



John Borrows

**Seven Generations, Seven Teachings:
Ending The Indian Act**

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SEVEN GENERATIONS, SEVEN TEACHINGS: **ENDING THE INDIAN ACT[□]**

1) Introduction: The Problem

For thousand of years there was no such thing as an *Indian Act*. As First Nations we lived free from its constraints. We observed laws that encouraged us to be wise, humble, respectful, truthful, brave, loving, and honest in our dealings with others. Other people did not define our citizenship. We held our land in accordance with our own traditions. Children and grandchildren lived with parents and great-grandparents throughout the generations without being removed through other's rules. If people from other nations wanted to share with us we worked something out through mutual customs or agreement. If someone from another nation wanted to live amongst us, we adopted or hospitably welcomed them unless they meant harm. When someone died, we memorialized and buried them in accordance with our own laws and spiritual beliefs. Their possessions would be dealt with through long established practice. When it came time to choose political leaders we did so on our terms. We controlled our own laws. Most other areas of our lives were more firmly within our control. Consistent with our own aspirations and ideas we exercised power over commerce, punishment, enforcement, dispute resolution, education and numerous other matters.

The past six generations of my family have not been so fortunate. They have lived under the *Indian Act* and other restrictive legislative provisions. My great-great-

[□] **Professor John Borrows**, Chippewas of the Nawash, Anishinabek Nation, Law Foundation Chair in Aboriginal Justice and Governance, Faculty of Law, University of Victoria.

great grandmother lived through the forerunner to the *Indian Act*, called *An Act to Encourage the Gradual Civilization of the Indian Tribes in the Province and to Amend the Laws Respecting Indians*.¹ One has only to read its title to imagine its negative impact. My great-great grandfather was alive in the next generation when the *Indian Act* was imposed in 1876. He protested. For fifty years my great-grandfather served as a Chief or councilor under the *Act*'s foreign ways. His experience was deeply frustrating, though he kept a positive attitude. My grandfather left the reserve as a young man because he couldn't stand its limitations. It was some fifteen-odd years before he returned. My mother left home on the reserve at 14 years of age, alone, because of how the Indian Agent bullied families on the reserve. Children like my mother were threatened with residential school or other restrictions if they did not submit to his authority. The *Indian Act* kept me from permanent residency on the reserve during my young life. This was discouraging. I was separated from most of my extended family in Canada through non-Aboriginal interference. My cousins and others of my generation who lived on the reserve also suffered. They received substandard education, had limited employment and received inadequate health care. This was largely because their lives were controlled through the *Indian Act*. They were not given the respect or resources to promote achievement in appropriate ways. And in the latest generation my daughters have no right to live on the reserve or participate in community life, again, because of the *Indian Act*.² I am not so sure they would have been separated from their family and ancestral lands if they were born before 1876, when the *Act*'s decay started to permeate our lives.

For my family, it is now the seventh generation since the *Indian Act* was introduced. The seventh generation! This generation holds special significance for Indigenous people. Decisions about the future are not supposed to occur without taking them into account. Unfortunately, the *Indian Act* cuts most deeply at this very point. The *Indian Act* is purposely designed to assimilate us. It is meant to sever the generations. The *Act* is working its purpose, through provisions concerning land, elections, membership, commerce and education. It cuts us from those future relationships. We can not take account of the seventh generation if the *Indian Act* continues to remove them from us.

2) The Solution: The Seventh Generation

We must remember this is the seventh generation! It has been seven cycles since the *Act* was proclaimed. Maybe this generation will take action; they can put an end to the *Act's* cancerous decay. They have the potential to turn us back to healthier patterns. There are prophecies among my people about their gifts.³ In my eyes I can see these ancient promises coming to pass through their efforts. Many are rising up, retracing ancient steps and rekindling sacred ways. They are striving to be wise, humble, respectful, truthful, brave, loving, and honest. Their good qualities could bring the *Indian Act* to an end. I look forward to the day when the *Indian Act* is viewed in its proper light, as a temporary anomaly in the long sweep of our history.

What can I do for and say to my children that may help them get rid of the *Indian Act*? I am of the sixth generation. I can not leave that task to them alone. They are

now of university age. My oldest daughter is twenty and has autism. She teaches me more than I usually teach her: Knowledge alone does not make us human; everyone can grow and progress within the limitations we all possess. My youngest daughter attends Dartmouth College, in New Hampshire, where she is learning more about language, politics, history and the wider world. She is also learning much more about herself and is gaining confidence to meet the challenges that lie ahead. She is only 18 and successfully living by herself on the other side of the continent. I can learn from her courage, autonomy and enthusiasm. So as I ponder how we might put an end to the *Indian Act*, I think about them: the seventh generation.

At the same time I also look for guidance in the other direction, seven generations back. My grandmothers and grandfathers also have something to teach me about eliminating the *Indian Act*. Some of these people came from other First Nations. Others came from Europe and married into our community. Their spouses did not reject them because of their ancestry, even if the *Indian Act* discriminated in that regard. From them I can learn that respect and love are more important than legislation. They are all my Elders, no matter their origin. Their unions placed me here in this land. At the root of my ties to North America and the source of it all is the otter dodem or clan. Our relationship to otter teaches me that healing plays an important role in any positive change.

3) Getting Rid of the Indian Act: Healing and Change

Getting rid of the *Indian Act* will no doubt require change – and healing. Some are addicted to its twisted power, in Ottawa and at home. As long as they are under its influence we are all dependant, including those in Ottawa. Yet some people temporarily benefit from the *Indian Act*'s provisions because they have mastered its central tenets. The federal government benefits from legislating over Indians because it allows them to set the parameters of our lives. This frees them from the harder work of engaging real participation and consent. The *Indian Act* makes it easier to control us: where we live, how we choose leaders, how we live under those leaders, how we learn, how we trade, and what happens to our possessions and relations when we die. They often talk about changing the *Indian Act* to make us more accountable, and create more opportunities and freedom, but their language and underlying direction is largely assimilative.⁴

At the same time the *Indian Act* also captivates some people at home. They also talk about change but their actions do not match their words. They stubbornly stay within its structures thereby reinforcing its reach. I should stress that there are many exceptionally good leaders working under the *Indian Act*. Nevertheless there are too many in our own communities who have also learned how to dominate others by mastering its intricate rules. They may not even be our leaders; they may be band employees, aunties or so-called friends. The *Indian Act* gives them a great deal of influence over us, including matters related to: where we live, whether we think we belong, how we elect leaders, how we live under them, and how we learn, trade and attend to spiritual matters. These strictures allow others to avoid the harder work of having to engage real participation and consent. Their addictive compulsions to power

must end. Those intoxicated by the *Indian Act*'s need to change, both in Ottawa and at home. This change will require healing. It will require us to all be better people.

So, as I think about the seventh generation and my responsibilities from the otter clan I believe the best way to get out of the *Indian Act* is to focus on change and healing, directed towards goodness. I am strengthened in this thought by remembering a recent dream. It took place about three weeks ago, when I finished teaching classes for the term.

In my dream I was gathered with my friends, family and others from school and home. We were in a circle, socializing, singing, dancing and feasting – much like you would find at a powwow. There was much laughter and joy. We were in an open grass field surrounding by majestic pine trees. The smell was fresh, fragrant with the needles from surrounding giants. We visited for a long time until day slowly passed and turned into night. Eventually someone noticed a strange glow being cast over the clearing. When we finally looked up from our entrancing amusements we saw a new light, just over the trees. It was blue, green and white. It came from an object whose upper edge was just barely visible. It seemed to be circular and filled about a quarter of the sky. There was an obvious commotion about this new visitor. We suddenly forgot our conversations and food and tried to position ourselves for a better look. We wanted to see it in full but the pines were in the way. When I finally clambered high enough to see, I gazed over the tops of the trees to a distant horizon. There, on that horizon, was a strikingly beautiful new planet. When it became apparent that this new arrival would create a drastic change in our world there was much anguish. There was anxiety about the future. Most speculated about its meaning and how it got there. A few were even happy, knowing that

this new development signaled long foretold stories about the end and beginning, and they made their way towards it. I joined them. At first I felt happy to go along with this group but as we got closer I felt fear. I suddenly realized I might lose something of who I was in the unknown before me. Even more terrifying, I acutely felt my inadequacies of preparation and courage to meet whatever might be waiting ahead in this new journey. In that moment I understood the importance of being good. I knew this quality was critical to enjoying greater peace of conscience and going forward. I was aware of the distance I still had to travel to arrive at that state. If I was not good, I felt I would not enjoy the place to which we were traveling. I would also continue to feel conflicted about where and who I was. There was much more to the dream, but I feel constrained in relating it further. It was a dream after all, and I feel uncertain about how the rest might be received. In any event I believe enough has been related to convey my point, though, in the Anishinabek way, most of its message will be left unexplained. This methodology allows those who encounter the dream an opportunity to use their agency and learn more through their own subsequent search and questioning. Some will be critical, which is their prerogative. Others might learn from my reflections, which is also acceptable. Dreams and stories often lie at the heart of Indigenous laws and learning, and thus can teach us about how to act in the future, if we want to learn from them. Though the dream had deeper meanings for me, in this case I believe the dream can help me reflect on how to get rid of the *Indian Act*.

4) Goodness and the End of the Indian Act

The point I am attempting to develop in this paper is related to my feelings of hesitancy in the dream. When moving towards an uncertain world I am not always sure if I am on the right track. My caution arises from questioning whether I am 'good' in the way I walk through life. There are so many areas in which I fall short. But I feel like I can not give up despite my inadequacies. If we are going to end the *Indian Act* I believe goodness must lie at the heart of our efforts, despite our inadequacies. Of course goodness is a necessary though not a sufficient condition to bring about legislative change. Political power must be added to goodness to make a positive difference in the world. It should be noted that the *Indian Act* could be rescinded through power that does not rest on goodness. People often exercise authority without goodness, as our experience with modern holocausts and terrorism reminds us. If the *Indian Act* were repealed through a corrupt or authoritarian exercise of power, we would have change, but it would not likely be for the better. It would also not be healing.

Thus, if the *Indian Act* is going to be eliminated in a way that benefits First Nations people, goodness must lie at the root of such change. Furthermore, it is not enough that the individuals who bring about this change are good. If the rest of our people are living in ways that significantly depart from goodness then any change to the *Indian Act* will surely be fruitless. Legislation is the shell – spirituality, morality and ethical teachings and actions are the core of any healthy community. We could have the best legislation in the world, and it would be of little deeper benefit if we were not striving to be good.

So what does it mean to be good and how can goodness be directed towards changing the *Indian Act*? I know that through the ages questions about goodness have

engaged people much wiser than I. I also realize it seems presumptuous to attempt and add action to these lofty ideas in relation to a huge problem like the *Indian Act*. I feel the same hesitancy in writing about goodness and the *Indian Act* as that which crept into the journey in my dream. I don't know if I am good enough to go down this path.

Nevertheless I proceed, in the hope that others might learn from my mistakes, and perhaps pick up something of value along the way too. In doing so I am also mindful of my daughters of the seventh generation.

5) Language, Traditions and Goodness

Allow me to suggest that the meaning of goodness is embedded in our languages and traditions. Of course, not all of our traditions are good; like other nations of the earth we have past flaws and present failings that are harmful. We must not be so fixated on tradition that we lose the power to evaluate its usefulness and appropriateness. We must not be so ethnocentric that we make ourselves the measure of all things. We can protect against this weakness by comparing and contrasting our traditions with other peoples' teachings to see where we fall short, or where others might benefit from what we know. We must remain open to learning from the world around us to be balanced and healthy. We must particularly guard against rejecting everything that flows from those who we regard as having harmed us. The damage we experience is real and should be fully acknowledged, but such recognition does not require us to completely cut ourselves off from the noble, honorable and positively productive things that other cultures have learned. Having said this, I remain convinced that our language and traditions are an

excellent place to start in learning how to be good and understanding how this goodness could be applied towards changing the *Indian Act*.

For example, the very word by which many Algonkian speaking people describe themselves is Anishinabe. Anishinabe quite literally means good man. Similarly, if you were describing a female from our community, you would say Anishinabequae, which literally means good woman. I find it extremely significant that teachings are implanted in our language to tell us what we should be: good. The label we have for ourselves should always remind us that goodness lies at the heart of being a man or woman. We would find great benefits if we would describe ourselves more frequently and consistently by the words for ourselves that are drawn from our languages. Thus, goodness can be related to language revitalization. If we revitalized Indigenous languages this would loosen the *Indian Act's* hold.

Consider for a moment the difference between being an Indian or Anishinabe. An Indian is a creation of the European imagination and is legally inscribed on us by the federal government. There were no Indians in Canada prior to European arrival. There are only Indians in contemporary terms if we let the federal government take control of our identity. Furthermore, it is very hard to be Indian. It is always more difficult to be something someone else wants you to be; it is easier to be something to which you aspire. What would most people rather be, an Indian or a good person? Who would want to be defined by someone else for largely malevolent purposes, when we can be identified by encouraging words chosen by loving ancestors? I want to be Anishinabe, not Indian. Choosing to be identified in our languages can diminish the *Indian Act* to a significant extent. When we determine how we will best identify ourselves that action creates a core

precept around which further growth flows. When our identity is tied to being good we are at that moment firmly on the path to ditching the *Indian Act*.

However, being good is much more than saying that we are good. Being good requires something deeper. It requires action. The actions we should take to be good can also be divined from our traditions. Consider again the seven grandfathers or gifts that are supposed to animate Anishinabek lives: *Nbwaakaawin* (wisdom), *Zaagidwin* (love), *Mnaadendimowin* (respect), *Aakwade'ewin* (bravery), *Dbaadendiziwin* (humility) *Gwekwaadiziwin* (honesty), and *Debwewin* (truth). These are among the most sacred laws and teachings we have. They should lie at the heart of our motivations. If we lived by these principles we would soon put the *Indian Act* behind us. I want to consider the application of these seven ancient teachings to the *Indian Act* in greater detail.

6) The Seven Gifts: Terminating the Indian Act Through the Grandfathers

I i) *Nbwaakaawin*: Wisdom

Consider wisdom. How would its application treat the acquisition of knowledge in the light of goodness? It would surely require that we start with our languages and traditions and do all we can to master their depths. The fact that we are in the best position to teach these things suggests that we should control our own educational methods and institutions. At the same time wisdom would dictate that we cooperatively seek knowledge from other traditions. We need access to the world's sciences, economics, and mathematical insights. There is great benefit to understanding Greek,

Roman, European, Asian, African, Caribbean and other histories, literatures, politics and geographies. Lessons can be learned from other's experiences that have application to our lives and communities. Indigenous languages and traditions will be not diminished if they remain at the heart of inquiry into this vast web of knowledge. In fact these comparisons could strengthen our ways as they set the framework through which the wisdom of diverse options and choices can be tested.

Unfortunately, the *Indian Act* has proven inadequate to our educational needs and has not facilitated wisdom. Sections 114 to 122 of the *Indian Act* currently set the framework for formal learning on reserve. These sections have failed us miserably because they have been largely neglected. Wisdom suggests that these sections of the *Indian Act* be replaced through direct action or negotiated agreement. Direct action is possible because the language of these sections is permissive, not mandatory. This means the *Act* allows education to be organized in a particular way but does not insist that be the case. While access to government funding might be difficult if communities did not follow the *Indian Act's* procedures, such access is not impossible. Maori language nest programs in New Zealand provide an example of education that began as community based learning centers, free from government support. These programs have been very successful in revitalizing Maori language and tradition.⁵ They grew through the direct action of parents working together. Wisdom does not always wait for government support. However, if government support is available negotiated agreements could lead to significant resources for controlling educational paths. This has occurred on the east and west coasts of Canada through the *Mi'kmaq Education Act* and the *First Nations*

*Jurisdiction Over Education in British Columbia Act.*⁶ This legislation demonstrates that it is possible to get rid of the *Indian Act* in a wise way.

At the same time as formal educational processes are being changed, wisdom should direct families and individuals to take personal steps to assist us in further getting out from under the *Indian Act*. Wisdom is much greater than knowledge, and is not necessarily acquired through formal education. We need to attend to the basic capacities that facilitate our potential to learn. In this regard we would be wise to seriously and systematically attack addictions within our communities: gambling, alcohol, drugs, and hyper-stimulated sexual compulsions that lead to abuse and violence. To be good, the grandfather teaching of wisdom would require alcoholics to abstain from alcohol. The same could be said of others who have an addictive personality or are likely to abuse this substance. The same could be said of drugs, gambling or pornography. Surely it is not wise to misuse this addictive stuff if you are consumed by their use. If we want to learn how to live well, wisdom tells us what to avoid, as well as what to seek out. Our windigo stories strongly teach the consequences of self-destructive cannibalistic consumption. Individuals and entire communities can be eaten-up by those possessed by unrestrained appetites. We will not get out of the *Indian Act* in a good way unless we are wise and reduce the rates of addictions that plague our communities. They stunt educational attainment and individual development, and stand in the way of greater wisdom and goodness.

ii) *Zaagidwin*: Love

After wisdom we can consider love, the next gift that could erase the *Indian Act*. The *Indian Act* currently excommunicates family members who have two generations of parents that marry ‘non-Indians’. Furthermore it denies those who marry into our families many common courtesies of belonging and participation. Sure, some may say these provisions may make sense if we are trying to ‘keep the blood lines pure’, prevent the exploitation of some our people, or facilitate our exercise of self-determination over membership and citizenship. But is this love?

The *Indian Act* is anti-family, and thus stands in the way of love. Love forges and welds family ties in the present and through the generations. The *Indian Act* does not. Love would promote legislation and community approaches that recognized and affirmed family relationships, like husband and wife, parent and child, grandparent and grandchild, aunts and nephew, uncles and nieces, cousins, siblings and other kinship bonds. We are spiritually and sociologically a people of extended kinship and clan relations. The *Indian Act* currently severs these traditions.

One innovative solution that has the potential to foster love has been devised in recent land claims agreements. These agreements allow communities to have anyone become a member “if that person is accepted pursuant to the community acceptance process in the constitution”.⁷ The *Tlicho Constitution* (section 4) states that citizenship is within the exclusive jurisdiction of their government and that the Tlicho Assembly can set out the criteria for citizenship by a general assembly motion.⁸ These provisions are so much healthier than the *Indian Act*, which gives us no choice. They permit the community to set its own rules concerning membership, and thus preserve a vital aspect of self-determination. At the same time, they make room for others who are not defined

as Indian by the federal government. If a community is building itself to be good and keeping love as a central motivating force, many more people will join us. If growth occurs under this grandfather law, our clans and culture will be strengthened. Love grows in an atmosphere where people are welcomed and given messages that they belong. Love withers when people are told they have no status despite being the spouse, parent, child, grandparent, aunt, uncle, cousin, nephew, niece of the people who mean the most to you in life. Love should rise to the surface and be clearly identified as a goal in our conversations and actions around the *Indian Act*'s failures.

iii) *Mnaadendimowin*: Respect

Next, let us consider respect. The application of this grandfather can also take us a long way towards diminishing the *Indian Act*. Respect reminds me of the *Indian Act*'s failure to take account of gender in appropriate ways. Currently, there are no provisions within the *Indian Act* to deal with the consequences of marital breakdown. This can lead to abuse. The lack of attention to this issue impacts women in disproportionately negative ways. For example, anecdotally it appears as though the majority of certificates of possession, that give a person the right to occupy land on reserve, are held by men. Thus, if the marriage breaks down the assets of the union are likely to vest in the man, since he holds the certificate of possession. In a provincial context court orders can be made to divide the assets equally between spouses. However, since federal law is paramount over provincial laws on reserve, these provincial orders do not apply to land. There is currently no federal remedy under the *Indian Act* for this issue

though such action is proposed by the current Minister of Indian Affairs. First Nations could also deal with matrimonial property, as it is called, under the *First Nations Management Act* if they chose to opt out of the *Indian Act* under its provisions.⁹ This *Act* obliges First Nations to deal with matrimonial property matters if it takes its land management regime outside the *Indian Act*. Finally, some First Nations have dealt with matrimonial property issues through negotiated agreements with the federal government.¹⁰

However, appropriately changing the technical legal framework of land management through getting out from under the *Indian Act* does not guarantee an end to the disrespectful gender relations that animate some communities. The circumstances that often lead to marital breakdown are more pronounced on Indian reserves. Indigenous women report rates of physical and sexual violence at rates shockingly higher than in the non-Aboriginal population. Respect would require acknowledging the depth of this problem and making its eradication a priority. Some years ago the Manitoba Justice Inquiry made this statement that still has a ring of truth today:

“The unwillingness of chiefs and councils to address the plight of women and children suffering abuse at the hands of husbands and fathers is quite alarming. We are concerned enough about it to state that we believe the failure of Aboriginal government leaders to deal at all with the problem of domestic abuse is unconscionable. We believe that there is a heavy responsibility on Aboriginal leaders to recognize the significance of the problem within their own communities. They must begin to recognize, as well, how much their silence and failure to act actually contribute to the problem.”¹¹

These words reflect how disrespectful some of leaders have been of Aboriginal women. Some may even be perpetrators of violence and try to cover their actions. Respect will be restored when this issue gets the attention and resources it deserves, and women are not subject to dismissal, violence or silence in their relationships.

While the problem of physical and sexual violence must be dealt with to increase respect, we must be careful not to be disrespectful of those who are taking positive steps towards this end within communities. Sometimes there is a tendency when criticizing the *Indian Act* to portray everything about reserve life as faulty and broken. Painting everyone negatively with the same broad brush is disrespectful. As well as acknowledging the evil, it is important that we acknowledge the depth and breadth of goodness that exists within our communities. Some would say that the problems encountered under the *Indian Act* provide ample reason to eliminate Indian reserves. This argument is inappropriately overbroad. The *Indian Act* is not the reserve or community. We must take every opportunity to make this distinction clear. Saying we want to get rid of the *Indian Act* is not saying that we want to get rid of the reserves. They are discrete and separate issues, though of course they overlap on the fringes. Some of our critics would seek to dismantle our entire communities under the guise of dismantling the *Indian Act*. We must be very wary of these false allies. Drawing on their support to get rid of the *Indian Act* comes with an exceedingly high cost. They would use the removal of the *Indian Act* to remove First Nations communities in Canada. Their Trojan Horse-type tactics must be made plainly clear. It is disrespectful to seek to dismantle First Nations communities under the guise of eliminating the *Indian Act*.

Thus, to be respectful and avoid disingenuous designs we must tell the world that reserves are basically good places for many people, despite their flaws – as in every community. Of course, reserves would be much better if the *Indian Act* were removed, but that does not excuse us from celebrating the strength we currently draw from them. Speaking personally, I find my reserve to be a place of beauty, wonder and inspiration. I

love the people there. I draw some of my deepest fulfillment from the land and others presence in that place. Furthermore, despite the *Indian Act* I can not say enough positive things about my community's past two chiefs. They are selfless, giving, caring, tireless workers for other's welfare. They are simply wonderful people who have done an exceptionally fine job under a deeply flawed legislative framework. Moreover, there are talented teachers, compassionate caregivers and knowledgeable health workers on the reserve. I also know many loving parents, Elders, youth and helpers. There is goodness on the reserves, despite the simultaneous presence of evil. Just because the trickster lives among us, mixing bad and good together, should not blind us to respect we owe to those whose lives exemplify the seven grandfather teachings this essay highlights. Living respectfully would see us eliminate the *Indian Act*, without eliminating our communities. Let's not 'throw the baby out with the bathwater' in our efforts to be good.

iv) *Aakwade'ewin*: Bravery

Added to respect is the importance of bravery. How does bravery or courage relate to getting rid of the *Indian Act*? How can bravery engage goodness? Bravery will be misspent if it is not directed to good purposes. Some people may think they are brave when they say Parliament cannot be worked with to get rid of the very instruments that contribute to our oppression. It sounds so bold and courageous to say we can not use the master's tools to take down the master's house. This in your face attitude of resistance and confrontation seems to embody the hallmark of bravery. However, we have to ask, is this bravery good? I am willing to acknowledge that their critique is good, if it is true.

Thus, the question becomes is their critique true: will we be forever stuck with the *Indian Act* or other assimilative legislation if part of our strategy is to work with the federal government?

We really have no way of answering this question in advance of events. No one has a crystal ball in which the *Indian Act*'s future can be foretold. For my part I would first make the point that working with Parliament does not preclude engagement on other fronts. When we speak of ending the *Indian Act* bravery should cause us to consider how our internal laws and teachings might direct our external dealings with others. You do not have to be subject to Crown or under its Dominion to cooperate with its institutions. In fact, this is what our treaties were intended to accomplish, alliance without subjugation. Furthermore, working with Parliament on some points does not prevent working against the government on others matters. Bravery requires us to face the complexities of our relationship to Canada. While different First Nations have different traditions in this regard, I am trying to highlight that even peoples who consider themselves independent from Canada would still find themselves in a relationship with others in their territories. We might need to work with others from time to time, even as we pursue different objectives from them. Working in and outside "the system" does not have to be a dichotomous contradiction.

Furthermore, I doubt the truth of the idea that the master tools can not destroy the master's house. A hammer, saw and backhoe are instruments of creation *and* destruction. It is possible to use these tools to undo the thing that has been created. The same can be said of legislation. Furthermore, there are some countries in the world where legislative initiatives have undone oppressive regimes: The Soviet Union, South Africa,

and Canada (as it concerns Quebec) spring to mind. One should note in these examples that the end of one kind of oppression did not necessarily completely terminate all other forms of subjugation. I do not believe Utopia is found in the new worlds that lie over the horizon. I just believe better worlds can exist (as flawed as they may be in other ways) than the one we currently inhabit. If we judge reform or political change against the standard of perfection, then any action we take will always fall short of this unrealistic ideal.

Thus, I believe bravery is directed towards goodness if it contains hope that change and healing can occur, potentially even through Parliament. I think it is brave to believe we can be reconciled to those who have hurt us, and that we can make a new and better world together (as imperfect as that world will be). I am not saying it is cowardly to think otherwise but I do not think my position is completely erroneous. To repeat, I am also not saying that working with Parliament should require our submission to values contrary to our deeper teachings. Nevertheless, I am not so deterministic to deny the role of agency and choice in human affairs. People and the institutions they comprise are unpredictable – they can and do change. I learn this from direct experience, research and traditions. The trickster's messages about the uncertainty of human affairs have also passed this message along for generations. Bravery may require us to shed some cynicism. We should at least contemplate the possibility that change is possible, even through Parliament.

v) *Dbaadendiziwin*: **Humility**

The next grandfather to consider as helping us end the *Indian Act* is humility. A reminder of this teaching causes me to acknowledge the incompleteness of my formulations of the seven grandfather's possible application to end the *Indian Act*. I could be so completely wrong in my approach that I have not only embarrassed myself but also wasted others time in what is written here.

This thought brings to mind a story from my family history. As I mentioned in the introduction my grandfather left the reserve when he was a young man. He was so completely sick of the *Act's* limitations on his life that he felt the need to escape. He thought it defined too much of his existence. He saw it shape his opportunities and colour others views of who he was, and what was possible for him to accomplish. So he left. First he worked around Ontario and learned a trade. He became a plasterer and 'mudded' many houses throughout the province by shaping their walls and ceilings into inviting, comfortable rooms. As he moved through the province he eventually found himself in Windsor. This was during the prohibition era when liquor was outlawed in the United States. At this point he helped others get plastered in another way. He became a 'rum runner' between Canada and Detroit and met many interesting characters. This must have been an exceedingly dangerous time in his life. At that time, the possession of liquor was also prohibited in Canada, but only for Indians. The *Indian Act* made it illegal for Indians to possess alcohol. Even though I believe he took the job in rebellion over the *Act's* extended reach (and the money was good!), its application outside the reserve eventually proved too much for him. He had to get further away. He went to Kentucky where he worked for a while with a Botany Professor, teaching him about Ontario's fauna and flora. Being from the otter medicine clan, he would have learned much about this from

his father and mother. After reportedly receiving an honorary doctorate from the university he made his way west. He settled in California and eventually married a beautiful young woman from Utah. She had raven coloured hair and sparkling blue eyes. They started a family and settled down. It must have seemed that he finally escaped the *Indian Act*. However, his friends and associates in Los Angeles were beginning to work in a new industry. The pay and hours were good. The job also presented an opportunity to visit with people from reserves around North America. Thus, he became an actor in silent films. His job: falling off horses. When the cavalry charged or the cowboys attacked, all he had to do was die – in a spectacular way. He worked in this way for several years. We have wonderful pictures of him with Jim Thorpe, Iron Eyes Cody and other famous ‘Indians’ of that era. He was part of a group called the First Americans. He only left the coast when Pearl Harbour was bombed and Californians harshly judged anyone who looked ‘oriental’ or had darker skin. So he packed up and traveled across the country, ‘Grapes of Wrath’ style, back to the reserve. He was back in Ontario living in the place had so desperately sought to escape.

I relate this story as we consider humility because it contains an important lesson. Again, as with the dream, many other ideas are pertinent but I will only deal with one in the present context. The lesson is this: sometimes in our efforts to escape that which harms us, we become the very thing we are trying to escape, and therefore end up passing along the trauma. It is passing ironic and near tragic that the very point my grandfather was fleeing, stereotypes about ‘Indians’, was an idea he helped embed further in the public’s consciousness.

The message I take from this aspect of my grandfather's life story is that in making plans to escape the *Indian Act* I must be careful not to replicate the very limitations I am working to extinguish. That is, I must ask myself, in writing about the end of the *Indian Act*: am I 'falling off horses'. Am I giving too much energy to the very thing that needs to be starved of attention? Do I inadvertently reinforce the *Indian Act* even as I think I am tearing away its support? Humility is hard to acquire because when you think you have it, you do not. Conversely if you acknowledge your pride and face your weaknesses, you are still not humble. You clearly see the gap between humility and the reality of your life. I am still working on this teaching. Yet, despite it seemingly ever-receding ability to grasp, humility contains powerful medicine that can direct us towards goodness and help us analyze how we might get rid of the *Indian Act*.

vi) *Gwekwaadiziwin*: Honesty

There are two more gifts from the seven grandfathers of which I am aware, which could be applied to goodness and the *Indian Act*'s erasure. The next one is honesty. Honesty requires me to confront the reality of poverty on most reserves. You will remember earlier that I made a distinction between the *Indian Act* and reserves. If the *Indian Act* was removed and reserves were significantly strengthened I believe our economic fortunes would vastly improve. When First Nations peoples access capital, utilize resources and develop their human creativity - without the *Indian Act*'s restrictions - a larger measure of investment and wealth will flow. Reserves have much greater potential to receive and generate economic benefits for themselves and other people.

However, despite this good news, honesty requires that I also acknowledge the reserve's limitations, even though I do not want to see them eliminated. Reserves will not generate enough resources to permit us to become self-sufficient and possess surplus for our children's children. We need to take a wider view.

Reserves are necessary but not sufficient for us to enjoy a healthy and productive future. This is not an argument to dismantle reserves. I feel I must reiterate for emphasis: reserves can be more economically productive and self-sustaining. They have untapped potential because they are underproductive under the *Indian Act*. Reserves are also a great deal more than economic engines: they are nests for culture, language, the strengthening of familial bonds. Most are living testaments to the sacredness of our ancestor's relationship to our territories. Thus, reserves should not be measured on their economic status alone, despite their underperformance to this point. However, food, shelter and economic development are definitely necessary to the long-term sustainability and health of Indigenous languages, cultures and land. Thus, honesty would lead me to suggest that in dismantling the *Indian Act* we need to build stronger relationships outside of our reserves, across the country and world. This is necessary to create and consume resources to flow back to the reserves for their support.

In the economic literature what I am describing is called diversifying our portfolio. Financial experts invest in a variety of industries and business to appropriately spread their risk around the economy. If they put all their eggs in one basket the risk of loss is greater than if they were distributed in many locations. Or, to extend the analogy to another field, if we study natural law in the world around us we see great variety and diversity in the insects, plants, fish, birds and animals. Genetic diversity creates

protections against disease that may attack particular pests. If we plant only lodgepole pine trees there is a greater likelihood that pinewood beetles will gobble up these monocultural forests. If we plant a variety of species, and pine beetles do not like 80% of the alternatives, we only lose 20% of the forest, rather than the whole thing. Monocultures, whether in trees, fruit, grains or economies are much more susceptible to loss because they rest on narrower foundations.

Applying this knowledge to Indian reserves, honesty might lead us to acknowledge that we *need* to live in other places throughout the world besides the reserves. We should not put all our eggs in one basket. We should economically diversify our portfolio, as it were. Just as we *need* people on the reserves to strengthen our languages, traditions and relationships, our people are *needed* in other places for this very same purpose. To recognize this necessity fortunately builds on reality.

Fifty percent of First Nations peoples now live off reserve. This is unlikely to change any time soon, even if we got rid of the *Indian Act*. Importantly, however, many of this fifty percent live off the reserve *in relation* to the reserve. The flow of people and capital between reserves and cities must be acknowledged and built upon for the benefit of both populations. If we appropriately tapped the current of energy we generate as we travel from reserve to city (and back again) we could build stronger economies. Unfortunately, this is not happening at present because of the culturally oppressive way federalism operates in Canada. One need only think of the recently failed Kelowna Accord, or the longer term tragedies of provincial child welfare, land use planning or environmental law regimes.

We are too often lost between the cracks of provincial/federal jurisdiction. Our gains are transferred to the provinces and our losses stack up on the reserve. It does not have to be this way. One of the great insights found in Professor Evelyn Peters work is that there are not permanent ghettos of First Nations people in Canadian cities, as least as we think of that phenomenon in relation to certain ethnic groups in the United States.¹² While there are identifiable Aboriginal areas in western Canadian cities, the people who live there continue to move back and forth between the reserves and cities. Thus, there are huge flows of First Nations people and resources between them. As we ditch the *Indian Act*, policy should be designed account for this fact. The best policy options would build First Nations cultures and economies that are larger than and also cross the reserve borders. Anything less than this system wide approach contributes to assimilation because it fosters the disappearance of our people when they leave the reserves.

Thus, honest evaluations of who we are and where we live as First Nations people can be quite liberating. Getting rid of the *Indian Act* means substantially broadening our conceptions of First Nations. We live everywhere, yet remain connected to an Indigenous somewhere. These nation-wide connections should be recognized, affirmed and strengthened. This is not a radical proposal, despite its world of difference from the *Indian Act*, because it is reality. Getting rid of the *Indian Act* in a good way honestly requires expanding our imaginations, dismissing our stereotypes of ‘Indians’ and their reserve-only status, and redrawing Canada in a way that recognizes this new fact.

Imagine the policy implications that might flow from this view. Let me use my own circumstances to begin our exploration. I live in Victoria, British Columbia and my

reserve is on Georgian Bay in southern Ontario. When connections are traced between these locations there is much that could be captured through legislation and negotiated agreement. For example, I am continually back and forth between home and BC. While I live in BC I make a decent wage as a law professor and pay substantial income and other taxes. If First Nations people in my circumstances could direct their taxes to their homes reserves, this could provide significant additional revenue for some communities. It would also shatter the idea that ‘Indians’ do not pay taxes. It could discredit the notion that reserves just float on federal subsidies, unrelated to any contribution on the part of ‘Indian’ people. I would be happy to see a portion of my taxes designated to the reserves, even if only notionally. Additional benefits might flow from this relationship. People at home might regard those who live away as contributing members of the community. They may be valued for their role in growing our reserve. This may lead to further consequences. There may be a desire to expand the number of Anishinabek people who are registered as citizens of our community because of the contributions we make. This impulse could create incentives to increase rather than cut down our numbers, as seems to be the case under some current *Indian Act* regimes. This expansion need not be built on ‘fake’ or ‘paper’ relationships. It could truly embrace specific individuals like my children whose family continues to reside on reserve. They have a strong connection to the reserve, and have spent some of their most important years with their grandparents, aunts and others. They could be productive future members of the reserve when they graduate. Furthermore whole family branches cut out of reserves through federal policy might also be added. People should not be penalized because the harsh operation of child welfare policies removed them in an earlier generation or period of life. Even if these

people do not have a current relationship with the reserve does not mean they can not develop one. Of course, this would make matters more politically complex for those who find it easy to get elected under the *Indian Act*. Remember, the *Indian Act* is of benefit to some because it makes it easier for them to retain control. What I am proposing will loosen some of this control.

An expanded view of First Nations policy connections (that obliterates reserve boundaries for some purposes without obliterating reserves) also leads to other conclusions. People might one day speak positively about ‘marrying in’ when one of our citizens forms marriage relationship with a ‘non-Indian’. This would be refreshing, generous, hospitable idea, and closer to the Grandfather teachings in spirit. To facilitate this spirit, our constitutions and customs could be designed to recognize non-Aboriginal people as Anishinabe or Anishinabeque when they entered these relationships. Who wouldn’t want to be identified as being good? Such would be the happy consequence when someone married one of our people? They would be Anishinabe; that would be good. This conception is so much better than the term ‘marrying-out’. Fifty percent of ‘Indians’ marry non-Indians. If this continues there will be no ‘Indians’ in two generations through the *Indian Act*’s operation. We should not regard our community as being diminished when we do not marry a so-called ‘Indian’. The people we marry could contribute much to our collective future. When we form new relationships this should be viewed as strengthening the entire group. The term ‘Indian’ is a government created racial term or concept. We need non-racial identifiers for our people.

vii) *Debwewin*: Truth

This leads me to the last grandfather to consider: truth. Truth will help us undermine the *Indian Act*. Here is the truth as I see it: being Anishinabek is a political, cultural, spiritual and sociological status. It is not a racial thing. It is about being good. We should abandon the *Indian Act*'s underlying idea that we are a race that deserves to be assimilated. We are not a race. Most academics in the world today agree that there is no such thing as race, biologically speaking.¹³ The 'Indian race' is a social construction forced on us by those who wanted to take our land and then have us disappear. Being Anishinabek does not rest on blood. Besides even if we subscribed to this discredited concept we were never genetically 'pure', even before Europeans arrived. We married and intermixed with Hurons, Odawa, Potawatomi, Shawnee, Cree and others for centuries. When Europeans arrived this process continued. This is the process for every so-called 'race' of people. This process continues today. We should embrace the truth that we are First Nations. A Nation rests on citizenship, families, culture, outlook and action - on its political standing – not blood.

This truth is good. There are many disturbing examples throughout the world of law being applied solely on racial lines. This practice is usually discriminatory and subordinates groups or individuals within society. Applying the *Indian Act* or any other law or policy on the basis of race should be avoided. I know this will be a hard truth for some of our people who view themselves as a race. Anishinabek and First Nations identity and citizenship should flow from the political and cultural character of our societies. Indigenous peoples belong to distinct bodies that have an existence which

initially includes but is broader than familial and ancestral ties. As the Royal Commission on Aboriginal Peoples wrote:

Aboriginal peoples are not racial groups; they are organic political and cultural entities. Although contemporary Aboriginal peoples stem historically from the original peoples of North America, they often have mixed genetic heritages and include individuals of varied ancestries. As organic political entities, they have the capacity to evolve over time and change in their internal composition.

... One of the greatest barriers standing in the way of creating new and legitimate institutions of self-government is the notion that Aboriginal people constitute a “disadvantaged racial minority” ... Only when Aboriginal peoples are viewed, not as “races” within the boundaries of a legitimate state, but as distinct political communities with recognizable claims for collective rights, will there be a first and meaningful step towards responding to Aboriginal peoples’ challenge to achieve self-government.¹⁴

When we are successful in terminating the *Indian Act* we must be careful not to replicate the *Act*’s most troubling feature. We should be concerned about ‘falling off horses’. If there is concern about the floodgates of membership swamping small communities we can devise rules for adopting others into our communities or granting them citizenship. We can also properly attend to the resource implications of this growth. In making plans about the rules and resources to grow our Nations we must remember that to formulate and apply them with goodness.

The final benefit of considering ourselves as political groups is that we do not have to defend against the accusation that we possess or are requesting race-based rights. We should clearly and loudly assert that we are **not** seeking race-based rights. Our rights are political, cultural, legal, spiritual and sociological. Others can enjoy these rights and participate with us in their enjoyment if they agree to strive to follow the highest principles found within our constitutions, customs, languages and grandfather teachings. We can invite them to live good lives with us. Thus, we could clearly assert that we do

not want race-based rights. For my First Nation, our rights exist to help us to become the best ‘good people’ that we can be. That is the truth, as I see it.

7) Conclusion

Six generations have now passed since the *Indian Act* was introduced. The seventh generation is now rising to take their place in this procession. Their lives will be healthier and our communities will enjoy more freedom over the next generations if we help them get rid of the *Indian Act*. These young people possess the potential to make this change and receive great healing power. This paper has examined issues of self-governance that they may need to consider to enjoy this outcome. We have examined how the self is best governed through principles such as *Nbwaakaawin* (wisdom), *Zaagidwin* love, *Mnaadendimowin* (respect), *Aakwade’ewin* (bravery), *Dbaadendiziwin* (humility) *Gwekwaadiziwin* (honesty), and *Debwewin* (truth). Governance is best organized around these principles of goodness because goodness is the foundation for governance. The ability to learn our languages, follow our teachings and apply their best elements has the potential to be the most powerful factor in the *Indian Act*’s demise. The authority to bring about this change lies within us. We only have to grasp our most fundamental teachings and notice how they are lived by good people in our communities to start along this path. If we could get our communities agreeing about how to get rid of the *Indian Act*, based on even a fraction of this paper’s suggestions, then maybe other levels of government would have to listen. And even if they didn’t listen, and we ourselves lived these principles, we might eventually realize that we were governing ourselves in matters most important to our future happiness. In that moment the *Indian*

Act will be extinguished because we no longer give it power over our lives and communities.

ENDNOTES

¹ *An Act to Encourage the Gradual Civilization of the Indian Tribes in the Province and to Amend the Laws Respecting Indians*, 20 Vict., CAP. XXVI, s. III.

² There are some exceptions to this experience, though they are not very common. While the *Indian Act* cuts people off from federal recognized status, other communities might have membership codes which includes people that do not have status under the *Indian Act*. This is done by opting out of membership provisions of the *Indian Act* and adopting their own membership codes. In such instances, the federal government would not recognize people without Indian status for financial purposes.

³ Eddie Benton-Benai, *The Mishomis Book: The Book of the Ojibway* (St. Paul, Minnesota: Indian Country Press, 1979).

⁴ John Borrows, "Stewardship and the First Nations Governance Act" (2004) 29 *Queen's Law Journal* 103.

⁵ Tania Ka'ai, John Moorfield, Michael Reilly, Sharon Mosley, eds., *TeKi Te Whaiao, An Introduction to Maori Culture and Society* (Auckland: Pearson Education, 2004) at 205-213.

⁶ *Mi'kmaq Education Act*, S.C. 1998, c. 24; *First Nations Jurisdiction Over Education in British Columbia Act*, received Federal Royal assent December 12, 2006.

⁷ See the *TliCho Land Claims Agreement*, at http://www.tlicho.com/agreement/tliagr_e.pdf, enacted *TliCho Land Claims and Self-Government Act*, 2005, c. 1.

⁸ See the *TliCho Constitution* at http://www.tlicho.com/constitution/tlicho_constitution.pdf.

⁹ *First Nations Lands Management Act*, S.C. 1999 c. 24. s. 17.

¹⁰ The Westbank First Nation enacted a strong and fair matrimonial property law: see *Westbank First Nation Family Property Law* 2006-02 at http://wfn.ca/pdf/feb202006_2_.pdf. The preamble reads:

Whereas Westbank has jurisdiction over Westbank Lands, Resources and Interests in Westbank lands pursuant to the Westbank Self-Government Agreement effective April 1, 2005;

And whereas Westbank wishes to enact and respect the following rules and procedures applicable on the breakdown of a marriage with respect to the use, occupancy and possession of Westbank lands and the division of Westbank lands;

And whereas Westbank intends to provide rights and remedies without discrimination on the basis of sex to spouses who have or claimed an interest in Westbank lands upon the breakdown of their marriage. ...

Section 9 (1) of the *Westbank First Nation Family Property Law* states: "Subject to this law, both spouses have an equal right to possession of the matrimonial home." Section 9 (2) states: "When only one spouse holds an interest in Westbank Lands that is a matrimonial home, the other spouse's right of possession is (a) personal against the spouse who holds the interest." The law also contains provisions for domestic contracts, disposition of matrimonial property, mediation, and access to appropriate courts for enforcement.

¹¹ A.C.Hamilton and Murray Sinclair, *The Justice System and Aboriginal People: Report of the Aboriginal Justice Inquiry of Manitoba, Vol. 1* (Winnipeg: Queen's Printer, 1991) at 487.

¹² Evelyn Peters, "Three Myths About Aboriginals in Cities" (Breakfast on the Hill Seminar Series, Canadian Federation for the Humanities and Social Sciences, Ottawa, 25 March 2004) [unpublished].

¹³ Leonard Lieberman, Rodney C. Kirk, and Alice Littlefield, "Perishing Paradigm: Race—1931-99," (2003) *American Anthropologist* 105.

¹⁴ Royal Commission on Aboriginal Peoples, *Restructuring the Relationship*, Vol. 2 (Ottawa: Supply and Services, 1996), Chapter 3.