

INDIGENOUS LANDS AND TERRITORIES: SELF-DETERMINATION, ACTIVISM AND CANADA'S WHITE PAPER

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Abstract: *Indigenous peoples in Canada, regardless of their nation, have long asserted their place on their ancestral territories now known as Canada. Indigenous peoples thrived on their ancestral territories during the pre-contact period. However, with the arrival of outsiders from Europe, Indigenous peoples experienced major shifts and overwhelmingly detrimental changes to their distinct ways of life, social structures, economies, governance systems and everyday processes. This article provides an overview of both the historicity and contemporary understanding of Canada's imposition of policies and laws on Indigenous peoples, often by violent means. These actions derived as part of the continuum of building and expanding of the Canadian settler nation-state. Both past and current policies have worked to undermine Indigenous self-determination and governance. These policies were paradoxically codified using terms such as inclusionary, equality and dignity. This article specifically examines the federal government's 1969 Statement of the Government on Indian Policy (the 'White Paper, which proposed eliminating any recognition of the rights of Indigenous people in Canada'), and it references the more recent Indigenous Rights Framework which the federal government introduced in 2018. It argues that both of these documents were designed to suppress, erase and assimilate Indigenous peoples. This article also provides an overview of the ways in which Indigenous peoples have mobilized in response to these attacks on their right to self-determination and their historical treaty rights with Canada.*

INTRODUCTION

In 1991, the Canadian government commissioned a comprehensive inquiry into the relationship between Indigenous peoples and the Canadian government and Canadian society as a whole. Named the Royal Commission on Aboriginal Peoples (RCAP), the final report was submitted in 1996.¹ It remains a significant document for its discussion of the history of Indigenous peoples in Canada and its many recommendations. The final report of the RCAP asserted that Indigenous cultures in Canada are framed by the everyday environment in which Indigenous peoples² live and the development of technology over time. The RCAP emphasized the fact that, whether they are on the east coast or in the Canadian North, Indigenous peoples' knowledge systems and original ways of being made it possible for them to continue to live in challenging environments. Furthermore, the RCAP added that in places such as in Central and South America, which are

entirely Indigenous territories, Indigenous peoples had developed their architecture, housing and technology prior to the arrival of Europeans. The same was the case for the Indigenous peoples of the Caribbean. They lived on, and learned from, the land long before the arrival of Europeans to their ancestral places, and this is still a common experience for Indigenous peoples in the Caribbean. So, for Indigenous peoples across the *Americas*, the relevance and relatedness of life and the land is a common and relatable theme.

In their crucial work with Indigenous Elders from Saskatchewan, Canada, Harold Cardinal and Walter Hildebrandt noted that the Elders shared with them how knowledge had been transmitted through the ages. First Nations' histories started with creation, and First Nations peoples built their "political, social, educational, economic and spiritual structures and institutions"³ long before the arrival of Europeans to North America. According to Rachel Yacaa'at George, generations of Indigenous peoples in Canada had their identities aggressively taken from them and new identities forcefully imposed on them. As the author explains, there continues to be "a denial, disregard and continual subjugation of Indigenous peoples" living in Canada.⁴ This is a common theme in the literature on relations between Indigenous nations and the Europeans who spread their dominance worldwide.⁵

James Anaya points out that, in the "scramble for Africa" in the 1800s, European imperialists set the framework for the ways in which the Europeans were to divide and exploit not only the African continent, but also the 'New World.'⁶ This 'scramble' continues today throughout many parts of the world and, importantly in the Canadian context, in the longing for Indigenous resources and lands. This includes the building of oil pipelines through Indigenous territories. Such resource-extraction policies and activities by governments, and opposition to them by many Indigenous peoples, are interwoven with, and connected to, the history of continuing settler colonialism and the ways in which these systems are operationalized. Anaya explains that the government of Brazil established legislation to relegate Indigenous peoples as wards of the state; and then developed additional programs to control the Indigenous peoples and further the assimilation project.⁷ Accordingly, Indigenous peoples in Brazil are viewed through a paternalistic lens. That is, Brazil has become a settler state, and the Indigenous peoples are seen as wards of the state. The assimilation project in Canada is quite similar. Attitudes toward Indigenous peoples over time have not changed much and colonial institutions and systemic discrimination remain salient. This can be seen in documents such as the Truth and Reconciliation Commission report (2015) which included the stories of the survivors of Canada's forced residential schools, and the final report of the national inquiry into the missing and murdered Indigenous women and girls (2019).

Historically, Canada has always been, and continues to be shaped by Euro-colonial forms and expressions of violence against Indigenous peoples.⁸ This article provides

a short overview of the 1969 White Paper⁹ (which is more formally referred to as the Statement of the Government on Indian Policy), reviews the Canadian government's policies and their impact on Indigenous peoples, and discusses the ways in which Indigenous peoples have actively challenged those policies. The article demonstrates the courage of Indigenous peoples in the face of the colonial government's conflicting language of equality and its policy of erasure.

WHITE PAPER POLICY AND DENIAL

The Canadian government released its White Paper on Indigenous affairs in 1969, but there was a long history of government assimilation policies and laws that led up to the development and release of the White Paper. According to the RCAP, Indigenous peoples are “political and cultural groups with values and lifeways distinct from those of other Canadians. They lived as nations – highly centralized, loosely federated, or small and clan-based – for thousands of years before the arrival of Europeans.”¹⁰ Venne explains that Indigenous peoples signed treaties with other Indigenous nations before European arrival, such as the peace treaty made between the Cree and Dene nations.¹¹ Venne points out that this treaty, which is alive today, was made to differentiate between their territories. This is just one example of Indigenous peoples enacting and living their governance systems in their everyday lives. Leanne Simpson describes another example about the Nishnaabeg nation's relationship to the Rotinohsheshá:ka and the responsibility that they have to nurture that relationship.¹² Simpson tells of the four Wampum Belts, or treaties, that are reminders to these nations of their responsibility to each other. These examples demonstrate a recognized history of treaty making before any outsiders came to these lands.¹³

According to the RCAP, once Europeans started arriving, treaty-making was extended to include them, and many of these treaties covered issues of governance, lands, resources and the economic relationship between various Indigenous nations and Europeans.¹⁴ According to the Truth and Reconciliation Commission, “Canada asserted control over Aboriginal land. In some locations, Canada negotiated treaties with First Nations; in others, the land was simply occupied or seized. The negotiation of treaties, while seemingly honourable and legal, was often marked by fraud and coercion, and Canada was, and remains, slow to implement their provisions and intent.”¹⁵

Based on his research with Saskatchewan Elders, Cardinal shed light on Cree understanding and worldviews of treaty making.¹⁶ He told of the Cree Doctrine of law which governs relationships called Wa-koo-towin. It governs conduct and behaviour within families, outside their communities. Cardinal made it clear that “Wa-koo-towin provides the framework from which the treaty relationships with Europeans were to function.”¹⁷ The Canadian government historically and

currently has dishonoured these treaties as they relate to Indigenous peoples, yet non-Indigenous peoples continue to benefit from these treaties incalculably. As Manuel (2017) noted, the Canadian state claims the privilege of exercising 100 per cent control over Aboriginal and treaty land and Indigenous peoples.¹⁸

In 1969, then-Prime Minister Pierre Trudeau said of treaties, “We will recognize forms of contract which have been made with the Indian people by the Crown and we will try to bring justice in that area and this will mean that perhaps the treaties shouldn’t go on forever. It is inconceivable I think, that in a given society one section of the society have a treaty with the other section of the society. We must all be equal under the laws and we must not sign treaties amongst ourselves.”¹⁹

This is unimaginable, for Indigenous peoples, treaties are living documents, and they are to be nurtured and well cared for. In fact, the RCAP emphasized the fact that treaties are “sacred and enduring.”²⁰ This is an undeniable belief among many Indigenous peoples and nations. Trudeau’s notion that treaties “shouldn’t go on forever” rests on the premise that treaties must be terminated. It provides some insight into the differences in worldviews through which treaties are viewed by some people, one in which power dynamics are ingrained and the paternalistic, settler colonial domineering attitude of the state in relation to Indigenous peoples and nations continue.

The White Paper repeatedly emphasized the notion of equality, stating: “This Government believes in equality. It believes that all men and women have equal rights. It is determined that all shall be treated fairly and that no one shall be shut out of Canadian life, and especially that no one shall be shut out because of his race.”²¹ In essence, the government proposed doing away with treaties and repealing the Indian Act. With that, any legal recognition of Indigenous people who were registered under the Indian Act would also have been repealed. The ultimate goal was to “assimilate Indigenous people into the existing body politic.”²² This goal of assimilation was disguised in the name of ending discrimination. Additionally, various governments remained consistent in developing laws and policies geared toward assimilation. For those who have a critical understanding of the history of Canada and its ongoing relationship with Indigenous peoples, the contradictions are revealing. The White Paper also stated that Indigenous people do not have full control of their land. This statement indicated failure by the government to take into consideration the fact that they – government officials – are implicated in the forced removal and displacement that Indigenous people in Canada experience. The effect of the White Paper policy, if implemented, would have been to eliminate the legal status of “Indian” with its proposed goal of equality.²³

The White Paper was full of paradoxical statements, but it was clear that the intent was to justify gaining more access and control of Indigenous resources

and wealth, which includes control of Indigenous lands. While some Indigenous peoples/nations have signed treaties with settlers, including numbered treaties that detail education, health, and peace and friendship treaties, for Indigenous peoples the treaties did not mean the surrendering of their lands.²⁴ As Rachel Yacaa?at George (2017) puts it, even if the Canadian government's approach has changed with the White Paper's call for equality, "the state remains intent on our destruction and suppression as it strives to create its own legitimacy."²⁵ Njoki Wane often speaks about how colonial policies can be packaged differently, but ultimately, the content of the package remains the same.²⁶

The question is: how can the Canadian government fail to acknowledge Indigenous people's sovereign rights, their treaty rights, the nation-to-nation understanding and relationships that govern treaty making with Europeans? The assimilation plan remains active.

Many examples of policies, laws and legislation which were introduced to further promote the government's goals come to mind. For example, Canada's forced Indian Act contains complex and layered measures of assimilation; Manuel (2017) depicts the ways in which the Act made possible further colonial dominance and control over the lives of Indigenous peoples.²⁷ Another policy was the establishment of the imposed residential school system, which was designed by the Canadian government in partnership with churches, including the Catholic, United and Anglican churches. Both governments and churches supported, aided, fostered and complemented each other to fully maximize and implement assimilationist policies which were entrenched in settler colonial dominance and thoughts. Through this system, Indigenous children were forcibly removed from their homes and sent to residential schools (or boarding schools in the United States) which were located far from their families and communities. According to Barker, Indigenous people experienced mental and emotional colonization in residential schools.²⁸ The effects of those schools were catastrophic and persist today. The false images of Indigenous peoples that are depicted by the educational systems and mass media are embedded in racist attitudes of the dominant society. According to the Truth and Reconciliation Commission report,

The Canadian government pursued this policy of cultural genocide because it wished to divest itself of its legal and financial obligations to Aboriginal people and gain control over their land and resources. If every Aboriginal person had been "absorbed into the body politic," there would be no reserves, no Treaties, and no Aboriginal rights.²⁹

Indigenous languages came under persistent aggression and violation in these schools. Lyons speaks to the significance of Indigenous languages and he explains

that “language is the storehouse of Indigenous knowledge.”³⁰ Venne reminds us that the colonizers proposed many policies to convince Indigenous peoples that they no longer needed their lands and should assimilate.³¹ Cardinal notes that the use of terms such as ‘equality’ to argue for the recognition and realization of fundamental human rights for Indigenous peoples was “turned on its head.”³² In its quest to reflect “a new and different notion of equality,” the government essentially argued that if everyone is to be recognized as equal, then there should be no special status and no recognition of First Nations or Indigenous rights in Canada.³³ This understanding of equality fails to address the systemic injustices which Indigenous people faced. The colonial government sought to address systemic inequality by introducing additional forms of inequality and inequity through its White Paper.

INDIGENOUS RESPONSE AND ACTIVISM: THERE IS NO EMPTY LAND

When looking at the White Paper, it is important to examine Indigenous people’s understanding of their relationship with their lands. Venne rightfully states that Indigenous territories were not the “land of no one because Indigenous peoples already live on their lands.”³⁴ As Venne puts it, “we have our own governments, our own laws, our own political and legal systems operating in our territories. These were already there at the time of contact with the colonizers Our creation stories tell us that there was no terra nullius.”³⁵ Within Indigenous culture, creation stories express and speak of Indigenous peoples’ relationships with their ancestral lands, which they have lived on for centuries and millennia. Couthard writes: “I started thinking about colonialism as a structure of dispossession that is fundamentally grounded in the theft of land and the usurpation of indigenous peoples’ political authority in relationship to that land and their communities.”³⁶

Venne argues that when Indigenous people talk about land and treaty, “we are talking about our life and the life of the future generations. Land is central to the process.”³⁷ This reflects Indigenous worldviews of the ethical care, principle and consideration provided to the generations ahead and their ontological connection with their ancestral territories and lands.

Cardinal posits that regardless of who is in power in the Canadian government, Canadian leaders only vaguely commit to Indigenous rights. In 1999, he stated that no government has “yet committed itself to the simple honesty of fulfilling its obligations to our people as outlined in the treaties.”³⁸ The statement remains accurate even decades later. Palmater reinforces this point by noting that subsequent governments have never stopped trying to fulfill the objective of assimilation of Indigenous peoples.³⁹

Cardinal and Hildebrandt, in their study of Elders in Saskatchewan, noted the emphasis which Elders placed on the treaty-making process. The Elders told them

the goal was to have the new people arriving in their territories recognize and affirm Indigenous continuing rights to maintain their lands, which were given to them by the Creator.⁴⁰ Indigenous peoples did not give up their rights to anyone and surely not to the Canadian state. They did not give up their lands. Furthermore, there is no evidence to show that Indigenous peoples in Canada have ever surrendered their lands, and they did not choose to send their children to Canada's abusive residential schools. Venne asked the very important question, who would give away so much?⁴¹

Indigenous peoples, whether in Canada or across the globe, have always been active participants in their ways of governing. In Canada, they opposed the White Paper in various ways, which resulted in it being withdrawn. As noted by the Truth and Reconciliation Commission, the White Paper did not denote a new policy, rather it was simply the acceleration of existing policy, and its withdrawal was an important victory for Indigenous people.⁴²

In one such act of activism and resistance to the White Paper, Alberta chiefs released a counter statement titled Citizen Plus, which was more popularly known as the Red Paper.⁴³ Harold Cardinal, the then-president of the Indian Association of Alberta⁴⁴ and the National Indian Brotherhood (known today as the Assembly of First Nations), presented the Red Paper to the Canadian government. For Cardinal, the White Paper was a "thinly disguised programme of extermination through assimilation."⁴⁵ The Red Paper countered Canada's policy of extermination of Indigenous ways. As Crane Bear puts it, the Red Paper refused any and all attempts by the government in its goal to assimilate Indigenous peoples.⁴⁶ He notes how the Red Paper argued that treaties were written on a nation-to-nation basis. In other words, they were written by equal partners, and by sovereign nations. As a result, these agreements provided Indigenous peoples with rights, and the government would need to honor these agreements made with Indigenous nations.⁴⁷

Hayden King wrote that the Red Paper was a constructive alternative to Canada's vision of Indigenous peoples.⁴⁸ Crane Bear reminds us that historical treaties are important to First Nations people, as discussed in the content of the Red Paper.⁴⁹ In their critique of the White Paper, the authors of the Red Paper wrote the following: "We say that these are nice sounding words, which are intended to mislead everybody To preserve our culture, it is necessary to preserve our status, rights and traditions. Our treaties are the bases of our rights."⁵⁰

According to Nickel, "the settler framework of what constitutes notions of justice and equality have ignored the detrimental impacts of centuries of colonialism and racism and they failed to follow through with consulting with Indigenous peoples about changes to the very policies that impact their everyday lives, thereby reinforcing, rather than getting rid of, their already well established paternalistic practices."⁵¹ Rachel Yacaa'at George argued that the framing of the White Paper

policies was misleading because “hidden under the guise of benefiting Indigenous communities through economic prosperity, this framing privileges the destruction of the land for capitalistic gain.”⁵²

The White Paper and other similar policies are rooted in British imperial strategies.⁵³ Meanwhile, Couthard explains that the settler colonial relationship with Indigenous peoples is characterized by forms of domination, be they economic, gendered or racial.⁵⁴ The goal of imposing such hierarchical social relations has always been to dispossess Indigenous peoples of their lands and, as Couthard puts it, their “self-determining authority.”⁵⁵

According to Simpson, the Canadian state, through its practices, consultations, negotiations, high-level meetings, inquiries, royal commissions and the like, have tried to control points of interaction with Indigenous peoples when reviewing colonialist policies and laws.⁵⁶ Yet Indigenous peoples have refused to be controlled or pushed aside. Indigenous activism has led to some profound changes in the international legal environment regarding Indigenous rights.⁵⁷ As Youngblood Henderson explains, the United Nations has made powerful observations about Indigenous peoples. For example, the UN recognizes that the key feature of Indigenous peoples is their having a significant historical attachment to their territory; it explicitly recognizes the cultural distinctiveness of Indigenous peoples; and it has resolved to preserve both the territory and culture of Indigenous peoples as a means of achieving community.⁵⁸

There are countless ways in which Canada as a settler state continues with its systemic violent assimilation policies today. Cardinal writes about the need to deconstruct racist colonial paradigms that are carefully constructed through the Canadian state.⁵⁹ Remarkably, in February of 2018, the federal government introduced the Recognition and Implementation of Indigenous Rights Framework.⁶⁰ Many Indigenous scholars and community members see this as the White Paper 2.0, with more of the same policies repeated with the intention to continue to infringe on Indigenous rights.⁶¹ In a recent examination of the framework, Hayden King and Shiri Pasternak of the Yellowhead Institute write the following:

We find the foundational Principles respecting the Government of Canada’s relationship with Indigenous peoples emphasize the supremacy of the Canadian constitutional framework and significantly constrain the possibilities for self-determination to move beyond the current circumstances. An analysis of the “Ten Principles” reveals that we can expect very little structural change in the existing relationship. If they form the basis for future negotiations, the Principles are a potential threat to Indigenous rights and title.⁶²

Similarly, Joyce Green and Gina Starblanket assert that Indigenous lands are “the very foundation of the colonial impulse and the source of wealth of Project Canada.”⁶³ For Indigenous peoples, they point out that land is “key to our pasts and our futures. And land is precisely what government want, but never want to talk about.”⁶⁴ Palmater cautions that Canada “must do away with its policy of assimilation of Indigenous peoples.”⁶⁵ In the era of reconciliation, what does it take to have this shift?

The RCAP shares how Indigenous peoples were made by the “Creator in a different mould, one beyond the experience and comprehension of the settlers. They had a different view of the world and their place in it and a different set of norms and values to live by.”⁶⁶ Such worldviews have shaped Indigenous activism and rebuild their own systems of governance, in spite of the colonial surveillance and gaze.⁶⁷

CONCLUSION

Rachel Yacaa?at George has argued that with “colonial authority as the fundamental assumption, the above structuring of reconciliation allows for the denial of inherent Indigenous self-determination when in conflict with colonial desires.”⁶⁸ These colonial desires for Indigenous lands have never left. Both the Canadian government’s White Paper of 1969 and the more recent *Recognition and Implementation of Indigenous Rights Framework* are problematic and paternalistic in nature and continue to foster similar old colonial policies that have been forced on Indigenous people for hundreds of years.⁶⁹

The colonial settler state’s sense of entitlement to Indigenous lands is deeply fixed. Their policies, both past and present, show just how far settler governments will go in their claims to Indigenous lands and resources.⁷⁰ Yet, one most significant point to keep in mind is that colonial governments have no legitimate authority over Indigenous peoples who have always been self-determining. What’s more, time and time again, Canada’s desire to assimilate Indigenous peoples has been disrupted and subverted⁷¹ and therefore remains only a possibility in the imagination of the colonial settler state.

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