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Revisiting Histories of Legal Assimilation, Racialized Injustice, and the Future of Indian Status in Canada

Martin Cannon

Introduction

This paper is concerned with the history of injustice surrounding the 1985 *Indian Act* amendments. Demographers suggest these amendments will lead eventually to the legal assimilation of Status Indians in Canada (Clatworthy, 2003a, 2005). These predictions present governments with a number of issues involving citizenship and Aboriginal identity. The future of reserve-based lands also requires attention by governments, especially if the *Indian Act* is contributing to the extinction of the Registered Indian population who are entitled to live on them.

I wish to reflect on matters of citizenship and Aboriginal identity in this paper as well as the history of “involuntary enfranchisement” as this relates to Status Indians and Canadian Indian policy. I hope to invigorate the thinking toward histories of policy-based enfranchisement, racialized injustice, and gender-based exclusion. My discussion also draws from my qualitative research concerning issues of Indian status, the accommodation of Indian policy, and the accessibility of legal knowledge in Status Indian communities (Cannon, 2005).

This research is ongoing, but in this paper I focus on a series of interviews I conducted between February and March of 2006.¹ During this time, I spoke with ten individuals in Saskatchewan and Ontario who are registered as Status Indians under Canada’s *Indian Act*. Their views reflect a diversity of experiences based on age, gender, spirituality, and political orientation. They suggest that a series of knowledges and attitudes exist in Canada about Indian status. This paper is an exploration of these views using qualitative methodology.

The 1985 *Indian Act* Amendments: Wherein Lies The (In)justice?

On June 28, 1985, Bill C-31: *An Act to Amend the Indian Act* was given royal assent in Canadian Parliament. It promised to end years of blatant sex discrimination directed toward Aboriginal women under section 12(1)(b) of the 1951 amendments. I have sought to develop a critical understanding of Bill C-31 (Cannon, 2006b),

and I have shared in that criticism with other academics, Aboriginal people, and non-Aboriginal individuals (Lawrence, 2004; Holmes, 1987; Indian and Northern Affairs Canada, 1990).

The 1985 amendments are now over twenty years old, but they have not received widespread attention from federal policy makers. Discrimination is still made possible under Bill C-31, but it is not always clear or obvious. Under the new legislation, three new types of discrimination were made possible. These include inequalities of Indian status (Holmes, 1987), discrimination toward unmarried or unwed women (Clatworthy, 2003b; Mann, 2005), and the development of Canadian case law concerning Aboriginal citizenship rights (Issac, 1995; Moss, 1990).

Those who register as Status Indians now do so under one of seven different sections of the *Indian Act* (1985). The major difference lies between sections 6(1) and 6(2). These sections reproduce legal inequalities because the children of women who married non-Indians before 1985 cannot pass along Indian status under section 6(2) (Holmes, 1987). The children of men do not face this same restriction as they are registered under section 6(1). The inequality I am describing has been referred to as the second-generation cut-off rule (Huntley et al., 1999: 74).

The “second generation cut-off” clause is something that affects people who are related as cousins. This refers to a current generation of Status Indians that is being treated differently in law because of their grandmother’s choice to marry a non-Indian. For example, my mother’s grandchildren are not eligible for Indian status even though my uncle’s grandchildren (their second cousins) are registered under section 6(2). His children maintained Indian status under section 6(1)(a) of the amendments, and his grandchildren therefore inherited section 6(2) status by birthright. My siblings and I reacquired Indian status under section 6(2) of the 1985 amendments and cannot therefore pass status on to our children unless we marry Status Indians.² This is an example of the inequality created by Bill C-31 between the second and subsequent generations of men and women marrying non-Indians.³

With the exception of Lawrence (2004), the community-based impact of *An Act to Amend the Indian Act* (1985) has been under-studied from a qualitative perspective in academic literature (but see Huntley et al, 1999; Public History Inc, 2004; Fiske and George, 2006). This is unusual, especially since the *Act* has created a series of complexities for many communities—and for individuals—in terms of identity (Cannon, 2005). I have employed in-depth interviews as a method of addressing the question of policy-based exclusion and its accommodation by individuals (Cannon, 2005). I will highlight some of this research as a way of illustrating histories of assimilation and the current injustices surrounding “out-marriage” and the loss of legal entitlements.

It is the children born to women—but not to men—before 1985 who face ongoing legal assimilation under section 6(2). If they marry non-Indians, these

people are unable to pass along Indian status like those that are registered under section 6(1). The Canadian Advisory Council on the Status of Women describes this matter as a human rights issue. “Sections 6(1) and 6(2) together with band membership criteria, perpetuate the unequal treatment of Indian men and Indian women,” they suggest, “by giving fewer rights to the grandchildren of women who married out” (quoted in Holmes, 1987: 16).

The *Indian Act* produces legal inequalities for the entire Status Indian collective, and therefore represents an injustice for every Status Indian (Cannon, 2006a and b). But these issues have not always been framed in racialized terms by governments. Instead, the issues involving Indian status have been understood only to involve sex discrimination (Cannon, 1995). But sex discrimination is a misnomer when it comes to describing legal inequalities produced by Indian status provisions. The children of women who continue to marry non-Indians are both male and female Indians. A great deal is riding on their so-called choice to marry non-Indians, or individuals whose “race” is different than that described in the *Indian Act*.

Exogamous marriage (marriages outside of one’s group) is now an important question to raise in qualitative research. Demographers predict that the *Indian Act*, including section 6(2), will lead to eventual legal assimilation of Status Indians and their lands in Canada (Clatworthy, 2003a, 2005). High rates of unstated paternity, especially in Manitoba, Saskatchewan, and the NWT are also being reported (Clatworthy, 2003b; Mann, 2005). Are people aware of the consequences of their choice to marry non-Indians? Why do people refuse to state paternity? What are their reasons and are any of them nation-based or cultural?

These are questions that need to be raised in the context of public policy research, and that require further qualitative analysis. If section 6(2) furthers the loss of Indian status, how well is this knowledge being transferred to Status Indian communities? How familiar are people with the consequences of marrying non-Indians and how do they feel about legal assimilation in general? Before exploring these questions, it is important to revisit the history of enfranchisement in Canadian policy and law.

Revisiting Histories of Enfranchisement in Indian Policy

[Bill C-31] ... aimed to shrink the number of “Indians” in Canadian society in order to reduce the government’s obligations and liabilities to the status community (Miller, 2004: 45).

The injustice of section 6(2) of the *Indian Act* cannot be appreciated until one revisits the history of Indian policy aimed at assimilation and gender-based exclusion. Indian policy aimed at assimilating Status Indians has had a long history in Canada. As an ideology, it refers to something that is entrenched in the

law, and has been since the early 19th century (Dickinson & Wotherspoon, 1992; Henry and Tator, 2006: 347).

Assimilation has always had a cultural and legal component in Canadian Indian policy. Cultural assimilation refers to “the loss, by an individual, of the markers that served to distinguish him or her as a member of one social group” (Jackson, 2002: 74). The schooling of Aboriginal children in residential schools until 1969 is an example of the kinds of policy aimed at cultural assimilation. These were policies aimed at cultivating Euro-Christian behaviours, appearances, and values. They were intended to re-socialize Aboriginal peoples into productive members of an emerging capitalist economy.

Legal assimilation is the word that is used to describe the act of losing Indian status in Canada. This started in 1850 when Canada introduced *An Act for the Protection of the Indians in Upper Canada from Imposition, and the Property Occupied or Enjoyed by them From Trespass and Injury*. It was also a part of policy in 1857 to encourage the “gradual civilization” of the Indian tribes (Miller, 2004: 17). These two statutes introduced two new racialized categories of Aboriginal peoples: Indian and non-Indian. It was assumed (and expected) that band council governments would administer these new categories of people.

Sociologists refer to this process, whereby a heterogenous, linguistically diverse population is singled out for different (and often unequal) treatment in Canada, as racialization (Li, 1990: 7). But racialization, as it is often defined, does not refer to the act of taking up or realizing racial categories, however conscious a person might be of that process. Aboriginal peoples did not play a part in creating the “racial” category Indian, but policy has had the effect of institutionalizing the category as a system of relations among Status Indians in Canada. This is what is meant by racialization.

The history I am describing is etched in the memory of some, but not all, Status Indians. I include myself as one of these individuals, because I am a Status Indian and I have personally witnessed what the *Indian Act* is capable of doing legally, especially section 6(2). The *Indian Act* has been just as concerned with constructing the legal category “Indian” as it has been on getting rid of Status Indians. Legal assimilation must therefore refer to the process of becoming a Non-Status Indian—whether an Aboriginal person is made aware of it or not.

Legal assimilation was one of the motivations behind enfranchisement policy. Enfranchisement emerged in 1857 with the explicit and avowed purpose of assimilating Status Indians. The premise behind this policy was simple: upon meeting certain criteria, Indian men who were literate, free of debt and of good moral character could (along with their “dependents”), give up legal status and become non-Indians. Enfranchisement was re-established in three subsequent pieces of legislation, but it was not always voluntary in the way I have described.

In 1918, Indian men (along with their wives and children) could become voluntarily enfranchised if they lived away from their communities (*Indian Act*

[S.C. 1918, c.26, s.6(122A)(1)] reprinted in Venne, 1981: 220; Indian and Northern Affairs Canada, 1991: 10–11). The policy of enfranchisement was not only racialized, it was therefore simultaneously patriarchal (Cannon, 1995; Stevenson, 1999: 57). Enfranchisement policy assumed that, like other women, Indian women were to be legally subject to their husbands (Jamieson, 1978). This was a foreign notion to my own nation of peoples, the Six Nations of Grand River Territory (Cannon, 2004).⁴

Enfranchisement continued well into the 20th century. In 1951, enfranchisement was made possible for individuals meeting the variety of criteria established in sections 12, 15, and 108 (*Indian Act* [S.C., 1951, c.29] reprinted in Venne, 1981: 319, 348–349; Indian and Northern Affairs Canada, 1991: 15–17). These sections included a) the involuntary enfranchisement of women marrying non-Indians and b) the voluntary enfranchisement of entire bands of people who so desired upon approval of the Minister of Indian Affairs (ibid). The children of women born prior to a woman's marriage to a non-Indian also became involuntarily enfranchised under an amendment to the *Indian Act* in 1956 (*Indian Act* [S.C., 1956, c.40, s.26] reprinted in Venne, 1981: 398, Indian and Northern Affairs Canada, 1991: 19).

The very concept of voluntary enfranchisement (or voluntarily becoming a Non-Status Indian) did not end in Canada until June 28, 1985 with the passing of section 6(1)(d) of *An Act to Amend the Indian Act* (*Indian Act*, R.S.C. 1985 (1st Supp.), c.32, s.6(1)(d)). In a manual on registration and entitlements legislation, Indian and Northern Affairs Canada proclaimed that section 6(1)(d) had “abolished” the practice of enfranchisement under the *Indian Act* (1991: 21). However, there is reason to believe that involuntary enfranchisement survives the 1985 amendments to the *Indian Act*.

Involuntary Enfranchisement in Demographic Perspective

Enfranchisement, voluntary and involuntary, was not achieved, and by 1985 Canada had to abandon the policy after close to 130 years of frustration. (Miller, 2004: 271)

Involuntary enfranchisement takes place in Canada whenever a Status Indian (registered under section 6(2) of the *Indian Act*), marries and has children with a non-Indian person. This act of exogamy or “out-marriage” may seem a relatively neutral one, but section 6(2) works to disenfranchise the grandchildren of women who married non-Indians before 1985. These individuals represent a new class of “involuntarily enfranchised” Indians: the children of section 6(2) intermarriages.⁵ These children lose their parents' birthright to be registered as Status Indians in Canada. The loss of legal entitlements is brought on by their parent's choice to marry non-Indians.

Individuals often marry non-Indians in the process of migrating to cities. Their choices are sometimes influenced by the depletion of resources and the lack of

economic opportunities on reserves in Canada (Frideres, 2005: 164–170). These decisions lead to a loss of inheritance for the children born of section 6(2) intermarriages. As I will demonstrate, it is superficial to assume that all Status Indians are aware of this process, or that it leads to their children's losing status. However conscious Status Indians may be of it, the children of section 6(2) intermarriages are not legally entitled to *Indian Act* status like the children of section 6(1) intermarriages.⁶

Section 6(2) of the *Indian Act* (R.S.C 1985 (1st Supp.), c. 32, s. 6(2)) is little different in effect than section 12(1)(b) of the *Indian Act* (S.C. 1951, c. 29, s. 12(1)(b)). Both sections furthered the loss of Indian status by those who marry non-Indians. The only difference is that now men also involuntarily enfranchise their children and grandchildren when marrying non-Indians. The choices facing these *male and female* Indians of the Status Indian population registered under section 6(2) of the *Indian Act* are therefore not any different than those facing women from 1850–1985.

Despite the passage of Bill C-31, intermarriage is still not a neutral act for Status Indians in Canada. It is the children of those who are registered under section 6(2) and who marry non-Indians that are now being disinherited. These are the grandchildren of women who married non-Indians prior to 1985, as well as the grandchildren of men and women who married non-Indians after 1985. They are, collectively, a class of Indians that stand to alter and change the composition of Status Indian populations in Canada. Clatworthy (2003a, 2005) has placed these trends into demographic perspective by providing a series of population forecasts.

Clatworthy (2005: 32, and in this volume) predicts that the Registered Indian population will witness a dramatic decline because of section 6(2) and other changes stemming from the 1985 *Indian Act* amendments. He projects that on- and off-reserve populations entitled to membership and Indian registration will witness a population of 914,300 by the year 2077, a dramatic drop from the projected 987,600 in 2052 (ibid).

As Clatworthy (2003a: 86–87) explains:

Within two generations, most of the children born to First Nations populations are not expected to qualify for registration under the new rules. Within four generations, only one of every six children born to First Nations populations is expected to qualify for registration. Unlike the rules of the old *Act*, which guaranteed registration to nearly all of the descendants of Registered Indian males, Bill C-31's rules have the potential to result in the extinction of the Registered Indian population.

These forecasts raise a series of concerns about the future of Indian status in Canada. They suggest that policies of legal enfranchisement, including the long term effects of section 6(2), will result in the eventual legal assimilation of Status Indians and their lands in Canada. Several factors will influence the rate at which this takes place, including the frequency of exogamous marriage. But legal

assimilation also depends on a people's familiarity with, and knowledge about, section 6(2) of the *Indian Act*. In general, what do Status Indians think about the *Indian Act*, and about the prospect of legal assimilation? Are people aware of the potential effects of section 6(2)? These questions require ongoing qualitative inquiry (Lawrence, 2004; Cannon, 2005).

Revisiting Histories of Legal Assimilation in Indian Policy

Legal assimilation is something that takes place in law whenever Indians registered under section 6(2) intermarry and have children with a person outside of the racialized collective. This "choice" creates a new generation of legally enfranchised grandchildren. These children do not have Indian status because their parents (registered under section 6(2) of the *Indian Act*) married non-Indians. They may also include the grandchildren of women who refuse to state the "race" of fathers at the time of registration (Mann, 2005).

The children I am describing are a new generation of Aboriginal peoples. Their ages range from 0–22, and they are not currently entitled to register as Status Indians. They have been placed in unequal relation to the status collective, and to the children of persons registered under section 6(1) of the *Indian Act*. These include, for example, the grandchildren of men who married non-Indians prior to the 1985 amendments.

As previously detailed, the injustice I am describing is known as the second-generation cut-off rule (Huntley et al, 1999: 74). It refers to the legal inequality facing the grandchildren of men and women who married non-Indians before 1985. This generation of Aboriginal peoples inherits the historic weight of racialized and gender-exclusionary discrimination. They are the second-generation of descendants to experience inequalities in the law. They are placed in the same unequal relationship to one another as their grandparents were before 1985.

Twenty-two years ago, it was possible for an Indian man to marry a non-Indian woman and remain a Status Indian. Because he never lost Indian status, he was able to make his wife and children Status Indians prior to 1985. His children were entitled to registration under section 6(1)(a) following the 1985 amendments.⁷ The children of out-marrying women, on the other hand, could only register under section 6(2) of Bill C-31. Those who are registered under section 6(2) cannot pass along Indian status. Only those with section 6(1) status are able to pass status on to their children.

It is important to ask how legal inequalities created by sections 6(1) and 6(2) are playing themselves out among status populations today. In fact, some of these inequalities have yet to be fully articulated in political, judicial, and social forums. This occurred to me in ongoing research where I asked a group of Status Indians, aged 19–35, what it meant to be registered under section 6(2) of the *Indian Act*.

In one interview, I asked one of my study participants if she knew of the consequences of being registered under section 6(2) of the *Indian Act*. She responded:

I'm just categorized under section 6(2), what can I do? It's like, I just fall under that status under what their requirements are, you know? And so, I'm just another person basically categorized into a spot. That's about it. (Interview Transcript #7: 4).

In other interviews, people were very aware of the inequality produced by section 6(2) of the *Indian Act*, but these individuals expressed cynicism where finding a resolution to them is concerned. As one person explained:

I can't see the government telling me "Well, if you go and do this, your children won't have status." I think they'd rather me just go and do it without my knowing and then my children would be screwed over. That is an issue for me, I'd like my children to be Status Indians, not for any reason in particular, it's just cause I feel like that's a right that every Native person in Canada should have ... Having to worry about who you marry shouldn't be an issue, but it is, you know?... (Interview Transcript #3: 4).

Another person I interviewed for the purposes of this paper expressed confusion where understanding Indian registration is concerned. As she explained:

[W]hen they gave me my status, they basically sent me a letter saying I was approved with my status number but it had nothing on there stating what I was considered to be like, you know, Bill C-31 or whatever. My parents are Bill C-31s, but I have no idea what that makes me, and I have no idea what that is gonna make my children. Like, I think that's a big problem. I haven't actually gone out and tried to figure it out on my own, but I've asked a lot of people, you know teachers, profs, and everything, to see if they can explain it to me ... (Interview Transcript #4: 3).

There exists both apathy and criticism about Indian status and citizenship injustices. Issues of knowledge, accessibility, and sharing create some of this apathy. Injustices must be therefore placed into terms that "the general Native public" understands, particularly before individuals can take action (Huntley et al, 1999: 74). But issues of knowledge, accessibility, and dissemination will not alone eliminate the apathy that is expressed toward the 1985 amendments.

Apathy is also expressed because of some people's preference to talk of identity in terms of nations, territories, or a community of people to which they belong. This is common at Six Nations of Grand River Territory, the nation where I am a band member and an Oneida citizen (Monture-Angus, 1995; Cannon, 2004).⁷ I have also heard these ideas expressed by Status Indians in other parts of Canada as well.

According to one of the individuals I interviewed for this paper:

Having a status card doesn't make you any more Indian. I definitely think it has a lot to do with your culture and how much of it you actually connect with, you know? ... I've always enjoyed anything that has to do with my culture, like powwows, round dances, and feasts. My family has always been involved in a lot of that stuff. So I think being Native has to do with how much you connect with your culture ... (Interview Transcript #8: 2).

Another Status Indian identified herself as belonging to a community of people. This is what mattered in defining herself as an Aboriginal person. As she explained:

I guess I've never even concerned myself with things like status. I see my children as Indians because I've raised them as such, and for me, what makes them Indians is the values, which is why the traditions and the ceremonies are important to me. Being part of a larger Indian community is really important to me, it's not about blood or what the government says (Interview Transcript #5: 1).

Despite the imposition of status boundaries, identities are being realized outside of racialized status provisions, and in nation-specific terms (also see Lawrence, 2004). These identities are tied to communities, nation-to-nation agreements, and to historic treaties (Henderson, 2002). The capacity of liberal pluralism to acknowledge and grasp these identities is an outstanding matter of colonial injustice in Canada (Kymlicka, 2000; Green, 2001; Schouls, 2003).

Rethinking Indian Status and Engaging With Citizenship

The interviews I conducted with Status Indians concerning the 1985 *Indian Act* amendments permit three major conclusions. First and foremost, that legal assimilation is furthered by the inability of governments (deliberate or inadvertent) to transfer knowledge concerning legal inequality to Status Indian communities. Second, that many people prefer to talk of identity and citizenship in nation-specific terms. Third and finally, that it is necessary to scrutinize the political and legal contexts that prevent “identification approaches” to identity and citizenship from happening (Schouls, 2003: 35, 166).

According to my research, there is variable knowledge possessed by a new and emerging generation of individuals registered under section 6(2) of the *Indian Act*. Some of these individuals know what it means to be a Non-Status Indian while identifying as an Aboriginal person. Some of them endeavour to establish, or maintain, a connection with their own and other communities. But others know very little about status injustices. This is something that actually works in the interest of legally assimilating the Registered Indian populations of Canada.

If section 6(2) contributes to the loss of Indian status as demographers predict, then this knowledge must somehow be transmitted to each and every Status Indian. Aboriginal peoples are entitled to know about status inequalities, especially within the broader context of history aimed at their racialization, legal assimilation, and enfranchisement. The sharing of this knowledge ensures the right of Aboriginal peoples to revisit and decide on a more equitable system of defining Indian status—or of resisting this system altogether.

People have been made unequal to each other because of the *Indian Act*. To pretend that Indian status is inconsequential is to therefore undermine the importance of legal distinctions, and how these affect the relationship between Status Indians, both male and female. But the people I interviewed also suggested a way of thinking about identity outside of Indian status provisions. These issues of citizenship and belonging are of immediate importance to Aboriginal populations. The question is, how do we get around to debating them and where ought they to be debated?

Section 6(2) injustices invite the people who want to challenge them to become even more deeply drawn into the colonial frameworks that have been used to define and sometimes divide them (Lawrence, 2004: 42). Seeing women and men in state-constructed terms often conceals historic events which imposed racialized distinctions on all Aboriginal nations, and that later required people to be legislated outside of them. It also detracts from the kinds of conversations that governments could be having where Aboriginal identity and citizenship is concerned.

Correcting Historic Wrongs or Racialized Injustice?

Freedom from colonization is the sense of an unbounded self and the ability to live fully in a wide and open world. It is to feel and live large! Being “Indian” and being “Aboriginal” is accepting a small self, imprisonment in the small space created for us by the white man: reserves, Aboriginal rights, *Indian Act* entitlements, etc. (Alfred, 2005: 165)

A major change in thinking is required before issues of Indian status can be fully understood or rejuvenated in Canada. I believe the future is now being realized—and can be realized—by refusing to acknowledge the *Indian Act* as the source of determining Aboriginal citizenship. Legal assimilation is less threatening to individuals who are mindful of Aboriginal identity and community in all of its infinite capacities. But I have intended to show in this paper how even these individuals are unable to prevent the legal assimilation of Status Indians and their reserve lands in Canada.⁹

Indian status or status inequalities will require the ongoing attention of federal and band-based governments. Several issues will emerge out of these discussions involving citizenship and Indian status. Before meaningful discussion can take place around any one of them, it will be necessary to move beyond the *Indian Act*. This will require legally acknowledging a sense of belonging based on real or assumed bonds between people, their shared knowledge of traditional stories or history, original nation-to-nation agreements, common beliefs, and a tie to some specific territory—including urban areas (see Green, 2001; Lawrence, 2004; Schouls, 2003: 177).

It is also necessary to begin the process of *affirming* the nations of Aboriginal peoples in law and politics, including who it is that we define as our citizens (Denis, 2002: 115–117). Only after these issues are addressed are Aboriginal

peoples able to become truly self-determining. Phil Fontaine, Grand Chief of the Assembly of First Nations, recently noted:

It is morally, politically and legally wrong for one government to tell another government who its citizens are, and we are calling for a process to move citizenship to the jurisdiction where it properly belongs, and that is with First Nations governments (*Prince Albert Grand Council Tribune*, 2005).

By focusing on “intercultural identification” or “intercultural belonging” (Henderson, 2002: 432), the *Indian Act* remains ineffective as a tool for regulating identity (Lawrence, 2004: 230). But this does not mean that Canada is prepared to acknowledge the people who no longer “qualify” for Indian status and registration. It does not even require that nation-to-nation agreements, urban-based individuals, territories, or nation-specific understandings of citizenship be acknowledged (Anderson and Denis, 2003: 382–388). Nor does it justify the kinds of ongoing legal inequalities created under section 6(2) of the *Indian Act*. These things require the attention of governments, policy makers, and those most affected by citizenship injustices.

A change in the way of thinking about Indian status is required in Canada. Citizenship injustices have their origins in the racialized and sexist understandings that were introduced historically and that remain a part of colonial policy. It follows that historical analysis (or “liberating strategies”) be committed to realizing—and addressing—both types of discrimination (Cannon, 1995). The loss of Indian status—and Indian status in general—is not something that belongs to women or “individuals.” The loss of Indian status is something that belongs to the Aboriginal collective because of the potential of section 6(2) to disinherit them, and because of complex injustices that exist at the intersection of racialization and patriarchy (ibid). Indeed, many men are now included among individuals experiencing discrimination at the “intersection” of race and gender.

A new politics of identity is forming in Canada, and it includes a generation of men and women who are disqualified from Indian status, even though they are Aboriginal peoples. Some of these individuals were registered under section 6(2) of the *Indian Act* and face the same choices available to their mothers as “Indians.” For the generations affected by it, section 6(2) brings about a different way of thinking about “Indianess.” It could even bring forward a new way of thinking about historical discrimination, preferably leading many of us to realize that citizenship injustices were never really about women. They were about state-inspired definitions, and the act of becoming (or not) a member of the racialized collective.

Endnotes

- 1 I would like to acknowledge the Strategic Research and Analysis Directorate at the Department of Indian and Northern Development for funding this research.
- 2 The details I am describing here about Indian status and the way it defines people differently within my own immediate family is but one example of how the *Indian Act* has complicated the lives of Status Indians in Canada. Many people share entirely different experiences where Indian status is concerned. In current research, I am seeking to better document these histories through the use of qualitative research methodology.
- 3 Section 6(1)(a) of *An Act to Amend the Indian Act* (1985) read: “6(1) a person is entitled to be registered if (a) that person was registered or entitled to be registered immediately prior to April 17, 1985.”
- 4 For an analysis of the matrilineal and matrilineal kinship organization of the Haudenosaunee or “Iroquois,” see Randle, 1951; Richards, 1967; Druke, 1986; Brown, 1975; and Eastlack-Shafer, 1990. For an analysis of social change and cultural continuity with respect to matrilineal and matrilineal kinship structure, see Shoemaker, 1991 and Doxtator, 1996. Also see Fiske & George, 2006 and Native Women’s Association of Canada, 1992.
- 5 This new generation of individuals also includes the children of women registered under section 6(2) who do not state paternity at the time of registration.
- 6 For a description of the process see Clatworthy this volume. For graphical representation of the process see Clatworthy, S. “Impacts of the 1985 Amendments to the *Indian Act* on First Nations Populations” in Jerry White et al. *Aboriginal Conditions: Research as a Foundation for Public Policy*. Vancouver: UBC Press. (2003)
- 7 See footnote 2.
- 8 Monture-Angus writes: When I was growing up, the word I learned to describe who I was, was “Indian.” Since then, I have learned that it is not a good way to name myself. I have been learning how these constructs and processes support racism. The meaning of the word “Indian” is a purely legal definition. An Indian is a person who is entitled to be registered under the definitions in the *Indian Act*. It is not a good way to describe ourselves because it is a definition that has been forced on us by the federal government (30–31).
- 9 These individuals also face what Denis (2002: 115) calls the “heavy burden of historical proof.” This refers to a set of expectations that have been placed upon Aboriginal peoples in legal arenas to demonstrate an unbroken and timeless connection with the past or face charges of being inauthentic or no longer entitled to rights-based claims (also see Garrouette, 2003).

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