THE SCHOOL OF PUBLIC POLICY

# MASTER OF PUBLIC POLICY CAPSTONE PROJECT

The Second-Generation Cut-Off: Effect on Indigenous People in Canada

**Submitted by:**

Michelle Spolnik

**Approved by Supervisor:**

Lisa Young, 7 May 2021

Submitted in fulfillment of the requirements of PPOL 623 and completion of the requirements for the Master of Public Policy degree

## Table of Contents


**CAPSTONE APPROVAL PAGE** ........ **2**

**ACKNOWLEDGEMENTS** ........ **4**

**EXECUTIVE SUMMARY** ........ **5**

**INTRODUCTION** ........ **7**

**METHODOLOGY** ........ **8**

**BACKGROUND** ........ **8**

- INDIAN STATUS AND BAND MEMBERSHIP ........ 10
- MAJOR LEGAL DECISIONS AND CHANGES TO THE LEGISLATION ........ 10
- COLLABORATIVE PROCESS ON INDIAN REGISTRATION, BAND MEMBERSHIP AND FIRST NATION CITIZENSHIP ........ 13
- DECEMBER 2020 UPDATE ON BILL S-3 ........ 15

**THE PROBLEM** ........ **15**

- SYSTEMIC RACISM IN REGISTRATION ........ 15
- IMPACT ON INDIVIDUALS ........ 16
- IMPACT ON FIRST NATION COMMUNITIES ........ 16
- IMPACT ON THE POPULATION OF STATUS INDIANS ........ 17

**ANALYSIS OF ALTERNATIVES** ........ **19**

- CRITERIA FOR EVALUATION ........ 19
  - *Reconciliation* ........ *19*
  - *Timeliness* ........ *21*
  - *Individual vs. Collective Rights* ........ *21*
  - *Population* ........ *21*

**POLICY ALTERNATIVES** ........ **22**

- THE STATUS QUO ........ 22
- INDIVIDUAL RIGHTS ........ 22
- POPULATION ........ 22
- POLICY ALTERNATIVE 1 – ONE PARENT RULE FOR STATUS ........ 23
- POLICY ALTERNATIVE 2 – TREATY-BASED STATUS ........ 26
- POLICY ALTERNATIVE 3 – RE-LAUNCH SECTION 10 PROGRAM ........ 28
- POLICY ALTERNATIVES 4 – FRAMEWORK FOR SELF-GOVERNANCE AGREEMENTS ........ 31
- POLICY ALTERNATIVES 5 – DUAL INDIGENOUS/CANADIAN CITIZENSHIP ........ 34

**RECOMMENDATIONS** ........ **36**

**CONCLUSION** ........ **37**

**BIBLIOGRAPHY** ........ **38**

**APPENDICES** ........ **40**

# Acknowledgements

I would like to extend my sincerest gratitude to Dr. Young, who has been incredibly kind and patient during this challenging year. The global pandemic has made the task of completing this capstone extremely difficult for me. Without Dr. Young's assistance, support, and encouragement, this capstone would not be possible.

I would like to thank my manager, Christine Hall, for her support during this entire master's program. I am thankful that she made me aware of Indigenous registration issues. Without her, I would not have taken an interest in this important topic.

I would like to thank my wonderful parents. They are my biggest cheerleaders and have always supported me in any and all of my decisions. My work ethic has been instilled in me by their example, and I am forever grateful for their love and support.

I would also like to thank my close friend, you know who you are, for their consistent support during the entire process of this master's degree, but especially while writing this paper. Their daily encouragement and support during these difficult times have made this capstone possible.

# Executive Summary

This report evaluated policy alternatives that would assist in resolving the registration issue of the second-generation cut-off. After two consecutive generations of parenting with an individual who does not hold status, the third generation cannot be registered to obtain Indian status. The eventual result of the second-generation cut-off will be a decline in the population of individuals holding status under the *Act*, and thus membership in their First Nations community.

The *Indian Act* is the primary law that Canada used to administer Indian status, First Nations governments, management of reserve land and outline obligations to First Nation peoples. The *Act* contains colonial laws aimed to eliminate First Nations culture by assimilation into Euro-Canadian society. The 1985 Bill C-31 amendment created the second-generation cut-off, and the subsequent 2011 and 2017 *Indian Act* amendments do not address the second-generation cut-off because it is not a sex-based inequity.

The second-generation cut-off is problematic because of the ongoing role the federal government has in registration and the systemic racism it represents, the impact it has on individuals and communities affected, and the eventual impact on the population of Indigenous people who hold Indian status.

This paper evaluates policy alternatives by four criteria: 1) Reconciliation, 2) Timelines, 3) Individual Rights, and 4) Population. The alternatives need to further the process of reconciliation between Canada and Indigenous people. Timeliness is important because if an alternative is too lengthy, it could increase the number of descendants affected by the cut-off. Individual and collective rights need to be balanced in an alternative because the cut-off mainly impacts individuals. Lastly, an alternative should increase the population of Indigenous people.

The five policy alternatives suggested in this paper are: 1) One-parent Rule for Status, 2) Treaty-Based Status, 3) Re-launch Section 10 Program, 4) Self-Governance Agreements, 5) Dual Indigenous/Canadian Citizenship. The One Parent Rule for status alternative would involve amendments to the *Indian Act* to allow direct descendants of individuals with a 6(2) parent to become available for status. Treaty-based status involves creating treaty-based status where individuals would register to become a member of a treaty group. Re-launching the existing section 10 option to make it more appealing for more First Nations to transition to and control their band membership. Creating self-government agreements with First Nations could be a policy alternative to remedy the second-generation cut-off because if First Nations were to govern themselves, they would be in full control of their membership. Dual citizenship would recognize First Nations as distinct states and they would control all aspect of their governance including membership.

Based on the alternatives outlined, it is recommended that the Government of Canada work toward the alternative of dual Indigenous-Canadian citizenship. However, this alternative will take many years to implement and is not the best option for the short term. Therefore, a combination of other alternatives is recommended. Combining the shorter-term alternatives will better assist in establishing the framework to bring individuals, First Nations, and the Government of Canada towards the long-term alternative for dual citizenship.

Overall, the paper argues that is crucial for the future of First Nations population and identity that they exercise exclusive responsibility for determining their citizens. To achieve this, the Government of Canada should work on moving away from determining status under the *Indian Act* as many First Nations are dependent on this legislation to determine the members of their nations.

# Introduction

Through the *Indian Act*, the government of Canada determines which individuals hold "status" as "Indians." Changes to the *Act* in 1985, intended to address gender discrimination, instituted what has come to be known as the "second-generation cut-off." After two consecutive generations of parenting with an individual who does not hold status, the third generation cannot be registered to obtain Indian status. These changes shifted the discrimination against women onto children and grandchildren of Indigenous women who parented with a non-status individual.[1] The eventual result of the second-generation cut-off will be a decline in the population of individuals holding status under the *Act*, and thus membership in their First Nations community.

This paper traces the legislative changes that led to the second-generation cut-off and proposes possible policy responses. It is grounded in an understanding that Canada has a history of assimilating Indigenous people and has targeted women as a means of achieving this assimilation. In addition to the legacy of residential schools and problematic child welfare practices, the Government of Canada embedded sex discrimination in the *Indian Act* to define Indigenous people out of existence.[2]

The paper argues that it is crucial for the future of First Nations population and identity that they exercise exclusive responsibility for determining their citizens. To achieve this, the Government of Canada should move away from determining status under the *Indian Act* as many First Nations are dependent on this legislation to determine the members of their nations.

The issue of the second-generation cut-off came about following the 1985 Bill C-31 amendments that created two categories of registration: Section 6(1) and 6(2). While Bill C-31 addressed some sex-based discrimination related to enfranchisement, discriminations from past *Indian Acts* have resulted in the category issue thus creating the second-generation cut-off. This cut-off decreases the number of individuals who hold status under the *Indian Act*. Under the current system, this will impact the population of First Nations, by ultimately causing their population to decrease over time.

[1] Napoleon, Val. "Extinction by Number: Colonialism Made Easy." *Canadian Journal of Law and Society* 16, no. 1 (2001), 119.

[2] Day, Shelagh. "Equal Status for Indigenous Women--Sometime, Not Now: The *Indian Act* and Bill S-3." Canadian Woman Studies 33, no. 1-2 (2018), 180.

# Methodology

To examine the issue of the second-generation cut-off, a combination of academic literature, statistical data, governmental documents, as well as legal cases are utilised in this capstone.

Academic literature in the form of journal articles is used to provide historical background and contextual information on relevant topics such as violence against Indigenous women. Statistical data taken from the Canadian census and analyzed by demographer Stewart Clatworthy is utilized to demonstrate the decline in the number of Indigenous people who hold Indian status. Documents prepared by the Canadian government are used to explain the current registration system and registration related initiatives. Lastly, legal cases are used to explain the process of change for Indian registration.

The policy alternatives that are evaluated in this paper are generated from these academic, legal and demographic analyses. They are evaluated according to a set of criteria to ensure practicality in terms of the timeline, the effectiveness in relation to the protection of Individual rights, and if it assists in the goal of achieving reconciliation.

# Background

From its formation, the Canadian state pursued a policy of assimilation of Indigenous people. Residential schools were used to remove the Indigeneity out of children by imposing the English language and the removal of their Indigenous identities.[3] The *Indian Act* is the main law that Canada used to administer Indian status, First Nations governments, management of reserve land and outline obligations to First Nation peoples. The *Act* contains colonial laws aimed to eliminate First Nations culture by assimilation into Euro-Canadian society.

One of the values imposed through colonial assimilation is patriarchy: a system of beliefs and laws in which men hold power over women. Patriarchy has infiltrated traditional teachings that dictate rules about women's participation in spiritual and cultural practices.[4] Today, Indigenous women are overrepresented as victims and violence towards them is three times higher than other women.[5] This treatment of Indigenous women goes against traditional values Indigenous peoples gave women as leaders within their communities.[6]

History written about and by Indigenous women were not recorded because typical historical literature was written by non-Indigenous men with patriarchal and colonialist beliefs.[7] These beliefs drove the physical and cultural genocide of Indigenous peoples and this continues today

---

[3] Mary Anne Clarke, and Sean Byrne. "The Three Rs: Resistance, Resilience, and Reconciliation in Canada and Ireland." *Peace Research 49*, *no. 2.* (2017), 106.

[4] Baskin, Cyndy. "Contemporary Indigenous Women's Roles: Traditional Teachings or Internalized Colonialism?" *Violence Against Women 26, no. 15-16.* (2020), 2083–2101.

[5] *Ibid.*

[6] *Ibid.*

[7] *Ibid.*

in the *Indian Act*. Patriarchal beliefs internalized by Indigenous people over time have contributed to the devaluing of women compared to their treatment prior to colonization.

The *Indian Act* of 1876 erased Indigenous matriarchal traditions in favour of European patriarchy. This legislation was and continues to be a powerful tool attacking Indigenous women. Based on European beliefs, the *Indian Act* created a legal fiction of Indigenous identity, which undermined existing Indigenous societal structures.[8] The identity of Indigenous people was controlled through the *Indian Act*. As such, the matriarchal lineage was no longer relevant and Indigenous identity became dependant on that of husbands. An Indigenous woman who married a man without status had her status stripped, although these men could include Indigenous people who did not hold status.[9]

Before European contact, First Nations had their own systems in place for determining who belonged to their community. However, by 1869 these systems were undermined by Canadian colonial administrations that determined who was "Indian" for the purposes of residing on reserves. The *Gradual Enfranchisement Act* of 1869 and the first *Indian Act* of 1876 defined by law who an "Indian" was. The criteria stated that women and children were included under the man's name and not as individuals. It also took status away from women and all future children, if they were to marry a non-Indian man. Indigenous communities no longer determined who their people were.

This legislation aimed to dismantle families headed by non-Indian men in First Nation communities. Enfranchisement offered Indigenous people the right to vote and own property, but they would no longer be considered Indian in the eyes of the law. When a man enfranchised, his wife and children would automatically lose their status as well. These families were forced to move away from First Nation communities, thus losing crucial kinship and cultural ties. A 1951 amendment to the *Indian Act* created the Indian Registrar. Its purpose was to determine who was, as well as who was not, an Indian under legislation. This Registrar still exists and continues to decide, based on legislative amendments, who is Indigenous and who is not under federal law.

To reverse these inequities, social, economic, and cultural change is required. Specifically, decolonization and reconciliation is required to provide a path for the resurgence of the original identities and culture of First Nations and Indigenous people.[10]

---

[8] *Ibid.*

[9] Baskin, Cyndy. "Contemporary Indigenous Women's Roles: Traditional Teachings or Internalized Colonialism?" Violence Against Women 26, no. 15-16 (2020), 2083–2101.

[10] Mary Anne Clarke, and Sean Byrne. "The Three Rs: Resistance, Resilience, and Reconciliation in Canada and Ireland." Peace Research 49, no. 2 (2017), 108.

## Indian Status and Band Membership

Indian "status" refers the legal status of an individual who is registered under the *Indian Act*. "Status Indians" or "registered Indians" may be eligible for benefits, rights, programs and services offered by the federal, provincial, or territorial governments.[11]

Registered Indians will have their name added to the Indian Register, which is the official record of status Indians under the *Indian Act*. Indigenous Services Canada is responsible for maintaining the Register. Eligibility for status is based on the degree of descent from ancestors who were registered or entitled to be registered. It is important to note that eligibility is based on whether relatives gained status under the *Indian Act.*

Historically, the *Indian Act* determined both status and band membership. This continues to be the case for bands governed by section 11 of the *Act*. Section 11 band membership lists are maintained by the Indian Registrar. When the Registrar grants status to an individual, that individual is automatically put onto their band list.

Bands governed by section 10 of the *Act* have taken control of their band membership by creating membership rules and codes that were approved by the Minister of Crown-Indigenous Relations Canada.[12] For these bands, Indian status and band membership are not synonymous with each other. An individual can obtain Indian status and not band membership or vice versa.

## Major legal decisions and changes to the legislation

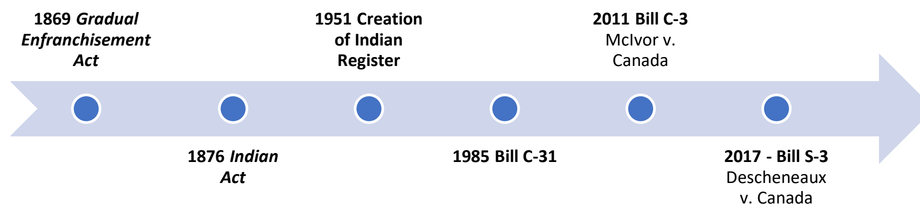



**Figure 1: Major Registration Changes to the *Indian Act***

Figure 1 illustrates the legislative changes to registration in the *Indian Act.* The *Gradual Enfranchisement Act* of 1869 made legal modifications so that Indigenous women who married non-Indigenous men were no longer considered Indigenous under the *Act.*[13]Additionally, Indigenous women automatically became a member of their husband's band.[14]The 1876 *Indian Act* was the first act to clearly define who an "Indian" was under the *Indian Act.*[15]

---

[11]Indigenous Services Canada. "What is Indian Status". Last modified April 29, 2020.
[12] Government of Canada. Collaborative Process on Indian Registration, Band Membership and First Nation Citizenship: Fact Sheets (2018), 37.
[13] *Ibid.,* 5.
[14] *Ibid.,* 5.
[15] *Ibid.,* 5.

The creation of the Indian Register in 1951 was established to record Indigenous people who were entitled to status under the *Indian Act* legislation.[16] This was a major change to registration because it was the beginning of the Federal Government taking control over defining the members of First Nations. If a male is added or deleted from the register through enfranchisement, so was his wife and children.[17] Additionally, women who married a non-status individual were not eligible for status and were removed from their band list.[18]

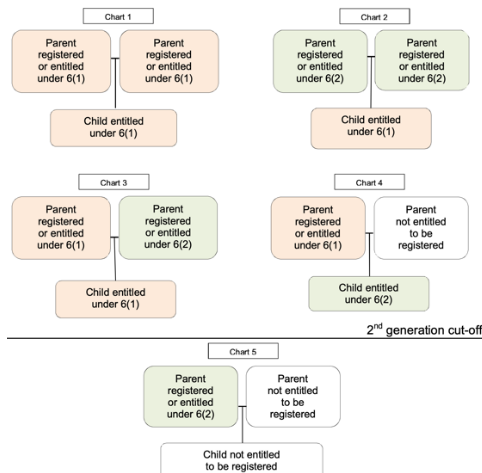



**Figure 2: Illustration of the second-generation cut-off resulting from the 1985 creation of 6(1) and 6(2) classes of *Indian Act* status.[19]**

In 1985, Parliament passed amendments to the *Indian Act* that addressed some sex-based inequities in registration. Bill C-31 kept the same structure in the *Indian Act* but introduced "classes" of Indigenous people in order for the federal government to retain control over Indian registration. The *Indian Act* had status or no status, while Bill C-31 introduced 6(1) and 6(2) categories, also referred to in First Nation communities as "real" and "half" Indigenous.[20] The second-generation cut-off was the result of the creation of these classes as illustrated in figure 2.

The main criticism of the Bill from First Nations was that it shifted the discrimination from the woman who married out, to her children as well as her grandchildren as a result of the second-generation cut-off. [21] First Nations expressed their concern that, although the Bill was written to eliminate discrimination, in actuality it aims to eliminate status Indians all together.[22]

Bill C-31 also enabled bands to adopt membership codes different from the Indian Registrar. Through the creation of section 10 and 11 for First Nation bands, *Indian Act* status was distinct from band membership for the first-time.[23]

[16] *Ibid.,* 5.
[17] *Ibid.,* 5.
[18] *Ibid.,* 5.
[19] Government of Canada. "Collaborative Process on Indian Registration, Band Membership and First Nation Citizenship: Fact Sheets." (2018), 9.
[20] Napoleon, Val. "Extinction by Number: Colonialism Made Easy." *Canadian Journal of Law and Society* 16, no. 1 (2001), 119.
[21] *Ibid.,* 119.
[22] *Ibid.,* 126
[23] *Ibid.,* 119.

Challenges under the Canadian Charter of Rights and Freedoms for remaining sex-based and as well as other inequities. Sharon McIvor launched the first of these challenges because she had lost entitlement to registration when she married a non-status individual and had her status reinstated following the 1985 amendment.[24] Since only one parent had status, Sharon's son was registered under the category of 6(2) and was unable to pass his entitlement on because he parented with someone who did not hold status.[25] However, her son's cousins in the male line who's registered father married a non-status woman before 1985 could pass on their status.[26] The BC court ruled in McIvor's favour.

The McIvor case initiated further legislative amendments through Bill C-3 (2011) is the *Gender Equity in Indian Registration.* The Charter challenge found that the revised 1985 *Indian Act* still discriminated against women because they were treated differently than male relatives in how their status was passed onto their offspring. The Government of Canada introduced the Bill C-3 amendments in response to this.

This amendment upgraded registration from a Section 6(2) to Section 6(1) if four requirements are met. The birth or adoption date of a grandchild of a woman who lost entitlement to registration as a result of a marriage to a non-status man must have occurred after September 4 1951 for the grandchildren to be entitled for registration.[27] This applied to children of women who lost status following a marriage to a non-Indigenous individual, also known as the "cousins" issue. They had to be born on or after September 4, 1951 and before April 17, 1985.[28] Removing the 1951 cut-off extends entitlement and allows for entitlement to be passed on to descendants back to 1869.[29]

The 2017 Bill S-3 amendments were completed in response to the Descheneaux court decision. In 2015, the Superior Court of Quebec struck down several provisions of the *Indian Act* on the grounds that they violated gender equality guarantees in the *Charter*. The court gave the government 18 months to revise the *Act* in response to this decision.[30] The resulting legislation (Bill S-3) included measures to address further inequities of siblings, cousins, omitted minors, and unknown/unstated parentage.[31]

The 2017 amendments addressed a number of other issues in addition to the cousins and siblings issue. It clarified the procedures used by the government's registrar for determining the registration of children with unstated fathers, also known as the "unstated paternity issue".

---

[24] Government of Canada. "Collaborative Process on Indian Registration, Band Membership and First Nation Citizenship: Fact Sheets." (2018), 12.
[25] *Ibid.,* 12.
[26] *Ibid.,* 12.
[27] Government of Canada. "Collaborative Process on Indian Registration, Band Membership and First Nation Citizenship: Fact Sheets." (2018), 19.
[28] Clatworthy, Stewart. "Indian Registration and Membership/Citizenship: Projected Population Changes Among First Nations."(2018).
[29] Government of Canada. "Collaborative Process on Indian Registration, Band Membership and First Nation Citizenship: Fact Sheets." (2018), 19.
[30] Government of Canada. "The Government of Canada's Response to the Descheneaux Decision." (2018).
[31] *Ibid.*

Additionally, the Descheneaux decision required that the Government of Canada conduct consultations with First Nations on how and when the removal of the "1951 cut-off" should be implemented.[32]

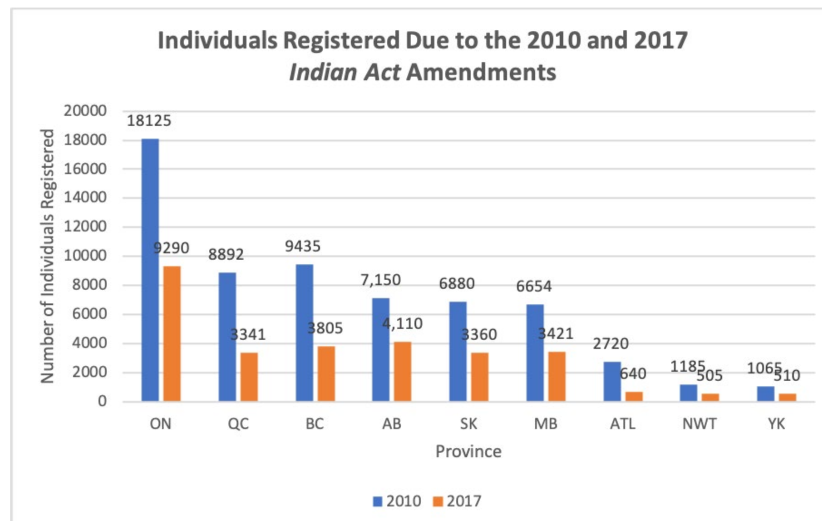


**Figure 3: Individuals Registered Due to the 2010 and 2017 *Indian Act* Amendments** [33]

Demographer Stewart Clatworthy estimated that 91,000 individuals may become entitled to registration under the 2010 Bill C-3 and 2017 Bill S-3 amendments. The number of individuals entitled to status increased approximately 10%.[34] Figure 3 illustrates the increase across all provinces and territories in the number of individuals registering for status as a result of the 2010 and 2017 *Indian Act* amendments. Since the 2017 amendment occurred recently, it should be noted that more individuals may register due to the 2017 amendment as time goes on.

## Collaborative Process on Indian Registration, Band Membership and First Nation Citizenship

Bill S-3 aimed to eliminate all sex-based discrimination within registration under the *Indian Act* dating back to 1869. The Collaborative Process was the Government of Canada's Response to the Descheneaux Decision. Provisions eliminating this discrimination were brought into force in 2017. However, this was subjected to a delayed coming into force, in order for consultations with Indigenous groups to take place.

Consultations under the collaborative process were launched in 2018 to gain input on three consultation streams and the Government was required to provide a report to parliament on the findings. The second-generation cut-off was mentioned under stream two. The general consensus

[32] Clatworthy, Stewart. "Indian Registration and Membership/Citizenship: Projected Population Changes Among First Nations."(2018).

[33] Clatworthy, Stewart. "Indian Registration and Membership/Citizenship: Projected Population Changes Among First Nations." (2018).

[34] *Ibid.*

among First Nations was that all inequities need to be addressed and that they need to be involved in determining appropriate solutions.[35] In order to carry that out, First Nations noted that additional funding and resources are required to engage with members on this issue.[36] There was a clear message that First Nations should determine who their people are through control of their membership and citizenship.[37]

The 2019 Report to Parliament states that throughout the collaborative process, the issues surrounding the removal of the 1951 cut-off were discussed in conjunction with broader issues, such as the second-generation cut-off.[38] First Nations noted that further changes need to be made to the legislation to address other such inequities.[39]

The second-generation cut-off is an issue that appeared as the direct result of the creation of subsection 6(2) of the *Indian Act*. First Nation participants of the collaborative process made it clear that they felt that the second-generation cut-off was created to "legislate" First Nations out of existence in a modern form of assimilation.[40] Additionally, they noted that they do not feel families can be limited to two generations because traditional teachings express the need to care for the coming seven generations.[41]

Participants expressed concern over First Nations Communities using 6(1) and 6(2) registration categories as a method to label members and differentiate rights within the community such as voting, access to benefits.[42] This issue has resulted in discrimination among First Nation members. Participants stated that these individuals felt that they did not belong and, in some cases, excluded from cultural ceremonies and teachings.[43] Inequality occurs in adoptions as a child with no Indigenous ancestry can gain status following an adoption, while an Indigenous born child may be subject to the cut-off.[44] Since the second-generation cut-off is a complex issue, First Nations stated the need for more time in order to properly address this specific issue.[45]

One participant remark stated that "the categories of 6(1) and 6(2) should be done away with. These categories create "classes" of Indians which causes friction and discrimination." Another participant asked, "What other nationality in Canada has categories like this?".[46]

While there is a general consensus among participants that it is an issue that needs to be addressed, there were mixed support of solutions such as a one parent rule, the use of blood

---

[35] Government of Canada. "Collaborative Process on Indian Registration, Band Membership and First Nation Citizenship: Report to Parliament June 2019." (2019).
[36] *Ibid.*
[37] *Ibid.*
[38] *Ibid.*
[39] *Ibid.*
[40] *Ibid.*
[41] *Ibid.*
[42] *Ibid.*
[43] *Ibid.*
[44] *Ibid.*
[45] *Ibid.*
[46] *Ibid.*

quantum, the use of DNA, removing all cut-offs, as well as the transfer of control to First Nations to decide.[47] This mixed response reinforces the need for policy solutions that are tailored to each First Nation.

### December 2020 Update on Bill S-3

In a December 2020 review of Bill S-3, it was noted that fewer individuals than expected registered for status under the 2017 amendment of Bill S-3.[48] It was estimated that the full implementation of Bill S-3 could result in 270,000 to 450,000 newly registered individuals over the next 10 years.[49] As of December 2020, approximately 10,000 individuals had been newly registered due to the changes resulting from Bill S-3.[50] In addition, 57, 000 who were already registered were newly able to pass on entitlement to their descendants.[51]

This update shows that there was not a large spike in the number of individuals newly registered due to Bill S-3 as anticipated. This update can be used a reference to consider when developing future registration alternatives. The fear of a large number of newly registered individuals is generally unfounded and should be a minor consideration for future registration alternatives.

## The Problem

The second-generation cut-off is problematic in several ways. It maintains the role of the federal government in registration and perpetuates the systemic racism it represents. It has a negative impact on individuals and communities affected. It will eventually cause significant reduction of the population of Indigenous people who hold Indian status.

### Systemic Racism in Registration

The federal government currently determines who has the right to be registered for Indian status. The 1876 *Indian Act* and 1951 Register were created so that the federal government could define the criteria for determining who is an Indian under the *Act*. This legislation was developed as one of the many tools to assimilate Indigenous people. It was not intended to be inclusive for Indigenous people and it has shown to especially exclude women and their descendants. The government continues to follow *Indian Act* rules of registration which are now defining Indigenous people out of existence.[52] There is also a paternalistic nature to the way the current legislation operates where it assumes that First Nations are not able to take on the responsibility of determining who their people are. Overall, racism will continue to be an issue as long as the federal government decides who an Indian is.

---

[47] *Ibid.*

[48] Indigenous Services Canada. "The Final Report to Parliament on the Review of S-3: December 2020." (2020).

[49] *Ibid.*

[50] *Ibid.*

[51] *Ibid.*

[52] Day, Shelagh. "Equal Status for Indigenous Women--Sometime, Not Now: The *Indian Act* and Bill S-3." *Canadian Woman Studies 33*. (2018), 180.

## Impact on individuals

The impact of the second-generation cut-off on individuals is loss of traditional language, culture, community, and benefits such as housing and healthcare. During the Collaborative Process, First Nations discussed the discrimination and differential rights between those with 6(1) and 6(2) registration categories.[53] The categories can be used as labels to create negative feelings where individuals do not feel they belong to a community. As a result, individuals who belong to a band may be excluded from cultural and ceremonial teachings.

A registration issue that specifically affects individuals is Indigenous parenting between Canada and the United States. The Canada-US border we know today was created long after Indigenous tribes inhabited the land. Many First Nations who resided close to the Canada-US border crossed it regularly to hunt or join in family gatherings. This has caused several issues in Canada regarding Indigenous inherit rights for Indigenous people with US citizenship.

An Indigenous person without Canadian status living in the US is considered to be non-status in the eyes of the federal government. If an individual holding 6(2) status was to parent with an Indigenous person from the US, their child, although Indigenous, will experience the second-generation cut-off and will not be entitled to Indian status in Canada.

In the case R. v. Desautel 2019, Mr. Desautel was charged with hunting without a licence, and hunting big game while he was not a resident of the province British Columbia. He is a member of the American Lakes Tribe, a citizen of the United States, as well as a resident on the Colville Reserve located in the United States.[54] He claimed an aboriginal right to hunt for ceremonial purposes in the traditional territory of the Lakes Tribe.[55] An October 2020 decision made by the Supreme Court of British Columbia ruled that Mr. Desautel was exercising an aboriginal inherent right to hunt for ceremonial purposes. This right is guaranteed by section 35 of Canada's Constitution Act (1982), and ss. 11(1) and 47(a) of the Wildlife Act infringes his right to hunt.

This case shows that Indigenous individuals who do not possess status under the *Indian Act*, still have aboriginal inherent rights in Canada. In other words, Canada recognized this individual's Indigenous rights even though they did not hold status. However, for now children born to a 6(2) parent and an Indigenous parent from the US will not be entitled to Indian status.

## Impact on First Nation Communities

While the federal government defends and rationalizes the cut-off, there are communities that report some members are unfairly subjected to it. They are affected even if their family and they themselves have been connected to the community. The effect of the second-generation cut-off in communities exemplifies systemic racism at a national level. The second-generation cut-off was reported in both the Exploratory Process in 2011-2012[56] and the Collaborative Process of

---

[53] Government of Canada. "Collaborative Process on Indian Registration, Band Membership and First Nation Citizenship: Report to Parliament June 2019." (2019).
[54] R. v. Desautel, 2019 BCCA 151 (CanLII), <http://canlii.ca/t/j02mm>, retrieved on 2020-12-13
[55] *Ibid.*
[56] Government of Canada. "The Exploratory Process on Indian Registration, Band Membership and Citizenship: Highlights of Findings and Recommendations." Last modified on 2018-12-05.

2019 where First Nations vocalised the issue of the cut-off for the federal government to document and one day resolve.

First Nations have internalized colonialism within their communities in their own institutions and processes. Many First Nations have unfortunately moved away from traditional practices and over the years have adopted practices that led to discrimination of their own people. This is prevalent for women who have their status reinstated as a result of *Indian Act* amendments and wish to connect with their community. There are section 10 First Nations who determine their own membership rules but have chosen to use *Indian Act* rules to determine their membership.[57]

There have been registration amendments made to the *Indian Act* as recently as 2018 (removal of the 1951 cut-off). However, none of these amendments have touched the issue of the second-generation cut-off or related issues that stem from the cut-off. The difficulty is finding the right balance between individual and collective rights. However, Indigenous registration is the concept of labelling one's identity. For Indigenous people, their identity is connected to the First Nation community to which they belong.

## Impact on the Population of Status Indians

Exogamous parenting is the driver for the issue of the second-generation cut-off. Exogamous parenting occurs when Indigenous people who hold status parent with somebody who does not hold status. Figure 4 illustrates the increasing prevalence of exogamous parenting across all provinces and territories. This is indicative of the increasing prevalence of the second-generation cut-off across Canada.

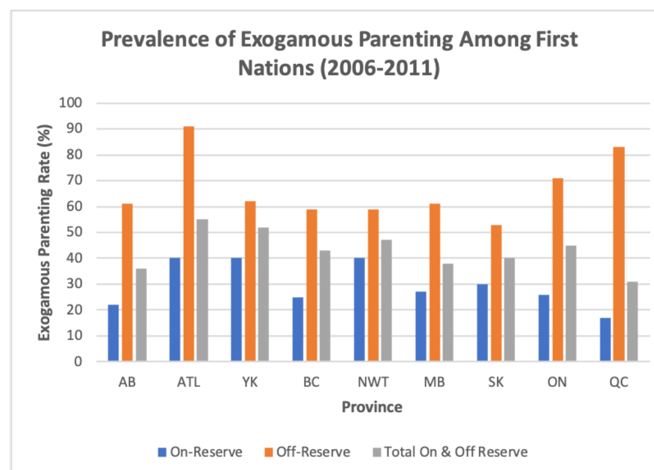



**Figure 4: Prevalence of Exogamous Parenting Among First Nations (2006-2011)[58]**

Figure 4 also illustrates that the off-reserve population is experiencing the largest increase in exogamous parenting. A growing number of Indigenous people live off reserve and may not be connected to their First Nation even if they are members of that First Nation. The off-reserve Indigenous population is more likely to experience exogamous parenting and are consequently

[57] Clatworthy, Stewart. "Indian Registration and Membership/Citizenship: Projected Population Changes Among First Nations." (2018).
[58] *Ibid.*

the second-generation cut-off. As long as Indian status is determined by *Indian Act* rules, there will be an increase in the occurrence of the second-generation cut-off that mirrors the increase in exogamous parenting.

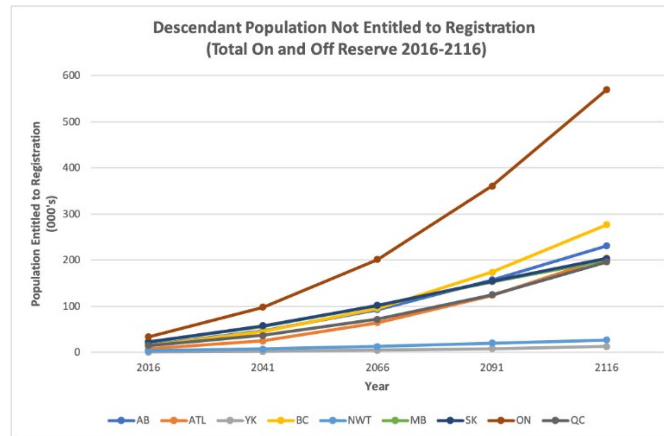



**Figure 5: Descendant Population Not Entitled to Registration (Total on and Off Reserve 2016-2116)[59]**

Figure 5 shows Clatworthy's projection that the population of descendants who will not be entitled to Indian registration is projected to increase within just four generations (100 years). Over half of Indigenous individuals are expected to be non-entitled to status within 75-100 years. This increase is projected to occur both on and off reserve, but the occurrence will be more drastic off-reserve.

The exponential increase in descendants not being able to obtain status has negative impacts at both the individual and community level. The funding formula for First Nations communities is dependent on their number of status members. As a result, there is no incentive for First Nations to accept or offer benefits to those who do not hold Indian status. It is especially difficult for First Nations with limited resources to offer benefits to those individuals as they may not have enough for their current population. This affects individuals as they will not be able to receive benefits or be part of the community.

[59] Clatworthy, Stewart."Indian Registration and Membership/Citizenship: Projected Population Changes Among First Nations." (2018).

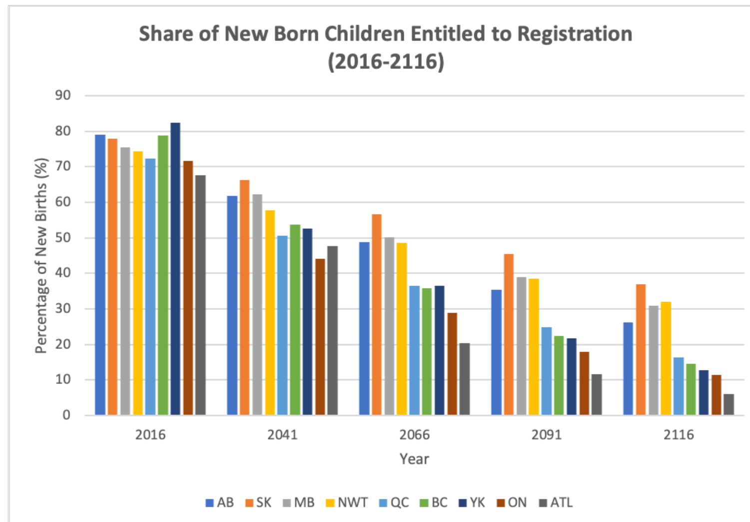



**Figure 6: Share of New Born Children Entitled to Registration (2016-2116)**[60]

Figure 6 illustrates the same point as figure 6 but inversely. First Nations in all Canadian provinces are expected to experience a sharp decline in the share of newly born children that qualify for registration. Within only one generation, a majority of children born to First Nation parents are expected to lack entitlement to registration. Within four generations roughly 15 of every 16 newly born children are expected to lack entitlement to registration.

# Analysis of Alternatives

## Criteria for Evaluation

To offer a systematic analysis of the policy alternatives available, a set of criteria for evaluation have been developed. These criteria are:

(1) Reconciliation: the extent to which the alternative furthers the process of reconciliation between Canada and Indigenous peoples

(2) Timeliness: how long it would take to implement the alternative which, if too lengthy, could increase the number of descendants affected by the cut-off,

(3) Individual and collective rights: the extent to which the alternative balances the two in order to lower the impact of the cut-off, and

(4) Population: the extent to which the alternative affects the number of status Indigenous people.

### Reconciliation

When suggesting policy alternatives to the second-generation cut-off, it is essential to evaluate them to ensure they assist in achieving reconciliation between Canada and Indigenous people. Canada's promise of reconciliation stems from the Truth and Reconciliation Commission (TRC) established as a result of the Indian Residential Schools Settlement Agreement. The TRC's final

---

[60] Clatworthy, Stewart. "Indian Registration and Membership/Citizenship: Projected Population Changes Among First Nations." (2018).

report included a commitment from the Government of Canada to a renewed nation-to-nation relationship with Indigenous peoples.[61] Therefore, reconciliation is a major factor to consider for future policy alternatives to Indian Registration.

To achieve reconciliation, any policy alternative should be consistent with the relevant provisions of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Canada has signed this international agreement and has adopted legislation that establishes UNDRIP as a human rights instrument applicable to Canadian law. The UN Declaration includes a section (33) that is highly relevant to Indian registration and the policy challenge of the second-generation cut-off.The Government's formal commitment to reconciliation includes repairing damaged trust, reparations, and actions for change using Indigenous approaches.[62]

The Truth and Reconciliation Commission 2015 Report encouraged all levels of government to implement The UN Declaration as a foundation for reconciliation.[63] The UN Declaration lists rights that emphasize self-determination and the rights of Indigenous peoples to maintain and strengthen their own institutions, cultures, and traditions.[64]

Article 33 of The UN Declaration specifically states:

1. Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of Indigenous individuals to obtain citizenship of the States in which they live.
2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.[65]

In essence, Article 33 states that First Nations have the right to determine who their people are. The TRC report encouraged all levels of government to implement the UN Declaration as a foundation for reconciliation and many First Nations have been vocal about the need for the Government to implement The UN Declaration. However, since the UN Declaration is not legally binding, the implementation of it depends on the political party in power.[66] When evaluating a policy alternative to Indian Registration, the UN Declaration must be a major factor to consider for future policy alternatives.

The 2020 Bill C-15 introduced the *United Nations Declaration on the Rights of Indigenous Peoples Act* and it affirms the Declaration as a human rights instrument applicable to Canadian Law. It sets the framework for the federal government's implementation of the Declaration. This legislation aims to safeguard the rights of Indigenous peoples, specifically the right to self-

---

[61] Government of Canada. "Truth and Reconciliation Commission of Canada." (2020).

[62] Clarke, Mary Anne; Byrne, Sean. "The Three Rs: Resistance, Resilience, and Reconciliation in Canada and Ireland." *Peace Research 49 (2)*. (2017), 117.

[63] Favel, Blaine, and Ken S. Coates. "Understanding UNDRIP: Choosing Action on Priorities over Sweeping Claims about the United Nations Declaration on the Rights of Indigenous Peoples." Macdonald-Laurier Institute Publication. (2016).

[64] *Ibid.*

[65] United Nations. "United Nations Declaration on the Rights of Indigenous Peoples." (2008).

[66] Favel, Blaine, and Ken S. Coates. "Understanding UNDRIP: Choosing Action on Priorities over Sweeping Claims about the United Nations Declaration on the Rights of Indigenous Peoples." *Macdonald-Laurier Institute Publication*. (2016).

determination even though The UN Declaration is not legally binding. The Bill is significant in the path towards First Nations self-determination as well as ensuring treaties and agreements are adhered to.

### Timeliness

When evaluating policy alternatives, it is essential to consider the implementation timeline. It takes several years to create and implement new legislation relating to Indigenous people. The path to citizenship where First Nations decide who their people are could take up to 20 years. The issue of the second-generation cut-off is time sensitive as affected children will not be entitled to programs and services growing up. Additionally, they may be disconnected from their band and culture. The longer this issue remains without any solution, either short-term or long term, more numbers of individuals and descendants will be affected. Since it could take several years to implement new legislation, short term policies could step in as a band-aid solution until significant legislative change is made.

For the purposes of this capstone, 5-10 years is considered short-term, and any alternative that is expected to take longer than 10 years is considered long-term.

### Individual vs. Collective Rights

When evaluating options for future change to First Nations determining their own people as an element of self-determination, it is difficult to balance collective and individual rights. This balance is generally between a band and an individual who wishes to be a member of the band. Possible reasons individuals may wish to join a band is to connect with the culture, return to family, and for access to resources and benefits. On the other hand, possible reasons for a band to reject an individual could be a lack of financial capacity, land, and other resources.

Policy alternatives to eliminate the second-generation cut-off will display more characteristics in support of individual rights over collective rights. As previously mentioned, the legislative amendments made to the *Indian Act* mostly benefited individuals who had previously lost status. Their Indian Status was re-instated, and, in some cases, they were welcomed by First Nations communities. Since the second-generation cut-off is an inequity in Indian registration, policy alternatives that focus on individual rights will show to be more helpful.

### Population

As previously discussed, the second-generation cut-off in the current registration system is causing the number of Indigenous people with status to decrease. Policy alternatives would need to consider whether it affectively reverses the current trend in increasing the number of Indigenous people entitled to status.

# Policy Alternatives

## The Status Quo

Statistics Canada estimates that between 2009-2034, the registered Indigenous population will decrease by 11 percent, while the non-registered Indigenous population is expected to increase by 9 percent.[67] In order for a child to be eligible for Indian Status, at least one parent needs to hold 6(1) status or both parents must hold 6(2) status. The second-generation cut-off occurs when an individual with 6(2) status parents with an individual who does not hold status. The child would not be entitled to status. There are issues with Indigenous people unable to prove their ancestry or provide documents in order to receive status, which results in the lack of status among many Indigenous children. Additionally, there is a continued increase in the number of off-reserve Indigenous people which can result in the higher number of children who lack entitlement to status. These among other issues have resulted in the increase effects of the second-generation cut-off.

The status quo does not contribute to the objective of reconciliation between Indigenous communities and Canadians, as it furthers the relationship of colonialism and assimilation. Recall the UNDRIP requirement in s. 33 that Indigenous communities have the authority to determine their own membership. The current legislation does not grant this authority to many communities, nor does it work to ensure the maintenance and growth of these communities over time.

## Individual Rights

The current status quo of registration does not protect the rights of individual Indigenous people. The second-generation cut-off is experienced by individuals and individual rights need to be considered for future policy alternatives. The effect on individuals include the loss of community, culture, and benefits.

There may be critiques from First Nations that alleviating the second-generation cut-off privileges individual rights over community rights. To help balance this in the short term, First Nations need to transition to section 10 and establish their membership codes. In the long term, First Nations will hopefully be able to have complete autonomy over their governance, including their membership.

## Population

The second-generation cut-off exists as a result of the status-quo of registration, and it will continue to decrease the number of individuals entitled to status at an exponential rate as illustrated in figure 5. Since the majority of First Nations' members are decided upon by *Indian Act* member rules, First Nations will continue to experience a decrease in members and subsequent resources as a result.

Therefore, the current Indian registration system is not sustainable because it plays a factor in the decline of the Indigenous population. While the status quo of registration is an alternative it is

[67] Statistics and Measurement Directorate. "Registered Indian Population, Household and Family Projections 2009-2034." (2013).

paternalistic in nature, historically rooted in the goal of assimilation, and is overall not sustainable for the Indigenous population. The second-generation cut-off is assisting in the estimated decline of the registered Indigenous population due to a governmental system that does not incorporate and is not reflective of Indigenous culture and values. For these reasons, the status quo of the current registration system under the *Indian Act* is unacceptable and needs to change.

Table 1: Summary of Policy Alternatives

| | Policy Alternatives | Reconciliation | Timeliness | Individual Rights | Population |
|---|---|---|---|---|---|
| **1.** | One Parent Rule for Status | X | X | X | X |
| **2.** | Treaty-Based Status | X | | X | |
| **3.** | Re-launch Section 10 Program | X | X | | |
| **4.** | Self-Governance Agreements | X | X | | X |
| **5.** | Dual Indigenous/Canadian Citizenship | X | | X | X |

Table 1 summarizes the policy alternatives and the criteria used to evaluate them.

## Policy Alternative 1 – One Parent Rule for Status

| Policy Alternative | Reconciliation | Timeliness | Individual Rights | Population |
|---|---|---|---|---|
| One Parent Rule for Status | X | X | X | X |

The first alternative – the One Parent rule - would involve amendments to the *Indian Act* to allow direct descendants of individuals with a 6(2) parent to become available for status. This alternative would eliminate the need for a 6(2) category because all Indigenous parents would be able to pass on entitlement.

The senate approved a similar "6(1)a all the way" amendment in 2017 but it was rejected by the government[68]. In both situations, descendants would be eligible for status if only one parent had 6(2) status and the other did not hold status. However, the "6(1) all the way" registration amendment is more inclusive and would completely eliminate the second-generation cut-off because every descendant would hold 6(1) status.

[68] Day, Shelagh. 2018. "Equal Status for Indigenous Women--Sometime, Not Now: The *Indian Act* and Bill S-3." Canadian Woman Studies 33 (1–2): 174–85. 174.

This policy alternative has already been adopted by some section 10 First Nations membership rules. There are four types of membership rules that have been adopted under section 10 of the *Indian Act*. The "limited one parent rule" and the "unlimited one parent rule" type of membership vary slightly in how individuals gain band membership. Since band membership and Indian status are not interchangeable for section 10 bands, some First Nations follow some or a combination of the four membership rules.

The "Limited One Parent" or *Indian Act* Equivalent rule requires an individual to have at least one parent who is a member of the band and they are also entitled to Indian registration. The "Unlimited One Parent" rule requires an individual to have at least one parent who is a band member regardless of their entitlement to Indian registration. Because each rule contains inheritance provisions, membership/citizenship eligibility will be affected by parenting patterns.

A barrier to the one parent rule for First Nations is the potential for a high number of Indigenous people seeking membership and benefits to their Nation. However, in a December 2020 review of Bill S-3, it was noted that fewer individuals than expected registered for status under the 2017 amendment of Bill S-3.[69] This shows that that is not where the problem is or where the solution should rise from.[70] Data shows that the number of individuals entitled to status will decrease exponentially and eliminating sex-based inequities does not go far enough to address this issue, therefore an alternative such as the one parent rule should be considered.

For example, for Ontario First Nations using the *Indian Act* registration rules for band membership, Stewart Clatworthy predicts the population entitled to both status and band membership will decline. By adopting a one parent rule for status, all provinces and territories will see a rise in the number of individuals that would be entitled to registration.

A registration amendment referred to as "6(1)a all the way" holds similar characteristics to the one parent rule used for membership. It would extend registration entitlement under 6(1)a to all descendants of individuals who hold status born before April 17, 1985.[71] While this amendment was adopted by the Senate, it was rejected by the Government of Canada. The Government stated three reasons for this which is that more consultation is needed, the high numbers, and that they have no legal obligation beyond resolving Descheneaux.[72]

Implementing the 6(1)a all the way amendment to the *Indian Act* will increase the number of individuals who hold Indian Status. Stewart Clatworthy estimates that the number of individuals that would be newly entitled to status could be between 750,000 and 1.3 million.[73] If the numbers of newly entitled individuals is extremely high, this reinforces how effective this discrimination has been as a tool of assimilation.

---

[69] Indigenous Services Canada. "The Final Report to Parliament on the Review of S-3: December 2020." (2020).
[70] *Ibid.*
[71] Day, Shelagh. 2018. "Equal Status for Indigenous Women--Sometime, Not Now: The *Indian Act* and Bill S-3." *Canadian Woman Studies 33 (1–2)*, 174.
[72] *Ibid.,* 180.
[73] *Ibid.,* 180.

However, the 6(1)a all the way amendment is not recommended alternative because

Overall, Clatworthy's data shows that the number of individuals entitled to status will decrease exponentially and eliminating sex-based inequities does not go far enough to address this issue, therefore an alternative such as the one parent rule should be considered.

*Reconciliation: Yes and no*

There are aspects to the one parent rule that would help the government move forward with achieving reconciliation. This alternative would undo some of the discrimination many have felt from losing status. Loss of status has resulted to many Indigenous people disconnected from their language, community, and culture. This alternative would provide the chance for Indigenous people to reconnect with their culture and in some cases their First Nation band.

However, it does not align with the UN Declaration because this does not assist in achieving autonomy for First Nations to decide who their people are. The policy alternative amends the *Indian Act* and reinstates Indian status to individuals who meet the criteria already set by the Act. It does not allow for First Nations to decide who these individuals will be.

*Timeliness: Yes*

If Parliament amended the *Indian Act* to replace the second-generation cut-off with the one-parent rule, it would have immediate effect. Individuals would then become eligible to apply for status as status is not given automatically.

The "6(1)a all the way" amendment to the *Indian Act* should take a relatively short timeline to come into force.

*Individual Rights: Yes*

This alternative protects individual rights over collective rights because it directly impacts the status of individuals and their descendants. This will extend eligibility and prevent the effect of the cut-off for at least one more generation of descendants. Additionally, since most First Nations are under section 11, most of these individuals will gain automatic membership to their associated First Nation. However, it may conflict with collective rights of section 11 bands as they may be overwhelmed with the number of new people added to their band list.

Indigenous people would no longer have to strategically marry someone who held 6(1) status. Choosing a spouse should not be restrictive in this manner. This policy alternative would allow Indigenous people to parent with a larger pool of people without worrying about whether their child would have status.

A compromise of individual and collective rights could be achieved by ensuring most First Nations have secured their membership code prior to implementing the one parent rule. This will avoid large number of people automatically gaining membership to the band, which could potentially put heavy strain on the band's resources.

*Population: Yes*
The alternative of using a one parent rule to determine status will increase the population of Indigenous people holding status. The one parent rule will remove the need for the categories of 6(1) and 6(2), thus eradicating the prevalence of the second-generation cut-off, and so the growth of Indigenous persons without status projected in Figure 5 would not occur.

## Policy Alternative 2 – Treaty-Based Status

| **Policy Alternatives** | **Reconciliation** | **Timeliness** | **Individual Rights** | **Population** |
|---|---|---|---|---|
| Treaty-Based Status | **X** | | **X** | |

This alternative involves the creation of treaty-based status where eligible individuals would register to become a member of a treaty group. These treaty groups would function similarly to individual First Nations and would lead to more inclusivity for Indigenous people. This policy alternative would be an addition to current First Nation band membership and Indian Status and would not be an amendment to the *Indian Act*. This alternative would require negotiation between treaty group leaders and the Government of Canada that could mimic those of self-government agreements in the Yukon.

Canada currently recognizes 70 historic treaties and 25 modern treaties.[74] This alternative would create treaty-based status for the treaties that are currently in place. This alternative would not apply to unceded land not under treaty.

These negotiations would involve funding, land, as well as other crucial agreements. Since Indian status and band membership are not synonymous with each other, this alternative provides an option for Indigenous people who have Indian status but are not accepted by their affiliated band's membership code. These individuals would have status but not a First Nation band. A Treaty-based community could be created to take the place of the First Nation band they would have been a part of. Treaty-based communities could provide the essentials of community, culture, and tradition to those individuals.

There is also an increasing number of Indigenous people who live off reserve and are not connected with their band. In these cases, treaty-based status could be a possible policy alternative for those who live in metropolitan areas. For this alternative to assist in solving the second-generation cut-off treaty status must be recognized by the Federal government. Treaty status must have similar tax exemptions and benefits to Indian Status, or it will not be successful.

[74] Government of Canada. "Treaties and agreements. Learn about historic and modern treaties in Canada, treaty rights and the treaty relationship." (2020).

There are 169 recognized First Nations in Canada that not under treaty[75]. For these First Nations, the Government would need to implement modern treaties. The process of treaty-making is evolving while the Government of Canada continues to negotiate with First Nations to implement modern treaties and self-government agreements. However, if this policy alternative is implemented, there must be an alternative for areas not under treaty in the meantime while modern treaties are being implemented.

Treaties and Aboriginal rights are recognized in Section 35 of the Constitution Act and are a crucial part to the UN Declaration.[76] These treaties include historic treaties and modern treaties, also referred to as comprehensive land claim agreements.[77] The Government of Canada signed 70 historic treaties between 1701 and 1923.  Historic Treaties are in place for 364 First Nations. Since 1975, 97 First Nations in a modern treaty with the Government.

Since this would be a new concept for Indian registration, it would be beneficial to launch pilot projects. Pilot projects of treaty-based citizenship would be most useful in locations where there are high rates of exogamous parenting off reserve. The national exogamous parenting rate is 66.6% for those off-reserve.[78] These individuals are more likely to experience the second-generation cut-off, and they would not be part of a band because they live off reserve. These specific Indigenous people would benefit from treaty-based citizenship.

*Reconciliation: Yes*
Implementing this policy alternative would assist the Government in achieving reconciliation as it provides an option for Indigenous people that are not part of a First Nation. Through this alternative, the Government can be assured that it meets its fiduciary duty to Indigenous people.

Fulfilling Treaties between First Nations and the Government of Canada is a key part of the UN Declaration if Canada is to adopt it. This alternative could start as an alternative to Status Indians who do have a band or are not accepted to one and evolve to where these Treaty entities decides their member.

*Timeliness: No*
This alternative creates brand new entities that will require time to set up governance and structure. This will require collaboration between the Indigenous people from the treaty and the Federal government to achieve.

The creation of a new entity like treaty-based status will take a long time to establish. Similar to the process of treaty negotiations, it is a difficult task to negotiate a modern-day agreement that

[75] *Ibid.*
[76] *Ibid.*
[77] *Ibid.*
[78] Clatworthy, Stewart. “Indian Registration and Membership/Citizenship: Projected Population Changes Among First Nations.” (2018).

is based on historical aspects.[79] Factors to negotiate include financial agreements, fiduciary obligations, access to programs, land claims, as well as jurisdictions.[80]

*Individual Rights: Yes*
This alternative supports individual rights because it provides a citizenship option for Indigenous people not part of a band. Since there are financial benefits given to individuals who live on reserve this alternative will ensure that Indigenous people will not miss out on these benefits. Other benefits include culture and community with others within the treaty membership.

*Population: No*
This alternative would not increase the population of Indigenous people holding status because it is not an amendment to the *Indian Act* and current membership rules. The alternative aims to provide additional communities for those who already possess status. However, there is a possibility that this alternative could result in a lower exogamous parenting rate, thus a lowered occurrence of the cut-off, among the Indigenous population because it provides community to those living off-reserve and/or those without membership to a First Nation.

## Policy Alternative 3 – Re-Launch Section 10 Program

| Policy Alternatives | Reconciliation | Short-Term Timeline | Individual Rights | Population |
|---|---|---|---|---|
| Re-Launch Section 10 Membership | X | X | | |

This alternative amends the existing section 10 option to make it more appealing for more First Nations to switch to s. 10. In 1985 Bill C-31 created two systems of control of band membership under section 10 and 11 of the *Indian Act.*[81] Section 11 band membership lists are maintained by the Indian Registrar while Section 10 gave First Nations control of their band membership by creating membership rules and codes that had to be approved by the Minister of Crown-Indigenous Relations Canada.[82]

[79] Government of Canada. "The Government of Canada's Approach to Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government." Last modified September 15, 2010.
[80] *Ibid.*
[81] Government of Canada. "Collaborative Process on Indian Registration, Band Membership and First Nation Citizenship: Fact Sheets." (2018), 37.
[82] *Ibid.,* 37.

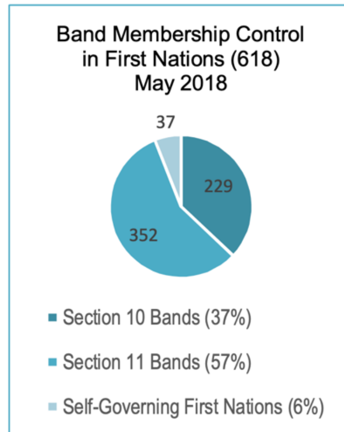



**Figure 9: Band Membership Control in First Nations (618) May 2018[83]**

The majority (57%) of First Nations are under section 11 where their membership lists are maintained by the Government of Canada.[84] While s.10 is available to all Bands, the majority have not opted in. Many Bands report that they do not have the legal capacity to ensure that their membership codes conform to the *Charter*. They may also be concerned about the risk of legal responsibility if an individual were to sue the band for being rejected.

A band must meet three requirements outlined in section 10.[85] Notice III states that a band must give written notice to the Minister indicating that the band that they are taking control of their membership with a copy of the membership rules.[86] The Minister approves the membership rules and Canada provides the band with a copy of its band list comprised of individuals who hold status under the *Indian Act*.[87]

Once the band becomes a section 10 band under the *Indian Act*, the band is responsible to work with its own legal counsel to develop their membership code.[88]The government has no direct role in developing the band's membership rules.

It was stated through the Collaborative process that they require assistance with capacity in developing and updating membership codes.[89] First Nations are responsible financially to hire legal counsel to assure that their membership codes are compliant with the Charter and human rights laws. First Nations are also responsible in informing and education band members about this change in membership. There are also privacy law issues that could prevent Canada from providing *Indian Act* membership lists.

In order to ensure the success of this policy alternative, the government of Canada should consider collecting data directly from section 11 First Nations as to why they have not

[83] *Ibid.,* 37.
[84] *Ibid.,* 37.
[85] Indigenous Services Canada. "About band membership and how to transfer to or create a band." Last modified June 3, 2020.
[86] *Ibid.*
[87] *Ibid.*
[88] *Ibid.*
[89] Indigenous Services Canada. "The Final Report to Parliament on the Review of S-3: December 2020." (2020).

transitioned to section 10. Feedback through a questionnaire could provide specific information that would assist in determining the most effective way to re-launch the section 10 program.

*Reconciliation: Yes*
This alternative lacks a sense of nation-to-nation relationship because the minister had to approve membership rules that the First Nations developed for their membership. If Canada were to treat First Nations as their own nation, it would be more appropriate to create and provide a legal entity that would review membership codes to ensure they were Charter and human rights compliant. This change to the original section 10 requirements would be a positive move away from the historical patriarchal relationship between Canada and First Nations.

This alternative aligns with the UN Declaration. A First Nation band being under section 10 of the *Indian Act* is a small step forward to self-determination. The process of disconnecting registration from the *Indian* Act and ensuring all First Nations determine who their people are will take time. However, putting programs in place with the intention of getting more First Nations able to become section 10 abides by the UN Declaration.

*Timeliness: Yes*
Since this legislation already exists, administrative measures could be implemented to increase Bands' willingness to participate. The government must provide a funding system to ensure all bands have access to legal counsel to develop their codes, funding to assist with genealogical research, and support to engage with members on this change. By implementing these minimal improvements, the program could be launched within a 2-5 year timeline.

*Individual Rights: Yes and No*
It is up to the section 10 First Nation to decide whether they will have a preference for individual rights over collective rights of the band. Some bands are welcoming and have more accepting membership codes in comparison to *Indian Act* registration requirements. However, some bands develop membership codes that are more exclusive and restrictive than *Indian Act* registration requirements. The Sawridge Band of Alberta took control of its membership when section 10 become available in 1985. Their membership code is extremely restrictive and as resulted in a number of court challenges.

*Population: Yes and No*
It is uncertain whether this alternative will increase the population of Indigenous people holding status because it is not an amendment to the *Indian Act* and current membership rules. The alternative aims to improve the current section 10 program so that more First Nations will switch from section 11 and decide who their members are. The impact on the Indigenous population would depend on how inclusive the First Nations choose to be with their membership codes. There is a risk of First Nations choosing to be more exclusive with who they accept as members. For this situation, it would be beneficial to also implement alternative 2 of treaty-based status.

### Policy Alternatives 4 – Framework for Self-Governance Agreements

| **Policy Alternatives** | **Reconciliation** | **Short-Term Timeline** | **Individual Rights** | **Population** |
|---|---|---|---|---|
| Self-Governance Agreements | **X** | **X** | | **X** |

Self-government legislation is the second way a band can assume control of its own membership from the *Indian Act*.[90] Self-Governance Agreement frameworks already exist and are in place for most Yukon First Nations. Creating self-government agreements with First Nations could be a policy alternative to remedy the second-generation cut-off. If First Nations were to govern themselves, they would be in full control of their membership, thus eliminating the occurrence of the cut-off.

This alternative is different than alternative 2 of treaty-based status. This alternative involves the creation of a framework for self-governance agreements with the goal of getting as many First Nations as possible to govern themselves. Treaty-based status is an alternative more limiting in its impact as it creates more communities similar to First Nations, but it does not alter current agreements with current nations.

Unlike many other regions of Canada, First Nations in the Yukon did not sign any treaties with the government until the 1990's.[91] Therefore, First Nations who are already under a treaty may need to take extra steps to negotiate from current treaties to future self-governing agreements. This involves a level of complexity as some historical treaties were made over a hundred years ago.

Yukon self-government agreements changed the relationship between Yukon First Nations and all levels of government. These agreements allowed First Nations to govern themselves according to their needs and interests.[92] Self-Governing Yukon First Nations (SGYFNs) function to provide governance as well as government programs for their citizens. SGYFNs work in collaboration with the federal and territorial government to ensure all of their citizens receive programs and services.[93] Since the *Indian Act* does not apply to SGYFNs, they are responsible for developing and maintaining their own constitutions. Specifically, one function of a SGYFN is to develop a citizenship code.[94]

Although SGYFNs decide their citizenship code and who their citizens are, disputes still occur regarding financial transfers from the federal government. The 2019 Teslin Tlingit court case argued that Canada has a legal obligation under section 16.1 and 16.3 of their Self-Government

---

[90] Government of Canada. "Collaborative Process on Indian Registration, Band Membership and First Nation Citizenship: Fact Sheets." (2018).
[91] Government of Canada. "Yukon – Final Agreements and Related Implementation Matters." Last modified April 23, 2019.
[92] Government of Canada. "Yukon Self Government Agreements." (2008).
[93] *Ibid.*
[94] *Ibid.*

Agreement to include all SGYFN citizens in the Financial Transfer Agreement (FTA).[95] The court found that Canada has been providing funding based on the number of individuals that hold status under the *Indian Act* instead of providing funding for all SGYFN citizens.[96] Within SGYFNs, citizens may or may not have *Indian Act* status, which means that Canada has historically not provided funding for all citizens.

The self-governing agreement established between Canada and Yukon First Nations gave them autonomy to determine their citizenship. This historically important case emphasized the fact that self-government constitutions, such as those of SGYFNs, must be adequately funded in order to be implemented correctly. This case also sets a precedent for future First Nations in Canada that decide to adopt a Self-Government Agreement. It is a step towards Canada recognizing and funding citizens of a First Nation according to their own citizenship code.

This policy alternative could mirror those of self-governance agreements made in the territory of the Yukon. However, there are lessons learned for Canada to improve on if this was carried out nationally. The population of citizens in self-governing First Nations is higher than the number of status Indians registered.[97] This occurs because the *Indian Act*'s membership rules is narrower and exclude individuals who the Yukon First Nations accept as their citizens.[98]

A large portion of First Nations citizens in the Yukon live off of their settlement lands which complicates the implementation of self-government.[99] The self-governing First Nations in the Yukon have established governments, and they are an example that these agreements can lead to governments that embody the traditional practices of that First Nation.[100] Additionally, localized authority would increase the likelihood that citizens would hold their government accountable to putting their interests first. The small size of Yukon First Nations gives citizens many opportunities to challenge chiefs and councillors.[101]

However, a concern is the ability of First Nations governments to deliver wide range of programs to their small populations, within 100-1100 citizens.[102] If this policy alternative is to be applied nationally, issues surrounding management, delivery of programs, and overall development of capacity would need to be addressed. This will require assistance from the federal government until First Nations are able to function from their tax base.

Self-government agreements can only be completed with recognized First Nations. There are still First Nations in Canada who are determined to become recognized by the Federal Government. There needs to be consideration for Indigenous people who belong to these First Nations and would not benefit from this policy alternative.

---

[95] Teslin Tlingit Council v. Canada (Attorney General), 2019 YKSC 3
[96] *Ibid.*
[97] Dacks, Gurston. "Implementing First Nations Self-Government in Yukon: Lessons for Canada." *Canadian Journal of Political Science 37*. (2004), 675.
[98] *Ibid.,* 675.
[99] *Ibid.,* 675.
[100] *Ibid.,* 675.
[101] *Ibid.,* 678.
[102] *Ibid.,* 685.

*Reconciliation: Yes*
Self-government as a policy alternative would assist in furthering reconciliation between the Government and First Nations. By establishing self-government agreements with First Nations, the Government would be on track to reconciling historic wrongs. It's unclear how well self-governing First Nations institutions handle contemporary and traditional issues within the community. However, the underlying cultural authenticity may assist in the resolution of these issues.[103]

This policy alternative aligns with the UN Declaration because it would get the Government on track to creating the true nation to nation relationship between Canada and First Nations. Self-government agreements sets the stage for First Nations to be sovereign nations where they would decide who their citizens are.

*Timeliness: Yes and No*
Yukon self-government agreements took many years to implement. It was an extremely long-term project for Yukon First Nations.[104] Self-government agreements involve jurisdictional, institutional, financial, as well as cultural change for First Nations which will all take time to implement properly to ensure success.[105]

While this alternative does take years to implement, this timeline can vary by band. Additionally, this timeline is considered to be short compared to the other policy alternatives discussed.

*Individual Rights: No*
While First Nations will be able to decide their membership, individuals could still be left out. This could also occur if the funding arrangement for First Nations are solely on the number of citizens who hold Indian status. First Nations with limited resources may not accept these individuals if they lack capacity. When transitioning First Nations to become self-governing, Canada would need to assist with building capacity.

*Population: Yes*
This alternative will increase the population of Indigenous people because it allows First Nations to decide who their members are and for the government to adequately fund for those members. Having more self-governing First Nations will increase the number of individuals in community. Should all First Nations become self-governing, there would be no need for the *Indian Act* registration system, thus eradicating the second-generation cut-off.

---

[103] *Ibid.,* 677.
[104] Dacks, Gurston. "Implementing First Nations Self-Government in Yukon: Lessons for Canada." *Canadian Journal of Political Science 37*. (2004), 688.
[105] Ibid., 689.

## Policy Alternatives 5 – Dual Indigenous/Canadian Citizenship

| Policy Alternatives | Reconciliation | Short-Term Timeline | Individual Rights | Population |
|---|---|---|---|---|
| Dual Indigenous-Canadian Citizenship | X | | X | X |

Indigenous citizenship is the ultimate dream policy alternative to tackle the second-generation cut-off. This alternative recognizes First Nations as distinct states by allowing for dual citizenship to both states. While First Nation communities physically exist within Canada, it is not acceptable for Indigenous identities to give way to solely a Canadian vision.[106] This alternative would allow for the legality and legitimacy of the Indigenous identity in addition to the Canadian framework.

Being distinct states would allow First Nations to have control over every aspect of their governance, including membership. Aboriginal Treaty rights and self-government do not completely remedy Canada's colonial relationship with Indigenous people.[107] They don't democratize political power or remedy practices that excluded Indigenous women.[108] First Nations or Indigenous Citizenship would function to build and reinforce national identity.[109]

First Nations tend to get lumped together in discussions surrounding citizenship and self-determination. There are varied visions for different self-identities within which individual self-identification can be addressed for First Nations. A consideration is that each First Nation has separate interests and identities. First Nations live in a number of separate and unique identities and are immersed within a larger nation-state which possesses a national identity.[110] First Nation citizenship could be the mechanism that formally integrates First Nations into the larger fabric of the Canadian mosaic.[111]

Similar to New Zealand, Canada could explore dedicating First Nations seats in the House of Parliament for the Indigenous population. New Zealand's national parliament has dedicated "Māori seats" for representatives elected by voters of Indigenous Māori descent.[112] The Māori representation in parliament solidifies them as a distinct people. This is helpful in ensuring their interests are being pursued.

---

[106] Gordon, Christie. "Aboriginal Citizenship: Sections 35, 25 and 15 of Canada's Constitution Act, 1982." *Citizenship Studies, 7:4,* (2003), 481-495.
[107] Green, Joyce. "Canaries in the Mines of Citizenship: Indian Women in Canada." *Canadian Journal of Political Science 34, no. 4* (2001), 722.
[108] *Ibid.,* 722.
[109] *Ibid.,* 481.
[110] *Ibid.,* 481.
[111] Gordon, Christie "Aboriginal Citizenship: Sections 35, 25 and 15 of Canada's Constitution Act, 1982." *Citizenship Studies, 7:4*.(2003), 483.
[112] Geddis, Andrew. "A Dual Track Democracy? The Symbolic Role of the Māori Seats in New Zealand's Electoral System." *Election Law Journal 5, no. 4* (2006), 347.

If Indigenous citizenship is being implemented, it would make sense that they would have a voice in parliament where their interests are being pursued by their elected officials. Specifically, discussions surrounding policy issues such as the environment should have Indigenous perspectives to them.

*Reconciliation: Yes*
This policy alternative would bring the Government closer to the original relationship they had with First Nation post colonialism. It would assist in facilitating a nation-to-nation relationship and assist in achieving reconciliation. A First Nation and Canadian dual citizenship for Indigenous people would solidify their distinct identity within Canada.

This alternative would align with the UN Declaration because Citizenship is a fundamental human right as stated in article 15 of the Declaration. First Nation citizenship would encourage a nation-to-nation relationship between First Nations and Canada which aligns with the Declaration.

*Timeliness: No*
This alternative will not follow a short-term timeline. Many factors need time to be developed on the side of the Government as well as for First Nations. There will need to be collaboration between the Government and First Nations in establishing sovereignty and all that comes with that. Similar to the self-government policy alternative, jurisdictional, institutional, financial, as well as cultural change for First Nations will need time to facilitate properly.

*Individual Rights: Yes and No*
This alternative will benefit individual rights because they will be able to obtain dual First Nation Canadian citizenship and all the rights and benefits that would come with it. However, if individuals are required to be part of a band to be able to obtain First Nation citizenship, then it would not benefit individuals. Whether this policy alternative benefits individual rights depends on the details of how First Nation citizenship will be implemented.

*Population: Yes*
This alternative will increase the population of Indigenous people because it allows First Nations to decide who their members are and for the government to adequately fund for those members. Similar to alternative four, self-governing First Nations, this alternative will increase the number of Indigenous people. If dual citizenship is achieved, there would be no need for the *Indian Act* registration system, thus eradicating the second-generation cut-off.

# Recommendations

This capstone outlines the difficulty policy makers face when addressing the historic and multi-layered Indigenous registration issue of the second-generation cut-off. Based on the alternatives outlined, it is recommended that the Government of Canada work toward the alternative of dual Indigenous-Canadian citizenship. However, this alternative will take many years to implement and is not the best option for the short term. Therefore, a combination of other alternatives is recommended. The combination of the shorter-term alternatives will better assist in establishing the framework to bring individuals, First Nations, and the Government of Canada towards the long-term alternative for dual citizenship.

| | **Policy Alternatives** | **Short-Term** |
|---|---|---|
| **1.** | One Parent Rule for Status | **X** |
| **2.** | Treaty-Based Status | |
| **3.** | Re-launch Section 10 | **X** |
| **4.** | Self-Governance Agreements | **X** |
| **5.** | Dual Indigenous-Canadian Citizenship | |

*Short Term:*

The policy alternative of re-launching Section 10 would take the least amount of time out of the alternatives because the framework already exists for it. The government of Canada should consider collecting data from section 11 First Nations on the reasons as to why they have not transitioned to become a section 10 band. This valuable feedback could be collected through a questionnaire and would assist in determining the best way to successfully achieve this policy alternative.

The Government of Canada should start by allocating more resources to ensure more First Nations to transition to become a section 10 band. This could be the first step to having First Nations decide who their people are within the current framework of the *Indian Act*. By ensuring more First Nations have developed membership code would result in a smoother transition when the time comes that Indian registration and status is not part of the *Indian Act*.

The next focus should be establishing self-governing agreements between First Nations and the Government of Canada. These agreements could mimic those between Yukon First Nations and the Government. This would assist in establish agreements where First Nations decide their day-to-day business such as determining who their people are.

The policy alternatives discussed above would be completed within a shorter time frame compared to others because framework for both options already exist within the current system. However, once these alternatives have been completed, it will set the base for First Nations and base assist in achieving the longer-term alternatives.

*Long Term*

The alternative of treaty-based status would take place over a longer period of time because more time is required to create brand new entities and governance structure. Additionally, this will require collaboration between Indigenous people and the Government of Canada to create.

However, this alternative is recommended because it addresses the issue of Indigenous people who are not accepted into their affiliated band as well as the growing off-reserve population.

# Conclusion

To fix the issue of the second-generation cut-off, a multiple alternative approach over a long period of time is required. It is an extremely complex and multi layered historic issue that is rooted from Canada's history of colonialism, assimilation and paternalistic values. As a result, there has been discrimination against Indigenous women and their descendants. While sex-based inequities have been solved legally, the affects and discrimination still exist within the current registration framework. Additionally, other inequities including the second-generation cut-off are not as easily fixed by law and the Charter. Should the status quo continue, there will be a continued decrease in the number of Indian status individuals. This is viewed by Indigenous people as a modern-day targeted assimilation by the Government of Canada.

To reverse inequities that have resulted from the Indian registration system social, economic, and cultural change is required. Specifically, decolonization and reconciliation are required to provide a path for the resurgence of the original identities and culture of First Nations and Indigenous people. Decolonization and reconciliation are also required in order to achieve nation-nation relationship between First Nations and the Government of Canada. The policy alternatives discussed will transition First Nations to citizenship where they decide who their people are.

This issue of the second-generation cut-off has occurred over many years, and the resolution will unfortunately take several years to execute successfully. However, reconciliation can occur as long as Canada is taking active steps to achieve First Nation autonomy in determining their members. No matter how long this process takes or how many steps are required, it is essential that Canada continues on this path to First Nation self-determination and autonomy.

# Bibliography

Baskin, Cyndy. 2020. "Contemporary Indigenous Women's Roles: Traditional Teachings or Internalized Colonialism?" *Violence Against Women* 26 (15–16): 2083–2101. https://doi.org/10.1177/1077801219888024.

CanLII. 2019. R. v. Desautel, 2019 BCCA 151.

CanLII. 2019. Teslin Tlingit Council v. Canada (Attorney General).

Clarke, Mary Anne; Byrne, Sean. 2017. "The Three Rs: Resistance, Resilience, and Reconciliation in Canada and Ireland." *Peace Research* 49 (2): 105–32. https://ucalgary-primo.hosted.exlibrisgroup.com/permalink/f/1p0s7n7/TN_cdi_proquest_journals_2236675677.

Clatworthy, Stewart. 2018. "Indian Registration and Membership/Citizenship: Projected Population Changes Among First Nations."

Dacks, Gurston. 2004. "Implementing First Nations Self-Government in Yukon: Lessons for Canada." *Canadian Journal of Political Science* 37 (3): 671–94.

Day, Shelagh. 2018. "Equal Status for Indigenous Women--Sometime, Not Now: The Indian Act and Bill S-3." *Canadian Woman Studies* 33 (1–2): 174–85.

Favel, Blaine, and Ken S. Coates. 2016. "Understanding UNDRIP: Choosing Action on Priorities over Sweeping Claims about the United Nations Declaration on the Rights of Indigenous Peoples." Macdonald-Laurier Institute Publication. 2016. https://www.macdonaldlaurier.ca/files/pdf/MLI-10-UNDRIPCoates-Flavel05-16-WebReadyV4.pdf.

Geddis, Andrew. 2006. "A Dual Track Democracy? The Symbolic Role of the Māori Seats in New Zealand's Electoral System." *Election Law Journal* 4: 347–71. https://doi.org/10.1089/elj.2006.5.347.

Gordon, Christie. 2003. "Aboriginal Citizenship: Sections 35, 25 and 15 of Canada's Constitution Act, 1982." *Citizenship Studies* 7 (4). https://doi.org/10.1080/1362102032000134994.

Government of Canada. 2018. "Collaborative Process on Indian Registration, Band Membership and First Nation Citizenship: Fact Sheets." 2018.

Government of Canada. 2018. "The Government of Canada's Response to the Descheneaux Decision." 2018. https://www.sac-isc.gc.ca/eng/1467227680166/1572460465418#chp3.

Government of Canada. 2020. "Treaties and Agreements. Learn about Historic and Modern Treaties in Canada, Treaty Rights and the Treaty Relationship." 2020.

Government of Canada. 2008. “Yukon Self Government Agreements.” 2008. https://www.aadnc-aandc.gc.ca/eng/1316214942825/1316215019710.

Government of Canada. 2010. “Government of Canada. “Yukon – Final Agreements and Related Implementation Matters.” 2019. https://www.rcaanc-cirnac.gc.ca/eng/1100100030607/1542805716353

Government of Canada. 2019. “Collaborative Process on Indian Registration, Band Membership and First Nation Citizenship: Report to Parliament June 2019.” 2019. https://www.rcaanc-cirnac.gc.ca/eng/1560878580290/1568897675238.

Government of Canada. 2010. “Government of Canada. “The Government of Canada's Approach to Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government.” 2010. https://www.rcaanc-cirnac.gc.ca/eng/1100100031843/1539869205136.

Government of Canada. 2020. “Truth and Reconciliation Commission of Canada.” https://www.rcaanc-cirnac.gc.ca/eng/1450124405592/1529106060525 .

Green, Joyce. 2001. “Canaries in the Mines of Citizenship: Indian Women in Canada.” *Canadian Journal of Political Science* 34 (4): 715–38. https://doi.org/10.1017/S0008423901778067.

Indigenous Services Canada. 2020. “What Is Indian Status.” Government of Canada. 2020. https://www.sac-isc.gc.ca/eng/1100100032463/1572459644986#chp1.

Indigenous Services Canada. 2020. “The Final Report to Parliament on the Review of S-3: December 2020.” https://www.sac-isc.gc.ca/eng/1608831631597/1608832913476.

Indigenous Services Canada. 2020. “About band membership and how to transfer to or create a band.  https://www.sac-isc.gc.ca/eng/1100100032469/1572461264701.

Napoleon, Val. 2001. “Extinction by Number: Colonialism Made Easy.” *Canadian Journal of Law and Society* 16 (1): 113–45. https://doi.org/10.1017/S0829320100006608.

Sinclair, Niigaan. 2017. “Opinion: Indigenous Nationhood Can Save the World. Here’s How.” Globe and Mail. 2017. https://www.theglobeandmail.com/opinion/recognizing-indigenous-nations-niigaan-sinclair/article36237415/.

Statistics and Measurement Directorate. 2013. “Registered Indian Population, Household and Family Projections 2009-2034.” 2013. http://publications.gc.ca/collections/collection_2012/aadnc-aandc/R5-5-2012-eng.pdf.

United Nations. 2008. “United Nations Declaration on the Rights of Indigenous Peoples.” 2008. https://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf.

# Appendices

## Appendix 1: Permission From Demographer Stewart Clatworthy

Tue 1/26/2021 5:57 PM
Stewart Clatworthy <sclat@mts.net>
Re: Permission to Use Demographic Data

To Spolnik, Michelle (AADNC/AANDC)

Michelle:

As the PP presentations prepared for the collaborative process are public documents, you may certaining use these and the related data as you wish. I ask only that proper citation of the source of the information and analysis used be properly referenced.

Stewart Clatworthy

----- Original Message -----
**From:** Spolnik, Michelle (AADNC/AANDC)
**To:** sclat@mts.net
**Sent:** Tuesday, January 26, 2021 5:06 PM
**Subject:** Permission to Use Demographic Data

Dear Stewart Clatworthy,

I am a Public Policy Masters Student at the University of Calgary and a Junior Research Officer for Crown-Indigenous Relations.

I am writing to request your permission to use your data in my capstone paper for my Masters program. I am writing about the second-generation cut-off and I would like to use the demographic information from the PowerPoint presentation you presented at the consultation sessions for the Collaborative Process on First Nation Citizenship in 2018-2019. The documents are titled:

**Indian Registration and Membership/Citizenship**
**Projected Population Changes Among**
**First Nations in *(Province/Territory)***

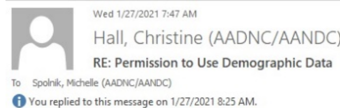
Thank you, I look forward to your response.

Sincerely,

**Michelle Spolnik**
Junior Research Officer
Strategic Reform and Partnership Team / Équipe de réforme stratégique et partenariat
Crown-Indigenous Relations and Northern Affairs Canada / Relations Couronne-Autochtones et Affaires du Nord Canada
Suite 464 – 220 4th Avenue SE Calgary, Alberta T2G 4X3
Phone 587-438-9814 | Fax 403 292-5393
e-mail: michelle.spolnik@canada.ca

Chat with me on MS Teams!

## Appendix 2: Permission From The Government of Canada


Wed 1/27/2021 7:47 AM
Hall, Christine (AADNC/AANDC)
RE: Permission to Use Demographic Data

To Spolnik, Michelle (AADNC/AANDC)

You replied to this message on 1/27/2021 8:25 AM.

Please consider the environment before printing this email

**From:** Spolnik, Michelle (AADNC/AANDC) <michelle.spolnik@canada.ca>
**Sent:** Tuesday, January 26, 2021 6:35 PM
**To:** Hall, Christine (AADNC/AANDC) <christine.hall@canada.ca>
**Subject:** Permission to Use Demographic Data

Hi Christine,

I am a Public Policy Masters student and I am writing my capstone paper about the second-generation cut-off. I wish to request permission to use the data that was prepared by Stewart Clatworthy for the Collaborative Process in my paper.

I would like to use the demographic information from the PowerPoint presentation that Stewart Clatworthy presented at the consultation sessions for the Collaborative Process in 2018-2019. The documents are titled:

**Indian Registration and Membership/Citizenship**
**Projected Population Changes Among**
**First Nations in *(Province/Territory)***

Thank you, I look forward to your response.

Sincerely,

**Michelle Spolnik**
Junior Research Officer
Strategic Reform and Partnership Team / Équipe de réforme stratégique et partenariat
Crown-Indigenous Relations and Northern Affairs Canada / Relations Couronne-Autochtones et Affaires du Nord Canada
Suite 464 – 220 4th Avenue SE Calgary, Alberta T2G 4X3
Phone 587-438-9814 | Fax 403 292-5393
e-mail: michelle.spolnik@canada.ca

Chat with me on MS Teams!

Wed 1/27/2021 7:47 AM

Hall, Christine (AADNC/AANDC)

**RE: Permission to Use Demographic Data**

To Spolnik, Michelle (AADNC/AANDC)

You replied to this message on 1/27/2021 8:25 AM.

Hi Michelle,

This material was presented to the "public" through the Collaborative Process on Indian Registration, Band Membership and First Nation Citizenship events. Therefore, I have no concerns with you using the material contained in the presentation decks prepared by Stewart Clatworthy entitled "Indian Registration and Membership/Citizenship - Projected Population Changes Among First Nations in (Province/Territory)" for your capstone.

I trust you will properly credit Mr. Clatworthy for the work.

Christine


---

**Manager**
**604-362-2863**
**Engagement and Policy Directorate**
**Indigenous Institutions and Governance Modernization Branch**
**Resolution and Partnerships Sector**
**Crown-Indigenous Relations and Northern Affairs Canada**
**Suite 464, 220 – 4th Avenue SW Calgary, AB T2P 0H5**
**christine.hall@canada.ca**