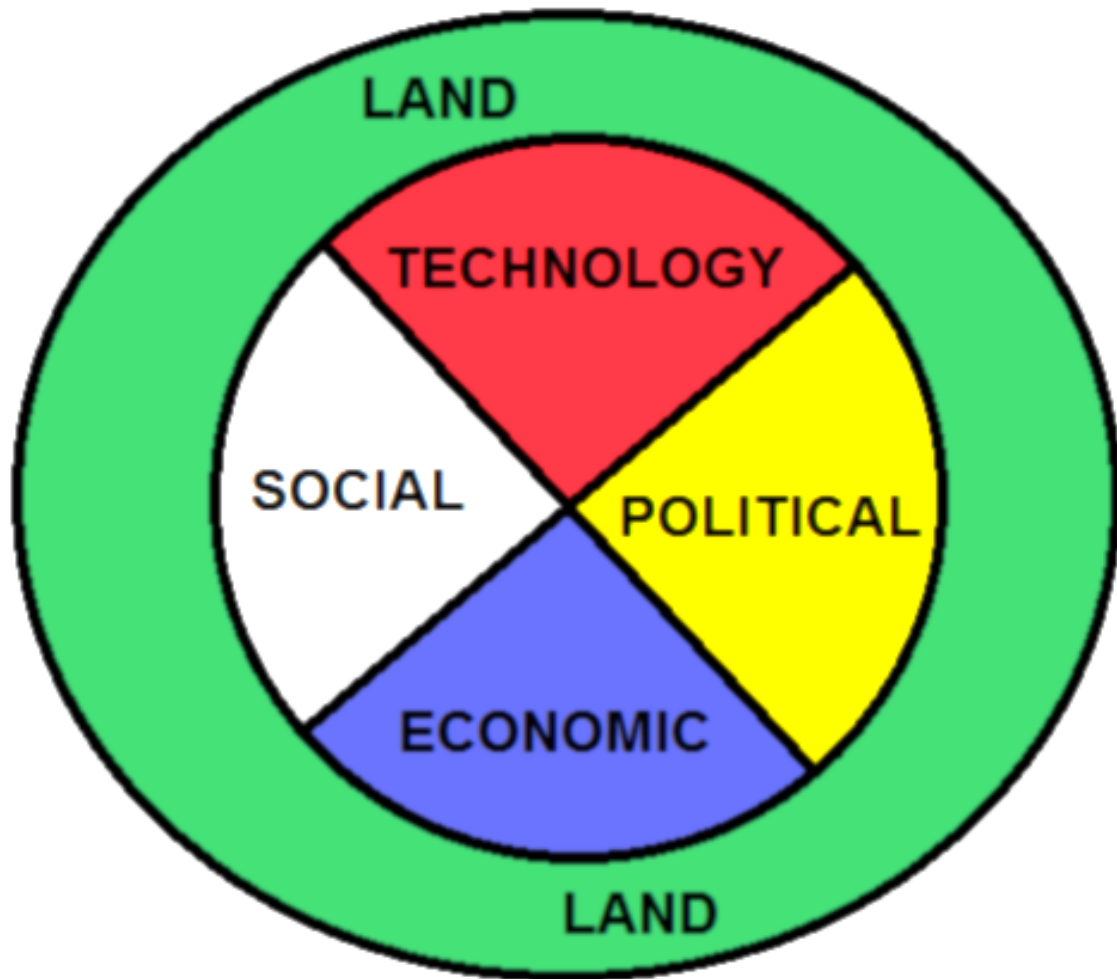


REFLECTIONS ON THE BUSINESS OF INDIANS AND INDIAN BUSINESS



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REFLECTIONS ON THE BUSINESS OF INDIANS AND INDIAN BUSINESS

1 INTRODUCTION

I begin with the question “why are Indians poor?” This reflects a common question that many Canadians ask themselves when presented with stark images of conditions on-reserve, Aboriginal protest, or the reality of homelessness and addiction in their city centres. There are many technical problems with the question as formulated; to begin with, all Indians are not poor. In some cases, the Indian band is poor, but an individual is not, and vice versa. It may be more interesting to ask why Indians are not prosperous, or when are Indians not poor? What are the community and individual factors that contribute to what situations, and what is the outlook for Canada given the current demographic projections of the Aboriginal population and socioeconomic outcomes?

It may take many attempts, from many approaches, by many individuals to bridge the distance in understanding between the Aboriginal and non-Aboriginal people of Canada. What follows is just one exploration of the facts with a view to finding the win-win situation for all Canadians, the sweet spot, in terms of the business opportunities that would follow better relations, synergies and fewer conflicts. In the time frame and space available, this paper is an introductory examination of the idea that in Canada we would all be better off with an effective business strategy to understand, market and implement a reconciled relationship to Aboriginal people, specifically to Indians.

The word Indian, in Canada, narrowly describes only about 700,000 individuals who currently have Status as Indians, omitting Metis, Inuit and persons of Indian ancestry without Status. Not only do the Metis, Inuit and Indians have unique histories, culture, and language, but



they are separated in law on the basis of race. Only Indians¹ are subject to the *Indian Act*, legislation which governs nearly every aspect of life for Indians on reserve. This paper will focus on First Nations subject to the *Indian Act* within the wider context of Aboriginal groups.

1.1 METHODOLOGY

Existing data, literature and studies focus on subjects such as demographics, social indicators, and economic development opportunities. It is not easily possible to establish concrete conclusions based on the combination of factors and fragmented available data. The author of most sources of data and previous studies is the federal government.

The main sources of raw data are the national census surveys conducted by government including the 2011 National Household Survey, Indian Registry counts, and data collected by First Nations. There are some limitations to using this data as the various counts do not match as a result of the limitations of different methods of data collection and various inaccuracies and gaps. While these differences cannot be resolved, every attempt was made to compare data within a data collection.

Some interesting academic research has been conducted in provinces such as Saskatchewan which, with a higher proportion of First Nations people, have a greater stake. Professor Eric Howe at the University of Saskatchewan, for example, has calculated the potential benefit to provincial GDP of investing in First Nations education, skills, and training (Howe 2012).

¹ While it might be argued that only Status Indians living on reserve are subject to the Indian Act, decisions such as Corbiere have made clear that certain Indian rights, such as the right to select leadership, belong to membership regardless of location.



The Hawthorn report was undertaken in 1964 by the Indian Affairs Branch of the Department of Citizenship and Immigration to review the situation of the Indians of Canada with a view to understanding the difficulties and the potential consequences of a separated history. The Hawthorn report was released in 1966, and it detailed inadequate fulfilment of the proper and just aspirations of Canadian Indians to material wellbeing, health, equality, and dignity within Canadian society (Hawthorn 1966).

The Royal Commission on Aboriginal Peoples (RCAP) was established in 1991 to address Aboriginal issues and relationships to government and Canada at large. The final report was released in 1996. The report covered many aspects of the Canadian Aboriginal experience including political and socioeconomic challenges. This report captured the difficulties of unresolved claims and injustice, poor employment prospects, dependence on government transfers and the rapidly growing population of Aboriginal people. Significant stories and baseline data were captured in this report.

1.2 A BRIEF HISTORY OF THE BUSINESS OF ABORIGINAL RELATIONS

There are many First Nations, and they are as different as the nations of any continent. They have different histories, points of contact with early Europeans, different business models and different social and economic outcomes. It began with Marco Polo and his exotic tales of travel and trade in China, which triggered interest in a shorter route to the Orient, which resulted in what is traditionally portrayed as the European discovery of the Americas. Competition for access to lands in the Americas included the Spanish, French, Swedes, British and Dutch. The business model was not initially the fur trade but rather finding a westward passage to facilitate



trade with the Orient, early trade funded exploration resulted in further business opportunities for various early European explorers and authorities.

The French in North America had a kinship model of trade, exploration and alliance that was quite sophisticated. In the kinship model of trade various fur traders married into Indian tribes who also had diverse networks with other tribes based on kinship. Different groups played different roles including military, supply chain, logistics and trapping. The Algonquins were well known for their role transporting furs and resources through the Great Lakes to Montreal; further west the Cree, Ojibway, and Dakota (also known as Sioux) trapped furs and prepared them for trade.

In the 18th century, the French and British were competing for control of lands in North America. The two colonial powers formed strategic alliances with the ancestors of groups now known as First Nations to help them advance their respective interests.

The British gained authority over the lands known as Canada in 1763 and instituted a business model that was completely different. It was more bureaucratic, but it recognized Indian land rights implicitly. When the British came to what is now Canada, concerns that English property law applied to the new state resulted in the passing of the *Royal Proclamation* of 1763 which established property rights of the Indian tribes and prohibited the purchase of Indian lands to anyone but the Crownⁱ. This law continues to be in effect today. In other words, Britain exercised authority over Canada, but did not own the land until properly arranged with First Nations under the law. There have been treaties with Indian nations since contact based on trade and alliance. After the *Royal Proclamation*, peace and friendship treaties were negotiated in earnest, but land agreements were small affairs for small tracts of land. Military treaties, particularly during the American Revolution and the War of 1812 were the priority.

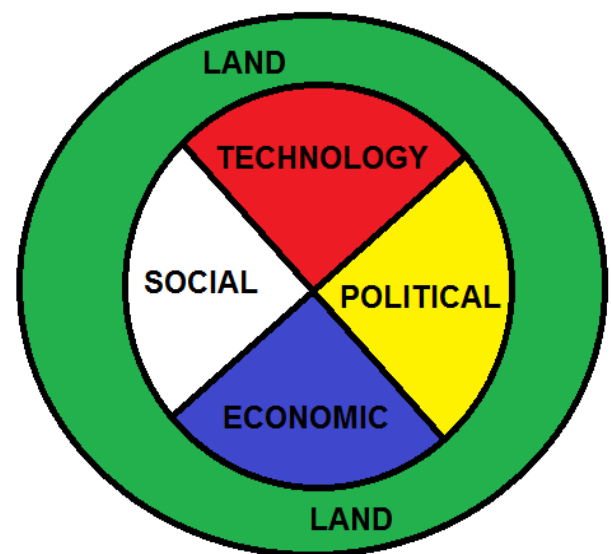


By 1871, nothing was the same. Canada was giving away land to settlers. This business of giving land to non-Indians began after the American Revolution with the British loyalists eager to leave but expanded to include various European groups. The government business model had transformed. A new plan for large scale settlement of Europeans through sales of surrendered land by the government replaced the fur tradeⁱⁱ. To facilitate the land for settlement, the numbered treaty making period began in earnest. The fur trade was over, the buffalo were scarce, and the Indians were ready to agree to a mutually beneficial solution. The business deal was simple- give up your traditional territory, and in exchange you will be taken care of as long as the river runs, and grass grows. Indian tribes in what is now western Ontario, the prairies and parts of the Northwest Territory and Yukon were to be provided with small reserves within their territory. A certain allotment of acreage per family, for the most part, was a formula used for reserves for Indians.

With the introduction of the *Indian Act* in 1876 a parallel race-based authority and legal framework was created. Provisions over the years included restrictions against dancing, voting, hiring lawyers, and leaving the reserve. The political, military and business relationship had transformed to one of dependency with structural barriers to inclusion in the economy. Indians are not allowed to own property on reserve- this provision is still true today and codified in law.

1.3 PESTL ANALYSIS

Political, Economic, Social, Technological and Land (PESTL) analysis is in effect an audit and scan of several sectors to guide strategy and decision-making by understanding risks, potential, direction, and long-





term trends. This makes the PESTL analysis an ideal tool to better scan the factors and potential outcomes of First Nations and Indians who perform under a separate regime from the rest of Canada.

It is difficult to establish a source for PESTL analysis (also known as PEST or PESTLE) analysis which has become popular over the past decade (CIPD 2013). While the ‘political’, ‘economic’, ‘social’, and ‘technology’ aspects remain the same, variations include the addition of ‘ecology’, ‘legal’ or ‘land’.

A remarkable feature of PESTL analysis is some resonance with the overarching framework of traditional First Nations understanding, the medicine wheel. Different Aboriginal nations have differing representation and meaning; however, all feature the importance of understanding how all aspects are interconnected. Each direction or colour of the medicine wheel is tied to a different perspective or priority, while recognizing that all perspectives and priorities must be considered.

The POLITICAL analysis explores the levels and distribution of power, authority, and tensions. Political factors influence both social outcomes in terms of education, health, economic development potential, development of technology and control of lands. Major factors are the legal framework imposed on Indians on reserve through the *Indian Act*, the comparability of that framework and the outcomes of court decisions regarding rights and title to land and resources. The federal government has an official policy of reconciliation which includes the repositioning of Aboriginal rights and title within the constitutional framework.

ECONOMIC factors include the potential for growth and barriers to the maintenance of wealth. These are determinants of political power, social outcomes, and the capacity to invest in technology and land development. Aboriginal communities in Canada suffer individually and



collectively from a lack of participation in the greater economy. Education, employment outlooks, and methods of building economic strengths are points of study, as is the business of the Aboriginal relationship in terms of programs and transfers from government to Aboriginal groups.

SOCIAL factors include demographics, culture, mobility, attitudes, and outcomes which become political and economic variables. The profile of Aboriginal communities and individual outcomes is quite different from the profile of Canada at large. This young and growing demographic will be even more significant in the future to economic outcomes.

TECHNOLOGICAL factors include modern infrastructure, virtual and physical connections to the world through internet and roads or transport, level of innovation, barriers and incentives and the rate of change. These factors affect quality, costs and potential for development, positioning of political power and possible social outcomes. Traditional knowledge is an important component of technology although it is often misunderstood as a frozen notion. There is a lack of recognition of evolved knowledge and living culture, resulting in not only degeneration of traditional knowledge, but also lack of application of modern instruments such as patents. Use of technology and social media skills also become important in a determination of possibilities, but technologies such as modern accounting and financial management may be the most important in terms of inclusion in the wider market and economy.

LAND is the foundation of all other aspects. Without healthy lands and environment life is not possible now or for future generations. Sustainability and value of the undeveloped asset must be weighed against the potential economic benefits of land uses which have the potential to affect social outcomes and political position. Land is a critical component of the relationship



between Aboriginal people and Canada, and a brief history is required to clarify the context and continued pressures which affect the lands of Canada, both Aboriginal and non-Aboriginal.

POLITICAL	levels and distribution of power, authority and tensions which influence social outcomes and economic development potential, the development of technology and control of lands
ECONOMIC	potential for growth and barriers to the maintenance of wealth that determine political power, social outcomes, and the capacity to invest in technology and land development
SOCIAL	demographics and culture and the land that supports it, determines level of technology, political and economic variables
TECHNOLOGY	infrastructure, virtual and physical connections to community and the world are a factor in social and political outcomes, level and barriers to innovation are a major economic factor tied to lands
LAND	land is the foundation of social variables of a community, determinant of infrastructure, primary economic development factor and political basis of authority for a government

Analysis of the political, social, economic, technological and land aspects of First Nations relations and business will explore the reality and the opportunities for First Nations and for all Canadians. By understanding the environment of operations and stakeholder perspectives it is possible to maximise opportunity for all of Canada while developing the necessary conditions for real reconciliation of the relationship between Indians and Canada.

1.4 CONCLUSION

There is an opportunity in Canada through the inclusion of First Nations communities who are left structurally and socially outside of the economy, with right and titles uncertain due to the *Indian Act*, particularly Section 89. Structural exclusion hurts everyone, and discrimination removes efforts from productive work. The business case is clear- the inclusion of Indians on reserve may provide labour markets, growth of consumer markets, innovation, and investment in rising standards of living on reserve. Marginality is a potential opportunity to expand markets, standard of living and social justice all at once. Could everybody profit from the real inclusion of First Nations in the economy and society? By looking at the context of indigenous economies,



the need for autonomy, collaboration with external parties and market inclusion, better ways to approach the long-stalled process of reconciliation of Aboriginal claims more efficient approaches to the recognition rights, certainty the quality of life on reserve may increase dramatically while fuelling the national economy and lowering long term costs associated with negative social and economic outcomes.



2 POLITICAL ANALYSIS

POLITICAL

levels and distribution of power, authority and tensions which influence social outcomes and economic development potential, the development of technology and control of lands

When British parliament set out procedures to acquire lands from Indian bands in the *Royal Proclamation* of 1763 and acknowledged the inherent right of Indians to culture, governance, and lands he set the foundations for treaty-making and land surrender which remain to this day. The *Royal Proclamation* issued by King George in 1763 made clear that Indians were not to be mistreated, and that their rights respected as people of their own nations in their own lands. This promise was the source of primary relationship between the federal government and First Nations. The early relationship was interdependent with a mutually beneficial business relationship- for some tribes. The regulation of Indians and the Indian Act represented a vast departure.

2.1 THE INDIAN ACT

The *Indian Act* was enacted in 1876 to manage Indians on reserve. This legislation took the place of provincial legislation in the lives of non-Indians and imposed restrictions on ownership of land and exemptions regarding taxation. Section 141 of the 1927 *Indian Act* placed an impossible burden on bands by preventing them from taking legal action against the Crown or prosecuting a claim without the consent of the Superintendent General. Section 140 prohibited engaging, celebrating, or encouraging another to celebrate any Indian festival or dance. Further provisions in the 1930 *Indian Act* restricted Indians in poolrooms and barred agricultural trade without permission (Leslie 2002).



2.2 GOVERNANCE

The chief of an Indian band is a mayor, CEO and ambassador and functions as both a public and private entity. There is nothing similar outside of the *Indian Act*. First Nations are not legal entities with the rights, powers, and privileges of a natural person, although bands will sometimes be treated as though this were the case. The only authority for the creation of bands is the *Indian Act* which does not confer such powers. First Nations are not democratic, in that lines of accountability lead to the Minister of Indian Affairs, not the voting population, but for the few self-government agreements negotiated.

Indians receive services despite not paying tax, but unlike people off reserve they do not receive many provincial services.

One view held by many Indians is that monies for their services are provided out of revenues made directly and indirectly from their traditional territories. These funds are deposited to the Consolidated Revenue Fund (CRF, the main cash flow vehicle of the federal government) and credited to the Indian trust account with interest paid at bond rates.

First Nations services are not required to be at a standard comparable to those provided by the province, and they are not. Even democratic principles are compromised with the application of the *Indian Act*. While members elect a Chief, not all band members are residents nor do all band members live on reserve. Once elected, Council is accountable to the Minister of Indian Affairs, not voters. Metis, non-status Indians and non-Indians on reserve pay full taxes with no local democratic rights and representation and sometimes little ability to appeal decisions.

The 1996 *Inherent Right Policy* (IRP) of the federal government allows for the negotiation of a self-government agreement which displaces most provisions of the *Indian Act* with practical



arrangements regarding jurisdiction that include recognition of the First Nation as a government with appropriate accountability first and foremost to their own citizens rather than, under the *Indian Act*, to the Minister of Indian Affairs.

Aboriginal rights are legally enforceable, constitutionally protected but largely undefined and therefore the specifics of such rights are often unknown. Self-government is a specific term which refers to First Nation's autonomous government within the framework of the Constitution of Canada negotiated under the terms of the 1996 federal *Inherent Right Policy*. Self-government agreements do not attempt to document and reveal the legal rights of an Aboriginal group, but rather they are an agreed upon suite of rights, capacities and legislative powers exchanged for a certain set of rights within the Constitution, achieving the certainty that makes the development of lands possible through practical agreement. Self-government encompasses a First Nation's constitution, the self-government agreement with federal and possibly provincial/territorial government, as well as in First Nation laws. If a First Nation has already displaced Sections under the *Indian Act* by order of the Minister (custom election and membership codes, for examples) these would become law when a self-government agreement takes effect. Funding transfer is based on the existing levels of funding such as the Band Support Funding program.

In 2005 the Harvard American Indian Project compared data between the 1990 and 2000 census and found striking improvement in income, education and housing in those tribes that had made tribal-state self-determination compacts, somewhat similar to Aboriginal self-government in Canada (Cornell 1998). American tribal compacts for self-determination involve the negotiation of authority over casino gaming and flow of revenues from the tribe to the state. Successes were said to derive from federal support for tribal self-determination, not revenues



from gaming. The devolution of powers of self-rule to US tribes has brought improvements in program efficiency, enterprise competency and socioeconomic conditions.

The department responsible for First Nations, Aboriginal Affairs and Northern Development Canada (AANDC), is aware of the current constraints on social and economic development on reserve of the *Indian Act*. A report released in 2013 addressed the barriers to economic development by focusing on how some First Nations had significant success advancing economic development goals despite these barriers. Key findings were that rules and systems creating effective governance; control over local decision-making; community capacity of members; and sufficient useable land were present in those First Nations who had economic development success (INAC 2013).

2.3 PARTNERSHIP AND ALLIANCE

Alliances in business are an important factor in success and a source of power. Porter described in 1990 how uneven geographic distribution of business success is organized, not just by competition or by natural advantage, but by relations of mutual support and inter-connectivity (Porter 1990). Porter's analysis has implications for successful Aboriginal economic development (McBride 2010). Economic activity tends to cluster, and this is a key variable in all economic analysis, including analysis of the economic potential of First Nations. While clustering results in productivity gains, a rationale for cluster policies does not exist (Brakman 2013, van Marrewijk, 2013). Linkages are vertical, horizontal, and mutually supportive, sharing market intelligence such that the cluster is successful as a whole (McBride 2010). The value of the cluster process may lie in its ability to create social capital that can be put to profitable use, with interesting implications for Aboriginal communities as Aboriginal enterprises already exist



in a dense network of social relations between band members and organizations who are interconnected, but often outside of the economic mainstream (McBride 2010). Aboriginal enterprises are well connected to other Aboriginal organizations but disconnected to the non-Aboriginal business sector (McBride 2010). Aboriginal peoples and non-Aboriginal peoples in a particular urban area as occupying different social and political geographies, even while their business interests may occupy a shared geographical space (McBride 2010).

Aboriginal Population as a Proportion of the Population of Canada	
2006 Census	3.8%
2001 Census	3.3%
1996 Census	2.8%

Beginning in the 1960s, Indian bands were able to hire legal counsel. Many decisions created a body of law that made clear that aboriginal title existed beyond the reserves if no surrender or treaty had been made. Most Aboriginal groups had never signed treaty with the federal government, particularly the Inuit, most First Nations in BC, Ontario, and the Maritime Provinces. Through treaty, land claim and self-government negotiations the federal government attempted to finish the job begun in 1871, and the modern age of treaty making began in 1973². Settlements in land claim negotiations have been sizeable.

2.4 RECENT TENSIONS

Over the past twenty-five years there have been tensions with groups asserting rights and title. The Oka conflict was a 78-day armed “standoff” during the summer of 1990 between the Mohawk nation of Kanesatake, the Quebec police, and the Canadian military near Oka, Quebec.

² The Comprehensive Claims policy, the first basis for modern negotiation of treaties, went into effect in 1973 after the Calder decision.



What began as a peaceful protest by Kanesatake band members defending sacred lands from development by a local golf course on lands which had been claimed by Kanesatake for 300 years. The town of Oka was granted an injunction to dismantle the protest. Almost two weeks later over 100 police and military stormed the assembly resulting in the 24 seconds of gunfire between Indians and police that killed Corporal Marcel Lemay of the Quebec police. The Mohawk nation of Kahnawake set up their own barricades in solidarity, including one that blocked the Mercier Bridge leading into the greater Montreal area. Across Canada Aboriginal groups began engaging in protest actions.

The Meech Lake Accord of 1993 intended to bring Quebec and First Nations within a constitutional framework. Quebec did not accept the constitutional repatriation which was the basis of the 1982 constitution, and the inherent right of First Nations had never been recognized. First Nations were opposed to Meech Lake, which did not include consultation with Aboriginal groups. Manitoba MLA and former Chief Elijah Harper initiated a filibuster, using up the time before the ratification deadline to prevent the province from approving the agreement. Tensions have risen again recently, particularly with regard to treaty implementation, planned resource development and conditions on reserve. Termed “Idle No More” by many of its supporters, it has branded protests against fracking in traditional territories across North America. Mistrust of government, industry, and perhaps even Canadian society at large, mistrust that has been passed down through the generations seems to be a factor in the current tensions. There continue to be First Nation governments and people with good relations to both government and industry, but caution remains.

2.5 SUMMARY



Aboriginal communities in Canada suffer individually and collectively from a lack of participation in economy of power. Some of the issue is structural, such as the application of the *Indian Act*, but a history of mistrust and tension plays a part. There is no legislative basis for basic programs and standards such as drinking water, K-12 education, and healthcare. The lines of authority under the *Indian Act* are difficult to understand. The protection of Indian lands has presented a political issue which will be difficult to resolve. The protection of Indian lands from seizure and mortgage is a barrier to capital access which prevents full economic participation, but removal of those protections has deep implications for which there have been few options acceptable to all stakeholders. Tensions between First Nations, government and industry continue, however economic success for some has been possible despite these barriers to power.



3. ECONOMIC ANALYSIS

ECONOMIC

potential for growth and barriers to the maintenance of wealth that determine political power, social outcomes, and the capacity to invest in technology and land development

3.1 THE *INDIAN ACT*, INDIAN MONEYS, AND TAXATION

The *Indian Act* defines Indian moneys as "all moneys collected, received or held by Her Majesty for the use and benefit of Indians or bands". Aboriginal Affairs and Northern Development Canada (AANDC) also manages individual accounts for unsettled estates, minors and the mentally incompetent. The *Indian Act* defines capital accounts as "all Indian moneys derived from the sale of surrendered lands or the sale of capital assets of a band" and revenue accounts as "all Indian moneys other than capital moneys shall be deemed to be revenue moneys of the band".

The funds are used as part of the Consolidated Revenue Fund (CRF) of the Government of Canada, but the amount remains as a liability on the public accounts with interest based on long term government bond rates. The funds cannot be invested, as was discovered in the *Samson/Ermineskin* case involving oil and gas royalties. The First Nations argued that the Crown's failure to invest in the best interests of the band with a higher return deprived them of hundreds of millions of dollars. The judgement found that not only was the Government of Canada not liable when it failed to invest First Nation royalty monies, the *Indian Act* makes it illegal for the Crown to invest Indian capital monies. The Court also ruled that the provisions of the Act which require this conclusion do not constitute discrimination within the meaning of s.15 of the *Charter* (Bankes 2009).

It is difficult for First Nations to have built wealth from revenue streams in the past and present, as control and responsibility remains with the federal government. It remains true today,



but legislation such as the *First Nations Oil and Gas Management Act* and self-government agreements allow some bands to take more control over the management of their financial assets and revenue streams.

Certification from the First Nation Financial Management Board under the authority of the *First Nations Fiscal and Statistical Management Act* offers an alternative to reliance on government funding or high interest rate bank loans for First Nations. First Nations must meet stringent criteria of decreased investment risk established by the board to gain certification. The advantage can be to borrow money at an interest rate of prime minus one instead of prime plus one and can also commit to long-term planning at a fixed interest rate. Two per cent makes a big difference and, in some cases, it makes projects viable. This mechanism is fairly new and remains the only way that First Nations can access capital on the open market.

The GST/HST does not apply to goods bought on a reserve by Indians, Indian bands, and band entities unless that band has reached an agreement to take authority over that tax. Goods bought off reserve by Indians, Indian bands, and band entities are subject to GST/HST, unless delivered to a reserve. The exemption under section 87 of the *Indian Act* does not apply to goods imported by Indians as GST/HST is always collected on imported goods (CRA 2013).

The exemption under Section 87 never applies to non-Indians on reserve. Businesses on reserves must collect and remit GST/HST on the taxable sales to non-Indians. Where a First Nation has taken on taxation authority through a GST agreement with the federal government, all persons are charged a GST equivalent tax by the First Nation regardless of status.

Individual taxation of Indians creates a duality dependent on whether the income is on or off reserve. Section 87 of the *Indian Act* exempts Indians from some taxes. The Canada Child Tax Benefit, The Universal Child Care Benefit and credit programs under the *Income Tax Act* are



payments based on taxable income, which can be skewed in the case of Indians employed on reserve. This is because Indians are not taxed on earnings from on-reserve activities. For this reason, taxable income is always zero for this narrow population of individuals with Indian status who work on reserve. Income exempt from tax is also exempt from Canada Pension Plan contributions, but an employee can elect to participate. Employment Insurance premiums are not taxes and not exempt under the *Indian Act* (CRA 2013).

Property taxation authority by band councils is allowed under the *Indian Act*, however it is difficult to implement as ownership of property is collective, lands cannot be sold, and the jurisdiction is for the most part contradicted by the restrictions on Indian lands. Current solutions include displacing provisions regarding land and financial management in the Indian Act by opting into the *First Nations Land Management Act* or negotiating a self-government agreement and charging property tax on long term land leases.

Business income is usually tax exempt if the activity takes place entirely on a reserve; otherwise, it is taxable at the same rate as all Canadians. Section 87 of the *Indian Act* does not apply to corporations or trusts owned by Indians. A corporation or trust is not considered an Indian for purposes of the exemption. Excise duties and taxes are paid by a manufacturer and not exempt.

3.2 GOVERNMENT TRANSFERS AND PROGRAMS

Indians on reserve receive most of the same benefits as all Canadians, though often under different terms. Indians are eligible for most federal programs such as Old Age Security as well as specific provincial programs such as basic health care. Of course, there are technical reasons why there is a higher rate of ineligibility for some programs. For example, Indians with status



who work on-reserve, with tax-exempt earnings, would not be eligible for Canada Pension Plan (CPP) benefits because they had not contributed to it. Unlike non-Indian off-reserve, many programs and services are not delivered by the provincial government, nor are taxes paid at the provincial level. Most such services are provided by a centralized federal government body known as Aboriginal Affairs and Northern Development Canada (AANDC) on a policy basis. Recent developments include the introduction of legislation to support First Nations' education, which would replace the current provisions of the *Indian Act* which provides for truancy penalties but does not provide the right to education for children.

The comparability of expenditures and outcomes is an issue with regard to the services and programs provided by the federal government on reserve paralleling provincial programs off reserve. Formula determinations do not always consider the entire service population, limiting funding to members on reserve. In addition, service standards and processes for transfers often create compounding situations as First Nations wait for uncertain administration to transfer funds so that they can deliver basic services.

3.4 INDUSTRIES WITH IMPACT ON FIRST NATIONS ECONOMIES

Several industries must be highlighted for the impact on First Nation economies in the past, present and in the future. Agriculture stands out as the economic activity supported by the Crown for the advancement of Indian bands. Specific structural and legal barriers prevented inclusion of the Indian agriculture in the wider economy. Art and crafts were often the economic development project of choice in the mid-twentieth century; however, the scale of such operations was small. Natural resource industries such as petroleum production, and casino gaming operations have become popular avenues for First Nations to develop revenue streams,



with the varying contexts, results, and degrees of organization in different provinces and territories.

3.4.1 Agriculture

The 2011 Census of Agriculture by Statistics Canada reported 205,730 farms on 160,155,748 acres, a decrease in farms of 10.3% over 5 years. Most farm operators were 55 and over accounting for 48.3% of all farmers. Gross farm receipts in 2010 were \$51.1 billion, an increase of only 3.9% over 5 years, mostly on larger farms (Statistics Canada 2012). Further, for every dollar of receipts there were approximately 83 cents in expenses (Statistics Canada 2012). Data regarding Aboriginal farming could not be captured due to an inability to completely enumerate reserves. Investigation through contacts on the prairies regarding First Nations farms or individual Indian farmers was inconclusive in that no examples were found (Statistics Canada 2012).

Some Indian treaties, specifically the numbered treaties in the west, included the promise to provide farming supports as hunting became more difficult. Process issues meant a waiting period between settling on the reserves and the provision of farming tools and instruction, and rations were required for survival. By 1879, the Reserve Farm Instruction Program was underway in western Canada, and by the late 1880s farming was becoming successful for some Indian bands. The settlers found the competition of the government supported Indian farmer's unfair and lobbied government for a policy to protect their interests.³

³ Various sources support this statement, in particular the reports of Indian Agents from 1880-1910 in *Indian Affairs Annual Reports*.



The Peasant Policy of 1889 was introduced to keep their operations small and their machinery rudimentary, copying ‘peasants of various countries’ intended to instill a spirit of individual responsibility over the collective ownership beliefs of Indian tribes. Bands who had purchased their own modern machinery with profits from sales found their machinery taken away.ⁱⁱⁱ

The Pass and Permit system was introduced after the Riel Rebellion. Indians who wished to leave the reserve were required to give the reason, the duration, and whether carrying a gun. Indian farmers had to attain permits to sell their goods. Sometimes permits were not granted or were granted too late and the goods rotted. The Pass system remained in effect until World War II. A prohibition on trade of agricultural products between Indians of some bands and non-Indians began at around the same time, eventually codified in the 1951 *Indian Act* in Section 32.

There is little question why there is no thriving First Nations agriculture on the prairies. It was only in February 2010 that an order exempting Indians from Section 32 of the *Indian Act*, which banned trade of agricultural products between Indians and non-Indians, was issued. While little enforcement of the provision had occurred in recent years, this provision was significant in dampening agricultural entrepreneurship of all but the most determined. With the repeal of Section 32 there is an opportunity, but little history and strength in the business of agriculture. First Nations have now made many claims under the Specific Claims policy for lack of agricultural assistance that was promised in the treaties.

First Nations reserves are federal lands subject to federal environmental regulations; however, most livestock and agricultural operations are regulated by provincial law. There are many grey areas and incompatibilities. A self-government agreement can reconcile the



provincial, federal, and inherent First Nation authority and align the jurisdiction with market needs.

Aboriginal farmers need access to financing on terms other than those traditionally provided by the financial services industry. First Nations Agricultural Lending Association (FNALA) in BC, Saskatchewan Indian Equity Foundation (SIEF) in Saskatchewan, Tribal Wi-Chi-Way Win Capital Corporation (TWCC) in Manitoba and other organizations have begun to develop programs to assist First Nation and Indian farming in financing operations. FNALA, for example, provides loans of up to \$350,000 to First Nations agricultural and agri-food businesses both on and off-reserve.

Leasing land for agricultural purposes is an ongoing business activity for many First Nations who have leased lands to farmers for over a century. Development of agricultural land leasing is a more difficult venture than the maintenance of heritage contracts as most First Nations are under the *Indian Act* and do not control their own lands.

AGRICULTURE	
Market size	\$51.1B in receipts (2010) 229,373 farms in Canada, but decreasing (2006) 9,602 farms (4.7% of all) reported \$1 million or more in gross farm receipts, (49.1% of receipts) (2011)
Employment & Benefit opportunities	292,795 farm operators (2011) 297,683 paid employees, (over 60% seasonal) (2011) Farm population 650,395 persons (2011) No data captured regarding Aboriginal farmers
Average income	median income for economic families in farm population \$74,604 (2010) similar to the median income in total population.
Potential opportunity	Increase food security Opportunities in niche agriculture
Risks	Risks present as capital intensive and competitive, but greater public benefits of increased security of food sources may justify state supports and incentives.



Inquiries regarding First Nation owned farms or Indian farmers met a dead end, but one company that came up again and again was One Earth Farms. One Earth Farms is a Canadian company founded in 2009 specializing in cattle and grain/oilseed across the prairies with a supply strategy of a fully integrated, farm-to-fork operation delivering health and well-being to consumers through natural and organic products. The parent company, One Earth Resources Corporation is an offshoot of Sprott Resource Corporation, a Toronto-based oil and gas company. The One Earth Farms products are sold under the brand names 'Beretta', 'Last Rep' and 'Protein Puck' through home delivery, fitness establishments and select retailers predominantly in Toronto and Vancouver regions (Beretta 2013). Former Grand Chief of the Assembly of First Nations Phil Fontaine has served on their board (Sprott 2009). Beginning with 13,000 acres on three participating reserves in 2009 and a staff of four, the company quickly built a large farm operation of 120,000 cultivated acres and 100,000 acres of pastureland for the cattle over a dozen reserves with more than 100 full-time and seasonal employees (Hobsbawn-Smith 2011). One Earth Farms had a large-scale farming operation of 25,000 acres on the Blood reserve in Alberta which lasted three years with a sudden announcement by the Blood Tribe that the relationship had come to an end. The Blood Reserve apparently includes farmers and ranchers who may be interested in renting the land (RealAgriculture 2013).

Are First Nations and community residents interested in agriculture, given the global competition, short growing season, risk, and historical barriers? The ISIS Research Centre at the University of British Columbia's Sauder School of Business recently partnered with Lil'wat Nation, one of the largest in BC, to study the opportunity of agricultural production on reserve. The Pemberton Valley boasts excellent farmlands with an international reputation as well as specialty local niche markets. In 2011 the Valley's agricultural sector generated nearly \$6



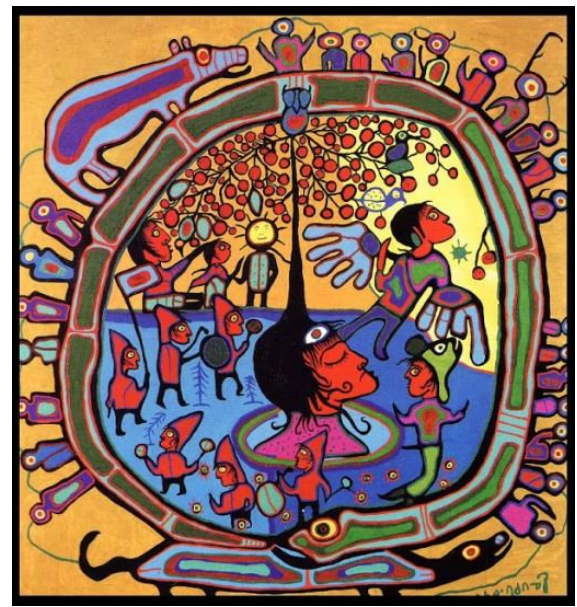
million in gross farm receipts. Lil'wat Nation reserves include more than 2,000 acres of agriculturally suitable lands but participation in the agriculture industry is limited. Research into options, per acre profitability and generated employment opportunities has provided decision makers and stakeholders with possible revenue streams, but they will still have to jump the usual hurdles of business under the *Indian Act* (Sauder School of Business, 2013).

While farming in Canada has been decreasing since 1941, specialty farming such as organic and novelty foods have become a growing market. Food security has also become an important consideration in supporting agriculture in Canada. Larger farms are growing, and small farms are decreasing. There is potential for an organized and supported First Nations agriculture industry, particularly in light of amended restrictions on agricultural trade, but the history regarding First Nations agriculture indicates that a great deal of training, development and preparation might be required to initialize. British Columbia in particular has begun targeted programs to encourage First Nations agriculture and initial results are encouraging, particularly to goals relating to food security.

3.4.2 Aboriginal Fine Art

It is difficult to find information on the size of Aboriginal art market in Canada. There are some clues; the production of Aboriginal art is growing and being taken more seriously in international circles; the overall size of the Canadian art market; and some stories with regard to high profile Canadian Aboriginal artists. These provide insight into the business and the impact and benefit on First Nations and Indians.

There were reported to be 3,300 Aboriginal artists in Canada in 2006 with average earnings of only





\$15,900, 30% lower than the average for all artists in Canada (CCA 2009). Aboriginal art was not recognized as part of the Canadian art scene until after World War II, and despite some small programs to encourage artisan cooperatives, support for Aboriginal art and artists received little funding until after the 1960s.

The fine arts market of Canada does not have the size or profile of many other countries, and the Aboriginal art market is but a subset of this small market. At its peak in 2007, Canadian art had \$65M in auction sales with prices at auction indicating an average annual increase above 20% over the past 10 years. In the 2011-12 auctions season 3,540 new prices of Canadian art works and books sold with sales of over \$54M (Westbridge 2013). Only a portion of these sales relate to Canadian Aboriginal art.

In contrast Australian Indigenous art sales alone were reported at \$26M in 2007 (Hamann 2013). While the 2008 financial crisis played a part in a fall in sales to less than \$10M per year, regulatory changes in the country were blamed by dealers and artists for the decreased sales. Previously art collectors could invest through their superannuation funds and enjoy the benefits of their investment prior to retiring. After a comprehensive review of the Indigenous art sector in 2007, a change in the investment of superannuation funds determined investors could not access the benefit of their investment until they reach retirement age. Many accountants advised their clients to simply sell the work out of their fund. The increased supply on the market meant works sold for less at auction, often with no profile for the artists as purely decorative works. The review recommended supporting the fair treatment of artists which resulted in increased regulation of artist centres which kept many dealers and artists out of the market. The 2010 introduction of a re-sale royalties scheme required artists to receive five per cent of the sale price when eligible artworks were re-sold commercially for \$1,000 or more, creating another layer of



administration (Hamann 2013). The well-developed market for Australian indigenous art had the first sale of a single work for more than \$1M in 2007 with a painting by elder Emily Kngwarreyewas (Bibby 2007).

Aboriginal art does have a market. A Sotheby's auction of *American Indian Art* on May 18, 2011 in New York resulted in total sales of \$4.8M US (Coastal Art Beat 2011).

ABORIGINAL FINE ART	
Market size	\$52.4M ⁴ (2006)
Employment & Benefit opportunities	3,300 Aboriginal artists (2006)
Average income	\$15,900 total annual income for Aboriginal artists in Canada (2006)
Potential opportunity	Increase profile of Canadian Aboriginal art Increase number of Aboriginal artists Increase average incomes of Canadian Aboriginal artists
Risks	Minimal risk includes funding to support Aboriginal art and artists in Canada including international branding and marketing and community level capacity building and supports.

Norval Morrisseau, born in 1931, is a well-known Aboriginal artist credited with founding what is known as the Woodland school or genre of art. After struggling with addiction issues, Parkinson's disease, and a stroke in 1994 his health deteriorated. He died in 2007 in Toronto after spending twenty years in BC. Morrisseau's works currently sell for thousands of dollars apiece and have increased in value immensely since his death. The exploitation of Norval Morrisseau, at least, his lack of material benefit from his work, is another thread. Morrisseau is

⁴ Determined from average employment and number of self-identified aboriginal artists



estimated to have painted more than 10,000 works beginning in the 1960s. His top price for a painting at auction was \$60,000 (CASI 2012). The total value of Morrisseau's works in existence, given the sheer volume and prices on average in the thousands, may be over \$50M dollars in total. There are considerable allegations of fraudulent works on the market, and identification of authenticity remains an issue. A committee of experts formed a volunteer committee at the Norval Morrisseau Heritage Society to document his work, and approximately 1,000 of those pieces are now catalogued. It is claimed that during his time on the street in Vancouver he often traded art for alcohol to persons who may have been unaware of the status of the artist.

It is worth examining the separate approach to Inuit art. With government efforts to encourage an Arctic handicraft industry, the Kinngait Studio in Cape Dorset was established in 1959 as the West Baffin Eskimo Co-Op, and today supports 200 graphic and sculpture artists and supporting some of the most famous names in Inuit Art (Ryan 2007). Were the government programs of the 20th century successful? Perhaps they were well aligned with the talents of the Inuit for today according to the 2006 Canadian Census, Nunavut's 250 artists represent 1.86% of the territory's labour force which is more than double the national average of 0.77% (CCA 2013).

The Canadian Aboriginal fine art market may have growth potential. Australian indigenous art market is highly supported- and regulated. The Canadian Aboriginal art market is smaller, less developed, less connected, and less supported, wherein the growth potential lies. International branding and marketing would assist in supporting Canadian Aboriginal art. Many Aboriginal artists are not included in the auction sales, and a higher profile for Canadian Aboriginal art and supported capacity building may have future dividends that have a large



economic impact on a small number of people but could be nonetheless important as an indicator of the respect for Aboriginal culture which may improve social and economic outcomes in the long term. If, for example, higher profile, branding and marketing of Canadian Aboriginal Art (without cannibalizing the current market for Canadian art generally), this could result in Aboriginal artists in Canada making closer to a median income of \$39,000 through sales of their work.

Methods to assess and discourage exploitation of Aboriginal artists should be seen in the light of preventing exploitation of artists in Canada generally. The unknown factor would be the cost of expanding the international market for Canadian Aboriginal art, ideally in conjunction with current initiatives to increase the profile of Canadian art generally. If through the expansion of the market and supports at the community level the capacity for the number of Aboriginal artists doubled to 6,600, the potential increased annual income to Aboriginal individuals would be in the range of \$200M, however the value to Aboriginal people and communities may be priceless.

3.4.3 Gaming and Casinos

Communities enter gaming operations usually because they believe it will provide revenues, jobs, and general economic development. The success of gaming varies among the communities. The examples well known from mass media are usually based on the Indian gaming policy of the United States. The Indian gaming policy is a subset of the American self-determination policy which has somewhat parallel objectives to the *Inherent Right Policy* in Canada. Cornell et al., (1998) found that gaming revenue contributes to a reduction in government services because the revenues enable many of the tribes to provide their own services. The Mashantucket Pequots, who operate the Foxwoods facility in Connecticut, the



largest casino in the world, grosses more than \$1 billion in annual revenues for 550 tribal members. The tribe received \$1.5 million in low-income housing assistance in 1996 and continues to receive other federal funds (NGISC 1999, pp. 7- 9). HAIP study released in 2005 showed that poverty rates fell substantially for gaming and non-gaming tribes between 1990 and 2000 but were still 3 times the non-Indian rate of 9%. Vinje (1996) showed that Indian reservations that developed manufacturing activities had a greater influence on reducing poverty than those that relied on gaming revenues. Given the high rate of unemployment on reservations, any economic activities would have a large impact on the employment rate (Cornell, 1998:41). With regard to the profitability of Indian gaming in the US, 29% of the operations made under \$3 million. The average revenues for those tribal facilities making more than \$100 million were \$208,778,000 compared to the revenues of \$924,000 for those tribal operations categorized as making less than \$3 million (Adams 2005)

The Supreme Court of Canada held Shawanaga and the Eagle Lake First Nations did not demonstrate that gaming, or the regulation of same, was an integral part of the cultures of at the time of European contact upholding an Ontario Court of Appeal decision which declared gaming bylaws enacted by First Nations invalid and upheld criminal convictions. While there was evidence that these First Nations played traditional wagering games, there was no evidence that such gaming was “of central significance” to those First Nations. The Court indicated it was not prepared to equate the traditional wagering games of a First Nation with modern commercial gaming. Absent such a finding, any gaming activity or regulation undertaken by a First Nation, without provincial approval, is illegal.

St. Mary’s Indian Band v. Canada, the Chief and Council of the St. Mary's Indian Band passed a by-law, purportedly pursuant to paragraphs 81(1)(c), (m), (g) and (r) of the Indian Act



for the regulation of gambling casinos on reserve. The Minister of Indian Affairs and Northern Development disallowed that by-law pursuant to his authority under section 82 of the Act. On an application for judicial review of the Minister's decision, the judge ruled that the subsection 81(1)(m) relates to order at public games and events and does not give Indian band councils the authority to regulate gambling casinos on their reserves. The matter was upheld on appeal and the Supreme Court of Canada declined to grant a further appeal.

In 1993, the White Bear First Nation opened a small casino on its reserve near Carlyle and asserted that it had jurisdiction over gaming. The RCMP closed the casino, seized all the equipment and laid charges under the Criminal Code. The Federation of Saskatchewan Indian Nations and other First Nations supported the White Bear First Nation's assertion of jurisdiction. The resulting negotiations between the Province of Saskatchewan and the FSIN, which represents 72 of the province's 73 First Nations, led to an agreement in 1994. This agreement envisioned Regina and Saskatoon each having a casino. Under the agreement, the FSIN was to hold three of seven seats on the board of the Crown corporation, the corporation committed to achieve at least 50% Aboriginal employment in the casinos, and it agreed to revenue sharing.

The reserve of the Mohawks of Kahnawake hosts online casino sites using licences granted by the Kahnawake Gaming Commission (KGC 2013). In June 1996, the Mohawk Council of Kahnawake established the Kahnawake Gaming Commission pursuant to the provisions of their *Kahnawake Gaming Law* to regulate and control gaming and gaming related activities on the Mohawk Territory of Kahnawake. The Commission charges a \$10,000 annual licensing fee to clients. Security checks for sublicensees require an upfront cost of \$25,000 (KGC 2013). It is estimated that people from the reserve fill half of the jobs. Currently the Kahnawake Gaming Commission shows 271 active sublicensees, which would bring a modest but overhead-



light annual fee revenue of \$2,710,000 (KGC 2013). In January 1999, Mohawk Internet Technologies was established as a band-owned entity to offer services to industries involved in e-commerce, providing knowledge and expertise-based employment to residents of Kahnawake (KGC 2013). The Mohawks of Kahnawake take the position that until a court declares otherwise their practices are legal, grounded in traditional culture and customary practices which predate European sovereignty and constitutionally protected. The Quebec and federal governments, together with the provincial police, have investigated the activities of the Commission. Both Canada and Quebec have in stated that the operations of the Kahnawake are illegal while never formally challenging them.

Indian gaming in Saskatchewan began with an agreement between the province and the Federation of Saskatchewan Indian Nations (FSIN). The Saskatchewan Indian Gaming Authority (SIGA) was created to operate the casinos on behalf of FSIN. Of the 8 casinos in Saskatchewan, six are run by SIGA, two on reserve. Annual revenues are approximately \$240M and net profits over \$67M. In 2012-13, SIGA recorded a net income of \$86.8 million. Over 2,100 employees work at SIGA casinos, considered a Top15 employer in Saskatchewan and is ranked in Saskatchewan's top 35 companies (SIGA 2009). Over 3M visitors are entertained by 1,800 slot machines, 52 live table games, food and beverage services and live entertainment.

First Nations provincial gaming profit sharing occurs in Ontario, BC, Saskatchewan, Manitoba, New Brunswick, and Nova Scotia. Net profits from SIGA casinos are split, with 50 per cent of net income provided to the First Nations Trust and 25% provided to the province, with the remaining 25% directed to Community Development Corporations. The First Nations Trust supports economic development, social development, justice, health, education, recreation, culture, and other First Nations initiatives. Community Development Corporations (CDC) fund



economic development, social development, justice, health, education, recreation, culture, and other related initiatives (SLGA 2013).

3.4.4 Oil and Gas

The business of non-renewable resources in Canada is bound to Aboriginal relations. Whether land use, consultation requirements or labour force availability in the remote north, the non-renewable resource industry requires Aboriginal communities, and they require the industry. For remote First Nations without an economic base or infrastructure natural resources is a source of both hope and fear. Over 600 major oil and gas projects worth \$650 billion are planned for Canada over the next decade and every single project currently proposed in western Canada impacts at least one First Nations community. The combination of location with growing, young population places the First Nations in a unique position to benefit from energy development in Canada (Baynes 2013).

The petroleum and minerals industry has clear importance to Canada, the sixth largest oil producing country in the world. Imperial Oil, Husky Energy, Suncor Energy, also known as the “Big Three” brought in record profits of \$11.75 billion in 2007, up 10 percent from \$10.72 billion in 2006 (Canwest 2008). Profits dropped considerably after the financial crisis of 2008.

South of the 60th parallel Indian Oil and Gas Canada (IOGC) is the agency of AANDC responsible for managing oil and gas on First Nation lands. More than 50 First Nations across the west have oil and gas agreements. In the last five years IOGC has collected over \$1 billion from oil and gas activities on behalf of First Nations. The *First Nations Oil and Gas and Moneys Management Act* (FNOGMMA) provides First Nations with the option to manage their reserve oil and gas resources and moneys currently held in trust.



The Ikhil/Inuvik Gas Project is a wellhead to burner-tip operation created to supply Inuvik with natural gas from two wells at the Ikhil reservoir, located approximately 50 kilometres northwest of Inuvik on Inuvialuit lands. The Inuvialuit Petroleum Corporation (IPC) was created in 1985 with the objective of becoming a profitable petroleum company. The project is owned by the Inuvialuit, AltaGas and Enbridge Inc. Total project costs of \$44 million included a proportionate contribution by the Inuvialuit corporation. The federal government administers rights for the Ikhil gas field located on Inuvialuit private lands, pursuant to the treaty protected Inuvialuit Final Agreement (IFA) which requires remittance of royalties to the Inuvialuit according to the now repealed *Canada Oil and Gas Act* (COGA). These rates are higher than the current rates in the *Canadian Petroleum Resources Act* (CPRA) which replaced COGA. According to a November 2007 court decision, the Crown must pay the difference between the royalty rates. The short sightedness of not including “or subsequent legislation” in the treaty was taken literally, and the Crown would pay the difference between the COGA rate and that paid by the producer of the Ikhil field (IRC 2007, AANDC 2012).

Petroleum production in the Wood Buffalo region around Fort McMurray has grown from \$700M in 2009 to more than \$1 billion in 2012. Secondary services have also brought opportunity. The Fort McKay Group of Companies is one example, beginning about 25 years ago with one janitorial contract. It has since mushroomed into a series of enterprises that offer logistics, site services, fuel and lube delivery, environmental services, and land leasing operations to oil sands developers (FMGC 2013).

3.5 UNFINISHED ABORIGINAL BUSINESS



The federal government often refers to Aboriginal claims as “unfinished business”. Many claims have however been settled, and some First Nations have found the settlement to be a significant financial benefit. The settlement of claims requires extensive documentation and justification of remedy. It is not easy to conclude older claims.

The Specific Claims process allows First Nations to use a non-judicial process to resolve breaches of law of treaty which is over 15 years old. Typically, the smallest settlements of the claims process, these can include claims of insufficient land according to treaty formula, fraudulent land surrenders or loss of use of reserve lands.

Land claims include settlements that can capitalize new ventures, improve infrastructure, and provide long term investment opportunities. The Inuvialuit communities in the north of the Northwest Territories have a land claim agreement with Canada and the Government of the Northwest Territories that came into effect in 1984. The settlement included over 90k sq. km of land, 12k sq. km of subsurface mineral rights and capital transfers totalling \$152 million with shared governance rights over approximately 435k sq. km in their traditional territory. The Sahtu land claim was signed in 1993 by Canada and the Northwest Territories and came into effect the following year. Under the Agreement, the Sahtu Dene and Métis received title to 41,437 square kilometres of land, including 1,813 square kilometres of subsurface ownership rights. The Sahtu received \$130 million in tax-free capital transfers over a fifteen-year period. The Sahtu also receive an annual share of resource royalties collected by the Government of Canada from resource development in the Mackenzie Valley.

The Indian Residential Schools Settlement Agreement was reached in 2007 between legal counsel for former students, church organizations, the Assembly of First Nations, other Aboriginal organizations, and the Government of Canada. The Settlement Agreement included



a Common Experience Payment (CEP) to be paid to all eligible former students at recognized Indian Residential School as determined by an Independent Assessment Process (IAP) for the resolution of claims of abuse. The deadline for applying for the CEP was September 19, 2011. The Truth and Reconciliation Commission (TRC) was mandated to create a public record and promote awareness of the Residential Schools system and impacts in addition to a \$20 million commemoration initiative and time limited healing supports and endowments. Under the Indian Residential Schools Settlement Agreement (IRSSA), an audit has determined that a balance of more than \$40 million remains in the Designated Amount Fund (AANDC 2012).

3.6 SUMMARY

The past has included significant barriers to economic development that change the starting point of First Nations. Many local programs and services are provided by the First Nation or the federal government, rather than the provincial government, creating a different level of service and quality of life. Despite the *Indian Act* and other barriers some First Nations have found economic success. There is a significant opportunity in expanding First Nation economies, labour, and consumption markets, which could lower costs and increase national GDP and innovation. With several large natural resource projects planned across Canada there is potential for increased employment, infrastructure, and revenue providing that certainty, trust and real partnerships can be found.



4. SOCIAL ANALYSIS

SOCIAL	demographics and culture and the land that supports it, determines level of technology, political and economic variables
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4.1 THE ABORIGINAL POPULATION

The Aboriginal population of Canada is growing exponentially faster than that of the rest of the country. The *2011 National Household Survey* reports 1,400,685 people representing 4.3% of the Canadian population were Aboriginal in 2011, an increase of 20.1% over 5 years. The non-Aboriginal population of Canada grew by 5.2% over the same period (Statistics Canada 2011).

	2006 CENSUS POPULATION
Inuit	50,485
Metis	389,785
Status Indians	623,780
Non-Status Indians/Mixed/Other	108,740
TOTAL	1,172,790

Amendments made in 1982 Constitution recognize three categories of Aboriginals: Metis, Indians, and Inuit. In Canada the legal definition of Indian under the *Indian Act* relates to



registration and tracking in the Indian Registry and has less to do with blood quantum or community affiliation. Due to circumstances resulting from the way regulations were applied and changed over time, many Indians do not have Status while other Status Indians, such as non-Aboriginal women who married Indian prior to 1985, have no Aboriginal ancestry.

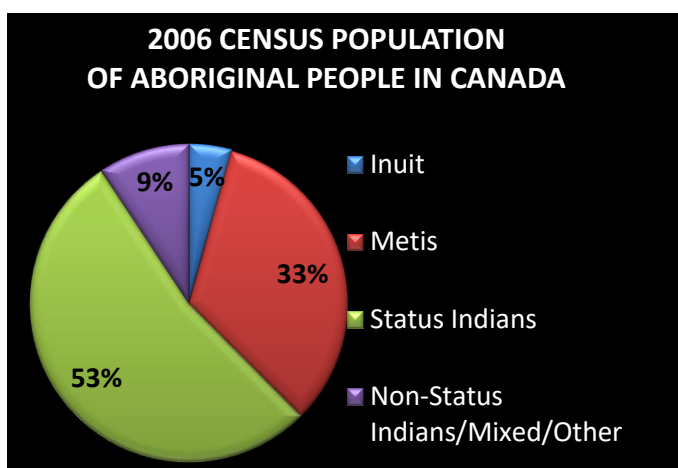
Métis or Metis is a term that refers to mixed European and Indian ancestry. In 2011 there were 451,795 people who identified as Métis representing 32.3% of the Aboriginal population and 1.4% of the total Canadian population

(Statistics Canada 2011).

Inuit are a nation of people of which various Arctic countries. Most Inuit communities are found in Nunavut but also in the Northwest Territories, Labrador, and Northern Quebec. In 2011, 59,445 people identified as Inuit, representing 4.2% of the

Aboriginal population and 0.2% of the total Canadian population (Statistics Canada 2011).

This paper will focus on the particular context of First Nation Indian bands within the wider context of Aboriginal groups.



(Statistics Canada 2011)	people identified	% of total Aboriginal population	total Canadian population
First Nations	851,560	60.8%	2.6%
Registered Indians	637,660	45.5%	1.9%

The eligibility rules have changed many times since the mid-1800s when the first lists were drawn up. Bill C-31 in 1985 ended various forms of discrimination and further court decisions regarding transfer of status, and rights of Metis and non-Status Indians are likely to result in more of the same. According to INAC's Indian Registry System, there were 704,851 Status



Indians as of December 31, 2002 (AANDC 2010). One-quarter of First Nations people were not Registered Indians, representing 15.3% of the total Aboriginal population and less than 1% of the total Canadian population (Statistics Canada 2011). The 2011 study conducted by Statistics Canada reported 637,660 First Nations people having status as Registered Indians, and 49.3% lived on an Indian reserve or Indian settlement (Statistics Canada 2011). The *Indian Act* applies to Registered Indians on an Indian reserve, displacing over thirty subjects typically under the authority of a province such as education, the environment and resource management.

A Non-Status Indian is an Indian who is not registered under the *Indian Act*, either because they have not applied or because they or an ancestor were not entitled to be registered under the *Indian Act*. This could occur for various reasons; until just a few decades ago, Indian women who married non-Indians lost their Indian status; persons who wished to be employed by the Hudson's Bay Company in the late 19th and early 20th century were required to emancipate from their Indian status. Band membership or affiliation with a First Nation is a matter separate from status as a registered Indian under the *Indian Act*⁵.

Treaty refers to the agreement between the Crown and a group of Indians regarding land surrender, trade, or military alliance; most Indian bands in Canada do not have a treaty with the Crown.

⁵ It is quite common, particularly in the prairie provinces, to hear the term "treaty" substituted for status (for example, the term "treaty card" refers to one's card identifying one as a registered Indian), however this is incorrect



The legal term for the collective body that asserts the collective right is defined by the *Indian Act* as a “band”. The term First Nation is often used but has no definition. Each band has leadership in the form of a council with a Chiefs and Councillors. There are currently 614 bands (AANDC 2010).

4.2 DEMOGRAPHIC PROJECTIONS

Statistics Canada 2011	Proportion of Aboriginal population
Aboriginal children aged 14 and under	28.0%
Aboriginal youth aged 15 to 24	18.2%

The population of Aboriginal people in Canada is small but increasing at an exponential rate. Aboriginals aged 14 and under represented 7% of all children under 14 in Canada in 2011 statistical data. Inuit had a median age of 23, First Nations people 26, followed by Métis at 31 (Statistics Canada 2011). Almost half (48.1%) of all children aged 14 and under in foster care were Aboriginal. Nearly 4% of Aboriginal children were foster children compared to 0.3% of non-Aboriginal children.

Aboriginal communities are growing rapidly, increasing by 20.1% from 2001 to 2006 according to 2006 Census data. Leveraging the competitive advantage of growing population, Aboriginal technologies, knowledge, and organizations are a rich potential source of growth. Unemployment and disengagement of Aboriginal people in Canada is higher, and the return for those who participate in labour is lower. For every dollar non-Aboriginal Canadians earned in 2006, Aboriginal peoples earned only 70 cents. While this shows progress from 1996 (0.56 for every dollar), it would take 60 years at that rate of change to find parity with average Canadian incomes. First Nations people working on urban reserves earn 75 cents for every dollar a non-



First Nations person makes: on rural reserves even less. In 2006, the median income for Aboriginal peoples was 30% lower than for the rest of Canadians. Aboriginal women earn median incomes closer to those of Aboriginal men but undertake more education to do so (Wilson 2010).

4.3 EMPLOYMENT, EDUCATION, HEALTH AND WELLBEING

Considerable documents have been produced by every school jurisdiction, First Nations organizations and Indian Affairs⁶ with regard to the employment and education of Status Indians, but most is of a marketing and communications nature. More useful were statistical information and summary reports prepared by government with responsibility for Indians, most of which were completed by the province, given that labour and education are provincial areas of jurisdiction. There is a small body of work on the impacts of educational attainment and employment as it relates to Aboriginal people in Canada.

The Hawthorn report of 1966 studied factors having a high or significant degree of correlation with relative economic development of Indian bands and concluded that labour force attachment was more statistically significant than level of education or population growth.

Labour force

⁶ Indian Affairs is a commonly used term; however, the title of this organization has changed many times since its creation. Currently the department is known as Aboriginal Affairs and Northern Development Canada, but Indian Affairs, INAC and DIAND (former acronyms) are still widely used.

	1871	1901	1921	1931	1941	1971	1981	1991	1996	2001	2006
Population of self-identifying Aboriginal people in Canada ⁷	102,358 ⁸			128,890 ⁹			491,460 ¹⁰	720,600 ¹¹	811,640 ¹²	976,305 ¹³	1,172,790 ¹⁴
Population of urban Aboriginal people in Canada											623,470 ¹⁵
Non-Status Indians in Canada											
Inuit People in Canada			3,000 ¹⁶			25,000 ¹⁷	38,000 ¹⁸		40,220 ¹⁹		50,485 ²⁰
Metis people in Canada		34,481 ²¹			35,416 ²²		126,000 ²³	139,000 ²⁴			389,785 ²⁵
Population of Status Indians in Canada								438,000	601,000 ²⁶	681,000 ²⁷	623,780 ²⁸
Population of Status Indians on-											

⁸ RCAP Introduction http://www.collectionscanada.gc.ca/webarchives/20071218071119/http://www.ainc-inac.gc.ca/ch/rcap/sg/images/sg_e25-00b.jpg

⁹ RCAP Introduction http://www.collectionscanada.gc.ca/webarchives/20071218071119/http://www.ainc-inac.gc.ca/ch/rcap/sg/images/sg_e25-00b.jpg

¹⁰ RCAP Introduction http://www.collectionscanada.gc.ca/webarchives/20071218071119/http://www.ainc-inac.gc.ca/ch/rcap/sg/images/sg_e25-00b.jpg

¹¹ RCAP Introduction http://www.collectionscanada.gc.ca/webarchives/20071218071119/http://www.ainc-inac.gc.ca/ch/rcap/sg/images/sg_e25-00b.jpg

¹² RCAP Introduction http://www.collectionscanada.gc.ca/webarchives/20071218071119/http://www.ainc-inac.gc.ca/ch/rcap/sg/images/sg_e25-00b.jpg

¹³ Census data quoted in Guimond et al 2004

¹⁴ <http://www.aadnc-aandc.gc.ca/eng/1100100014298/1100100014302>

¹⁵ <http://www.aadnc-aandc.gc.ca/eng/1100100014298/1100100014302>

¹⁶ RCAP Introduction http://www.collectionscanada.gc.ca/webarchives/20071218071119/http://www.ainc-inac.gc.ca/ch/rcap/sg/images/sg_e25-00b.jpg

¹⁷ RCAP Introduction http://www.collectionscanada.gc.ca/webarchives/20071218071119/http://www.ainc-inac.gc.ca/ch/rcap/sg/images/sg_e25-00b.jpg

¹⁸ RCAP Introduction http://www.collectionscanada.gc.ca/webarchives/20071218071119/http://www.ainc-inac.gc.ca/ch/rcap/sg/images/sg_e25-00b.jpg

¹⁹ <http://www12.statcan.ca/census-recensement/2006/as-sa/97-558/p6-eng.cfm>

²⁰ <http://www12.statcan.ca/census-recensement/2006/as-sa/97-558/p6-eng.cfm>

²¹ http://www.collectionscanada.gc.ca/webarchives/20071211052746/http://www.ainc-inac.gc.ca/ch/rcap/sg/sg3_e.html#10

²² http://www.collectionscanada.gc.ca/webarchives/20071211052746/http://www.ainc-inac.gc.ca/ch/rcap/sg/sg3_e.html#10

²³ http://www.collectionscanada.gc.ca/webarchives/20071211052746/http://www.ainc-inac.gc.ca/ch/rcap/sg/sg3_e.html#10

²⁴ http://www.collectionscanada.gc.ca/webarchives/20071211052746/http://www.ainc-inac.gc.ca/ch/rcap/sg/sg3_e.html#10

²⁵ <http://www12.statcan.ca/census-recensement/2006/as-sa/97-558/p6-eng.cfm>

²⁶ Indian Registry data quoted in Guimond et al 2004. Census data underestimates population

²⁷ Indian Registry data quoted in Guimond et al 2004. Census data underestimates population

²⁸ <http://www.statcan.gc.ca/pub/89-503-x/2010001/article/11442/tbl/tbl003-eng.htm>

REFLECTIONS ON THE BUSINESS OF INDIANS AND INDIAN BUSINESS



reserve in Canada								254,600 ²⁹			299,970 ³⁰
Non-Indians on reserve								unknown			

Census data underestimates total population of Indians, and Indian registry data cannot easily be used to determine proportion of total Aboriginal population due to discrepancy. See Guimond 2004

From info provided in RCAP

http://www.collectionscanada.gc.ca/webarchives/20071211052746/http://www.ainc-inac.gc.ca/ch/rcap/sg/sg3_e.html#10

²⁹ http://www.collectionscanada.gc.ca/webarchives/20071211052746/http://www.ainc-inac.gc.ca/ch/rcap/sg/sg3_e.html#10

³⁰ <http://www.statcan.gc.ca/pub/89-503-x/2010001/article/11442/tbl/tbl003-eng.htm>



attachment was increased where Indian bands were more organized and had better relationships to non-Indian neighbours and economic opportunities. The situation is complex, and more epidemiological and historiographical analysis would be required to fully understand correlations and impacts.

An excellent 2009 literature review by Sharpe and others on the “measured effects of education” provides a background to contextualize the situation of Aboriginal people in Canada, a summary of which follows. In short, more education leads, on average, to lower unemployment, higher labour force participation, higher employment rates and higher incomes.

The strong positive relationship between education and earnings is established in the social sciences³¹. The rates of return to investments in education are high, particularly when the target group has historically low levels of educational achievement. The return on investment in such a population substantially exceeds the average return on investment in education.

Secondary and non-market outcomes of increased educational attainment include external outcomes related to economic growth, reduced criminal activity, individual health, and social benefits related to taxation. In the case of Indians on reserve, social benefits related to taxation is a more complicated matter covered in the chapter on Governance. In short, this investment does not just serve to increase economic power of individuals while increasing revenues to the state, it represents a potential reduction of costs to the state, borne by taxpayers.

³¹ with some reluctance to interpret as causal



Intergenerational effects of educational attainment seem to be more difficult to capture. Some evidence indicates that higher educational attainment of parents has a positive impact on the earnings and educational attainment of their children.

The greatest gains in terms of employment and earnings are from increased educational attainment of those with low education levels. High school graduation in particular is linked to the largest incremental decrease in unemployment. According to Sharpe's study using the 2006 Census of Canada, high school graduates had an average unemployment rate of 5.3% while dropouts had an unemployment rate of over twice that, 12.3%.

Participation rates refer to the number of persons employed or seeking work between the ages of 15 and 64. Only 24.5% of Canadians with no high school participated in the labour force; 51.2% of high school dropouts participated; 69.5% of high school graduates participated; and 76.6% of those with post-secondary education participated. Returns are diminishing, in that the slight increases of 80.1% of those with university degrees and 80.3% of those with advanced degrees represent only slight increases. The 2006 Census showed average employment income as \$30,616. For high school graduates it was \$26,220, double that of high school dropouts. For those with a college diploma the average employment income increased to \$32,539 and for those with a university degree \$42,343.

	1969	1991	1996	2006
Status Indians who have completed high school	800 persons (CSJ 2012)	150,000 persons (CSJ 2012)	31% (CCSD 2000)	52% (Sharpe 2009)
Status Indians enrolled in college or university	200 persons (Sharpe 2009)	27,000 persons (CSJ 2012)		



Aboriginal Canadians in the 2006 Census had lower educational attainment than non-Aboriginal counterparts. While 23% of Canadians overall do not hold a degree, diploma, or certificate, 43.7% of Aboriginal people do not hold a degree, diploma, or certificate (Sharpe 2009). This is also reflected in significantly lower incomes, higher unemployment rate, lower participation rate and lower employment rate than that for Canada on average. Counter-intuitively Aboriginal people with high school completion or higher had significantly better labour outcomes than their non-Aboriginal peers, on average (Sharpe 2009).

While Sharpe and his team state that improving the social and economic outcomes of the Aboriginal population is a moral imperative and sound investment, post-secondary, training, adult basic education, K-12 education school supports and small business development programs exist and were in existence at the time of the 2006 Census, the source of data for much of the background that follows. What is provided is making a difference, slowly, but not enough of a difference to close the gap between Aboriginal and non-Aboriginal populations in terms of educational attainment and earnings from employment.

Saskatchewan is enjoying a resource boom and employees are in demand, however First Nations people have poor rates of labour participation. Professor Eric Howe of the University of Saskatchewan set out to determine the impact on provincial GDP if the labour participation of Indians in Saskatchewan were increased (Howe 2012). Saskatchewan employed almost 2/3 of its total population of labour force age: 494.4 out of 767.7 in 2006. If it had employed its First Nations population at the same rate as its total population, it would have had another 16,100 employees in 2006. The First Nations population is growing (Statistics Canada, 2011). If Saskatchewan employed Indians in the province at that same rate as its total population, it would have another 25,100 workers by 2031 (Howe 2012)



The provincial income and product accounts such as GDP makes use of total wages/salaries, and labour income for all residents of the province. In 2010 that amount was \$25,389M (Howe 2012). Saskatchewan's total employment in 2010 was 524,300 persons so the average annual rate of pay per employee was \$48,425. Using a growth rate of 0.75% per year, with the average wage rate in 2012 \$49,154, if Saskatchewan had employed First Nations people at the same rate as its total population, earnings in the province in 2012 would have been \$880M higher (Howe 2012). The increase in earnings would have multiplier effects on the provincial economy. The long-run effect of increased earnings on GDP in Saskatchewan shows real GDP increased by \$1.18.11 for every dollar in earnings. If Indians in Saskatchewan were employed at the same rate as Saskatchewan in total it would add to provincial real GDP over 20 years an amount with a discounted present value of \$20.5 billion.

Benefits from increased First Nations labour participation might include cost savings, as increased earnings have been shown to improve health, increase longevity, and improve the quality of childcare. Increased earnings would also increase government revenue through taxes and reduce government expenditure in a number of ways such as lowering rates of criminality and welfare dependency (Howe 2012).

The employment situation of Aboriginal people, particularly Indians is symptomatic of larger problems

that have high costs in addition to the loss of productivity for the nation. Not all of these costs are measurable. Suicide is the leading cause of death for First Nations people between 15 and 44

Just imagine, if you will, the state that Canadian society would be in if its unemployment rate was at 80%; if the only ones working were those whose funding came from government programs. What type of social structure do you suppose you would find? Would there be a high success rate in education? What type of alcoholism rate would you have? What about suicides and other social indicators? These are the problems that face Indian communities right now as I speak, and it is because we are experiencing unemployment rates that have never gone below 80%.... It is without a doubt a national tragedy, a national disgrace, and one which Indian people cannot and will not tolerate any longer.

Charles Paul, April 26, 1983, Special Parliamentary Committee on Indian Self-Government



years of age (Health Canada 2009). Risk factors for suicide: depression, hopelessness, low self-esteem or negative self-concept, substance use, suicide of a family member, history of abuse, family violence, social isolation, and poor performance in school (AHF 2007).

Profound disruption of economics, power, and culture at the cause of global changes which include the arrival of settlers from other lands have had consequences for Aboriginal people, communities and as a result for Canadians as a whole. The 1966 Hawthorn Report puts it this way:

A widely accepted popular explanation... for the failure of individual Indians and bands to develop economically, could be lumped under the general heading of personal disorganization. Under this heading would be included the various combinations of attitudes, behaviour patterns and limitations of character and personality that prevent the individual and the group from making an effective adjustment to, and participating successfully in, the larger society, with consequent economic deterioration, dependency, and demoralization.... Presumably, social disorganization is unavoidable in the process of economic development in so far as it involves transforming a culture and social organization based on a relatively static, localized subsistence economy into one that is dynamic, high-income, large-scale, and complex in its operations (Hawthorn 1966, p.127).

Colonialism and its side effects in combination with the dramatic changes of globalization may be more at fault than any authority, White or Indian; it remains everyone's business to ensure a better future as the current scenario is too expensive - whether valued in public dollars or quality of life.



4.4 SUMMARY

There is a cost to the previous and current non-inclusion to Aboriginal population and Canadians as a whole; there is a further cost of the situation progressing and capturing the potential benefits to be reaped by all or becoming an increasing cost to society. Without blame or judgement of wrongdoing, it just is not good business to pass on the opportunity to reap the benefits of greater inclusion of First Nations people in the labour force, the economy, and the boardroom.



5. TECHNOLOGY, INFRASTRUCTURE, AND INNOVATION

TECHNOLOGY

infrastructure, virtual and physical connections to community and the world are a factor in social and political outcomes, level and barriers to innovation are a major economic factor tied to lands

First Nations have opportunities just like any community in the new digital information age. Rural and remote First Nations can strengthen control and improve services and development, with the challenge that those most in need of such innovation are often the most marginalized in terms of inclusion in the regional and national economy. Innovation on the global competitive scale is unlikely in First Nations contexts where innovation is focused on how some communities can approach a western first world quality of life standard.

5.1 INFRASTRUCTURE

On many reserves there is no comparability to the infrastructure we take for granted in most of rural or urban Canada. A 2011 June Status Report of the Auditor General of Canada highlights the ongoing appalling conditions on First Nation reserves, the stark contrast between conditions of First Nation reserves and other communities and the federal government's repeated failures to address the deplorable conditions on First Nation reserves. "It is clear that living conditions are poorer on First Nations reserves than elsewhere in Canada. Analysis by Indian and Northern Affairs Canada (INAC) supports this view." (INAC was the predecessor government body to AANDC). The report points to four key structural barriers that "severely limit the delivery of public services to First Nations communities: lack of clarity about service levels, legislative base, and an appropriate funding mechanism, and lack of organizations to support local service delivery. For example, no levels of government or First Nations have a regulatory regime to



govern drinking water. A significant risk to the safety of drinking water was found in three quarters of the drinking water systems on reserves according to AANDC reports.

5.2 INFORMATION AND COMMUNICATIONS TECHNOLOGY

Residents of remote First Nations lack access to quality and preventative health care in the community. Rates of heart disease, diabetes and mental illness above the national averages result in high costs when preventable conditions become acute. Despite nursing stations in many communities, residents must often be flown south for treatment in urban centres. KO Telemedicine (KOTM) a sustainable First Nations Telemedicine Program has delivered clinical, educational, and administrative services via videoconferencing and advanced information communication technologies to First Nation communities in Ontario for over a decade, with lowered costs of service delivery and improved health outcomes with lower cost to the health system- and presumably providing the basis of a greater contribution of the healthy individual to their community and economy. Connectivity provides economic infrastructure whether marketing cultural tourism, marketing of goods and services, or participating in the digital knowledge economy.

Through the early 2000s two distinct streams of events strengthened the Internet literacy within First Nations communities, even those in rural and remote areas. First was the development of community based and owned infrastructure and advocacy and the second was the dramatic participation rate of First Nations people in social media and other sites.

There is little profit to be made in development of internet services in rural and remote First Nations, which could have resulted in lower internet literacy and decreased opportunities. Services such as K-Net Services in Ontario and Northern Indigenous Community Satellite Network in the Northwest Territories developed internet services by and for the people. The First



Nations Technology Council in BC states that First Nations desire to be more than customers and consumers, they intend to be service providers, managers, and owners.

There is a considerable history of rapid communications in First Nations' communities which is sometimes referred to as the "moccasin telegraph". The uptake on social media and instant messaging communications was rapid in First Nations communities. Even in the 1970s it was villages only accessible by plane, boat, or winter roads that developed community radio and television stations helping to create the national network that became Aboriginal Peoples' Television Network. The Idle No More movement in the winter of 2012 and spring of 2013 used long developed methods with recently acquired social media tools and skills to organize and gain attention to the unhappiness of First Nations, although the message often comes across as scattered to average Canadians unaware of the economic and political histories of Indians.

Funding for band office operation is limited, and modern information communications and administration practice requires skilled staff and appropriate infrastructure. Bands with modern administrations must use own source revenue to provide appropriate accounting, policy development, ICT infrastructure and software capacity. This lack of administrative efficiency and infrastructure impacts programs, record keeping and reporting, service standard times and access to information to support claims. While use of technology has skyrocketed in First Nations communities over the past decade, when it comes to connecting and communications, data and document management have not always been priorities with consequences for governance and program delivery.



5.3 ABORIGINAL TRADITIONAL TECHNOLOGIES

Western systems and concepts often conflict with Aboriginal traditional knowledge (ATK) including intellectual property rights (IPR). IPRs foster economic activity, grant monopoly rights and secure property from intellectual theft by others. The qualifications necessary for an IPR generally prevent Indigenous Peoples from owning their knowledge, yet allow for third parties to claim, patent and benefit from ATK (AFN 2012).

IPR are to support the commercial use of knowledge and poses serious concerns related to the collective ownership, preservation, and protection principles of ATK (AFN 2012). There is an originality requirement that intellectual products must be unique, not in the public domain. The fundamental challenge lies in determining whether or not the two different concepts of IPRs and ATK can be merged.

Simply integrating traditional knowledge into the intellectual property rights system has resulted in resistance from aboriginal populations. Aboriginal people are concerned about the appropriate use and protection of their knowledge. Many have considered knowledge gathering activities as another form of colonization and exploitation, where this knowledge can be exposed, abused, or used against Aboriginal empowerment.

There is real concern that industry can access IP protection for ATK based inventions. IP exists to exclusively pursue individual economic benefits, not for cultural preservation that is held collectively by a community. ATK is contrary to current IP laws and they are in direct contravention of each other. In addition to this, patents provide legal protection for a maximum of 20 years. Thereafter, the knowledge will become available within the public domain (AFN 2012).



6. LANDS ANALYSIS

LAND

land is the foundation of social variables of a community, determinant of infrastructure, primary economic development factor and political basis of authority for a government

The effect of protecting Aboriginal groups by defining the right to Aboriginal lands as collective has the effect of negating the value and opportunity of the lands. What if First Nation lands had market value, and First Nation and their members could participate fully in the economy? If the concept is simply to distribute allocations of land to households or members and absorb the land into surrounding municipalities, the opportunity has been missed. More important is authority and power of those lands. Authority and power may be more profitable and useful than collective ownership of lands, but this can occur whether lands are reserve lands or fee simple lands. Aboriginal title and certainty over that title is important, particularly where disputes continue regarding ownership. Where ownership is certain, for example reserve and settlement lands, the right of self-government is the tool for First Nations to act like and actually be governments, whatever the decision of members regarding the status of their lands- not for control of lands, but to assert authority as any government with a suite of legislative powers.

6.1 ABORIGINAL TITLE AND CERTAINTY

The *Canadian Constitution* recognizes and affirms existing Aboriginal rights and title, whether or not there is a treaty in place. However, in the absence of a treaty, there is uncertainty as to the nature, scope, and content of those rights and even who holds those rights. A fundamental goal of a treaty is to achieve certainty. This means the ownership of lands and resources and rights to use land and resources will be clear and predictable. In the absence of a



treaty, ongoing uncertainty has sometimes delayed or disrupted economic activities, resulting in lost investment estimated to be in the billions of dollars. Litigation in the courts over Aboriginal rights and title is very time consuming and costly.

Treaties allow for increased certainty for business investment in the province by clearly setting out the rights that First Nations will exercise under the treaty, as well as establishing distinct relationships between federal, provincial and First Nation laws. There will be more opportunities for business partnerships with First Nations, and this increased economic activity can benefit local, regional, and provincial economies.

Indian lands in Canada, like much of those in the developing world, are disconnected from the market system, without access to title, credit or equity. In Egypt, for example, the poor control some \$245B in assets. For these poor Egyptians without clear legal title to their assets, their buildings and land cannot be used as equity to provide for credit. Such lands have an estimated value of US\$ 10 trillion worldwide. In the modern system these are invisible assets with no market value (De Soto, 2006). That is the case with the majority of people in the world, including Status Indians living on reserve in Canada. Status Indians are unable to mortgage assets at the cause of Section 89 of the *Indian Act*. Section 89 of the *Indian Act* continues to prevent the mortgaging of Indian lands and the property of Indians who live on reserve. Modernization has transformed all groups and all nations, but Aboriginal rights relate to continued practice and community bonds that predate modernity. This has a considerable incompatibility with globalization and building modern economies. Remote reserves have the poorest living conditions, with no roads linking them to the rest of Canada.

Success in a globalized environment involves partnerships and strength in numbers. Aboriginal nations were divided into “manageable” fiefdoms of a few hundred to a few thousand



members. Nations such as the Dakota, Dene, Ojibway, and others were fractured by national, provincial, and territorial borders and in that process lost their historical partners. The riches of a First Nation are locked up in collectively owned land that is stripped of market value by the very instrument that is meant to protect the riches of the First Nations.

6.2 LITIGATION, CLAIMS AND PROCESSES

The Musqueam Indian Band had about 416 hectares of prime land in the Southlands neighborhood of Vancouver. In 1958, the federal government, on behalf of the band, made a deal with a golf club to lease 162 hectares of land. Indian Affairs obtained consent from Musqueam, ensuring that the band would receive income from the lease. After obtaining their consent from the US Department of Indian Affairs DIA, representatives renegotiated the agreement and leased the land on substantially different terms from what had been agreed to with Musqueam. Musqueam had said they were going to make a profit from the lease of 75 years, with rents that meet fair market rates every decade. The agreement was renegotiated to allow the club to pay only 10% of the market rent of the land. These changes were kept secret from the Musqueam for 12 years until revealed to then Chief Guerin in 1970. The Court ruled that the Crown had neglected its fiduciary duty to the Musqueam, affirming Musqueam's rights, but also setting a precedent in the recognition of Aboriginal rights in Canada. The Guerin decision acknowledged that Canada (the federal government) has a trust-like relationship, or “fiduciary duty” towards First Nations, specifically in regard to reserve lands. In other words, the federal government has the obligation to act in their best interest. The concept of “fiduciary duty” has gone on to inform other Aboriginal rights cases as well as the protection of Aboriginal rights under Section 35 of



the Canadian Constitution. The court held that the Crown had breached their trust, and after many appeals the band was awarded ten million dollars.

In 1967, Frank Arthur Calder and the Nisga'a Nation Tribal Council brought an action against the British Columbia government for a declaration that aboriginal title to certain lands in the province had never been lawfully extinguished. At trial and on appeal, the courts found that if there ever was aboriginal title in the land it was surely extinguished. The Supreme Court found that there was indeed an aboriginal right to land that existed at the time of the Royal Proclamation of 1763 (Supreme Court of Canada, 1973).

There are broadly speaking two processes for four types of claims. The processes are litigation and negotiation. Over the past decades the courts have been prone to respond to Aboriginal claims by requiring the conflicted parties to negotiate, merging the two. The four types of claims cover land (comprehensive claims), specific breaches (specific claims), authority (self-government) and those that do not fall into the three former categories (special).

Comprehensive claims are assertions of title to lands and natural resources and often include assertion of inherent right and authority (self-government). Where a First Nation has a treaty, land has been duly surrendered and is certain. Claims regarding a lack of adherence to the treaty are dealt with under the Specific Claims stream.

Land claim agreements are each unique. First Nations find extinguishment and surrender language offensive, so modern treaties modify Aboriginal title. In the case of the Nisga'a agreement lands were no longer reserve lands, which made most of the *Indian Act* inapplicable. Also gone was the tax exemption. The Nisga'a government can create a land title and registry system, and it will continue to have authority over its lands, even if they become lots and are sold.



Specific claims allege unfulfilled obligation of a treaty or agreement or a breach of law by the Crown (Federal Government). This can include Treaty Land Entitlement claims (failure to follow the land entitlement formula in a treaty), unlawful surrender, mismanagement of funds, and other breaches.

The 1995 *Inherent Right Policy* provides for negotiating self-government arrangements over land. Provisions of the *Indian Act*, including those regarding land, can be displaced by an authority which recognizes Aboriginal authority over land. Section 89 preventing the mortgaging of reserve lands and interfering with the building of wealth for on-reserve Indians, remains.

The First Nations Lands Management Act in Canada allows First Nations to control their own lands while retaining collective ownership (in trust) and benefits on reserve. This sort of global coherency with local congruency has strengthened the few First Nations that have taken it up, but the requirements can be daunting- a ratification where every member who does not vote counts as no, for example. Claims processes exist, but the length of time, costs, difficulty in documenting historical events, all have led to many impasses. The alternative is court. Decisions are applicable to all similar situations, creating dual policy making tracks which are further irreconcilable with certainty over land and individual rights.

6.3 CONCLUSION

Uncertainty regarding land title and use impacts business in Canada, particularly with regard to natural resource development. Natural resources are a major driver for the national economy. The settlement of rights and ownership of land facilitates business by establishing protocols, standard and rules and certainty with regard to requirements and regulatory process.



Where Aboriginal land ownership and use are settled, good governance can be good business. France, for example, does not require ownership of all land in the country in order to ensure that France is the land of and for French citizens. Individuals can buy the land, even individuals from other countries. Through governance- taxation, regulation, and administration- a nation benefits from its lands, as do the individual landowners. This is the traditional method of reconciling nationhood and its land interests. First Nations in Canada have never had access to this normal concept of land and nationhood which allows for participation in the economy. The reserve could be surrendered but remain under the governance of the First Nation in that normal way that governments have land and private ownership. Really, which is the anomaly?



7 WHITECAP DAKOTA FIRST NATION

Whitecap Dakota First Nation provides a real-life example of the fusion of traditional Dakota (Sioux) culture, good business, and good partnerships. By reviewing the accomplishments and plans of Whitecap Dakota First Nation we can see the great potential of maximizing inclusion of First Nations in the broader national economy and capturing greater value at lower costs. The strengths and success of this First Nation were achieved despite legal and economic barriers; understanding the full capacity of First Nations to contribute and participate in the national and world economies requires understanding this gap.

Whitecap Dakota First Nation (Whitecap) is located just 26 km south of Saskatoon, along the South Saskatchewan River and received reserve status in 1881. Over the past twenty years Whitecap First Nation has demonstrated a strong record of financial management, dynamic economic development, prudent lands management and stable governance. Their strategy could be summarized in the First Nation motto, “strengthening community, building opportunity”.

7.1 POLITICAL

Whitecap has one of the smallest councils of a First Nation in Canada, with one Chief and two Councillors. Elections occur every three years under their custom election law. There has been considerable stability in the governance of Whitecap Dakota First Nation. Chief Darcy Bear has succeeded in several consecutive elections and has been Chief for over twenty years.

Whitecap First Nation officials operate outside the *Indian Act* for their election system and have implemented their own Custom Election Act. They have been a custom band since 1889/02/11. The First Nation is currently in the process of developing their own membership



code, a First Nation Constitution, various policies, and legislation to support governance. While they do not have formal self-government several Whitecap laws have been passed (for example, with regard to K-12 education) which, while not recognized by federal and provincial governments, is not impeded by that lack of recognition as Whitecap manages the elementary school.

Chief Bear has described the strengthening of financial governance structure and addressing infrastructure as critical to becoming attractive to potential partners (Bear 2013). The Dakota have a rich history and partnership strategies, as Chief Bear described:

In fact, the word “Dakota” actually means ally. A peaceful, cooperative approach with reciprocal gain was the key to their success. This applies to business and to creating economies as well.

When Chief Whitecap was approached by John Lake (the founder of the settlement that became Saskatoon) to seek a site for an administrative centre of their Temperance Colony he assisted Lake. The practice of building allies and helping others has been passed from generation to generation. My grandfather used to say, "when someone asks for help, you help them, because one day you may need help yourself." Chief Whitecap's historic meeting with John Lake on August 6, 1882 lead to the humble beginnings and eventually the birth of the City of Saskatoon. I tell the business community in Saskatoon that Chief Whitecap planted the seeds for our primary market (Bear 2013).

A partnership begun in 1999 between Whitecap and Saskatoon Fire Protective Services (SFPS) and Saskatoon City Council on fire protection has trained volunteer firefighters, provided back-up services to Whitecap, and leased and maintained trucks. Two Whitecap volunteer fire fighters became employees of SFPS (Bear 2013).

Whitecap is a member of the Federation of Saskatchewan Indian Nations and a member of the Saskatoon Tribal Council. Whitecap First Nation has demonstrated excellent working relationships with other federal departments, the province and municipal authorities and local



businesses, including education initiatives and development of the Saskatoon to Diefenbaker Lake tourism corridor.

7.2 ECONOMIC

Core transfers from Aboriginal Affairs and Northern Development (AANDC) are a fraction of annual revenues, which include project contributions from the provincial government, land tax revenue, Whitecap Community Improvement Fee (GST equivalent tax), rents from housing and business income.

The First Nation owns or is a partner in several businesses located on reserve including the Dakota Dune Golf Links (an 18-hole championship golf course), a convenience store and gas bar. The Dakota Dunes Casino, operated by the Saskatchewan Indian Gaming Authority, attracts 5 million visitors per year to the location.

The First Nation is looking to increase the economic development of its tourism sector by developing a hotel, cultural and retail industries. It is working closely with the province, the City of Saskatoon, and surrounding municipalities on its participation within a tourism corridor located between the City of Saskatoon and Diefenbaker Lake.

The \$26.5M, 161 room hotel and spa project with partners is planned for construction in 2014 (Canadian Press 2012) and is likely to create 150 additional jobs in the community. Complementing the casino and the CPGA rated golf course, it will provide employment and advancement opportunities in the long term and construction, labour, and project management position in the short term.

A business park with retail and light industrial potential is planned, with 250 acres available near the highway, casino, and convenience store. A business incubator is already in operation to



kindle entrepreneurship in general, but also to ensure that members and residents can develop businesses for the planned park.

In 2003 Whitecap passed a property tax bylaw to create a consistent and ongoing revenue stream for the community. In May 2004, the community passed a by-law imposing a 7% tax on the supply of tobacco products, fuel, and alcoholic beverages. Whitecap uses this revenue to fund community improvements. Canada Revenue Agency signed an agreement to collect this tax on behalf of the First Nation. The First Nation took a further step on July 28, 2008, when they received formal approval from the Governor General to enact a law to impose a Goods and Services Tax (GST) on its reserves. Soon after, Whitecap entered tax administration agreement with Canada Revenue Agency to collect the GST. This includes the collection of GST from sales at First Nation owned businesses such as the gas bar as well as businesses situated on leased reserve land, such as the Dakota Dunes Casino run by the Saskatchewan Indian Gaming Association.

Whitecap Dakota First Nation was denied participation in the treaty process when the other bands in the area adhered to Treaties. Federal officials in the west, unaware of promises made by the federal officials in the east fifty years before in the War of 1812, considered the Dakota to be “American Indians”. There was no border, Canada had not yet asserted authority over the territory where they settled, and in fact they had been loyal to the British since 1763. There have been three large moves in the history of Whitecap’s ancestors, mostly due to military alliance with the British, encroachment by the Americans, and a lifestyle which followed the buffalo as they roamed.

At the time of British assertion of sovereignty, about 1763, the Dakota still lived near Lake Superior. The move south and west to what is now Minnesota was made due to the Dakota-



Ojibway wars that continued until 1789. These lands were under the protection of the British and known as “Indian Territory” until it was ceded to the Americans after the War of 1812 in the Treaty of Ghent³². The Dakota, allies of the British, had a formal promise of land protection from the British in the form of peace and friendship treaties and a 1764 meeting regarding the implications of the *Royal Proclamation*. After the Treaty of Ghent, the Dakota, who had won the battles on behalf of the British into their territory at Prairie du Chien, discovered that the lands would be given over to American authority. Under the Treaty of Ghent, all lands were to be returned to their rightful owners prior to the War of 1812. While the Americans had claimed the lands west of the Mississippi River where the Dakota villages were, there had never been American presence in this territory. French continued to be the European language of choice, and kinship tied Quebec to many of the Dakota people. Dakota Chief Wabasha had a meeting with federal officials on Drummond Island in 1816 where he made clear his confusion, frustration, and anger that the Dakota lands were given to the enemy despite their long-standing loyalty to the British and success in battle.

What happened in 1862 and how they found themselves in western Canada. Half of the allotment of the treaty bands in the same area.

The Dakota continue to assert that they had an inherent right to adhere to treaty, and to be comparably treated as Indians under treaty in their region. After many years in litigation, negotiations with regard to their claim have begun.

³² Under British Law, the Americans passed the Northwest Ordinance laying claim to the Dakota territory in what is now the United States in July 1787. Many have seen this American legislation as beyond the powers of the Constitution and have argued that this land should have remained as part of British territory.



7.3 SOCIAL

The First Nation reports 610 members as of December 2013, a significant increase since the recent population study for the Community Plan by AECOM. This study reviewed federal and provincially determined data as well as internal population counts and calculated an annual growth of 4.3% over the past 5 years and 4.0% over the past ten years (AECOM 2013). In 2010 Whitecap had 521 band members, with 242 or 46.4% of membership residing on reserve (AECOM 2013). This would indicate an annual population increase of close to 5.3% over the past three years. Approximately 68 non-band members (some members of First Nations, some who are not Indians), or 21.9% of residents, also resided on reserve (AECOM 2013).

The population is young. About 50% of residents on the reserve were under 20 years old, with the under 5-year-old population at 20% of the total reserve population (AECOM 2013).

Most adults work and there is a considerable need for full and part-time childcare. Daycare on reserve offers services at a price competitive with similar services in nearby Saskatoon, with a generous subsidy for children who are band members. The school runs an extracurricular program every day until 4pm with an optional user pay After Four program which can provide childcare until 5pm.

There are proportionately few seniors on reserve. There is interest in building senior housing that would support assisted living, as currently seniors who require support move to care facilities in Saskatoon. This population would increase if options such as supported seniors' housing were available on reserve (AECOM 2013).

Since 1993 they have reduced unemployment rates from 67% to a 2008 level of 8 per cent and as of 2008 had only 14 Income Assistance clients (AECOM 2013). Low-income assistance rolls and on reserve employment opportunities combine with a great demand for



labour in the province. Saskatchewan currently has over 5,000 vacant jobs and has released a Labour Market Strategy and is projecting 120,000 more workers will be required here by 2020 (SLMC 2009).

The community has its own elementary school providing kindergarten to grade 6 education. Students in grade 7 to 12 are bussed to public schools in Saskatoon. Whitecap has had an ongoing partnership with the Saskatoon Public Schools (SPS). Beginning with a tuition agreement regarding children attending school in the city, the partnership began to evolve in the 1990s (Bear 2013). To ensure Whitecap attracts quality teaching staff who can access professional development activities, support and advancement/transfer opportunities secondments have been used to staff teaching and principal positions, creating a network between the partners on the ground. An Aboriginal Liaison Worker ensures a smooth transition into the city schools after grade 6 (Bear 2013). The education partnership between SPS and Whitecap is an excellent example of T-shaped management, merging activities towards shared objectives to support students.

Most adults in the community have completed grade 12 (AECOM 2013), however for the small number that have not, a partnership with Great Plains College provides high school completion opportunities on the reserve.

Approximately 150 band members access Post-Secondary Education funding, and many others have completed post-secondary education (AECOM 2013). Said Chief Bear:

We used to have surpluses in our Post-Secondary Education (PSE) budget. In the last three years we have had more students than funding from AANDC and there is a deficit in PSE. We see that as an investment. We are fortunate to have our own source revenues to invest in our post-secondary students (Bear 2013).



Art and culture are important manifestations of identity which may support community building and confidence. Whitecap championed partnerships to build two statues of Chief Whitecap, the original leader of the current community. The statue of Chief Whitecap with John Lake, founder of the Saskatoon temperance colony is a well-known landmark in downtown Saskatoon. Plans are progressing for the commissioning of a statue in Saskatoon commemorating the Dakota role in the War of 1812.

Art and culture are also local and personal. While many people have cultural artifacts or locally made traditional crafts or art in their homes, the health centre completed in 2011 and the school buildings contain Dakota features and stylizations. Annual art contests at the elementary school become a calendar that is given to every household in the community and partners. There is interest in increasing the visibility of culture on the reserve, and the future might include more dedicated programs and partnerships such as a heritage centre.

7.4 TECHNOLOGY

Whitecap has infrastructure comparable to Canadian towns with paved roads, surveyed lots, public lighting, clean drinking water, a small convenience store and gas bar and other amenities. Chief Bear still recalls working with his grandfather at a young age to cut wood for heating and hauling water from the well. He described the challenge of building infrastructure as first being one of financial management and accountability. As no government transfer is provided to build comparable infrastructure on reserve, they had to fund it and build it themselves. Considerable expertise was built over many projects, and in fact the First Nation became a contractor for the province in the expansion of the highway running through the reserve.



There are 145 housing units on reserve (AECOM 2013) consisting of two apartment complexes, two residential areas with 1-6 bedrooms and a small amount of housing in the rural areas of the reserve.

The apartment complexes with 24 units in total were recently built on the reserve in partnership with the province of Saskatchewan. It may be the first instance in Canada of a province participating in on-reserve housing. The rent is set at market rates which are still more affordable than rental rates in nearby Saskatoon, and anyone is free to apply for housing in these apartment complexes.

While the average household size is 2.6 this is somewhat misleading. A recent community survey indicated that there were a handful of houses with more than 6 persons or two families residing in them (AECOM 2013). Housing is comparable to that in the City of Saskatoon, and further expansion of housing stock for rent or for sale using a 99-year residential land lease is planned so that the community can expand, members can come home and workers of businesses on reserve can live near their place of work.

7.4.4 Internet Access

In 2006 Whitecap negotiated a deal with the provincial crown telecommunications corporation (SaskTel) to bring high-speed internet access into their community. Most persons in the community are accessible by text or social media, usually through the use of a smart phone rather than computer. Social media use in the community and interconnection between residents is high, particularly on platforms such as Facebook, which is used to find rides to nearby Saskatoon, announce community events and promote local program. Not only is Whitecap Dakota First Nation well connected to each other, through family, work, and organizational connections the community is also well connected to other First Nations in Saskatchewan.



The First Nation has a website at <http://whitecapdakota.com> which includes information for potential partners as well as members and residents. An additional site for members only, WaPaHaSka Wotaniin at <http://www.wdfnwotaniin.com> provides job listings, live counts of band membership and a community text alert service.

7.5 LANDS

Whitecap has a land base of 4,681 acres of both reserve and fee simple lands (AECOM 2013). In September 2003, Whitecap First Nation signed an *Individual Agreement on First Nation Land Management* and was fully operating under the *First Nations Land Management Act (FNLMA)* since January 2004. This sector-based form of delegated self-government has allowed the band to creatively leverage economic development in its community. When a self-



government agreement is negotiated land will be fully under the control of Whitecap. The difference will not be noticed by most band members as it is a legal subtlety. Under the *Indian Act*, Indian Affairs has authority over reserve lands, and decisions or transactions are conducted on behalf of the band. The delegated authority over land under the FNLMA delegates these powers of the Minister of Indian Affairs to the band, but it remains the authority of the Minister of Indian Affairs. Under a self-government agreement the authority of the Minister is used to recognize the inherent

right of the First Nation to have authority over their own lands. The source of the authority is both the First Nation and the federal government. For Whitecap, the law developed under FNLMA will probably remain the same, but the authority will be their own under self-government.



They have developed standard commercial land leasing terms to provide third party investment opportunities. Administration used independent land appraisals to set competitive commercial land lease rates. Lots are surveyed and zone, and a land use plan guides development.

Expansion is limited on the east side by the South Saskatchewan River and on the west side by the Dundurn military base. Much of the land in low lying areas of the reserve is prone to flooding, which creates some challenges.

7.4 OUTLOOK AND PROJECTIONS

Transparent and accountable governance and administration has provided the base for economic and social development, and economic and social development have served to support each other and to further increase credibility. Technology and land become critical supports to other areas, whether the space to build community infrastructure or efficiencies in program delivery and service quality.

The development of land use and authority over on reserve lands supports the political agenda of autonomy, which the Harvard American Indian Project has shown to be the most critical element in improving conditions in Aboriginal communities.

Whitecap overcame lack of infrastructure by building it themselves; they prepared themselves for partnerships and became “open for business” with external partners while continually improving community services. Supporting skills and learning for members throughout the lifecycle while pursuing external economic partnerships has created an upward spiral of success, but also population and density. Success may bring a new set of challenges given dramatic growth rates and economic changes, but it seems likely that Whitecap will simply seek out



experts and partners with mutual objectives to form beneficial relationships in order to strengthen community and build opportunity.



8 CONSIDERATIONS

8.1 DISCRIMINATION

There is a history of isolation and structural exclusion, and it is difficult to reconcile the existence of a race based legal framework within Canada. Decisions such as the 1954 US Supreme Court's decision outlawing racial segregation in the public schools seem self-evident- why would anyone defend the doctrine of separate but equal in this day and age? And yet the Indian Act remains and continues to isolate First Nations and their members simply by being different, simply by being separated from the everyday Canadian experience. Divisions based on race discriminate against all; in addition to the barriers created for Indians is the legal vacuum on reserve for non-Indians who pay full tax without representation or appeal rights.

8.2 COLLABORATION

Morten Hansen, in his 2009 book *Collaboration* refers to the removal of four barriers and the mobilization of three levers to facilitate good collaboration.

There are three levers proposed to tailor solutions in collaboration: unification, T-shaped management, and networks. Unification can be described as a common language, using the language of unification (i.e., “we” rather than “you”) and the identification of common goals. T-shaped management can be described as achieving mutually beneficial goals that can be accomplished collectively and with partners and a Y axis of the mandate and goals of an individual group or organization. Through language and modelling, T-shaped management clarifies that the individual’s contribution is towards the group objective of the horizontal plane. Achieving a common T-shaped management approach between stakeholders in Aboriginal issues requires in many cases considerable dialogue, building of trust and education regarding First Nation realities.



8.3 GOVERNMENT

The governments are unlikely to disagree that there is an imperative to reduce barriers to the comparable capacity of First Nations to participate in the economy and enjoy a Canadian standard of living... It is more difficult to determine how to close infrastructure and social gaps. Further work at every level of government and within business sectors regarding interests in and how to include First Nations is required. Revisiting the discrimination underlying the *Indian Act* and whether it is part of Canada's future is a long-term dialogue that must develop between the federal government and First Nations.

Lean strategies of ensuring value to the stakeholder with regard to transfer payments and program delivery- including First Nations and taxpayers- could be useful as main criticisms approximate maxims such as “the waste of waiting” which are well addressed by the approach. More efficient processes are also required with regard to First Nation claims.

Canadians operate under many misunderstandings and are poorly educated about the realities of First Nations in Canada. Considerably more effort is required to include the current realities of Indians in the school curricula so that Canadian society is more aware and literate with regard to the Aboriginal relations framework, especially how the *Indian Act* system is different from off-reserve.

8.4 INDUSTRY

It is not that business does not care. In the first place, the opportunity inherent in the undercapitalization of First Nations is not on the radar of many Canadian corporations; that said, there are many corporations who contribute to solutions through charitable and other donations.



As the legend goes, the Canadian Council for Aboriginal Business (CCAB) began in the spring of 1982 when Murray B. Koffler (founder and co-founder of Shoppers Drug Mart and The Four Seasons Hotel) and associates were inspecting a new hotel site. A family was found in the basement living in the building materials. Mr. Koffler was stunned but was told that Aboriginal homeless was a common sight. Koffler undertook some research on Aboriginal people in Canada and returned to his home in Ontario to hold a one day think tank with prominent individuals. Paul Martin and Edward Bronfman were among the group that founded the non-profit organization (CCAB 2013). It states on the CCAB website that: *“For decades, corporate Canada had assumed that government was in control of the situation and therefore eschewed any responsibility for helping Aboriginal people to participate in the mainstream of this country’s commerce.”* The CCAB thinks there is a case for business to build skills and develop capacity while educating business about Aboriginal issues and working to improve economic self-reliance of Aboriginal communities while assisting corporate businesses. The CCAB offers certification in Progressive Aboriginal Relations for companies interested in building relationships and the Certified Aboriginal Business program which verifies aboriginal businesses. The effort is valiant, but the challenge is vast and more efforts, projects that work and supports are required, not the least of which is understanding in general Canadian society but also in the business community regarding the technicalities of the First Nations legal, social, and cultural framework.

8.5 FIRST NATIONS

There is more than one path to success for First Nations seeking to participate in the national economy and perhaps even compete globally. Perhaps First Nations can hedge bets on future directions by seeking competitive advantage of differential treatment under the *Indian Act*



while pursuing mainstream authority and economic development. Despite the lack of coherence of the *Indian Act* with the modern world, any attempt to overhaul, repeal or replace it will require considerable consultation and troubleshooting in the current political climate.

Readiness for business and economic development requires accountable governance, autonomy, and solid financial management. It can be done under the *Indian Act*, but some First Nations will need assistance to make up lost years of capacity building. A collaborative effort is required, but it must overcome mistrust. The mindset of giving must be replaced by establishing mutually beneficial relationships, not further dependencies... but in the meantime, supports are necessary to ensure opportunities for all Canadian people, particularly First Nations people on isolated reserves without roads to commercial centres.

First Nations who are ready to partner externally, supporting the entire lifecycle of their members and residents and building communities from the inside out can expect increased individual and collective returns economically, socially, and politically.

8.6 RECOMMENDATIONS

There is an opportunity for Canada to improve its political, economic, social, technological and land outcomes, as the barriers to First Nations development are barriers to Canada's development. Canada needs First Nations to have authority over their own affairs. Canada needs mutually satisfying relationships between Aboriginal groups, government, and industry. Canadians need barriers to Indian wealth removed. This is a major barrier to political power, social outcomes, and the capacity to invest in technology and land development. First Nation populations are growing rapidly and have the potential to become a powerful force for Canada. The default for First Nation land to be owned in trust by the federal government is a form of wardship which reduces political and economic outcomes. A lack of infrastructure stifles



economic development and innovation. Canadians cannot afford the outcomes related to the status quo of poor infrastructure. There a business case to be developed collaboratively that benefits all.

I began with the question “Why are Indians poor?” Despite the problems with the question, the answer is simply that the structures and authorities that control First Nations are different from those of other Canadians. They create difficult challenges for Indians which decrease access to opportunities and reinforce a lack of capacity under law to retain assets and build wealth. Canadian society is largely unaware of the different legal structures that control the lives of Indians on reserve; greater understanding is a starting point. The business case for a better, mutually satisfying relationship between First Nations and other sectors of society is clear, but the processes to do so are not. While I cannot offer five simple steps or a simple solution, I propose this comprehensive and collaborative strategy: a transformation which requires an examination of everything that we do as business, as government and as individuals, beginning with prioritizing equality and inclusion of First Nations in Canada.



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