chapter reviews a small selection of secondary literature on the historical treaties negotiated between First Nation people and the Federal Government of Canada with a particular emphasis on Treaty 7. As the opening statement of the *Red Paper* claims: "To us who are Treaty Indians there is nothing more important than our Treaties, our lands, and the well being of our future generations."⁶¹ My rationale for emphasizing secondary literature on Treaty 7 is personal—I am a member of Siksika whose land is part of Treaty 7 (1877). Treaty 7 is one of the various numbered treaties negotiated from 1871 to 1921. The IAA Chiefs, who authored the *Red Paper*, came from territories covered by three numbered treaties (Treaties 6, 7, and 8); however, for the purpose of my review, I will concentrate on First Nation's perception of Treaty 7 in

⁶⁰ During the same time period welfare assistance in reserves grew to 10 times the national average, taken from Dale Turner, "White and Red Paper Liberalism," in *Philosophy and Aboriginal Rights: Critical Dialogues*, ed. Sandra Tomsons and Lorraine Mayer (Oxford University Press, 2013), footnote 12, 169.

⁶¹ The Indian Association of Alberta, *Citizen Plus: the Red Paper* (Edmonton, Alta, Reprinted with permission of the Indian Association of Alberta, 1970), 1.

particular. I discuss Hildebrandt's, First Rider's, and Carter's (1996) *The True Spirit and Original Intent of Treaty 7*. The literature on treaties is relevant to this thesis because treaties are the foundation for any political relationship between the federal government and First Nation people, and the authors of the *Red Paper* claimed that treaties, rather than legislation like the *Indian Act*, are the legal foundation of that relationship. Other secondary literature I discuss that addresses the importance of the historical treaties, including Treaty 7, from a First Nation's perspective is John Borrows' (2010) *Canada's Indigenous Constitution*. I also review Thomas Isaac's (2004) *Aboriginal Law: Commentary, Cases and Materials* which provides a legal background to explain how treaties are interpreted in the courts.⁶² The inclusion of Isaac's book is to present a central argument on the IAA's position in 1970 on treaties. That is, the treaties must be "binding" and "incorporated" into the Canadian Constitution.⁶³ Finally, I use specific entries on the topic of treaty found in Canada's 1996 *Royal Commission on Aboriginal People* (hereafter, the RCAP)⁶⁴ to show how treaties remain relevant to indigenous self-determination as expressed in the *Red Paper*. RCAP arose from regional consultations with indigenous peoples across the nation with a mandate spanning from 1991 to 1996. The full publication was released in 1996 and thus I am reviewing RCAP's perspectives on treaties as a secondary source relevant to my theory that self determination requires understanding the importance of the treaties.

⁶² Thomas Isaac, *Aboriginal Law: Commentary, Cases and Materials*, 3rd edition (Saskatoon, SK: Purich Publishing Ltd, 2004), 77.

⁶³ The Indian Association of Alberta, *Citizen Plus: the Red Paper* (Edmonton, Alta, 1970), 10.

⁶⁴ The significance of RCAP in relation to treaties will be discussed below in this thesis. See Royal Commission on Aboriginal Peoples, *Final Report of the Royal Commission on Aboriginal Peoples, vol. 2, part 1: Restructuring the Relationship* (Ottawa: Minister of Supply and Services Canada, 1996).

Section One

Laurie Meijer-Drees' (2002) *The Indian Association of Alberta: A History of Political Action* documented the first three decades of the IAA's existence during the inter-war and post-wars years in Canada. Based on established secondary literature on her subject, she examines questions throughout her book relevant to the history of Indian political activity. Founded in 1939 by individuals such as John Callihoo and Métis leader Malcolm Norris, the IAA was influenced, in part, by the League of Indian Nations of Western Canada, United Farmers Association (UFA) and other cooperative political organizations, such as the Métis Association of Alberta (MAA). Meijer-Drees contends that the founding of the IAA "represented a deliberate break from the league," establishing a "new direction for Indian politics in the Prairie provinces."⁶⁵ She describes this new direction as "a move towards provincial organization,"⁶⁶ and was motivated by the poor social and economic conditions experienced by many First Nation communities in Alberta. However, according to Meijer-Drees, the IAA was also an "organization that was concerned, on an everyday level, with treaty rights."⁶⁷ In documenting this history of Indian political activity of the IAA, Meijer-Drees describes the significant events that contributed to the existence and growth of the organization.

Meijer Drees also examines the role of non-Indian peoples working within its organization such as John Laurie. Laurie, a former school teacher, served as Secretary

⁶⁵ Meijer-Drees, *The Indian Association of Alberta*, xiii.

⁶⁶ Ibid.

⁶⁷ Ibid, xiv.

with the IAA from 1944 until his death in 1959.⁶⁸ Laurie was also influential in gaining support from Opposition politicians and community organizations such as the Friends of the Indians Society, head-quartered in Edmonton. With her emphasis on Laurie as “outside” help, Meijer Drees suggests that the IAA were outward looking in creating a rapport with others to help them understand the structures of larger Canadian society. Relationships with outsiders is discussed also by Harold Cardinal in his *Unjust Society* who stated that learning the formal structures of Canadian society was the biggest challenge to Indian people, and more specifically to leaders of the IAA.

Finally, Meijer-Drees discusses the relationship between the IAA and both levels of government, federal and provincial. As she observes, the Canadian state had responded “relatively positively” to the IAA in their dealings and affairs.⁶⁹ According to Meijer Drees, the early history of the IAA was not immune to disagreement in the form of internal tensions pertaining to “outside” help, but rather than between IAA leaders, the tension stemmed from antagonisms between John Laurie and the membership. During this period, the internal tensions reflected in IAA policies around Indian status and equal rights. As Meijer-Drees states, “during the first decade of its operation its policies vacillated between striving for distinct Aboriginal status and equal rights within Canadian society.”⁷⁰ Meijer-Drees explains the source of the tension stemmed from the differing views of non-Indian secretary John Laurie and Indian membership served by the IAA. On the one hand, First Nation people were of the view that the IAA was a vehicle for

⁶⁸ Meijer-Drees examines non-Indian secretary John Laurie in chapter four of her book and largely explores the concept of “outside” help in relation to the activities of the IAA. John L Laurie served as the IAA’s secretary from 1944 to 1959, 42-71.

⁶⁹ Ibid, xiv.

⁷⁰ Ibid, xv.

asserting their treaty rights and special status within Canada or as she contends, “reaffirming their separateness from the state.”⁷¹ On the other hand, Meijer-Drees describes Laurie’s views about the IAA as a mechanism for drawing First Nation people into Canadian society through active participation with the Canadian government. Meijer-Drees does not describe Laurie’s view as favouring assimilation, but from the IAA’s perspective, potential assimilation. As a result of the internal tensions, the IAA never presented a “harmonized” vision of the political, social, and economic change thus showed it needed to better represent and reflect the needs of the Indian communities it represented. Meijer Drees’ report of internal disputes between members and leadership of the IAA is important to my research because it clearly shows that leadership did not always involve agreement on key issues particularly in the early days of the organization. Disjunctures in the social relationships existed within the early organization even though the *Red Paper* subsequently became a collective harmonized political assertion. Historian John Tobias emphasizes the disjunctures or tensions in his review of Meijer-Drees’ book: “Other issues that required more attention include if and how the tension between the Blackfoot and the Plains Cree were reconciled, whether the IAA addressed the needs of the northern peoples before 1969, and whether the outside influences and their redirection of native goals in the 1950s led to the decline in interest in the Association during the 1960s?”⁷² Indeed, the above questions by Tobias are essential in understanding the terms of the early development of the IAA’s leadership and the IAA as an organization. Of particular importance and relevant to this thesis, are the differences or tensions that may

⁷¹ Ibid, xiv.

⁷² Laurie Meijer-Drees, review of “The Indian Association of Alberta: A History of Political Action,” by John L Tobias, *Canadian Historical Review*, 84, no. 4 (2003): 663.

have arisen between the Blackfoot and the Cree. In bygone days, the Blackfoot and the Cree were enemies long before the IAA came into existence, and it would be interesting to read how these differences were mitigated. Unfortunately, Meijer-Drees did not describe how these differences between the two groups were ironed out, or how it influenced policy decisions.

Meijer-Drees failed to clarify how the internal tensions between Laurie and IAA membership were resolved. Nonetheless, once the internal tensions ceased the organization was in a better position to represent a unified voice and vision against the federal *White Paper* of 1969. In drafting the *Red Paper*, the vision of the IAA, according to Meijer-Drees, was to synthesize an assertion of treaty rights while concurrently looking for a closer relationship between First Nation people and the Canadian state. However, this “conflicted position” by the IAA was clear by June 1970 when the *Red Paper* was published.⁷³ She contends the IAA found itself meshed into the Canadian political system in “pursuit” of treaty rights in the form of “citizens plus.”⁷⁴ As a result of their stand on treaties and rights, the IAA launched a new, and radical, direction in Indian politics in Canada.⁷⁵ That direction saw treaty rights entrenched in the Canadian *Constitution Act, 1982*, and is largely still with us today. That is, the politics between aboriginal leadership and the federal government regarding treaties and rights has not largely shifted since the defeat of the *White Paper* in 1970, and the issue around treaty and rights are very much relevant in today’s context.

⁷³ Ibid.

⁷⁴ “Citizen Plus” was a term coined in the 1968 *Hawthorn Report* that defined Indians as having the normal rights and privileges of Canadian citizens, but with additional rights that stemmed from the historical treaties.

⁷⁵ Meijer-Drees, *The Indian Association of Alberta*, xv.

Meijer-Drees used both archival and private collections to investigate and interpret IAA history. She covered the early years of the organization between 1939 and through to the late 1950s. Archival sources included the early business papers of the Association as well as personal papers of several of the key players, such as John Laurie Papers, James Gladstone Papers, and IAA supporters housed at the Glenbow Archives in Calgary.⁷⁶ She explains that the DIA Records Group 10 (known as RG 10), housed in the National Archives of Canada, contained Indian Affairs “correspondence” with the IAA, and “gives a good picture of the response of Ottawa bureaucrats to an Aboriginal association that demanded Indian Affairs’ accountability.”⁷⁷ Unfortunately, the collection of correspondence between government and IAA history thins out after 1964 and, in Meijer Drees’ view, this scarcity of archival materials after this time may be due to the decline of IAA activities after this period or government records not yet publicly available. The University of Alberta Archives’ houses the Reta Rowan Papers; Meijer-Drees describes Reta Rowan as a significant figure in a non-aboriginal association, called *The Friends of the Indian Society*. Rowan’s personal papers contain photos and meeting minutes with the IAA. Also significant in Meijer Drees’ analysis was the Saskatchewan Archives Board’s Historical Records Section which contained oral histories with Saskatchewan leaders of the IAA. She did not define nor clarify what she meant by “leaders,” or whether the IAA leadership included both Indian and non-Indian leaders of Saskatchewan. Equally important to the early years of the IAA are private collections. Meijer Drees mentions that some collections are still in “private hands” and only time will tell if at all any private collections will ever be filed for public accessibility. At the

⁷⁶ The Glenbow Archives houses the “largest collection” of early IAA history.

⁷⁷ Ibid, xxi.

time of her writing, Hugh Dempsey and Murray Dobbin both made their papers accessible to her; she goes on to mention these two collections housed at the Glenbow Archives. Meijer-Drees also used photographs to capture IAA members and their supporters at various events and functions. The purpose to add photographs to her work was to capture “the personal and intimate” side of IAA history, and offers further insight into the organization that is “missing in the written record.”⁷⁸ Also “missing from the written record” are aboriginal family records pertaining to the IAA. Meijer-Drees writes that “Aboriginal families have a substantial cache of information...however; much of it is not widely available.”⁷⁹

In order to reconstruct the history of the IAA, historian Meijer-Drees mines theories from two different disciplines: anthropology and history. Informed by anthropologists such as Jean and John Comaroff, and Pierre Clastres and historians Natalie Zemon Davis, Lynn Hunt, and Robert Darnton, Meijer-Drees describes how she utilized these two disciplines in her own analysis of the IAA. As she precisely summarized, “[t]hese authors focused on wide-ranging issues related to processes extended through time: relationships between history and culture, social movements, state formation and power, and questions of identity and social change.”⁸⁰ Applying the work of historian George G Fox,⁸¹ she states that historians, such as Fox, labelled “new” history which emphasized “discontinuity,” “ambiguities,” and the “fractured nature of events.”⁸² Similarly, she refers to the theories of Michel Foucault as “initiating this trend”

⁷⁸ Ibid, xxiii.

⁷⁹ Ibid, xxii.

⁸⁰ Ibid, xx.

⁸¹ Meijer-Drees, *The Indian Association of Alberta*, 8.

⁸² Ibid.

in historical examination as early as the nineteen seventies.⁸³ Meijer-Drees couched the early history of Indian political activities in the “fractured” nature of events or what she terms as “disjunctures.”⁸⁴ The IAA represented a social movement that the people could rally around but the leadership used the IAA to express concerns long held by the people about treaties and rights. The IAA is a capsule in time, a mechanism used by Indian leaders to formally express their concerns to larger Canadian politicians and society.

By relying on theoretical approaches of Jean and John Comaroff, Meijer-Drees makes meaningful connections of the disjointed history of the IAA. Comaroff and Comaroff theorize that historical social movements are represented to the historian after the fact as “disperse fragments within unbounded fields” rather than a “chain of clear-cut events.”⁸⁵ By applying Comaroff and Comaroff’s theoretical approach to reconstruct the history of the IAA, Meijer-Drees has anchored the atmosphere of social activity to a larger context. That is, she “attempts to link the quotidian roots of the IAA to a larger Prairie and Canadian history.”⁸⁶ Indeed, as her analysis suggests, the history of Indian people is intimately linked to the broader Canadian Plains history and it did not exist separate or distinct from it. She explains the founding of the IAA was not the start of First Nation’s political activity but, “simply represented a new forum within which reserve communities could voice some of their concerns.”⁸⁷ Meijer-Drees, for example, grounded her history of the IAA by discussing larger oppressions caused by the *Indian Act* for

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ Ibid.

⁸⁶ Ibid, xxi.

⁸⁷ Ibid.

instance, the restrictions on mobility that prohibited Indian people from gathering for political purposes.

Section Two

Alan C. Cairns' (2000) *Citizens Plus: Aboriginal People and the Canadian State*, is largely a response to the *Report of the Royal Commission on Aboriginal People* (RCAP); the latter was released in 1996 and advocated for aboriginal self-determination and self-government. Cairns' central argument is "the language we employ – how we describe each other and our relationship – what we define as the goal towards which we are heading – is immensely significant."⁸⁸ Cairns examines the intellectual and political relationship between aboriginal peoples and non-aboriginal peoples and proposes the best alternative to a constitutional policy that governs state and aboriginal relations in Canada.⁸⁹ He focuses the debate on two opposing views, one of "assimilation" and the other of aboriginal "parallelism."⁹⁰ He rejects both views as "too polarized for our future health."⁹¹ Cairns suggests his own view is a "middle ground"⁹² in the form of "citizens plus" that acknowledges cultural difference, where aboriginal people and those identifying as non-aboriginal Canadians may co-exist.

Cairns did not oppose aboriginal and treaty rights, but he contends that "labels matter."⁹³ Belief in the efficacy of assimilation, he observes, died with the defeat of the

⁸⁸ Alan C Cairns, *Citizens Plus: Aboriginal People and the Canadian State* (Vancouver: UBC Press, 2000), 5-6.

⁸⁹ Ibid.

⁹⁰ Ibid.

⁹¹ Ibid. Cairns used the term "our" in reference to Canadian values.

⁹² Ibid.

⁹³ Ibid,

1969 *White Paper*. He states, that “[t]he monopoly formerly enjoyed by white voices has been eroded...[and that] Aboriginal people now speak for themselves...”⁹⁴ The assertion by Cairns is evident in 1970 with the IAA authorship of their counter proposal entitled the *Red Paper*. Aboriginal people, according to Cairns, were now present in all forms of public discourse, including constitutional discussions. The second concept Cairns analyzed is parallelism asserting, “the most frequent image of self-chosen Aboriginal futures is of parallelism – Aboriginal and non-Aboriginal communities travelling side by side,” whose paths will never touch.⁹⁵ In other words, parallelism would be interpreted as those treaty Indians who signed the historical treaties with the federal government and with their own governing institutions, and will live “side by side” in contemporary society with non-Indians in Canada, but separately. Cairns spends a good deal of his book focused on the latter and questions parallelism’s validity in terms of common ground among all Canadians. He equates parallelism with other labels, such as “treaty federalism,” “nation-to-nation,” and “third order of government.”⁹⁶ He states the nation-to-nation view recommended by RCAP, “conjures up images of a mini-international system[s]”⁹⁷ only to communicate to each other through the separate nations people belong to, that is, either aboriginal or Canadian systems of government. He suggests that parallelism “comes at a price.”⁹⁸ He contends that the price of parallelism is “distance” between aboriginal and non-aboriginal people, and also implies that “our [current]

⁹⁴ Ibid, 7.

⁹⁵ Ibid.

⁹⁶ Ibid.

⁹⁷ Ibid.

⁹⁸ Ibid.

relations are community relations, not those of shared citizenship.”⁹⁹ In other words, Cairns did not see parallelism as a useful concept for describing aboriginal/non-aboriginal relations as it leads to segregation. Indeed, Cairns’ assertion that labels matter also holds true in the case of the IAA in that treaties matter. Under the claim for treaties, the IAA unified against the *White Paper* that proposed to end the treaty relationship.

Cairns employs an alternative view of “citizen plus,” taken from the 1966 *Hawthorn Report* on which he was a senior staff author. He states that “citizen plus” lost traction, but still has relevance and utility, if only to “serve as the vehicle for a socio-political theory.”¹⁰⁰ He argues that treaty and nation could be adapted to the “positive constraints of the citizen’s label,”¹⁰¹ by recognizing differences and similarities between aboriginal and non-aboriginal Canadians, including moral obligations to one another. Put another way, Cairns believes that aboriginal people should not think of themselves as aboriginal, but rather, as beneficiaries of overlapping federal, provincial, and aboriginal citizen identities. The “plus”¹⁰² Cairns suggests refers to the historical rights ascribed in treaties and would accommodate the contemporary treaty negotiations, currently ongoing, primarily in British Columbia.

Additionally, Cairns compares Canada’s situation with the Australian model regarding citizenship and special status of aboriginal people. He explores the Australian

⁹⁹ Ibid.

¹⁰⁰ Ibid, 9.

¹⁰¹ Ibid, 11.

¹⁰² Ibid.

context through writings of Peter Read's "Whose Citizens? Whose Country?"¹⁰³ and Henry Reynolds' "Sovereignty."¹⁰⁴ According to Cairns, Read argued that "Aboriginal people of the 1990s want to be equal citizens and have the rights pertaining to their special status as 'indigenous people.'"¹⁰⁵ Reynolds contended that "Aboriginal people will have a national loyalty to their Aboriginal First Nation and a civic loyalty to the Australian state."¹⁰⁶ Cairns uses the comparative analysis of Australia as a way of describing and considering the applicability of that model in the Canadian contexts between aboriginal people and the state.

Cairns, a retired political scientist, used his vast experience and knowledge to advance the constitutional debate between aboriginal people and the Canadian state. To reach his conclusions, he examined post-war Canadian Indian policy, reviewed contemporary political debates, and findings from the *Royal Commission of Aboriginal Peoples* (or RCAP). In reviewing the above, he advanced his own theory, "citizens plus." The following quote by Cairns is lengthy, but essential to explain his work: "Citizens plus," according to Cairns, "could serve as the vehicle for a socio-political theory and as a simplifying label for public consumption that recognizes the Aboriginal difference fashioned by history and the continuing desire to resist submergence and also recognizes

¹⁰³ Peter Read, "Whose Citizens? Whose Country?" in *Citizenship and Indigenous Australians: Changing Conceptions and Possibilities*, ed. Nicolas Peterson and Will Sanders (Cambridge, UK: Cambridge University Press, 1998).

¹⁰⁴ Henry Reynolds, "Sovereignty," in *Citizenship and Indigenous Australians: Changing Conceptions and Possibilities*, ed. Nicolas Peterson and Will Sanders (Cambridge, UK: Cambridge University Press, 1998).

¹⁰⁵ Peter Read, "Whose Citizens? Whose Country?" 10.

¹⁰⁶ Henry Reynolds, "Sovereignty," 10.

our need to feel that we belong to each other.”¹⁰⁷ “Citizen plus” was a term carried over by Cairns from the *Hawthorn Report* and re-applied to the contemporary context to describe the political cross-currents between aboriginal and government relations in Canada.

Although Cairns emphasizes the need for a common Canadian citizenship under the banner of “citizens plus,” he fails to address the details of either what “citizen plus” would contain or how it should be implemented. The authors of the *Red Paper* proposed differing notions about citizenship based on treaties with the federal government. Several arguments made by academic reviewers of Cairns’ book substantiate what the IAA leadership had said about citizenship. Cairns for example maintained that citizenship would encourage aboriginal people and non-aboriginal peoples to be compassionate and understanding to their own, as well as to the other’s, issues in a “common bond.” Contesting his claim, Kristen Burnett states that Cairns “refuses to consider the ‘citizen plus’ approach as another support for assimilation.”¹⁰⁸ She argues that citizenship is defined by Cairns as “entirely in terms of Euro-Canadian traditions and values, making the words citizen and Canadian synonymous.”¹⁰⁹ Therefore, according to Burnett, “an Aboriginal identity is something separate or different from a Canadian identity, making assimilation a prerequisite for citizenship.”¹¹⁰ The *Red Paper* similarly argued in relation to identity that Indians must see themselves first as Indians and as Canadians second.

¹⁰⁷ Alan C. Cairns, *Citizens Plus: Aboriginal Peoples and the Canadian State*, 9.

¹⁰⁸ Alan C. Cairns, review of “Citizen Plus: Aboriginal Peoples and the Canadian State,” by Kristin Burnett, *Canadian Woman Studies*, Spring/Summer (2002): 230.

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

Second, another reviewer Kristina Fagan notes that the *Hawthorn Report*, cited by Cairns, defined the “plus” as accommodating “the expression and protection of diversity.” Cairns on his part, sees the “plus” in terms of “cultural diversity.”¹¹¹ In other words, Cairns emphasized aboriginal culture, “not on the principle of native nationhood.”¹¹² Similarly, the IAA did not view treaties in the context of culture, as Cairns suggested. Rather the IAA interpreted the “plus” as those rights signed in treaties with the federal government.

Lastly, sociologist Michael Murphy¹¹³ also critiques Cairns’ concept of treaties and citizenship and broadly speaking, sovereignty.¹¹⁴ Murphy contends Cairns does not discuss the question of indigenous sovereignty prior to contact.¹¹⁵ Murphy argues that Cairns “conflates the normative with the empirical” in his analysis of aboriginal nationalism. In other words, Murray suggests that Cairns’ position is that Canada has successfully asserted its sovereignty over indigenous people due to the “relative weakness and dependency” of aboriginal people, and the “increasing interpenetration”¹¹⁶ of both indigenous and non-indigenous societies. According to Murray, aboriginal nationalism “tells us why we should do something, not what we should do.”¹¹⁷ Murray

¹¹¹ Alan C. Cairns, review of “Citizens Plus: Aboriginal Peoples and the Canadian State,” by Kristina Fagan, *Canadian literature* (2003): 123. <http://0-search.proquest.com/darius.uleth.ca/printfileview?accountid=12063>

¹¹² Ibid.

¹¹³ Ibid.

¹¹⁴ It should be noted that the issues of sovereignty is not the focus of this project, nor is it the focus of the IAA, but its implications, such as First Nation people’s inherent right to govern themselves, is of legal importance.

¹¹⁵ Alan C. Cairns, review of “Citizens Plus: Aboriginal Peoples and the Canadian State,” by Michael Murphy, *Canadian Journal of Sociology*, 25, no. 4 (2000): 517.

¹¹⁶ Ibid.

¹¹⁷ Ibid.

speaks to the normative dimension of aboriginal nationalism, a concept largely left untouched by Cairns but important to the IAA leadership. For example, the IAA's *Red Paper* discussed why the treaties are "worthy of our attention, and why it [treaties] differs from other claims, such as those of cultural or religious minorities."¹¹⁸ Indeed, the IAA leadership did not see the treaties as a cultural expression of a minority group, but as nation agreements signed with the federal government.

Cairns employs Royal Commissions, government reports, and comparative analysis to interpret and explore constitutional relations between aboriginal people and the Canadian State. He relies largely on the 1996 RCAP to interpret and analyze the significance of the concept of "citizens plus." RCAP's final report provides the foundation or the interpretative framework to analyze the book. Government reports he used include excerpts of the 1966 *Hawthorn Report*, and the 1983 *Penner Report*. The *Hawthorn Report* was used by Cairns to amplify the concept of "citizens plus" and apply the concept to contemporary settings. Cairns admits that "citizens plus" "may have had its day" in Canada, but the concept remains a "better fit with our [current] realities."¹¹⁹ "Citizens plus," according to Cairns, originally applied to status First Nation people, but is "capable of extension"¹²⁰ to accommodate the Inuit and the Métis. Cairns also refers to the *Penner Report* on aboriginal self-government, as a counter narrative that promotes

¹¹⁸ Ibid.

¹¹⁹ Ibid, 10.

¹²⁰ Ibid, 9.

“otherness,”¹²¹ rather than highlighting similarities or what unites aboriginal and non-aboriginal Canadians.

Weaver’s (1981) *Making Canadian Indian Policy: The Hidden Agenda 1968-1970*, examines federal government policy, and more specifically, policy-making, in relation to Indian people during the development of the 1969 *White Paper*. Weaver asks two questions around policy-making and minority groups in relation to the *White Paper*; first, Weaver attempts to show how the government applied participatory democracy to a “disadvantaged minority” group; second, she illustrates the challenge for policy-makers in applying Canadian political values to a minority group.¹²² Central to her book, in particular, is how the *White Paper* on Indian policy was developed. According to Weaver, the federal government’s 1969 *White Paper* on Indian policy would have eliminated the special status of Indians, including the *Indian Act*, and terminated the historical treaty relationship between aboriginal people and Canada.

Weaver identifies the Trudeau administration as the principal actor in the drafting of the *White Paper*, including ministers, senior bureaucrats, and civil servants from the department of Indian Affairs and North Development (DIAND). The Trudeau administration hoped to eliminate the “Indian problem” by instituting their own policies of “equality” on Indians. The “Indian problem,” according to Weaver, was described as “many social problems”¹²³ plaguing native communities, and moreover, the “problem”

¹²¹ Ibid, 8.

¹²² Sally Weaver, *Making Canadian Indian Policy: The Hidden Agenda 1968-1970* (Toronto: University of Toronto Press, 1981), ix.

¹²³ Ibid, 12.

existed for many decades before it was “shaped in to a political issue.”¹²⁴ In part, the “Indian problem” could be linked to the *Indian Act*. Weaver contends that governmental policies since the 1830s were always designed to terminate the special status of Indians.¹²⁵ In short, Weaver contends by examining the development of the *White Paper* proposal the root cause (barrier to economic progress) was special rights, and equality was a “key ingredient”¹²⁶ in the federal government’s proposal to rectify the “Indian problem.” However, principal players were often at odds with the interpretation of key terms essential to the success of the proposed *White Paper*.

As Weaver explains, ideologies and personalities among the federal bureaucrats diverged. They held differing views on key terms and concepts during the development of the *White Paper*. Terms like “non-discrimination,” “equality,” “aboriginal rights,” and “policy” were interpreted differently by different policy-makers.¹²⁷ For example, she says that the term “policy” for some policy-makers meant a “formal statement prepared by government,”¹²⁸ for others, policy meant a “process of negotiating between government and Indians”¹²⁹ on an acceptable agreed upon decision. Personality differences also existed among the bureaucracy and the elected officials, according to Weaver, involving a mix of “personalities,” “personal career motivations,” and “career histories.”¹³⁰ This is an important assessment by Weaver, as it may have also added to the differing views and expectations of various policy-makers. Different ideologies and

¹²⁴ Ibid.

¹²⁵ Ibid, 4.

¹²⁶ Ibid.

¹²⁷ Ibid, xi.

¹²⁸ Ibid.

¹²⁹ Ibid.

¹³⁰ Ibid, xii.

varying views among bureaucrats may have also added to the lack of “corporate memory” of the bureaucracy. Weaver defines “corporate memory”¹³¹ as, the “collective experience”¹³² within a portfolio. She found that ministers and civil servants departing from the portfolio often take with them their “individual experience.”¹³³ As a consequence, “the collective experience is not synthesized and lessons from even the recent past remain unlearned”¹³⁴ This lack of collective experience in portfolios often reflected in government policy pertaining to Indians, which often creates a sense of “déjà vu”¹³⁵ for both Indians and government employees. Weaver’s findings are significant in relation to the IAA leadership’s concept of self-determination, as defined and articulated in the *Red Paper*. Specifically, her understanding of the need for corporate memory is especially significant in relation to the historical treaties as treaties continue to be in the hearts and minds of Indian people.

Her use of interviews and government files allowed Weaver to construct and interpret the history of the *White Paper* in both initial and final stages. She interviewed 51 individuals including civil servants and two ministers (Minister of Indian Affairs, Jean Chretien and Minister without a Portfolio, Robert K. Andras); thirty one of these individuals were originally involved in its development.¹³⁶ The use of government files or the official records, allowed her to access “formal arguments”¹³⁷ during the policy formulation process. Her cross reference of interviews in relation to the documents was

¹³¹ Ibid, xiii.

¹³² Ibid.

¹³³ Ibid.

¹³⁴ Ibid.

¹³⁵ Ibid.

¹³⁶ Ibid, x.

¹³⁷ Ibid.

two-fold. First, as she explains, the interviews “provided necessary data on the unofficial arguments and events.”¹³⁸ Second, the interviews also provided a form of interpretation of the documents. As she describes it, “[t]he interviews also allowed me to decide whether the documents’ contents were, in fact, the substance of the arguments or whether they were, in addition, ‘strategy statements’ designed to elicit responses other than the contents might suggest.”¹³⁹ Weaver’s observation is an important part of her approach, as it may help others understand the many different arguments by bureaucrats designed specifically to get public reaction on the favourability on certain policy directions. In other words, if one policy argument is not suitable and acceptable to the Canadian public, then another may be tested. Weaver did not interview Indian leaders, but instead used their published accounts to cross reference, “clarify,” or “confirm certain events.”¹⁴⁰

Weaver applied the broader theoretical framework of social science to reconstruct the policy making process of the federal government’s *White Paper* on Indian policy. Specifically, Weaver used applied anthropology to reconstruct legal documents pertaining to the *White Paper*. Applied anthropology is the aspect of anthropology that serves practical community or organizational needs.¹⁴¹ She states that “meaningful socio-cultural change can occur without the direct participation of, and compromise by, the persons and communities undergoing change.”¹⁴² Indeed, as Weaver shows, the IAA leadership feared an abrupt change would have had significant impacts in native

¹³⁸ Ibid.

¹³⁹ Ibid.

¹⁴⁰ Ibid.

¹⁴¹ Encyclopedia Britannica Online, *Applied Anthropology*, <http://www.britannica.com/EBchecked/topic/27505/anthropology/236871/Applied-anthropology#ref839871>, (Last accessed May 19th, 2014).

¹⁴² Ibid, xiii.

communities, if the federal *White Paper* had been implemented. The first paragraph of the *Red Paper* reflected on the *White Paper*'s proposed elimination of reserves, "with no land and consequently the future generation would be condemned to the despair and ugly spectre of urban poverty in ghettos."¹⁴³ Indeed, proper consultation or some form of advocacy by the federal government in their design of the *White Paper* proposal may have gone a long way with Indian leadership. The IAA leadership were more than an advocacy group; they were also holding the government to account for the treaties. Thus, treaties provided the foundation for the *Red Paper*, which advocated for treaty rights. Harold Cardinal was a central figure in the authorship of the counter-proposal.

Section Three

The Unjust Society by Harold Cardinal was first published in 1969 in response to the federal government's *White Paper* that proposed to eliminate special status of Indians, abolish the Department of Indian Affairs, repeal the *Indian Act*, and end historical treaties. Cardinal discusses the historical injustices against First Nation people by the federal government and the rise of native activism starting in the late 1960s. In his second edition (1999), only the introduction is revised to include "judicial"¹⁴⁴ and "political"¹⁴⁵ changes that have occurred since the first edition. The actors continue to be

¹⁴³ Indian Association of Alberta, *Citizen Plus: the Red Paper*, 1.

¹⁴⁴ Keith Thor Carlson, Melinda Marie Jette, and Kenichi Matsui, "An Annotated Bibliography of Major Writing in Aboriginal History, 1990-99," *Canadian Historical Review* v. 82, issue 1 (March 2001): 122-171.

¹⁴⁵ *Ibid.*

the government and aboriginal people. He states “[m]uch has happened since then, though how much has really changed remains open to question.”¹⁴⁶

In Cardinal’s revised introduction, some of the significant political and judicial changes that have occurred in the last thirty years, since his first edition are outlined. Cardinal observes “discernable”¹⁴⁷ changes in the political landscape since the late 1960s citing the entrenchment of aboriginal and treaty rights in the *Constitution Act, 1982*. He states that unfortunately the constitutional recognition of aboriginal peoples rights are “promises yet to be fulfilled.”¹⁴⁸ For example, Cardinal describes the events of the 1990s between aboriginal people and the state in particular, the 1990 Oka Crisis and the 1995 Gustafsen Lake incident in British Columbia. He explains the events of the ‘90s “demonstrate how dangerously close to the edge the state of Indian/White relations in Canada”¹⁴⁹ really was. Aside from the political developments, Cardinal briefly mentions that the social injustices against aboriginal people in Canada continue, despite the numerous commissions, inquiries, and government reports, such as the 1991 *Manitoba Aboriginal Justice Inquiry*, the constitutional conference beginning in 1983, and the 1996 RCAP. Unfortunately, according to Cardinal, “at the core, the issues this book identified in the late 1960s are issues still unresolved today.”¹⁵⁰ These issues are often intertwined historically, culturally, socially, politically, and judicially.

Cardinal contends that advancements in judicial rulings regarding aboriginal rights have gained some recognition in the Canadian legal system, and consequently, had

¹⁴⁶ Harold Cardinal, *The Unjust Society*, viii.

¹⁴⁷ *Ibid.*, viii.

¹⁴⁸ *Ibid.*

¹⁴⁹ *Ibid.*

¹⁵⁰ *Ibid.*

an impact in federal Indian policy. Cardinal identifies two events that forever altered aboriginal/government relations in Canada. He discusses the significant impact of the Supreme Court of Canada's decision in 1973 *Calder v. British Columbia* (Attorney General) in which three of the justices were in favour of, and three were opposed to, the existence of aboriginal title in British Columbia. The second significant event involved the James Bay Cree, of Northern Quebec. According to Cardinal, the James Bay Cree had "succeeded through litigation"¹⁵¹ in forcing both the provincial government and Hydro Quebec to the negotiating table. The Cree were victorious in having their interests addressed with the conclusion of the Hydro Quebec project in 1975. Collectively, these two events caused the Trudeau government to implement a comprehensive claims policy aimed at First Nation people that had not negotiated a treaty. Subsequently, the comprehensive claims policy evolved to include the "modern-day [t]reaties"¹⁵² in Canada. In regards to the judiciary, other than the legal recognition of aboriginal rights in Canada, the historical treaties "have not advanced much beyond the confines of the 1969 *White Paper*,"¹⁵³ according to Cardinal. He contends that there is still a "deep spiritual feeling attached to [t]reaties...and embedded in the psyche of First Nations Elders."¹⁵⁴ This deeply committed stance to treaty was evident in the *Red Paper*, and continues for Cardinal. He suggested that treaties can be implemented if the political and legal communities in Canada are open to discussing the recommendations proposed by RCAP. Cardinal states that RCAP "include[d] some useful recommendations which could serve

¹⁵¹ Ibid, ix.

¹⁵² Ibid.

¹⁵³ Ibid, x.

¹⁵⁴ Ibid.

to ground a political and legal initiative”¹⁵⁵ for current governments in relation to aboriginal people in Canada.

Cardinal identifies “identity,” “the residential schools,” “education,” “economic development,” and “leadership” as issues that have changed dramatically over the last thirty years.¹⁵⁶ Although the issues identified above are important in regards to aboriginal people, for the purposes of this project, education, economic development, and leadership will be examined. In terms of education, Cardinal attests that this is the one area that “real and measurable” changes have occurred. He refers to policies aimed at greater control by First Nation educational authorities, which have resulted in increased educational attainment, particularly at the post-secondary level. However, he stated that First Nation students may not have reached “equivalency with the general population,” but when “viewed from the last thirty years [this] is nothing less than astronomical.”¹⁵⁷ His outlook is also positive regarding the economic sector as well. He explains with new government initiatives, First Nation and the private sector have “demonstrated that economic progress by First Nation’s people is not only possible but achievable.”¹⁵⁸ Cardinal explains part of the solution leading to the economic success of First Nation people, are aboriginal financial institutions, and agreements in revenue sharing initiatives with provincial governments. For example, he describes the revenue sharing initiative between the provincial government of Saskatchewan and the Federation of Saskatchewan Indian Nations on gambling. However, he states that more improvements can be made in the economic area, as many aboriginal communities are still “excluded from participating

¹⁵⁵ Ibid, xii.

¹⁵⁶ Ibid, x-xvii.

¹⁵⁷ Ibid, xvii.

¹⁵⁸ Ibid.

in and benefiting from resource development activities in their traditional territories.”¹⁵⁹

Cardinal’s description of revenue sharing initiatives echoed those initiatives described in the *Red Paper* over thirty years ago, when he was in leadership.

Cardinal describes how contemporary aboriginal leadership that has changed in both its aim and structure, from its predecessors of the 1960s. He explained that the aboriginal leadership and its federal and provincial affiliates once focused their aims at securing individual rights for Indian people, and now their aim is securing “collective rights.”¹⁶⁰ The native organizations’ structures have also changed. He states that the older aboriginal organizations once had similar structures to those of “labour unions and civil rights organizations;” now, however, their contemporaries, such as the Assembly of First Nations, describe themselves as nations.¹⁶¹ Cardinal contends that the new structure better enables the “collective orientation” of First Nation leaders to move the “Canadian/Aboriginal political dialogue to a new level.”¹⁶² Additionally, Cardinal attested that the new collective orientation of leadership better “reflects a perspective long advanced by traditional peoples from all the Indian Nations.”¹⁶³ Cardinal described the importance of this new model of leadership structure, as representing and pursuing collective rights rather than individual rights, as he was accustomed to with the IAA. Nevertheless, the new model in leadership structure has allowed contemporary leaders to continue to advance their cause regarding treaties, as they did with the IAA organization during the inter-war and post-war years in Canada.

¹⁵⁹ Ibid, xviii.

¹⁶⁰ Ibid, xix.

¹⁶¹ Ibid.

¹⁶² Ibid.

¹⁶³ Ibid.

Cardinal primarily used government reports to reconstruct and interpret the political landscape of aboriginal and federal government relations in Canada. Even though the primary sources used are outdated, they still have relevancy today, such as the 1966 *Hawthorn Report*. Government reports and documentation included *New Directions in Indian Affairs*,¹⁶⁴ *Indians and the Law*,¹⁶⁵ and various copies of the amended *Indian Act*, including reports of the consultation meeting on the 1968 *Indian Act*. In his second edition no additional primary or secondary sources were used.

The theoretical framework employed by Cardinal was derived from a unique combination of his law background and his traditional knowledge taught by the Cree elders, whether formal or informal. He states, “I offer my special gratitude to the many elders whose views...helped shape my thinking.”¹⁶⁶ On a formal level, his experience, activism, and writing reflected the work of Rosalie H. Wax and Robert K. Thomas’ *American Indians and White People*.¹⁶⁷ Cardinal relied largely on his personal experience to reconstruct the leadership of IAA during the turbulent years prior to the *Red Paper’s* development in the late 1960s. Cardinal cites the work of Wax and Thomas, but did not explicitly state its relevance to his own work. Despite this, the similarities in both countries regarding race, culture, and politics were striking during that time period. Also important is the role of the Indian Affairs Branch in relation to the lives they affected.

¹⁶⁴ Canada, Department of Citizenship and Immigration, Indian Affairs Branch, *The Administration of Indian Affairs* (Ottawa, 1964).

¹⁶⁵ Canada, Department of Indian Affairs and Northern Development, *Indian Policy: politique indienne* (Ottawa, 1967).

¹⁶⁶ Harold Cardinal, *The Unjust Society*, vi.

¹⁶⁷ Cited in bibliography, *The Unjust Society*, 2nd edition (Vancouver: Douglas & McIntyre, 1999)., Rosalie H. Wax and Robert K. Thomas, “American Indians and White People,” in *Phylon: The Atlanta University Review of Race and Culture*, (Winter, 1961).

Historian Anthony Fisher reviews both Cardinal's book and Edgar S. Cahn's *Our Brother's Keeper: The Indian in White America*, and describes these two books as the "polemical indictments" of both countries' "mismanagement and malfeasance" of Indian Affairs.¹⁶⁸ Fisher further describes both books as the best attempt to get these departments (Indian Affairs in Canada and the United States) "out in the open"¹⁶⁹ where social scientists may analyse them in relation to the lives of the indigenous people they affected. Broadly speaking, the lives and identities of indigenous people are linked to, and derived from, the existence of the Indian Affairs Branch. The IAA leadership was aware of this linkage with the Indian Affairs Branch, but they had to carefully balance their identities as status Indians with their tribal identities. In other words, the *Red Paper* identified Indians as treaty Indians, rather than status Indians, under the *Indian Act*.

Section Four

As stated in my introduction, Section Four reviews a small selection of secondary literature on the historical treaties negotiated between First Nation people and the Federal Government of Canada, with a particular emphasis on Treaty 7. The purpose of this section is primarily to understand the arguments of the *Red Paper*. It is apparent that the treaties were the foundation of the 1970s *Red Paper* document. Thus, the counter-proposal focused on education and economic development as strategies for self-sufficiency. The following secondary source literature is post-*Red Paper*, and although the literature is recent, their arguments are relevant to the *Red Paper*. In other words, the

¹⁶⁸ Harold Cardinal, review of *The Unjust Society* and *Our Brothers Keeper: The Indian in White America*, by Anthony Fisher, *American Anthropologist*, v. 72, no. 6 (December, 1970): 1496.

¹⁶⁹ *Ibid.*

secondary source literature on treaties validates the IAA's contention in 1970 that treaties were important to First Nation people and continues to be important today.

Treaty 7 Tribal Council with Walter Hildebrandt, Dorothy First Rider, and Sarah Carter (1996) *The True Spirit and Original Intent of Treaty 7* interviewed various elders and gathered their collective memories to examine Treaty 7 using oral histories.¹⁷⁰ Over eighty elders representing five First Nation communities – Kainai (Bloods), Siksika (Blackfoot), Pikani (Peigan), Tsuu T'ina (Sarcee), and Stoney – recount their memories of the events of Treaty 7, collected during two separate occasions: in the 1970s, and in the 1980s. The elders contend that Treaty 7 was a “peace treaty”¹⁷¹ rather than a land surrender. According to the elders, their ancestors agreed to “share the land”¹⁷² with the new arrivals in exchange for certain treaty promises, such as education, medical care, and reserves.¹⁷³ However, the original signatories of the treaties had not contemplated the differing contemporary views of treaty interpretation that would play a prominent role in future negotiations.

Generally, the book is an historical overview of Treaty 7, inclusive of an analysis of secondary source literature on treaties. The prominent themes of the book are the “different agendas,” “different languages,” and “different world views”¹⁷⁴ of Treaty 7. These themes are important in the context of Treaty 7 from a First Nation's perspective. Chief Roy Whitney, of the Tsuu T'ina Nation, wrote the preface of the book. He contends

¹⁷⁰ Treaty 7 Elders and Tribal Council with Walter Hildebrandt, Dorothy First Rider, and Sarah Carter, *The True Spirit and Original Intent of Treaty 7* (Montreal: McGill-Queens University Press, 1996), xi.

¹⁷¹ Ibid.

¹⁷² Ibid.

¹⁷³ Ibid, i.

¹⁷⁴ Ibid.

that the Canadian officials were more than willing to sign a treaty with the First Nation people of Southern Alberta for a number of reasons.¹⁷⁵ The reasons why Canadian officials wanted to sign Treaty 7 were three-fold. First, the prospect of American tribes settling in Canada was seen as a threat to European settlement.¹⁷⁶ For example, the Sioux and the Nez Perce had fought successfully against the U.S Army and were seeking refuge in Canada. Second, the Blackfoot had had less contact with fur traders or missionaries before 1870 and thus were seen by state authorities as “volatile” and “unpredictable.”¹⁷⁷ Finally, traders and missionaries pressured Canadian officials to sign a treaty with First Nation people as soon as possible, to pave the way for peaceful settlement.¹⁷⁸

The different worldviews and languages of the parties involved shaped the interpretation of the treaties, and specifically Treaty 7. Chief Whitney stresses that aboriginal languages may lose their meaning when translated into another language such as English. For example, “meanings may not be accurately conveyed where there are no Blackfoot, Nakota, and Tsuu T’ina words that correspond to English words or concepts.”¹⁷⁹ According to Whitney, to understand First Nation languages one must understand the “context and environment”¹⁸⁰ in which they were created. He states, for example, that “verb-centred” First Nation and “noun-centred” English languages of Treaty 7 “arose out of radically different contexts and environments.”¹⁸¹ Whitney attests

¹⁷⁵ Ibid, xviii.

¹⁷⁶ Ibid.

¹⁷⁷ Ibid.

¹⁷⁸ Ibid.

¹⁷⁹ Ibid, xiv.

¹⁸⁰ Ibid.

¹⁸¹ Ibid.

that First Nation languages embody a worldview that differs from the European. He claims that the Treaty 7 text does not convey First Nation interpretation of treaty.

The Treaty 7 book is divided into three parts and utilizes oral interviews, and primary and secondary sources. Over eighty oral interviews were conducted from the five First Nation communities that signed Treaty 7. Generally, the topics and issues discussed in interviews encompassed a broad range of “social, political, and religious beliefs of each nation.”¹⁸² Part Two draws on archival documents, government reports, and secondary sources to reconstruct the narratives leading up to Treaty 7. Archival sources used were from the National Archives of Canada in Ottawa (Hayter Reed Papers) and Indian and Northern Affairs Canada (Deputy Superintendent’s Letterbook), The Provincial Archives of Alberta (Oblates de Marie Immaculate, Lacombe Papers, and Scollen Papers), The Provincial Archives of Manitoba (MG Alexander Morris Papers), The Saskatchewan Archives Board (Reverend J.A. Mackay Papers and Laird Papers), and the Hudson’s Bay Company Archives in Winnipeg. Also used were Indian Affairs annual reports, *Sessional Papers* from Ottawa, and the North-West Mounted Police reports. In addition, secondary source literature such as the works of John Taylor, John Tobias, and Jean Friesen was used to analyze treaties, and specifically Treaty 7. According to Chief Whitney, scholars agree with oral testimony “that a land surrender was never discussed”¹⁸³ during treaty negotiations over a century ago.

The theoretical approach used by the authors to reconstruct the history of treaty making in Southern Alberta blend oral history and oral tradition. Oral history is defined

¹⁸² Ibid. xi.

¹⁸³ Ibid.

as the passing of information from one generation to the next.¹⁸⁴ Historians and co-authors Hildebrandt and Carter show that the collective memories of the Treaty 7 elders “provide[d] unique insights into a crucial historical event and the complex ways of the Aboriginal people.”¹⁸⁵ However, the authors do not distinguish between the first group of elders interviewed in the 1970s and the second group interviewed in the 1980s. As John F. Leslie states, the first group of elders interviewed “would have more intrinsic value than the testimony of the second group who did not possess first-hand knowledge of events.”¹⁸⁶ Nevertheless, the oral testimony of all First Nation elders who participated provided a forum to address their concerns to the broader society, and to tell their story from a First Nation’s perspective. This source is especially relevant to this study, because oral histories of elders validate what the IAA leadership had argued in 1970 in the *Red Paper*: that treaty remains important to First Nation people.

Indigenous scholar John Borrows, in his book *Canada’s Indigenous Constitution*, contends that the Canadian legal system is incomplete without recognition and acceptance of indigenous treaties.¹⁸⁷ He emphasises the legal value of treaties as fundamental to the relationship between the federal government and First Nation people. He contends that “the continuation of treaty rights and obligations entrenches the continued existence of Indigenous legal traditions in Canada.”¹⁸⁸ Borrows’ argument

¹⁸⁴ Ibid, xviii.

¹⁸⁵ Ibid, i.

¹⁸⁶ Treaty 7 Elders and Tribal Council, review of *The True Spirit and Original Intent of Treaty 7*, by John F. Leslie, *Archivaria*, v. 53 (Spring, 2002):124.

¹⁸⁷ John Borrows, *Canada’s Indigenous Constitution*, 20-21.

¹⁸⁸ Ibid, 134.

validates what the *Red Paper* had determined about the importance of treaties: negotiated treaties in Canada are a testament of nation-to-nation agreements.

Borrows consults a range of scholarly material, incorporating jurisprudence, legislation, constitutional documents, history, and oral tradition. Trevor Shishkin claims that Borrows' work is paramount in the broader "inter-societal dialogue whereby diverse but connected peoples can resolve disputes and organize affairs in ways that best reflect fundamental principles of justice and equality."¹⁸⁹ "Inter-societal dialogue" is a fundamental ingredient needed for the advancement of justice and equality in relation to aboriginal people and the larger Canadian society. In 1969, the federal government's *White Paper* was largely devoid of this inter-societal dialogue with First Nation people. The IAA, on its part, had an internal dialogue with its membership to produce a counter proposal, the *Red Paper*, with education and economic development as proposed strategies.

John Borrows is a Professor and Law Foundation Chair in Aboriginal Justice in the faculty of Law at the University of Victoria and Robina Professor in Law and Public Policy at the University of Minnesota Law School. His analysis describes the structures of Canadian law in relation to aboriginal people. Inspired by the work of Michel Foucault, Borrows provides a "historical analysis of the limits that are imposed on us [in Canadian law] while at the same time experiment[ing] with the possibility of going beyond them."¹⁹⁰ He contends that he is not trying to dissolve the relations of power: that is, the current political relationship between the federal government and First Nation

¹⁸⁹ John Borrows, review of *Canada's Indigenous Constitution*, by Trevor Shishkin, *Saskatchewan Law Review*, v. 75 (2012): 121-124.

¹⁹⁰ John Borrows, *Canada's Indigenous Constitution*, 288.

people. Rather, Borrows suggests an alternative that would “give oneself the rules of, the techniques of management, and the ethics, the *ethos*, that practice of the self, which would allow these games of power [in relation to Indigenous peoples in Canada] to be played with a minimum of domination.”¹⁹¹ Borrows’ argument is particularly relevant to this thesis because he provides a new or unique perspective that did not exist in 1970, a time when the voices of First Nation people were largely silenced in the halls of Parliament. The federal *White Paper* was a testament of the “games of power” which, as Borrows implies, involved not a “minimum of domination,” but a complete domination. In other words, the *White Paper* was the product of a dominant foreign government that was alien to indigenous values of governance and that imposed its ideals and values on a minority group. Although Borrows’ arguments about treaties are contemporary and were thus absent during the development of the *Red Paper*, his contemporary interpretation of the legal recognition of treaties is useful for a retrospective analysis of the *Red Paper*. Moreover, unlike in 1970, treaties today have Constitutional protection.

Thomas Isaac’s *Aboriginal Law: Commentary, Cases and Materials* reviews the “major themes that have developed in Canadian Aboriginal law”¹⁹² over the last two centuries. Some of the major themes that Isaac discusses include the recognition of aboriginal and treaty rights in the *Constitution Act, 1982*; the Supreme Court of Canada’s (SCC) decision on the “constitutional recognition and affirmation of existing Aboriginal and treaty rights”¹⁹³; and the “Crown’s duty to consult and accommodate”¹⁹⁴ when any

¹⁹¹ Ibid.

¹⁹² Thomas Isaac, *Aboriginal Law: Commentary, Cases and Materials*, 3rd edition, (Saskatoon SK, Purich Publishing Ltd., 2004), xxiv.

¹⁹³ Ibid.

¹⁹⁴ Ibid.

act of Parliament infringes on existing aboriginal and treaty rights. Isaac explains that the process of defining aboriginal and treaty rights at the SCC is “extremely complex” and usually involves oral and historical evidence.¹⁹⁵ He states that “[r]ecognizing that Aboriginal law forms a part of broader Canadian law provides guidance in respect for future issues”¹⁹⁶ in the relationship between aboriginal people and the federal government. Chapter Two of his book, “Treaty Rights” (which includes post-confederation treaties) reviews the “*sui generis*” nature of treaties and the court’s interpretation of treaty rights today. The Supreme Court of Canada has defined treaties as *sui generis*, in that they are “neither international-like agreements between nation-states, nor are they simple contracts.”¹⁹⁷ The Supreme Court ruling on the nature of Indian treaties was derived mainly from *R. v. Simon* (1985), and *R. v. Sioui* (1990).¹⁹⁸ Prior to the court’s ruling on the nature of Indian treaties, the interpretation by both government and First Nation leaders varied on the significance and meaning of treaties.¹⁹⁹ On the one hand, Canadian governments have historically viewed Indian treaties and aboriginal people from a “positivist, literal perspective,”²⁰⁰ according to Isaac. On the other hand, many aboriginal people see treaties as “sacred.”²⁰¹ The interpretation on the nature of treaties by the SCC as *sui generis* is relevant to this thesis project, because treaties during the *Red Paper* era were largely absent from the legal debate in Canada. Additionally,

¹⁹⁵ Ibid.

¹⁹⁶ Ibid, xxiv.

¹⁹⁷ Ibid, 74.

¹⁹⁸ Ibid.

¹⁹⁹ Ibid.

²⁰⁰ Ibid.

²⁰¹ Ibid.

Isaac's arguments about treaties also confirm the arguments put forth by the IAA leadership that treaties were central to First Nation people.

Isaac's method of analyzing aboriginal law in Canada over the last two centuries, and in particular post-1982, is to review Supreme Court decisions on aboriginal rights and title, treaty rights, and the *Constitution Act* of 1982. In addition to the numerous SCC rulings, each chapter is supplemented with "Case and Materials" relevant to the topic. Additionally, the book includes detailed maps showing the boundary lines of the historical treaties, modern treaties, and land claims agreements in Canada. However, Isaac did not touch on issues of justice, "Aboriginal customary law, international law, and the *Indian Act*."²⁰²

In his analysis, Isaac uses Supreme Court of Canada decisions such as the 1990 *R. v. Sparrow*, *Delgamuukw v. BC*, 1999 *R. v. Marshall*, and 2001 *Mitchell v. Min. Of Nat. Revenue* to demonstrate the continuing evolution of aboriginal law in Canada. Isaac explains aboriginal law's evolution over the last two decades in this way: "it [aboriginal law] has developed within the context of existing Canadian constitutional law and Anglo-Canadian common law."²⁰³ Although he observes uncertainty in Canadian aboriginal law, he is adamant that Canadian common law provides a "solid base to understand and interpret the meaning of section 35 (1) of the *Constitution Act, 1982*."²⁰⁴ Within the context of the Canadian justice system, Isaac describes how some court decisions, such as *R. v. Sparrow*, *R. v. Delgamuukw*, and *R. v. Marshall*, "seem to support solutions"

²⁰² *Ibid*, xxiv.

²⁰³ *Ibid*.

²⁰⁴ *Ibid*, xxiii.

between the Crown and First Nation people that are “negotiated, practical, and fair.”²⁰⁵ The contemporary court solutions that are “negotiated, practical, and fair” were non-existent in Canadian courts in 1970. However, with the defeat of the *White Paper*, the IAA played a significant role in “encouraging and fostering”²⁰⁶ a conversation with the federal government about treaty and treaty rights, and indirectly RCAP.

Evidence gathered on *The Royal Commission on Aboriginal Peoples* (RCAP) was published in 1996. In 1991, the Commission received its mandate to investigate issues affecting the lives of aboriginal people in Canada relative to that of non-aboriginal Canadians. Issues included historical, political, economical, social, and judicial matters and, more generally, “their [First Nation people’s] situation in Canada.”²⁰⁷ The final report consisted of over 3,500 pages in five volumes, costing around \$58 million, and was one of the most expensive Royal Commissions in Canadian history.²⁰⁸ The purpose of the inclusion of RCAP in this thesis project is to illustrate the relevance of treaties to indigenous self-determination as implied in the *Red Paper*, discussed in Chapter Three of my thesis. Volume 2, Part One and Two of the RCAP are particularly relevant to the *Red Paper’s* argument that self determination requires an understanding of the importance of the treaties to First Nation people.

Although the term “nation-to-nation” was never used in the *Red Paper*, its creators knew the importance of treaty, which encompassed all First Nation people’s

²⁰⁵ Ibid, xxiv.

²⁰⁶ Meijer-Drees, *The Indian Association of Alberta*, 171.

²⁰⁷ Frideres, J S, “A Critical Analysis of the Royal Commission on Aboriginal Peoples Self-Government Model,” in *Aboriginal Self-Government in Canada: Current Trends and Issues*, ed. Y Belanger (Saskatoon, SK: Purich Publishing Limited, 2008), 126.

²⁰⁸ Ibid.

rights and status as Indian people. The nation-to-nation concept was certainly implied. RCAP similarly affirmed the recognition of a nation-to-nation approach based on the treaties.²⁰⁹ In part, RCAP's mandate was to review the treaty relationship with the Crown and to determine its contemporary relevance. The Commission found that treaties were important to First Nation people. RCAP's findings validate Cardinal's view on the importance of treaties. The opening statement of RCAP captures this nation-to-nation perspective.

When our peoples entered into treaties, there were nations of peoples...Because only nations can enter into treaties. Our peoples, prior to the arrival of the non-indigenous peoples, were under a single political society. They had their own languages. They had their own spiritual beliefs. They had their own political institutions. They had the land base, and they possessed historic continuity on this land base.

Within these structures, they were able to enter into treaties amongst themselves as different tribes, as different nations on this land. In that capacity they entered into treaty with the British people. So, these treaties were entered into on a nation-to-nation basis. That treaty set out for us what our relationship will be with the British Crown and her successive governments.²¹⁰

The nation-to-nation approach conveyed by RCAP was understood as a continuing obligation by First Nation leadership and the Queen's representatives. More importantly, RCAP's view of a nation-to-nation approach stems from the historic agreements between aboriginal people and the Crown: "The parties to the treaties must be recognized as nations, not merely as 'sections of society.'"²¹¹ This assertion is significant to my research because the IAA leadership argued that First Nation people were more than

²⁰⁹ *Report of the Royal Commission on Aboriginal Peoples, vol 2, part 1: Restructuring the Relationship* (Ottawa: Minister of Supply and Services Canada, 1996), 18.

Recommendation 1.1 "Treaties are nation-to-Nation."

²¹⁰ Regina Crowchild, President of the Indian Association of Alberta, 11 June 1992.

Report of the Royal Commission on Aboriginal Peoples, vol 2, part 1: Restructuring the Relationship (Ottawa: Minister of Supply and Services Canada, 1996), 9

²¹¹ *Ibid*, 16.

sections of society, but “citizens plus.” That is, the rights and privileges ascribed to First Nation peoples in the historical treaties.

Conclusion

The secondary sources discussed in this chapter serve to introduce Chapter Two, which will analyze the *White Paper* as primary source to show the history of leadership and model of governance. Specifically, Chapter Two examines the *White Paper* in closer detail, drawing on themes central to its document. For example, participatory democracy was an idea central to Trudeau’s election platform in 1968, which saw the Liberal party form the federal government. What is participatory democracy? How did participatory democracy relate to Indian people? And, how did Indian participate in making the *White Paper*? Also, how did the Indian leadership reacted or respond to the federal initiative? These questions will be explored in more detail in the next chapter.

Chapter Two – The Federal Perspective: The “End” of Indians

Introduction

This chapter assembles primary source documentation, including policy documents, newspaper accounts, government documents and selected speeches, to analyze the underlying intent of the 1969 *Statement of the Government of Canada on Indian Policy* (hereafter, the *White Paper*). This chapter examines the *White Paper* as representative of the perspective of the federal government to deal with the “Indian problem,” and also, explores how they addressed indigenous rights and treaties. The chapter begins by examining the federal government’s 1966-1967 *Hawthorn Report*.²¹² This *Report* appears to have provided the legal means, and some arguments, to enable the federal government to rationalize the *White Paper* to end the treaty relationship between indigenous people and the Crown. In my view, the *Hawthorn Report* was a preface to the *White Paper*. Second, it is imperative that I examine the political ideals of Pierre Trudeau and, to a lesser extent, Jean Chretien, in relation to the *White Paper* to fully grasp the leadership’s motives for ending the legal status of “Indians.” The *White Paper*’s organizational framework described six legislative categories and other issues, understanding these as barriers that impeded indigenous people from achieving “equality.” Finally, this chapter explores the reactions to the *White Paper* from the media (newspapers), First Nations leaders, and the Anglican Church of Canada.

²¹² The *Hawthorn Report, A Survey of the Contemporary Indians of Canada: Economic, Political, Educational Needs and Policies*, vol 1, (Ottawa: Indian Affairs Branch, 1966). The Report concluded in 1967 in a two volume report. Volume one of the *Report* concluded in 1966 and is used in this chapter.

The Hawthorn Report 1966-1967

In 1960, Indians gained the right to vote in federal elections, and studies were carried out to determine the needs of Indians in relation to non-Indian Canadians. The most significant study produced and commissioned by the federal government was a two volume *Hawthorn Report*, released in 1966-1967. The *Hawthorn Report* played a significant role in Indian and Canadian government relations, from the time of publication during the late 1960s to the early 1970s. The *Hawthorn Report* was initiated in 1963 by the federal Liberal government and the Department of Indian Affairs and Northern Development, to determine how best to “update” its Indian policies.²¹³ In 1964, Harry B. Hawthorn, from the University of British Columbia, was commissioned to conduct a national survey of Canadian Indians: “a study of the social, educational, and economical situation of the Indians in Canada...”²¹⁴ The scope of Hawthorn’s national survey on Indians was broad and summarized in the two volume *Hawthorn Report*. The final recommendations were numerous but most significantly, they did define Indian status within the broader Canadian political framework as “Citizen Plus.”²¹⁵ “Citizen Plus” was defined as, “in addition to the normal rights and duties of citizenship, Indians possess certain additional rights as charter members of the Canadian community.”²¹⁶ In other words, Indian people possessed the same individual rights and duties of citizenship as non-Indian Canadians, but additionally possessed treaty rights negotiated between

²¹³ Laurie Meijer-Drees, *The Indian Association of Alberta: A History of Political Action* (Vancouver, BC: University of British Columbia Press, 2002), 165.

²¹⁴ Hawthorn Report, *A Survey of the Contemporary Indians of Canada*, v 1. Also known as the *Hawthorn Report*.

²¹⁵ *Ibid*, 13.

²¹⁶ *Ibid*.

indigenous people and the Crown from the late eighteenth century and onward to present. Thus, the significance of treaties and Indian lands, was first established in the federal *Hawthorn Report*, and subsequently remained central to both publications that followed in 1969 the *White Paper*, and the 1970 *Red Paper*.

The contemporary relevance of the treaties, as defined in the *Hawthorn Report*, was to “evaluate the extent to which they [treaties] seem to complicate the development of a more intimate and extensive involvement with the provinces....”²¹⁷ Thus, the *Report* interpreted the relevance of treaties in the context of the status of Indians and lands relative to the provincial framework, rather than to the federal or national administration. The *Report* organized the treaties’ provisions into six categories: 1) treaty gifts (items such as medallions to commemorate the treaty); 2) annuities; 3) land; 4) hunting, fishing, and trapping; 5) liquor; and 6) socio-economic matters, inclusive of education, agriculture, and health and welfare.²¹⁸ The *Hawthorn Report* found that only two of the six categories had longstanding legal implications that applied to the obligations of the federal government.²¹⁹ The first involved hunting, fishing, and trapping, which had treaty significance in established jurisprudence (legal decisions), but these rights when compared to the massive economic needs of the Indian communities, were seen as minimal.²²⁰ The second category related to lands, or reserve lands, had significance as treaty provisions and were constitutionally recognized under section 91 (24) of the BNA

²¹⁷ Ibid, 240.

²¹⁸ The *Hawthorn Report* found that treaty rights in relation to hunting, fishing, and trapping were still important to many northern Indian communities across Canada for substance purposes. The *Report* based its finding on limited juridical decisions pre-*Report*.

²¹⁹ Ibid, 243-244.

²²⁰ Ibid, 242.

Act 1867.²²¹ One option, according to the *Hawthorn Report*, was to amend the constitution by abolishing section 91 (24), which reads, “Indians and lands reserved for the Indians.”²²² The *Hawthorn Report’s* conclusion, in regards to treaties and lands, therefore was that the federal obligations to Indians were minimal. In other words, the *Hawthorn Report’s* findings on the relevance of the treaties regarding land were that, when compared to the larger economic needs of the Indian communities, treaties were insignificant. In relation to discussions about Indian rights to land, the *Report* concluded that the federal government had a “great deal of freedom” in its responsibilities under the “permissive grant” of the constitutional authority of section 91 (24) of the BNA Act.²²³

In essence, the *Hawthorn Report’s* comprehensive examination sought alternative ways to move administrative and governing responsibility of Indians into the provincial framework with the least possible legislative or constitutional change. Thus, by moving the responsibility of Indians, and the six treaty provisions (categories), from federal jurisdiction to provincial jurisdiction the end result was the extinguishment of treaties and Indian lands. Therefore, officially, while the *Hawthorn Report* may not have been the catalyst for the *White Paper* and its proposed mandate, the *Report* was a precedent that sought the legal relinquishment of treaties and lands from federal responsibility. The relevance of the *Hawthorn Report*, vis-à-vis the treaties and lands, remains crucial to the future economic sustainability of First Nations communities. Thus I argue that without the control of lands and resources, First Nations communities would not survive economically, and would be forced to assimilate into the Canadian economic system.

²²¹ Ibid.

²²² Ibid.

²²³ Ibid, 248.

The *Hawthorn Report*'s recommendations on treaties, inclusive of the six categories described, were incorporated into the *White Paper*, which also sought to advance the federal government's position on "ending" the legal status of Indians and indigenous rights to lands. Nevertheless, the Trudeau administration, as authors of the *White Paper*, largely ignored the *Hawthorn Report* because it did not fit with the concept of Trudeau's "Just Society."²²⁴ Trudeau's "Just Society" was built on the premise of an open government, where "regular" people may participate in government with regards to policy decision-making that may affect their lives, and where individual rights are paramount.²²⁵ Further, those rights are free from legal and bureaucratic hindrance in the pursuit of economic freedom to the individual's fullest potential in a society.²²⁶

Although the *Hawthorn Report* advocated for the provincial rather than federal application of laws and services for Indian people, the *Report*'s recommendations did not harmonize with a "Just Society." According to Meijer-Drees, the *Hawthorn Report* was considered "noteworthy, [but] its recommendations were not implemented."²²⁷ Although the Trudeau government did not officially adopt the *Hawthorn Report*'s recommendations in regards to treaties and lands, arguably, the *White Paper*'s intentions were the same. Trudeau's Liberals produced the *Report* and subsequently, the *White Paper* and viewed treaties and lands through a narrow economic lens. Thus, Trudeau's Liberals claimed that reserve lands could not sustain communities; and for this reason, therefore, they endeavoured to abolish treaties and Indian lands and transfer the

²²⁴ Laurie Meijer-Drees, *The Indian Association of Alberta*, 165.

²²⁵ Thomas S. Axworthy and Pierre Elliot Trudeau, *Towards a Just Society: The Trudeau Years* (Ontario, Canada: Penguin Books, 1990), 358. The core values of Trudeau's "Just Society" involved freedom, equality, and equality of opportunity for all.

²²⁶ Laurie Meijer-Drees, *The Indian Association of Alberta*, 166.

²²⁷ Thomas S. Axworthy and Pierre Elliot Trudeau, *Towards a Just Society*, 357-360.

responsibility for Indians from the federal government to the provinces. Hence, the *Hawthorn Report*'s findings may or may not have played a role in the development of the *White Paper* proposal, in 1969; however, the *Report*'s findings on the legal distinction to "end" treaties and lands were reinforced in the *White Paper*. In other words, the Trudeau Liberals unofficially adopted the *Hawthorn Report*'s findings regarding the termination of treaties with First Nations people, and proposed to adopt a fee simple approach for reserve lands.

Whereas, the *Hawthorn Report* was commissioned to investigate the social and economic conditions of First Nations people, it inadvertently set a precedent to "end" Indians in Canada. The relevance of the *Hawthorn Report* to the broader issue of Indians is that the *Hawthorn Report* provided "noteworthy" information on the legal distinction of Indians and treaties; treaties were summarized as having "minimal" significance when compared to the larger social economic need of the Indians. Therefore, the *Hawthorn Report*'s findings granted the federal government the flexibility and "permissive grant," or unilateral authority, to legally "end" Indians and treaties. Contrastingly, in 1970, Harold Cardinal and the Indian Chiefs of Alberta stated in the *Red Paper* that treaty was significant to First Nations people as "historic, moral, and legal" agreements.²²⁸

Pierre Trudeau and the Liberal's Political Values

Trudeau's education played a significant role in the development of his social policies regarding Indians, and influenced his election campaign to become Prime Minister of Canada. In the federal election campaign of 1968, Pierre Trudeau's Liberals

²²⁸ The Indian Association of Alberta, *Citizens Plus: the Red Paper*, 7.

introduced ideas of how government could run, and themes of the *Hawthorn Report* - to “end” Indians and treaties - were frequently emphasized during the early part of his tenure, as Prime Minister from 1968 to 1970. His election platform marked the creation of his conception of Canada’s “Just Society.” Trudeau’s election promises also included participatory democracy, as a mandatory feature of this proposed “Just Society.”²²⁹ Participatory democracy, as described by Trudeau, is a process where political decisions are made directly by the populous,²³⁰ including Indians. This section briefly examines Trudeau’s political ideas of participatory democracy and the values of a “Just Society,” in relation to Indians and to demonstrate how his political ideals conflicted with indigenous people’s interests, regarding their collective interests to treaties and lands. Trudeau’s education and history is important to examine in the context of nation building, and the affects of nation building on Indian people.²³¹ The chapter’s focus is not on nation building *per se*, but in the process of nation building, Trudeau’s proposed ideals of participatory democracy and a “Just Society” which manifested into social policy that had profound effects on Indian people.

²²⁹ Lorna Marsden, “The Party and Parliament: Participatory Democracy in the Trudeau Years,” in Thomas S. Axworthy and Pierre Elliot Trudeau, *Towards a Just Society: The Trudeau Years* (Ontario, Canada: Penguin Books, 1990), 262-281.

²³⁰ Participatory Democracy, also known as *Deliberative Democracy*, *Direct Democracy* and *Real Democracy*, is a process where political decisions are made directly by regular people. It stands in contrast to the far more prevalent Representative democracy, where political decisions are made not by the people themselves but by elected representatives. http://www.absoluteastronomy.com/topics/Participatory_democracy, (website, last accessed 18/11/14).

²³¹ Kevin J. Christiano, *Pierre Elliott Trudeau: Reason Before Passion A Biography* (Toronto, Ontario: ECW Press, 1994). Christiano states that Trudeau was a thinker, and that his “intellect...was his paramount contribution to Canadian politics.” 13. Further, Christiano explains that Trudeau has built his entire reputation around the views of nationalism and federalism. 98.

Trudeau's political values largely stemmed from his educational background in law and economics. Trudeau graduated with a law degree from the University of Montreal in 1943, and then entered a Master's program at Harvard University, in Cambridge, Massachusetts, in 1944.²³² Thereafter, he obtained a joint degree in Economics and Political Science.²³³ Further, his education in these fields brought him to the École Libre des Science Politiques in Paris, and the London School of Economics.²³⁴ According to his *Memoirs*, his graduate life at Harvard had a profound effect on his beliefs about individual freedom. Trudeau stated "[t]he view that every human must remain free to shape his own destiny became for me a certainty..."²³⁵ This idea of individual access to freedom remained with Trudeau into his political career and, once in power, as the Prime Minister of Canada, his idea of freedom combined his with educational background in law and economics created profound effects on Indian people. These ideas are evident in the Liberal government's *White Paper* of 1969. Trudeau's knowledge of law and politics and, to a lesser extent, economics, were crucial to the themes expressed in the *White Paper*, and specifically with regard to the "end" of Indians and treaties.

Trudeau also formulated his ideas prior to his political career, described above, as a co-founder of *Cité Libre* magazine, which was a magazine produced by young

²³² Pierre Elliott Trudeau, *Memoirs* (Toronto, Ontario: McClelland & Stewart Inc, 1993), 37.

²³³ *Ibid*, 38.

²³⁴ *Ibid*, 39.

²³⁵ *Ibid*, 40. Also, for a closer look at Trudeau's idea about "freedom" as it relates to a "just society," read Thomas S. Axworthy and Pierre Elliot Trudeau, *Towards a Just Society: The Trudeau Years* (Ontario, Canada: Penguin Books, 1990), 357.

intellectuals against totalitarianism.²³⁶ Trudeau believed in the idea of participatory democracy where the individual rights of regular people were paramount in transforming society. Ultimately, his ideas were in conflict with indigenous people's interests. Trudeau did not believe in special status or "Citizens Plus," particularly in regard to ethnic and minority groups, his experience with special status was largely influenced by the Quebec experience.²³⁷ The Quebec experience had taught Trudeau that special status may lead to separatism, or nationalism, from the Canadian confederation. Thus, Trudeau must have found fault with Indian people having proposed special status under the *Indian Act*, as per the *Hawthorn Report*, and through treaties negotiated between the Crown and indigenous people.

Although freedom was its central theme, Trudeau contended in 1968 that a "Just Society" involved equality and, in his words: "I mean equality of opportunity."²³⁸ On the one hand, Trudeau envisioned an organized society structured in a way to enhance the individual's freedom and to advance the individual the means to that freedom.²³⁹ On the other hand, Trudeau did not precisely spell out what equality of opportunity might involve, but he claimed there were many facets to this concept. Trudeau defines the concept of equality of opportunity in this way:

²³⁶ *Cité libre*, a magazine founded 1950, brought together Quebec intellectuals who opposed Maurice Duplessis. The young intellectuals and board members included Pierre Trudeau and Gérard Pelletier. The magazine's philosophy assumed that universal man is to be defended from totalitarianism. Cited in The Canadian Encyclopedia, *Cité libre*, <http://www.thecanadianencyclopedia.ca/en/article/cite-libre/> (Last accessed, 21/11/14).

²³⁷ In the 1967 Constitution Conference, Trudeau argued adamantly against special status for Quebec as a distinct society, because special status will lead to separatism from the Canadian federation. See, Anthony Westell, *Paradox: Trudeau as Prime Minister* (Scarborough, Ontario: Prentice Hall of Canada, 1972), 7.

²³⁸ *Ibid*, 358.

²³⁹ *Ibid*.

Now Canada seems to me a land blessed by the gods to pursue a policy of the greatest equality of opportunity. A young country with its ethnicities and its religions, an immense country with varied geographic regions, a federalist country, Canada had [sic], besides, a political tradition that was neither completely liberation nor completely state dominated, but was based, rather, on the collaboration necessary between government and the private sector and on direct action of the state to protect the weak against the strong, the needy against the wealthy.²⁴⁰

In essence, Trudeau's "Just Society" involved economic equality, and the freedom of the individual without legislative barriers that could hinder individual development, combined with an interest in national unity.²⁴¹

Trudeau's election campaign was built not only on this promise of a "Just Society," but participatory democracy: a process (within the formal structures of government) where all citizens participate in government through policy decisions that may affect their lives. His proposition for participatory democracy involved "regular" Canadians in the decision making processes of government, but also involved "different kinds of people" in the decision making process.²⁴² It is unclear as to what Trudeau constituted as "different kinds of people," and if, in fact, his views referred to minority groups inclusive, or exclusive, of Indian people.

²⁴⁰ Claude Couture, *Paddling with the Current: Pierre Elliot Trudeau, Etienne Parent, Liberalism, and Nationalism in Canada* (EBSCO Publishing: ebook Collection, 1995), 90, http://web.b.ebscohost.com.darius.uleth.ca/ehost/ebookviewer/ebook/bmxlYmtfXzUwNTAxX19BTg2?sid=8ec61e85-2a39-4714-bde5-0019a46e6c80@sessionmgr112&vid=0&format=EB&lpid=lp_xi&rid=0#, (lasted accessed, 19/8/14), 90.

²⁴¹ The concepts of nationalism, federalism, and liberalism are not the focus of this research project, but it is interesting to point out that these concepts are part of the much broader political theory of Pierre Trudeau.

²⁴² Thomas S. Axworthy and Pierre Elliot Trudeau, *Towards a Just Society*, 263.

According to Weaver, the idea to revised the *Indian Act* and make it less restrictive, started with the Pearson government, and the Trudeau administration subsequently supported it and encouraged Indians to participate, in the revisionary process.²⁴³ Weaver contends that the consultation meetings, between the government and Indian people, were an early connection between citizen participation and Indian policy, in 1967, and reflected the interest in revising the *Indian Act*.²⁴⁴ The consultation meetings were hosted by the federal government and involved the participation of Indian leaders (for example, the IAA and National Indian Brotherhood) from across the country, designed to amend the *Indian Act*. Native leaders who attended the consultation meetings expressed varying opinion on revising the *Indian Act*, and some Indian leaders called for its abolishment.²⁴⁵

Consultation started in the summer of 1968, and concluded in the spring of 1969. Indian leaders, such as Harold Cardinal, attended these meetings and expressed their concerns that the Liberal government did not recognize Indian treaties and aboriginal claims to land. According to Cardinal, indigenous leaders stated that, before implementing any new policy that called for Indian participation, the government must move to recognize treaties and aboriginal claims, above all.²⁴⁶ Therefore, the impact of the so called participatory democracy on First Nations people, as subsequently expressed in the *White Paper*, would be to “end” the legal status of Indians under the *Indian Act*,

²⁴³ During the federal election of 1968, Pierre Trudeau “promised to make Government more accessible to the people, to give our citizens a sense of full participation in the affairs of Government.” Cited in, SallyWeaver, *Making Canadian Indian Policy: The Hidden Agenda 1968-1970* (Toronto, Ontario, University of Toronto Press, 1981), 8.

²⁴⁴ Harold Cardinal, *The Unjust Society*, 106-107.

²⁴⁵ Sally Weaver, *Making Canadian Indian Policy*, 10.

²⁴⁶ *Ibid*, 5.

and thereby, enfranchise them as Canadian citizens. Trudeau's vision of participatory democracy for Indians, therefore, not only meant the 'end' of Indians, it also meant reform of the federal government.

Fundamental to Trudeau's participatory democracy, was government reform where individual ministers would influence government agenda and policy channels. Participatory democracy in this aspect, according to Trudeau, involved increasing the effectiveness of government, or the powers of the House of Commons.²⁴⁷ A part of the effectiveness of government meant giving more flexibility and power to ministers and Parliamentarians to enact decisions: "Not only should ministers be able to enact the Government agenda, but members of Parliament should be able to influence the Government through work in the House and more effectively represent their constituents in legislation and services."²⁴⁸ Although flexibility was emphasized to ministers and Parliamentarians, the final decision rested with the collective cabinet.²⁴⁹ The significance of government reform, relative to the then minister of Indian Affairs, was that the policy to be enacted was not necessarily made with the consent of those targeted by the policy, for example, indigenous people. The consultation meetings discussed by Weaver and Cardinal, exemplify how policy that, if enacted, potentially would have meant that the Minister of Indian Affairs and Northern Development had consulted with the Indians,

²⁴⁷ Read Thomas S. Axworthy and Pierre Elliot Trudeau, *Towards a Just Society: The Trudeau Years*, for a complete reading of participatory democracy and government reform, 262-281.

²⁴⁸ *Ibid*, 264-265.

²⁴⁹ Weaver, *Making Canadian Indian Policy*, 10.

regardless of its content.²⁵⁰ As Trudeau's then Minister of Indian Affairs, Jean Chrétien stated in the House of Commons, about the contents of the *White Paper* of 1969, it represented "things said by the Indian people" at the consultation meetings.²⁵¹ According to Chrétien the consultation meetings were initiated to amend the *Indian Act* but, apparently, not to consult on the proposed contents of the *White Paper*. The Indian Chiefs of Alberta claimed, in the 1970 *Red Paper*, consultation did not take place. The Alberta Chiefs stated, "The answer is no Treaty Indian asked for any of these things [in the *White Paper*] and yet through his [Chrétien] concept of consultation, the Minister said that his White Paper was in response to things said by Indians."²⁵² Nevertheless, as Weaver described "Indian participatory democracy," as understood by Indian leaders from across the country who did attend consultation meetings, was a process whereby the Liberal government experimented with policy and, in the process of experimentation, failed to implement its intentions as laid out in the *White Paper*.²⁵³

Fundamentally, Trudeau's vision of participatory democracy involved individual citizens, but not collective groups, nor tribal collectives. In the 1960s, Indians resided primarily on reserves and saw themselves as communal rather than individuals in the Western idea of individualism and society. Philosopher John Locke, in *Two Treatises on Civil Government*, claims the individual was paramount before the state. Equally significant was Trudeau's writing on the role of the state and the individual. In the early

²⁵⁰ Weaver described the consultation meetings as a "process of participation." She stated, however, "[p]articipation was said to have taken place, but in fact, it did not; Indians were not party to the deliberations that produced the *White Paper*, 10.

²⁵¹ Canada, House of Commons, *Statement of the Government of Canada on Indian Policy, 1969* (Ottawa: Minister of Indian Affairs and Northern Development, 1969), 6.

²⁵² Indian Association of Alberta, *Citizens Plus/ the Red Paper*, 1.

²⁵³ Weaver, *Making Canadian Indian Policy*, 204.

1960s, Trudeau wrote, “the purpose of Locke and Rousseau... was to explain the origins and justify the existence of political authority *per se*; the theories of contract which they derived from natural law or reason were meant to ensure that within a given state bad governments could readily be replaced by good ones...”²⁵⁴ Although the idea of replacing “bad” governments with “good” ones, the underlying message here was that the state is viewed as an “aggregate of individuals, not groups, whose fundamental freedoms are to be respected.”²⁵⁵ Locke’s theory of individualism and the role of the state were consistent with Trudeau’s Liberals philosophy of the individual embedded in the proposed policy to individuate Indians: “Liberals believe that every individual has a special dimension, a uniqueness that cries out to be realized, and the purpose of life is to realize that potential.”²⁵⁶ Trudeau expressed his philosophy of the state, as follows, “[t]he role of the state is to create the conditions under which individuals have the broadest possible choice in pursuing the goal of self-fulfilment [sic].”²⁵⁷ In this light, participatory democracy was essential to “end” the collective interests, such as those interests representative of indigenous people, while bolstering individual representation. This shift was fundamental to Trudeau’s imagined “Just Society” and was evident in the 1969 *White Paper*.

In relation to the “Just Society,” Cardinal welcomed Trudeau’s vision of a new society built on justice; “Indian leaders, briefly hopeful that Mr. Trudeau’s Just Society might include native people, were ready to work with the new ministers.”²⁵⁸

Retrospectively, however, Trudeau’s “Just Society” was built on the norm of

²⁵⁴ Pierre Trudeau, *Against The Current: Selected Writing 1939-1996* (Toronto, Ontario: McClelland & Stewart Inc, 1969), 183.

²⁵⁵ Weaver, *Making Canadian Indian Policy*, 55.

²⁵⁶ Thomas S. Axworthy and Pierre Elliot Trudeau, *Towards a Just Society*, 260.

²⁵⁷ *Ibid.*

²⁵⁸ Harold Cardinal, *The Unjust Society*, 101.

individualism with a focus on economic prosperity, rather than a society compelled to correct historical injustice.²⁵⁹ The indigenous leadership of the time initially had some hope in including the word “might” with Trudeau’s concept of a “Just Society,” but they wisely remained skeptical of government officials.²⁶⁰

Jean Chrétien: Trudeau’s Minister of Indian Affairs and Northern Development

How did the Liberal Party’s concept of a “Just Society” manifest in social policy? Part of the answer lies with the newly appointed Minister of Indian Affairs, Jean Chrétien. First elected to Parliament in 1963 and again in 1968, Jean Chrétien, under the Liberal government of Pierre Trudeau, would be appointed in 1968 as the Minister of Indian Affairs and Northern Development; an appointment he would keep for over seven years.²⁶¹ As Indian Affairs Minister, Chrétien was largely responsible for creating and selling the *White Paper* to Indians and non-Indians. The *White Paper* was reflective of Trudeau’s values of a “Just Society,” which focused on solving poverty and other issues affecting Indian communities.²⁶²

Chrétien studied law at the University of Laval, in Quebec City, and became the president of the student Liberal Club.²⁶³ As he explained, his political involvement began as a “fun” exercise, but he quickly found that it was a great “influential instrument for social change.”²⁶⁴ Socially and patriotically, Chrétien believed in being Canadian. He

²⁵⁹ Ibid, 107.

²⁶⁰ Ibid.

²⁶¹ Jean Chrétien, *Straight from the Heart* (Toronto, Ontario: Key Porter Books Limited, 1985), 62.

²⁶² Ibid, 63.

²⁶³ Ibid, 12.

²⁶⁴ Ibid, 15.

attests that his family helped influence and shaped his attitude on patriotism, particularly during World War II when many French Canadians were against the war in Europe, and his national patriotism carried through to his political life.²⁶⁵ In *Straight from the Heart* (1985), Chrétien stated that, Quebec's refusal to support the war in Europe seemed like a "wrong judgement."²⁶⁶ His father supported "conscription" and one of his three brothers enlisted and was accepted, one had medical conditions and the other was a doctor. Chrétien himself did not enlist. Politically, Chrétien shared the value of Canadian patriotism with Trudeau.

Once elected to Parliament, in 1963, Chrétien served under Prime Minister Lester Pearson's Cabinet as Minister without Portfolio, and later as Minister of National Revenue.²⁶⁷ He was appointed to Minister of Indian Affairs and Northern Development in 1968, under Trudeau.²⁶⁸ Chrétien admits that he did not know what the portfolio would entail, and was first hesitant with the appointment. However, according to Chrétien, Trudeau made the argument that Chrétien's situation was similar to that of the Indian: "You're from a minority group, you don't speak much English, [and] you've known poverty."²⁶⁹ In some respect, Chrétien shared economic similarities with the Indian people in regards to poverty, but lacked the background or historical knowledge regarding First Nations people generally. Chrétien's educational background in law,

²⁶⁵ Ibid, 14.

²⁶⁶ Ibid.

²⁶⁷ The Canadian Encyclopedia, Jean Chrétien, <http://www.thecanadianencyclopedia.ca/en/article/joseph-jacques-jean-chretien/> (Last accessed, 29/12/14).

²⁶⁸ As part of government reform, Trudeau appointed two Ministers to Indian Affairs, Jean Chrétien and Robert Andras (Minister without a portfolio).

²⁶⁹ Ibid, 62.

partly explains his lack of knowledge of indigenous people's history.²⁷⁰ Moreover, Chrétien's reluctance may also be explained by his lack "corporate memory" of the ministerial post.²⁷¹ Weaver described the lack of knowledge within a ministerial post, as "corporate memory."²⁷² As a result, new policies Chrétien promoted as ground-breaking had often been previously tested or untested.²⁷³ As Weaver explained "corporate memory" is when "ministers...leave a portfolio, they often take with them their collective experience. As a result, the collective experience is not synthesized and lessons from even the recent past remain unlearned. Thus, policies promoted as innovative often arouse a strong sense of *déjà vu* in Indians and with longstanding government employees."²⁷⁴ Arguably, the *White Paper* exemplified how governmental policies create a sense of *déjà vu* for Indians.²⁷⁵

Chrétien's first task, as Minister of Indian Affairs, was to tackle the "Indian problem" resulting in the *White Paper* proposal.²⁷⁶ Addressing the "Indian problem" was a nuanced task that involved promoting the *White Paper* to Canadian business and industry, to the Canadian public, and to the Indian leadership. For example, in mid-June 1969, Chrétien addressed the Indian Chiefs at a convention held at Sucker Creek,

²⁷⁰ It is well known that the education curriculum in Canada lacked native history, particularly during Chrétien's educational period leading up the 1960s.

²⁷¹ Weaver, *Making Canadian Indian Policy*, xii.

²⁷² *Ibid.*, xiii.

²⁷³ *Ibid.* Weaver explained that new policies promoted as "ground-breaking" often created a sense of *déjà vu*, in relation to Indians.

²⁷⁴ *Ibid.*

²⁷⁵ Weaver stated that the 1947 Special Joint Committee hearings to the *Indian Act*, where termination of the *Indian Act* and a "Plan for Liquidating Canada's Indian Problem in 25 Years," had been earlier proposed by anthropologist Diamond Jenness, 4.

²⁷⁶ The Indian problem can be defined in terms of statistics: high rates of unemployment, low rates of high school completion, extreme poverty, etc.

Alberta.²⁷⁷ His speech to the Indian Chiefs was similar to Weaver's account of Chrétien's speech at the consultation meetings a year previous: as "diffuse[d]" and indiscernible.²⁷⁸ However, Weaver did not explain why Chrétien's speech was incoherent to the Indian leaders. One possible explanation for his incoherent speech could be due to his lack of English speaking ability. As Weaver stated, Chrétien was "still mastering English," when he was appointed Minister of Indian Affairs.²⁷⁹ Nevertheless, in his speech Chrétien spoke of equality in terms of "advantages" and "responsibility" equal to other non-indigenous Canadians, and that the Indians need to be "free" to make their own decisions regarding lands. As Chrétien stated, "the National Indian Brotherhood [proposed] looked into treaties, I said then that I am interested. You will see next week how interested I am [sic]."²⁸⁰ Chrétien's comments in this speech from June 20, 1969, around treaties and lands early indicate his intention to terminate the legal status of Indians, and his desire to promote the *White Paper* to the Indian Chiefs of Alberta. Moreover, Chrétien's statement regarding the NIB and their interest in treaty research contradicted the intentions expressed in the *White Paper* of terminating treaties. Further, Chrétien's statements regarding "advantages," and "responsibility," and to be "free" became the hallmarks of the *White Paper*. With respect to Indian participation into the broader economic system,

²⁷⁷ Jean Chretien's remark at *the 25th Annual Convention of Indian Association of Alberta on June 20, 1969*, was recorded in the minutes and is preserved at Native American Studies Department at the University of Lethbridge, Lethbridge, AB.

²⁷⁸ Weaver, 147. Weaver stated that Chrétien gave a speech to the Indian leadership in April 1968, at the conclusion of the consultation meetings held in Ottawa to amend the *Indian Act*, where his speech was "diffuse" that the Indian leadership could not have "discerned" the content of his statements.

²⁷⁹ Weaver, 59.

²⁸⁰ Jean Chretien's remark at *the 25th Annual Convention of Indian Association of Alberta on June 20, 1969*, 12, was recorded in the minutes and is preserved at Native American Studies Department at the University of Lethbridge, Lethbridge, AB.

treaties were a hindrance for Indians to economic prosperity, according to the *White Paper*.²⁸¹

Chrétien's speech ostensibly promoted the recognition of treaties, but essentially Chrétien was promoting the completed *White Paper* to the Indian Chiefs of Alberta, in mid-June 1969. In retrospect, Chrétien's speech to the Indian Chiefs had distinguishable features of the *White Paper*. His speech was short and touched on themes of the *White Paper*. Chrétien began by addressing the delegates in attendance, with "[i]f I was an Indian to talk [to] you I would talke [sic] to you very frankly about the situation."²⁸² Chrétien's statement "[i]f I was an Indian..." suggested he wanted to connect with the Indian leaders. Further, he claimed that the Canadian public was "unrealistic" in regards to the situation of Indian people, and that this situation must change. Chrétien referred to the situation of Indian people, in terms of selling land and borrowing money. And, he implied, that in order for Indians to be "free," the cumbersome bureaucracy of the Indian Affairs and Northern Development must change without describing what that would entail. Chrétien also failed to explain in any great detail about the "end" of the status of Indians, but he did describe the preservation of Indian culture in the context of a "proud history."²⁸³ In closing, he stated that the Indian "situation" had never been at the forefront of the Canadian public, and that the Indian leadership had spoken very clearly of their intentions. Interestingly, Chrétien did not ask what the Indian leadership's intentions were, nor if their intentions would have an impact on government policy. Nevertheless,

²⁸¹ Canada, House of Commons, *Statement of the Government of Canada on Indian Policy, 1969* (Ottawa: Minister of Indian Affairs and Northern Development, 1969), 11. The *White Paper* stated that "treaties in meeting the economic, educational, and health and welfare needs of Indian people has always been limited and will continue to decline."

²⁸² *Ibid*, 11.

²⁸³ *Ibid*, 12.

Chrétien stated “[n]ext week the Federal government will let no change for the future of the Indians in the country [sic].”²⁸⁴ In other words, the federal government would not make any major changes regarding legislation that may affect Indians or, in effect, status-quo will prevail. Therefore, Chrétien’s speech to the Indian Chiefs of Alberta, in 1969, seems contradictory. He spoke of changes in the Indian Department, and then concludes with “no change[s]” for Indian people of Canada. Thus, his opening remarks to the Indian Chiefs promoted the contents of the *White Paper*. Only after the federal announcement of the *White Paper*, on June 25th 1969, Chrétien did begin to aggressively sell the *White Paper* to non-indigenous Canadian citizenry and industry.

The Contents of the White Paper

The Canadian government’s perspective on Indian treaties and lands is evident in the 1969 *White Paper*. Trudeau’s political ideas and in particular his concepts of a “Just Society” - freedom, equality, and equality of opportunity- were manifested in the *White Paper*. These ideas would combat poverty in Indian communities, as Trudeau and Chrétien anticipated, but they planned the abolishment of treaties and Indian lands, and to assimilate indigenous people into the Canadian body politic.²⁸⁵ Thus, to achieve equality, six legislative challenges were proposed in the *White Paper*. This section explores three of the six proposals of the *White Paper* framework to achieve equality: 1) “Legal Structure,” 2) “Claims and Treaties,” and 3) “Indian Lands.”

²⁸⁴ Ibid, 12.

²⁸⁵ The contents of the *White Paper* will be examined here, and the response from the Indian leadership will be examined in chapter three.

1) “Legal Structure”

The *White Paper* stated that in order to achieve a “Just Society,” Canada must eliminate discriminatory legislation.²⁸⁶ To do so, the federal government proposed to change the “Legal Structure” related to Indians and read; “Legislative and constitutional bases of discrimination be removed.”²⁸⁷ This proposal wished to remove any reference to Indians from the *Constitution Act* of 1867. The federal government claimed that their goal to remove Indians from the *Constitution* should be always in “view.”²⁸⁸ Further, the authors stated that section 91 (24) of the *Constitution*, which deals exclusively with Indians and reserve lands granted legal force to, and enactment of, the *Indian Act* of 1876, would also be repealed. The government’s rationale for the abolishment of the *Indian Act* and section 91 (24) of the *Constitution*, was based on “things said by the Indians,” at the consultation meetings.²⁸⁹ Thus, by eliminating any reference to Indians in the *Constitution*, according to the *White Paper*, “would be necessary to end the legal distinction between Indians and other Canadians.”²⁹⁰

2) “Claims and Treaties”

To “end” the legal distinction between Indians and non-Indians, the authors of the *White Paper* also proposed to “end” the historical treaty relationship between Indians and

²⁸⁶ Canada, House of Commons, *Statement of the Government of Canada on Indian Policy, 1969* (Ottawa: Minister of Indian Affairs and Northern Development, 1969), 8.

²⁸⁷ Ibid.

²⁸⁸ Ibid.

²⁸⁹ Jean Chrétien, *Statement by the Honourable Jean Chrétien, Minister of Indian Affairs and Northern Development*, speech delivered in Regina, 2 October, 1969, (Ottawa: Minister of Indian Affairs and Northern Development, 1969), 5.

²⁹⁰ Canada, House of Commons, *Statement of the Government of Canada on Indian Policy, 1969* (Ottawa: Minister of Indian Affairs and Northern Development, 1969), 8.

the Crown. Under the fifth proposal, the *White Paper* claimed that the historical treaties between Indian people and the federal government were largely misunderstood. In fact, the *White Paper* stated that “lawful obligations must be recognized...”²⁹¹ The *White Paper* contended that the literal translation of the treaties reveals that only “minimal” promises were made, such as cash, land, annuities, hunting, fishing, trapping, schools and teachers, “and in one treaty, a medicine chest” and, were refuted in the *White Paper*.²⁹² Therefore, the *White Paper* rationalized the significance of the treaties in relation to the contemporary needs of the Indian population and it determined that treaties would continue to “decline.”²⁹³

3) “Indian Lands”

The sixth proposal titled “Indian Lands” was to “end” the reserve system under the *Indian Act*, and convert reserve land to individualized ownership; accordingly, the “control of Indian lands should be transferred to the Indian people.”²⁹⁴ The *White Paper* stated that “[t]he policy statement is clear about the transfer of land to the Indian people.”²⁹⁵ Under the existing system, title to Indian lands (reserves) is held under the authority of the federal government regarding administrative control and legislative

²⁹¹ The *Hawthorn Report* referred to the legal status of Indians as a “political condition.” 263.

²⁹² Canada, House of Commons, *Statement of the Government of Canada on Indian Policy, 1969* (Ottawa: Minister of Indian Affairs and Northern Development, 1969) 11.

²⁹³ *Ibid.*

²⁹⁴ *Ibid.*

²⁹⁵ Jean Chrétien, “Why an old Indian pattern was broken” *The Globe and Mail* (1936-Current) Toronto, Ontario, 08 July 1969, 7, <http://0-search.proquest.com.darius.uleth.ca/docview/1242374944?accountid=12063>, (Last accessed 23/9/14).

authority.²⁹⁶ In other words, the federal government assumed the role of “trustee” of indigenous lands and, as such, administered the day-to-day operations associated with the land. The *White Paper* rationale for its position regarding the transfer to privatization of reserve lands arose from the consultation meetings with the Indian leadership and as a result, the government claimed that the Indians wanted individual control of their lands.²⁹⁷ The *White Paper* stated that under the prevailing system of land ownership, the federal government and the *Indian Act* were not flexible enough for economic development.²⁹⁸ Therefore, the government proposed to transfer control of reserve lands to Indians via individual land ownership, or “fee simple.”²⁹⁹ The *White Paper* proposed that the transfer might happen in various ways, but it preferred the “Indian Lands Act.”³⁰⁰ Under the “Indian Lands Act,” Indians would be “free” to have individual ownership of reserve lands. However, according to the *White Paper*, individuals who benefited and participated in land ownership would be governed by the “Lands Act.”³⁰¹ In effect, the “Indian Lands Act” determined who would qualify or benefit from the land.

²⁹⁶ Canada, House of Commons, *Statement of the Government of Canada on Indian Policy, 1969* (Ottawa: Minister of Indian Affairs and Northern Development, 1969), 12.

²⁹⁷ Jean Chrétien, *Statement by the Honourable Jean Chrétien, Minister of Indian Affairs and Northern Development*, speech delivered in Regina 2 October, 1969 (Ottawa: Minister of Indian Affairs and Northern Development, 1969), 5-6.

²⁹⁸ Both Trudeau and Chrétien have law backgrounds and knew the value to land in private property terms.

²⁹⁹ Canada, House of Commons, *Statement of the Government of Canada on Indian Policy, 1969* (Ottawa: Minister of Indian Affairs and Northern Development, 1969), 12.

³⁰⁰ Jean Chrétien, *Indian Policy - Where Does It Stand?* Speech at the Empire Club, Toronto, 16 October, 1969 (Ottawa: Minister of Indian Affairs and Northern Development, 1969) 1.

³⁰¹ Canada, House of Commons, *Statement of the Government of Canada on Indian Policy, 1969* (Ottawa: Minister of Indian Affairs and Northern Development, 1969), 12.

Public Response to the White Paper

After the initial public announcement of the federal *White Paper* on Indian policy in June 1969, segments of the Canadian population began to immediately respond to the federal proposal with varying opinions, particularly the Canadian Press (newspapers), the Indian leadership, and the Anglican Church of Canada.

1) The Canadian Press

This section briefly examines newspapers from several regions in Canada.³⁰² Initially, the response of the press to the federal government announcement was positive, soon after its release to the public.³⁰³ Press reports generally link the federal statement to Canadian citizenship.³⁰⁴ For instance, headlines read: “Indians Independent ‘Within five Years,’” “Ottawa Plans to Treat Indians as Full Citizens,” “Indian Policy Heralds Just Society,” “Full Equality For Indian Set,” “New Start for Indians,” “New Indian Deal Offered Provinces,” and “Ottawa Plans to Abolish Treaties, Move out of Indian Affairs in 5 Years.”³⁰⁵ The press seemed to argue that the *White Paper* was a positive advocacy for

³⁰² My analysis of the newspaper articles during the *White Paper/Red Paper* period is not intended to be an exhaustive search of media from across the country. However, the regions presented here are meant to provide a sampling of newsprint from that period. For a more detailed and comprehensive look at aboriginal people as portrayed in the press, and in regards to Canadian nationalism, see Mark Cronlund Anderson and Carmen Robertson, *Seeing Red: A History of Natives in Canadian Newspapers* (Winnipeg, Manitoba: University of Manitoba Press, 2011).

³⁰³ Weaver stated that the newspapers did not initially catch the federal statement’s remarks regarding the termination of the treaties and the denial of aboriginal lands rights, 173.

³⁰⁴ Mark Cronlund Anderson and Carmen Robertson, *Seeing Red: A History of Natives in Canadian Newspapers*, (Winnipeg, Manitoba: University of Manitoba Press, 2011), 159.

³⁰⁵ *Calgary Herald*, 26 June 1969, 1&2; *Toronto Daily Star*, 26 June 1969, 1&2; *Toronto Daily Star*, 26 June 1969, 8; *Ottawa Citizen*, 26 June 1969, 3; *Montreal Star*, 26 June 1969, 1; *Lethbridge Herald*, 25 June 1969, 1; *The Goble and Mail*, 26 June 1969, 1&2.

Indian people and their emersion into mainstream society. Further, the press alluded to Indian people in Canada, as defined under the *Indian Act*, as “non-citizens,” and pointed to “Trudeau’s heroic aim to change this” situation for Indians.³⁰⁶ According to Anderson and Robertson, the media did not challenge the government’s position on Indian policy, rather “[t]he papers uncritically adopted the Trudeau government’s paternalistic position that natives needed to be absorbed into the body politic.”³⁰⁷ In other words, the press assumed that assimilation of Indian people into mainstream society was the best alternative for Indians and thereby adopting full citizenship.³⁰⁸ Robertson argued that the mainstream press advocated for the *White Paper* in terms of citizenship, and that “First Nations persons were, in fact, less than citizens, and that assimilation would rectify this juridico-political deficit.”³⁰⁹

Collectively, the headlines implied that Indians were a part of contemporary Canadian life, and they should not be relics of the past. Thus, the newspaper headlines of the time failed to capture what was not proposed in the *White Paper*; the termination of the treaty relationship between Canadians and Indian people.³¹⁰ The newspapers also assumed that the Indian people were in complete agreement with the *White Paper* on issues such as citizenship. Generally, however, newspapers focused on Canadian

³⁰⁶ Mark Cronlund Anderson and Carmen Robertson, *Seeing Red*, 159.

³⁰⁷ *Ibid.*

³⁰⁸ *Ibid.*

³⁰⁹ Carmen Robertson, “Imaginary Citizens: The White Paper and the Whitewash in the Press,” in *Narratives of Citizenship: Indigenous and Diasporic Peoples Unsettle the Nation-State*, ed. Aloys N. M. Fleischmann, Nancy Van Styvendale, and Cody McCarroll (Edmonton, Alberta: The University of Alberta Press, 2011), XXXVII.

³¹⁰ Weaver, 173, Weaver stated that initially the press did not catch the termination of treaties and the denial of aboriginal rights.

citizenship and the social situation of indigenous people, rather than the termination of treaties and lands.

The social situation of indigenous people was captured by one newspaper columnist's remarks through a reference to Trudeau's "Just Society." Anthony Westell, a columnist from the Toronto *Daily Star* reported, "the intention is to end the state of dependency which the Indians have being forced to live...and to push them out into the world to make it on their own."³¹¹ Westell infantilized Indians implying they needed to experience the real world rather than depend on the federal government for security. Other journalists did not express an official challenge, but reiterated the federal perspective. For example, the *Lethbridge Herald* covered the policy statement by directly excerpting from the *White Paper*; "This Government believes in equality that all men and women have equal rights...especially that no one shall be shut out because of his race."³¹² The *Lethbridge Herald* did not explicitly express its stance on the federal proposal, but seemed to advocate for the federal position by ending the column with reference to equality.³¹³

By mid-July 1969, the press reported that indigenous people were dissatisfied with the government's *White Paper*, and indigenous dissent appeared on the front pages of some newspapers: "Insincere and a Lair' Ontario Indians blast Chretien," "Do Indians

³¹¹ Anthony Westell, "Indians Policy Heralds Just Society," Toronto *Daily Star*, 26 June 1969, 8.

³¹² Canadian Press (CP), "New Indian Deal Offered Provinces," The *Lethbridge Herald*, 25 June 1969, 1. Also see: the Statement of the Government of Canada on Indian Policy, 1969, 6.

³¹³ Lethbridge is adjacent to the Blood Indian reserve and comprises the largest reserve in Canada, in terms of land mass; therefore, the excerpts tell a different story.

Dare Buy Chretien's Dream?" and "Ottawa Opts out in Policy Switch."³¹⁴ Judging by the press coverage, the Indian leadership disagreed with the federal government's *White Paper*, and the press quickly responded. For example, the *Toronto Weekend Telegram* reported that, in a meeting held in Toronto, 25 July 1969, by the Union of Ontario Indians, the Minister of Indian Affairs, Jean Chrétien and members of his department, attended the meeting unannounced and faced a barrage of "verbal abuse," in which Chrétien was accused of being "insincere and a liar."³¹⁵ Yet, another columnist from the *Ottawa Citizen* stated that "the Indians know a bird in the hand and they are not at all sure about those in the provincial bushes."³¹⁶ In the latter article, the columnist referred to the transfer of service of Indians from the federal government to provincial authorities. In other words, Indians have a relationship with the federal government under the *Indian Act* regarding service provisions, yet there are no agreements with the provinces. Nevertheless, the level of criticism was negative from both the press and, to a large extent, from the Indian leadership to the federal government's statement on Indian policy.

On June 26 of 1969, initial reactions from indigenous leaders to the policy statement by the federal government were mixed, and were recorded by several newspapers. According to the *The Globe and Mail*, Indian leaders varied in opinion, from "disappointing" to "encouraging."³¹⁷ In the same paper, Harold Cardinal, president of the

³¹⁴ *Toronto Weekend Telegram*, 5 July 1969, 9; *Ottawa Citizen*, 8 July 1969, 7; *Calgary Herald*, 25 June 1969, 1&2; and the *Kainai News*, 15 July 1969, 1.

³¹⁵ *Toronto Weekend Telegram*, 5 July 1969.

³¹⁶ *Ottawa Citizen*, 8 July 1969.

³¹⁷ See *Ottawa Citizen*, "Full Equality for Indian set," 26 June 1969, 3&21, and "Indian Leaders Surprised by Move," *The Globe and Mail*, 26 June 1969, 3 (1936-Current) ProQuest Historical Newspapers: *The Goble and Mail*, (1844-2010). Indian leaders expressed their varying opinion regarding the release of the federal *White Paper*. Native leaders included: Walter Dieter (NIB), Harold Cardinal (IAA), Andrew Nicholas,

IAA, expressed “delight” to the proposed abolishment of the Department of Indian Affairs. According to Weaver, Cardinal’s stance on the Indian Affairs Branch was consistent with his previous public statements in this regard.³¹⁸ On the same day, the *Ottawa Citizen* recorded Andrew Nicholas, president of Union of New Brunswick Indians, as stating he was “most disturbed by the proposal,” by virtue of fact that the Minister of Indian Affairs, Jean Chrétien, had failed to consult “Indian officials first” for input into the *White Paper*.³¹⁹ According to the newspapers, the Indian leadership was not consulted on the *White Paper* regarding the new policy direction. Eventually, despite their initial positive embrace of the *White Paper* the press overall responded to indigenous concerns over the federal proposal. The newspapers reported that the Indian leadership expressed a mixture of opinions, from “delight” to disappointment, in response to the statement by the federal government.

2) Indian Leaders

The native leadership also responded to the federal *White Paper*, soon after its release, particularly with respect to the consultation meetings, treaties and lands. The consultation meetings were significant to the federal government and its *White Paper* in three ways: 1) the consultation meetings were designed to elicit Indians to amend the *Indian Act*, but apparently no discussions on the *Act* had happened; 2) as Weaver points out, the consultation meetings were an early indication of Trudeau’s political idea of

president of Union of New Brunswick Indians, Chief Max Gros-Louis, Association of Quebec Indians, and Ross R. Modeste, Chairman of British Columbia’s Indian Advisory Board.

³¹⁸ Weaver, *Making Canadian Indian Policy*, 173.

³¹⁹ *Ottawa Citizen*, “Full Equality for Indian set,” 26 June 1969, 3&21.

participatory democracy; and 3) the consultation meetings provided the government with a platform to justify its *White Paper* on Indians.

In late June 1969, the Indian leadership sent out a press release expressing their sentiments about the *White Paper*. The press reported that the Indian leaders touched on many issues, but for the Indian leadership, the most prominent issues were the lack of consultation, the collective rejection of treaties, and government's perspectives on Indian lands. Indian leaders increasingly used the press to express their opposition to the federal *White Paper*. In a statement to the press from the Nation Indian Brotherhood (NIB) on 26 June, 1969 the Indian leadership expressed angry disapproval of the federal *White Paper* on Indian policy.³²⁰ The NIB release stated that the government failed to negotiate with Indian people. For example, the press release explicitly cited the highly publicized consultation meetings with the federal government, where the NIB had "made it abundantly clear" to the Minister of Indian Affairs and Northern Development that the first step was to honour the treaties.³²¹ The NIB stated, "[y]et in the policy statement this [treaties] over-riding concern receives only passing mention where the Government is prepared to "allow – transitional freer hunting...but ignores the principle involved."³²² Further, the NIB expressed the opinion that there was no mention of the earlier *Hawthorn Report* in the *White Paper*; the former had recognized the special rights of indigenous people in Canada. The press release by the NIB concluded with the following statement; "If we accept this policy, and in the process lose our rights and our lands, we become

³²⁰ Statement of National Indian Brotherhood, 1970. Weaver stated that the statement from the NIB to the press, was 26 June 1969, footnote 10. Also see, The Anglican Church of Canada, *Bulletin 201* (n. p.: Anglican Church of Canada, 1970), 27-29.

³²¹ Weaver, *Making Canadian Indian Policy*, 173.

³²² *Ibid*, 28.

willing partners in cultural genocide.”³²³ The latter statement from the NIB was angry and it was clear that they did not want to participate in a process of legislative destruction of Indian people.

The press statement by the NIB set the national tone and level of criticism by the Indian leadership towards the *White Paper*. On the same day, 26 June, 1969, a press release authored by the Manitoba Indian Brotherhood (hereafter, the MIB), echoed the NIB statements regarding the federal statement on Indian policy. The president of the MIB, Dave Courchene, represented the organization’s position to the *White Paper*.³²⁴ The contents and tone from the MIB statement were one of anger and frustration: “I am returning from Ottawa with feelings of bitterness, frustration, and anger. Once again the future of Indian people ha[s] been dealt with in a high-handed and arbitrary manner.”³²⁵ The statement dealt at some length with the points described in the *White Paper* but, like the NIB’s criticism, the prominent dispute was the government’s failure to consult. Courchene’s response to the *White Paper* was forceful and read; “[w]e have not been consulted, we have been advised of decisions already taken. I feel like a man who has been told he must die and am now to be consulted on the method of implementing this decision.”³²⁶ Courchene’s statement echoed the NIB statement regarding the absence of consultation, but in a more aggressive fashion. Interestingly, unlike the NIB’s statement, Courchene’s statement expounded on the elimination of the constitutional distinction of

³²³ Statement of National Indian Brotherhood, 1970, see The Anglican Church of Canada’s booklet, *Bulletin 201* (n. p.: Anglican Church of Canada, 1970), 27-28.

³²⁴ Dave Courchene used the term “cultural genocide” to express his disapproval to the *White Paper*. Cited in The Anglican Church of Canada’s booklet, *Bulletin 201* (n. p.: Anglican Church of Canada, 1970), 30-31.

³²⁵ *Ibid*, 30.

³²⁶ *Ibid*.

Indians, which explained the many varied opinions native leaders had on the topic. His press release let Canadian society know that the government's *White Paper* did not reflect indigenous interests, and that the Indian people were not consulted on the *White Paper*. Courchene's statement to the press regarding Indians was clearly directed at the Canadian public; "[t]hey have decided to impose upon all of us [Indians] their solution to inequality."³²⁷ Further, he explained that the elimination of Indians from the constitution will not bring "equality" to Indians. He compared the federal government's position on language rights and French Canadians to the policy on Indians; "...that such references [sic] to two foundation nations and bilingualism should be eliminated so that there would be no distinction between the 'French' and 'English' and the rest of the Canadian ethnic population."³²⁸ Thus, Courchene stated that "equality is based on mutual respect, rather than legislative inclusion or exclusion."³²⁹ By mid-July, the Indian leadership had "uniformly" rejected the *White Paper*.³³⁰

The Indian leadership's views on the federal government's *White Paper* had not changed a year after the federal announcement and they consistently used the press to get their message across to the Canadian public. One year later, in June 1970, the Canadian Broadcasting Corporation (CBC) radio program *Indian Magazine* interviewed Indian leaders from across the country regarding the *White Paper*.³³¹ Central to the discussion,

³²⁷ Ibid.

³²⁸ Ibid.

³²⁹ Ibid, 30.

³³⁰ Sally Weaver, *Making Canadian Indian Policy*, 175.

³³¹ Harold Cardinal et al, interviewed by Peter Kelly, *Indian Magazine*, CBC Radio, June 6, 1970. The panel consisted of Harold Cardinal (IAA), Forrest Walkham (Union of BC Chiefs), Andrew Nicholas (Union of New Brunswick Indians), and Fredrick Plain (Union of Ontario Indians).

amongst other issues, was the debate on policy versus proposal. Both Forrest Walkham (Union of British Columbia Chiefs) and Andrew Nicholas (Executive Director of the Union of New Brunswick Indians) were in agreement that the *White Paper* was presented to Indians as a policy paper rather than a proposal.³³² Nicholas was the most vocal critic of the term “proposal” and stated that “it was only after the objections from Indian people that he [Chrétien] changed the word to proposal, because it was an outright policy when he announced it.”³³³ Nevertheless, in regards to treaties and Indian rights, Cardinal remained sceptical about the government’s approach to ending treaties. Cardinal described how the government had relied on the Canadian public as the final vote to decide on the future of treaties: “[o]ur [Indian leadership] problem in the past have been the federal government went to the Canadian people and said that they [Indians] want special status, and we [federal government] think we should treat them equally...”³³⁴ Cardinal seemed to indicate that the government relied on the Canadian public to advance policy in their favour. In a sense, the Canadian public was sort of a last resort to recruit support for the government regarding Indian policy. Cardinal stated that the government’s approach by going to the public had put Indian leaders on the “defensive” and, as a consequence, the Indians were on the “losing end.”³³⁵ An example of Cardinal’s fear regarding the Canadian public as the final arbiter was illustrated in a speech by Trudeau, in 1969. At a Liberal Convention dinner, Trudeau announced to the members in

³³² Ibid. Also see Weaver, *Making Canadian Indian Policy*. Weaver stated that Chrétien claimed that the *Whiter Paper* was a proposal and not policy. She explained that Chrétien’s statement in the House of Commons “left a clear impression that the government was committed to its implementation.” 176.

³³³ Ibid.

³³⁴ Ibid.

³³⁵ Ibid.

attendance that “it will be up to all of you people to make your minds up and to choose for or against it, and to discuss it with the Indians,”³³⁶ regarding treaties and claims. In other words, according to Trudeau, the burden lay with the Canadian public regarding the future of treaties and aboriginal claims.

3) The Anglican Church of Canada

Segments of the Canadian population were in support of the Indian leadership opposing the government’s proposed new direction on Indian policy. For example, in 1970, the Anglican Church of Canada published a booklet called the *Bulletin 201* dedicated to native issues of concern to the Church.³³⁷ The booklet reproduced excerpts from speeches by Jean Chrétien, Minister of Indian Affairs and Northern Development, and leadership from various Indian organizations, such as the NIB and MIB. The booklet is valuable in terms of reporting on the various speeches by Indians, non-Indians, government, and the response to them from the Anglican Church.

³³⁶ Thomas R. Berger, *Mackenzie Valley Pipeline Inquiry* (1969-1988), Box 19, folder 3, Thomas Berger fonds. University of British Columbia Library Rare Books and Special Collections, Vancouver, BC. The transcript of the Prime Minister Pierre Trudeau’s remarks at the Vancouver Liberal Association Dinner Seaforth Armories, Vancouver, BC, Canada, on August 8, 1969 was found in Thomas Berger fonds.

³³⁷ The 1969 General Synod of the Anglican Church of Canada, “The Henry Report: Recommendations,” in *Bulletin 201* (Toronto, ON: The Anglican Church of Canada, 1970). Alan Lauffer Hayers, *Anglicans in Canada: Controversies and Identity Historical Perspective* (Urbana: University of Illinois Press, 2004), 40. According to Lauffer Hayers, “Charles Hendry, director of the School of Social Work at the University of Toronto, was hired to produce what came to be called the “Hendry Report” (its actual title was *Beyond Traplines*).”

In 1970, the Anglican General Synod represented one and one half million Canadians.³³⁸ In August 1969, the General Synod had their annual meeting to discuss native issues and concerns. The *Hendry Report* emerged as document from this meeting of the General Synod and the *Hendry Report* outlined nine recommendations about native concerns for the Church to resolve.³³⁹ Of significance was a recommendation to address a letter to the Prime Minister of Canada, Pierre Trudeau concerning the *White Paper* on Indian policy. Howard H. Clark, the Anglican bishop of the time, wrote to Pierre Trudeau expressing the Church's concern over the government's proposed direction regarding Indian policy. The letter addressed four items that needed immediate attention. First, Clark urged the federal government to cease any new "policy" regarding the interests of Indians people without "in depth" consultation.³⁴⁰ Second, Clark expressed support for Indian's pursuit of justice through the recognition of treaty and aboriginal rights.³⁴¹ Third, Clark advocated for financial support to Indian organizations for the purpose of research relating to treaty and aboriginal rights.³⁴² Finally, Clark expressed concern of the Church's governing body (General Synod), requesting that the Bishop interpret the resolution to the federal government and their affiliate dioceses. Although, the fourth resolution was unclear and the booklet did not explain why an interpretation of its recommendations to the federal government and affiliated dioceses was needed. However, the fourth resolution may be interpreted to mean that the Synod's letter to Prime Minister Trudeau was in effect, the Church's official position to the federal

³³⁸ Ibid.

³³⁹ Ibid. The General Synod authored the *Hendry Report*, and outlined nine recommendations in support of native organizations in pursuit of justice, 20.

³⁴⁰ Ibid.

³⁴¹ Ibid.

³⁴² Ibid.

government and its representatives of indigenous people quest for “justice.”³⁴³ Clark closed by emphasizing the government’s “present course,” be reconsidered in light of the expressed desires of the Indian leadership. The Synod’s letter to Trudeau further stated that the Church’s official position in pursuit of justice would occur through the recognition and settlement of the “ancient” treaties, signed with the Crown. The booklet’s expression of disapproval and rejection of the federal *White Paper* on Indian policy clearly affirmed the Anglican Church’s opposition in harmony with Indian leadership to the federal proposal and its quest to reject treaties and aboriginal claims to land.

Conclusion

In the 1960’s, the Canadian federal government’s perspective on Indian treaties and lands was ostensibly influenced by the *Hawthorn Report* of 1967. Although the federal government officially rejected the *Hawthorn’s* findings, similarities between the *Report* and the federal *White Paper* on treaties and lands, were clear. The goal of the *White Paper*, like the *Hawthorn Report*, was to terminate Indian status and to assimilate Indian people into the Canadian body politic. Assimilation was also evident in Pierre Trudeau’s notion of a “Just Society.” A “Just Society” supplied the political architecture for construction of the equality claims of the *White Paper*. This proposition to assimilate Indians into Canadian society also was evident in the front headlines of Canadian newspapers in response to the *White Paper* from 1969 to 1970 when they declared Indians as full citizens.

³⁴³ At the time of the Bishop’s letter to the then Prime Minister Pierre Trudeau, the Anglican Church represented over 1.5 million members in Canada. In terms of electorate, the Anglican Church of Canada represented a huge voting bloc.

In contrast, the Indian leadership and Anglican Church of Canada expressed opposition to the *White Paper*. The impact of the *White Paper* crystallized in the minds of the Indian leadership, once they realized the federal government's proposed termination of the treaty relationship, and the removal of communal lands in favour of fee simple title holdings, were realized. As a result, both the Indian leadership and Anglican Church reacted strongly against the *White Paper*. In sum, the *White Paper* catapulted Indian people to collectively reject the federal *White Paper*, and in the process developed their own document called the *Red Paper*.

Chapter Three - The Indian Leadership Responds: The IAA and *Citizen Plus/the Red Paper*

Introduction

In the previous chapter, I argued that the narrative of the federal *White Paper* (1969) proposed to eliminate indigenous interest to land by terminating the legal existence of treaty responsibilities as a means to ultimately solve what the government administration saw as the “Indian problem.” This chapter examines how the IAA and Harold Cardinal responded to the themes of assimilation and citizenship articulated in the *White Paper*. Cardinal and the IAA developed a response titled, *Citizen Plus/the Red Paper* (1970), which is more commonly referred to as the *Red Paper* as a counter-narrative to the government’s master narrative of assimilation and citizenship.³⁴⁴ In contrast to the *White Paper*, the *Red Paper* emphasized treaties, as the foundation for the future relationship between Indians and the government.

This chapter is divided into three sections. Section one examines the 1970 *Red Paper* authored by the IAA. The *Red Paper* was foremost a counter-proposal that stressed the importance of the treaties between the Crown and Indian people, it also proposed two strategies on education and economic development.³⁴⁵ Specifically, this section will briefly explore the *Red Paper*’s six counter-proposals as a response to the *White Paper*. Following a review of the six counter-proposals, three of the six counter-proposals will

³⁴⁴ Aloys N. M. Fleischmann, Nancy Van Styvendale, and Cody McCarroll define the term master narrative, as the “geographic space of ‘Canada’ is home to only one nation, a nation with a uniform citizenry – “equal” and the same.” Cited in, *Narratives of Citizenship: Indigenous and Diasporic Peoples Unsettle the Nation-State* (Edmonton, Alberta: The University of Alberta Press, 2011), xii.

³⁴⁵ The Indian Association of Alberta, *Citizen Plus: the Red Paper* (Edmonton, Alberta, reproduced with the permission of the Indian Association of Alberta, 1970), 4-23.

be explored in detail: “Indians Status,” “Lawful Obligations,” and “Indian Control of Indian lands.”³⁴⁶ The latter three points, argued in the *Red Paper*, emphasized the need for the federal government to honour its commitments made in the treaties to Indian people; the *Red Paper* stated that the treaties were “historical, moral, and, legal” agreements.³⁴⁷

In section two I briefly examine the IAA from its inception in 1939 to the mid 1960s.³⁴⁸ Although research into native political groups in the early part of the twentieth century has been scarce, the work of historian Laurie Meijer-Drees titled (2002) *The Indian Association of Alberta: A History of Political Action* will be used here to consider the IAA. The relevance of the IAA is important to examine in relation to the 1970 *Red Paper* for several reasons. First, the IAA produced a generation of leaders outside the framework of the government sponsored band councils.³⁴⁹ The IAA executive was elected democratically and the positions were non-paid until 1968, which had appeal to the grassroots.³⁵⁰ According to Meijer-Drees, like band council, the IAA experienced roadblocks when dealing with Indian Affairs administrators; however, “unlike band council leaders, the IAA leaders could use the media to draw public support to their cause

³⁴⁶ The framework of the counter-proposal in the *Red Paper* used the same headings as described in the *White Paper*'s framework.

³⁴⁷ Indian Association of Alberta, *Citizen Plus: the Red Paper*, 7.

³⁴⁸ Laurie Meijer-Drees, *The Indian Association of Alberta: A History of Political Action* (Vancouver: UBC Press, 2002, 2002), xiii. Meijer-Drees states that materials related to native political leaders and their organizations after the Second World War is thin. She explained part of the reason for the lack of academic literature of the subject is due in part to Indian leaders themselves. That is, Indians leaders during that time period were excellent orators and many did not rely on notes or prepared speeches, but spoke from the voice instead. However, if speeches were made, according to Meijer-Drees, the families of the leaders may have them in their possession and may not be readily available to the general public, xvii.

³⁴⁹ *Ibid*, 190.

³⁵⁰ *Ibid*.

and raise collective concerns such as treaty rights.”³⁵¹ Second, the IAA was able to generate a “shared understanding of what was possible within the Canadian polity.”³⁵² As Meijer-Drees explains, “[t]his kind of experience was a vital precursor for the emergence of the successful nation-level Indian political movement of the late 1960s. The IAA was one of the first Indian associations in Western Canada to extend itself beyond treaty boundaries.”³⁵³ Meijer-Drees’ work is essential in reconstructing the IAA in the early years and as a viable and credible organization able to negotiate with the federal government on treaty and treaty rights at a particular period in history when Indian political activity was prohibited.³⁵⁴ Therefore, this section briefly examines the origins of the IAA in relation to forming a provincial-wide Association through its networks and constitution. Emphasis, however, is on the significant events of the 1940s related to the IAA. These events included the two Memorials on Indian Affairs in 1944, and 1945, and the 1946-1948 Special Joint Committee to amend the *Indian Act*.³⁵⁵ The relevance of the 1940s for the IAA in dealing with government authorities, demonstrates that the Association had a long history of political activism on such issues as treaty rights, and was not an ad-hoc formulation conjured up in the *Red Paper*. In other words, issues such

³⁵¹ Ibid.

³⁵² Ibid.

³⁵³ Ibid.

³⁵⁴ Sharon Venne, *Indian Acts and Amendments 1968-1975* (Saskatchewan, University of Saskatchewan Native Law Centre, 1981), 230. The 1927 amendment to the *Indian Act* added prohibition for rising funds for claims against the government and included an amendment to section (141) that stated “[r]eceiving money for the prosecution of a claim,” in Venne, 230. In 1951, major amendments to the *Indian Act* included, repealing the prohibition on religious customs (potlatch and sundance) and raising money for political purposes, in Venne, 353.

³⁵⁵ The two petitions were titled *Memorial on Indian Affairs*, in 1944 and 1945. See Meijer-Drees, footnote 61 and footnote 97, 217-218, respectively.

as treaty rights, education, and community improvement had “historical depth.”³⁵⁶ Taken together, these events in IAA history showed that the Association was a credible organization within government circles, whether or not the government catered to their demands.³⁵⁷ With the success of the IAA in their dealing with the government also came with it a low point in the organization’s history during the 1950s, which also is briefly examined.

Section three examines Harold Cardinal president of the IAA in the late 1960s. In the late 1960s, the IAA elected a young and vibrant leader with the goal of revitalizing the organization with new ideals in the form of pursuing treaties.³⁵⁸ Cardinal restructured the organization’s constitution to better reflect its provincial-wide membership and its interest to pursue treaty rights.³⁵⁹ The pursuit to reassert treaties as a political goal was congruent with Cardinal’s political philosophy. Cardinal’s political philosophy derived from his family and cultural backgrounds, and his passion for treaties often showed in speeches to the IAA. However, as leader, Cardinal faced opposition from critics within the Indian community, who denounced his leadership and the direction of the Association regarding treaty claims. Nevertheless, aside from the politics and those who opposed Cardinal’s leadership, Cardinal and the IAA produced the most significant counter-proposal to the federal government’s *White Paper*, the *Red Paper* of 1970.

³⁵⁶ Ibid.

³⁵⁷ Ibid, xiv, Meijer-Drees states that the government responded well to the IAA and whether the government’s response had been due to a “desire of non-Native politicians to enhance their own image as liberal-minded citizens as much as to their desire to assist treaty Indians in their struggle to improve their position.”

³⁵⁸ Ibid, 158.

³⁵⁹ Ibid, 165.

Section One: *The 1970 Red Paper*

As stated in this chapter's introduction, in 1970 the IAA produced its counter-proposal titled *Citizens Plus/the Red Paper*, as a response to the federal government's *White Paper* regarding Indian policy. The *Red Paper* advocated the importance of treaties to First Nations people and its foundation in the relationship between the federal government and Indian people. This section examines the *Red Paper* and what it advocated as important in the relationship between both parties. The *Red Paper* identified six counter-proposals and is listed here in the following under two broader groups: 1) (a) "Unique Indian Culture and Contribution," (b) "Channels for Services," and (c) "Enriched Services" (the latter two proposals will be examined together, as they are similar). The following three proposals will be examined specifically, and are: 2) (a) "Legal status of Indians," (b) "Lawful obligations" and, (c) "Indian Control of Indian Lands."

1. A) "Unique Indian Culture and Contribution"

Under the section 1. A "Unique Indian Culture and Contribution" to Canadian life, the *Red Paper* reminded the federal government that Indian people had contributed to Canadian history via the historical treaties.³⁶⁰ This perspective is reinforced by legal scholar John Borrows, treaties "helped to bring Canada into existence within certain areas..."³⁶¹ where these agreements were signed. During the release of the *Red Paper* in

³⁶⁰ The Indian Association of Alberta, *Citizens Plus: the Red Paper*, 6.

³⁶¹ John Borrows, *Canada's Indigenous Constitution* (Toronto, Canada: University of Toronto Press, 2010): 27-28. Borrows contends that where historic treaties have been negotiated was not only a sign of *the unique Indian culture and contribution* to Canada, but also a testament of nation-to-nation agreements. (Emphasis in italics is my own).

1970, the IAA had documented that Indian history was absent from popular history books.³⁶² Nevertheless, the IAA argued that the treaties were an important part of our collective Canadian history. However, the treaties have not been officially accepted as part of the Canadian historical record. According to Cardinal, the government knew that the Indian owned the land and, “it was upon this basis...that the treaties were negotiated.”³⁶³ Thus, by the virtue of the signed treaties, Indians have “played a significant role in Canadian history.”³⁶⁴

1. B & C) “Channels for Services” and “Enriched Services”

The unique contribution by Indians to Canadian history, leads to the next proposal presented in the *Red Paper*, service provisions. Through the acknowledgement and implementation of treaties, the IAA argued that “Channels for Services” were the responsibility of the federal government, rather than the provinces. The federal government, the IAA argued, had a direct responsibility to provide services to Indians as defined under the treaties, and the 1867 BNA Act.³⁶⁵ The other selling feature of the *White Paper*, according to the *Red Paper*, was “Enriched Services.” The government stated that those reserve communities who were the “farthest behind” would be helped first.³⁶⁶ The *Red Paper* stated that all reserve communities needed financial assistance,

³⁶² The Indian Association of Alberta, *Citizens Plus: the Red Paper*, 81-84. The IAA cited the lack of Indian history in school curriculum and attributing “cultural difference,” between Indians and non-Indians as the major reason for the high drop-out rate for Indian students.

³⁶³ Harold Cardinal, *The Unjust Society*, 25.

³⁶⁴ *Ibid*, 11.

³⁶⁵ The Indian Association of Alberta, *Citizens Plus: the Red Paper*, 6.

³⁶⁶ Canada, House of Commons, *Statement of the Government of Canada on Indian Policy, 1969* (Ottawa: Minister of Indian Affairs and Northern Development, 1969), 10.

particularly in areas of “economical, social, and cultural development.”³⁶⁷ Further, the *Red Paper* stated that the government’s version of financial assistance were “bribes” to get Indians to accept the rest of the *White Paper* proposal.

2. A) “The Legal Status of Indians”

The “Legal Status of Indians” was defined in two pieces of legislation, the *British North American Act* of 1867 (BNA), and the *Indian Act* of 1876. Both Acts were addressed in the *Red Paper*. The *Red Paper* responded to proposal one of the *White Paper*, which read that: “Legislative and constitutional bases of discrimination be removed.”³⁶⁸ The *Red Paper* rejected the proposal and stated: “We say the recognition of Indian status is essential for justice.”³⁶⁹ The *Red Paper* stated that the legal recognition of Indians was necessary if Indians were to be treated “justly.” The IAA contested the proposal to repeal of the *Indian Act*, under section 91 (24) of the *Constitution Act of 1867*, and stated that the legal definition of registered Indians must remain.³⁷⁰ Section 91 (24) also gave sole jurisdiction to the federal government to administer the affairs of “Indians, and lands reserved for Indians.”³⁷¹ In regard to Indians, the *White Paper* clearly stated that the government saw this legislation as “discriminatory legislation.” The government proposed that section 91 (24) from the *Constitution Act* be removed to ensure

³⁶⁷ The Indian Association of Alberta, *Citizen Plus: the Red Paper*, 7.

³⁶⁸ Canada, House of Commons, *Statement of the Government of Canada on Indian Policy, 1969* (Ottawa: Minister of Indian Affairs and Northern Development, 1969), 6.

³⁶⁹ The Indian Association of Alberta, *Citizen Plus: the Red Paper*, 4.

³⁷⁰ *Ibid*, 5. Also see Harold Cardinal, *The Unjust Society*, 36. Cardinal stated that section 91(24) was created to administer the provisions of the Indian treaties, but over time and in practice, unilateral authority was solely administered by the federal government over the lives of Indian people.

³⁷¹ Harold Cardinal, *The Unjust Society*, 36.

that there was no legal distinction between Indians and non-Indians.³⁷² Since the *Constitution Act of 1867* came into legal force in the late nineteenth century, it had created Indian people as a “race a part” by placing them into a different constitutional category separate from other Canadians. In effect, the constitutional category of Indian peoples defines a distinct relationship with the Crown as compared to the immigrant population. Nonetheless, the government’s goal of constitutional change and the elimination of the “Indian problem” would be realized. Under the government’s proposal, constitutional change would cease to recognize the legal status of Indians, so too would the *Indian Act*.

The IAA argued that it was neither possible nor desirable to terminate the *Indian Act*. The authors of the counter-proposal contended that the *Indian Act* provided the legal framework for Indians, just as the many federal and provincial statutes provide for Canadians.³⁷³ However, the *Red Paper* stated that the *Indian Act* was essential to review, as some sections were outdated and other sections would need further amendments.³⁷⁴ According to the IAA, if an Indian wishes to voluntarily give up their legal status, or become enfranchised and integrate into the mainstream society, the choice was her/his.³⁷⁵ The *Indian Act* of 1876 was created under section 91 (24) of the *Constitution Act of 1867*

³⁷² Canada, House of Commons, *Statement of the Government of Canada on Indian Policy, 1969* (Ottawa: Minister of Indian Affairs and Northern Development, 1969), 8.

³⁷³ *Ibid*, 12.

³⁷⁴ The Indian Association of Alberta *Citizen Plus: the Red Paper*, 8. The *Red Paper* described that the “spirit” of the *Indian Act* as paternalistic, but in the same also described the Act as providing the legal bases for Indians.

³⁷⁵ The enfranchisement section of the *Indian Act* makes allowances for Indians who wished to voluntarily give up their Indian status and assimilate into the broader Canadian society, but very few Indians choose this path.

to administer “Indians and Indian lands.”³⁷⁶ Cardinal argued that under section 91 (24) of the BNA Act ensured the distribution of the treaty provisions by the dominion government after Confederation.³⁷⁷ Further, he argued that the *Indian Act* was created for the administration of the reserve lands provided by the treaties.³⁷⁸ Indeed, proposal one of the *White Paper* was essential for the IAA, as it recognized their legal distinction as Indians. Hence, the intent of proposal one of the *White Paper*, was to terminate the legal barriers that it would make Indians equal with other Canadians.

2. B) “Lawful Obligations”

The opening paragraph of the *Red Paper* reinforced the importance of treaties for First Nations people under “Lawful Obligations.” The *Red Paper* emphasized treaties and lands as being significant to the “well being of future generations” of Indian people.³⁷⁹ Essentially the authors of the *White Paper* viewed the historical treaties between indigenous people and the federal government, as inappropriate in modern times.³⁸⁰ The *Red Paper* refuted that statement in the *White Paper* regarding the treaties and stated that the federal government had a “distorted view” of treaties.³⁸¹ The authors of the *Red Paper* argued that the treaties signed with the Crown were “historic, moral, and legal” agreements and,³⁸² were the source of indigenous people’s rights in Canada. For instance, the *Red Paper* stated, “[t]he Indian people see the treaties as the basis of all their

³⁷⁶ Harold Cardinal, *The Unjust Society*, 37.

³⁷⁷ *Ibid*, 36.

³⁷⁸ *Ibid*, 37.

³⁷⁹ *Ibid*, 1.

³⁸⁰ Canada, House of Commons, *Statement of the Government of Canada on Indian Policy, 1969* (Ottawa: Minister of Indian Affairs and Northern Development, 1969), 11

³⁸¹ *Ibid*, 7.

³⁸² *Ibid*.

rights and status.”³⁸³ The *Red Paper*’s position was that treaties signed in 1876 (Treaty 6), 1877 (Treaty 7), and 1899 (Treaty 8) contained certain promises.³⁸⁴ Treaty promises, according to the *Red Paper*, were captured in other forms not readily evident in the treaty text, such as verbal promises through treaty negotiations, and promises that were captured through oral history.³⁸⁵ The *Red Paper* argued for modernizing the treaties to maintain the “intent and spirit” of the agreements and to serve as a guide in the re-negotiations process.³⁸⁶ The IAA stated that if the federal government wanted the cooperation of the indigenous people to any new policy then it must agree to recognize the importance of the historical treaties to Indians. From an indigenous perspective, Indians had always thought of lands as their own and did not surrender these lands, but promised to “share” lands and resources equally with the new comers to their territories.³⁸⁷

2. C) “Indian Control of Indian Lands”

The idea of treaty implementation was consistent with the spirit of the historical treaties in relation to “Indian Control of Indian Lands.” In minimal terms, the *Red Paper* agreed with the *White Paper* to transfer land to Indian people. The IAA argued that they wanted control and title of reserve lands, but not in the context of Euro-Canadian

³⁸³ The Indian Association of Alberta, *Citizen Plus: the Red Paper*, 9.

³⁸⁴ Treaty 6, Treaty 7, and Treaty 8 were under the auspices of the IAA.

³⁸⁵ The Indian Association of Alberta, *Citizen Plus: the Red Paper*, 8.

³⁸⁶ *Ibid.*

³⁸⁷ Treaty 7 Elders and Tribal Council with Walter Hildebrandt, Dorothy First Rider, and Sarah Carter, *The True Spirit and Original Intent of Treaty 7* (Montreal: McGill-Queens University Press, 1996); ix. In 1991, the Treaty 7 Tribal Council of Southern Alberta began to interview and gather the “collective memory” of the Treaty 7 elders to examine the “*The true spirit and original intent of Treaty 7*” signed with the Crown in 1877. The elders’ contended that Treaty 7 was a “peace treaty” rather than land surrender. According to the elders’, their ancestors agreed to “share” the land with the new arrivals in exchange for certain treaty promises, such as education, medical care, reserves, and to “continue to hunt as we always did.”

definition of land ownership. The IAA leadership argued that the federal government was in error on two points regarding Indian lands. The *Red Paper* claimed Indians were “actual” owners of the land, and that legal title had been held in trust by the Crown.³⁸⁸ The *Red Paper* also contended that the federal government was in error in its “assumption” that the only way lands could be transferred to the control of Indian people was through private property.³⁸⁹ The IAA stated that legally the *Indian Act* could be amended to “give Indians control of lands without changing the fact that the title is...held in trust.”³⁹⁰ The *Red Paper* emphasized that land must be held in trust by the Crown, because the “true owners of the land are not yet born.”³⁹¹ In other words, the IAA did not believe in individual land ownership rather that land was collectively owned, and any decisions regarding land would affect future generations.

The Evolution of the IAA

The Indian Association of Alberta (IAA) founded in 1939 represented Indian and Métis interests in the province. Founders John Callihoo and Métis leader Malcolm Norris were influenced by the mandates and design of the League of Indian Nations of Western Canada, the United Farmers Association (UFA) and other cooperative political organizations, such as the Métis Association of Alberta (MAA).³⁹² In part, the IAA’s origins were partly a response to the poor social and economic conditions experienced by

³⁸⁸ The Indian Association of Alberta, *Citizen Plus: the Red Paper*, 9.

³⁸⁹ *Ibid*, 10.

³⁹⁰ *Ibid*.

³⁹¹ *Ibid*.

³⁹² Laurie Meijer-Drees, *The Indian Association of Alberta*, xiii.

First Nations and Métis communities across Alberta. However, the other part, according to Meijer-Drees, the IAA “was concerned, on an everyday level, with treaty rights.”³⁹³

The founding of the IAA also “represented a deliberate break from the league,” establishing a “new direction” in provincial Indian politics.³⁹⁴ During the war years, the IAA restructured its organization to reflect its membership, and to separate ties with the League of Indian Nations of Western Canada.³⁹⁵ To completely separate ties with the League, the IAA’s new structure involved a network of locals and governed by a set of By-laws and a Constitution.³⁹⁶ The governing structure of the IAA was similar to the United Farmers of Alberta and the Métis Association of Alberta.³⁹⁷ The formal structures of the IAA appeared to be sound on paper, however “creating stable and representative” associations had been a challenge for Indian leaders.³⁹⁸ In part, the challenge to create “stable and representative” organizations may have been due to the formal structures themselves. That is, formal organizational structures were Eurocentric and, as a consequence, alien to Indian people. Nevertheless, as Meijer-Drees suggested, “[t]he founding of the IAA neither marked the “beginning” of Indian political activity nor constituted a sign of Indians peoples’ realization that they could now assert some form of

³⁹³ Ibid, xiv.

³⁹⁴ Ibid, xiii-xiv. Meijer-Drees describes this new direction as “a move towards provincial organization,” and was motivated by the poor social and economic conditions experienced by many First Nation communities in Alberta.

³⁹⁵ Ibid, 28.

³⁹⁶ Ibid.

³⁹⁷ Ibid.

³⁹⁸ Harold Cardinal, *The Unjust Society*, 82-89. Cardinal described the many challenges confronting the organization in its early years, such as understanding the formal structures of organizations. He also stated that once organizations were established, the federal government attempted to dislodge and discredit the IAA growth using Indian agents.

public power; rather, the IAA simply represented a new forum within which reserve communities could voice some of their concern.”³⁹⁹ In other words, the IAA as an organization was a new organizational vehicle for Indian activism, but the ideals and collectivity it represented had a long history.

The IAA could not have existed without its member communities. Reserve membership of the IAA was initially slow during the first few decades of the Association’s existence. Momentum increased after the war years. Most of the IAA’s membership consisted of individual members from reserve communities from central Alberta and around the Edmonton region.⁴⁰⁰ By the mid 1940s, the IAA grew to include membership from communities in the southern portion of the province. However, the Treaty 7 First Nations were the last reserve communities to join the IAA due to two factors. First, members of southern reserves were suspicious of the IAA’s mainly “Cree origins.”⁴⁰¹ Second, the southern communities of Blackfoot, Bloods, and Sarcee were far better situated economically than the northern communities.⁴⁰² For example, the Blackfoot reserve sold a huge scale of land that created a trust fund that supplied the band members with “food, clothing, houses, and farming assistance.”⁴⁰³ Nevertheless, by 1951, the Blackfoot reserve joined the IAA.⁴⁰⁴ Therefore by the 1950s, the IAA’s membership expanded to include a province-wide association encompassing the majority of treaty

³⁹⁹ Ibid. 29.

⁴⁰⁰ Ibid, 32.

⁴⁰¹ Ibid, 34-36.

⁴⁰² Ibid, 34, Also see Lucien M. Hanks, and Jane Richardson Hanks, *Tribes Under Trust: A Study of the Blackfoot Reserve of Alberta*, (Toronto: University of Toronto Press, 1950), 35-53.

⁴⁰³ Laurie Meijer-Drees, *The Indian Association of Alberta*, 34.

⁴⁰⁴ According to Meijer-Drees, two factors created interest for some individual communities members to join the IAA: the declining economic situation, and dissatisfaction with the local Chief and Council, 35.

Indians in the province. The change in membership to a province organization, the IAA better reflected the needs of Indian communities in the province with a shared vision on issues such as treaty rights, which would play an important role in the *Red Paper*.

IAA During the War Years

As a provincial organization, and a relatively young organization, the IAA's experience in dealing with its members was local and grassroots with little experience at the national level. However, three events in the war years were significant for the IAA, not only to establish itself as a credible organization but also as an advocate for treaty Indians in Alberta: the two briefs titled "Memorials on Indian Affairs"⁴⁰⁵ the first in 1944, and the second in 1945, and the 1946 Special Joint Committee to amend the *Indian Act*.

In the mid 1940s, the IAA took advantage of its relationship with government officials and carefully prepared two briefs both titled, "Memorial on Indian Affairs." In 1944, the IAA submitted its first "Memorial" to Ottawa to initiate discussions with the government. The "Memorial" set the tone of dialogue between the IAA and Indian Affairs. The 1944 "Memorial" addressed the needs of Alberta Indian communities regarding health, education, and reserve lands.⁴⁰⁶ Specifically, the IAA's "Memorial"

⁴⁰⁵ Meijer-Drees states that through non-Native secretary, John Laurie, the IAA was able to seek "private links" with government officials. As a consequence, the IAA submitted two petitions, in 1944 and 1945, to the Indian Affairs branch titled, "*Memorial on Indian Affairs*."

⁴⁰⁶ Ibid, 74. Meijer-Drees states that John Laurie sent copies of the "*Memorial to Indian Affairs*" to director, Dr. Harold W. McGill, and another copy to the Minister of Mine and Resources, T.A. Crerar. Letters of support for the IAA's *Memorial* were from individuals and organizations, such as the Society of the furtherance of BC Arts and Crafts, The Okanagan Society for the Revival of Indian Arts and Crafts, the optimist Club of Calgary,

focused on five main issues: 1) the extension of social legislation to Indian peoples, 2) Indian education, 3) band membership, 4) matters of general policy, and 5) gaining official Indian Affairs recognition for the IAA.⁴⁰⁷ Less significance was placed on treaty rights and more emphasis on equal opportunity, relative to non-Indians:

The Association feels that Indians should receive the same as white citizens receive...Home gardens, herds of goats, etc. are far from being a solution to the pressing needs of many bands whose geographical locations as such that both are rendered impractical or whose reserve is so economically inadequate neither garden nor goats survive the infertile soil and the rigours of the climate.⁴⁰⁸

According to Meijer-Drees, the IAA's first "Memorial," particularly on education and social legislation, "appealed directly to the political ideas being promoted by the Liberal government of 1944."⁴⁰⁹ The Liberal government of Mackenzie King, pressured by the CCF⁴¹⁰ political party challenged the governing party to introduce broader social policies that were congruent with a large number of Canadians. As a result, the Liberal government introduced a new initiative which emphasized the "assurance of opportunity of employment" through the government's program to "achieve prosperity and social security."⁴¹¹ On the release of the new Liberal government initiative, the IAA requested

the University Women Club of Calgary, the Canadian Author's Association, the Calgary Council of Home and School Association, and individuals from Calgary.

⁴⁰⁷ Ibid, 86-87.

⁴⁰⁸ Ibid, 87.

⁴⁰⁹ Ibid.

⁴¹⁰ Ivan Avakumovic, *Socialism in Canada: A Study of the CCF-NDP in Federal and Provincial Politics* (Toronto, Ontario: McClelland and Stewart Ltd, 1978), 49.

Avakumovic stated that the Cooperative Commonwealth Federation (CCF) came into existence in 1932 spearheaded by labour unions, farmers unions, and socialist organizations. In 1961, the CCF changed its name to New Democratic Party (NDP), 191.

⁴¹¹ Ibid, 88.

that this new plan be extended to Indians alike, rather than the bleak alternative of neither “gardens nor goats.”⁴¹²

In 1945, the IAA’s second “Memorial” to Indian Affairs reinforced much of its first petition. The second “Memorial” addressed much of the same issues as the first but within the context of “changes brought about by the war and gave the IAA a chance to reiterate its suggestions to Indian Affairs.”⁴¹³ Of importance in the second “Memorial,” was the IAA public called for amending the *Indian Act* determinant upon a Royal Commission to investigate the needs of Indian people from across the country.⁴¹⁴ The IAA suggested that Indian people should be consulted: “This Royal Commission should have among its members, Indians; and should be empowered to visit [a]ll Indian reserves, and all bands of non-Treaty Indians... Particularly, Indians themselves should be encouraged to testify freely and without fear of reprisal.”⁴¹⁵ The IAA’s suggestion of a Royal Commission was not “fixated on protesting old Indian policy; rather it actively suggested changes to that policy in response to changes in reserve economies over the course of the Second World War.”⁴¹⁶ Nevertheless, the IAA pressured government officials for action in terms of a Royal Commission. But the government was reluctant for such an inquiry. The reluctance for a Royal Commission stemmed from the origins of Indian Affairs and its links to religious denominations.⁴¹⁷ The IAA pressured the federal

⁴¹² Ibid.

⁴¹³ Ibid, 74.

⁴¹⁴ Ibid, 97.

⁴¹⁵ Ibid.

⁴¹⁶ Ibid, 97-98.

⁴¹⁷ Meijer-Drees states that Minister of Mines and Resources, T.A. Crerar stated that a Commission would be virtually impossible because “it would be...exceedingly difficult to secure services of men who would be acceptable to the Government on the one hand and to the religious denominations and the Indian population on the other” 97.

government for a Royal Commission, and gained publicity through public rallies and press coverage, and particularly in Parliament by IAA supporter, MP G. H. Castleden.⁴¹⁸ In the end, a Royal Commission did not materialize until 1996, but in the process the IAA established itself as “credible and relatively powerful lobby force” regarding treaty Indians of Alberta.⁴¹⁹ According to Meijer-Drees, the Canadian government struggled to devise new policies to promote the “reconstruction and rehabilitation” of the country, after the Second World War. However, through the “reconstruction and rehabilitation” of the country, the IAA through their political organizing and by its two “Memorials,” sought to place Indian peoples within this broader discussion.⁴²⁰

With the success of the IAA through its two “Memorials” on Indian Affairs, concerning matters important to Indian communities in Alberta, the organization was invited to make a presentation to the Special Joint Committee to revise the *Indian Act* in 1946. In that year, the Minister of Mines and Resources responsible for Indian Affairs, J. Allison Glen, announced to Parliament that a Joint committee of the Senate and the House of Commons be appointed to examine and consider the *Indian Act*.⁴²¹ The Special Committee examined the Indian Administration in general, treaty rights, band

⁴¹⁸ Meijer-Drees states that MP G. H. Castleden brought the matter before the House of Commons in 1945 for a possible Royal Commission to investigate the condition of Indians across the country, 98.

⁴¹⁹ Ibid, 93.

⁴²⁰ Ibid, 100.

⁴²¹ Laurie Meijer-Drees, “Citizenship and Treaty Rights: The Indian Association of Alberta and the Canadian Indian Act, 1946-1948,” *Great Plains Quarterly*, Vol. 20, No 2 (Spring, 2000): 141- 158. url: <http://www.jstor.org/stable/23532733> (Last accessed 15/01/15). Meijer-Drees states that to date there has not being an in-depth analysis of the Special Joint Committee from an Indian perspective. Her analysis focused on the IAA’s “brief” to the committee. Historian V. B. Johnson also wrote about the Special Joint Committee and concluded that differences existed between the government and Indians, specifically, “the committee contemplate assimilation for Indian people while Indian political leaders argued for self-government and independence,” 154.

membership, enfranchisement of Indians, Indian schools, and “all social and economic status of Indians and their advancement.”⁴²² Essentially, the Committee was to examine the *Indian Act* and make improvements, the Committee sought input from civil servants, in the administration of Indian Affairs, Indian “experts,” and Indian organizations.⁴²³ The IAA was invited to make a presentation to the Special Joint Committee.

It was evident after the presentation by the IAA to the Special Joint Committee in the late 1940s, the IAA and the Committee differed on the nature of citizenship rights for Indian people. When the IAA presented its brief to the Special Joint Committee they argued that “treaty rights could be reconciled with citizenship, that treaties between Indian peoples and the Crown were the source of citizenship rights for Indian peoples.”⁴²⁴ The IAA explained that the treaties promised certain rights to Indian peoples, including the “full right to education and social security, so that Indian peoples might take their place as citizens within Canada.”⁴²⁵ However, the Special Joint Committee believed that Indians should have citizenship rights but differed in regards to the means of acquiring citizenship. In the Committee’s view, “Indians remained wards of the Crown under the Indian Act until they had “risen” to the standards of British citizenship.”⁴²⁶ In sum, the IAA did not deny citizenship rights, but argued that the route source to citizenship was treaties. Alternatively, the Special Joint Committee viewed citizenship rights along the line of Indian policy that is, through education and employment, as they claimed; “the committee believed that only being educated in their civic duties and gaining a place

⁴²² Ibid, 141.

⁴²³ Ibid, 148.

⁴²⁴ Meijer-Drees, *The Indian Association of Alberta*, 108.

⁴²⁵ Ibid, 109.

⁴²⁶ Ibid.

within Canadian economy could Indian people assume full citizenship.”⁴²⁷ In other words, the Committee did not agree with the IAA that citizenship rights could be gain simply through treaties.

By 1948, the Special Joint Committee concluded with its final report and recommendations for the government to consider. The Committee recommended that the *Indian Act* be completely revised, extension of social legislation to Indians, greater self-government within Indian communities, and greater powers to band councils.⁴²⁸ Treaty rights also figured prominently in the Committee’s final report to emphasize that the “government had to clearly establish the nature of treaty rights.”⁴²⁹ The importance of the IAA’s brief to the Special Joint Committee emphasized the importance of treaty rights as well as educational and economic “liberty” for Indian people. By doing so, the IAA drew public attention to the poor social and economic conditions of Indian communities a precursor to the 1966 *Hawthorn Report*.⁴³⁰

By the late 1940s, the success of the IAA also drew public attention to the poor social and economic conditions of Indian people placing emphasis on treaties in relation to acquiring citizenship rights. Thus the 1940s represented a milestone for the IAA, as they set a precedent for native organizations in Canada in dealing with government officials regarding Indians needs. Specifically, the IAA demonstrated that it was

⁴²⁷ Ibid.

⁴²⁸ Ibid, 123.

⁴²⁹ Laurie Meijer-Drees, “Citizenship and Treaty Rights, 154. Meijer-Drees states in the Committee’s fourth report to Parliament in 1948, the report stated that the government “inquire into the terms of all Indian treaties in order to discover and determine, definitely and finally, such rights and obligations as therein involved and further...all claims...arisen there under.”

⁴³⁰ Meijer-Drees, *The Indian Association of Alberta*, 189.

politically active in asserting treaty rights, particularly during the 1940s when treaty rights were misunderstood.⁴³¹ Moreover, the IAA advocated social and economic issues within government circles at a time when government had no official policy to negotiate with Indians. The IAA's political activism was also astonishing due to the fact that, in 1927 amendments to the *Indian Act* had prohibited Indians from political activity or to hire a lawyer to make claims against the government.⁴³² The IAA was able to link its agenda for treaty rights to contemporary concerns of the day.⁴³³ These concerns involved social and economic needs of Indian communities in Alberta and sought resolutions to these problems. In part, the forward thinking of the IAA to improve current Indian policy fell in line with the government of the day, particularly on the liberal democratic idea of equality.

Nevertheless, in the decade of the 1950s the IAA went through a period of "co-optation," as a consequence of their successful representations with the federal government.⁴³⁴ Michael Lacy explains co-optation in terms of the "threat model," where "the power holder moves to include persons who are in some sense 'hostile' rather than friendly," to its programme.⁴³⁵ According to Meijer-Drees, although Lacy's "threat model" referenced the American situation, it might also apply to the Canadian situation in

⁴³¹ Laurie Meijer-Drees, "Citizenship and Treaty Rights: The Indian Association of Alberta and the Canadian Indian Act, 1946-1948," 142.

⁴³² James S. Frideres, *First Nations in the Twenty-First Century* (Don Mills, Ontario: Oxford University Press, 2011), 13.

⁴³³ Meijer-Drees, *The Indian Association of Alberta*, 72.

⁴³⁴ *Ibid*, 137.

⁴³⁵ Micheal G, Lacy, "The united States and American Indians: Political Relations," in *American Indian policy in the Twentieth Century*, ed. Vine Deloria Jr. (Norman: University of Oklahoma Press, 1985), 85.

its dealings with Indian people.⁴³⁶ She explained that the IAA's "protests in government activity and policies, in Parliament and through the press, threatened the government's liberal and democratic reputation."⁴³⁷ As a consequence, the government responded to the threat by including the IAA in its follow-up meetings to amend the *Indian Act* and in a series of government sponsored conferences held across the country from 1951 through to 1956.⁴³⁸

By the 1960s, change occurred to the IAA, in "character and face."⁴³⁹ Three factors contributed to the political revitalization of the IAA: "The passing of the old IAA leadership, the political instability in Ottawa, and the overhaul of Indian Affairs in the 1960s."⁴⁴⁰ And, most significant, in 1968, the IAA elected Harold Cardinal, a younger educated man, with the goal of pursuing treaty rights. As the new president of the IAA, one of Cardinal's first tasks was to amend the organization's Constitution. By 1969, the organization's Constitution and By-laws were amended more accurately to reflect the needs of a provincial-wide association and to prioritize: "Indian Treaty Rights."⁴⁴¹

The 1960s also saw the definition of the IAA membership revised to include individual Indian reserves rather than individual persons.⁴⁴² The expansion of the IAA's membership to include individual reserves rather than individuals was in contrast to the early beginnings of the organization when they struggled to gain individual membership.

⁴³⁶ Meijer-Drees, *The Indian Association of Alberta*, 137.

⁴³⁷ Ibid.

⁴³⁸ Ibid, 137-138.

⁴³⁹ Ibid, 157.

⁴⁴⁰ Ibid.

⁴⁴¹ The Indian Association of Alberta, *Constitution & By-laws of the Indian Association of Alberta* (Native American Studies Department, University of Lethbridge, Alberta), 1.

⁴⁴² Meijer-Drees, *The Indian Association of Alberta*, 165.

However, the restructuring of the IAA importantly increased the organization's growth to better represent Indian communities, rather than individuals. The IAA's new structure was important in terms of unifying reserve communities to become a coherent singular voice to advocate for the recognition of treaty rights as expressed in the *Red Paper*. Once revised, the IAA's new structure was better equipped to represent the interests of Indian communities scattered throughout a large geographic area, in Alberta. Overall, the IAA was a much more organized association under Harold Cardinal.

Harold Cardinal, President of the IAA

In the 1960s, young indigenous people were dropping out of high school in droves; an exception to this pattern was Harold Cardinal.⁴⁴³ Cardinal came from the Sucker Creek reserve in Northern Alberta.⁴⁴⁴ Cardinal was elected president of the IAA in 1968, at 24 years old, he was the Association's youngest president serving nine terms in office from 1968-77.⁴⁴⁵ Cardinal's education was unique; he had a law background and also was indoctrinated into traditional knowledge by Cree elders. Cardinal consistently acknowledged the Cree elders who contributed to his learning: "I offer my special gratitude to the many elders whose views...helped shape my thinking."⁴⁴⁶ Cardinal's thinking was shaped by cultural values that flowed directly from the "isolate, tightly knit

⁴⁴³ The Indian Association of Alberta, *Citizens Plus: the Red Paper*, 78. In 1970, the IAA cited the 1966 *Hawthorn Report* to substantiate the high drop-out rate of Indian students in Canadian schools from grades K-12. At the time of the *Red Paper* announcement in 1970, the national Indian drop-out rate was 94% compared to non-Indians at approximately 12%.

⁴⁴⁴ The Canadian Encyclopedia, Harold Cardinal, <http://www.thecanadianencyclopedia.ca/en/article/harold-cardinal/>, (Last accessed 14/8/14).

⁴⁴⁵ Ibid.

⁴⁴⁶ Harold Cardinal, *The Unjust Society*, vi.

community, [in which] everyone has responsibilities to the group that sense of collective is a deeply held value, in Cree nation [people].”⁴⁴⁷ Ingrained in his cultural teaching was a strong sense of responsibility. Cardinal spoke on behalf of those who taught him, his teachers:

“so, he wouldn’t be just speaking for himself, he would be speaking on behalf of those who taught him, his teachers. You’re expressing the value of your teachers and making sure that gets carried forward. That’s a particular cultural teaching, but that you’re there as a vehicle to carry forward that message that comes from behind you, and it’s your burden to carry that forward. And, once you’re done, you give it to somebody else. So, it’s not about you being the star, it’s about carrying it, till you give it away.”⁴⁴⁸

To carry the message forward did not always mean cultural teachings for Cardinal; his cultural teachings intertwined with the political thinking taught to him by his father, Fred Cardinal. Fred Cardinal had been a chief of his community and was also a former political leader of the IAA (1965-1966 and again from 1967 to 1968), which was influential in shaping Harold’s thinking.⁴⁴⁹ Cardinal described the importance of the treaties, as being an Indian “Magna Carta.”⁴⁵⁰ In other words, Cardinal carried and forwarded the message through the generations, in particular to reinforce the importance of treaties for Indian people.

⁴⁴⁷ Kathleen Flaherty, “The White Paper/Red Paper,” CBC radio program *IDEAS*, February 22, 2010. URL: <http://www.cbc.ca/ideas/episodes/2010/02/22/white-paper-red-paper-cd/>

⁴⁴⁸ Kathleen Flaherty, “The White Paper/Red Paper,” CBC radio program *IDEAS*, February 22, 2010. URL: <http://www.cbc.ca/ideas/episodes/2010/02/22/white-paper-red-paper-cd>. Laurie Meijer-Drees interviewed by Flaherty regarding Cardinal’s cultural teachings from the perspective of Cree traditional values.

⁴⁴⁹ Kathleen Flaherty, “The White Paper/Red Paper,” CBC radio program *IDEAS*, February 22, 2010. URL: <http://www.cbc.ca/ideas/episodes/2010/02/22/white-paper-red-paper-cd>. Flaherty described Cardinal’s political teachings as “home schooled, in Indian politics from his father, Fred Cardinal,” who himself was a chief and once leader of the IAA.

⁴⁵⁰ Harold Cardinal, *The Unjust Society*, 24.

Cardinal's political perspective on treaties was also reflected in his political philosophy regarding aboriginal governance. Cardinal's political philosophy is best captured in a speech at the 26th Annual Convention of the IAA held in Standoff, Alberta, in 1970.⁴⁵¹ At the conference, Cardinal updated the Convention members regarding the two strategies that were at the core of the *Red Paper*: education and economic development. He stated that the IAA's belief was built on the principle that the "local people must be given opportunities to participate fully in all matters that effect their community."⁴⁵² Cardinal discussed the Alberta Indian Development System, reinforcing the *Red Paper*'s two strategies of education and economic development, to illustrate how community members could control and influence the programs they develop. Cardinal informed the delegates that the philosophy of community control was at the foundation of the Alberta Indian Development System.⁴⁵³ In other words, Cardinal believed in a bottom-up solution to poverty using the two avenues of education and economic development, rather than the top-down approach proposed by Department of Indian Affairs and Northern Development. He stated that the role of the IAA would be to acquire external funding and to maintain political and community support for the Alberta Indian Development System.⁴⁵⁴ Cardinal's also stated that the philosophy of the bottom-up approach also required change. He stated that "[p]rogress is a nice word, but change is

⁴⁵¹ Harold Cardinal, *Report by Harold Cardinal, President of the Indian Association of Alberta: 26th Annual Convention*, June 17, 1970, transcript, 1-9. Folder M7655-320, James Gladstone fonds. Glenbow Museum, Calgary, AB. The convention was held in Standoff and the report is preserved at Glenbow Museum.

⁴⁵² *Ibid.*, 2.

⁴⁵³ *Ibid.*

⁴⁵⁴ *Ibid.*

its motivator and change has its enemies.”⁴⁵⁵ By “enemies,” Cardinal was referring to a member of the Indian community who had actively denounced his leadership and criticized the IAA’s stance on the *White Paper*.⁴⁵⁶

As a relatively new and young leader in 1968, Cardinal may not have had much experience with leadership nor was he accustomed to the role that negative publicity sometimes brought. Newspapers portrayed Cardinal as Pierre Trudeau’s equivalent, “Alberta Indians choose leader in Trudeau mold.”⁴⁵⁷ Meijer-Drees stated that Cardinal has been labelled the “enfant terrible” of Indian politics yet “he was a forceful speaker and presence on the national scene at a time when Aboriginal issues were very much in the public eye.”⁴⁵⁸ In all meetings with the press and other public forums, Cardinal consistently took these opportunities to refer to the treaties. According to Meijer-Drees, Cardinal’s activities contrasted significantly with former IAA leaders of the past who choose instead to “draw attention to social and economic issues” facing Indian communities.⁴⁵⁹ Nevertheless, Cardinal’s leadership was a balancing act between two extremes. On one hand, he was “burden[ed]” with the responsibility to embrace his cultural teachings, and to carry the message and the importance of the treaties, forward. On the other hand, Cardinal’s leadership skills and educational background allowed him

⁴⁵⁵ Ibid, 8.

⁴⁵⁶ Harold Cardinal, *Speech by Harold Cardinal, President of the Indian Association of Alberta, presented to the Alberta All Chiefs’ Conference*, April 3, 1970, transcript, 1-12. Folder M7655-320, James Gladstone fonds. Glenbow Museum, Calgary, AB. On April 3, 1970, Cardinal addressed the IAA conference on the progress on the *Red Paper* as well as the IAA’s proponents and to his leadership. He accused “Billy” (William) Wuttunee as creating an image of “disunity” amongst the IAA membership and “holding the Government White Paper as the last best hope for our [Indian] people.”

⁴⁵⁷ Edmonton Journal, 09/06/68, in Meijer-Drees, *The Indian Association of Alberta*, 163.

⁴⁵⁸ Ibid.

⁴⁵⁹ Ibid.

to command a certain respect from his followers on political issues involving the IAA. Leading a provincial-wide association involved a careful balancing act between culture, political activism, and carrying the message for change forward. Cardinal's primary challenge was political, in terms of staving off intended external and internal attacks threatening the cohesion of the organization.

Harold Cardinal and the IAA had their critics from within the Indian community during the development of the *Red Paper*. At a meeting of the IAA in April 1970 at Lake Isle, Alberta, Cardinal updated the delegates on the progress of the *Red Paper* and took the opportunity to address some of his critics.⁴⁶⁰ Cardinal's primary critic was William Wuttunee, a Cree leader from Saskatchewan and a practicing lawyer.⁴⁶¹ Wuttunee attacked Cardinal and the IAA leadership over the course of several months, starting in January 1970, in regards to the IAA's position on the federal *White Paper*. Meijer-Drees suggested that Wuttunee "may have been predisposed to criticize the IAA".⁴⁶² She suggested that as early as 1965, the IAA had rejected Wuttunee's invitation to unite, or to partner with the National Indian Council (NIC). The founding of the NIC occurred in 1963, with government funding and opened its first office in Regina, with William Wuttunee as its president.⁴⁶³ The goals of the NIC were to "promote Indian culture, to

⁴⁶⁰ Harold Cardinal, *Speech by Harold Cardinal, President of the Indian Association of Alberta, presented to the Alberta All Chiefs' Conference, April 3, 1970*, transcript, 6. Folder M7655-320, James Gladstone fonds. Glenbow Museum, Calgary, AB.

⁴⁶¹ William Wuttunee, *Ruffled Feathers: Indians in Canadian Society* (Calgary, Alberta: Bell Books Ltd, 1971), 3-7. Wuttunee criticized Harold Cardinal and the IAA, particularly on the association's salaries under the new federal government funding scheme.

⁴⁶² Laurie Meijer-Drees, *The Indian Association of Alberta*, 164-165.

⁴⁶³ William Wuttunee, *Ruffled Feathers: Indians in Canadian Society*, 19.

unite Indians, and to serve Indians and their organizations.”⁴⁶⁴ Wuttunee was a controversial leader, not only to Cardinal but as leader of the NIC in the early years of its existence. Peter McFarlane described the NIC committee and Wuttunee as “urbanites” or “professionals with little experience in the grass-roots movement.”⁴⁶⁵

Other issues may have created criticism for Cardinal and the IAA. According to Meijer-Drees, Wuttunee “singled out” Cardinal and the IAA, “as examples of how such close financial ties [with the government] would corrupt any attempt at improving life for Indian peoples in Canada.”⁴⁶⁶ Wuttunee criticized Cardinal and the IAA, particularly about the IAA’s salaries under the new federal government funding system.⁴⁶⁷ As Wuttunee stated: “It seems odd indeed that the hierarchy of the Indian Association of Alberta should pay themselves such exorbitant salaries, bearing in mind the poverty in which so many of the Indian people live.”⁴⁶⁸ Wuttunee attacked Cardinal as a “bitter person,” and a “conservative, whose ideas on treaties were outdated.”⁴⁶⁹ While Wuttunee may have been predisposed to criticize Cardinal and the IAA, on the government funding, salaries, and its stance on treaties, ironically, Wuttunee himself was also

⁴⁶⁴ Ibid.

⁴⁶⁵ Peter McFarlane, *Brotherhood to Nationhood: George Manuel and the Making of the Modern Indian Movement* (Toronto: Between The Lines, 1993), 61. According to McFarlane, Wuttunee accepted a sum of 9,000 dollars from the federal government to hold conferences on the Claims Commission Bill, which oversaw native claims. The proposed conferences were to be hosted by Wuttunee, and would appoint the federal government to “unilaterally decide in native claims,” 86. The NIC contradicted most Indian organization’s stance on the government’s proposed Bill. As a result, the NIC lost credibility with Indian organizations and ceased to operate.

⁴⁶⁶ Laurie Meijer-Drees, *The Indian Association of Alberta*, 164.

⁴⁶⁷ Ibid.

⁴⁶⁸ William Wuttunee, *Ruffled Feathers: Indians in Canadian Society*, 6.

⁴⁶⁹ Ibid, 1-2.

receiving funds from the government to promote the *White Paper* within the Indian communities.

By transparently informing the IAA membership about these criticisms, Cardinal was accountable to the membership. Cardinal informed the assembled members that Wuttunee was also paid by the government and on contract with the Indian Affairs Department when, he claimed, Wuttunee's salary was just under a thousand dollars, over a three day period.⁴⁷⁰ Cardinal further announced that the purpose of Wuttunee's contract with the Indian Affairs Department was to "engage" the Indian community to accept the federal *White Paper* proposal.⁴⁷¹ In other words, Wuttunee's argument against the *Red Paper* could be motivated by self-interest and financial gain. Nevertheless, Cardinal's closing remarks to the IAA membership emphasized that the organization's goals were to create "brotherhood, and goodwill" rather than financial gain.⁴⁷² Although Cardinal and Wuttunee may have both received federal payment, it is important to illustrate their political differences. Wuttunee advocated for the *White Paper*, whereas Cardinal helped crafted the *Red Paper* as a critique of the *White Paper*. The papers were diametrically opposed: the *White Paper* promoted assimilation; the *Red Paper* advocated for treaty recognition and independence.

⁴⁷⁰ Harold Cardinal, *Speech by Harold Cardinal, President of the Indian Association of Alberta, presented to The Alberta All Chiefs' Conference, April 3, 1970*, transcript, 9-10. Folder M7655-320, James Gladstone fonds. Glenbow Museum, Calgary, AB.

⁴⁷¹ *Ibid*, 9-10.

⁴⁷² *Ibid*, 11.

Conclusion

In 1970, the IAA's *Red Paper* argued that the federal government's *White Paper* proposal on Indians amounted to assimilation rather than equality for Indian people. The authors of the *Red Paper* drew from the long history of political action, developed since the inception of the IAA in 1939. Although the IAA focused its energy on combating poverty through social and economic programs, the treaty relationship was central in the minds of its membership in the early years. After the Second World War, the IAA experienced a period of "co-optation" in the 1950 and early 1960s, as a result of their successful representations in the 1940s. In the late 1960s, the IAA rejuvenated with new and younger leadership. In 1968, with the election of Harold Cardinal, treaties were again at the forefront of the organization's mandate forming part of the revised constitution. In 1970, treaty and treaty rights were the foundation of the IAA's *Red Paper*. The *Red Paper* proposed to engage treaty rights in the operation of two strategies to combat poverty in native communities: the first through education and the second through an economic development plan. The IAA insisted that treaties continue to be an important source of identity for most Indians, even long after the original signing over a century ago. In the final chapter, I examine why treaties were important to First Nations people, both as a source of "self-sufficiency" and as a model of governance.

Chapter Four – Governance: A Comparative Analysis of the *White Paper*'s and the *Red Paper*'s Vision for Indians

Introduction

In previous chapters I discussed how the narrative of the 1969 federal *White Paper* had consistently advocated for the complete immersion of Indian people into mainstream Canadian society. This was the federal government's method of proposing "equality" for Indian people. The counter-narrative to the federal *White Paper* was the *Red Paper* released in 1970 by the IAA, the *Red Paper* opposed the federal position of "equality" and stated that Indians signed the treaties with the Crown as equal partners. Therefore, treaties for the IAA remain legitimate sacred agreements. The *Red Paper* further stated the government was bound to fulfill the promises they made to Indian people from the 1763 *Royal Proclamation* forward.

In this chapter, the researcher argues that the *White Paper* and *Red Paper* were partially aligned in their goals to improve the "Indian problem," but they conveyed different versions of "self-sufficiency" and varying forms of governance for Indian people.⁴⁷³ This chapter is focused on how the version of "equality" and "self-sufficiency"

⁴⁷³ In this chapter, the word "governance" is applied broadly to encompass indigenous life ways and ways of being. Some scholarly material defines governance as associated to law, politics, and legal traditions. For example, indigenous scholar, John Borrows used the term "governance" to include "indigenous legal traditions" and "indigenous law." I use the term "governance" in the broadest sense to capture an indigenous world view. Similarly, "governance" is defined in the Oxford Dictionary as "[t]he action or manner of governing; the fact that (a person, etc.) governs." In this thesis, "governance" as it relates to the *White Paper* is taken to mean establish Western democracy, such as the Canadian Government. Oxford Dictionary online <http://www.oed.com/view/Entry/80307?redirectedFrom=governance#eid> (Last accessed, 17/03/15).

for Indian people was articulated in both documents to show the radical difference between the respective interpretations and applications of the *White Paper* and *Red Paper*.

An understanding of how the Canadian government's model of "self-sufficiency" would transform the Indian people from a state of dependency to self-sustaining individualism is important to a comprehension of the overall intent and impact of the *White Paper*. The federal government's proposed model of "self-sufficiency" may be broadly described as a democratic parliamentary system or a parliamentary democracy.⁴⁷⁴ The *White Paper* was comprised of three significant legislative proposals to create "self-sufficiency:" to cumulatively remove the legal recognition of Indians; to remove all reference to the treaties; and to privatize "Indian land." On the one hand, the *White Paper* stated that "Indian people's role of dependence be replaced by a role of equal status, opportunity, and responsibility, a role they can share with all Canadians."⁴⁷⁵ "Self-sufficiency," then, in the *White Paper* means "being self-sufficient" or "individual" and being able to provide for one's economic well being.⁴⁷⁶

⁴⁷⁴ "Government in Canada is organized into three and quite often four levels: federal, provincial or territorial, and municipal (which is often subdivided into regional and local). Each level is charged with various responsibilities by either the Constitution or a higher level of government." Taken from website:

<http://www.craigmarlatt.com/canada/government/government.html> (Last accessed 17/03/15).

⁴⁷⁵ Canada, House of Commons, *Statement of the Government of Canada on Indian Policy, 1969* (Ottawa: Minister of Indian Affairs and Northern Development, 1969), 5.

⁴⁷⁶ Oxford Dictionary, *Self-sufficiency*, http://www.oxforddictionaries.com/us/definition/american_english/self-sufficiency (Last accessed 27/04/15).

Alternatively, the *Red Paper* considered treaties as embodying the source of “all their rights and status.”⁴⁷⁷ The IAA, in the *Red Paper*, argued that the proposals of the *White Paper* did not lead Indians to “equality” but to assimilation.⁴⁷⁸ The IAA’s president, Harold Cardinal, emphasized the organization’s position on “equality” and “self-sufficiency” by stating: “The Indians entered into the treaty negotiations as honourable men who came to deal as equals with the Queen’s representatives.”⁴⁷⁹ In other words, “self-sufficiency” as defined in the *Red Paper* meant that the nature of treaties demonstrated a mutually binding agreement signed between “equal” nations: the Crown and the Indian people.⁴⁸⁰ Moreover, as “equal” nations, the IAA implied, Indians retained the right to self-governance and that they had not surrendered that right to the Crown.

The researcher proposes that the concept of “self-sufficiency” was interpreted by the federal government and the IAA differently and that these differences are meaningful. The IAA’s version of “self-sufficiency” was as valid as that proposed in the *White Paper*, and the *Red Paper* was consistent with indigenous ancestral traditions of economic and political independence. Essentially, the *Red Paper* embraced a form of “self-sufficiency” that embodied economic and political independence for Indian people but also required

⁴⁷⁷ The Indian Association of Alberta, *Citizens Plus: the Red Paper* (Edmonton, Alberta, reproduced with the permission of the Indian Association of Alberta, 1970), 7.

⁴⁷⁸ Dale Turner, *This Is Not a Peace Pipe: towards a Critical Indigenous Philosophy* (Toronto: University of Toronto Press, 2006), 25. Turner states that Harold Cardinal’s book, *The Unjust Society*, was not only a response to the *White Paper*, but to Trudeau’s political vision of a “Just Society.”

⁴⁷⁹ Harold Cardinal, *The Unjust Society*, 2nd edition (Vancouver: Douglas and McIntyre, 1999), 24.

⁴⁸⁰ Author’s note: for the purposes of this chapter, I will not deal with the merits of treaty rights such as hunting, fishing, and gathering as other researchers may have covered that topic in depth. Rather, the focus of the chapter is to discuss the broader concepts of self-sufficiency in relation to First Nation people and the Canadian state.

was minimal reliance on the federal government. While the *White Paper* defined “self-sufficiency” by promoting total assimilation of Indian people into Canadian society through individualism, the *Red Paper* argued that “self-sufficiency” implied collectivity and further argued that treaties would economically sustain the community. The idea of individualism, in the view of the authors of the *Red Paper*, would not sustain the community. As the comparison made in this chapter will show, the *White Paper* and the *Red Paper* were radically different in advising how Indian people might achieve “self-sufficiency.”

This chapter is divided into two sections. Section one briefly reviews the historical, legal and political relationship between the federal government and Indian people to show the historical relationship that the federal government’s *White Paper* was striving to dismantle. Historical legal agreements such as the 1763 *Royal Proclamation*, sections in the 1867 *British North American Act*, and the 1876 *Indian Act* defined the status of Indians and their relationship to the governance of Canada. The historical agreements also maintain, in part, the mutual responsibility agreed upon between both parties. For instance, the *Royal Proclamation* recognized Indians tribes as “nations,” which recognized the legal status of Indians and established the relationship between the government and Indian people. The researcher argues that the *White Paper* proposed the destruction of the historical relationships struck between the federal government and Indian people in agreements such as the *Royal Proclamation*. The *White Paper* proposed that Indians who assimilated into Canadian society would benefit from the liberal democratic ideals of individual “self-sufficiency.” In other words, the idea of “self-sufficiency” as proposed in the *White Paper* required the destruction of all historical

agreements between the Crown and indigenous people, including treaties. The significance in the proposition to “end” treaties, as defined in the *White Paper*, would be the elimination of the status of Indians and their agreed upon relationship to other Canadian citizens.

Section two provides a comparative analysis of the *White Paper* and the *Red Paper* dialogues on the six proposals identified in the *White Paper* framework for Indians to achieve equality. The purpose for this comparative analysis of the dialogue is to demonstrate how the two parties possessed two very different ideas of “self-sufficiency.” The idea of “self-sufficiency” as proposed in the *White Paper* was to assimilate Indian people into Canadian society. The *Red Paper* argued that the historical linkages and obligations held in the agreements were important to Indian people and also important to their ongoing relationship with the federal government. Moreover, the *Red Paper* argued that the government proposed relinquishment of its legal responsibility to Indians and to initiate a new relationship based on the liberal democratic ideas of individualism, equality, and freedom. The significance of this comparative dialogue is that, in 1970 the Indian leadership presented their counter-proposal the *Red Paper* to the government of Canada thereby asserting their (Indians) claim that treaties were important to the relationship between the federal government and Indian people. Essentially, by their (Indian leadership) presentations, they were making a political statement that treaties were signed, as “equal” partners between nations, the federal government and Indian people. As a result, the *Red Paper* continued to affirm the treaties as legitimate legal and sacred agreements that embodied the “source of all their [Indians] rights and status.” Moreover, the treaties continue to have relevance today, as they have never been settled

nor implemented since 1970, when the IAA brought the treaties to national consciousness. Nevertheless, after the dialogue between the *White Paper* and *Red Paper*, the federal government withdraw its *White Paper* in 1971.⁴⁸¹

The relevance of this chapter is to show that treaties remain central to aboriginal “self-sufficiency” and this argument is important to my overall thesis because, as I have argued throughout this thesis, treaties provide social and economical provisions for treaty Indian people in Alberta. Put in a different way, the treaties remained important to the relationship between the government and Indian people because the treaties were signed between nations. Thus, the foundation of the *Red Paper* was built on the premise that treaties were “historic, moral, and legal agreements,” and further, the IAA argued that the three points of contention – the legal status of Indians, treaties, and lands – were important to maintain Indian “self-sufficiency.” These three points of contention, in the *Red Paper*, were inextricably linked to the treaties and “self-sufficiency” for Indian people, in three ways. First, the *Red Paper* argued that the legal status of Indians was not only essential for “justice,” but also was necessary for the recognition of the “history,” and “rights,” of Indian people.⁴⁸² Although these “rights” were protected in the 1967 *British North American Act*, the *Red Paper* stated that treaties contained all their “rights and status.” Second, the “rights and status” of Indians, according to the authors of the *Red Paper*, stemmed from the historical treaties as a result of land exchange between the government and Indian people.⁴⁸³ Further, the IAA argued to “modernize the treaties,”

⁴⁸¹ Aboriginal Affairs and Northern Development Canada, “Resolving Aboriginal Claims - A Practical Guide to Canadian Experiences,” <http://www.aadnc-aandc.gc.ca/eng/1100100014174/1100100014179>, (website, last accessed 21/9/2014).

⁴⁸² Indian Association of Alberta, *Citizen Plus: the Red Paper*, 4.

⁴⁸³ *Ibid*, 7.

according to the “spirit and intent” of the agreements to meet the evolving social and economic needs of Indian communities in Alberta.⁴⁸⁴ As a result, the treaties provided the foundation of the relationship between both parties and not the *Indian Act*. The *Indian Act*, according to the *Red Paper*, provided the framework for federal service programs for Indians just like the “many federal and provincial statutes” were provided for Canadians.⁴⁸⁵ This last assertion, by the *Red Paper* was significant; because the IAA was stating that treaty Indians were distinct from other Canadians due to the *Indian Act* and the treaties. Third, the *Red Paper* argued that Indian lands or reserve lands were held in trust by the Crown, but remained Indian lands.⁴⁸⁶ The statement by the *Red Paper* regarding land was also significant, because without land Indian communities could not sustain themselves economically. Essentially, the *Red Paper* argued that treaties were important to aboriginal “self-sufficiency” and for their (Indians) future generation yet “unborn.” Thus, the researcher argues that the 1970 *Red Paper* was a political statement on the importance of treaties as a means to aboriginal “self-sufficiency” and “equality” for First Nations people in Alberta.

Pre existing Historical Agreements and Government and Indian Relationships

The formal beginnings of the political relationship established between the colonial government and Indian people may be found in the *Royal Proclamation* of 1763.⁴⁸⁷ Although the *Royal Proclamation* of 1763 was largely part of a formal transfer of the colony of New France to Great Britain, the *Proclamation* also recognized “Indian

⁴⁸⁴ Ibid, 8.

⁴⁸⁵ Ibid, 12.

⁴⁸⁶ Ibid, 9.

⁴⁸⁷ The author will not argue the merits of the *Royal Proclamation* but will outline the main points as it relates to indigenous people and lands.

Territory.”⁴⁸⁸ In regard to Indians, two basic principles were identified: the recognition of “Indian Territory,” and that the various people within those territories were described as “nations.” The *Royal Proclamation* identified Indian “nations” as “autonomous political units living under the Crown’s protection, holding inherent authority over their internal affairs and the power to deal with the Crown by way of treaty and agreements.”⁴⁸⁹ The *Proclamation* also set protocols for acquiring and purchasing Indian lands through treaties.⁴⁹⁰ From this date forward, therefore, treaties became the sole legal means of land acquisition by the Crown from the Indians. Protocols in the *Proclamation* required the consent of the Indians, and only the Crown could negotiate land agreements through a “public meeting” or “assembly” with Indians.⁴⁹¹ The British tradition of treaty making to acquire Indian lands using the protocols of the *Proclamation* continued well into Canadian Confederation.

The relationship between Indians and the colonial government was virtually unchanged until Canadian Confederation. In 1867, the *British North American Act* (the BNA Act, also known as the *Constitution Act of 1867*) gave birth to the Canadian state

⁴⁸⁸ Jean-Pierre Morin, “Treaties and the Evolution of Canada,” in *Hidden in Plain Sight: Contributions of Aboriginal Peoples to Canadian Identity and Culture*, ed. David Newhouse, Cora J. Voyageur, and Dan Beavon (Toronto, Ontario: University of Toronto Press, 2005), 25. The *Royal Proclamation* of 1763 was a result of the ‘Seven Years’ War between France and Britain, the proclamation officially recognized the transfer of French colonies to Britain.

⁴⁸⁹ Ibid.

⁴⁹⁰ Royal Commission of Aboriginal Peoples, *Partners in Confederation: Aboriginal Peoples, Self-Government, and the Constitution* (Ottawa, Canada: Minister of Supply and Services Canada, 1993), 16-17. Also see J Borrows, “Wampum at Niagara: The Royal Proclamation, Canadian Legal History and Self-Government,” in *Aboriginal and Treaty Rights in Canada: essays on Law, Equality, and Respect for Difference* (Vancouver, BC: University of British Columbia Press, 1997).

⁴⁹¹ Ibid, 17.

through legislation from the British Crown.⁴⁹² Although the BNA Act largely defined the powers shared between the provinces and the federal government, the Act also “respected, at least in principle, the basic tenets of the Royal Proclamation and reinforced the Crown’s duty to gain the consent of Indian nations” before extinguishing their title to land.⁴⁹³ Indians also became a federal responsibility under Section 91 (24) of the BNA Act leading to a historical relationship with the federal government that remains today.⁴⁹⁴ Dale Turner states that with the inception of Section 91 (24) of the BNA Act, the federal government established its fiduciary relationship with Indians.⁴⁹⁵

After Confederation, the Crown continued to negotiate treaties with some First Nations people, primarily in the Western territories. The provision of land acquisition by the Crown required formal agreements by way of treaty, although contemporary debate has been raised about the legitimacy of the numbered treaties by both aboriginal and non-aboriginal scholars.⁴⁹⁶ The courts interpret the historical treaties by the intent of the written text.⁴⁹⁷ However, as Borrows explains that “[s]ome might even view the treaties as filled with fraud, duress, and manipulation – or as expedient temporary bargains,

⁴⁹² Dale Turner, *This Is Not a Peace Pipe*, 18.

⁴⁹³ Dale Turner, “White and Red Paper Liberalism,” in *Philosophy and Aboriginal Rights: Critical Dialogues*, ed. Sandra Tomsons and Lorraine Mayer (Don Mills, Ontario: Oxford University Press, 2013), 162.

⁴⁹⁴ George Erasmus and Joe Sanders, “Canadian History: An Aboriginal Perspective,” in *Nation to Nation: Aboriginal Sovereignty and the Future of Canada*, ed. John Bird, Lorraine Land, and Murray MacAdam (Toronto, Ontario: Irwin Publishing, 2002), 7.

⁴⁹⁵ Dale Turner, *This Is Not a Peace Pipe*, 18.

⁴⁹⁶ Harold Cardinal, *The Unjust Society* (1999), John Borrows, *Canada’s Indigenous Constitution* (2010), and George Erasmus and Joe Sanders, “Canadian History,” in *Nation to Nation, Aboriginal Sovereignty and the Future of Canada*, ed. John Bird, Lorraine Land, and Murray MacAdam, 3-11 (Toronto: Irwin Publishing, 2002).

⁴⁹⁷ John Borrows, *Canada’s Indigenous Constitution*, 27.

designed by the Crown to separate Indians from their lands and resources for the lowest possible price.”⁴⁹⁸

Under the *Constitution Act of 1867*, the newly formed Canadian state legislated Indians into existence under the authority of Section 91 (24), which read: “Indians, and Lands reserved for Indians.”⁴⁹⁹ Also under Section 91 (24), the federal government enacted the *Indian Act*.⁵⁰⁰ The federal government consolidated pre-Confederation legislation into this one *Act* the fundamentals of which remain in place today.⁵⁰¹ The goal of the *Indian Act* was to “assimilate” Indians into Canadian society and it has remained constant in that goal since its inception.⁵⁰² The *Indian Act* virtually controlled, and continues to control, every aspect of Indians and community life from the definition of who could and who could not be an Indian, to the elective system for band council and chief, and the use of land.⁵⁰³ In essence, the *Indian Act* changed the nature of the relationship between the federal government and Indian people from a “nation-to-nation” relationship to one of paternalism as embedded in the *Indian Act*. Olive P. Dickason describes the *Indian Act* as “total institution...that touches on almost all aspects of the

⁴⁹⁸ Ibid.

⁴⁹⁹ Merrilee Rasmussen, “Honouring the Treaty Acknowledgement of First Nations Self-Government: Achieving Justice Through Self-Determination,” in *Moving Towards Justice: Legal Traditions and Aboriginal Justice*, ed. John D. Whyte (Saskatoon: Purich Publishing Ltd, 2008), 49-60.

⁵⁰⁰ George Erasmus and Joe Sanders, “Canadian History: An Aboriginal Perspective,” 7.

⁵⁰¹ Olive P. Dickason, *Canada’s First Nations: A History of Founding Peoples from Earliest Times*, 4th edition (Don Mills, Ontario: Oxford University Press, 2009), 252. Dickason provides a complete overview of the *Indian Act* including its original purpose of assimilating Indians to Canadian society, and is used here to describe the significance of the *Act*.

⁵⁰² Ibid.

⁵⁰³ Ibid, 252.

lives of status Indians.”⁵⁰⁴ She states that both treaties and the *Indian Act* placed Indians in a separate constitutional category from other Canadians, but in different ways. As Dickason explains, treaties and the *Indian Act* are at “cross purposes; that from the Indian’s view, the *Indian Act* was restrictive and controlling,” whereas treaties “aim at accommodation through mutual agreement.”⁵⁰⁵ For Indians, according to Dickason, the *Indian Act* proposed to “remake” Indians, through education and social programs, with skills needed in Canadian society; however, the *Act* was in “violation” of the treaties.⁵⁰⁶ Dickason explains that, for non-Indians, the *Act* had two purposes: Indian protection and advancement.⁵⁰⁷ Essentially, the *Indian Act* set the stage for Indians to be assimilated into Canadian society. By acquiring skills (such as those of manual labour), they might be seen as full participants of Canadian society. These goals were based in the liberal democratic values stressing European definitions of individualism and equality.⁵⁰⁸ This “long history” of the federal application of these values of the Euro-American liberal democratic tradition in relation to Indians began with the *Indian Act*, and continued into the next century when it was reaffirmed in the proposals made by the *White Paper*. The *White Paper* proposed to “end” the treaty relationship between Indians and the government, and terminate all relevance and responsibility owed to First Nation peoples with regard to the historical treaties.

The earliest treaties between indigenous people and Europeans were “peace and friendship” treaties found primarily on the East Coast of Canada in what are now the

⁵⁰⁴ Ibid, 254.

⁵⁰⁵ Ibid.

⁵⁰⁶ Ibid.

⁵⁰⁷ Ibid.

⁵⁰⁸ Ibid.

Maritime Provinces. After the *Royal Proclamation* of 1763, peace was not the focus of treaties: the new focus was land.⁵⁰⁹ Later, in 1850, the Robinson Treaties were signed and followed the pattern set out in the *Royal Proclamation*.⁵¹⁰ After the Confederation of 1867, the number treaties, also known as the historical treaties, were signed between the years 1871 to 1921.⁵¹¹ The historical treaties covered vast regions of what are now northern Ontario, the Prairie Provinces, and parts of the Northwest Territories.⁵¹² On the Western Prairies, particularly in Alberta, three treaties were signed in 1876 (Treaty 6); in 1877 (Treaty 7); and, in 1899 (Treaty 8).⁵¹³ Although the treaties are now part of history, their importance is still very much relevant to First Nations people whose ancestors signed them with the Crown.

Several recent books reinforce the importance of the treaties, including research by Treaty 7 Elders and Tribal Council (1996), Hugh Dempsey (1987), Richard Price (1986), John Snow (1977), and Harold Cardinal (1969). All focus on the importance of treaties in general, and also deal, to variable degree, with the indigenous understanding of the treaties.⁵¹⁴ According to Walter Hildebrandt, Dorothy First Rider, and Sarah Carter,

⁵⁰⁹ Olive P. Dickason and William Newbigging, *A Concise History of Canada's First Nations*, 3rd edition (Don Mills, Ontario: Oxford University Press, 2015), 108.

⁵¹⁰ *Ibid.*, 164. Dickason states that by the time of Confederation, 123 treaties had being concluded with indigenous people and the Crown, with an additional 66 treaties between 1860 to 1923, 181.

⁵¹¹ James S. Frideres, *First Nations in the Twenty-First Century* (Don Mills, Ontario: Oxford University Press, 2011), 12.

⁵¹² *Ibid.*

⁵¹³ *The Spirit of the Alberta Indian Treaties*, ed by Richard Price (Edmonton, Alberta: Pica Pica Press, 1987).

⁵¹⁴ Laurie Meijer-Drees, "Citizenship and Treaty Rights: The Indian Association of Alberta and the Canadian Indian Act, 1946-1948," Meijer-Drees states that there is lack of scholarly material investigating numbered treaties, since the signing of the agreements.

contemporary research and understanding of treaties is consistent with the elders' understanding and interpretation of Treaty 7.⁵¹⁵

The authors of the book (1996) *The True Spirit and Original Intent of Treaty 7*, gathered the “collective memory” of Treaty 7 elders and to determine what the “spirit and intent” Treaty 7 encompassed.⁵¹⁶ Treaty 7, also known as the “Blackfoot Treaty” includes the Bloods, Siksika, Peigan, Stoney, and Tsuu T’ina (Sarcee).⁵¹⁷ Although the meaning and interpretation of Treaty 7 by both parties (the federal government negotiators and the indigenous signatories) remains far from consensus, Treaty 7 elders’ maintain that the agreement struck in 1877 was to “share” the land rather than a land surrender.⁵¹⁸ In other words, the elders explained that the treaty was understood to be a “peace treaty” to “share” the land between the Blackfoot, their allies, and the new arrivals. In exchange for sharing the land, according to the elders, the Crown was committed to provide treaty promises. Generally, these promises included agriculture, education, healthcare, and

⁵¹⁵ Treaty 7 Elders and Tribal Council with Walter Hildebrandt, Dorothy First Rider, and Sarah Carter, *The True Spirit and Original Intent of Treaty 7* (Montreal: McGill-Queens University Press, 1996), 323. The authors contended that research into Treaty 7 since its signing in 1877 has revealed consistency across testimony provided by elders whether interviews were conducted in the “nineteenth century, the 1920s, the 1930s, the 1960s or the 1990s. The authors emphasized the importance of oral history in keeping the treaties alive and viable through successive generations.

⁵¹⁶ *Ibid.*, 330. The author’s stated that the elder’s testimony regarding the interpretation of Treaty 7, and what was agreed to at the treaty signing was not included in the written text of the treaty.

⁵¹⁷ Alexander Morris, *The Treaties of Canada with the Indians of Manitoba and the North-West Territories* (Calgary, Alberta: reprinted by Fifth House Publishers, 1991), 245. Morris described Treaty 7 as the “Blackfoot Treaty,” presumably because of the large number of Blackfoot speaking tribes relative to the Tsuu T’ina, and Stony peoples.

⁵¹⁸ Treaty 7 Elders and Tribal Council, *The True Spirit and Original Intent of Treaty 7*, xi.

hunting, fishing, and gathering.⁵¹⁹ Nevertheless, the signing of Treaty 7 could be taken to mean that the “spirit and intent” of the agreement, as seen by Treaty 7 First Nations, was a nation-to-nations agreement. This argument that Treaty 7 was a nation-to-nation agreement is consistent with the *Red Paper*’s argument that treaties were signed between nations. Moreover, the elders of Treaty 7 saw their treaty with the Crown, as a “sacred” agreement.⁵²⁰

What is sacred about treaties and why did this concept of treaty impact the development of the *Red Paper*? In 1970, when the IAA presented its *Red Paper* to the federal government as an alternative to assimilation as proposed in the *White Paper* and

⁵¹⁹ Borrows, *Canada’s Indigenous Constitution*, 27. Borrows contends that government lawyers continue to interpret the treaties according to the written text of the treaties, and give it “the narrowest possible technical interpretation in order to increase the Crown’s authority relative to the Indians.”

⁵²⁰ Treaty 7 Elders and Tribal Council, 68. Wilton Goodstriker is a prominent member of the Blood tribe and wrote the introduction to the book *The True Spirit and Original Intent of Treaty 7*. Goodstriker points out that the pipe ceremony (big smoke) was performed a day prior to the signing of Treaty 7, and there were two reasons why the “big smoke” was not recorded in history books. 1) The insignificance of these ceremonies to non-Indian people (and therefore, presumably no need to record). 2) From the Indians perspective, only people with “rights” to perform and conduct these ceremonies have the right to discuss them. In other words, few Indian people had the “right” to discuss the big smoke during that period, and these “right” holders were honest people whose cast no judgement on others and expected that only good will come from the treaties. Also see William M. Graham, *Treaty Days: Reflection of an Indian Commissioner* (Calgary, Alberta: Glenbow Museum, 1991), xiv. William Graham worked for the Indian Affairs department between 1885 to his retirement in 1932. His book’s original focus was an autobiography, but instead it focused on Graham’s observations of Indian life. His observations of Indian life and customs, was sometimes “tempered by his limited understanding of Indian culture...as it reflect[ed] attitudes and perceptions that was probably shared by many Indian Department officials,” during that time period. The book is relevant because it shares insights from first hands accounts from a retired senior Indian Department official about the importance of Indian cultures and ceremonial practices. Also see *The Final Report of the Royal Commission on Aboriginal Peoples, vol. 2, part 1: Restructuring the Relationship* (Ottawa: Minister of Supply and Services Canada, 1996), 22. Recommendation 2.2.1 “Historical treaties were meant by all parties to be sacred and enduring....”

introduced by the *Indian Act*, embedded in the document's foundation was an important interpretation of the significance of the treaties. The IAA stated that the treaties continue to be significant and a source of importance for treaty Indian people in Alberta, and that treaty was understood by the community as "solemn agreements."⁵²¹ The radical difference between the *White Paper* and *Red Paper* was the fact that the government wanted to "end" all historical agreements including the treaties, while the IAA argued that treaties were "sacred" representations of "their rights and status."⁵²² Conceptually, the federal government proposed in the *White Paper* the destruction of the historic relationship between themselves and Indian people, and suggested the replacement of the relationship created by the historical agreements with their interpretation of liberal democratic ideas of individualism, equality, and freedom. Although Indian lands had been surrendered via the treaties, Indian people's "inalienable" right to govern themselves was not extinguished, but remained in force.⁵²³ In respect to "self-sufficiency," the *Red Paper* argued that treaty Indians had a sovereign right to govern themselves within their communities in all matters that concerned them and that the historical agreements must remain firmly in place.

⁵²¹ The Indian Association of Alberta, *Citizens Plus: the Red Paper*, 7.

⁵²² Harold Cardinal, *The Unjust Society*, 1.

⁵²³ Augie Fleras and Jean Leonard Elliott, *The Nations Within: Aboriginal-State Relations in Canada, the United States, and New Zealand* (Toronto, Oxford University Press, 1992), 30. Also see Colin H. Scott, "Custom, Tradition, and the Politics of Culture: Aboriginal Self-Government in Canada," in *Anthropology, Public Policy and Native Peoples in Canada*, ed. Noel Dyck and James B. Waldram (Montreal: McGill-Queens University Press, 1993), 311-333. Scott stated that under the Constitution Act 1982, aboriginal leaders interpreted section 35 (1) to include "inherent" right to self-government. The "inherent" right to self-government will be discussed further below.

Comparing the White Paper and the Red Paper

For the federal government of the 1960s, the liberal values of individualism, equality, and their concept of freedom were a paramount feature of the 1969 *White Paper*. Turner's contemporary analysis in (2006) *This Is Not a Peace Pipe* offers insight into how the Liberal government of the time was defining liberal theories of individualism, equality, and the meaning of freedom as a value that they proposed should be adopted by Indian people. As Turner states, "a good theory of justice has to be couched in the language of individual, freedom, and equality."⁵²⁴ "Equality" was frequently cited in the *White Paper* in 1969. The *White Paper* stated that Indians were "free to develop Indian cultures in an environment of legal, social, and economic equality in the manner equal to other non-indigenous Canadians."⁵²⁵ To achieve this federal version of "equality," the *White Paper* proposed to completely assimilate Indians into the Canadian population.

Conversely, the *Red Paper* resisted all attempts at assimilation. The *Red Paper* argued that the treaties were written by equal partners indeed by sovereign nations, and thus these agreements provided all their rights and, further, that the government would need to honour the agreements made to Indian people. Below I offer excerpts from the *White Paper* and *Red Paper*, in order to reveal the comparative dialogue on the six proposals evident in the *White Paper*. The six proposals were grounded in a framework for Indian people to achieve "equality," and the framework provided the focal point of

⁵²⁴ Dale Turner, *This Is Not a Peace Pipe*, 13.

⁵²⁵ Canada, House of Commons, *Statement of the Government of Canada on Indian Policy, 1969* (Ottawa: Minister of Indian Affairs and Northern Development, 1969), 3.

discussion that is evident in the arguments of the respective documents. The dialogue demonstrates where the two parties disclose very different ideas of “self-sufficiency.” Whereas the *White Paper* proposed the destruction of the historical agreements, particularly the treaties, the *Red Paper* argued that the treaties were important agreements and that they could be as source of governance for Indian people.

Approximately one year after the federal government’s announcement of its *White Paper* proposal, the Indian leadership requested a meeting with the government of Canada.⁵²⁶ The request for a meeting with the government, would give the Indian leadership an opportunity to present its *Red Paper* to the government using traditional methods of diplomacy. Borrows describes traditional indigenous governance system as having “diplomacy,” or a process or protocol that involved long orations between parties before treaties were agreed upon.⁵²⁷ Nevertheless, on the fourth of June 1970, the IAA presented its *Red Paper* to Prime Minister Pierre Trudeau and his cabinet at the historic Railway Committee Room of the Parliament buildings, in Ottawa.⁵²⁸ A journalist recording the event, Rudy Platiel described the meeting at the Railway committee Room:

In a scene that deserves to be preserved in oil paints on a giant canvas, Indian leaders stood majestically in feathered headdresses and white deerskin garb and presented the cabinet with an alternative (*Citizen Plus*). It was an affirmation of

⁵²⁶ Kathleen Flaherty, “The White Paper/Red Paper,” CBC radio program *IDEAS*, February 22, 2010. URL <http://www.cbc.ca/ideas/episodes/2010/02/22/white-paper-red-paper-cd/>

⁵²⁷ John Borrows *Canada’s Indigenous Constitution*, 129-132. Borrows explains how some aboriginal groups practiced governance prior to European arrival to the new continent. For example, he states that before a treaty was agreed upon between both aboriginal groups, diplomacy was a key feature. Borrows describes diplomacy as protocols that involved feasts, potlatches, and long orations, as a measure of good faith between both parties to the agreement.

⁵²⁸ Weaver, *Making Canadian Indian Policy*, 183. Also see Rudy Platiel, “1970 in Retrospect,” *Indian-Eskimo Association of Canada Bulletin*, in Alan C. Cairns, *Citizens Plus: Aboriginal People and the Canadian State* (Vancouver: UBC Press, 2000), 67.

faith in their Indian identity. After a century of being engulfed by a white tidal wave, they were still here, they were still different, and they were not about to let themselves be pushed into oblivion.⁵²⁹

Platiel's description of the Indian leaders in "feather headdresses and deerskin garb" at the presentation of the *Red Paper* in 1970, reinforced the general view of Indians by the mainstream press and Canadian society more generally.⁵³⁰ Regardless, the "feather headdress and deerskin garb" was an effective strategy by the Indian leadership. The *Red Paper* presentation to the government of Canada provided an opportunity for the Indian leadership to exercise ancient governance systems.⁵³¹ For example, the headdress in Blackfoot society is symbolic of personal achievement, and achievement was, and continues to be, recognized in Blackfoot society whether elected to a political position or to a ceremonial a role. The wearing of traditional "garb," was also effective because the Indian leadership was making a political statement that treaties were important agreements to Indian people and to the relationship between the federal government and Indian people. Essentially, what the Indian leadership was saying was that, we are going to address to you (the government of Canada) our concerns over your *White Paper* proposal and present to you our alternative solution to combat poverty in our communities, and on our terms.

⁵²⁹ Ibid.

⁵³⁰ William Wuttenee, *Ruffled Feathers* (Calgary, Alberta: Bell Books Ltd, 1971), 18. According to Wuttenee, the Indian-Eskimo Association of Canada was established in 1960 by non-Indians concerned with social issues of Indian people. Also see Carmen Robertson, "Imaginary Citizens: The White Paper and the Whitewash in the Press," in *Narratives of Citizenship: Indigenous and Diasporic Peoples Unsettle the Nation-State*, ed. Aloys N. M. Fleischmann, Nancy Van Styvendale, and Cody McCarroll (Edmonton, Alberta: The University of Alberta Press, 2011).

⁵³¹ John Borrows *Canada's Indigenous Constitution*, 129-132.

According to Turner, the first sentence of the *Red Paper* stated the Indian position: “To us who are treaty Indians there is nothing more important than our Treaties, our lands, and the well being of our future generation.”⁵³² At this public gathering in 1970, Chief Adam Solway read from the *White Paper* while Chief John Snow countered the *White Paper* proposals with assertions from the *Red Paper*:

Solway: *White Paper* - “that legislative and constitutional basis of discrimination should be removed.”

Snow: *Red Paper* - “the legislative and constitutional basis for Indians status and rights should be maintained until such times as Indian people are prepared and willing to renegotiate them.”

Solway: *White Paper* - “there should be a positive recognition of the unique contribution of Indian culture to Canadian life.”

Snow: *Red Paper* - “these are nice sounding words which are intended to mislead everybody. The only way to maintain our culture is for us to remain as Indians. To preserve our culture it is necessary to preserve our status, rights, and lands and traditions. Our treaties are the basis of our rights.”

Solway: *White Paper* - “that services come through the same channels and from the same government agencies for all Canadians.”

Snow: *Red Paper* - “We say that the Federal Government is bound to the British North American Act, Section 91, Head 24, to accept legislative responsibility for ‘Indians and lands reserved for them.’”

Solway: *White Paper* - “that those who are furthest behind be helped most.”

Snow: *Red Paper* - “We do not want different treatment for different tribes. These promises of enriched services are bribes to get us to accept the rest of the policy. The Federal Government is trying to divide us Indian people so it can conquer us by saying that poorer reserves will be helped most.”

Solway: *White Paper* - “That lawful obligations be recognized.”

Snow: *Red Paper* - “If the Government meant what it said we would be happy. But it is obvious that the Government has never bothered to learn what the treaties are and has a distorted picture of them.”

Solway: *White Paper* - “That control of lands be transferred to the Indian people.”

⁵³² The Indian Association of Alberta, *Citizen Plus: the Red Paper*, 1.

Snow: *Red Paper* - “We agree with this intent but we find the Government is ignorant of two basic points. The Government wrongly thinks that Indian reserves lands are owned by the Crown. The Government is, of course in error. These lands are held in trust by the Crown but they are Indian lands...The second error the Government commits is making the assumption that Indians can have control of the land only if they take ownership in the way ordinary property is owned. [Indian lands] must be held forever in trust of the Crown because, as we say, ‘The true owners of the land are yet unborn.’”⁵³³

Weaver described the atmosphere once the *Red Paper* presentation ceased:

“After the Chiefs’ delivery, they placed a copy of the White Paper on the table in front of Chrétien, indicating official rejection, and a copy of the Red Paper was handed to the prime minister, signalling their intent to begin discussing counter proposals.”⁵³⁴

According to Weaver, although the Prime Minister’s speech fell “short of an apology,” he responded candidly to the *Red Paper* presentation to the surprise of all attending the meeting:⁵³⁵

“And I’m sure that we were very naive in some of the statements we made in the paper. We had perhaps the prejudices of small ‘l’ liberals and white men at that who taught that equality meant the same law for everybody, and that’s why as a result of this we said, ‘well let’s abolish the Indian Act and make Indians citizens of Canada like everyone else. And let’s make Indian dispose of their lands just like every other Canadian. And let’s make sure that Indians can get their rights, education, health and so on, from the governments like every other Canadian.’ But we have learnt in the process that perhaps we were a bit too theoretical, we were a bit too abstract, we were not, as Mr. Cardinal suggests, perhaps pragmatic enough or understanding enough, and that’s fine. We are here to discuss this.”⁵³⁶

⁵³³ Canada, House of Commons, *Statement of the Government of Canada on Indian Policy, 1969* (Ottawa: Minister of Indian Affairs and Northern Development, 1969); The Indian Association of Alberta, *Citizen Plus/The Red Paper* (Edmonton, Alberta, 1970). Also see Weaver, *Making Canadian Indian Policy*, 183-185; and Dale Turner, “White and Red Paper Liberalism,” in *Philosophy and Aboriginal Rights: Critical Dialogues*, ed. Sandra Tomsons and Lorraine Mayer (Don Mills, Ontario: Oxford University Press, 2013), 164.

⁵³⁴ Weaver, *Making Canadian Indian Policy*, 183-184.

⁵³⁵ *Ibid.*, 185.

⁵³⁶ *Statement by Prime Minister Pierre Trudeau at a Meeting with the Indian Association of Alberta and the National Indian Brotherhood, Ottawa, June 4, 1970*. James Gladstone fonds 1887-1971, folder M7655-331, Minutes and Conference proceedings, (Calgary, Alberta: Glenbow Archives: 1970), 2-3.

Weaver reflected that Trudeau's concluding comments "shocked" the audience.⁵³⁷

Although Weaver did not elaborate on her comment about the Prime Minister's remarks that "shocked" the audience; her comment could be interpreted to mean that the Prime Minister was prepared to rescind the *White Paper*. This position was in stark contrast from a year previous when the government proposed to end its legal responsibility with Indians. As Trudeau stated,

"But let me just say that we will be meeting again and we will be furthering the dialogue, and let me just say, we are in no hurry if you're not. You know, a hundred years has been a long time and if you don't want to answer in another year, we'll take two, three, five, ten, or twenty – the time you people decide to come to grips with this problem. And we won't force any solution on you, because we are not looking for any particular solution."⁵³⁸

Weaver shows how this conclusion was "interpreted as the Prime Minister's assurance that the government would not press the *White Paper* on Indians."⁵³⁹ Although there was no mention of the *Red Paper's* two strategies (education and economic development) to solve poverty in Indian communities, Trudeau's comments seem to indicate that an existing "Indian problem" was worthy of fixing, or that poverty would remain until "you people [Indians] decide to come to grips with this problem."⁵⁴⁰ Nevertheless, the significance of the public dialogue shows how the *White Paper* and *Red Paper* incorporated differing routes to "self-sufficiency" for Indian people. The *White Paper*

⁵³⁷ Weaver, *Making Canadian Indian Policy*, 185.

⁵³⁸ *Statement by the Prime Minister at a Meeting with the Indian Association of Alberta and the National Indian Brotherhood, Ottawa, June 4, 1970, 7*. James Gladstone fonds 1887-1971, folder M7655-331, Minutes and Conference proceedings, (Calgary, Alberta: Glenbow Archives: 1970), 2-3.

⁵³⁹ Weaver, *Making Canadian Indian Policy*, 185.

⁵⁴⁰ *Statement by the Prime Minister at a Meeting with the Indian Association of Alberta and the National Indian Brotherhood, Ottawa, June 4, 1970, 7*. James Gladstone fonds 1887-1971, folder M7655-331, Minutes and Conference proceedings, (Calgary, Alberta: Glenbow Archives: 1970), 2-3.

proposed the destruction of the historic agreements because they hindered Indians full immersion into Canadian life. This relationship, in their proposal, would be replaced with the liberal ideas of individualism, equality, and freedom. The *Red Paper* countered with arguments that the historical agreements must not be dismantled and further that the treaties must be recognized and acknowledged by the federal government. Moreover, by arguing for treaty implementation, the *Red Paper* implied that treaties were a potential source of governance for Indian people.

Conclusion

In this chapter, the researcher argued that the 1969 *White Paper* and the 1970 *Red Paper* were aligned in their goals to improve the “Indian problem,” but they conveyed different versions of “self-sufficiency” and varying forms of governance for Indian people. The *White Paper* proposed that Indians who assimilated into Canadian society would benefit from the liberal democratic ideals of individual “self-sufficiency.” In essence, the *White Paper* proposed that the liberal democratic values would “free” Indian people from “discriminatory” legislation such as that deriving from the *Royal Proclamation of 1763*, the *Constitution Act 1867*, the *Indian Act 1876*, and the historical treaties. The *White Paper* proposed the destruction of the historical agreements that formed the foundation between the federal government and Indian people.

In contrast, the *Red Paper* defined “self-sufficiency” through the historical treaties signed between the Crown and Indian people. The *Red Paper* argued the treaties were signed between equal nations and, that treaties encompassed all their “rights and status.” The historical treaties were the foundation of the relationship between Indians and the government, and the IAA held the government to account for the promises made to

Indian people in the *Red Paper*. Nevertheless, after the *Red Paper* presentation in June 1970, the federal government officially withdrew its *White Paper* proposal in 1971, including three points of contestation regarding the legal status of Indians, treaties, and Indian lands.

Final Conclusion

The research question that initiated this study was to explore the political significance of the IAA authored 1970 *Red Paper* written for and by treaty Indian people in Alberta. The *Red Paper*, as I have shown, was a critical response to the 1969 federal *White Paper* on Indian policy. This thesis examined how the 1970 *Red Paper* regarded the historical treaties as sacred agreements countering the assertions made otherwise in the federal government's *White Paper*. In my view, the *Red Paper* effectively demonstrated the contemporary relevance of treaty Indian people in Alberta. Moreover, the *Red Paper* was a political statement expressing resistance to the assertions of the federal *White Paper*.

“Self-sufficiency,” in the *Red Paper*, was not understood as individually defined but as a collective understanding that linked “self-sufficiency” to the treaties signed with the Crown; the treaties, as I have stressed throughout the thesis, were understood as nation-to-nation agreements and these agreements continue to have sustained relevance in defining the contemporary relationship between both parties. Alternatively, the concept of “self-sufficiency” in the *White Paper* proposed assimilation of Indians into mainstream Canadian society. The method of assimilation evident in the *White Paper* was individualized “self-sufficiency,” where Indians would be enabled to individually participate in Canadian society and governance.

The contemporary relevance of the 1970 *Red Paper* and the 1969 *White Paper* was that, the clash of these documents created a watershed for native activism. This struggle for federal recognition of those rights continues today. Although the federal *White Paper* challenged native activism by proposing “equality” to Indians, the *Red Paper* aggressively resisted these ideas proposed by the federal government. As a result,

by 1971, in the face of the forceful criticisms convincingly argued by the *Red Paper*, the federal government withdrew its *White Paper* on Indians. The implications after 1971 for Indians were that the *Red Paper* had provided an effective catalyst to assert and advance Indian recognition of treaty rights which subsequently were affirmed and recognized in the 1982 *Constitution Act*. Indirectly, however, various other decisions shepherded through the judicial system also affirmed the diverse range of rights of aboriginal people in Canada. For instance, in the 1973 *Calder v. British Columbia* (Attorney General) decision at the Supreme Court of Canada (SCC) level, the court affirmed indigenous rights existed as an interest held in the land.⁵⁴¹ The Nisga'a Nation of British Columbia based their claim on their occupancy of the land, since time immemorial, in the Nass Valley.⁵⁴² Three justices voted against the Nisga'a claim and three in favour, while the seventh justice voted against based on a "technicality."⁵⁴³ Although the *Calder* case had

⁵⁴¹ This thesis is not a review of aboriginal rights legal decisions such as the recent SCC decision *Tsilhqot'in Nation v. British Columbia*, [2014] 2 S.C.R. 256. Website: <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/14246/index.do> (Last accessed, 08/12/15). *Calder v. British Columbia* (Attorney General) [1973] S.C.J. No. 56, [1973] S.C.R. 313, 34 (3d) 145, [1973] 4 W.W.R. 1 (SCC), in *Aboriginal Legal Issues: Cases, Materials, and Commentary*, 3rd edition, by John Borrows and Leonard I. Rotman, (Ontario: LexisNexis Canada Inc, 2007), 221. The SCC considered the claims of appellants, the Nishga Indian nation of British Columbia, that aboriginal title over their traditional lands had never been "lawfully extinguished." Moreover this section of the thesis is not meant to evaluate the merits of *Calder* case (1973), but to demonstrate how legal precedence, such as the *Calder* case, foreshadowed political dialogue between the federal government and First Nations people in Canada. Further, I show some general trends and issues that derived as a result of the *White Paper* and *Red Paper* via legal precedence to understand how academics interpret the contemporary political relationship between the federal government and First Nations people. In keeping with the evolution of treaty and aboriginal rights discourse, I use literature relevant to that period. For example, literature published in the 1980s, and 1990s shows the evolution of treaty and aboriginal rights discourse in relation to the literature and, secondly, its evolution through time.

⁵⁴² Dale Turner, *This Is Not a Peace Pipe*, 21

⁵⁴³ *Ibid.*

not been won at the SCC level, the national significance of the case was the legal recognition of the existence of aboriginal title in Canadian law. Moreover this title continued to exist without being “extinguished without ‘clear and plain intent.’”⁵⁴⁴ The government was therefore forced to reconsider the rights held by indigenous people to the land. With additional tensions created by the assertions made by the *White Paper* and subsequently challenged by the *Red Paper*, Indian people no longer “accept[ed] being relegated to the margins of Canadian society,” and the government was rapidly confronted by the emergence of a new political relationship and more active constituents of Indian leadership and community.⁵⁴⁵ Increasingly recognized was that indigenous people at the national level had the right to assert their rights based on historical agreements or even, the lack of such documentation of rights. The Supreme Court of Canada’s (SCC) 1973 decision in the *Calder* case⁵⁴⁶ regarding aboriginal interest in the land would set the government/indigenous relationship in a new direction.

The *Calder* decision established that First Nations people still held an indigenous interest in the land, if no existing treaty had extinguished title. In other words, the *Calder*

⁵⁴⁴ Ibid.

⁵⁴⁵ According to Borrows, the Supreme Court had identified this process and wrote, in *R. v Sparrow* (1990), “It is clear, then, that s.35(1) of the *Constitution Act, 1982* represents the culmination of a long and difficult struggle in both the political forum and the courts for the constitutional recognition of Aboriginal Rights. The strong representation of native associations and other groups concerned with the welfare of Canada’s Aboriginal Peoples made the adaptation of s.35(1) possible...” Footnote 36, 254, John Borrows, “Measuring a Work in Progress: Canada, Constitutionalism, Citizenship and Aboriginal Peoples,” in *Box of Treasures or Empty Box: Twenty Years of Section 35*, ed. Ardith Walkem and Halie Bruce (Penticton: Theytus Books Ltd, nd).

⁵⁴⁶ Roger Gibbons and J. Rick Ponting, “Introduction,” in *Arduous Journey: Canadian Indians and Decolonization*, 13.

decision of 1973 and the 1982 *Constitution Act* following the 1970 *Red Paper* set the tone for a new political relationship between the federal government and Indian people. Thus, it can be stated that the innovation of government/indigenous relationships were reinforced by judicial decisions like *Calder* and the inclusion of the Section 35 (1) in the 1982 *Constitution Act*. As Section 35 (1) of the *Constitution Act*, reinforced “the existing Aboriginal and treaty rights of the Aboriginal Peoples of Canada are hereby recognized and affirmed.”⁵⁴⁷ The 1970 *Red Paper* early advocated a model of “self sufficiency” based on education and economic development whereas the subsequent 1982 *Constitution Act* advocated self-government through treaty. Moreover, the ideas of “self-sufficiency” first articulated in the 1970 *Red Paper* continue to have relevance to contemporary scholarly discussion, particularly with regards to reinforcing the rights and ideas of self-government.

The political relationship between aboriginal people and the federal government after the *White Paper* has been characterized as an “Indian Quiet Revolution.”⁵⁴⁸

⁵⁴⁷ John Borrows, *Drawing Out Law: A Spirit's Guide* (Toronto, Ontario: University of Toronto Press, 2010), 24. John Borrows and Leonard I. Rotman, *Aboriginal Legal Issues: Cases, Materials, and Commentary*, 3rd ed. (Ontario: LexisNexis Inc, 2007), 98. In the *Constitution Act 1982* “Aboriginal peoples” is defined to include the “Indian, Inuit, and Métis peoples of Canada.

⁵⁴⁸ Roger Gibbons and J. Rick Ponting, “Introduction,” in *Arduous Journey: Canadian Indians and Decolonization*, 34-41. The authors point out that during the period between 1970 and the mid 1980s was a period that Indian people experienced “enormous social change.” The social change reflected government policy in three phases: 1) the period of policy retreat from 1969 to 1971, 2) the period of turmoil and floundering from early 1970s to late 1970s and, 3) the period of self-government and constitutional reform from 1971 to 1985. Cumulatively, the authors referred to this period, as “an Indian Quiet Revolution.” Also see Cardinal, *The Unjust Society*. Cardinal used this phrase “Quiet Revolution” to describe the origins and the need for a national Indian organization, after the dissolution of the Nation Indian Council in 1967, where two separate organizations were created; one for Métis or non-registered Indians and the other for treaty or registered Indians, 93.

However for Indians, the relationship with the federal government in the 1970s was not so “quiet.” For example, in his book titled *Home and Native Land* (1984), Michael Asch reviews significant events of the 1970s for Indian people that also had an impact on the inclusion of Section 35 of the 1982 *Constitution Act*.⁵⁴⁹ As previously mentioned, the 1969 *White Paper* was the watershed for Indians to actively assert their rights against federal government’s denial of rights. For example, Yvonne Bedard of the Six Nations Indian Reserve challenged the federal government’s *Indian Act* legislation on the ground that she lost her Indian status when she married a non-Indian man.⁵⁵⁰ Bedard was concerned that the *Indian Act* violated the “equality before the law” provision of the Canadian Bill of Rights. In its decision [1973] the Court held that the *Indian Act* might discriminate against women but it did not violate the Bill of Rights as long as the *Indian Act* applied equality to all Indian women.⁵⁵¹ Nevertheless, other similar and major challenges regarding equity eventually came before the courts during the *White Paper* and *Red Paper* exchange, and these judicial cases would set the relationship between government and Indian people on firmer footing regarding the rightful and constitutional inclusion of indigenous interests particularly around governance. The momentum of Indian activism of the 1970s continued with the *Red Paper*, spilled over into the 1980s.

⁵⁴⁹ On Indian advocacy in the 1970s, see Michael Asch, *Home and Native Land: Aboriginal Rights and the Canadian Constitution* (Toronto, Ontario: University of Toronto Press, 1984).

⁵⁵⁰ Thomas Isaac, *Aboriginal Law: Commentary, Cases and Materials*, 3rd edition, (Saskatoon, Saskatchewan: Purich Publishing Ltd, 2004), 507.

⁵⁵¹ *Ibid.*

The 1980s also witnessed national negotiations for the inclusion of an “aboriginal rights” section of the 1982 *Constitution Act*,⁵⁵² whereby the *Constitution* was successfully passed with the inclusion of Section 35(1).⁵⁵³ This addition subsequently allowed for the intensification of Indian demands for self-government. There existed controversy over what the word “existing” would mean. Aboriginal scholars, such as Little Bear, noted that Section 35(1) acknowledges only legally recognized rights and did not apply to rights that, according to Canada’s legal system, have been extinguished or superseded by law.”⁵⁵⁴ Other scholars, such as Ian Waddell, claimed that word “existing” was essentially added to “placate” Premiers and the Department of Justice, but with no real adverse effect.⁵⁵⁵ However, some aboriginal scholars, such as Lee Maracle, questioned the legitimacy of Section 35(1) as well as the supremacy of the Canadian state in relation to their rights to define or limit treaty and aboriginal rights. By “relying on s.35, Indigenous Peoples have to accept the Canadian Constitution as the “Supreme Law” through which our rights as Nations should be decided,” Maracle wrote.⁵⁵⁶ Nevertheless, the “inherent” right to self-

⁵⁵² Ibid, 32. The *Calder v. The Attorney General of British Columbia* was making its way through the courts during the *White Paper/Red Paper* period and the SCC made its ruling in this case in 1973.

⁵⁵³ Colin H. Scott, “Custom, Tradition, and the Politics of Culture: Aboriginal Self-Government in Canada,” in *Anthropology, Public Policy and Native Peoples in Canada*, ed. Noel Dyck and James B. Waldram (Montreal: McGill-Queens University Press, 1993), 311-333.

⁵⁵⁴ Leroy Little Bear, “Aboriginal Rights and the Canadian “Grundnorm,”” 257.

⁵⁵⁵ Ian Waddell, “Building a Box, Finding Storage Space,” in *Box of Treasures or Empty Box: Twenty Years of Section 35*, ed. Ardith Walkem and Halie Bruce (Penticton: Theytus Books Ltd, nd), 14-21.

⁵⁵⁶ Lee Maracle, “The Operation was Successful, But the Patient Died,” in *Box of Treasures or Empty Box: Twenty Years of Section 35*, ed. Ardith Walkem and Halie Bruce (Penticton: Theytus Books Ltd, nd), 308-314.

government, in so far as that right has not been surrendered, is generally accepted as a critical part of “existing” aboriginal rights.⁵⁵⁷ After the federal *White Paper*, however, there emerged numerous texts focused solely on policy and, legal and administrative aspects of self-government,⁵⁵⁸ but this literature fails to address or successfully identify those indigenous institutions.

Aboriginal self-government has become the subject of a growing body of literature, with publications particularly in the 1980s and 1990s.⁵⁵⁹ Additionally, two anthologies on self-government show how divergent views are evident, including for instance *Aboriginal Self-Government in Canada: Current Trend and Issues* (1999) and *Aboriginal Self-Government in Canada: Current Trends and Issues* (2008).⁵⁶⁰ As

⁵⁵⁷ Colin H. Scott, “Custom, Tradition, and the Politics of Culture: Aboriginal Self-Government in Canada,” in *Anthropology, Public Policy and Native Peoples in Canada*, ed. Noel Dyck and James B. Waldram (Montreal: McGill-Queens University Press, 1993), 311-333. Scott explained that a series of Canadian First Ministers’ Conferences took place in the years 1983, 1984, 1985, and 1987 between aboriginal leaders and the two levels of governments (federal and provincial). The purpose to the conferences was to determine the nature of self-government. The federal and provincial governments had a “limited” perspective of self-government in two areas: “cultural survival and the resolution of socio-economic problems besetting aboriginal people, 316. While aboriginal leaders thought of self-government in broader scope to include, “cultural rights to the historical priority of aboriginal peoples, and to an institutionally comprehensive definition of cultural survival,” 317.

⁵⁵⁸ Some federal government literature on self-government include, The Penner Report (1983), The Federal Government’s “Inherent Right to Self-Government” (1995), and the *Report on the Royal Commission on Aboriginal Peoples* (1996).

⁵⁵⁹ Also see, Colin H. Scott, “Custom, Tradition, and the Politics of Culture: Aboriginal Self-Government in Canada,” 325. Scott listed additional scholars from an aboriginal perspective on self-government. These authors include Feit (1979), Asch (1984), Delisle (1984), Lyons (1984), Marule (1984), Porter (1984), Boyke-Wuerscher et al (1985), Salisbury (1986), and Franks (1987). Also see Little Bear, Boldt, and Long (1984), Little Bear (1986), and Menno Boldt (1993).

⁵⁶⁰ *Aboriginal Self-Government in Canada: Current Trend and Issues*, second edition, ed. John H. Hylton (Saskatoon, Saskatchewan: Purich Publishing Ltd, 1999); and *Aboriginal Self-Government in Canada: Current Trends and Issues*, 3rd edition, ed. Yale D. Belanger (Saskatoon, Saskatchewan: Purich Publishing Ltd, 2008).

mentioned earlier, many argue that aboriginal governance was not surrendered by previous legislation and therefore the literature on self-government is reflective of this notion. As Yale Belanger suggests, aboriginal self-government began at the community level, “sparked by leaders seeking to create healthy and stable governments to foster community well-being.”⁵⁶¹ Although the *Red Paper* was largely the result of large scale community involvement, the IAA was also aware that they had not surrender their right to govern themselves; “As representatives of our people we are pledged to continue our earnest efforts to preserve the hereditary and legal privileges of our people.”⁵⁶² In other words, while the English language used in the *Red Paper* was not articulated in a fashion exactly legible to contemporary readers, the intention and meanings are harmonious. That is, the underlying meaning of the above statement called for greater recognition of their inherent right to govern themselves. It is my observation that literature on self-government, since the early 1970s, did not only reaffirmed the *Red Paper*’s position regarding “self-sufficiency” (in terms of not surrendering their powers to govern themselves by treaty nor legislation), but also similarly advocated for broader powers to include “institutions” and a “land” base.⁵⁶³ Generally, the current literature since the *Red Paper* of 1970 on the topic of treaty and aboriginal rights discourse has reaffirmed and acknowledged the *Red Paper*’s points of advocacy established in 1970; the most

⁵⁶¹ Yale D. Belanger, “Introduction,” in *Aboriginal Self-Government in Canada: Current Trends and Issues*, 3rd edition, ed. Yale D. Belanger (Saskatoon, Saskatchewan: Purich Publishing Ltd, 2008), viii.

⁵⁶² The Indian Association of Alberta, *Citizens Plus: the Red Paper*, 3.

⁵⁶³ *Report of the Royal Commission on Aboriginal Peoples, volume 2 part 1: Restructuring the Relationship* (Ottawa: Minister of Supply and Services Canada, 1996), 4. In the introduction section to volume 2, under “Governance,” the Commission suggested that aboriginal people could exercise self-governing powers in Canada as a third order of government.

important of which was to reinforce that treaties are important to aboriginal people of Canada. In many ways, the *Red Paper* not only advocated for indigenous “self-sufficiency,” but prepared the stage for future negotiations, future legal decisions, and constitutional change. The *Red Paper*, therefore, was an early precedent in redefining, from an indigenous perspective, Indian peoples place within Canadian society.

In many ways the points of contestation as exemplified in the public dispute between the federal government’s *White Paper* and the IAA’s *Red Paper* remain of interest in academic literature, particularly in the era after the 1982 *Constitution Act*. The *Constitution Act* entrenched aboriginal treaty rights in Section 35(1), and, as a consequence, the longstanding debate around inherent right to self-government was reignited. Although the debate continues in academic literature, there is no real consensus between indigenous leaders and the federal government on the meaning held in Section 35(1), and thus the political implications of the Section continues to develop. In retrospect, the catalyst for contemporary discussion around Section 35 (1) may be traced back to the IAA’s *Red Paper* of 1970, the paper was a true affirmation and recognition of a “Just Society” but not as the *White Paper* or Trudeau had defined “justice” but rather with First Nations as self-determining and in control of all aspects of their lives as indigenous people first, and Canadians second. This thesis has shown that the historical treaties were important to First Nations people representative of the 1970 *Red Paper*, and that Indians continue to see the treaties as significant to their contemporary relationship with the state. Thus advocacy for treaty implementation remains to be done not only in scholarly literature by indigenous leaders of the present and possibly in the future.

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