

The Identity Enigma: Denial of First Nations Women's Rights to Identity

by:

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Abstract

The concept of Indian status is problematic and is experienced as a phenomenon that can be both positive and negative. The phenomenon investigated in this research is that of status loss for various reasons: a) marrying-out, b) unknown and unstated paternity, and c) second generation cut-off. At this point in history the *Indian Act* is being questioned regarding its gender discrimination that restricts Status transmission for First Nations women in comparison to First Nations men. Throughout this research *Bill C-3* was proposed, read in parliament, and eventually passed as legislation to promote gender equality in Indian Registration. On January 31st 2011 Bill C-3 became law and is now known as the *Gender Equity in Indian Registration Act*. However, it is important to note that the struggle for equality is not complete with the addition of this amendment for reasons to be discussed in this research. As a First Nations woman experiencing the phenomena that result from the *Indian Act's* restrictions of status transmission for First Nations women I wanted to hear from other women in my situation. I also wanted to hear from women experiencing other forms of status transmission restrictions and give them the opportunity to have a voice against legislation that attempts to undermine them. The *Indian Act* elicits different responses, perceptions, and emotions when it comes to defining who is an 'Indian' and who is not eligible. It is these varying opinions that I sought out with the co-researchers in this study in order to provide a document that is inclusive and safe for discussion.

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Going back to the very beginning, this work would not have been possible without the continual support from my parents, Ann and Larry King, or my partner, Matthew Otway. On those days when this research felt like it would never be complete they reminded me of the light at the end of the tunnel and how this work could help other First Nations women find their voice. Thank you for being patient with me on this road.

Dedication

As a First Nations woman I want to dedicate this work to all First Nations women who have experienced some form of discrimination through the *Indian Act*. This work is for all the strong women who went before me to fight for First Nations women's rights in Canada and who continue to challenge the *Indian Act* to eliminate discrimination against women to this day. It is also for all First Nations women who have yet to find their voice in talking about their identities in a safe place. I hope that this work speaks to those who are interested and looking for answers so that they may know that they are not alone.

I also want to dedicate this work to my parents, grandparents, and all those who came before me because without them I would not have the ability to do this work today. For all those days I phoned home overwhelmed with the topic I chose to research and you let me talk it out to get back on track. You gave me strength throughout and reminded me everyday how important my research was and I cannot thank you enough.

Chapter One: Introduction

“... the damage caused, demographically and culturally, by the loss of status of so many Native women for a century prior to 1985, whose grandchildren and great-grandchildren are now no longer recognized—and in many cases no longer identify—as Indian, remain incalculable” (Lawrence, 2003, p.8).

The aforementioned quote captures the spirit of this thesis in its entirety. The impetus behind this work was to give voice to First Nations women and empower them with their own stories and share their knowledge. The stories I sought out were those of legally defined status for First Nations women and its loss over time for various reasons. The reasons for status loss range from flaws in amendments of the *Indian Act* such as the second generation cut-off rule, to unknown/unstated paternity on Birth Certificates.

The topic of identity is not only close to my heart but I have undergone struggles with it. These struggles range from emotional responses to navigating my identity in regards to legislation that has the audacity to claim knowledge over defining my identity as an ‘Indian’. In understanding how I feel when discussing matters of status I knew that I wanted to create a stage for this discussion for other women with similar concerns. I hope that this research finds its way to the women who need to know they are not alone and they do not have to remain silent on matters of identity.

Terminology

To be as transparent as possible with this work there are a few terms that need to be explained in regards to their usage and why I chose them over others. In no way would I claim that my terminology is correct, rather the words I use are the ones I feel comfortable with and which make sense in my world. First of all and most controversial for me is the word ‘Indian’ to define First Peoples in Canada. While this terminology is used to define a First Nations person in the *Indian Act*, it is a word I do not identify with. Since birth I was First Nations, when I was a teenager I was First Nations, and now as a young woman I am First Nations. The word ‘Indian’ is used very commonly in racist and discriminatory rants that will not be elaborated on any further. A philosophy professor once told me that derogatory words should be reclaimed by the people they describe, but in reality, this is not the word my ancestors used to define their people; rather I see it as outdated, incorrect, and imposed by an external force. For these reasons I use the terminology First Nations as it best reflects the terminology I grew up with and I feel more at ease defining me in this way¹. Like Patricia Monture-Angus (1995) I see the word ‘Indian’ as a purely legalistic term that has been forced upon First Nations people by the federal government. Beyond my preference of word use I should mention that other words are used and have been proposed to identify First Nations people in Canada. These other terms are Aboriginal, Indigenous, and Native. In this work I intend to keep my terminology as First Nations, again for the reason that this is the term I grew up with and continue to identify me as to this day. However, other terminology will appear as it has been presented in research used to support this thesis.

¹ Important to note is that this is in no way meant to influence or undermine the use of the word ‘Indian’ by other First Nations people, it is merely my experience and perception of this word.

Related to my use of the term First Nations is 'Indian Status'. This is the terminology used by the federal government to define First Nations people who are eligible (under their definition) to be identified as 'Indian's in Canada. Unfortunately there is no other way to describe this legalistic jargon, as a result it will remain throughout this document.

Before any of this work was done I spent time in reflection of research I have been a participant in throughout my education. This reflection revealed positive and negative experiences which directed the choices I made before developing this research its relationship with the co-researchers (participants). Throughout this work I use the terminology co-researcher in place of participant for the reason that this research project is just as much theirs as it is mine. The co-researchers took time out of their lives to share their stories of identity and legally defined legislation that discriminates against them. For that I am eternally grateful and I know their voices will resonate through this work as I ensured they were with me every step of the way. Furthermore, the word participant was used in my undergraduate degree and I have never been comfortable using it. In this particular project the majority of knowledge presented here originates from the women sharing their stories and because of their role in this work I felt the need to refer to them as co-researchers. Alongside them this research was created and within it contains their lived experiences, their knowledge, and their ways of knowing.

The Study

To explain this study most accurately I want to start off with my choice to focus my research on identity. I am a First Nations woman from the Tsimshian Nation on the North Coast of British Columbia. To this day, Prince Rupert remains my base and will always be considered my home even though I have not lived there for an extended period of time since 2003. My parents, Ann and Larry King raised me in Prince Rupert and continue to live the island life on Kaien Island in a beautiful rainforest environment. My mom, Ann, is a Tsimshian woman and it is from her that I gain my 'Indian' status, though it is a lesser form of status than her own. My dad, Larry, is English, Irish, and Scottish; it is from their marriage that my Indian status is defined as 6(2) while my mom remains defined as 6(1). I will describe these definitions of status later in this document. While I am proud of having all these backgrounds making up the person that I am, I spent a lot of time in recent years wondering how I would come to accept being unable to transmit status to my children unless I married a man who also carries status.

When I thought of these limits put upon me and other women, I began to feel oppressed and frustrated trying to make sense of legislation that defines my identity and restricts my matrilineal right to transmit an identity to my children. The Tsimshian are a matrilineal society; this means that the lineage of a person is traced through their mothers, grandmothers, and great grandmothers. The *Indian Act* has consistently restricted First Nations women from transmitting status to their children in some way, shape, or form. In the beginning the *Indian Act* assimilated First Nations women by erasing status for women who 'married-out'; upon marriage to a non-native or non-status man, a First Nations woman would automatically be stripped of her status

and any ability to transmit status. Even now, with the inclusion of amendments over time such as *Bill C-31* and now *Bill C-3*, women are still restricted in their ability to transmit status in comparison to First Nations men. Currently, the *Indian Act* continues to trace lineage through the paternal line while ignoring the common cultural practice of citizenship through matrilineal descent.

Significance

The significance of my study will be to bring the topic of legally defined First Nation identities and the experiences of it as a phenomenon to a safe place for discussion. According to Adams et al. (2006), group identities are an integral part of society and a determinant of self-esteem, social safety, and the human desire for belonging. It has also been found that engaging with one's Indigenous identity is positively associated with a person's well-being (Adams et al., 2006). Legally defined 'Indian' status was imposed upon First Nations people in Canada; it has over time become akin to citizenship and as McIvor (2009) states, to cultural identity. While many could argue that legally defined status should not play a role in First Nations identity, there are situations wherein it has become a means for Nations to define their citizenship through Band lists². Examples of this are seen with gatherings of Nations such as the annual All Native Basketball Tournament held in Prince Rupert. In order to participate as a team member one must possess an Indian status card to prove their identity. This is also done for events such as Indian Rodeos and All Nation's Hockey Tournaments. It is important to note that most Nations do not have membership systems in place beyond federally defined Indian Status as they have not yet

² Band lists are used to determine members of a particular Nation. In some cases, Indian Status is used as a factor in determining this form of membership.

achieved a level of autonomy as a self-governing Nation for various reasons. The federal government also defines their funding equations by the number of Status Indians living on reserve. This means that fewer persons in the community holding federally defined 'Indian' Status equates to less funding for those living on reserve. Admittedly the other side of this coin reveals the fear held in some communities that there will be a sudden influx of Status Indians if legislation is changed; thus putting a strain on resources that are already poor at best. So unfortunately for now, legally defined status is the most commonly accepted means of proving one's First Nation identity in Canada. This will become an issue when, as a result of legislation, a mother has to explain to her child why Canada defines her as an 'Indian' and not her son or daughter.

Conceptual Framework

In July 2010 I met with a member of my committee, Dr. Tina Fraser in the hopes of obtaining some guidance from an Indigenous female perspective. At this point the research began to take a life of its own by revealing the emotion invested in not only identity, but First Nations identity for women. On that day I began to see the possibility of keeping story in my work and using story to frame my research. In order to keep me grounded, I took on Tina's advice about keeping myself in the work and began reflecting on stories from my childhood. By this point I had already been considering conceptual frameworks and what I would want the thesis to look like and how it would create its own meaning as I developed it. Immediately the story of *Raven Who Stole the Sun* came to the forefront of my memory and I spent some time contemplating why this story had come to me so quickly. I remembered having this story in a

book when I was little, and while I don't particularly remember reading it often, I knew the story very well. Its significance lies in the fact that I come from the Raven clan. In recent years I have felt a stronger bond with the Raven and I keep it close to my heart through carved jewellery and as a tattoo I share with my mom that represents pride in our clan.

Raven Who Stole the Sun

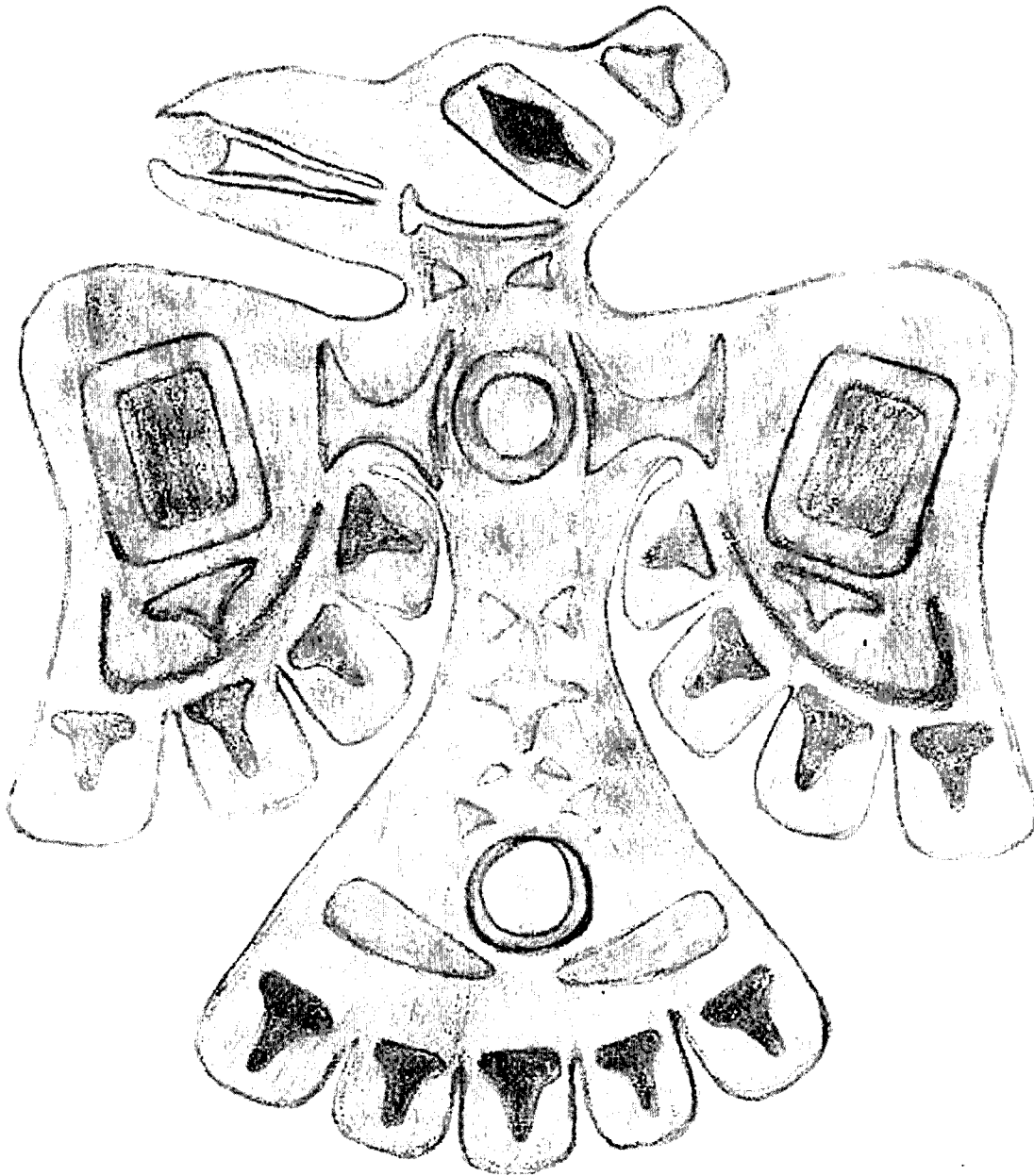
The meaning behind the story of 'Raven Who Stole the Sun' is personal and goes back to my childhood; in fact there hasn't been a day in my life that Raven has not come up. My mother comes from the Raven clan, as does her mother; as a result I am also a proud member of the Raven clan. I remember this mischievous character, Raven, the trickster whose antics often got him in trouble and were used as examples to take lessons from. In this story Raven tires from living in darkness and grows anxious working out a plan to steal the sun from the human entrusted with its protection. In carrying out his plan Raven actually releases the sun for the benefit of all and he begins to live in a world with light and dark together; thus creating a whole new experience of life. This story entails a lesson for children and was a lesson for me growing up. It reveals a mischievous character who goes about their goal for entirely self-serving reasons, but luckily everything turns out okay in the end. This lesson followed me throughout this research in keeping my intentions in check and making sure, unlike Raven, my work is not self-serving but aiming for the same purpose of releasing light on the topic of identity.

The goal from the start, and still today, was to prepare a piece of work that would speak to and inform First Nations women about their rights, identity legislation, and other women's

ways of knowing their identities. In this way 'Raven Who Stole the Sun' is an appropriate symbol of the means of distributing this knowledge, because in and of itself it is a story about revealing knowledge and sharing it with the world. Because the topic of identity is one that elicits a range of emotions it is important to set a stage for a discussion to take place that ensures the safety of everyone involved. To achieve this I was able to choose an already existing phenomenology method and indigenize it in a way that protected me and the co-researchers from any harm during our sharing and learning.

As I have mentioned previously in different ways, this work had to have meaning beyond just another piece of research. The thing in my life that carries meaning is my button blanket. This beautiful piece of black and red art work outlined with abalone shell buttons is the epitome of my culture and my greatest love, the water. The raven depicted on my blanket symbolizes my family clan and in its mouth it carries the sun reflecting the story that I remember from my childhood. Ravens wings are stretched out and he is in flight but at the same time surrounded by a pattern of water which exhibits the element I am most at home in, water. Even though I cried during my first visit to the pool at the age of 3 years old I was able to cultivate a love for the water. With success in swimming lessons I began competing in swim club over the span of 10 years wherein this love turned into my first job as a lifeguard/instructor in Prince Rupert. Although today I am no longer an employed lifeguard, I am drawn to the ocean, rivers and lakes within my grasp. Figure 1 is an illustration of my button blanket.

Figure 1. Conceptual Framework – Raven Who Stole the Sun.



The following is the breakdown of my conceptual framework and an explanation of the meaning behind the assignment of different parts of Raven.

1. The Heart of the Raven → Co-researchers: Without the co-researchers this work would not exist and would not have taken the life that it did. Their stories and experience of the *Indian Act* are essential to the meaning and purpose of this research.

2. The Sun in Raven's mouth → Knowledge from story: The sun represents the experiential component of the co-researcher's stories of status transmission. It is reflective of the learning and sharing that took place in the research and represents the eventual releasing of this knowledge as the sun was released by Raven.

3. The Left wing of Raven → Indigenous Methods of Research: This wing represents the Indigenous components I took into consideration when designing the research. Each feather of the wing symbolizes important things to consider when doing research with Indigenous peoples: a) Respect, b) Reciprocity, c) Relevance, and d) Responsibility (Kirkness and Barnhardt, 1991). These feathers will be explained further later in this work.

4. The Right wing of Raven → Phenomenology: This wing represents the four pieces I view as integral to the success of phenomenology in this research: a) Researcher experience, b) Co-researcher experience, c) Essence, and d) Meaning. These components reflect the

values and goals in this research while making space for the indigenizing of a methodology.

5. Raven's Eye → Researcher Perspective: The eye exhibits the researcher perspective in my work. The importance of this component lays in the fact that not only am I the researcher in this work, but I am also an active participant sharing her story as well.

Locating Me in this Research

In order to properly introduce this research I have to locate myself within it. The topic of First Nations identity is an integral part of my culture, family, and daily living as a result of being defined as an 'Indian' by the Federal Government. The *Indian Act* defines my mother as a 6(1) Indian while I am defined as a 6(2)³ Indian because my father is not First Nations. For over 20 years I grew up in Tsimshian territory in Prince Rupert, small city where First Nations people are very much a visible part of the community. With a population of 13,932 those who identified as being of Aboriginal descent (First Nations, Inuit, or Métis) represent over one third of the population with a total of 4,475 in the 2006 Statistics Canada Census (Statistics Canada, 2010).

Identity has been a persistent thought for the past few years of my life when children became a possibility. My partner is not First Nations and we often discuss the consequences of our children not having 'Indian' Status and what that would mean for their identity development. These discussions keep status and its meaning at the forefront of my existence and it was not

³ 6(1) and 6(2) are labels to differentiate levels of status according to the Indian Act. An individual with two parents eligible for status is defined as 6(1) while an individual with only one status parent is falls under 6(2).

long before it entered my dreams; one specifically sparked my decision to take on this research. In this particular dream my children were asking about my status card⁴ and what it meant to be a status 'Indian'. In a way they could understand I explained that it was Canada's way of identifying and defining First Nations people who were here before European Canadians and that in some situations First Nations use the same system to identify their members. Eventually my children inquired as to why they did not have their own status card and in the dream I explained as best I could that they would not have a card because of how the *Indian Act* controls status transmission when First Nations people marry someone who is not First Nations or Non-Status. The dream continued as probing questions of confusion and frustration came out of my children who were desperately seeking out a person to blame for not being treated fairly. It progressed with my uncomfortable attempts to explain the unfair treatment in a healthy way they could understand without resentment for their father or the government. This dream revealed a moment in time I fear wherein I am reminded of my emotions of feeling like less of a First Nations woman by not being able to give my children status. The restriction I face is that of the second generation cut-off rule in which status cannot be transmitted beyond two generations of marrying out⁵. My dream also uncovered the horrid truth that I could not even answer for myself, whether someone was to blame for the discriminating treatment and who that person may be. Why does the federal government use the *Indian Act* which is silently assimilating First Nations people by

⁴ Status cards are given to those who have been determined to legally qualify as an 'Indian' according to the Indian Act. It is a form of picture identification in which those who are eligible are also given a number to identify them in the Indian register.

⁵ Marrying-out is the term used to define a situation in which a First Nations woman marries either a non-First Nations man or a non-status man. Marrying out is typically used to illustrate the situation of the woman leaving the reserve and any rights she previously held according to the Indian Act prior to 1985.

stripping them of the ability to transmit status over generations of intermarriage? What will happen to First Nations people and communities as the number of status 'Indians' decreases?

The experience of my identity has developed over the past decade, and recently I have begun investigating it more as I am in a place where my choices may impact the lives of possible children in the future. As a teenager my identity was not a major question that needed to be answered in my life, I was focused on sport, school, and friends. Mind you I was aware of being half First Nations on my mother's side from Kitkatla whose people are part of the Tsimshian. I also knew that I was from the Raven clan. However, in my mid-teenage years I never gave attention to how my identity would pan out in the future let alone even conceive of my world with children. When I was nineteen I moved to Västerås, Sweden to continue my studies in psychology and a new world was revealed to me. This was a world where (in the particular city I lived in) people were predominantly Swedish or from a neighbouring Scandinavian country. I experienced the excitement people had in realizing I was a 'Native' from Canada and saw the amazement in my friend Martin's eyes when I told him his poster of a stoic Cree man in regalia from head to toe was a part of my identity from my Grandfather. I began to realise how rich my culture and identity was and how aware other people were of its existence.

When I came back to Canada I understood what it meant to be First Nations. I had grown up in this world but it was barely recognizable when I returned. I sometimes joke that I came back to Canada through a door that delivered me to a place where I really felt my First Nations identity in my heart and in my blood. I now know that I had to leave before I could realize who my people were, what my identity was, and where I belonged. The belonging I felt was

comforting, while at the same time knowing that prior to Sweden I was not uncomfortable at any point. Belonging as a result of identifying with my cultural group appeared to have taken a side seat to merely surviving as a nerdy outcast in high school. For a few years I lived happily with the comfort of knowing where I came from and relished the knowledge of being a young adult solid in her identity.

I then entered First Nations Studies at the University of Northern British Columbia where I walked through another door. This new door led to a dark and gloomy history of colonialism and large doses of histories I never knew. In this time I felt an anger I never knew I was capable of that resulted from hearing heart wrenching stories that I was never told. I felt anger for never being told and anger that these atrocities happened. As difficult as this point in my identity development was, I found solace my traditional button blanket with which I was presented in ceremony. At this ceremony I was also given the name Hadix Sym Gaa (Swimming Raven).

Today I see the importance of having my identity, with the addition of its legal definition represented through eligibility for 'Indian Status'. The third and present door I am walking through and experiencing is the one where I have caught a glimpse of the end of my legally defined identity. Not the end for me, rather the end of a line of subsequent generations with the ability to legally be defined as 'Indian' people. In terms of the line ending I refer to the denial and ceasing of recognition as an 'Indian person by the Federal Government of Canada according to their *Indian Act*. Many days were spent wondering why I was being punished for my choice of who to marry and be the father of my children. While some may consider it a stretch to call this

situation a punishment, it was how I felt and I was helpless to change it. Never in my life did I feel as oppressed and violated as I did in those moments. The Federal Government of Canada not only has the ability (through the *Indian Act*) to impose an identity upon a First Nation individual, but they also have in their power the decision to disallow legal 'Indian' identity based on racial intermarriage. Below is the dream I mentioned earlier that was shared in my interview in what I think was a response to the turmoil of learning more about the gender discrimination in the *Indian Act*.

"I don't dream all the time so when I do dream I know it was meant to come to me for a reason. The dream was of my children, which I do not have yet, they were asking me why they couldn't fish on the same side of the bridge as me when I was home. There's a place where I fish with my parents where if you have status you're allowed to fish about 50ft further down in the quieter waters. Whereas if you only have a fishing license you can only fish in the congested part of the river. So normally I go on the other side of the bridge to fish with my mom. But in this dream I had to explain to my children that they could come over but they couldn't fish with us. The whole discussion in the dream was about my children trying to figure out who to blame. Who to blame for not having status and it was between me, my partner or the government. And by the end of it I did not have an answer for them" (Researcher Interview, 2010).

In my pain, I saw other women in my position, and if not in this generation, I could still envision the pain future First Nations women would face. Extending legal 'Indian status' for one

more generation through *Bill C-3* simply prolongs what will eventually be the loss of legal identity. *Bill C-3* will be addressed in more depth later in this work. Beyond the pain I began to realise this work is important and I knew with the information I had access to I wanted to help other women understand the restrictions in the *Indian Act*. This is the door I am walking through presently.

The Co-Researchers

To recruit First Nations women in this research I made contact through poster advertisements (see Appendix 2) hung at the University of Northern British Columbia (UNBC) and with those who directly shared an interest in the research through personal contacts. Through consent forms each woman had the opportunity to be completely anonymous through the use of an alternate name or a pseudonym. None of the co-researchers wished to remain anonymous. In the first meeting the research was introduced and interview questions answered for Lori, Toni, and Lynn. For one co-researcher, Judith, the first meeting was used to get to know one another and understand each other's history. The interview protocols used accommodated for both types of meetings to take place with the co-researchers.

Each of the co-researchers had her own story of status restriction that enriched this research by informing on the various ways the *Indian Act* disregards women's rights to having an identity and passing it down to subsequent generations. Lori is a Tsimshian woman from BC who was known to me prior to this research and shares a similar history of status with me. Her history is of second generation cut-off as a result of marrying a man who is not First Nations.

She agreed to participate and share her story that revealed a strong sense of knowing that illustrated the traditions instilled from her family. Toni is from the T'souke Nation in BC and came to this research from seeing one of the poster advertisements. Her story in this research reveals the divides created within families by the Indian Act in regards to legally defined status and how ways of knowing are developed through family relations and engaging with cultural events. Lynn is Anishnaabe/Algonquin Kwe from Ontario and was introduced to me in the summer of 2010. I had known of her work prior to our meeting and I knew her knowledge and ways of knowing would enrich this work. In this research she brings her story of unknown and unstated paternity as a barrier to obtaining legally defined status. Judith is from Soda Creek, BC and contacted me through poster recruitment that was passed on to her from her husband. Our first meeting was informal and allowed us to talk about our stories, where I hoped this research would go, and for what purpose I was pursuing this work. Her story is one of *Bill C-31* struggle and epiphanies she had when other's behaviours toward her mother (who lost status) came to light.

Chapter Two: The Indian Act

“The Indian Act has been the focus of great conflict and contestation in many communities that have been forced to reconcile local notions of membership, citizenship, political participation and structure with imposed legal sanctions and controls” (Kirmayer et al., 2003, p. 17).

Dating back over 100 years (1876), the *Indian Act* is a document that was passed through parliament and was originally designed to give the government control over legislation regarding Indians and their lands. The terminology ‘Indian’ is found throughout this document and used as the legal term to define First Nations people (Monture-Angus, 1995). The Act removed any and all responsibility of nations to determine their members and their lives as a whole (Adelson, 2005). The document itself is written in such a way that it controls the lives of status First Nations people in regards to their identity and means of living. It succeeded in doing so by codifying the definition of an Indian and a non-Indian (Woolford, 2009). In fact, the *Indian Act* defines an Indian as a Crown ward whose care is the responsibility of the state (Kirmayer, Simpson & Cargo, 2003). Not long after its inception it began to eliminate status First Nations people by stripping them of Indian Status in various ways such as enfranchisement⁶ and marrying out. Not long ago, a First Nations person would have to give up their status through enfranchisement in order to vote in Canada, thus giving up all rights as an Indian to become a

⁶ To enfranchise meant for an Indian person to give up their rights according to the Indian Act. This dates back to the Gradual Enfranchisement Act wherein Indians were enfranchised if they moved off reserve, obtained an education, wanted the right to vote, and in many situations when a woman married-out.

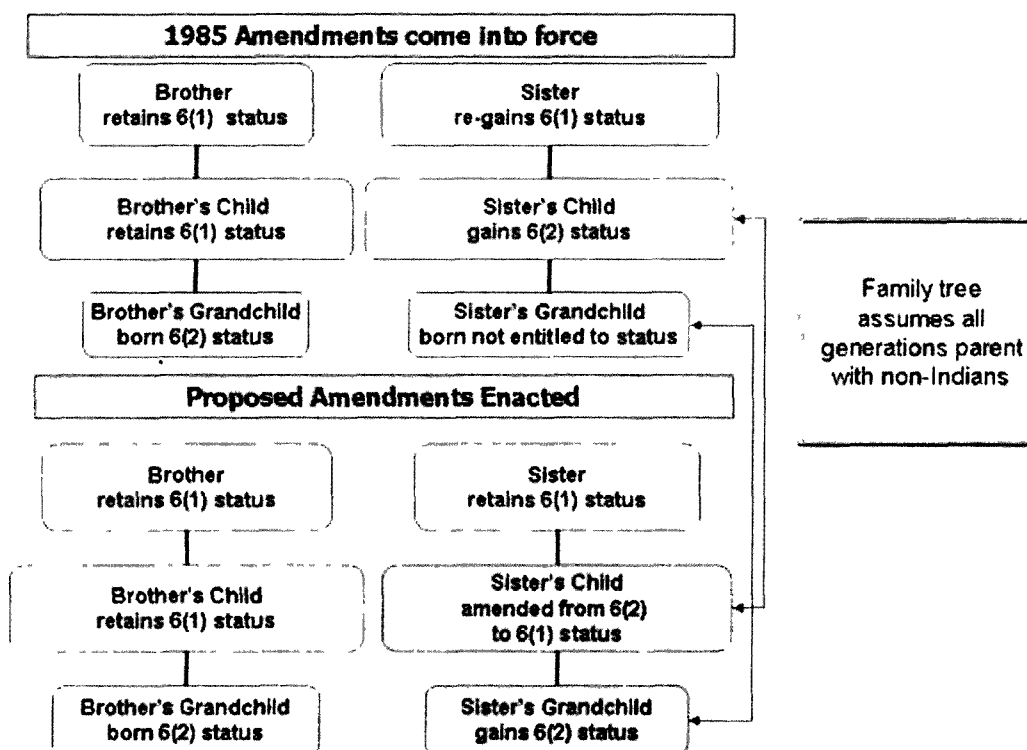
‘Canadian citizen’. If an Indian man gave up his status for these rights, his wife and children would also lose their status and any rights previously held.

Over the years the *Indian Act* has been amended to make certain changes at different points in history. At one point it was even used to ban the potlatch and any other ceremony (gathering) that included regalia and other cultural items. Today however, the *Indian Act* remains unique in that it is a written document produced by non-First Nations people over a hundred years ago that holds the power to define who is and is not eligible to be considered a Status Indian. Even with such amendments as will be discussed below, the *Indian Act* maintains its prerogative to remove status First Nations in Canada by tracing the paternal line and not treating women equally. This removal over time can be seen under *Section 6* in the *Indian Act* which states who is and is not eligible for status. In this section it can also be determined what level of status an individual is eligible for. A full status ‘Indian’ in Canada is defined as being 6(1); before 1985 if a woman with any level of status married a non-status man she would become non-status. Important to note here are the stressors of colonial assimilation and urbanization in the 1950’s and 1960’s that pressured First Nations people to marry-out (Lawrence & Dua, 2005, p. 121).

With the amendment in 1985 known as *Bill C-31*, those women who lost status from marrying-out were reinstated as status but now their children would be defined as 6(2) and fall under the second generation cut-off rule; thus ending the line of status at the grandchildren generation. Men however continue their status for an extra generation; this has been addressed

through a second amendment known as *Bill C-3* to some extent. Further description of these two separate amendments can be found below in *Figure 2*.

Figure 2. Comparison Chart of Current Indian Act & Proposed Changes of Bill C-3.



(Indian and Northern Affairs Canada, 2010).

For many Nations today, the *Indian Act* plays an integral role in helping nations determine band lists and who is/is not a member. However, *Section's 10* and *11* differ based on the level of autonomy a nation possesses in regards to band list control. Bands that are classified as *Section 10* have control of their band list and are able to develop their own band membership

rules; these rules are still dependent on the *Indian Act*. Those defined as Section 11 still depend on the *Indian Act* and all questions to do with membership go through the Department of Indian and Northern Affairs (Shade, 2002). To clarify this, Indian Status is a federal means of identifying 'Indians' while Band lists will continue to state who is and is not a member of a particular nation. Traditionally, high ranking chiefs and family elders decided upon membership in a nation, these rules were not written down but decided by a group of people within the nation.

Bill C-31 (1985)

This amendment to the *Indian Act* was intended to remove gender discrimination but only served to limit both First Nations men and women in regards to how they pass down status to their children and grandchildren. Prior to this bill First Nations women who married non-status or non-First Nations men were stripped of their status and lost any rights they previously held as First Nations people on reserve (Fiske, Newall & George, 2001); thus becoming non-status. This section of the old *Indian Act* was listed as *Section 12(1)(b)* and directly stated that a First Nations woman would lose status upon marriage to either a non-First Nations or non-status man. On the other hand, men who married non-First Nations or non-status women had the ability to transmit their status to not only their children but also to the women they married (Gervais, 2007). A pivotal moment occurred when a group of Tobique women in New Brunswick blockaded themselves in their Band Office to fight for their rights to be reinstated. One of these women was Sandra Lovelace Sappier who upon her return to her community was denied a house and found herself living in a tent with her son (Silman, 1987). In 1977 she joined a movement with two organisations, Indian Rights for Indian Women and the National Native Women's Association,

to campaign against the law that refused her rights to the reserve she grew up on because she had married a non-First Nations man (Centre for Canadian Studies, 2001). Because of this forced enfranchisement First Nations women could no longer own a house or be employed (among other revoked rights) in their community because they married either non-status or non-First Nation men. With the passing of *Bill C-31* women who lost this status were able to regain it through an application process. As a result of this the status First Nations population grew 19% between 1985 and 1990 with 75,761 applications sent in for reinstatement (Gervais, 2007).

However, *Bill C-31* merely changed the *Indian Act* in such a way as to restrict both men and women to transmit status in situations of intermarriage. It also provides the path to nations determining their own membership codes which could be used to further discrimination against First Nations women if so desired by council (Fiske et al., 2001). A discriminatory aspect of this Bill allowed First Nations men to maintain an extra generation of status in situations of intermarriage compared to First Nations women. However, an addition to the *Indian Act* (*Bill C-3*) was recently announced as law and extends the women's line of status for one more generation. Even with its addition it continues to discriminate based on unknown/unstated paternity and against those born before 1951 who trace their lineage through the maternal line. In reality, this fight began in the early 1970's, to have the *Indian Act* provide equal rights to women, and still continues today with the flaws now found in *Bill C-3*.

Bill C-3 (2010)

Bill C-3 is the response of the federal government regarding the court case of *McIvor v. Canada* wherein *Section 6* of the *Indian Act* is in violation of the Canadian Charter of Rights and Freedoms (Day & Green, 2010). The legal fight was intended to overcome gender discrimination in the *Indian Act* by allowing First Nations women to pass down legally defined status for one more generation; thus bringing them to the level allowed to First Nations men. Currently the second generation of First Nations women to marry-out are defined as 6(2) and are unable to transmit status to their children; *Bill C-3* will amend this issue and give these same women 6(1) status thus bringing them to the level of First Nations men in the same situation. In Figure 1 you will observe an example of a brother and sister and how their lineage compares with *Bill C-31* and *Bill C-3* to amend the *Indian Act*. Now that *Bill C-3* has been introduced in we will see one more generation of legally defined First Nations children of intermarriage (for First Nations women). Important to note with this development is that the loss of legally defined identity is merely postponed; this extension and inclusion of one more generation does nothing to remove gender discrimination from the *Indian Act*. For over one hundred years First Nations women have faced discrimination based on their gender at the hands of the *Indian Act* which stipulates who has the ability to obtain or transmit Indian status (McIvor, 2009). Bonita Lawrence claims the damage has already been done to those generations of women already victimized by government controlled identity legislation.

"The children and grandchildren of these women, today, as urban mixed-race Native people, are struggling to situate themselves with respect to their mothers' and

grandmothers' communities within a discourse of Indianness that denies their realities” (Lawrence, 2003, p. 6).

Among the damage already done is the stipulation in the Bill that discriminates against those who trace their ancestry along maternal lines as opposed to paternal lines. If you were born before September 4th, 1951 you will continue to be denied status unless you trace your ancestry through paternal lines (Day & Green, 2010). The *Indian Act* has a long way to go before gender discrimination is completely obliterated. However, when one considers the gender discrimination in the Indian Act you will note that it goes beyond gender to outright discrimination against culture. Tracing lineage through the maternal line is a common cultural practice among many nations in Canada and it is being denied. As discussed by Joanna Anneke Rummens, there are various forms of identity that individuals use to inform their ‘life opportunities, experiences and outcomes’ (2004, p. 2). Of these forms of identity, culture is one of the components that support an individual’s way of self-identifying. So in reality, the *Indian Act* directly discriminates against culture as a whole through its discrimination against First Nations women. Furthermore, ancestry and ethnic origin are ‘Prohibited Grounds’ of discrimination in regards to employment according to *Section 10* of the *Ontario Human Rights Code* (OPSEU Course, 2010).

In his testimony about his situation, Jacob Grismer, the son of Sharon McIvor stated the consequences of his inability to have status as a child. His mother was able, through *Bill C-31*, to regain her status but his struggles as a child without status should not go unnoticed. In comparison to his cousins with status, he was forced to miss out on cultural activities, be labelled

as a half-breed, and live with the division created in his family between those with and without status (Supreme Court of Canada, 2007). These are the issues First Nations children will continue to face unless the *Indian Act* takes the initiative to remove any and all gender discrimination. They will also remain unless Nations begin to develop their own ways of identifying nation members outside of the barriers of status: marrying-out, second generation cut-offs, and unknown/unstated paternity. To put this loss of status into perspective consider the approximately 37, 000 children born to First Nations women with 6(1) status without paternity stated on their birth certificate between April 17th, 1985 and December 31st, 1999. These 37, 300 children were only eligible for 6(2) status which means they would not be able to pass status down to their children unless their partner was 6(1) or 6(2). Now imagine during that same time period, the 13,000 children born to 6(2) mothers without stated paternity and rendering them ineligible for any level of status (Mann, 2005, p.11). Regardless of the form of status loss that is taking place we cannot ignore the large amount of First Nations people slipping through the status cracks because of gender discriminatory restrictions.

On January 31st, 2011 John Duncan, Minister of Indian Affairs and Northern Development announced that *Bill C-3* (referred to as the *Gender Equity in Indian Registration Act*) would be in full force. From this day forward First Nations could apply for status if they meet all three criteria stated in the amendment: “(1) Their grandmother lost her Indian Status as a result of marrying a non-Indian, (2) One of their parents was registered, or were entitled to be registered, under sub-section 6(2) of the *Indian Act*, and (3) They or their siblings were born on or after September 4th, 1951” (Indian and Northern Affairs, 2011). While *Bill C-3* claims to

promote ‘gender equality in Indian registration’ the Canadian Bar Association suggests the bill only ‘sort of’ promotes gender equality, but not really (Canadian Bar Association, April 2010, p. 1). While this opinion came out while the Bill was still in its first reading in parliament, the amendment itself has not changed regarding the lingering components of gender discrimination. To best clarify where the discrimination remains the Canadian Bar Association (April 2010) has produced an illustration of gender discrimination since 1876 seen in Table 1 with a comparison of Sharon McIvor and her real life brother (although in the table he is referred to as ‘hypothetical brother’).

Table 1. Progression of Status Amendments.

| Indian Status Inherited from a Female Grandparent (Sharon McIvor) | | Indian Status inherited from a Male Grandparent (Sharon McIvor's brother) | |
|---|--|---|--|
| Before 1985 (Prior to Bill C-31) | | | |
| Sharon McIvor Married non-Indian man | Lost status | Brother Married non-Indian woman | Status |
| Jacob Grismer (son) Married non-Indian woman | Non-status | Son Married non-Indian woman | Status |
| Grandchild | Non-status | Grandchild | Status until 21 (according to old section 12(1)(a)(iv)) |
| After 1985 (Bill C-31) | | | |
| Sharon McIvor Married non-Indian man | 6(1)(c) Status reinstated | Brother Married non-Indian woman | 6(1)(a) status maintained |
| Jacob Grismer Married non-Indian woman | 6(2) Status: Second generation cut- off | Son Married non-Indian woman | 6(1)(a) Status |
| Grandchild <i>Born after 1985</i> | Non-status | Grandchild <i>Born after 1985</i> | 6(2) Second- generation cut- off |
| Grandchild | Non-Status | Grandchild | 6(1)(c) Dbl |

| | | | |
|--|---------------------|---------------------------------------|-----------------------------------|
| <i>Born before 1985</i> | | <i>Born before 1985</i> | mother reinstatee ⁷ |
| Parliament's proposed amendments (Bill C-3) | | | |
| Sharon McIvor Married non-Indian man | 6(1)(c) Status | Brother Married non-Indian woman | 6(1)(a) Status |
| Jacob Grismer Married non-Indian Woman | 6(1)(c.1) Status | Son Married non-Indian woman | 6(1)(a) Status |
| Grandchild <i>Born after 1985</i> | 6(2) Status | Grandchild <i>Born after 1985</i> | 6(1)(c) Status |
| Grandchild <i>Born before 1985</i> | Non-Status | Grandchild <i>Born before 1985</i> | 6(1)(c) Status |

The following are limitations of *Bill C-3* that continue gender discrimination:

1. "The new section 6(1)(c.1) will create a new form of discrimination between those with children and those without. Under this section, the only people entitled to section 6(1)(c.1) status are those currently registered under section 6(2) who have non-status Indian children. Anyone with status children or no children will not get the gender remedy.
2. This bill does not address all gender inequality in the Indian Act. Canada argues it only addressed the inequality between double mother clause reinstatees and section 12(1)(b) reinstatees in the McIvor appeal case. Unfortunately, it does not even do that.

⁷ A Double Mother reinstate is an individual who was registered at birth but who would lose status at the age of 21 because their parents married after September 1951. The Double Mother rule was added in 1951 and was intended to strip status from those whose mother and paternal grandmother had acquired status through marriage to a Status Indian man (Hurley, 2010).

The descendants of Indian men will still have better status than the descendants of Indian women.

3. Canada continues to insulate itself from liability for the gender discrimination it imposed on the descendants of Indian women in *Section 9* of the bill. Indian women and their descendants will be the only group in Canada who have been discriminated against and for whom Canada refuses to allow them a Charter remedy” (Palmater, 2010).

4. The *Indian Act* remains silent on unknown and unstated paternity in *Bill C-3* which continues to discriminate against status First Nations women who have chosen to not identify the father of their children for various reasons. This continues the assumption of an unstated father as being non-native or non-status and at the same time disregarding traditional matrilineal rights to convey an identity onto subsequent generations.

Before continuing, I want to address the first point made above that states only those with 6(2) and non-status children will receive the gender remedy. The best description of this stipulation can be found in the Canadian Bar Association’s Document *Bill C-3 – Gender Equity in Indian Registration Act* (2011). In this document the issue lies in the new section 6(1)(c.1)(iv) which states that one must have a in order to be eligible for the gender remedy the bill is providing according to section 6(1)(c.1). This goes against Human Rights law in Canada as Family Status is one of the ‘protected grounds’ that should be free of discrimination (OPSEU Course, 2010). *Bill C-3* will be littered with administrative issues because of this new stipulation

in that First Nations women will have to change their own registration prior to applying for their children(s) registration. First Nations women who lost but regained status through *Bill C-31* will only receive the gender remedy if they have children they want to register.

“as a person eligible for registration under section 6(1)(c.1) will have to apply not only for registration of his or her child but also to change his or her own registration from section 6(2) to 6(1)(c.1) so the child may be registered. This is especially true where the section 6(1)(c.1) person has parented a child with a non-Indian” (Canadian Bar Association, April 2010, p.5).

The Government of Canada has chosen to grant status not as just a question of ancestry alone, but rather as whether one has parented a child or not. Below is a depiction of the changes that are now in effect with the addition of *Bill C-3: Gender Equality in Indian Registration Act* in comparison to status transmission prior to and after *Bill C-31*.

As depicted in the Table above, *Bill C-3* will still ignore equality for grandchildren with grandmothers who are classified as ‘Indian’. At the same time grandchildren who trace their lineage through the grandfather who is / was an Indian will not only maintain a higher form of status but will retain it for one more generation if born prior to 1985.

This research includes work by Sharon McIvor (2009) and her response to the 1985 *Indian Act*, Martin John Cannon (2005), and his work within the Six Nations Haundenosaunee,

and Bonita Lawrence's (2003 & 2005) work on legislated identity for First Nations and Native Americans. My research is acknowledging that First Nations identities are ever evolving as we enter into a phase of history where the consequences of the *Indian Act* and the government's unwillingness to remove gender discrimination entirely, begin to reveal themselves. My study is situated within the experience of federally defined 'Indian' status and the extent to which it impacts one's identity development. Specifically, my research focused on restrictions of status transmission among individuals in a position of being unable to pass status onto their children or who have been ineligible for status. Complimenting this research I want to look at the components that make up First Nations identity while investigating the various experiences of identity for First Nations people experiencing status restrictions and the possibility of not passing down legally defined status.

Traditional Ways of Identifying Nation Members

"Historically, Indigenous people knew who they were, and today most continue to trace identity through descent, lineage, and clan, but the federal government's preoccupation with a formal definition has caused many problems" (Weaver, 2001, p. 247).

Prior to contact there was no need for strict definitions of Indigenous, Aboriginal or First Nations identities that are used today; rather, people defined themselves as distinct nations separate from other groups. A sense of identity was a lifelong process in which First Peoples developed an inseparable connection to those who shared their traditions, homelands, and history. This sense of identity is still used to some extent today as people define their identity

through nation and traditional territories. However, the external pressures of the *Indian Act* have continually caused problems with this definition of identity and removed the right to define First Nations identities from the hands of First peoples. For example, to introduce myself in a traditional way I would say my name, Jessie King; my traditional name given to me by my family, Hadix Sym Gaa; my nation, Tsimshian; and the land base I identify with, Gitxaala on the Northwest Coast of British Columbia. However, according to the federal government I am Jessie King with a status card number and registered as a 6(2) Indian.

In her dissertation Jennifer Shade (2002) interviewed Elders from three communities in Southern British Columbia about current and traditional methods of identifying nation members. Many of the Elders she spoke to hoped that the young people in their nations would get educated and take over the band list and how to go about returning to traditional ways of identifying nation members. The *Indian Act* is not a traditional means of identifying membership in our nations and it has never been a part of how nations governed themselves in history. Rather it has created a divide and conquer legacy that continues to plague nations today. Traditional methods of identifying nation members had nothing to do with whether a person was the child of an Indian man or whether that person married an Indian man (Monture-Angus, 1995, p.47). Nations identified nation members through familial relationships that focused on membership through parents. If your family came from a particular territory then you were considered a member (Shade, 2002, p. 57).

Efforts are being made to return to traditional means of identifying Nation members. This is seen within the Nisgaa Final Agreement (2001) under the Eligibility and Enrolment Criteria they have designed for their members.

1. “An individual is eligible to be enrolled under this Agreement if that individual is:
 - I. of Nisga'a ancestry and their mother was born into one of the Nisga'a tribes;
 - II. a descendant of an individual described in subparagraphs 1 (a) or 1 (c);
 - III. an adopted child of an individual described in subparagraphs 1 (a) or 1 (b);
 - or
 - IV. an aboriginal individual who is married to someone described in subparagraphs 1 (a), (b), or (c) and has been adopted by one of the four Nisga'a tribes in accordance with Ayuuk Nisga'a, that is, the individual has been accepted by a Nisga'a tribe, as a member of that tribe, in the presence of witnesses from the other Nisga'a tribes at a settlement or stone moving feast” (Nisgaa Final Agreement, 1998).

This was the first modern treaty to be signed in nearly 100 years in British Columbia and it is an indicator that Nations can develop and return to their traditional protocols. Within these enrolment stipulations is the return to matrilineal descent; this return to traditional protocols is a major step other nations should consider in order to gain autonomy in defining their members.

Chapter Three: Literature Review

Identity

As mentioned previously, before contact there was no need for a term to define who was an 'Indian' or what made up an 'Indian'. First peoples defined themselves only to distinguish their group from other First Nations (Weaver, 2001). According to Hilary Weaver, Federal policy makers have increasingly imposed their definitions of First Nations in ways that completely disregard traditional ways of identification. Unfortunately over time these ways of identifying 'Indians' has influenced how First peoples even identify each other. In Canada, the federal government claims a right to define First Nations people by deciding who is and is not eligible to be an 'Indian'. This issue of identity is not an individual problem because of its highly politicized nature. The *Indian Act* has been used as a divisive tool in dismantling First Nations groups in a strategic manner and thus has brought the issue to the level of nationhood (Mishibinijima-Miller, 2010). Huntley & Blaney (1999) go so far as to define the *Indian Act* as 'a tool of assimilation and cultural genocide' (p.5) that was used to further the goals of a colonising effort in Canada. In order to begin this process our people had to be given a name to generalise First Nations across this land. The terminology adopted was 'Indian' and is still used today by both First Nations people and the government that forced the definition upon us. According to Patricia Monture-Angus (1995), 'Indian' is not an appropriate way to define us because it was decided upon by the government (p.32). It is not terminology that we decided upon for ourselves and is an ultimate means of silencing First Nations people by excluding them from defining their own identities (p.32). According to the government a person who is

considered to be an Indian is one who is entitled to be registered and meets the definitions laid out within the *Indian Act*.

In her book *Thunder in my Soul: A Mohawk Woman Speaks* (1995) Monture-Angus discussed the importance of ending silence and finding empowerment and overcoming the oppressive forces we come up against. As a Mohawk woman she stressed the importance of her culture in forming her understanding of her female identity and how that same culture demands that you speak from personal experience (p. 29). In her experience as an academic she believed that the only true knowledge in her life was that which she learned from experience (p. 45). This form of knowing was presented in her book as she uses experiences in her life to portray the injustice First Nations women have faced in Canadian society. Like me she used 'First Nations' as the terminology she was most comfortable with using; whereas terms such as Indian which were not created by us have actually been forced upon us over time.

Over one hundred years of legislation has continually changed the definition of an Indian, increased restrictions, and refused to offer First Nations women equality in their ability to transmit status in comparison to First Nations men. To best define the situation for First Nations women is that their identity has been and remains today as a question of legislation (law) as opposed to a question of belonging to a particular group (Gehl, 2000, p. 62). Gehl strives to challenge the *Indian Act* and its disregard for unknown and unstated paternity. For reasons she respects, her grandmother was unwilling to state who her grandfather was (Gehl, 2005); this is a recurring issue for First Nations women when faced with *Indian Act* eligibility. This is one of

three forms of status loss focussed upon in this research; these being marrying-out over generations/second generation cut-off rule, and the awful legacy of *Bill C-31*. All these forms of status loss impede the development of a healthy identity and continue to restrict children of First Nations people from obtaining the status their family members hold. As stated in Mishibinijima-Miller (2010), First Nations identity is dependent on many factors such as connection to the land, language, where you were raised, and an understanding of culture. Unfortunately all these factors of identity for First Nations are impeded by restrictions laid out in the *Indian Act*. Mishibinijima-Miller goes on to state the different kinds of identity that can occur: legally and biologically determined identity, society and culturally determined, and finally self-identification. In regards to legal and biological they refer to the ‘degree of descent’ and its relation to having Indian status or not. By social and cultural identification Mishbinijima-Miller describes a situation where identity is measured on cultural understanding, physical appearance, and connection to community. And finally self-identification is the extent to which a person feels a sense of belonging regardless of having status or not (2010). It is important to note these varying perceptions of identity as they all play an integral role in the formation of a healthy identity for First Nations people. Some also support other forms of identifying when the question of appearance is raised and ‘Indianness’ is doubted such as in the case of Drew Hayden Taylor in his book *Funny You Don’t Look like One: Observations from a Blue-Eyed Ojibway* (1996). I share his experience of not looking like other people’s definition of an ‘Indian’ or First Nations. In his book he discusses the connection between personal identity and other people’s perceptions of identity. Drew Hayden Taylor succinctly describes the experience I have with other people’s perceptions and reactions when they discover my ‘Indianness’. One section of his work that

spoke to me is the vision he has of status cards being tossed into an overflowing river in the near future. He pictures a world where these identification cards will no longer be required – where identity will be fully self-defined with no external forces to prescribe it. This hope may seem farfetched but hopefully at some point in time the government will realise First Nations rights to define their nations and members from the inside. This is now happening in cases of modern treaties like the Nisgaa Final Agreement noted above. But as Fiske et al. (2001) note, the idea of First Nations becoming self-governing was proposed in 1982 by the Honourable Pierre Elliot Trudeau and it is unfortunately something nations continue to struggle with today. The struggle arises out of how to go about self-governance by creating meaning and culturally diverse methods of governance for their nations.

In regards to developing a healthy identity we must be aware of the implications it has on overall well-being. Research has shown that engaging with an Indigenous identity is positively associated with indicators of well-being. These indicators also hint at identification acting as a resource in buffering an individual from rejection in society as well (Adams et al. 2006). This is important to note as the perception of First Nations people by non-First Nations people is not a healthy one. Even in modern society we still see images of the ‘savage’ and the ‘drunken Indian’ in the media, while general lack of awareness in society regarding the history of colonisation supports these beliefs. This ignorance is preserved through “governmental, bureaucratic and professional tutelage and control that continues to subdue First Nations attempts to be autonomous” (Kirmayer et al., 2003, p. 18).

What is important to note is that having a well developed identity has been positively associated with psychological well-being according to Erikson (as cited in Luyckx, Schwartz, Soenens, Vansteenkiste & Goosens, 2010). Of course identity is not a static concept; it is ever-changing and developing in regards to people's commitment and exploration. Luyckx et al. in 2010 discuss commitment and two different forms of identity exploration that can occur for people. Exploration is the act of considering various identity alternatives through active questioning by an individual. Commitment can occur as either commitment making (choosing from alternatives that have been explored) or identification with commitment (comfort in the commitments one has made). This information is important to this work in revealing the processes that may be going on when discussing identity with individuals. Among First Nations the concept of identity has been tangled amongst legislation created by a government. In Jennifer Shade's dissertation the topic of First Nations – Government relations in comparison to other nationalities came up in her interviews. No other nationality has an identity defined by the government of the country they live in.

History of Indian Act Legislation

The history of the *Indian Act* goes beyond its inception in 1876 and was the result of strategic steps to control every aspect of Indian life and reinforce the right of settlers to the land base of Canada by creating specific reserve areas for Indians (Barker, 2008; Lawrence, 2003). It is important to note, in the history of the Americas as a whole is that the land and people were “founded on, and maintained through policies of direct extermination, displacement, or assimilation” (Lawrence & Dua, 2005, p. 123). Lawrence goes on to list the progression of steps

taken to produce legislation controlling Indians. In 1850 legislation was developed to create Indian Reserves, at this point in history the definition of who was an Indian was not as strict as it is now. Shortly after this stage was the Gradual Civilisation Act in 1857 (Woolford, 2009; Lawrence, 2003,) which converted reserve lands into plots of land distanced from white settler expansion. It was not long after this that in 1860 the British Crown transferred over control of the 'Indians' to the Canadian colony. Soon the concept of being a status or non-status Indian would cement itself through the Gradual Enfranchisement Act in 1869 which aimed directly at undermining the rights of First Nations women by stripping them of Indian status upon marrying a non-Indian or non-status man (Huntley & Blaney, 1999). This practice continued until 1985 when *Bill C-31* sought to amend this form of status loss but not to the extent that First Nations men and women would have equal rights to transmission. But first, how has history defined who is and is not an Indian through the *Indian Act*?

To begin I review a document from the Department of Indian and Northern Affairs Canada (DIAND) that was released in 1991 and intended to help people understand who was/was not an Indian and how to go about registering as one. In 1850 an Indian was:

- 'any person deemed to be aboriginal by birth or blood;
- any person reputed to belong to a particular band or body of Indians; and
- any person who married an Indian or was adopted by Indians' (DIAND, 1999, p. 7)

However in 1868 this definition was flushed out to define an Indian as having one or both parents defined as an Indian as well as any woman who married an Indian man. Not long after

this revised definition, Indian women who married non-Indian men lost status; thus causing any children of such unions to be ineligible for status as well. In 1876 we begin to see gender discrimination as the patrilineal line of Indians becomes the focus of the definition in the following:

‘The term Indian means: First. Any male person of Indian blood reputed to belong to a particular band; Secondly. Any child of such person; Thirdly. Any woman who is or was lawfully married to such person’ (DIAND, 1999, p. 9).

At this point in history children were also defined under stricter terms of ‘legitimacy’ and status would be stripped if any Indian left the country for more than 5 years or gained a university degree. As the years progress, we begin to see the walls of defining an Indian begin to close in and dismiss those outside of the realm of these stricter definitions. By 1918 it became a possibility for a male Indian to enfranchise if he no longer held land on reserve proved he was self-sustaining off reserve. His enfranchisement removed him from receipt of any tangible and intangible benefits of being an Indian and caused his wife and children to also be enfranchised into Canadian society (DIAND, 1999). By 1951, DIAND decided that a register to record Indians was necessary; this register would be maintained by the department and consist of both band lists and the general lists. It would contain information on all individuals ‘entitled’ to be registered as an Indian either on, or not on, a band list and the date an individual was added or deleted from the register. During this same time, illegitimate children of male Indians were eligible to be registered while those of Indian women were not, unless the register was satisfied

their father was an Indian. Also important to note at this point in *Indian Act* history is the lifting of various bans such as the potlatch ban, the need to have permission from the Indian Agent before leaving reserve lands, and the ability for women to vote in reserve elections (Huntley & Blaney, 1999).

The Department of Indian and Northern Affairs decided that a new amendment to the *Indian Act* should be legislated in 1985 with the addition of *Bill C-31*. Their goal at the time was listed as:

“One, that all discrimination be removed from the Indian Act; two, that Indian status within the meaning of the Indian Act and band membership rights be restored to persons who had lost them; and three, that Indian bands have the right to control their own membership” (DIAND, 1999, p. 21).

In doing so, DIAND aimed to stop women from losing status based on their choice in partner to marry, end enfranchisement, disregard the question of a child being legitimate or illegitimate, and allow bands to have control over their membership (DIAND, 1999). While the primary goal of *Bill C-31* was to address the gender discrimination in previous renditions of the *Indian Act*; however it is obvious it came short on this goal. Post 1985 *Indian Act* stipulations determine a child’s eligibility for status on the status of his or her parents and leave unstated paternity to be based on the mother’s status alone (Mann, 2005). Beyond the flaws in *Bill C-31* regarding remaining gender discrimination there is the response the amendment received from the

community as mentioned in Martin Cannon's conceptual article in 2005. He presents the idea that there were some First Nations people who opposed *Bill C-31* because it allowed many people to obtain status and therefore be allowed to live on reserve and strain Federal programs that support status 'Indians'. On the other hand he presents interview data from people who are in support of allowing individuals who 'marry-out' back into the community because without them the people will eventually be gone. The article presents discrimination in the *Indian Act* as an issue for First Nations people requiring further investigation. Among these articles is an overarching question that has been raised because of the *Indian Act* – when is someone considered an Indian and when are they not? Furthermore, how is the *Indian Act* affecting the population of status Indians remaining in Canada? In her book “*Real” Indians and Others: Mixed-Blood Urban Native Peoples and Indigenous Nationhood* (2004) Bonita Lawrence discusses identity as both personal, and at the same time tangled in a mess of colonial power and politics; it is an issue that is far from neutral for Indigenous peoples (2004). Her words carry significant power as she states that legislation controlling Indigenous identity in Canada is merely a form of legal apartheid (2004). The discussion of fading legally defined 'Indian' identity in the following quote lent direction for my research:

“...we still live under conditions of colonisation, where it is vital for Native people to practice some sort of boundary maintenance to maintain Indian land in Indian hands – but where traditional forms of regulating who was or who was not a member of a Native society have been deliberately and viciously suppressed” (Lawrence, 2003, p. 21).

This suppression is leading to an eventual decimation of the status Indian population. According to Lynn Gehl, rules such as the second generation cut-off will completely decimate the status Indian population in some Nations, within 75 years, as there will no longer be children who are born entitled to status (2005).

The Indian Act

The *Indian Act* is a document that is divided into 122 sections that determine: membership, ways of defining Nation members, trading stipulations, land rights, election rules, and even school attendance (Indian Act, 2009). Developed over 100 years ago, it remains an integral part of First Nations people (Kirmayer et al., 2003). The focus of this research predominantly confronts *Section 6* of the *Indian Act* which is found under the heading *Definition and Registration of Indians* (p. 5). In order to keep records on status ‘Indians’ in Canada, *Section 5* defines the purpose of the Indian Register with the Department of Indian and Northern Affairs as:

“5(1) There shall be maintained in the Department an Indian Register in which shall be recorded the name of every person who is entitled to be registered as an Indian under this Act” (Indian Act, 2009, p.5).

This section continues with the rights of the Registrar to add or delete those entitled to be Indians in accordance with the Act and that to be registered an individual has to apply directly. Once the introduction of the registry is complete the Act proceeds to *Section 6* which is a lengthy description of who is and is not an Indian, why a person would not be considered an Indian, and

how eligibility is traced. This section is integral to this thesis for the reason that it is the piece that defines ‘Indianness’ and has the power to apply an identity to an Indian. Throughout this research there are numerical definitions that state the ‘level of Indianness’ as defined by the *Indian Act* (2009). These numbers are 6(1) and 6(2) with varying levels of each with the addition of (a) and (c) after the numbers. Detailed break downs of these numbers can be found in Figure 2 and Table 1 on pages 26 and 32 respectively.

In some situations the *Indian Act* has created divisions within families that remain irreparable even today (Gervais, 2007). Jennifer Shade (2002) investigated the concept of traditional identification methods in comparison to the current model that is dependent on the *Indian Act*. In the transcripts of her research, Shade notes that traditionally if you were born into a family you belonged. Elders in Cape Mudge were happy with the way in which their band list was determined because a factor in membership decisions is based on being born into a family of the community. This particular nation is classified as *Section 10* which allows the band to take control of their membership as opposed to *Section 11* which is still reliant on the *Indian Act*. Traditionally, if a non-Indian married and had children with an Indian, the children would still be considered Nation members. By not including children of such unions these children are not left with any rights. Traditionally even non-members and non-Indians were accepted into society in some cases.

To clarify *Section 10* and *Section 11* distinctions of bands in the *Indian Act* requires going to the source of classification. In the *Indian Act* under *Section 10*:

“A band may assume control of its own membership rules for itself in writing in accordance with this section and if, after the band has given appropriate notice of its intention to assume control of its own membership, a majority of the electors of the band gives its consent to the band’s control of its own membership” (Indian Act, 2009, p.8).

Under *Section 11*:

“Commencing on April 17th, 1985, a person is entitled to have his name entered in a Band List maintained in the Department for a band...” (Indian Act, 2009, p. 10).

Very simply, these two classifications of Bands suggest that *Section 10* bands have acquired some level of autonomy in regards to the band list, whereas *Section 11* bands leave Band list control with Indian and Northern Affairs. Important to note is that one can have legally defined status and not be on a band list; it is also possible to be on a band list but not legally defined as an Indian by the Federal government (McIvor, 2009).

In Sharon McIvor’s response to Indian and Northern Affairs Canada and their proposal to amend the 1985 *Indian Act* we see issues arising from the supposed attempt to remove gender discrimination. *Bill C-3*, in fact fails First Nations women and has created more problems than solutions. As previously mentioned, *Bill C-3* is the response from the federal government to the 2009 court case *McIvor v. Canada* wherein it was determined that section 6 of the *Indian Act* violated the Canadian Charter. McIvor’s argument is driven by her personal experience of

discrimination at the hands of the *Indian Act* as she witnessed her brother's ability to pass down his legally defined status while her children were denied because of her choice to 'marry-out'. She believes, just as I do, that it is a natural right to be able to pass down one's identity to one's children; however, the Indian Act prevents this from happening for women who marry or co-parent with non-status and non-First Nations men. With her opposition, *Bill C-3* has been passed in parliament. However, it is becoming apparent that even *Bill C-3* retains gender discrimination in some forms already mentioned previously. It is this reality that I have investigated further through my co-researcher interviews. Like Laverne Gervais, this topic will challenge me and be a rewarding experience. For her *Bill C-31* has impacted her life to the extent of asking the question 'ain't I an Indian?' She is not the only First Nations woman to ask herself this question but she maintains her role in her research through storytelling to shed light on the legislation. I have also noticed that the discussion about the *Indian Act* and how it affects First Nations women is lacking. However, unlike Laverne, I have noticed it to be lacking in society as well and for good reason. In speaking about her work I reflect on how it led me to pursue this topic in a way that was respectful of where I come from. In her words I wanted to "halt some of the damage caused by non-Indigenous academic standards" and to do this, I had to acknowledge where I come from (Gervais, 2007).

Methodology

Early in my university experience I realised the difficulties I was up against by entering an institution that operated on a very different worldview than my own. Kirkness & Barnhardt (1991) note the difficulties that First Nations students come across when entering university in

regards to the potential loss of the person you were prior to attending. Many First Nations community members fear their children going to university because of the potential for it to strip an individual of the identity they grew up in. The university comes from a perspective that exploits First Nations students to adapt to the university environment in order to become fully integrated within academia. In fact, many of the solutions to this problem are to further 'blame the victim' by adopting counselling programs, tutoring, and other special services to support these students (Kirkness & Barnhardt, 1991). This work is under the methodology section because it speaks to the indigenizing aspect of my research I have adopted. The indigenizing aspect of my research takes into account the 4 Rs from Kirkness & Barnhardt (1991) that are aimed at improving the success of First Nations students in university. The 4 Rs are: Respect, Relevance, Responsibility, and Reciprocity; each represents a way of helping First Nations navigate academia. However, these 4 R's also represent what is important to include in Indigenous research to ensure work is done in a meaningful way. These 4 Rs guided my indigenizing process and allowed my chosen methodology, phenomenology, to be receptive to First Nations needs. For the purpose of this research, I have integrated the 4 Rs, respect, relevance, reciprocity, and responsibility in a meaningful way that makes sense to me. For example,

- Respect – I am mindful of acknowledging my parents and family who are responsible for my existence, my ways of knowing and being who I am. The teachings from both have contributed a great deal in supporting me academically and culturally. These worldviews are complex in nature, but it has allowed me the opportunity to learn and grow into my existence.

- Relevance – what is important to note is that my identity connects me genealogically and geographically to the land. The land and our environment shapes our being, ways of knowing and the senses we use spiritually, emotionally, mentally and physically. The future of this research is relevant to the past, present and our purpose in life.
- Reciprocity –For the purpose of this study, traditional and cultural ways of knowing and being reflect upon the interconnectedness between people and place, in this case, the voice and vision of the people. It is from these guiding principles to my indigenizing process that I have developed an indigenized phenomenology.
- Responsibility – likewise, research is all about engaging in finding or searching for enlightenment. This thesis speaks to “The Identity Enigma: A Phenomenological Look at the Denial of First Nations Women’s Rights to Identity.” It is my responsibility to leave a legacy for my children and the upcoming generation particularly within my nation. Like the Elders and ancestors before them who defined our roles in society and within our culture by simply revitalizing, preserving and sustaining our traditions, customs, songs, ceremonies and cultural practices. We are required to pass the knowledge through the many teachings and lessons we have learned.

Beyond the Four Rs, there are many Indigenous and non-Indigenous scholars that have greatly influenced my work. One in particular Clark Moustakas captured my curiosity around phenomenology of which will be discussed later.

Many authors influenced my decision to pursue phenomenology to guide the research process, but none so much as Clark Moustakas (1994) which I will discuss later. Important to note about my methodology is the attention paid to influential Indigenous authors in the field of research. Linda Tuhiwai Smith's (1999) work in the field is invaluable to Indigenous researchers considering a research project with First peoples because of the lifelong teachings she includes. Embedded in her research are lifelong and experiential teachings. She reminds us as Indigenous and/or potential researchers that we are in a place of interest of doing our own research with the people, by the people and for the people. She understands that we are in a society where Indigenous peoples are becoming interested in doing Indigenous research, whereas in the past this same research:

... told us things already known, suggested things that would not work, and made careers for people who already had jobs. 'We are the most researched people in the world' is a comment I have heard frequently from several different indigenous communities. This cynicism ought to have been strong enough to deter any self-respecting Indigenous person from being associated with research (Smith, 1999).

Her knowledge defines how research should proceed through the use of ethics according to what is culturally appropriate. Culturally sensitive models, the accountability of the researcher, and the ownership of knowledge should continually be developed. The process of researching among First Nations people should be honoured in regards to what the research will bring and how it will be given to the people (Smith, 1999). She also notes the dichotomy of doing research as an

outside or an insider. Whereas research is commonly accepted to be from an outsider perspective, insider research methodologies are becoming more common and acceptable in qualitative research. However, along with the use of insider research one must have the ability to constantly be reflexive and attentive to both the process and the richness of data / analysis. To be reflexive is to be responsible for the ethical processes of research by ensuring data are collected in a respectful manner that remains humble. In light of this research and where my own experience played a major role, I had to be mindful about how data was collected. In using this method, it was my responsibility to be sure that the safety of the co-researchers was protected. This was the core of my belief system in pursuing this research as it reflected my values of not becoming an outsider expert but rather being in this research together with the co-researchers. Using this guidance allowed me to develop a methodology that was encompassed within my Indigenous worldview. Linda Tuhiwai-Smith guided me in this process with her mention of Indigenous methodologies often being a mixture of already existing methodologies and Indigenous practices (1999). I chose my methodology based on my values in order to ensure that I was not influenced by what Verna St. Denis (2007) calls 'western forms of patriarchy' which at some point in time have impacted us all. Whether these impacts come from society, or the academy, they are relevant to both men and women and have become ingrained within society.

In June 2010, I had the opportunity at a conference to hear Linda Tuhiwai-Smith speak about a family situation which epitomized the value of respect for Indigenous peoples. In her address she spoke of her attendance at a funeral for someone she was not familiar with, however she was familiar with the family. The example she provided taught a lesson of respect for the

family of that particular person. It is about our relations, as Indigenous people we are our relations, and this is articulated in the scholarly works of Shawn Wilson (2008). In his book *Research is Ceremony: Indigenous Research Methods* he provides an Indigenous method of doing research that places it within the concept of ceremony for Indigenous peoples. In the beginning of his book he takes academic writing and places it within a more inviting context for his children to allow them to see the journey he went through in the academy. Throughout the work he remains devoted to sharing Indigenous values and how they can be incorporated into meaningful research that can be applied and used for the communities the research is done within. His focus is on the concept of relationality, a concept that is important for First Nations people. The idea of relationality embraces the belief that all things and people are related in some way, shape or form. While dominant systems value objectivity, Wilson is sharing a way of doing research so that an academic can still be aware of their relations. When speaking to the people he worked closely with he found that many claimed that the "... relational way of being was at the heart of what it means to be Indigenous" (2008, p.80). It is possible to value both world views particularly when we as Indigenous people continue to face academic challenges. Such experiences are articulated by the following scholar.

Bryan M. Brayboy in his article *The Indian and the researcher: Tales from the field* (2000) shares the experience of being both an Indian and an academic at the same time. Being an academic and Indigenous at the same time is an experience I strongly relate to; the insecurities he faces within himself could very easily be extended to the issues I experienced in the field doing this research. While describing his work as an Indigenous academic, he also shares his questions

regarding who has the power to define identity, as he finds in his work that he is falling in a trap of compartmentalising people according to their appearance and ‘Indianness’ (2000). In speaking about his co-researchers he reveals an Indigenous academic who has fallen into the trap of trying to identify real Indians through stereotypes that have been perpetuated by colonial powers over the years. By being a strong Indigenous academic, Brayboy succeeds in finding a way to portray self-reflexivity by being brutally honest about his thought processes regarding what makes someone an Indian. By revealing these innermost perceptions, Brayboy uncovers a world where there may be individuals who perceive ‘Indianness’ with a critical eye that may stand in judgement.

Brock Pitawanakwat in his article *Bimaadziwin Oodenaang: A Pathway to Urban Nishnaabe Resurgence* (2008) outlines the story of mixed-blood urban Indigenous academics doing work on the concept of identity. While at first I was hopeful to read about an author speaking to my topic, I was quickly exposed to a potential opposing perspective to my research that concerned me at first. It is an opinion Brock presents from another academic, Elizabeth Cook-Lynn (1996, p.71) that states urban and mixed-blood research serves the self in its process and has little applicability to First Nations communities. In some way I do see her point and understand her position; but rather than being concerned I have aimed my research to being relevant to First Nations women no matter where they reside. She makes her statements to protect First Nations communities from those who may be self-serving and doing work that does not help the people it is researching. While this concern has now been raised through articles like this, it also provides insight into how my work can be perceived by some and allows me the

opportunity to think of how I can lessen any harm arising through my work. As a person of mixed ancestry Brock Pitawanakwat uses the definition of what it means to be native that was presented by Bonita Lawrence (2004). In her definition, considering oneself as native is not something that is limited to residence within the community; rather it means that person comes from a native family (Pitawanakwat, 2008). It is with these Indigenous scholars that this thesis maintains a strong connection to Indigenous worldviews and values while negotiating western methods of research.

In terms of Western methodology I reviewed work by John Creswell, specifically his work in *Qualitative Inquiry & Research Design: Choosing Among Five Approaches 2nd Edition* (2007). In discussing different forms of research he defines and compares various forms of qualitative research with examples of them in action. In this work is a thorough description of five methods of research alongside questions designed for each. In doing providing these questions you can gain researcher perspective into which methodology will accomplish the goals desired. While only used as a guide for how to go about the research, it is not focused on or inclusive of Indigenous paradigms in research. Rather it is a strict layout of how research is best completed in the dominant academic framework. In order to gain an understanding of a qualitative approach that made space for the Indigenous values so integral to this research I sought out other western methods of inquiry.

I considered the work of Max Van Manen (1990) whose focus is on the topic of phenomenology. In considering his portrayal of research that values the human experience I was

able to make the decision to choose phenomenology on my own terms. Even though Max Van Manen published his work nearly two decades ago, it still has a role in my work as an Indigenous academic in the field and doing research. His book, *Researching Lived Experience: Human Science for an Action Sensitive Pedagogy* (1990) dissects the methodology of doing human research in a phenomenological context. His call to better understand research with human co-researchers renews the possibility of designing research in a way that is sensitive and understands the implications of collecting lived experiences as data.

The lived experience of legally defined status and its restrictions for First Nations women is the very heart of this work. To fully understand this phenomenon I looked to the co-researchers to share their stories with me to grasp the full essence of their experience. In doing this a major source for my research has been Clark Moustakas' work, *Phenomenological Research Methods* (1994) which is a collection of method, conceptual framework, procedures, and analysis for doing human science research. His description of phenomenology accurately depicts the ultimate goal of my research not only to understand the essence of First Nation identity loss through intermarriage but experience self-awareness and self-knowledge at the same time. Phenomenology has a long history among many philosophers which some say began around 1765 when the term was first used (Kockelmans, 1967 as cited in Moustakas, 1994). However it was not until Hegel began exploring the concept that a technical definition was developed and defined phenomenology as knowledge as it appears to consciousness, the science of describing what one perceives, senses and knows in one's immediate awareness and experience (Husserl as cited in Hammond et al., 1991).

Many philosophers have created their own versions of phenomenology including Jean-Paul Sartre, Edmund Husserl, Martin Heidegger, and Maurice Merleau-Ponty. Of these philosophers I refer to Husserl, who I believe best reflects the experience of the co-researchers and the *Indian Act*. First of all, to experience something there must be two ‘poles’, two things that interact at some level. To best describe this is to define the person as the subject pole (Ego) and the *Indian Act* in this case, as the object pole (Cogitatum). For these two to interact there is a link between them, the stream of experiences between the two poles (the Cogito). Simply put, phenomenology is the study or description of phenomena with phenomena being anything that presents itself to someone (Husserl as cited in Hammond et al., 1991). For this research, it is the Cogito I am interested in, where the interaction between the co-researchers and the *Indian Act* is actively taking place.

Chapter Four: Methodology

Phenomenology

As mentioned previously the literal description of phenomenology is the study of phenomena that present itself to a subject (Husserl as cited in Hammond et al., 1991). It is the gathering of the essence of an experience. In this case the phenomenon of interest is the essence of First Nations women's experience of the *Indian Act* and the restrictions it places upon them in regards to status transmission. Ultimately I chose phenomenology to understand the phenomenon of status loss for the reasons stated throughout this work to gather an understanding of how women of different backgrounds and lives experience this reality/phenomenon.

Definition

The primary methodology of my research will be a modified phenomenological method that originates with Stevick, Coaliazzi, and Keen (Moustakas, 1994) developed through the 1970's. Moustakas (1994) presents this method as one that allows the researcher to gain insight into the essence of an experience in a way that allows the researcher to analyse their own experience. The method I followed in my data collection and analysis throughout my research is described in detail below. This methodology also leaves space for four Indigenous principles that need to be met by Western methodologies to positively benefit Indigenous peoples. Earlier I mentioned Kirkness & Barnhardt's (1991) four key principles of how research should be carried out. I spoke in-depth according to the purpose of my research however; I would like to reiterate their words to clarify the benefits of cultural protocols. The principles are a) respect – for not

only individuals but their beliefs and traditions as a people (Kirkness & Barnhardt, 1991), b) responsibility – understanding that as researchers we are entering a community we need to be aware of regarding protocols and what is respectful, c) reciprocity – doing research with Indigenous people should benefit the people in some way and d) relevance – using different forms of knowledge and knowing to ensure what is done is relevant to the people directly involved in the research (Kirkness & Barnhardt, 1991).

The topic of ‘Indian’ identity is experienced by First Nations people in Canada and it is one that is difficult to discuss in a country that does not fully grasp the impacts of being legally defined under the *Indian Act*. As Bonita Lawrence (2003) states, there are many people who have not engaged with this topic enough to fully understand the ramifications of living in a country that controls every aspect of ‘Indian’ life and identity. Because of this lack of engagement I chose to fully engage the topic myself by answering the research questions in an interview. The choice of this phenomenological method allowed me as the researcher to be within the research sharing my experiences with the co-researchers (participants) involved directly with the work (Moustakas, 1994); I feel it also serves to address the subjectivity of qualitative research by revealing the researcher experience upfront. Adding this component promotes the safety of co-researchers in the work, along with the comfort required for such a highly politicized and sensitive topic.

Analysis

The thought-provoking and compelling work of Clark Moustakas (1994) and his form of phenomenology was the driving force behind my work. Moustakas and his modification of ‘Stevick, Coalizzi, and Keen’s’ methods (p. 121) provides the insight that guided my decisions for how to go about completing this work. First and foremost I collected a comprehensive picture of my own experience with my identity before interviewing co-researchers in my study.

Analysing my experience enabled me to highlight potential themes embedded within my responses as significant statements. Responding to the interview questions also provided ideas for probing questions that would help me gain a stronger understanding of the co-researchers data. My ultimate goal in deciding to do this was driven by the need to experience the interview process as the co-researchers would. In order to do this research correctly and with the utmost respect, I felt that sitting in the interviewee position would reveal the emotions the co-researchers may experience as well as provide me with potential probing questions to achieve a response most reflective of the co-researchers story. I chose the terminology ‘co-researcher’ for my study knowing that the research participants would play a pivotal role in providing their personal data and assist in ensuring their transcripts were accurate to their story. They did not have access to other co-researcher’s data but each helped me to fully understand their personal experience through collaboration. Below is the method of phenomenological data collection and analysis I undertook in my research which comes from Moustakas (1994).

The procedure for analyzing phenomenological data that I have used in the research follows a data coding system that targets major recurring themes in co-researcher responses from

the transcripts of interviews. By coding the data I have codified responses that are similar across the unique spectrum of legal status experiences I came across and those that are significant. Coding responses in this way throughout the research as interviews were completed also provided support for follow up interviews to fill in gaps that were missed or to clarify responses previously given.

Phenomenological Data Analysis

1. Using a phenomenological approach, obtain a full description of your own experience of the phenomenon.
2. From the verbatim transcript of your experience complete the following steps:
 - a. Consider each statement with respect to significance for description of the experience.
 - b. Record all relevant statements.
 - c. List each nonrepetitive, nonoverlapping statement. These are the invariant horizons or meaning units of the experience.
 - d. Relate and cluster the invariant meaning units into themes.
 - e. Synthesize the invariant meaning units and themes into a *description of the textures of the experience*. Include verbatim examples.
 - f. Reflect on your own textural description. Through imaginative variation, construct a *description of the structures of your experience*.
 - g. Construct a *textural-structural description* of the meanings and essences of your experience.

3. From the verbatim transcript of the experience of each of the other co-researchers, complete the above steps, a through g.
4. From the individual textural-structural descriptions of all co-researchers' experiences, construct a composite textural-structural description of the meanings and essences of the experience, integrating all individual textural-structural descriptions into a universal description of the experience representing the group as a whole (Moustakas, 1994, p. 122).

Each statement made by the co-researcher was treated equally and chosen because they clearly illustrated the struggle and emotions surrounding the transmission of status. Those statements that were selected by the co-researchers and are shared in this document also acted as guides for the coding of other statements in the transcripts. The statements selected and those that were significant but not selected by the co-researchers, formulated the themes shared later in the 'Results & Discussion' section. Significance was gauged on whether a statement made an important point, illustrated the meaning of the experience of status restrictions, and captured the essence of the status restriction phenomenon for the women. It was from here that the statements selected and those discovered through further readings of the transcripts, that a textural description of each experience was produced. To honour the women in this research I chose to write out these textural descriptions as 'Lessons Learned'.

Phenomenology's Role in the Research

When thinking of the role phenomenology had in this research I automatically think of how easily I could be immersed in this work alongside the co-researchers investigating the phenomenon of identity. Phenomenology allows for a new form of knowledge and learning to take place wherein the researcher becomes 'one with' the subject (Moustakas, 1994, p. 46). Methodology selection was important for my research process because I aimed to find a method that would allow for researcher experience to enhance the phenomena being studied. From the beginning I required a process that would allow my experience to be included along with the co-researcher's experiences. In order to do this topic and the co-researchers justice, I wanted to learn by identifying with the phenomena alongside those who wished to participate, as opposed to laying out a controlled experiment that Harmon (as cited in Moustakas, 1994, p. 46) states we do not learn from.

Beyond the procedures involved in phenomenology that attracted me to it as a viable methodology, my decision was also largely based on the ability to be self-reflexive in my own experience of the identity phenomena as well as the research progress. Not only am I gathering the experience of the co-researchers, but Moustakas' (1994) modified Stevick-Coaliazzi-Keen Method makes space for a textural description of the researcher's experience. In this textural descriptive account is contained thoughts, feelings, examples, idea's and situations that encompass the experience of the phenomena in its entirety (Moustakas, 1994, p. 47).

Indigenizing Phenomenology

When choosing a methodology it is important to consider how it will impact your work. In the case of this research I wanted to know what the experience of legally defined status looked like in various situations of ineligibility or inability to transmit to subsequent generations. In this collecting of stories the ultimate goal was to understand the essence of the experience ranging from emotional reactions to perceptions of the object (Indian status). As mentioned previously in my conceptual framework I received the direction to find something in my life, a cultural piece, a story, or something of meaning to guide my research. The object that appealed to all these needs was my button blanket which was given to me upon graduation with my Bachelors of Science in Psychology in May 2008. Beyond that, this blanket also symbolizes a creation story among the Tsimshian. Like Raven, the concept of bringing light to the world is how I envision this work, as bringing light to First Nations identities that are often left out of conversation (in darkness).

An Indigenized Method

The best way to define my work and perhaps to unravel the complexities of terms used to describe indigeneity, I found that it would be more fitting to use Indigenized Phenomenology as opposed to an Indigenous Phenomenology. While phenomenology defines my work, I have chosen important aspects of Indigenous concepts that reflect considerations that need to be included to ensure safety and prevent colonisation through research. By colonisation I refer to research that does not benefit the research participants whatsoever and seeks only to obtain knowledge without regard for respect, relevance, reciprocity, and responsibility (Kirkness & Barnhardt, 1991). Along with these values I aimed to develop a sense of ownership of story

among the co-researchers. This ownership I hope instils a feeling of empowerment and strength for the co-researchers and will be something inviting for interested readers.

To indigenize this methodology I first chose the phenomenology as previously discussed. Fortunately I was able to find a form of phenomenology that in my view already contained indigenous aspects of how to go about doing research that values the human experience. By including me in the research I took on valuable insight by becoming a participant in my work. To fully appreciate the value in having respect, relevance, reciprocity, and responsibility I engaged with the research questions as an interviewee before I even thought of looking for women to answer my questions. To complete this process I have included my responses and a textural analysis of my experience in this thesis with the co-researchers as it relates to my relational way of being.

Philosophy

The guidance for my indigenizing philosophy comes from Kirkness & Barnhardt (1991) and their work surrounding success in post-secondary education among First Nations people. I chose it for the reason that it best suited my worldview and shaped a research project that I would feel safe participating in. Prior to entering this work I was a participant in various studies where that was precisely it, I was simply a participant. I did not own any of the work, I never engaged with the researcher once they were done with me and had my information. When it was all said and done I couldn't even prove that I owned my own story or behaviour whilst

participating. For all these reasons I was unable to attach any meaning to these experiences with research as a participant; thus there was no relevance for me. When I considered the possibility of doing research, relevance was at the top of my priorities along with responsibility, respect, and reciprocity. To ensure the co-researchers did not leave this experience feeling they had not gained anything I immediately remembered the importance of the Indigenous worldview I approached this topic with. Not only was relevance important to the co-researchers, this was equally important and informative for me in growth and development as a First Nations woman. By not making this research relevant would not only be irresponsible to the co-researchers but also an injustice to me by ignoring my previous knowledge of being a 'participant'.

Responsibility is a main priority in this research mainly because of the answers I am seeking on this topic. We live in a world where First Nations identity, status specifically, is a highly contested topic that prevents people from discussing it. Throughout this work, in preparation all the way through to completion, I had to be responsible for myself and the co-researchers. This is the way I was raised and it is the worldview that has been passed down to me by countless generations that came before. The work of Kirkness & Barnhardt (1991) continually reminds us of how important it is to build relationships whether it is to each other, to the land or the animals. Their teachings and lessons affords us a glimpse into worldviews that differ, ways of knowing and being that makes us unique, and the lessons we gain through looking, listening, and learning respect. The last but certainly not least in my research is reciprocity. Gifting back shows generosity, kindness, and trust with respect to the stories shared by the co-researchers. This form of gifting is presenting back a copy of this thesis to those who have contributed diligently to the research.

Indigenizing phenomenology in this specific research was not a difficult task for the reason that Moustakas (1994) presented a method of exploring a phenomenon in a respectful and holistic way to begin with. The pieces that were missing were simply the 4 R's as mentioned above and once those were in place I was able to structure the research in a way that Indigenous knowledge would be an integral part of investigating identity. The primary role of indigenizing the phenomenological data collection regarding identity loss was to protect the co-researchers by doing this work according to the worldview I was raised within. Instead of pursuing research by means of a method I had to learn, I chose to use my way of knowing the world and my understanding of the importance of respectful relationships. Clark Moustakas (1994) and the 4 Rs of Kirkness & Barnhardt (1991) were a perfect match and easily blended because of the attention to the human part of knowing and living.

Research Question

What is the essence of the experience First Nations women have with the *Indian Act* and the potential loss of status due to a) marrying out (second generation cut-off rule), b) *Bill C-31* (Double Mother Clause), and c) unknown and unstated paternity? This is the overall question I am trying to answer. As an insider to this topic I sought to investigate the experience of status transmission restrictions embedded within *Indian Act* legislation for First Nations women. My focus is on First Nations women for the reason that my nation, and many others, traditionally traced lineage according to the matriline. Under *Indian Act* legislation, First Nations women stand helpless to prevent their children/grandchildren's legally defined identity from fading over

time because of the reasons noted above. The interview questions I first responded to with the help of Dr. Antonia Mills and the same I asked of the co-researchers are as follows:

1. How do you identify your heritage? (Do you identify with one First Nation, multiple Nations, or do you identify as being multicultural?)
2. Please tell me about the relationship between your Indian Status and your personal identity? (How does your *Indian Act* status impact your personal identity? Is it embedded in your personal identity?)
3. What would it mean to you if you couldn't pass legal status down to subsequent generations? What has this experience been like? (What do you think it would look like?) If you never had status, how has the fight for it impacted your identity?
4. Beyond legal determinants of identity, what parts of your life support your First Nations identity?

Chapter Five: Results & Discussion

Women's Voice

The following section reveals the responses from the co-researchers during one-on-one interviews with the four main questions of the research. After the initial interview with each co-researcher I sent their transcript back to them via email for their review, and each one provided me with revisions to add or omit information for safety in sharing. During this review period each woman also selected the statements to appear in this thesis. After reviewing their transcripts the co-researchers had the opportunity to add/omit any statements they wanted. I allowed this for the reason that identity is a potentially sensitive topic and because doing so is respectful and responsible; I know this from my own experience. After the co-researchers reviewed their interview data we went through it together and selected statements from their answers that answered each question while also maintaining a level of safety (confidentiality) they so rightly deserve. These statements were decided upon through a follow-up interview with each co-researcher in person or in one case via Skype video/voice chat. The purpose for providing these responses in the results section was to share the voices of the co-researchers without my interpretation of what they were saying to ensure their stories were in their words. The following are my responses to each of the questions from the interview Dr. Antonia Mills agreed to do with me.

Researcher Interview

Question 1: Ok so your very first question, how do you identify your heritage?

Response: I identify with being multicultural, I am First Nations... Tsimshian on my mother's side there is also Cree and Ukrainian as well. Then on my father's side I have English, Irish, and Scottish... I am not sure who was English, Irish, or Scottish but I still identify as that being half of me. Predominantly in the past few years I have leaned more towards identifying more with my First Nations ancestry and I feel more at home with that ancestry because I understand it a little better.

Question 2: Can you please tell me about the relationship between your Indian status and your personal identity?

Response: I did not really start thinking about that until I started thinking about what it would be like if I would not be able to pass those rights down to my children, wondering about how they would cope with not being able to maybe fish beside me on the land we're allowed to fish on or not be allowed to have support when they go to school, or if they decide to live on reserve when they're older. Things like that. Yea I did not really start thinking about that until I met my partner and now that I am at this point in my life I think my status is ingrained in my identity, especially being so far from home right now. My personal identity I don't think I could have the specific one I have now without having the legal definition of who I am. Especially after having it for 27 years it's hard to separate the two with where I am now.

Question 3: What would it mean to you if you couldn't pass legal status down to subsequent generations?

Response: I know last year I was struggling quite a bit because... there were days when I felt like I was less... of a First Nations woman, that I would not be able to give that gift of rights to my children. But then I also had moments of anger feeling like I was being punished for my decision of who to have children with.

Question 4: What things support your identity beyond those legal determinants?

Response: My biggest support is knowing that I can go home and see and be within my culture I can collect food with my parents like going fishing, and even hearing stories about my reincarnation. I'll bother my parents relentlessly to tell me those stories over and over again because I see that as a piece of culture that no one can take away from me. And not having status won't be able to take that away. I think those are my major supports of my identity.

Textural Analysis of Researcher Experience

In my own experience, with the statements I shared in the above section I was able to get a sense of how pervasive my identity is to other factors in my life. During my interview I revealed the purpose of pursuing this research which dates back to the dream mentioned in the “Locating Me in This Research” section. In this dream my children, which I do not have yet, had asked me who was to blame in regards to my being defined as an ‘Indian’ while they were not. After having this dream I realised I never had an open and frank discussion about Indian status and identity in the context of these limitations and restrictions. Status was an everyday part of my life to the extent that I never spoke about it. I began to wonder whether other women felt this oppression and what I could do for them. I decided that the silence and lack of freedom to talk about our identities in relation to the *Indian Act* had gone on long enough. Not only the silencing of First Nations women, but the silencers, those who stand in judgement of those with or without status. We need to have a space created wherein women can speak freely about their experiences with the status phenomenon and the potential loss of it for various reasons such as marrying-out, unknown and unstated paternity, and the patrilineal preference of the federal government. This dream revealed to me the convoluted nature of the *Indian Act* and how divisive it is within families. Throughout my interview I note that it is not a topic I speak about publicly, this is largely due to the consequences that others may hear or that I may feel persecuted.

My interview responses were structured around a sense of having a mission. In responding to a question of why this work is so important I noted that “whenever I answer the questions myself I think of all the people I’m not going to reach. [If I do reach them] maybe they

will find some comfort in seeing my thesis out there.” (Researcher Interview, 2010). Being in university and having access to the materials that I do, I wanted to give something back to society with a strong sense of responsibility to other First Nations women. The driving force within my responses being the ending of both my silence and the silence I perceive other First Nations women to experience.

“I’m thinking about how hard is it for people who don’t understand the Indian Act and how hard is it for people who don’t have anyone to talk to... they find out when it’s too late sort of thing?” (Researcher Interview, 2010).

In discussing the topic of identity candidly with someone I felt I had begun a process of healing from silence. Because my own interview happened before those with co-researchers it was a launch point from where I began to understand how many factors in my life play into my identity. Things revealed during my interview such as family, my choice in partner, children who do not yet exist, and feeling like I was less of a First Nations woman because of my inability to pass down status were a cascade of connections to identity I never considered before. This highlights the magnitude of the identity phenomenon; that it is not merely a question of self-identification or others’ perceptions, but rather identity is a topic that encapsulates my life as a First Nations woman. As mentioned in the literature review, Patricia Monture-Angus (1995) stated that her culture is the only way she understands how to be a woman. For me, to understand my experience as a woman is to know my Tsimshian identity and how it factors into my daily life; status is a part of this experience.

Co-Researcher Interviews

The following are responses to each question from all the co-researchers in their words, directly from the transcripts they all allowed me to share. An interpretation will come later, but to have the words directly from these women means more to me and ensures that they do have a place in this research. The statements below have been selected by each woman and are presented here without external interpretation of their knowledge; these are their truths. The names listed in the following transcripts are how each woman chose to identify herself in this work as a co-researcher.

The first question was posed to gauge a sense of the woman I was speaking to. Among First Nations people it is critical to follow protocol when you are meeting face-to-face to introduce yourself, your place of belonging and the history behind it. The intent of this question is to observe the ways in which First Nations women have come to define themselves in modern society. In these responses you will see a variety of methods of identification such as personal identification, traditional practices, familial relations and legislation. It reveals how convoluted the topic of identity is and how many factors influence how a First Nations woman has come to define herself. This question allowed me to develop relationships with the co-researchers in a respectful way according to how I was raised.

Question 1: How do you identify your heritage? Do you identify with one nation, multiple nations or do you identify as being multicultural?

Lori: I am half Tsimshian and half German. I identify me as a half and halfer. My mother is Tsimshian and our culture is matrilineal. This means that as far as she's concerned or my grandparents are concerned, I am full Tsimshian, my children

will be full Tsimshian and their children along the women's line will be full Tsimshian no matter how pale we look!

Toni: I probably identify me through more of a culturally diverse identity. I am T'sou-ke Nation on my dad's side, my biological father's side, which is a nation on Vancouver Island just outside of Victoria. But then my mother was non-Aboriginal and then my family growing up was also non-Aboriginal so it really hasn't been until I hit about 19 or 20 that I started to identify as Aboriginal.

Lynn : Well that is an interesting question because of course I am mixed living in central Canada. My mother is French, Irish, and Indigenous; my father is Indigenous, French, and parts unknown in that I do not know who his father is or was. Growing up I really did not know in a conscious way that I could articulate explicitly. Despite this my mother spoke the French language and we followed some French Canadian traditions at Christmas and at the level of practice my father was a fisherman and was tied to Algonquin territory. We travelled there often to fish and see his extended family. When I was older and began the process of seeking out answers for the purpose of fulfilling the registration requirements for the Indian Act – my father and his mother are now entitled – I ended up moving toward my Indigeneity. Today that is where I get my meaning from. I am Algonquin Anishinaabe-kwe.

Judith: I think it kind of depends on where I am and who I am with. If I sense that they hear me I will probably say multicultural because I try and recognize my First Nations heritage and I have tried to recognize that part of my identity and my family's identity by maintaining what practices I can. Like I go berry picking, I go fishing, I go hunting. I take my kids and I teach my grandkids. I tell them stories from my granny's stories and my grandpa's stories so in that sense I do try and honour my First Nations heritage but at the same time because my father was white, he was Scottish and German, I also recognise part of... a smaller part of that. But First Nations has been a bigger part of my identity I think the better part of my identity. I am Bill C-31 status. My mom and I applied for it together when Bill C-31 came through and I think that was in 1986. She was so happy to be able to get her Indian status back. But she was kind of humiliated that it was only through that Act that she was able to get it just for her and then for me. So she was not allowed to claim her portion of her family land on the reserve. So she said it was humiliating you know land-less Indian. But she did assert her right to hunt and fish on the reserve cause that was something her brother couldn't take away from her. Her brothers... one in particular used to say that she was not a real Indian; that she gave up being an Indian because she had to in fact give up her status when she married my dad who was non-Indian.

The second question in my research aimed to identify whether Indian status had a role in the co-researcher's personal identities. When a person is eligible for Indian status they can approach their band or the local representative for Indian and Northern Affairs to obtain an identification card. To have this card you must submit a picture of yourself, sometimes a fee is charged, and you are assigned a number that is used to identify you. While many people believe this card should not have any impact on personal identity it has in fact become an integral part of personal identity for many people. For some it can become a means of validating a First Nations identity while at the same time providing a sense of authenticity (Mishibinijima-Miller, 2010). I wanted to know whether status in this card, or the fight for it had any impact on the personal identity of the co-researchers. This question also aimed at revealing the true feelings this card carries beyond its use as a piece of identification. Does its presence or lack thereof make a difference?

Question 2: Could you tell me the relationship between your Indian status and your personal identity? Does Indian status have an impact on your personal identity?

Lori: My status is so much of my personal identity that I don't even think about it really... it's just a part of my life. This is just a normal part of my life, I don't really feel different from anybody else. It's like being Catholic; I don't need a card from the Pope to know who I am. I mean it's fabulous. I got a free education and free health and dental benefits, cheap gas. For me, having a status card has been a total perk for my life I guess.

Toni: It definitely has that impact the fact that I can carry around a little card that you know a good chunk of Canadians cannot... obviously will impact my identity. When I look at me on a regular basis, no I don't think it has and you know I don't know if part of that is because I did not sort of embrace that opportunity to have my status until later... until I had already better defined who I was and who I was in relation to the world. You know I think the part that I find challenging now is just sort of having it define our family in different ways you know for me personally because I have status and... Actually yeah it did have an impact when I

realised I couldn't pass my status on to my son I did not even realise that was an option all of a sudden that something that I inherently had... all of a sudden I couldn't give to him and it was like 'oh well... why not?' Right? So it did have an impact yeah but on the day to day running of my life you know unless I need glasses and submit for reimbursement or something like it really is not something I think about too often.

Lynn: Although theoretically there is a difference between legal identity and cultural identity at the level of practice and on the ground level they are the same thing – they are conflated. Through my long process of coming to think about these things I have come to appreciate that just because I am not legally an Indian does not mean I am not culturally an Indian. Regardless of this realization I also know that I am not a member of my grandmother's band because I remain a non-status person. And this remains the case despite the recent passing of Bill C3 – I am still not going to gain status registration. As Sharon McIvor has been arguing Bill C3 is a piece of garbage in that it fails to eliminate all of the gender discrimination. You have to love Sharon McIvor...well I do! So in this way for many people legal and cultural identity is essentially the same thing.

Judith: It colours every aspect of my life I think. Probably I am maybe more aware of it because of my physical appearance like inside I feel like I am more like my mother's daughter. I appreciated who she was, a lot of aspects of her character, the kindness she was always giving, and she was welcoming of strangers. She befriended everybody she ever met. She believed in sharing everything she had. Getting our status with Bill C-31 had a huge impact because it was, I think, being given to us by the government but then other people would look at my mom and think 'Indian woman'. There was never any doubt that that's who she was but she was not allowed to be? She was not allowed to be proud of being a status Indian; she was humiliated by it because she was not allowed to have status until the government changed the law for that little glitch there.

In question three we see various responses. Three of the co-researchers, Lori, Toni, and Judith currently hold status, for one co-researcher this was not the case. Lynn indicated from the beginning that she did not have her status and she has been faced with challenges laid out by the *Indian Act* that restricts women from obtaining status in situations of unknown and unstated paternity. She asked me that when her voice appeared in this work that I make her situation clear

and I hope that other women in her position hear her words and wisdom so that they may understand the restrictions many women face.

Question 3: If you have status what would it mean to you if you couldn't pass legal status down to subsequent generations and what has this experience looked like? If not, what has the experience of restrictions on First Nations women looked like for you?

Lori: I find it to be insulting. Like I said, my culture is matrilineal. For somebody who's not a part of my family to just go ahead and you know... barge into our lives and tell me that my daughter or son is not native, I find that to be extremely... I don't know derogatory, insulting and hurtful. I was actually quite ignorant about it 'til marriage came up, then my mom was telling me about the problems I would have with my children if I married my partner instead of another First Nations boy. I hadn't really put any thought into it at all when I was younger. But starting last year I was quite indignant about it and... pissed I guess. I was pretty pissed when I learned... you know what a hassle it would be. I guess if my children did not have their status card, they would not be able to back up their claim of who they say they are. It's possible that they would be bullied and they might feel pressured to assimilate fully. That's their choice if they want to deny their First Nations heritage, but I would be really disappointed if they did.

Toni: It's been frustrating. It's been a good lesson in sort of learning the history of First Nations in Canada and the history of colonisation and that history of subscribing identity for people you know. I think when I got my status it just did not even dawn on me that it was not something potentially that I couldn't pass on. What I am finding now that I have my daughter whose father is status with the Haida Nation... you know it just seems weird that I can have children both coming from my body but one is granted the opportunity to get status and one is not and like you know... that's again through her father. You know it just sort of highlights that patriarchal approach that we place identity on Aboriginal people right that... it really goes against the grain of matriarchical societies of which both mine and the Haida Nation are. But yea that was frustrating and I was angry for a while not understanding why and you know now with the new bill that's gone through I still don't fully understand how it could impact. I think potentially it could.

Lynn: The conflated relationship between legal and cultural identity and how it has impacted and continues to impact my ontology cannot be understated! Not being legally an Indian prevented my father and his mother [my grandmother] from instilling pride in the generations that followed – that included me. Although not

realizing it what they did was pass on an embodiment of shame and stigmatization. How could they pass on the pride of being Anishinaabe if they themselves were denied who they were? Shame and stigmatization should not be a person's ontology. Rather, people need an ontology of love, joy, respect, and dignity. Possibly I will always be an outsider because of the criteria in the Indian Act and always live in exile. Possibly I will die living in exile just like my Dad did and so many others have. As a child I was confused. For example, how could I be having a cultural experience with my Dad yet everybody was in denial that I was an Indian. So what happened is, I wondered...is this real? what is real? am I a person? do all these adults tell lies? why should I trust any of them because this makes no sense? In short, nothing made sense. Sure, I think my struggle legally challenging the Indian Act with Aboriginal Legal Services of Toronto has been a part of my process of coming to know who I am. But this is difficult for me in that there are people who stand harshly in judgement of me for challenging the Indian Act. They think I am not being progressive in my process. They think I am colonized playing with the colonizer's rules. These people need to think more critically and be more thoughtful about what they are saying. It is a real privilege to have always had status registration and stand in judgement of me in the work I do. This is problematic. These people have not considered the fact that maybe I am challenging the Indian Act because I know there are a lot of young mothers who need to be registered to better take care of their babies' health, education, and housing needs. This is particularly true of mothers living on reserves in remote northern communities.

Judith:

Well that was why I got involved with the treaty stuff. I tried really hard to do whatever I possibly could do to bring things like Bill C-3 into effect because I think Bill C-31 and Bill C-3 are still more of that colonial process. It's still patronizing... I find it very patronizing and I think who gave the government the right to determine who I am? Why do they think they can wave a magic wand and say 'you're status... and you're not!' You know? It infuriates me! That I couldn't pass it on and yet my brothers still could? Like for me to get my status granted to me by the government it helped me recognize that it was important to me. It helped me embrace it, it's helped me realise that it is important to me, it is important to my relationships with other people as well. Since I got my status I feel like... it's kind of weird, it's almost like I have a mission. Like I want people to know, I want people to say 'well huh... she's an Indian... she's not so bad... she's not so stupid... she's not dirty... she's got something really interesting to say... geez I wonder what her family are like... I wonder what their culture is like?' That's what I want to bring into it, and that's what I want my kids to get and that's what I want people that I meet to get. That it is something to be valued; to me it's like an honour. It is something to be respected.

Before this research began I wanted it to have a positive outlook in the end. First Nations people are commonly researched and in some cases research is a dirty word (Smith, 1999). To finish the interviews I wanted to invite the co-researchers to share things in their life that support their First Nations identity that go above and beyond legal determinants. I wanted to know what sort of things these women do, believe in, and cherish as protective factors for celebrating their identities. For me this was an exciting question that showed the strength of the co-researchers in finding things in their lives that solidify their identities.

Question 4: When you're thinking beyond legal determinants of identity what parts of your life support your First Nations identity, your cultural identity?

Lori: When I was a kid I would go to a dance group and I have a button blanket and we would participate in those sorts of cultural activities. My mom and grandma teach the language and my brothers are both fluent. I took French in high school but I have picked up a tiny bit, the rude words. When I go home my brothers insult me at the dinner table in Smalgyax and I insult them back in French. Now that I am older it seems like the only cultural activities I go to are like feasts and funerals.

Toni: Well I think the fact that we've tried to build a sense of community around us even within an urban setting you know we're not from the Nation whose traditional territory we're on but it's something we're always aware of and we always look to build that sense of community... sense of family around us as we've gone on and while I don't think we're ever going to be a family that's out there drumming, singing, and powwowing or you know... it's just not who we are and it's not how we do things but you know we do try to get involved. So you know definitely doing events... doing as much as we can around the community and getting involved in different things. I got involved with the Headstart program. For the most part I think my connection to my Aboriginal identity and the connection of my family to their Aboriginal identity has been a positive one.

Lynn: I used to be an urban Indian...well I still am an urban Indian so it's difficult sometimes. You just have to hang around with Native people. I go to traditional teachings whenever I can. For example, recently there was a traditional feast at one of the women's centres that I attended. I also go to Moon ceremonies. This summer I picked blackberries and made jam. Recently I had a giveaway

ceremony. Over Christmas Nik and I made wild rice and the three sisters. I also gladly accept tobacco and fulfill what is asked such as learn about the wampum belts that were exchanged during the Treaty at Niagara. In addition to this, today there is a lot of cultural knowledge in the literature that I read. I also like to write for Indigenous organizations and newspapers such as the Ontario Native Women's Association newsletter and Anishinabek News. Giving back is very much a part of the process.

Judith: I am working hard with other members of the family... we've given workshops on how to do beadwork and how to do basket weaving. I know how to make baskets out of pine needles. And what kinds of berries are good medicine, what kind of berries are good to eat and how you make birch bark you know? How you make birch sap... how good it is to eat. You know we've done a lot of workshops on that and we're reaching some young people but long way to go. And you know, that was group things... a whole bunch of my aunts and cousins, it was a family outing. I can remember going and making the rounds of the berry patches and you know we'd have encounters with bears. You know, my granny would say 'we don't shoot bears' because it's a belief among our people that we don't shoot bears. [When hunting] I always say a little prayer to earth mother, creator, or father and I will go hunting with my husband and I will see the animals.

Textural Descriptions of Phenomenon

Legally defined 'Indian' status for First Nations people and its potential loss due to various reasons is a concept that is highly influenced by various factors based on experience and the context one is defining themselves within. In the context of these interviews the co-researchers shared various ways to define their identities as well as varying points of view regarding the role status plays in their daily lives. While these aspects of identity vary, the emotional response to an external governing body defining that identity was similar. The disagreement with the federal government's control over who is or is not eligible for status

remained constant across the women's experiences regardless of the state their status was in at the time of the interview.

Being First Nations can come into question by others when one's identity doesn't appear valid according to definitions procured over time within a racist ideology. In no other culture in Canada is identity at risk of being questioned in legal terms to the extent that First Nations people experience. This confrontation and demand for authenticity stems from both the federal government and from those within band / nation governments who have come to adopt and internalise legal stipulations of 'indianness'. For the First Nations women in this research, the experience of status and its potential loss was a frustrating experience oftentimes more laden with questions than answers. As a phenomenon faced by all First Nations women, legal identity pervades daily life (to various extents) and challenges traditional methods of identifying nation members.

Each woman I spoke to had her own way of defining their identity; in some cases their definition was the epitome of an Indigenous introduction that I grew up knowing. In these cases there was a similarity between the women I spoke to and myself. In most everyday occurrences, the way to introduce yourself would be to state your name and possibly where you are from. However, in the dialogue I shared with these women, names of Nations were shared, legal identity was shared and even familial relations were shared in order to provide a full picture of us as people. Providing this extra information is the epitome of a relational way of being; this is the centre of what it means to be Indigenous (Wilson, 2008). Explaining where your parents and

grandparents come from is to illustrate the place from which you come, for other First Nations people. All the co-researchers reminded me of the importance of knowing your relations; without this knowledge who would we be?

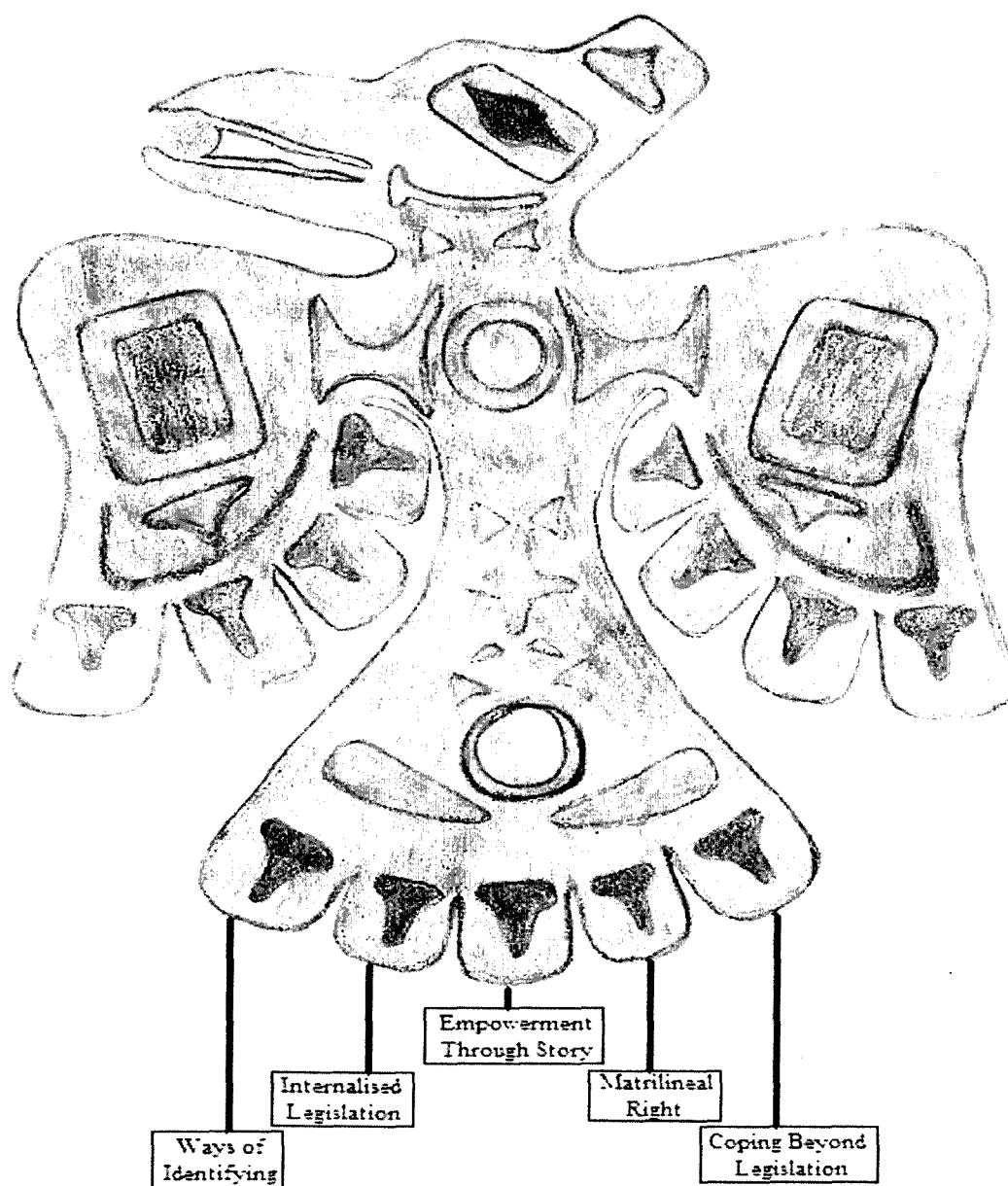
Discussion

“I wonder how many other women are going through this and how many don’t have someone to talk to. I know even just the mere mention of status in society people automatically go to rights and ‘oh you get this for free and oh you don’t pay taxes’ and it’s a two edged sword... who do you talk to when society already thinks that we have a free ride? But then you look at it from the other angle as well and you think about people who have status... how are they going to perceive people who want to regain status. Are they going to see them as a burden or are they going to welcome them?” (Researcher Interview, 2010).

In reviewing the co-researchers’ interviews I began to see major themes arising out of their knowledge. Some of the themes revealed through a textural/structural analysis of status loss were: Empowerment Through Story, Internalized Legislation, Ways of Identifying, Matrilineal Right, and Coping Beyond Legislation. These themes were revealed not only through the co-researchers’ interviews but also through my interview data. While these are very different women who have various experiences of status and the loss of it, as a phenomenon their stories held similarities. Below is an illustration of the conceptual framework that guided this research

paired with the themes that revealed themselves through analysis. Following the illustration is an in-depth look at each of the themes including co-researcher interview data as well as supporting research.

Figure 3. Conceptual Framework with Identified Themes.



Empowerment Through Story

“The process of gaining control over your experience is essential. Therefore, what is just as important as the ways in which we are silenced, are the ways in which we receive and maintain our voices. We receive our voices when we become empowered and overcome the silencing” (Monture-Angus, 1995, 29).

Identity is a commonly silenced issue among First Nations in Canada that dates back to the inception of the *Indian Act* and the federal government’s self-proclaimed right to define us. Patricia Monture-Angus (1995) noted in her work that finding your voice allows you to enjoy the achievement of empowerment and that the only true knowledge you can hold is that of your own experience. This empowerment was apparent in the interviews and from the position of interviewer I experienced the growth of story by the simple sharing of it between women.

“I am realising that it’s not just about their experience... rather I am learning new ways of knowing. I find it comforting that this work seems to be taking on a life of its own. By seeing how the transcripts reflect the interview I am witnessing connections between experiences being made” (Personal Journal, December 15th, 2010).

While not looking directly at the content, this theme reveals a process too important to ignore – that of a person’s story evolving as they share it. Having the opportunity to put one’s experience into words brings it to a level beyond the internal perceptions people have of their own experience. This occurrence is indicative of the silence that covers up the phenomenon of First

Nations legally defined identity. The sharing of story ended the silence as well as the disregard I personally felt for my own story by others. *Indian Act* legislation is written in legal jargon often beyond understanding and for me it is intimidating to navigate the convoluted nature of it.

In my own interview and those of the co-researchers there were moments where a response would stall and it appeared as if other factors were being taken into consideration regarding identity. The most profound occurrence of this evolving of story occurred with Toni wherein we were talking about the impact Indian Status has had on her life.

“Actually yeah it did have an impact when I realised I couldn’t pass my status on to my son I did not even realise that was an option all of a sudden that something that I inherently had... all of a sudden I couldn’t give to him and it was like ‘oh well... why not?’” (Toni, Personal Communication, 2010).

Prior to this response, before family had entered the dialogue status was a background aspect of her life. When the familial connection had been made and the discussion of defining family members in different ways revealed itself I was able to see her story evolve and realise that status did have an impact to some extent.

The verbalising of story was igniting an active thought process about the actual experience of status rather than simply whether one had it or not. For example, when I responded about when I began to think about the *Indian Act*, I initially thought this had taken place just

within the period of beginning this work. In my response it was revealed that I began thinking about the *Indian Act* and transmitting status when I met my partner. This was a common theme among the co-researchers as well; that the idea of transmitting status and the restrictions surrounding it rose to the surface when considering partners and having children.

“I was actually quite ignorant about it ’til marriage came up, then my mom was telling me about the problems I would have with my children if I married James instead of another First Nations boy” (Lori, Personal Communication, 2010).

Within this is revealed the pattern of how immersed legal identity can become for one’s personal identity. In the words of one co-researcher “for many people legal and cultural identity is essentially the same thing” (Lynn, Personal Communication, 2011). While appearing as very different entities, personal identity and legal status identity, Judith highlights how connected the two are for her in that they “colour every aspect of my life I think” (Judith, Personal Communication, 2011).

The importance of noting this theme is process over content because my goal in this research was to set a stage safe to share identity stories for First Nations women. The engagement with story is of great importance and as stated above, we are empowered when we find our voices (Monture-Angus, 1995). During the interviews with co-researchers I was aware of my understanding growing as well as profoundly helping me to understand the emotions I experience when talking about the *Indian Act*. The overarching theme of this research was the

growth that took place during each interview, growth in terms of sharing stories and ways of knowing. Each interview revealed a sense of empowerment and an owning of story that I strived to achieve from the outset. In my journal after my first interview on October 28th, 2010 I mention that hearing the story of the co-researcher and sharing my own in response was empowering and relieving.

“Hearing another woman’s story was empowering and I’m relieved in a way because I now know and fully appreciate that I am not alone in my experience. This IS a story that needs to be told” (Personal Journal, October 28th, 2010).

I felt empowered because I was sharing with someone I knew was listening and not simply hearing my story. At the same time I felt relieved because the responses I was hearing were those I could relate to and I knew if I had this sensation then other women who engage with this work might be able to reap the same benefits. Each interview with the co-researchers revealed a) new ways to describe my experience (new ways of knowing), b) the various levels that people engaged with status, and c) the similar emotional responses (frustrated, insulted) between women and d) their perceptions of how others thought about the *Indian Act*. By new ways to describe my experience I refer to the invasiveness of the *Indian Act* on daily life and the strength of emotions it can evoke. Before this research I knew I held resentment towards the *Indian Act*, but could not always articulate it clearly. In regards to various levels of engagement with status and emotional responses, I was learning that status plays different roles for different people, for some it is predominant while for others it may be in the background and surface only occasionally.

However, this variation should not impact the importance of the emotional response elicited from thinking about status restrictions. Finally, the perception each woman held of external perceivers of status were similar and not unlike my own thought processes surrounding this. At the same time, it did vary in regards to how often each woman thought about what others thought about status (misunderstandings and misinformation regarding benefits, etc).

Internalised Legislation

“Internalised oppression, a by-product of colonisation, has become common among Indigenous people. We fight among ourselves and often accuse each other of not being ‘Indian enough’ based on differences in politics, religion or phenotype” (Weaver, 2001, p. 250).

Over time the laws that regulate status have become highly depended upon by nations to help them define their membership. While some nations are moving beyond this definition, there needs to be a full push against allowing external governments to define First Nations identity. Internalised legislation is terminology I use to describe the process of status becoming internalised over time. Within this theme two variants of internalisation were revealed as a) other internalizing and b) personal internalization of legislation. In no way do I use this terminology in a negative light, rather it is an unfortunate consequence of the government’s self-declared right to define ‘Indians’. However, it is important to note that external perceptions based on internalized legislation often prevent people from being accepted into community based on their lack of status. The inability for people to negotiate the *Indian Act*’s so-called real ‘Indian’

identity oftentimes leads to terrible consequences. Among these consequences are the divisions it creates within community and families alike by forcing those without ‘legitimate Indian’ identities out of the community (Garroute, 2003, p. 236).

“I also find that people who have status and stand in judgement of people who don’t have status... they should really watch what they are saying. Because it’s really a privilege to stand there from a location of having status identity and always having status identity and judging me because I don’t have it. Judge me and say that I am colonised because I want to get my status (Lynn, Personal Communication, 2011).

Over time, *Indian Act* legislation which was at first developed to ‘protect’ us has been used by Indians against Indians. The federal legislation has begun to influence how First Nations define their own members. In particular, Monture-Angus (1995) notes that it has been used against First Nations women.

The idea that the *Indian Act* was not developed by First Nations people has become lost in time and used for purposes of dividing communities from within. Incidence of these divisions were noted by the co-researchers in various lights such as bullying, standing in judgement, and accusing women of giving up being an ‘Indian’ because of who they chose to marry. In talking about her Mother, Judith shared that “her brothers... one in particular used to say that she was not a real Indian; that she gave up being an Indian because she had to in fact give up her status when she married my dad who was non-Indian (Personal Communication, 2011).

In the interviews I often asked whether having status would change anything, in order to gain an understanding beyond tangible benefits. There were responses where status did not change anything about identity but at some level it did have an impact based on the fact that a status card was in their possession.

“...it definitely it has that impact the fact that I can carry around a little card that you know a good chunk of Canadians cannot (Toni, Personal Communication, 2010).

Some responses revealed that status can be used as a back-up for one’s identity when it comes into question by others. This can occur in a situation where an individual does not fit the phenotype of a First Nations person. Phenotype is the appearance of an individual that serves to help others classify quickly and conveniently. When skin colour and other aspects of appearance come into suspicion it can lead to assumptions about a person’s identity and thus cause one to not be accepted as a First Nations person (Weaver, 2001).

“I am very pale to begin with and I look more German than Tsimshian. So for me... like I got bullied a bit in high school and elementary school... this group of girls would call me white b**** and this one kid would throw rocks at me when I was going home from school and stuff like that. I guess if my children did not have their status card, they would not be able to back up their claim of who they say they are (Lori, Personal Communication, 2010).

As negative as it sounds, phenotype (one's appearance) is a factor in some people's determinants of who a person is.

While some would argue status is completely different from personal and cultural identity it is important to note the pervasiveness of the *Indian Act* imposing itself on identity. The *Indian Act* is written in such a way that it controls who is defined as an Indian (Mishibinijima-Miller, 2010; Monture-Angus, 1995). Unfortunately over time it is a system that has been adopted by nations and their people. In order to be eligible for tangible and intangible benefits, individuals must be able to produce proof of status in the form of a card. In the interviews with the co-researchers there was a recurring mention of examples showing that *Indian Act* legislation is oftentimes internalised. This internalisation was apparent in my own experience as I stated that it in fact was embedded within my personal identity and cultural identity. One of the co-researchers even mentioned status as being something to be proud of as a First Nations person. Although it was something taken away at one point in time, the regaining of it was something to be proud of and could be seen as a means of validation after years of denial.

Ways of Identifying

Identifying oneself is an ever evolving phenomenon that I perceive as having a life of its own; its life-force revealed itself through the interviews and its ability to evolve was a common denominator. While the women I worked with all had different backgrounds and varied experiences with status and its potential loss over time, they all presented with the pattern of having various means of defining themselves. In some cases one's definition of their identity was

dependent upon the situation: "...it kind of depends on where I am and who I am with. If I sense that they hear me I will probably say multicultural" (Judith, Personal Communication, 2011). Like Judith, Toni also adopted an inclusive form of identification: "I probably identify me through more of a culturally diverse identity (Personal Communication, 2010).

The various ways these women identified themselves can be summed up into three categories: a) personal / self identification, b) relational / group identification, and c) legal identification (status). The responses were interesting and created a dichotomy of how women developed their way of identifying themselves. The dichotomy I noticed right away was that between a) those who had status from birth that was never in question and b) those who at one point did not have status and gained it or were never able to obtain it period. I will elaborate on this dichotomy later. As far as various ways to define identity, it is important to note that for some people status holds an inherent ability to validate one's First Nations identity. While the factors to take into consideration when defining an identity are intrinsically linked they can be an issue if one's identity does not match up with other's expectations. These expectations are revealed through the need for validation of an identity and proof of connection to community. Both of these have been removed countless times in history through legislation and other means of attempted assimilation (Weaver, 2001, p. 247). On the other hand, there are those who see a status card as merely another piece of identification that hides in their wallet, that they sometimes see benefits from (Mishibinijima-Miller, 2010, p. 268). Some of the responses from the co-researchers revealed status as a background piece of identity that was not required to

know who they were, but at the same time it could be used to authenticate their identity if it came into question by others.

“I don’t need a status card to know who I am but for other people who are like... even if they’re half breeds they put themselves above you if they’re from the Rez and you’re urban or if they’re skin is dark and yours is light” (Lori, Personal Communication, 2010).

All the co-researchers noted how important having status is to external perceivers who over time have internalised legal definitions of identity through the *Indian Act*. Within this also arose the discussion regarding appearances that can come into question by others when one does not have the phenotypical appearance of what they define as an ‘Indian’. I previously mentioned literature on this form of validating oneself within the work of Drew Hayden-Taylor, who would likely not be identified as an Ojibway man from the outset based on his appearance. It is unfortunate that identity is still defined in this way for some people and it highlights the importance of citizenship at some level to protect a person’s identity. If one cannot obtain legally defined ‘Indian status’ then it was noted in the interviews that Nation membership would be enough. This response is at the very heart of First Nations identity in that for many women it is not a want of status and its benefits but rather it is the need and want for a sense of belonging. “Yes, citizenship would be much more meaningful, but it is unclear at this point if I will be entitled to citizenship” (Lynn, Personal Communication, 2011). As mentioned previously, a sense of belonging is crucial to obtaining self-esteem; furthermore self-esteem has been linked to

overall well being through a well developed identity and a buffer against rejection in society (Adams, 2006; Erikson as cited in Luyckx et al. 2010).

For those who had status from birth and currently faced the inability to transmit status, legal identity was so much a part of their identity that they did not separate the two or focus predominantly on personal over legal identity. For these women, legal status identity did hold tangible benefits that ranged from support in post-secondary education to medical supports, but beyond that it remained more in the background of their lives. The women who were ineligible to obtain status or who gained it through *Bill C-31* had a different perspective of their status. In both interviews I noted repetitious responses of things they did that were either self-proclaimed or appeared to be ‘missions’. These women considered status as an integral part of First Nations identity and knew that it was their mission to help other women in the fight for equality in status eligibility.

Matrilineal Right

“I think when I got my status it just did not even dawn on me that it was not something potentially that I couldn’t pass on...” (Toni, Personal Communication, 2010).

The experience of the co-researchers in the face of the status-loss phenomenon revealed a deep concern for the matrilineal rights inherent in First Nations society. Like Toni’s nation, the Tsimshian Nation, is Matrilineal and the *Indian Act* “highlights that patriarchal approach that we place identity on Aboriginal people right that... it really goes against the grain of

matriarchical societies” (personal communication, 2010). For the co-researchers, the audacity of the government to award itself the right to define who is or is not an ‘Indian’ was an insult to their being.

“For somebody who’s not a part of my family to just go ahead and you know... barge into our lives and tell me that my daughter or son is not native, I find that to be extremely... I don’t know derogatory, insulting and hurtful” (Lori, Personal Communication, 2010).

“I find it very patronizing and I think who gave the government the right to determine who I am? Why do they think they can wave a magic wand and say ‘you’re status... and you’re not!’ You know? It infuriates me!” (Judith, Personal Communication, 2010).

This discussion led to an emotional response by both me and the co-researchers that ranged from confusion to outrage. These same emotions are often yielded when trying to disseminate the information in the *Indian Act* and in attempting to understand the purpose of the restrictions. For instance, how can *Indian Act* legislation disregard matrilineal descent practices among First Nations people and cause the damage it has for the past 135 years (since 1876). How can a line be drawn that separates families and community members based on who their parents are and the level of status they were eligible for? Significant proof of disregard for matrilineal rights to transmit identity is found in the issue of unknown and unstated paternity.

“Not being legally an Indian prevented a lot of parents from instilling pride in their children. Today when a mother is unable to name the father of her child on the birth certificate the Registrar assumes the father is a non-Indian person. As a result some of these children are denied status registration. We have to appreciate that there are many reasons why fathers are not named on birth certificates such as abuse, incest, affair, rape, and multiple partners. ” (Lynn, Personal Communication, 2011).

How many children were improperly defined under the *Indian Act* as being 6(2) and not 6(1) because their father was not stated on their birth certificate? Furthermore, how many children were completely denied status because of this missing information (Cannon, 2005).

Profound stories arose within this research in terms of knowing children would be ineligible for status and explaining to children why they were not while their mother, or even sibling in one situation, is. The *Indian Act* has purposefully focussed on male lineage and ‘too often, those with status also rejected the rights claims of Aboriginal people who were not recognized by the state as status Indians’ (Green, 2007). With the obvious decline of status First Nations people there needs to be a push towards developing self-determination among band governments to control their identities in their own way. Using First Nations systems and protocols found within their ways of knowing, as well as engaging with Elders on this topic before they move on to the next world, there is the possibility of overcoming and moving beyond *Indian Act* legislation. While there are arguments against that fear the sudden influx of women and children that have been displaced because of the *Indian Act*, there needs to be a focus on

nationhood and the survival of communities. This fear of sudden influx comes from reflections of *Bill C-31* wherein communities experienced the return of women and children who had been disenfranchised prior to 1985. It is also nurtured by the belief that ‘only Indian men and women make Indian children (Cannon, 2005, p. 380).

Coping Beyond Legislation

To set this research apart from mainstream projects that tend to focus primarily on the negative aspects of First Nations experience, I wanted to include knowledge of ways of coping with the phenomenon of legally defined status and its potential loss. The co-researcher interviews yielded various means of coping with identity beyond legalistic restrictions as stated in the *Indian Act*. Because many nations respect women as the keepers of knowledge and look towards matrilineal descent to define identity, I wanted to know what women do to support their identities. Being able to develop and determine one’s identity allows for well-being in the form of self-esteem and an overall sense of belonging (Erikson as cited in Luyckx et al., 2010). In this section I use the terminology ‘protective-factors’ to define both tangible and intangible things that support identity. Protective comes from my belief that these are things people may use to celebrate and keep their identities safe. Some of the protective factors of identity contained in the interviews were surrounding yourself with other native people, attending events / activities / ceremonies, celebrating the arts (dance, paintings, etc), and sharing a set of beliefs with family.

“I think as a family just even on a smaller scale you know how we chose to reflect our lives and how our house looks and artwork and that type of stuff it makes a big difference

really impressing upon the kids that cultural connection and their identity and getting them to understand that a bit more (Toni, Personal Communication, 2010).

In other situations, protective factors of identity manifested through daily living in terms of those who surround you and where your workplace is. As in the case of Lori: “it’s just a part of everyday life, the culture that I grew up in. I work at an Aboriginal organisation so I see Native faces everyday and I work with Native people” (Lori, Personal Communication, 2010). Lynn revealed a similar factor in her life in that “you just have to hang around with Native people” (Lynn, Personal Communication, 2011). In my final interview, Judith shared yet another similar factor in her life that has served to protect her identity when I asked what parts of her life support her First Nations identity: “Probably just my whole upbringing because I was very connected with my mom’s family” (Judith, Personal Communication, 2011).

The wonderful thing about these protective factors is their intangibility, they cannot be taken away by the *Indian Act* or by those who have internalised its legislation and stand in judgement of those without their definition of a ‘legitimate’ identity. I found comfort in hearing the stories from the co-researchers by being able to draw similarities to my own experience of protective factors.

Co-Researchers & Textural Analysis of Lessons Learned

The stories and knowledge that were shared with me cannot have a value put upon them because of how strong these women’s messages were. For this reason I want to stress the

importance of this work based upon my reaction to engaging with the co-researchers. Before I began this research journey, I knew my story and that there was the potential for others to have similar frustrations with the *Indian Act*. However, I did not predict how profound the experience of the phenomenon of status loss and how the co-researchers portrayed their stories would affect me. With each interview I experienced the phenomenon through their eyes and learned new ways to describe what I have been experiencing in recent years. The overarching goal of this work was always to provide a vehicle for First Nations women to safely share their stories and to potentially reach other women in similar situations. I wanted women to read these stories and be able to voice their experience without fear of being silenced. The beauty of all this is revealed in the growth I experienced in owning my story by listening to the stories of these strong First Nations women. The women who helped me produce this thesis came from a variety of backgrounds and experiences with the phenomenon of status loss. To put their responses into context the following will be a brief description of each of the co-researchers and the relevance of their story to this project.

Lori is a young First Nations woman who defines her identity as ‘half and half’ a term she uses to describe her Tsimshian identity from her mother and German from her father. Recently she began thinking about the *Indian Act* when the question of marrying her partner (who is not First Nations) became a possibility. In her interview, Lori shared with me the value of how her family defines her identity. No matter what level of status someone is, they will always be considered Tsimshian in her family, so status has mostly been a ‘perk’ in her life. Even though status has provided her with some benefits, Lori was still annoyed with *Indian Act*

legislation which determines who is or is not an Indian based on non-traditional methods. Lori's story is relevant to this work for the reason that she represents many young First Nations women who marry-out and are discovering the consequences of their decision in partner when it comes to status eligibility for their children. However, important to note is the traditions her family keeps that support her identity. She mentions events such as feasts and activities such as her family learning and teaching their language and taking part in a dance group as a child. Significant to her story is her belief that she does not need a status card to know who she is while at the same time being aware of how important it is to others who may stand in judgement of identity. Lori taught me that regardless of status and how others may judge your identity, a status card does not define someone; rather it is how your relations define you that remains central.

Toni is from the T'sou-ke Nation on her father's side and defines her identity as culturally diverse. Her story reveals the divides that can be created within family units by the *Indian Act* and its restrictions to status transmission. Toni has two beautiful children that the *Indian Act* defines in different ways. Although she is the mother of both of her children, the *Indian Act* restricts one of them to be ineligible for status while the other will have the option if they so decide. In her story Toni revealed the frustration caused by trying to understand the *Indian Act* and why it denied her the matrilineal right to transmit her identity to her children equally. Important to note in her story is how she has engaged the topic within her family and how she remains open to helping her children develop healthy identities regardless of status and how the *Indian Act* tries to define them. In protecting her First Nations identity, Toni engages in various capacities in the community and celebrates First Nations culture through her profession

and artwork in her home. In sharing her story Toni taught me the value of humour for First Nations people when dealing with the colonial mindset embedded in the *Indian Act*. She revealed to me the value in laughter and the importance of close family bonds where no discussion is off limits and children are nurtured into developing their own healthy identities.

Lynn is a passionate woman who is currently involved in a Charter challenge that seeks to force the *Indian Act* to stop being silent on unknown and unstated paternity. She defines her identity as Algonquin/Anishnaabe-Kwe and is currently challenging the *Indian Act* for young First Nations ‘mothers and their babies’. She describes her life growing up being ineligible (according to the *Indian Act*) for status and how it was reflected in her upbringing. Her story is one of a child who grew up having cultural experiences while being told that she was not an ‘Indian’. She expresses the confusion this causes and notes how important it is to instil pride in children. However, in growing up being denied status she learned shame from family members and still today is unable to gain status due to *Indian Act* restrictions. Her situation is one of unknown and unstated paternity, which the *Indian Act* remains silent on even in its most recent addition of *Bill C-3*. Lynn taught me that we have to be mindful of the many reasons why paternity may go unstated on a child’s birth certificate and the disregard for women’s rights in this silence. These reasons can be a result rape, incest, fathers not wanting to sign a birth certificate for various reasons, having multiple partners, or the woman’s choice to not state the father. Lynn taught me that we need to be strong and assert our rights, if not for ourselves then we must do everything in our power for the generations coming after us and stand up for those who may not be able to.

Judith was the final co-researcher that helped me understand the phenomenon of status loss prior to *Bill C-31*. Judith and her mom regained their status through *Bill C-31* in 1986 and were quick to complete their application. The knowledge she shared with me was a history of divides created within families and internalized legislation pushing family members off reserve lands. However, she also shared a story of pride in regaining her status that inspired me and gave me insight to a possibility of why status loss is such a hurtful phenomenon for First Nations people. While her mother was able to regain her status (after marrying a non-First Nations man prior to 1985) she was still treated differently even by the close members of her family. Beyond her struggles with status in the past, Judith has found ways to protect her First Nations identity by taking part in cultural activities and making it her mission to help youth find their culture and be proud. Judith taught me that while the history of the *Indian Act* and status restrictions can be painful there is a sense of pride to be found in knowing who you are with and without status. This pride can be translated into helping others to find their identity and to be proud as First Nations people.

Reflection

Throughout this research I kept a journal of my progress, which also includes reflections of the work that illustrate the experience as a whole from a researcher perspective. At different times during this work it became apparent that this journal would not only prove to be helpful in my progress but also help me cope with the topic of identity as I waded in work that

encapsulated my entire being. From a phenomenological perspective, these reflections have helped throughout my analysis of the stories shared with me, as well as helped me to place me in the work in such a way as to give due attention to the co-researchers.

A significant note that comes up in my journal after my first interview with a co-researcher reflects my journey in its entirety; the co-researchers in my study were describing their experiences in a way that I could relate to.

“I am already learning a new language that I can use to describe my own experience... I imagine other women could too!” (Personal Journal, December 15th, 2010).

The co-researchers had developed a way of describing their experience of status, loss, and transmission restrictions in ways I could have never imagined. I began to see the importance of this work by reflecting on my experience as the interviews were taking place. The whole experience of analysing their responses acted as a flower in bloom with knowledge being dispersed and shared in the most beautiful way. Writing the journal I noted that I began to cry as I realised that my ultimate goal was being achieved, that goal being the hope that this work would reach other women. In reaching other women I hoped this work would give them a starting off point to begin discussing identity in a safe place and realising they were not alone. I also hope that others who are interested in this topic can read this work and obtain what I refer to as a ‘human understanding’ of the phenomenon of legally defined Indian status loss and how it impacts various ways of identifying oneself. This research allowed me to set the stage for other

women to share their stories with not only me as the researcher but also with themselves. The act of ‘talking-out’ one’s experience is extremely rewarding and the process of obtaining control over personal experience is essential (Monture-Angus, 1995).

Significance

During the data collection of this research it repeatedly became apparent to me that I was not simply gathering stories from the co-researchers. There were days after an interview that I would spend time reflecting on the stories I was hearing and continuously be amazed at the blossoming of a way of knowing. Prior to this research I knew my personal story, I realised others might have similar experiences but I never perceived how the stories of others would affect the perception I held of my own experience. The resounding lesson I learned on a daily basis was that we as First Nations women need to “fight for our fundamental human rights” (Gehl, 2002) and to have equal treatment under the law. The stories I heard from the co-researchers were those that understood the *Indian Act* and the implications it has on defining First Nations identity through restrictions. However, the stories shared with me were also stories of subscribing to a belief that self-determination of identity was far more important. The government does not have the power to define who you are; rather it is something you feel inside of you and something you share with family. All the co-researchers stressed the fact that it is not status that is the main priority but rather it is a means to obtaining acceptance within many First Nations communities. Acceptance, as well as the ability to know your identity without having to validate it for others through external authentication methods, was at the heart of the co-researchers’ hopes. This thesis research is revealing the currently changing situation for First

Nations women in Canada. However, even with the addition of the new Bill C-3 amendment, my experience of identity will also include the reality of my children not being legally recognized by the government. With that, doing this work at this point in history revealed ways of knowing that are evolving as *Indian Act* legislation has been amended once again.

Limitations

The limitations of this study revealed themselves early on in this study as I began to reach out to co-researchers by listening to their stories. The recruitment efforts I relied on were posters around the University of Northern British Columbia as well as snowball effect by word of mouth. While some came forward with an interest in the research they were concerned about the content that it might reveal regarding their personal story. This is an issue I hope my thesis confronts by giving First Nations women a piece of work they can relate to and maybe they can find a way to eventually own their story. Originally I desired to bring my study to a national level by finding participants across the country, the limitations surrounding this were not only financial but within my recruitment that was limited to the local area. However, I was able to perform one interview via Skype which is a new form of technology I was exposed to.

It became apparent immediately that the co-researcher's knowledge of the *Indian Act* varied in levels of understanding. However, noting this occurrence is important because it is no fault of the co-researchers; rather it highlights the convoluted nature of the *Indian Act* not to mention the various amendments that have been included over the years. At the very heart of this issue is the discrimination faced by First Nations women. It would be easier to understand the

Indian Act if men and women were treated equally and matrilineal rights were recognized and respected. Engaging with First Nations would allow the government to better understand how very different their definition of an 'Indian' is from traditional methods of identifying nation members. Many nations in Canada live by a code of matrilineal descent which recognizes the status and citizenship of one's mother, grandmothers, and great-grandmothers when it comes to tracing lineage. As mentioned previously, the *Indian Act* denies the right to culture by restricting identity transmission through Indian Status restrictions based on gender.

Considerations for Future Research

It is my hope that future research on this topic will continue to focus on the human experience of the status phenomenon in a respectful way. Respectful methodologies pave the way for healthy and meaningful engagement for First Nations people; they also allow for the reformation of western methodologies and the scrutiny of the researcher within the research as an insider. Other research projects may focus on the positive aspects of identity development to a greater extent than in this research. While the goal was to finalise data collection by learning about methods of coping beyond legislation, it would be beneficial to investigate the means by which this is possible. What support structures and motives are behind the drive to define and protect First Nations identities? How do First Nations people navigate their identities with external pervasive legislative bodies pursuing their own definition of who is or is not First Nations ('Indian')?

It will be interesting to follow the progression of events with the recent passing of *Bill C-3*, the so-called *Gender Equity in Indian Registration Act* amendment. Sharon McIvor and her journey to the United Nations to continue her fight against *Indian Act* gender discrimination will continue and it will be interesting to see the results I am certain she will achieve. Because we are at a point in history that is changing very quickly, studying the *Indian Act* from a phenomenological perspective will be greatly rewarding. It will be rewarding for both First Nations, allies, and those who are uninformed about the people's history and the *Indian Act* in Canada. Hopefully focus on this topic will increase and force Canada to reflect on its historical and present treatment of the peoples who were here first and focus more humanitarian efforts on home soil. As Mishibinijima-Miller (2010) states, it is with local band membership that changes can be made before federal definitions are changed. They are both embedded within eligibility for Indian status, so opening up the membership code to further descendants unrecognized by the *Indian Act* may be the pressure required for the Canadian government to engage meaningfully.

Chapter Six: Conclusion

“I began to understand that real change must come from the community. This is the only way to really change things for Aboriginal people. Real change will come when the women stand up, the men and children will also soon be standing” (Monture-Angus, 1999, p. 15)

Historically First Nations women held powerful positions within their nations. The *Indian Act* paved the way for the weakening of women’s rights and their responsibilities within community while at the same time increasing the power of men. In doing so, it also did its best to disintegrate the egalitarian societies that existed prior to contact that valued a matrilineal form of organisation within community structures. This egalitarian worldview was targeted by a colonial discourse which still exists today through *Indian Act* legislation. Since the inception of the *Indian Act*, First Nations women have always been under represented on elected Band Councils. In fact, First Nations women living on reserve were denied their vote or ability to hold office in band council elections until 1951 (Fiske et al, 2001). Furthermore, the rights to living on reserve issued by the Department of Indian Affairs became almost exclusively for men as property was held by them. To further reduce First Nations women, they were stripped of their status upon marrying a non-First Nations or non-status man and ‘gave up being an Indian’ (Judith, Personal Communication, 2011). These women became outsiders and rights to housing, jobs, and other services on reserve were no longer available to them (Silman, 1987, p. 93).

By sharing this research I hope my goals are achieved in being able to add to the efforts to spread the message of ending silence for First Nations women who have been discriminated against by the *Indian Act* through its restrictions upon status transmission. I also hope that I can reach allies and others who may be interested in obtaining a better understanding of *Indian Act* history and how pervasive a force it is within First Nations identities in 2011 and on. The importance of Indian Status is oftentimes disregarded because people lack the knowledge that status goes beyond tangible (and intangible benefits) such as medical and post-secondary education supports. What is not understood is how Indian status is embedded within personal identity to the extent of providing a proof of validity to external perceivers. It also provides a sense of belonging and of knowing where one comes from, which feeds into self-esteem (Erikson as stated in Luyckx et al., 2010). Taking a phenomenological look at Indian Status and its potential loss for reasons mentioned previously revealed the essence of the First Nations woman's experience. While there were variations among the co-researchers, Indian status played a role at some point in their lives and had an impact on their personal identities. Having status has become a component of personal identity in situations where First Nations identity is questioned by others. This questioning arises out of situations where an individual did not grow up or spend any amount of time living in a reserve community and in the case of not coinciding with phenotypical expectations of a First Nations person. Not limited to these situations, status is also used as a qualifying factor within community and band governments who depend on federal legislation for band membership.

The engagement with co-researchers in this work surrounding the sharing of their experiences with the *Indian Act* revealed common themes between very different First Nations women. The essences of their experiences revealed stories about Empowerment Through Story, Internalised Legislation, Ways of Identifying, Matrilineal Right, and Coping Beyond Legislation as mentioned in the discussion. However, important to note about these themes is the literature that reflects their stories and provides the recognition of a silenced phenomenon. We are at an interesting point in history, one in which the *Indian Act* is being questioned and the Canadian government is being forced to reconsider the *Indian Act* once again. *Bill C-3* fails to remove all gender discrimination from the *Indian Act* and the Federal government is still in violation of *Section 15* in the *Charter of Rights and Freedoms*, in that every person is equal before and under the law. Each person has a right to equal protection and benefit of the law without discrimination based on race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability (Department of Justice Canada, 2011). This is the Charter fight that Sharon McIvor has fought and continues to fight in order to achieve equal treatment of all First Nations women. *Bill C-3* is simply another quick solution that required little to no effort on the part of the federal government to engage in a meaningful way with First Nations.

The federal government tirelessly delayed *Bill C-3* and now they should be held accountable for the lack of equality in this so-called *Gender Equality in Indian Registration Act* amendment. With the addition of *Bill C-3* will be new administrative issues as women once restricted by *Bill C-31* will also have to apply to raise the level of their status before their children are able to apply and for the first time become eligible for status. However, as noted

previously, this gender remedy remains silent on unknown and unstated paternity and restricts those with ‘Indian’ grandmothers, as noted below in Table 2 depicting the proposed changes through the familial line of Sharon McIvor and her brother.

Table 2. Remaining Gender Discrimination with Bill C-3.

| | | | |
|---|---------------------|---------------------------------------|----------------|
| Sharon McIvor Married non-Indian man | 6(1)(c) Status | Brother Married non-Indian woman | 6(1)(a) Status |
| Jacob Grismer Married non-Indian Woman | 6(1)(c.1) Status | Son Married non-Indian woman | 6(1)(a) Status |
| Grandchild <i>Born after 1985</i> | 6(2) Status | Grandchild <i>Born after 1985</i> | 6(1)(c) Status |
| Grandchild <i>Born before 1985</i> | Non-Status | Grandchild <i>Born before 1985</i> | 6(1)(c) Status |

Bill C-3 will be awarding status to only a certain extent; the level of status is still very obviously discriminatory as it continues to favour the male line of descent. The Canadian Bar Association illustrates the problem with *Bill C-3: Gender Equity in Indian Registration Act* as being in the new *Section 6(1)(c.1)(iv)*. This section states that one must have a child before being eligible for registration according to *Section 6(1)(c.1)*. So the Canadian government has made status not only a question of descent and the gender upon which one traces their lineage but rather also a question of whether one is a parent or not. Both gender and parenthood are protected grounds that are in place to prevent discrimination of any sort (Rummens, 2004).

Upon completing this research I received an answer to a question regarding my personal situation of status transmission. Indian and Northern Affairs Canada answered my inquiry of

whether my children will have status in the following manner. If my grandmother did not lose status the second generation cut-off rule is still in effect. However, my children would have status if my grandmother did lose status at some point in her life. Using the current *Indian Act* and *Bill C-3* amendment, my children will not have status, but I have been invited to submit an application when the time comes.

The *Indian Act* has actively gone against the grain in regards to imposing a patrilineal approach to deciding who is an Indian and who is not. The gender discrimination at the forefront of First Nations memory is that of the *Indian Act* prior to 1985 wherein identities were defined by proximity to male ‘Indians’ either through parenthood or through marriage (Barker, 2008; Green, 2007). The historical damage this legislation caused First Nations people is still apparent today and those whose identities were trampled upon might still be missing this important part of life. This historical loss of identity is inestimable and it would be almost impossible to quantify how many women and children were escorted off their reserves because of the *Indian Act* (Green, 2007). The important thing to remember is that patriarchal colonisation is not a thing of the past; rather we continue to live under it today. Admitting this is the first step to progress and the ability to create political strategies that decolonise and make space for justice for (and by) First Nations (Barker, 2008).

To conclude, I hope that this research reaches First Nations people and that I successfully placed the *Indian Act* under a light that makes it easier to grasp and understand through a historical context of gender discrimination. Too long have external governments defined First

Nations people; they have defined an identity they do not understand within a worldview that remains beyond their comprehension. Not only were traditional methods of identity disregarded, but the value of First Nations women was greatly diminished and faced potential destruction through paternalistic values. Unlike any other group in Canada, the phenomenon of First Nations identity has been reduced to a quantifiable entity that can be measured and categorized against a definition of what a person is. It remains an unreasonable foundation upon which to judge the authenticity of a First Nations identity within a legal framework that influences the various facets of identity (Weaver, 2001). With this research I hope for continuing efforts that investigate the phenomenon of First Nations identity. Hopefully, research will continue to question legal identities until nations regain their right to define who their people are, and that nations may someday return to traditional methods of identifying themselves that are not influenced by federal policy. Ultimately I hope this research removes the weight of silence First Nations women face and that it may help them to stand and make a change. We cannot wait for governments to act for us; rather we have to share our stories and show the world what meaningful engagement looks like in order to achieve legislative change for gender equality.

Appendices

Appendix 1: Co-Researcher Recruitment Poster

Appendix 2: Information Sheet & Consent Form

Appendix 3: Interview Protocols

Appendix 1: Co-researcher Recruitment Poster

**Are you a First Nations woman
whose children will never have
status if their father is:**

Have you, or do you foresee the loss of legally defined
'Indian' status for your children or know someone who
does? If so, and you would like to share your story, please
contact: **Jessie King** at kingj@unbc.ca

Appendix 2: Information Sheet & Consent Form

Research Participant Information Sheet

The Identity Enigma: A Phenomenological Look at Fading Female Rights to Identity

This research study is being undertaken for the degree of Master of First Nations Studies at UNBC by Jessie Capri King. I am a member of the Tsimshian Nation from Prince Rupert where my family still resides. My topic is of personal interest and my decision to pursue it comes from the desire to help other First Nations women understand their rights and have the opportunity to discuss their experience with *Indian Act* identity legislation. The topic of my thesis is the *Indian Act* and its continued discrimination against First Nations women through stipulations that restrict the ability to pass down legally defined Indian Status to subsequent generations of children whose father is not First Nations, non-status, or not defined on their birth certificate. The goal of this research will be to gather the essence of the experience First Nations women have had in regards to legally defined status being restricted in various ways as stated in the *Indian Act*. It is the researchers hope that this project will provide a safe place to discuss matters of legally defined identity and an understanding of the unique experiences of the participants. In collecting the stories of First Nations women and their experience of losing legally defined status my goal is to bring awareness to this issue and inform other women who may be in the same situation.

It has been determined by the researcher that the topic of First Nations legally defined 'Indian' identity may be a sensitive issue for some. A major benefit to this research is to give First

Nations women a voice when it comes to discussing their identity. Having the ability to share one's experience can provide the opportunity for other women to see a resemblance with their experiences with the Indian Act and empower them to investigate their own story. Beyond this particular research it may also be a stepping stone for further research into this very personal topic in order to take a closer look at First Nations autonomy and legislation in Canada.

However, there may be the possibility of other topics arising in the midst of Indian Act discussions and legislative control over First Nations people in Canada. Being First Nations is a major factor in a person's identity make-up, for that reason it could take a central role in many aspects of daily living. As a co-researcher (participant) in this project you will also be provided with contact information of support services if for any reason your participation in this project becomes emotionally troubling. Contact information can be found on the next page and as the researcher I am willing to seek out other available services if necessary.

If you are willing to participate in this research project it is necessary that you read and sign the attached Consent Form. For further information or if you have any questions about this project please let me know at kingj@unbc.ca or ph: 250-981-4569.

Counselling
Services

Prince George, B.C.

Prince Rupert, B.C.

Brazzoni and Associates
Mental Health Services
301-1705 3rd Avenue
250-614-2261

Mental Health Program
Friendship House
744 Fraser Street
250-627-1717 ext. 27

Native Healing Centre
3rd Floor, 1600 Third
Avenue
250-564-3568

Crisis Prevention, Intervention and Information Centre
for Northern B.C.
250-563-1214 or 1-888-562-1214

Consent Form

As a co-researcher (participant) in this project you will have the opportunity to share your experience through conducted interviews (approximately 60 to 90 minutes in length) regarding loss of legally defined Indian status or the potential loss of this status for future generations. To ensure accuracy and your safety the transcripts of your interview will be available to you for any additions or omissions of information before the final report is completed and defended as a thesis. If at any time during this research project you wish to withdraw for any reason all information collected from your participation will be removed and destroyed. All confidential research documents will be kept in a locked filing cabinet as well as a password protected computer file. Upon completion of the thesis you will be given a copy of your transcripts and the resulting thesis. Only me and my Thesis Supervisor Dr. Ross Hoffman will have access to your documents and recordings from interviews which will be destroyed one year after the thesis is complete by deleting the password protected computer file and a thorough shredding of all research documents.

The results of this research may also be presented at academic conferences and in journals.

Should you have any questions during the research please feel free to contact me, Jessie King ph: 250-981-4569 email: kingj@unbc.ca, or my Thesis Supervisor, Ross Hoffman ph: 250-960-5242 email: hoffmanr@unbc.ca. Any complaints about the project should be directed to the Office of Research at reb@unbc.ca or ph: 250-960-5650.

Do you wish to remain anonymous? (Please Circle) **Yes or No**

If yes, please suggest a pseudonym that I can use in place of your name _____.

I _____ have read and understand the information sheet and consent to be a part of this research study with Jessie King in the of Master of Arts in First Nations Studies at UNBC on the ____ day of _____. I also understand that I have the freedom to withdraw at any time during the research and if so all the information I have provided will be destroyed.

Signature of Participant _____

Date _____

Signature of Researcher _____

Date _____

Appendix 3: Interview Protocols

Research Project: The Identity Enigma: A Phenomenological Look at Fading Female Rights to Identity

First Interview: Introduction to the research, researcher, and interview questions with responses to questions recorded.

Research Questions

1. How do you identify your heritage? (Do you identify with one First Nation, multiple Nations, or do you identify as being multicultural?)
2. Please tell me about the relationship between your Indian Status and your personal identity? (How does your *Indian Act* status impact your personal identity? Is it embedded in your personal identity?)
3. What would it mean to you if you couldn't pass legal status down to subsequent generations? What has this experience been like? (What do you think it would look like?)
4. Beyond legal determinants of identity, what parts of your life support your First Nations identity?

Second Interview: Follow up of first interview as well as a chance to discuss any changes in co-researcher (participant) responses to questions. By this point co-researchers would have had their transcripts returned to them ahead of time to discuss any additions or omissions in the work.

Final Meeting: Researcher will be providing each co-researcher with a copy of the completed thesis as well as a small gift for their participation.

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