

THE NON-STATUS INDIANS  
OF SASKATCHEWAN

Gabriel Dumont Institute  
of Native Studies and  
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## I. INTRODUCTION

In the following discussion with respect to Non-Status Indians, it becomes increasingly clear that the distinction between the Metis, the Treaty Indian and the Non-Status Indian is primarily a legal one, not a racial one. There are those who argue that Non-Status Indians are not true Metis and therefore cannot be part of a Metis collective.

The argument would be more correctly stated if the contention were made that Non-Status Indians may have a unique legal status vis a vis the Metis and the Treaty Indian, and on that basis, could be considered as unique. However, arguments based upon racial or ethno-centric assumptions are invalid.

This paper includes a theoretical framework against which the Non-Status Indian case is applied. The purpose of theories is to explain why conditions exist. A theory can be applied, for example, to a situation of racism to explain why the situation exists and the onus is upon the observer to accept or reject the theory as an adequate explanation.

In the United States of America there is no distinction between Aboriginal Peoples, that is, there are no Treaty Indians, Metis or Non-Status Indians. If an individual identifies with his Indian ancestry, he is considered by the United States government to be an Indian.

It is only in Canada where colonial "divide and rule" policies have created legal-political distinctions between Aboriginal peoples. The semantics of status or Non-status can be clearly observed in the case of Non-Native women who acquire Treaty Indian status as a result of marriages to a Treaty Indian while a Treaty Indian woman lost her Treaty Rights upon marrying a Metis, Non-status Indian or Non-Native.

Finally, the discussion includes several possible future scenarios which can be applied to Non-Status Indians. Estimates run as low as 25% to as high as 75% of the current Metis and Non-status Indian population that will apply for Treaty Indian status. In any case, the exodus of people to band rolls will have serious implications for the future of Metis self-government as well as for Indian self-government.

## II. THEORETICAL FRAMEWORK

### A. Early Notions of Racism

Practices of discrimination and prejudice can be traced back to the Greeks who considered individuals not having Greek culture to be barbarians. Later the Roman Empire subjugated groups to slavery and servitude because they were not Roman citizens. However, these early forms of discrimination were based on factors other than racial differences. In the 11th and 13th centuries, the Holy Wars were based on religious principles, not on the notion of biological inferiority of a people.

The origin of racism as an ideology can be traced back to the actions of Spain and Portugal, and later, England. Notions of "Manifest Destiny" and "Hamite Rationalization" portrayed the fundamental argument "that White people were to rule the world or a large portion of it" and "that certain people are to be subservient to other people". 1

In the early 1500's, pre-Adamite theory argued that

Adam was the first Jew but not the first man...the belief was that while man was defined universalistically in terms of mental properties, Blacks and Indians were said to lack these properties. For example, Paracelsus in 1520 classified Indians with mermaids and nymphs - all being without souls. 2

Therefore, these theories established that the separate origins of different groups of mankind led to the distinct possibility that from their creation some were inferior to others.

In the mid 1600's and 1700's two major theories contended the origin of color. One was based on religious doctrine, but the other was based on "natural reason".

For example, Feijoo (Spanish) argued that the atmosphere was the cause of skin color. However, soon after this (1700's) the "Bile" theory was introduced (the reasoning was that the bile produced skin pigmentation). 3

Late in the 18th century, with the emergence of anthropology, systematic divisions of mankind were linked to physical, mental and moral characteristics. In particular, physiological measurements of man and their relationships to social behavior was developed into the concept of "cranial capacity measure".

The basic argument of such a position was that as the cranial capacity increased man's brain increased, which was an indicator he was 'smarter'. 5

This form of measurement technique was used well into the 20th century and modified into the "cerebral structure and complexity model". While these theories have been discredited, a "philosophy of intelligence" has emerged in recent times. This argument holds that "some people (usually non-White) have not (cannot) attain a level of intelligence achieved by others (usually whites)".

#### B. Origins of Racism -- Biological and Social Darwinism

Biological Determinism is the most conservative view which argues inherited biological differences among Indians, Mexicans, Jews and Blacks make them intellectually and physically inferior to white populations. Social inequality reflected in lower income, less educational achievement, poor housing, etc. is attributed to biological inferiority of non-whites.

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For example, Dr. William Shockley, a white physicist claimed in 1973 that:

data from Negro populations with average IQ's of 80 in Georgia and 90 in California (shows) that each 1 percent of Caucasian ancestry raises average IQ by one point for those low IQ populations. 5

The philosophy of evolution and biological determination of animals and humans, broadened to include the development of societies and cultures, contends that:

- (1) the nature of man's societies (or cultures) is a product of natural evolutionary forces.
- (2) the notion of survival of the fittest is molded by Social Darwinists to fit social behaviors.
- (3) men begin to struggle with one another (since they are a product of the natural evolutionary forces) and conflict develops. In the end, one group (race) wins over the other. This is taken as clear evidence then that this particular group is superior.

The ready acceptance of social Darwinism is explained by Cosmas (1958):

As Darwin's theory was made public in the years in which the greater powers were building their colonial empires, it helped to justify them in their own eyes and before the rest of mankind; that slavery or death brought to 'inferior' human groups by European rifles and machine guns was no more than the implementations of the theory of the replacement of an inferior by a superior human society. 6

Therefore, an ideology of inequality was established, relocating the cause of inequality from the structure of society to the nature of individuals. Through explanations of biological determinism, "it is asserted that the inequalities in society are a direct and ineluctable consequence of the differences in intrinsic merit and ability among individuals". As well, "it is asserted that these differences are coded, in large part, in an individual's genes, so that merit and ability will be passed from generation to generation within families".

The final claim of biological determinism proposes "that the presence of such biological differences between individuals of necessity leads to the creation of hierarchical societies because it is part of biologically determined human nature to form hierarchies of status, wealth and power".<sup>7</sup>

Those who argue against biological differences among mankind state:

there is in fact no such thing as different races, not scientifically speaking. Despite all the years of investigating and charting - this blood group and that, this bone structure and that, this disease and that - scientists have found no biological characteristics that belong exclusively to any one group of the world's people. Separate 'races' do not exist. All we are left with are the scientifically meaningless variations of skin color.<sup>8</sup>  
(Emphasis Mine)

While the concept of race differentiation has no legitimate base in biological science, visual differences of color are in fact translated into racial distinctions. "Racism arises", then, "from the idea of the inequality of races and not from the recognition of racial distinctions".<sup>9</sup>

### C. Structural Functionalism

The theory of structural functionalism was initiated by Max Weber in 1946. He contended society is structured by classes in that he divided people into the propertied and the propertyless. These classes were determined by their relationship to the market place.

The propertied may insert their property into the market place in any number of forms, including capital, while the propertyless have nothing to place on the market but their services. The impersonal operation of the marketplace then differentiates people into classes sharing the same basic life chances according to their initial relation to property owning or not owning.<sup>10</sup>

In addition to the existence of classes, which are "a function of the unimpeded operation of the marketplace", Weber argued there was another dimension of stratification, that of status. The determinant of status was style of life.

One must have the proper values, attitudes, and tastes, as well as the ability to conform to the proper norms of behavior, naturally and without conscious thought, in order to be accorded membership in a status group.<sup>11</sup>

According to Weber, "classes are stratified by their relation to the production and distribution of goods, while status groups are formed on the basis of principles of consumption arising out of their style of life". Ethnic groups, Weber argues are one type of status group defined by their lifestyles. "His theory implies that racial and ethnic stratification are opposed to class stratification and are most likely to be found in stable, unchanging societies.<sup>12</sup>

In turn, the existence of political parties is accounted for as power formations which "grow out of class situations and represent status group interests, or they may represent some combination of class and status group interests".

Basically, Weber's theory states:

Class boils down to power in the economic realm and status to power in the social realm... while party involves power in the political realm.<sup>13</sup>

W. Lloyd Warner, following Weber's theory, carried out a number of studies, particularly of the Stone Age people in Australia. His work, as well as Weber's basic theory are criticized because the focus has been on status rather than class. In following this emphasis, the tradition has been to "treat status as being largely unrelated to social change" and stratification is not integrated into a theoretical framework which includes all aspects of human behavior. As well, many proponents of Weberian theory isolate social status from the rest of the social order, treating it as an independent or dependent variable at whim.

The failure of Weberian theory to recognize exploitation of labor by capital as the foundation of stratification systems, along with the tendency of modern Weberians to view stratification in individual terms, has created a major problem in accounting for the origin of stratification systems.<sup>14</sup>

As a result of this dilemma, that is the inability of Weberian theory to explain the origin of stratification systems, a number of assumptions have been adopted by proponents of the theory. The assumptions are known as functionalist analysis. They state:

1. Some societal positions are functionally more important than others.
2. It requires a combination of innate talent and training to fill these more important positions adequately.
3. There is limited number of persons with sufficient levels of innate talent.
4. The acquisition of needed training requires sacrifice of time and money.
5. If society is to survive, it must motivate the talented people to make the needed sacrifices to acquire sufficient training to enable them to fill the functionally important positions.
6. This motivation must come in the form of providing differential access to the culturally defined rewards according to societal position held. Therefore,
7. Social stratification is necessary and inevitable in all societies.<sup>15</sup>

#### D. Theories\_of\_Social\_Process\_and\_Racial\_Forms

Publishing a large body of material over four decades, between 1910 and 1840, Robert Ezra Park initiated studies on interaction between majority and minority groups. He "believed that initial contact between diverse racial and/or cultural groups resulted from a search for markets and trade".

According to Parks,

this contract created a situation of conflict over scarce resources. Such conflict over scarce resources is not necessarily defined in racial terms. Park explains the frequency of racial definitions by the tendency for people to be struck by physical and cultural differences, to judge them ethnocentrically, to fear that which is strange, to pay greater attention to the unpleasant than the pleasant (to the dissimilar), to label all differences in terms of genetics, and to associate them with observable physical differences.<sup>16</sup>

To Park, races were "socially defined entities, created through competitive interaction between groups differing in custom and behavior". Eventually racist philosophies were created to justify exploitation and competition between racially conscious groups which could lead to an increase of prejudice and conflict. This conflict was resolved by "institutionalized systems of subordination to facilitate exploitation". If the subordinate group develops a sense of nationhood and pursues a struggle for self-determination, struggle is inevitable.

As well, "Park believed that there was a long-term trend toward assimilation and the elimination of national minorities," with the minorities retaining only minimal distinctiveness from the dominant society.

The distinctiveness would be sufficient to allow for recognition, but not so great that it would impede interaction within a class hierarchy.<sup>17</sup>

In addition, Park contended that "class would replace race as the major dimension of social conflict," primarily due to "a developing world political economy in which nation, and consequently races and nationalities were becoming decreasingly important as units of action.

To those who followed Park's schema, race relations were seen in terms of racial frontiers as European expansion in the search of profits were extended to a world political economy.

One of the proponents of Park's thesis, Andrew W. Lind, identified three types of frontiers which resulted in different types of race relations: plantation frontiers, farm settlement frontiers, and commercial frontiers. Each frontier presents a different problem of race relations:

Plantation frontiers...are situations in which there is an abundance of land but a shortage of labor. The problem faced by the dominant class is literally one of capturing sufficient labor to work the land. The solution inevitably takes the form of forced labor.

Farm settlement frontiers are situations in which the dominant class finds a surplus of indigenous people and a need for land. The problem is clear the land, and the solution usually involves some form of genocide or expulsion of the indigenous people.

Commercial frontiers are those in which domination takes place through capital investment rather than force.<sup>18</sup>

Everett C. Hughes and E. Franklin Frazier further analyzed race definitions as industrial development replaced agriculture. William O. Brown and Frazier "carried this analysis into the arena of world politics".

They foresaw an emerging cleavage between the former colonies and the former colonial powers which would take a racial form. An international struggle was likely to develop with a coalition of the nonwhite exploited peoples on one side and the white former exploiters on the other.<sup>19</sup>

Herbert G. Blumer, the first to break with the Park Tradition, contended that the existing theory had been developed in relation to, European colonialism, European industrial expansion and the migration of peoples in pursuit of economic livelihood. In the multi-racial societies produces on this basis, several features are common:

The dominant racial group controls the economy, the political order and the status structure and draws a line separating itself from the subordinate group or groups. If the subordinates accept the line as drawn, then order and accommodative relations follow. If they do not accept the line as drawn and attempt to challenge the economic or political control of the dominant group, then the dominant group develops status anxieties, fears, and hostilities. These are often expressed in the form of prejudices, discrimination, segregation, and repression. The subordinate racial group is likely to respond by also developing prejudice and by engaging in acts of reprisal.<sup>20</sup>

Changes in the conditions of the modern world warranted a new theoretical development, according to Blumer. His main reason for this need arises from the development of racial groups "as sovereign or quasi-sovereign peoples". However, Blumer failed to realize that even though classic colonial relations were disappearing, they were being replaced by new forms of exploitation, particularly where "capital investment replaces political and military domination as the mechanism of control".

Blumer failed to recognize the fact that the general theory proposed by Park and modified by others allows for an explanation of particular historical features of changing situation without sacrificing broad explanatory principles. Changing racial situations do not require a rejection of general theory, they merely demand its creative application.<sup>21</sup>

In summary, Park and his followers placed race relations "within a historical and developmental context that took into account the emergence of a world political economy".

These writers noted the relationship between the search for profits (i.e., the desire for barter) and the initiation of racial contacts. They noted the development of race conflict over economic and material conditions and saw the development of race institutionalized as a vehicle that facilitated the exploitation of one racial group by another. They noted the historical replacement of direct colonization by indirect colonization, altering the appearance but not the substance of race relations.<sup>22</sup>



#### E. The Assimilation Model

The first to develop and apply the assimilation theory was Oscar Handlin (1959). He contrasted the "typical" patterns of assimilation of the black and Puerto Rican immigrants in New York to those of the European immigrants.

Handlin recognized that blacks and Puerto Ricans faced a more difficult situation than previous ethnic groups, but he also believed that they had less resources with which to cope with problems.<sup>23</sup>

According to Handlin, the major weakness of the blacks and Puerto Ricans was their lack of strong community organizations. He felt that the first positive change would occur in the area of politics. In return for their votes, politicians would be forced to respond to the needs of blacks.

Handlin perceived a cyclical effect: Perceptions of power lead to increased voting participation, which creates increased real power and forces politicians to respond to group demands. This, in turn, creates increased perceptions of power.<sup>24</sup>

As well, Handlin foresaw strengthening of black organizations, increased participation of blacks in the battle for civil rights, and an increase in the degree of control by blacks in policy determination. As a result, Handlin "concluded that blacks and Puerto Ricans were following the same basic assimilation process as all other immigrants, with only minor and transitory differences due to prejudice and changed economic circumstances".

Handlin's theoretical framework and analysis lacks perspective in relation to national and world political economy. In addition, he does not attempt an analysis of the role of immigrants in the larger economic order, nor does he lay an appropriate "foundation for his later questions regarding similarities and differences between the experiences of European immigrants, blacks and Puerto Ricans."

One must determine which classes gained from the exploitation of European immigrants in order to determine whether these gains were enhanced or reduced by assimilation, advancement up the occupational ladder, and replacement at the bottom by blacks and Puerto Ricans.<sup>25</sup>

In 1963, the first edition of Beyond the Melting Pot was published. Its authors, Nathan Glazier and Daniel P. Moynihan, like Handlin, followed the assimilation model, although their analysis followed an interest group focus rather than one of racial groups.

Glazier and Moynihan note the effects of discrimination and the difficulties blacks have in breaking out of their exploited position, and yet they somehow manage to locate the major cause of the black condition within the black community. This is done more by inference than by direct statement. Invidious comparisons are made between blacks and other groups (e.g. Jews and Japanese - Americans) who educated themselves despite discrimination and were prepared to advance as discrimination retreated.<sup>26</sup>

All versions of Assimilationist Theory, Glazier and Moynihan perspective included, present "race as relatively unimportant; blacks are seen as essentially the same as other minorities." Rather, a deficiency in the group, usually a presumed deficiency of the ethnic culture and social organization

Furthermore, the disadvantaged position of minorities is attributed to their lack of knowledge of the dominant culture, their deficiency of skills and competency which would enable them to succeed in society, as well as their cultural beliefs which do not emphasize mobility, self-confidence, educational achievement and delayed gratification of needs. Inequalities of income, jobs, housing, etc. are reflections of these deficiencies.

This theory is weak on several grounds...the culture and self-esteem patterns of black and other minority communities are not generally averse to occupational and educational upward mobility...Rather, the problem that faces them...is the existence of artificial barriers set up by the white community that impede minority group progress.<sup>28</sup>

In addition, this viewpoint ignores the black presence in America prior to emancipation and assumes that blacks, like any other immigrant group will, over time, learn and adopt the dominant perspectives and will become integrated into society. This assimilation would be impeded, but not altogether stopped, by racial prejudice and majority group resistance.

All minorities were expected eventually to become acculturated and develop the skills and competencies necessary for effective competition in American society. As a result, majority group prejudice would be reduced, and the minority would eventually be assimilated into American society on a basis of total equality.<sup>29</sup>

The Assimilationist School also neglects the concept of exploitation. While it acknowledges the use of blacks as slaves, slavery is viewed simply as an impediment of assimilation. "It does not raise questions as to whether this rate was deliberately retarded because it was profitable for the dominant economic class to have blacks in a less assimilated and more exploitable position."

As well, there are those such as Winthrop Jordan, who closely associate their perspective with the assimilationists, but stress the importance of attitudes. This perspective is known as white-racism and contends Europeans find blacks repugnant and have a need to debase them. "Racism is portrayed as the prime cause of exploitation rather than as a rationalization for its practice".<sup>30</sup>

#### F. The Colonial Model

The model attempts to explain racism in the context of European colonialism. In the case of black Americans, blacks are portrayed as dominated and exploited by white Americans.

The model also recognizes that colonialism may be practiced through a form of indirect rule, particularly by development of class stratification among the exploited group.

A class thus develops within the subject peoples who will have a vested interest in maintaining the system of exploitation, although the members of the class will not perceive it as such. This greatly reduces the likelihood that any significant change - oriented movements will develop among blacks.<sup>31</sup>

In addition, the exploitation of the subordinate group occurs because it is profitable for the dominant group. The culture of the dominated group is undermined and the domination of the subordinate group is, and always has been economically profitable. There is a constant cash flow from the subordinate group and any attempts for liberation and nation independence will be resisted by the dominate group.<sup>32</sup>

Within the model, racism is defined as:

the predication of decisions and policies on considerations of race for the purpose of subordinating a racial group and maintaining control over that group.<sup>33</sup>

As well, a distinction is made between individual and institutional racism. While individual racism refers to the acts of individuals practicing racism, institutional racism refers to the acts of total communities practicing racism.

The latter is the impersonal application of rules of procedure that facilitate the continued exploitation of blacks, even if the person implementing the rules is unaware of, and does not personally gain from, that exploitation.<sup>34</sup>

Upward mobility in society and equal opportunity for advancement are myths held by the colonizers to appease the colonized.

Members of the subject people are given to believe that they can improve their positions through individual effort and merit, providing that they learn the dominant culture, develop the attitudes and values displayed by members of the dominant group, and acquire the skills useful to members of the ruling class.<sup>35</sup>

The colonial model explains the historic development of racism in terms of the rise of capitalist expansion occurring in the 1600's.

...Western civilization began to take on its characteristic attributes when Columbus turned the eyes and interests of the world away from the Mediterranean toward the Atlantic...The socio-economic matrix of racial antagonism involved the commercialization of human labour in the West Indies, the East Indies, and in America...Racial antagonism attained full maturity during the latter half of the nineteenth century, when the sun no longer set on British soil and the great nationalistic powers of Europe began to justify their economic designs upon weaker European peoples with subtle theories of racial superiority and masterhood.<sup>36</sup>

The model, applied to the situation of Canadian Native peoples by Dr. Howard Adams, locates the origins of racism in Canada to the "economic factors inherent in capitalism". He writes:

Businessmen of Europe realized that they would need a large supply of labour to obtain resources from the new continents. Natives furnished this large supply of cheap labour. Since labour was an important item of cost in the production of goods, European businessmen wanted to get the greatest amount of labour for the least possible pay, and the purpose of racism was to reduce Native people to a subhuman level where they could be freely exploited...So European scholars and clergymen began creating racial theories which showed that native people of Northern America and other colonies were primitives, innately inferior and subhuman...<sup>37</sup>

The racism which originated with the fur trade to facilitate the exploitation of the labour of Native People became entrenched in Canadian society:

Assimilation diminishes the exploitative possibilities. This social situation is not especially a derivative of human idiosyncrasy or wickedness, but rather it is a function of a peculiar type of economic order which, to repeat, has been developed in the west among Europeans. The exploitation of native peoples is not a sin, not essentially a problem of morals or of vice; it is a problem of production and of competition for markets. Here, then, are race relations and hence political - class relations.<sup>38</sup>

Adams contends that the isolation and segregation of Indians as a special class of workers was necessary for the fur industry and the racism created and nurtured over 200 years has remained a dominant feature of the Canadian economic system.

White supremacy, which had been propagated since the beginning of European imperialism, became woven into Canadian institutions such as the church, the schools, and the courts, and it has remained the working

ideology of these institutions. In addition, native people cannot avoid seeing the cultural images and symbols of white supremacy, because they are everywhere in society, especially in movies, television, comic books, and textbooks.<sup>39</sup>

In analyzing the situations of the blacks and Native groups in North America, the colonial model has been modified to form several slightly different theses; the Submerged Nation thesis, the Internal Colony Thesis and the Neocolonialism Thesis.

The submerged nation thesis was developed in relation to a black population that was largely southern, rural and engaged in quasi-peasant agriculture.<sup>40</sup>

(The internal colony thesis) shifted the focus of attention to blacks in urban, largely northern, ghettos. Clark's analysis predicated a deliberate policy of segregation designed and implemented by whites for white advantage.<sup>41</sup>

In modifying the colonial model, Robert L. Allen argued that the "American situation may be better described as neocolonialism wherein the blacks could be compared to

an emerging country (which) has political independence but is indirectly and subtly dominated by political, economic, social, or military means. Domination remains to the extent necessary to ensure profits, notwithstanding formal political independence. A segment of the subject peoples collaborates with external powers and acts as a front group with the appearance of control.<sup>42</sup>

The limitations of the colonial model, as it applies to North American blacks and Native Peoples, are realized by its proponents. For example, oppressed peoples usually occupy their own territory. As well, the existence of a mother country usually exploits the territory of raw resources and utilizes the territory as a market for its manufactured goods.

Most traditional colonies were physically separate from the mother country that exploited them... Colonies are usually sources of raw materials for the mother country which transforms them into manufactured goods and sells them in the marketplace, often back to the colony...43

The strengths of the colonial model, argued by Robert Blauner, involve the colonial processes, rather than its form. He lists five basic components characterizing the colonization process.

1. "Colonization begins with a forced, involuntary entrance into the dominant society,"
2. "The colonizing power acts on a policy to constrain, transform, or destroy indigenous culture."
3. "Representatives of the dominant power administer the law and control government bureaucracies."
4. "There is a separation of labour status between the colonizers and the colonized."
5. "Racism develops as a principle through which people are seen as biologically inferior in order to justify their domination and exploitation."44

#### 6. The Class Model

Oliver Cox (1948) is widely known for his classic systematic formulation of class analysis of racism. In his model, Cox distinguishes between racism, ethnocentrism and social intolerance.

Ethnocentrism is a recognition of 'we' as opposed to 'they', combined with a preference for 'we'. Social intolerance is the rejection of groups that do not conform to the dominant patterns in society. Racism is the systematic exploitation of peoples along with its associated social attitudes.45

Basic to the class model is the premise that racism is "an intrinsic part of the development of a capitalism". Capitalism is characterized by its propensity to



proletarianize workers - treat their capacity to work as an item subject to the impersonal control of the marketplace. Labor becomes a factor of production to be bought, sold, or exploited (like land and capital) in an impersonal marketplace to maximize profit. To the extent that labor is seen as a commodity, the capitalist is unrestrained in using it to maximize profits; slavery and other systems of coercion are acceptable.46

In order to enhance and sustain the interests of the capitalists, an ideology is developed to establish that the exploited people are different and inferior. In the case of the Native People of North America, European scholars and clergymen began creating racial theories to strip Native People of their humanity, credibility and dignity.47

Sepulveda [eminent Spanish theologian and university professor of the sixteenth century], then maybe thought of as among the first great racists; his argument was, in effect, that the Indians were inferior to the Spaniards, therefore they should be exploited...Among the Spanish writers of the time [about 1535 onward] who were in rather complete accord with the drastic methods of human exploitation in the New World was Gonzola Fernandex de Oviedo...It was Oviedo's opinion, even after visiting America on a royal commission, that the Indians were not far removed from the state of wild animals, and that coercive measures were necessary if they were to be Christianized and taught the uses of systematic labor.48

The suggestion that enslaving the Indians in order to Christianize them quickly overruled the early objections of the Roman Catholic church to the exploitation of native peoples, with the result that capitalists, urban dwellers, businessmen and missionaries alike migrated throughout the world to save the "heathen".

Thus racial antagonisms began in Europe and were carried throughout the world. Everywhere Europeans went, they disrupted indigenous cultures.49

Not only did they disrupt cultures, but they suppressed those who resisted. "Cox insists that this process did not involve the exploitation of all members of one race by all members of another. All members of the nonwhite peoples were included among the exploited, but only the capitalist class among Europeans benefited."

In addition, Cox argues "Whites usually occupy the dominant place in any given racial stratification order, and their system of prejudices pervades the entire order as other groups emulate them to gain acceptance." The result is a reduced possibility that racial groups can or will unite against the domination.

Paul A. Baran and Paul M. Sweezy assert that race prejudice is almost entirely a white phenomenon. Speaking of the Blacks in urban centers, Baran and Sweezy provide three reasons as to why there has been no improvement in the Black's relative position since migrating to urban centers.

First, a formidable array of private interests benefit, in the most direct and immediate sense, from the continued existence of a segregated proletariat. Second, the socio-psychological pressures generated by monopoly capitalist society intensify rather than alleviate existing racial prejudices, hence also discrimination and segregation. And third, as a monopoly capitalism develops, the demand for unskilled and semi-skilled labor declines both relatively and absolutely, a trend which affects Negroes more than any other group and accentuates their economic and social inferiority. All of these factors mutually interact, tending to push Negroes even further down in the social structure and locking them into the ghetto.50

Harry Braverman added to the Baran - Sweezy model with the concept of the Reserve Army of Labour or the Subproletariat Concept. The Reserve Army is the mass of unemployed and underemployed labour which is essential to the capitalist mode of production. It includes

the underemployed; the sporadically employed; the part-time employed; the mass of women who, as houseworkers, form a reserve for the 'female occupations'; the armies of migrant labour both agricultural and industrial; the black population with its extraordinarily high rates of unemployment and the foreign reserves of labour.<sup>51</sup>

The role of the Reserve Army of Labour in capitalism is a source of cheap labour.

The availability of cheap labour leads dominant workers to be displaced or threatened with displacement, since employers would prefer to hire cheap labour. The threat of displacement by cheap labour is accompanied by other changes in production, such as deskilling. Dominant group workers react to the threat of displacement by trying to prevent or limit capital's access to cheap labor, through efforts to exclude members of 'cheap labor' groups from full participation on the labor market. That these exclusionary efforts have a 'nationalist' or 'racist' character is a product of historical accident which produced a correlation between ethnicity and the price of labor.<sup>52</sup>

This school of thought, also known as Dual Labour Theory or Split Labour Market Theory, points out a paradox which exists in the working class

...split labor market theory argues that dominant group workers do not share a 'national' interest with capital in the exploitation of colonized people, nor are they even fooled into believing they share such an interest...Capital wants to exploit ethnic minorities while labor wants to prevent them from doing so. However, in attempting to exclude ethnic groups from certain jobs, labor's reactions may be just as devastating to minority workers as dir

question of whether white workers gain or lose from racism as a false, or at least oversimplified issue. It suggests that white workers are hurt by the existence of cordoned-off cheap labor sectors that can be utilized by capital to undercut them. White labor's efforts to protect itself may prevent under-cutting, in the short run, however, in the long run, it is argued, a marked discrepancy in the price of labor is harmful to all workers, permitting capital to put one group against another.<sup>53</sup>

Limitations, or perhaps cautionary use, of the class model are pointed out by Gideon Ben-Jovim in his article "The Struggle Against Racism: Theoretical and Strategic Perspectives". The danger in applying the class model, according to Ben-Jovim, is economic determinism and class reductionism. That is, racism is explained in terms of the technical and material base only, while ignoring the relationship between the classes, the use of class-based ideology, and the dialectical effects of ideology with the material base. Essentially, the model tends to:

reduce the complexity of the political and ideological levels of a social formation to its economic base, and to reduce all social, political and ideological movements and struggles to the class interest of which such movements are the simple expression. All social contradictions, then, are reduced to the 'primary' contradiction at the point of production.<sup>54</sup>

The role of racism must be viewed in the context of its ideological function in the relationships between classes.

...racist ideologies are developed by the ruling class and the state in order to justify enslavement, colonial subjugation, and metropolitan super-exploitation or marginalism respectively; and also to divide the working class by the fostering of scientifically spurious 'racial' divisions.<sup>55</sup>

Ben-Tovim argues that the perils of economic determinism and class reductionism can be avoided by the adoption of a framework of "relative autonomy" which contends that racist ideologies and practices are not reducible to the economy or to class questions, central though they may be. Rather,

racist practices, such as, segregation, genocide or exclusion, have their own political dynamic which transcends a simplistic class interest. Indeed racism may actually contradict the interests of capital rather than necessarily express them...56

While the class model would view anti-discrimination legislation as "simply a mask for political stabilization in favour of the capitalist status quo which should therefore be opposed", the cautionary note of Ben-Tovim warns this is "one-dimensional and fatalistic, denying any autonomy to the political level and failing to see that state policy is a site of contradiction and struggle: even though the state in capitalist society may generally operate in the interests of capital, it does not as Milliband had argued, act as its best and further, it may be used to enact legislation and policy which has a genuinely progressive or pro-working-class character."

However, racism is not seen as totally autonomous or totally independent from capitalism and class structures.

Therefore, racism must be viewed in connection with capitalism and class-structures, but not to the exclusion of its context within political and ideological levels of the social formation.

Although racism is a class issue, it is primarily a democratic and an ideological issue which demands a level of struggle that both addresses itself to the concrete reality of racist oppression and that encompasses a very broad base of political support.57

### III. FORMS OF RACISM

There are three forms or levels of racial discrimination: individual; institutional/structural; and cultural.

Anderson and Frideres define individual racism as an ideology held by a person in which the individual believes in white race superiority and/or acts out bigoted beliefs. Citing Kovel (1970), Anderson and Frideres point out there are two forms of individual racism.

Kovel makes a distinction between dominative and aversive individual racism. The former is the individual who acts out bigoted beliefs, while the latter is the type of individual who believes in White race superiority and is more or less aware of it, but does nothing overt about it.58

In other words, "if we are looking at the attitudes and actions of individuals, we are talking about personal prejudice and discrimination."59

The second level of racism, institutional/structural racism, is defined as:

those established laws and relationships which systematically reflect and produce differential treatment of various segments in society.60

Commenting on institutional racism, Daniel G. Hill writes:

There probably is no more subtle form of discrimination, none more pervasive, none more difficult to combat, than institutional discrimination. With its roots buried deep in Canadian social history, it makes many of our major institutions - notably our business and schools - operate to the detriment or exclusion of racial minorities.

The relationship of institutional and individual racism is seen as a cyclical one by Anderson and Frideres. They state:

Each feeds on the other...As the pervasiveness of institutional racism increases in a society, individual racism decreases. However, as the social system tries to correct this built-in structural bias, and institutional racism begins to be challenged, individual racism re-emerges.<sup>62</sup>

The third form of racism is cultural racism. "It is defined as the individual and institutional expression of the superiority of one group's culture heritage over that of another group..."<sup>64</sup>

Dr. Howard Adams addresses the issue of cultural racism in "Schooling the Redman":

The school systematically and meticulously conditions natives to a state of inferiorization and colonization. It does this in a number of ways: most important, however, is that it teaches the language, literature, and history of the colonizer and thus forces the students to deny their language, culture, and essential being. The school and its teachers operate within typical racial stereotypes and coerce students into feeling ashamed and unworthy.<sup>65</sup>

#### IV. ORIGIN OF THE NON-SIAIUS INDIAN

The history of the Metis since 1885 is a story of the disintegration of a once proud and independent people and their growing association with the Indian peoples. The pauperization of the Metis in 1890s certainly contributed immensely to this process, as the Metis were forced either to adopt a hunting, fishing and trapping way of life virtually indistinguishable from most Indians in the North, or to move to the cities where they started to form a distinct "native" population in search of work and a roof over their heads. A few Metis practiced subsistence agriculture in places such as Batoche, but even here the strongest linkages developed with nearby Indian reserves. The Metis population dispersed throughout the Northwest, and even into the United States where some found a home with the Chippeway (Ojibway) Indians of the Turtle Mountain Reserve. But what contributed most to the disintegration of the Metis people and its association with the Indian population of the Canadian West was federal government policy.

The federal government's policy of treating Metis differently from Indians when it came to extinguishment of aboriginal title had rather unexpected effects in the 20th century. Treaties imposed certain continuing responsibilities on the federal government for the welfare and upkeep of Indians on reserves. They set aside certain lands for the exclusive use of the Indian peoples, and these had to be administered, and they required Ottawa to make annual payments of money and supplies to the Indian peoples concerned. Treaty Indians were treated as wards of the federal government, towards whom the federal government had a continuing trust responsibility.



Scrip placed the Metis, of course, in a very different situation than the treaty Indian. The virtue of scrip in the federal government's eyes was not only that it served to extinguish aboriginal title but that it did so without creating Metis reserves, and without imposing any continuing obligations on Ottawa to look after the Metis. Once scrip was issued, the federal government felt that it had absolved itself of any further responsibility for the Metis. By and large, since at least the 1940's, it has denied responsibility to do anything for the Metis.

Initially, this created a clear distinction between Metis and Indians. Indians could benefit from treaty. Metis could not. Although in the negotiation of the numbered treaties in Western Canada, federal commissioners had often allowed Metis to adhere to Indian treaties, starting in 1876 the federal government began to enforce a stricter segregation between Metis and Indians. In 1880, the federal government went a step further and amended the Indian Act to allow any Metis, defined as a person of mixed-blood, to withdraw from treaty on refunding the annuities received. In 1884, the federal government went further still, to permit withdrawal without reimbursement of annuities. 61 Once withdrawn he could receive scrip. As a result, of the 3,446 claims approved by the Scrip Commissions of 1885, 1886 and 1887, 1,292 were to persons who had formerey been in treaty. Thus even Metis living with the Indians were induced to remove themselves from band lists and to take themselves off the federal government's 'wardship' roll. The federal government continued this strict policy of dealing with 'half-breeds'

through scrip, and Indians through treaty in the negotiation of treaties eight (1899), ten (1906-07) and eleven (1921). The advantage of doing this was that a significant part of the aboriginal population was relieved from the federal government's charge.

Throughout the late 19th and the 20th century, the federal government continued to seek ways to limit or diminish the number of Indians for whom it accepted "wardship" responsibilities. This was accomplished through provisions in the Act for "enfranchisement", a term which refers to the fact that Status Indians did not until 1960 have the right to vote. An Indian might voluntarily enfranchise, but the Act also contained several provisions which forced an Indian person to become enfranchised under certain conditions. The most infamous of these provisions is section 12(1)(b) which states that any Status Indian woman who marries someone without status is automatically enfranchised. An enfranchised Indian had his/her name struck from the band lists and no longer had any right to live or to hold property on a reserve. Without being on the band list, it was virtually impossible for enfranchised Indians to continue to benefit from treaty rights, and so enfranchisement also meant in practice the loss of treaty rights. The effect of these provisions, since 1876, has been to create a new class of native person--persons who had, or whose ancestors had, lost their status under the Indian Act--a group called Non-Status Indians.

Throughout the 20th century, there was a great mixing of these Non-Status Indians with the Metis in Western Canada, and many started

to identify as Metis. This is not surprising if it is borne in mind that after 1885, the single most important circumstance structuring the identity of native peoples was federal Indian policy and the distinction created by federal Indian policy between persons of aboriginal descent who benefited from treaty and had rights under the Indian Act and those who did not. The Non-Status Indians were then brought to share precisely that circumstance which most distinguished the Metis from the Indians after 1885: the fact that they lay outside treaty. Like the Metis, Indians who lost status drifted to the cities or settled in rural communities where they practised the same kind of life as most Metis: hunting, fishing, trapping, occasional employment as guides; a few became prospectors, many did a little farming. In the West, many Non-Status Indians congregated in Metis rural communities.

The association of Non-Status Indians with Metis can be understood in other ways as well. The majority of Non-Status Indians lost their status because they married Europeans. In effect, Non-Status Indians testify to the continuation of Metissage after the Indian Act was passed in 1876. They represent new cohorts of Metis created since then. But whereas persons of mixed blood born prior to the 1880s were generally considered Metis, new cohorts of Metis created after that time were identified as Non-Status Indians. Generally speaking, the same processes gave rise to both Metis and Non-Status Indians, but legal distinctions between the two groups remain.

Federal policy had other pernicious effects as well. By 1923, the federal government had extinguished the aboriginal title to all Metis who had lived in the West. The issue of scrip in Manitoba

was limited to people who had resided in the Province as of July 15, 1870, the date of the takeover of the Northwest by the Government of Canada. In the Northwest outside Manitoba, the date fixed for eligibility to claim scrip was at first the same but in 1900 was changed to include all children born prior to the end of 1885, the year of the Riel Rebellion. When Treaties 8, 10, and 11 were negotiated, the Metis who were resident in the territory at the time treaty was made with the Indians were given scrip or money. After that no more scrip was issued. The fact that scrip was issued only to certain persons created a distinct class of persons who had received scrip: the scrip\_Metis. These can be identified and they have descendants. Based on a rough tabulation from the scrip count, which indicates that somewhere in the order of 26,000 Metis received scrip, the number of descendants of the scrip Metis must be about 80,000 today. This can lead to a very strict definition of Metis as a scrip Metis, a person roughly identified with the historic Metis of the Northwest. Federal policy towards the aboriginal peoples thus ended up creating three distinct classes of aboriginal peoples in the West: Status Indians, Non-Status Indians, and Metis. This created differences not only between treaty and non-treaty but between Non-Status Indian and scrip Metis as well.

The fact that Metis and Non-Status Indians shared the same social conditions and that both groups were excluded from treaty and from the Indian Act led them in most provinces to set up common associations to promote their interests. Most of these associations are of recent vintage, having been established since 1960, although some, like the Alberta Metis Association, have a longer history. In 1971, these provincial associations grouped into a national organization, the Native Council of Canada (N.C.C.) which until

recently represented all Metis and Non-Status Indians. In 1983, the Western Metis established their own organization, the Metis National Council and acquired separate representation in constitutional negotiations. Both organizations represent Metis and Non-Status Indians, although the Metis National Council does so in regions where Metis predominate and the Native Council of Canada in regions where the Non-Status population is generally more significant. The major difference between the two organizations is that the Metis National Council takes the position that the Metis referred to in section 35 are the Metis people which historically developed in the Northwest, while the Native Council of Canada argues that any person of mixed Indian and European ancestry who identifies as a Metis is a Metis for the purposes of section 35. At issue in this controversy is whether those people who identify as Non-Status Indians today should, for the purposes of the new Constitution, be considered Indian or Metis, since there is no separate listing for them otherwise.

Another result of the federal government's policies was that it tended to force both Metis and Non-Status Indians to look to provinces for relief. The federal government denied it had any continuing responsibility to look after the Metis or any Indian who had lost status, but this denial did not make the poverty and plight of the Metis and Non-Status Indians any less real, or their needs any less urgent. Provincial governments for their part always hesitated to assume burdensome responsibilities such as the Metis promised to be. Only in Alberta can anything be said to have been

done to try to relieve Metis poverty. As early as 1896, the federal government, which still had control of public lands in that province, was persuaded by Father Lacombe to grant the Jesuits some land for the purpose of establishing a Metis reserve. This project floundered on the rocks of financial troubles and Church paternalism and the reserve which Father Lacombe established--St.-Paul-des-Metis--was disbanded in 1910 and most of the land sold to French Canadian homesteaders from Quebec. 64

During the Depression, the Metis in Alberta did succeed in having the provincial government set aside lands for them. Under the leadership of men like Jim Brady, Malcolm Norris and Peter Tomkins, the Metis established their first important organization in that province: "L'Association des Metis d'Alberta et des Territoires du Nord-Ouest", established on December 28, 1932. 65 This Association succeeded in lobbying the UFA government to appoint a Royal Commission on Rehabilitation of the Metis in February 1933. Known as the Ewing Commission it recommended essentially that certain unoccupied Crown lands be reserved for Metis collectively. This was seen as the most cost-effective method of dealing with Metis problems. 66 The Aberhart government acted on this recommendation in 1938 by passing the Metis Population Betterment Act, which established a number of Metis colonies in the Cold Lake/Lesser Slave Lake and Peace River areas of Alberta. There are still today eight Metis colonies in Alberta, representing an area of 1.24 million acres reserved for Metis, upon which 4,000 of the provinces estimated 30,000 Metis lived. 67 This act defined Metis as persons of mixed

white and Indian blood who were neither Indians nor Non-Treaty Indians as defined in the Indian Act. This essentially excluded Non-Status Indians from the benefits of the Act. In 1940, the definition of Metis was amended to add the qualification that the person also had to have at least "one-quarter Indian blood".

Much less was done for the Metis in the other Prairie provinces, and virtually nothing at all for the Metis elsewhere in Canada. In the late 1930's the Saskatchewan government followed Alberta's example and established a Metis colony of sorts at Green Lake but without legislative status, and in 1960s the Thatcher government set up a few experimental farm projects for Metis in the province. This is the closest the Metis in the province ever came to getting a collective land base of their own. In Manitoba, no attempt seems to have been made to provide Metis with a land base after the fiasco of the Manitoba Act. None of these actions on the part of provincial governments were predicated on recognizing Metis aboriginal rights but were rather justified as social welfare measures. 68

The Metis have been recognized aboriginal claims recently in a few areas. The James Bay Agreement of 1975 recognizes the land claims of "Non-Status Cree" which in an earlier age would probably have been considered Metis. The Metis have been included in the renegotiation of Treaty 11 (MacKenzie Valley) and will probably also be in the recently announced renegotiation of Treaty 8 (Northern Alberta). In the early 1970s an isolated group of Metis were discovered when Grande Cache, Alberta, was being opened-up for a mining development, and the Alberta government may have recognized these people a distinct land claim. Overall, the Metis have not, however, been recognized a distinct aboriginal claim anywhere but in the old Northwest and these Metis may already have had their aboriginal claim extinguished through scrip.

V. HISTORY OF THE NUN-SIALUS INDIANS.

As a means of avoiding widespread resistance to their colonial policies, both the British Imperial government and later the Canadian government, dealt with the Canadian Indians through proclamations and treaties. Following Britain's victory over France for the colonial possessions of North America, the British monarch, George III, stated the British position vis a vis North American Indians in the 1763 Royal Proclamation. Couched in humanitarian terms, the Proclamation nevertheless counted Indian lands as "our dominion". The 1763 Proclamation stated:

The Indians who live under our protection should not be molested or disturbed in the possession of such parts of our dominion as, not having been ceded to, or purchased by us, are reserved unto them. 69

Only the British Crown could make treaties with the Indians. This was the beginning of formal arrangements known as treaties that were used to peacefully negotiate with the various Indian tribes in



America. Indeed, the Indian tribes who were involved in these negotiations saw themselves as autonomous and sovereign nations, so that for all practical purposes the treaties were agreements between two sovereign "states". William C. Mcleod in his epic work THE

AMERICAN INDIAN FRONTIER explains:

The word "tribe" has been used to describe so many various types of human groupings that it is on the point of losing all scientific utility. I shall use the word, as consistently as may be, to mean a sovereign unit. This restores the word to a degree of preciseness and usefulness. In this sense, then, the Delawares, the Mahickans, the Pequots, the Massachusetts, the Natchez, and so on, were tribes, that is, sovereign states. The Sioux, the Haida, and many other so-called tribes, however, had better be called peoples, inasmuch as they were merely large groupings of independent political units who spoke dialects of the same language. The Iroquois, the Creeks, and so on, were confederations of tribes, each a sovereign state just as was each of the United States under the Articles of Confederation.

The average American tribe was a very small city-state. It had extensive territories over which it hunted, but it usually lived in a single village of from five hundred to three thousand population. Many tribes, however, comprised a number totalling ten thousand or more inhabitants. 70

Many of these tribes, or sovereign states, had developed class based societies similar to those of Europe in the 18th and 19th centuries. People were ruled by an hereditary aristocracy, and slaves were utilized as a labour force in many tribes. In many ways the state apparatus of the American Indians resembled that of the Europeans:

Among virtually all the tribes existed an aristocracy. Civil Chiefships or governmental prerogative was hereditary, passing down in the noble families. Economic privileges, such as the right to a share of commoners' production made the aristocracy a group enjoying relative wealth as well as social privilege.

There was also the bourgeois group, those families not born to the purple, but yet industrious enough or lucky enough to have acquired relative wealth - more wealth, sometimes, than even the aristocrats, whom they tended to displace.

There were the ordinary, poor commoners, governed by their aristocrats, exploited by their bourgeois. And finally there were the slaves. 71

Macleod's documentation does tend to verify the claims of the Status Indian leaders today, that they are, in fact, representatives of sovereign states, and should be treated as such. If this is true of the Status Indians, who then are the Non-status Indians?

The term Non-status Indian clearly reveals the legal-political nature of such "racial" definitions. And, just as clearly it negates the belief in some mystical racial purity. Nowhere is this so clear and unambiguous as is the case with Non-status Indians. The term is legal-political, having little to do with biology. Under these legal-political terms, then, we may discuss "Non-status Indians."

Those descendants of Indians who are not covered by the operation of the Indian Act include the Metis and all the descendants classified as Non-status Indians. The Metis are identified as a separate Aboriginal group in the Canadian Act of 1982. 72 Historically, they included those people recognized and dealt with as

a separate group in the Manitoba Act of 1870 and in the Dominion Lands Act of 1879. 73 Today the descendants of these people form the core group of Metis. Therefore, in this presentation we will address ourselves only to those descendants of Indians who can be classified as Indians without legal Indian status. There are two distinct groups, those referred to as non-registered Indians and those referred to as non-status Indians. The first group consists of those persons of Indian ancestry whose ancestors have never taken advantage of the opportunity to register as Indians. They fit the current Indian Act definition of an Indian and could register if they chose. If not accepted by a band they would be added to the general list of Indians. It is generally concluded that there are only a small number of non-registered Indians who fit into this category, as most of these persons were registered in an intensive registration drive carried out by the federal government in the early 1950's.

The second group, the non-status Indians, includes those persons who themselves, or who through their ancestors, have lost their status due to the operations of the Indian Act. This Act, over the years, has included a number of provisions which excluded certain Indians. Some of these exclusions were voluntary and others were involuntary. The voluntary exclusion was the enfranchisement provision of the Indian Act which provided for persons who belonged to a band or tribe to apply for enfranchisement. If they met certain conditions and enfranchisement was granted, they gave up their status as Indians and supposedly were put on an equal footing with all other

Canadian citizens. 74

The involuntary exclusions included all those Indian persons who were arbitrarily excluded by provisions that appeared at different times in history, in the Indian Act. These included:

- Status-Indian women who married a person not a status-Indian, and all their offspring and descendants. (This is by far the largest group of non-status Indians);
- Indians who received professional training were as a matter of Indian Affairs policy, enfranchised whether they requested it or not, although this provision of the Act was to be a voluntary exclusion provision. Certain descendants of such Indians are still excluded today, even though that provision is no longer in the Indian Act and the policy of automatic enfranchisement was changed many years ago;
- Illegitimate children who are, or were, Status Indians, excluded by the decision of a band or the Superintendent General. This group would include descendants of Indians who have been excluded in the past and those who are still excluded at the present time. Bands have discretion in this area but it was common for those offspring whose fathers were alleged not to be status Indians, to be excluded from band membership;
- Offspring who were victims of the double mother clause, that is both the mother and paternal grandmother were not status Indians;
- Persons who lived in a foreign country for five continuous

years lost their residence and could only be re-instated with the consent of the band and the Superintendent General. This would likely affect primarily Indians going to live in American reserves for whatever reason. This provision did not apply to Indians who spent an extended period overseas in the armed services, or in the service of Canada.

The Legal and Other Provisions Which Created Non-Status Indians

Prior to and during the early years of Canadian nationhood, the government believed that the goal of its Indian policy should be to assimilate Indians into the mainstream population. The Indian Acts and Indian policies were designed to achieve this objective. By isolating Indians on reserves it was believed that they could be enculturated into the English or French societies through education and through religious training. It was believed that once Indians were "educated" and "christianized" they would want to become full Canadian citizens. For this reason the enfranchisement provisions were included in the early Indian Acts. The various provisions in the Indian Act which provided for the legal exclusion of Indians from the Indian Act, include the following:

a) Voluntary Exclusion Provisions

In 1869, two years after Confederation, the first Act was passed providing for Indian Enfranchisement. The official title of the Act was, "An Act for the Gradual Enfranchisement of Indians, the Better Management of Indian Affairs, and to Extend the Provisions of

the Act." The Act referred to was the Act establishing the Department of State of Canada. Originally this department was responsible for Indian Affairs.

The original provisions of the Act were designed to enable Indians to apply to become proprietors of a parcel of land on the reserve as the private owner of that land in fee simple. The individual Indian families could apply for such land and enfranchisement and if they were considered to be sufficiently civilized to hold land, they would be granted a patent of land. This policy, if it had been effective, would in the long run have resulted in the breakup and the eventual disappearance of reserves. Persons so enfranchised were no longer considered to be Indians. This provision and policy were patterned after similar positions in the U.S.A. legislation.

The first Act which went by the title "An Act Respecting Indians", was passed in 1876. 75 It consolidated a number of other Acts dealing with Indian Affairs. This Act extended the voluntary exclusion provisions to include Indian persons obtaining professional degrees. This latter provision was not linked to a land allotment or patent and in this Act was automatic and not voluntary. 76 There was also a provision which allowed a band to decide that all its members could be enfranchised. It should be noted that in these Acts all Indians applying for enfranchisement, required the consent of the band, as the band had to provide a land allotment for such enfranchised Indians. If the whole band became enfranchised, every family was to be allotted land and, as well, any band monies were to

be distributed among the band members.

The next amendments dealing with enfranchisement took place in 1884. This Act no longer required band consent for a member to be enfranchised but did still allow the band to raise objections as to why a person should not be enfranchised. The Superintendent General of Indian Affairs, was empowered to decide whether an Indian could become enfranchised and to grant the family a plot of land on a three year probationary period. If the Superintendent deemed the Indian to be ready for enfranchisement the land was granted in fee simple. The results were the same as in previous Acts. The other matter clarified in the Act was that the enfranchisement of an Indian with a professional degree was only automatic if the person applied for such enfranchisement. It should also be noted that this form of enfranchisement makes no mention of whether or not the Indian concerned received his/her share of band assets. 77

The next major amendments in 1906 set educational requirements for enfranchisement but made no other changes in these provisions. Subsequent amendments to the Indian Act have not substantially changed the enfranchisement provisions. The present Act still provides for an Indian to become enfranchised. If he/she owns or controls land and improvements, these can be removed from the reserve if the person wishes to continue to hold the land and occupy it or, if the persons wishes to leave the reserve he may sell it privately or to the band.

The effect of all these enfranchisement provisions is that a person who became enfranchised gave up all of his/her rights and benefits as an Indian under the provisions of the Indian Act or under Treaty if he/she was a treaty Indian.

b) Involuntary Enfranchisement or Loss of Status

Pre-Confederation Acts make no reference to the exclusion of anyone from their band. The first consolidated Indian Act, passed in 1876, already contained provisions regarding women marrying other than an Indian. Other exclusions were included in subsequent Acts. 78

1.) Exclusion by Marriage

This Act provided that a woman marrying other than an Indian ceased to be an Indian for the purposes of the Act, except that she could still share in band annuities and other income. There is no specific references in this Act to the children but it must be assumed that if the woman no longer qualified to be a band member, then neither would her children be band members. This exclusion was carried through in successive Indian Acts and still applies today. In subsequent Acts provisions were made for such women to become automatically enfranchised, the result being the same as for any other enfranchised Indian.

The Canada Act of 1982 provided that this provision either be made applicable to both Indian men and women or be removed from the Act completely because of its sexist nature. The parliamentary



committee, in its report on Indian Amendments, not only proposed a change to this section of the Act but suggested that women who have been excluded from the operations of the Act or their descendants should be allowed to once again become a member of a band to which they once belonged. 79

## 2.) Other Exclusions

Over the years the following persons have additionally been discharged from bands:

- Beginning in 1876 illegitimate children could be excluded from band membership by the decision of the band. This was generally done where it was suspected the father was not an Indian.
- The 1876 Act also provided that any Indian absent from their reserve and living in a foreign country for more than 5 years be automatically excluded from band membership. Exclusions did not include professionals who were outside the country as a requirement of their job. 80

These last two provisions no longer appeared in the 1927

Act:

- There were several other exclusions, one of which occurred in 1869, which stated that persons of less than 1/4 Indian blood would not be able to be registered. No mention is made in subsequent Acts of this category of exclusion.

The Effects of Enfranchisement

Whether the enfranchisement was voluntary or automatic because of exclusion provisions of the Act, the effect seems to have been to remove such persons for all time from the operations of the Indian Act. The only persons who were able to be re-admitted to a band list included women who at some later date married a status Indian or persons who lived in a foreign country. 41

The effects of being excluded from the operations of the Indian Act include the following:

- the Indian person and their family can no longer live on the reserve.
- the excluded person can no longer share in band annuities or in any future assets acquired by the band.
- the person can no longer qualify for housing, economic development, educational, welfare, health or other benefits provided by the Government of Canada to Indians.
- the person no longer can qualify for income tax or provincial sales tax exemptions.
- the person is no longer legally an Indian under the provisions of the Indian Act but may still be an Indian under Section 91 (24) and is considered to be an Indian under Section 35 (2) of the Canada Act. However, since they gave up or lost all Indian rights when enfranchised, they are not covered by the provision which recognizes and affirms existing rights.

The splits created in the native community through these

politically motivated definitions become very real. Such definitions determine who will receive benefits under the Indian Act and who will not. Status Indians have open access to higher education. They even receive wages while attending university. There are many tax deductions given to Status Indian people. Furthermore, a certain prestige goes with being a Status Indian in the native communities.

While Status Indians are able to bargain with the federal government through the treaty process, Non-status Indians have no structured means of bargaining with government bodies, other than on an individual basis. They did not belong on reserves and had little bargaining power outside the reserves until 1975. In some areas of the north, particularly in the area now known as Sandy Bay, people had to give up their rights as Status Indians if they wanted to acquire work. They had to be enfranchised in order to qualify for work in the labor-intensive power projects of the 1930's. As a result, all of their offspring are now Non-status Indians. There were other rules and regulations, of an obscure nature, that enfranchised a few natives over the years. These people also lost their status. Because there was no means of redressing the grievances of the Non-status Indians, they made efforts to join forces with the Metis of Saskatchewan. The Metis of Saskatchewan had begun to organize in the early 1930's.

By 1975, the Metis Society of Saskatchewan (M.S.S.) underwent political changes that enabled it to incorporate Non-status Indians

into its organization. At a general meeting of the M.S.S. in 1975, Vera Averno Desjarlais moved that the M.S.S. name be changed to the Association of Metis and Non-Status Indians of Saskatchewan (A.M.N.S.I.S.). The motion was seconded by Nora Ihibodeau, and put to a vote. The vote was unanimously in favor of the resolution. The stated purpose of the newly reformed organization was:

1. To work for the social, educational, economic betterment and and general improvement of Metis and Non-status Indians.
2. To preserve and further Metis and Non-status Indian heritage and culture.
3. To unite and preserve the unity of Metis and Non-status Indians.
4. To promote and advance the culture of the Metis and Non-status Indians.
5. To cooperate with other organizations within or outside Saskatchewan to further these objectives and purposes. 82

Since that time AMNSIS has continued to work to keep the organization independent from direct affiliation with mainstream political parties. AMNSIS has worked as a purely native political party for better education for native people, for decent jobs and better living conditions, for fishing, trapping and hunting rights, and for fundamental human rights for both the Metis and Non-status Indian people. Today, the organization is fighting a fresh battle with the federal government over the Metis and Non-status Indian peoples' land rights.

Both of these groups (the Metis and the Non-status Indians) had been excluded from the political and economic process that had been institutionalized for all other groups in Canada including the Status Indians. Numbers of people in a defined group are important because they reflect potential political strength within that unit. There was at least tacit agreement with this principle at the 1975 founding meeting of AMNSIS. Indeed, Jim Sinclair, a Non-status Indian who had been at the head of the M.S.S. prior to its name change, has remained at the helm of AMNSIS. Today, the historical struggle of both the Metis and Non-status peoples continues to be fought out in the political arena through AMNSIS. AMNSIS is now making political demands on behalf of at least 21,590 people and possibly as many as 80,000. According to Statistics Canada, there were (as of 1981) 37,470 Status Indians in Saskatchewan, 4,135 Non-Status Indians, and 17,455 Metis. 83 Presently, under section 37 of the Canada Act, the term Indian is interpreted to include the Non-status Indians. This change will result in Native political re-alignments.

Meanwhile, an ugly fight is shaping up between Indian Chiefs and Indian women who lost their status when they married Non-status Indian men. The Sandra Lovelace case went all the way to the supreme court. When she lost her bid to be reinstated as a Status Indian (lost when she married a non-native) the case was taken to the United Nations. As a result of its 1981 complaint to the Government of Canada, Bill C-31 was passed. Bill C-31 enables such women to be reinstated as Status Indians, subject to band approval, although it

does not do this for the woman's offspring. Indian Chiefs are now opposing such reinstatement on the grounds that they will not be able to cope with the influx of Non-status Indian women and children into their respective bands. Sandra Lovelace continues her fight today, not with the federal government, but with the Chief of her band.

A framed portrait of an Indian man hangs by the front door of the house Lovelace is renting. The Indian proverb under the picture sums up her struggle. It reads:

"To give dignity to a man is all things." 84

#### VI. CONCLUSION

Since 1876 Indians who lost their status under the Indian Act, Non-Status Indians, have come to share with the Metis that condition which distinguishes Metis most from Indians - aboriginal peoples without aboriginal rights under treaty or the Indian Act - while remaining distinguishable from them for legal purposes. The federal government has recently given most Non-Status Indians the opportunity to regain status as Indians under the Indian Act, and many may choose to do so. But not all will. It then becomes important to realize how arbitrary is the legal distinction between Metis and Non-Status Indians. The processes which developed the Metis did not suddenly come to a stop in 1885. Not only were the Metis in the Northwest in 1885 growing as a result of self-generation (unions between Metis

and Metis) but new cohorts of Metis were always being created as a result of unions between Indian and Metis, White and Metis, and White and Indian. Since 1885, the same processes have continued to operate and have probably accelerated. The Non-Status population which has developed since 1876 is living proof that these processes have not stopped. A good portion of the Non-Status Indian women lost their status because they married a white man or a Metis. In either case, the children of such unions are mixed-blood and have just as much right to call themselves Metis after 1885 as a child of such unions had before 1885. Not all may chose to do so, but to arbitrarily cut-off who can be a Metis in 1885 is to dismiss new cohorts which have come into existence since then. If we fail to include these people of the definition of aboriginal peoples found in section 35, we threaten to simply perpetuate a system which denies aboriginal rights to persons who clearly share all the conditions of aboriginal people in Canada today.

By the same token, Non-status Indians must have the right to be included under the Indian Act if they so choose. The constitutional changes so far have facilitated that choice. However many Treaty Indian Bands and political organizations have resisted the inclusion of Non-status Indians on their rolls.

It must be clearly understood that the differences between the Metis Non-status Indian and Treaty Indian are not racial as all three are aboriginal peoples of Canada. It was the government of Canada which precipitated artificial differences of a legal-political nature which has served to divide aboriginal peoples to place them in a position wherein they could be easily ruled.

Moreover, all three aboriginal groups occupy the lowest position of the socio-economic mosaic which is Canada. As such, the aboriginal groups within Canada serve, by the nature of their low socio-economic status, the interests of the ruling, neo-colonial powers.



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