

6 Historical Treaties Towards mutual respect and cooperation

Treaties and the Indian Act

The Indian Act

The Indian Act of 1876 is a federal law that governs many aspects of Indigenous life in Canada. It was created by the Canadian government to consolidate earlier colonial laws aimed at assimilating Indigenous peoples and managing their affairs. Key aspects of the Act include:

- **Definition of “Indian” Status:** The Act legally defines who is recognized as an Indigenous person, excluding many individuals and communities, while including many non-Indigenous individuals.
- **Reserve Lands:** It governs the management of reserve lands, including land use and land transactions, limiting Indigenous sovereignty and full ownership over their own lands.
- **Band Governance:** It regulates the governance structures of Indigenous communities, imposing Western-style band councils and limiting traditional forms of governance. Since the Indian Act defines who can be legally recognized as an Indigenous person, by extension, it defines who can vote under the band system.
- **Cultural Suppression:** The Act historically included provisions that suppressed Indigenous cultural practices, such as the prohibition of traditional ceremonies, singing and dancing, making traditional artwork and potlatches.

Relationship Between Treaties and the Indian Act

- **Implementation and Control:** While treaties often promised autonomy, resources, and support, the Indian Act imposed a restrictive framework that controlled how these promises were delivered and managed. This led to the erosion of treaty rights and the imposition of government control over many aspects of Indigenous life.
- **Legal Disputes:** The differences between treaty promises and the provisions of the Indian Act have led to numerous legal disputes. Indigenous communities have often had to fight in court to assert their treaty rights against the limitations imposed by the Act.
- **Paternalism and Assimilation:** The Indian Act’s paternalistic approach contradicted the spirit of mutual respect and cooperation that many treaties aimed to establish. The Act’s goal of assimilation undermined the autonomy and self-determination envisioned by Indigenous leaders during treaty negotiations.
- **Ongoing Impact:** The legacy of the Indian Act continues to affect Indigenous communities today, with ongoing issues related to land rights, governance, and cultural preservation. Many Indigenous leaders and communities are working to reclaim their treaty rights and challenge the restrictions imposed by the Indian Act. Many First Nations bands are in the process or have already brought the Canadian government to court for not honouring their end of the treaty, resulting in current ongoing settlements/claims (E.g., First Nations Drinking Water Class Action Settlement, Treaty 6 Agricultural Benefits Claim).