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The Canadian-Indigenous Treaties,
An Eye on the Past,
A Step to the Future

In Partial Fulfillment of the Requirements for the Degree
Masters in Arts
In International Studies

By Hassanein Hassan
May, 2023

University of San Francisco

Under the guidance and approval of the committee, and approval by all the members, this thesis project has been accepted in partial fulfillment of the requirements for the degree

Approved:

Capstone Advisor

Date

MAIS Director

Date

Abstract

For centuries, the Indigenous Peoples in Canada (CIP) were subject to historical injustice; injustice that was originated in enacted laws. However, there is a huge progress in recognizing IPs rights in the last decades since the C. Supreme Court Rule in 1973. As a result, recent treaties guarantee more rights to IPs; a step to the final goal of sustainable conciliation.

However, there is a need to investigate the diverse stands of Canadian IPs activists (CIPA) towards treaties; accepting or denouncing the treaties. It is crucial to discuss the points of diverse between both stands in order to spot probable points of improvement in future treaties to achieve the goal of sustainable conciliation in the Canadian Indigenous context. In order for the desired conciliation to be comprehensive, there is a need to stress on the importance of viewing IPs rights by two lenses; a collective lens and an individual lens. While maintaining the IPs rights on the collective level is stressed on in every discussion, there is a need to stress on the maintenance of the right of every IP individually in accepting or rejecting the treaties.

Given the lack of comparison studies that detect and compare diverse stands of Canadian IPs activists towards treaties, this study will aim to identify and justify the diversity of those views and stands. In order to fulfill the aim of the study, this research will try to answer the following two questions:

1- What are Indigenous activists' stand(s) towards the treaties signed between the Canadian government and Indigenous tribes? 2- How could future treaties better respond to the conserves of the activists and advocates that reject those treaties?

The CIP problem began when the power balance changed to be against them. CIP has experienced a long history of violating their cultural and Land rights. Fortunately, the Canadian Political and Juridical body had shifted towards recognizing IP rights. There is a firm official approach toward a sustainable reconciliation. Consequently, an ongoing negotiating process in Canada is relevant to IP rights. More treaties are signed, and increasing progress in CIP rights is achieved, thanks to the implementation of these Modern Treaties.

However, while some CIPA support the negotiation process, other CIPA condemn it and its outcomes. The study takes the side of CIPA view who support negotiating CIP rights. The research detects chronically the development of Colonial-CIP file in Canada from the first contacts between CIP and new settlers beginning till the recent time, highlighting each parties' views to the world and to the "others", and the progressive change in the Canadian authorities views relevant to CIP Rights since 1973. The research values the engagement in reconciliation talks and initiatives, warning of the fatal consequences of adopting an extremist view that denounces negotiating IP rights with the Canadian Government and concerned stakeholders.

Moreover, the investigation stresses the roles the Canadian Government should play on the path of sustainable Reconciliation and supporting the moderate views. The study predicts that achieving tangible improvement in CIP aspects of life on both the individual and collective scale would enhance the stand of the CIPA supporting the negotiation. Furthermore, the study anticipates that the gap will narrow over time between the diverse stands of CIPA. The researcher anticipates that some CIPA who reject the Treaties or Negotiation would change their stands from the current treaties in the long run, thanks to the implementation of the following points:

- 1- Consistent positive behavior of the Canadian Government.
- 2- Progress in the socio-economic development of the Indigenous communities.
- 3- Maintaining a continuous dialogue between all parties on both public and official levels.
- 4 – The growing awareness of the need to recognize the rights of all relevant parties in the Canadian IP issue.

Keywords:

Canadian Indigenous Peoples Rights, Canadian Indigenous Peoples Culture, Political Discourse in Canada, Reconciliation

List of acronyms:

- 1- Indigenous Peoples (IP)Indigenous Peoples' Activists (IPA)
- 2- Canadian Indigenous Peoples (CIP)
- 3- Canadian Indigenous Peoples' Activists (CIPA)
- 4- Canadian Government (CG)
- 5- British North America (BNA)
- 6- United Nations (UN)
- 7- United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)
- 8- First Nations Land Management Act (FNLMA)
- 9- Canadian Government (CG)

Chapter One - Introduction

A- Opening Section

The Indigenous Peoples' (IP) rights in land and culture have been an increasingly important issue in the contemporary world, and are gaining a lot of national and international recognition. Despite the theoretical recognition and the many promises, slight improvement in the file of IP rights in land and culture was achieved. With the burden of historical injustice which the European settlers exposed IP to, and as a result of colonial juridical heritage, reaching fair treaties between the national states and the IP minorities seems to be difficult. In addition, the conflict of IP advocates' views in regards of probable treaties makes it harder to reach a consensus on probable treaties.

This research aims to explore the standards and practices that makes achieving fairness in future treaties; to maintain the recognition of IP rights on both the collective and individual levels. Consequently, more IP activists will accept such treaties. As this chapter will introduce the study, the chapter will first discuss the background and context. Following that, there will be sections for each of the research problem, the research aims, objectives and questions. The chapter will end by the significance and the limitations of the study.

B- The Background Section

With a focus on the Canadian context, the Government of Canada recognizes 70 historic treaties in Canada signed between 1701 and 1923, in which they have only addressed a portion of Aboriginal rights to land across Canada. Land and resource-related negotiations are still underway in parts of the country where treaties were never signed¹. In modern time since 1973, Canada has signed 26 additional treaties with Indigenous groups in Canada, of which some of them include self-government. These treaties are the basis of

¹"Treaties and Agreements." *Www.rcaanc-Cirnac.CG.ca*, 3 Nov. 2008, www.rcaanc-cirnac.CG.ca/eng/1100100028574/1529354437231.

the relationship -rights and benefits for each group- between 97 Indigenous communities (representing about 89,000 Indigenous peoples) and the provincial or territorial and federal governments².

The treaties have received diverse evaluations from Indigenous activists. A group that considers such treaties a sort of healing of historical injustice IP were subject to, an accepted recognition to IP rights, and a step towards reconciliation and development. Another group denounced such treaties considering it a modern form of legalizing the colonial infringing on IP rights in land and culture.

C – The research problem

For centuries, the Indigenous Peoples in Canada were subject to historical injustice; injustice that was originated in enacted laws³. However, there is a huge progress in recognizing IP rights in the last decades since the Canadian Supreme Court Rule in 1973 recognizing IP rights in land and culture. As a result, recent treaties guarantee more rights to IP; a step to the final goal of sustainable reconciliation⁴.

However, there is a need to investigate the diverse stands of Canadian Indigenous Peoples'

Activists(CIPA)towards treaties; accepting or denouncing the treaties. It is crucial to discuss the points of diverse between both stands in order to spot probable points of improvement in future treaties to achieve the goal of sustainable reconciliation in the Canadian Indigenous context. In order for the desired reconciliation to be comprehensive, there is a need to stress on the importance of viewing IP rights by two lenses; a collective lens and an individual lens. While maintaining the Is rights on the collective level is stressed on in every discussion, there is a need to stress on the maintenance of the right of every IP individually in accepting or rejecting the treaties, and in identifying oneself.

²“Treaties and Agreements.” *Www.rcaanc-Cirnac.CG.ca*, 3 Nov. 2008, www.rcaanc-cirnac.CG.ca/eng/1100100028574/1529354437231.

³Simpson, Leanne Betasamosake. *As we have always done: Indigenous freedom through radical resistance*. U of Minnesota Press, 2017.

⁴“Treaties and Agreements.” *Www.rcaanc-Cirnac.CG.ca*, 3 Nov. 2008, www.rcaanc-cirnac.CG.ca/eng/1100100028574/1529354437231.

D – The research aims, objectives and questions

Given the lack of comparison studies that detect and compare diverse stands of CIPA towards treaties, this study will aim to identify and justify the diversity of those views and stands. In order to fulfill the aim of the study, this research will try to:

- 1- Identify different stands of IPS activists towards treaties,
- 2- Justify those stands by shedding light on the insights motivating them,
- 3- Evaluate the impact of those stands on the efforts of reaching a long-term reconciliation in the Canadian Indigenous context,
- 4- Suggest few tips to achieve a comprehensive reconciliation.

In order to achieve these objectives, the study will try to answer the following questions:

- 1- What are Indigenous activists' stands towards the treaties signed between the Canadian Government and Indigenous Peoples?
- 2- How could future treaties better respond to the concerns of the activists and advocates that reject those treaties?

E – Significance of the study

As for the significance of this research, given the lack of comparative studies that detect and compare diverse stands of Canadian IPs activists towards treaties, this study aims to identify and justify the diversity of those views and stands. In order to fulfill the aim of the study, the researcher is ambitious that this paper will contribute to the body of knowledge on Canadian Indigenous Reconciliation by highlighting the points of agreements and debate between CIPA in evaluating the treaties and by stressing the need to give more attention to CIP personal views. The anticipated contribution would help address the current shortage of comparison research in this area and suggest areas of improvement in Canadian Indigenous relationships which would

help make the reconciliation more comprehensive and effective within and beyond the Canadian context.

F- Limitations

Because of the restrictions of budget, time, nature of this Masters' Thesis, and the modest experience of the researcher with the Canadian Indigenous context, the scope of this study will be limited to the stands of few IP academics and activists whom their views would cover only some dimensions of the Canadian Indigenous issue.

G - Structural Outline

In Chapter One, the context of the study has been introduced. The research objectives and questions have been acknowledged, and the value of such research argued.

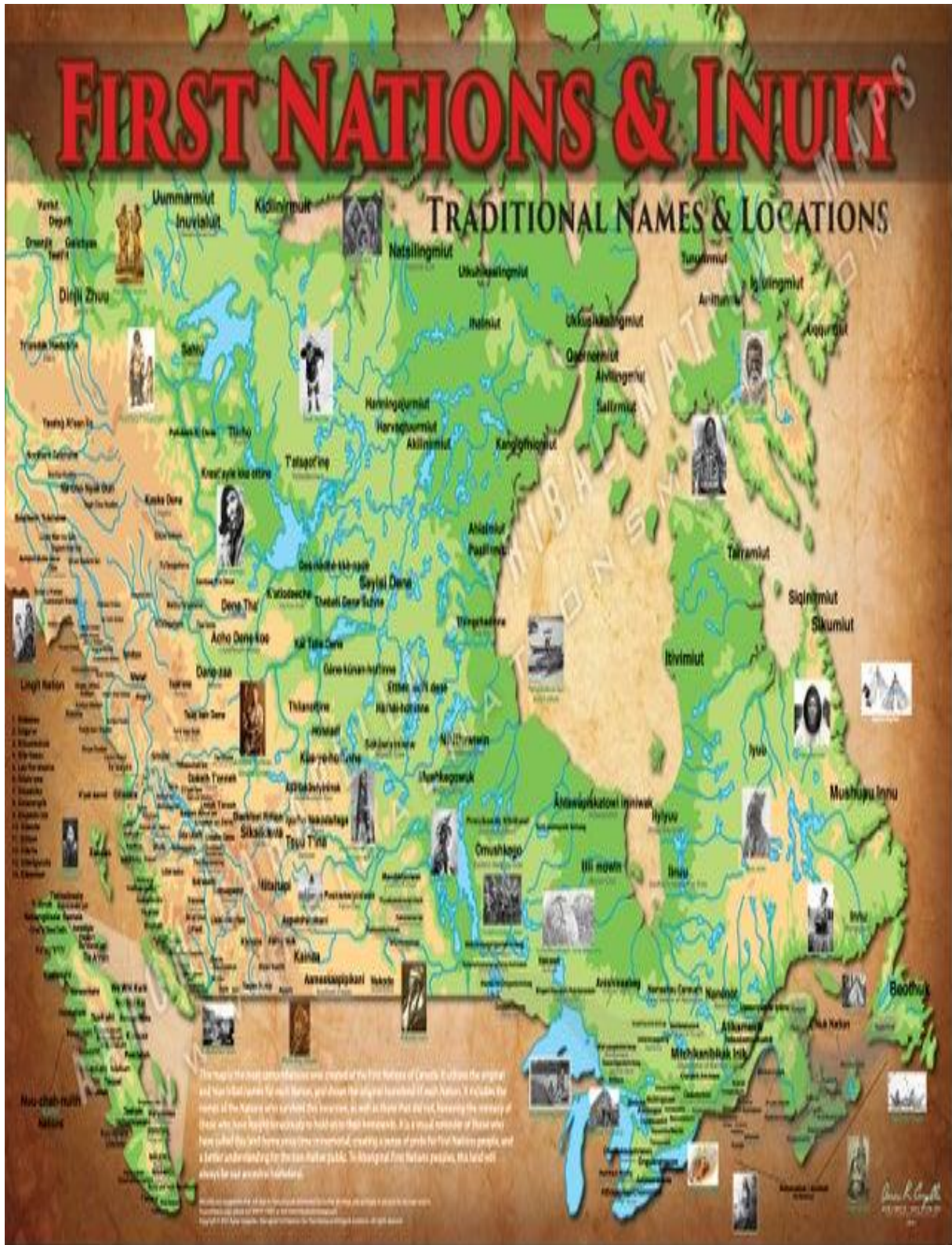
In Chapter Two, the existing literature will be reviewed to identify key stands of IP activists towards the Canadian Indigenous treaties.

In Chapter Three, the theoretical framework will be presented. The adoption of a historical qualitative, inductive research approach will be justified, and the broader research design will be discussed, including the limitations thereof.

In Chapter Four, the Discussion and Analyses will be presented, moving towards recommendations, anticipations, conclusion, and significance of the study.

The Bibliography will follow, and finally is the Table of Content.

Map 1. The First Nations in Canada



Chapter Two – The Background

A- Introduction:

There are 476 million IP around the world inhabiting more than 90 countries, which constitutes about 5% of the residents of Earth. They are the descendants of more than 5,000 different First Nations, and communicate using more than 4,000 tongues.

Within the Canadian Context, as of the 2021 census, Indigenous Peoples in Canada represent 5% of the population, nearly the same ratio of IP to gross World Population. The total number of IP in Canada is 1,807,250 people. This number is categorized as follows: 1,048,405 First Nations people⁵, 624,220 Métis⁶, and 70,540 Inuit⁷.

7.7% of the Canadian population under 14 are of Indigenous descent. In 2016, Statistics Canada predicted that in the following two decades, the number of Canadian Indigenous Peoples (CIP) would increase from the current 1.8 million to reach the number 2.5 million as a result of the increase in: high birth rates, life expectancy, and the number of citizens who identify as Indigenous.⁸

The number of IP who live in Canada today -1.8 million- is close to the number 2 million; the number Thornton estimated for IP residing in what is today Canada, Alaska, and Greenland at the beginning of the arrival of the European settlers in 1492.³ The number of Natives inhabiting

⁵Any of the groups of indigenous peoples of Canada officially recognized as an administrative unit by the federal government or functioning as such without official status. The term is generally understood to exclude the Inuit and Metis. (Source: Oxford Languages)

⁶Especially in western Canada) a person of mixed indigenous and Euro-American ancestry, in particular one of a group of such people who in the 19th century constituted the so-called *Métis nation* in the areas around the Red and Saskatchewan rivers. (Source: Oxford Languages)

⁷A member of an indigenous people of northern Canada and parts of Greenland and Alaska. (Source: Oxford Languages)

⁸ “Indigenous Peoples in Canada | the Canadian Encyclopedia.” *Indigenous Peoples in Canada | the Canadian Encyclopedia*, www.thecanadianencyclopedia.ca/en/article/aboriginal-people.

the Americas was estimated to be 20 million at the time of the arrival of the European settlers in 1492.⁹

However, between 1492-1900, there was a considerable decline in the number of natives inhabiting the Americas due to several factors; the harsh policies colonizers followed in dealing with IP, diseases and epidemics, wars and genocide, unwilling dislocation, and defeating ways of life. The estimated number of IP inhabiting the Americas dropped from 20 million in 1492 to 2.7 million in 1900, with 85% population loss.¹⁰ The first two decades of the IP-Colonizers' contact, between 1492 – 1530, recorded the highest loss in population. An estimated 90 to 95 percent of the Indigenous population died within two generations of European-IP contact in 1492 due to diseases and violence.¹¹

Though there is no specific estimate of IP numbers in Canada, it is logical to assume that the CIP population saw a radical decline in IP numbers between 1492-1900.¹²

B- Indigenous Peoples, Indigenous Individuals, and Indigenousness

B.1- Who is Indigenous?

Jose R. Martinez Cobo, the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, suggested two standards that would ensure that IP communities enjoy and practice exclusively the Sovereign Right and Power to elect who belongs to them; folk consciousness and acceptance. Cobo defines an indigenous individual as the individual who belongs to IP through self-identification as indigenous (folk consciousness) and

⁹Thornton, Russell. *American Indian holocaust and survival: A population history since 1492*. Vol. 186. University of Oklahoma Press, 1987.

¹⁰The previous source.

¹¹Wesley-Esquimaux, Cynthia C., and Magdalena Smolewski. "Historic trauma and Aboriginal healing." *Ottawa: Aboriginal Healing Foundation* 3 (2004): 1-99.

¹²Thornton, Russell. *American Indian holocaust and survival: A population history since 1492*. Vol. 186. University of Oklahoma Press, 1987.

is recognized and accepted by these populations as one of their members (acceptance by the group).¹³

B.2- Who are Indigenous Peoples?

There has yet to be an official United Nations definition for IP. However, researchers may rely on identifying IP on the definition given by Cobo. Cobo applied two standards in defining IP, historical continuity, and cultural continuity. Cobo (1982) defines Indigenous Peoples as “those communities, peoples, and nations with a historical continuity with pre-invasion and pre-colonial societies on their territories, who view themselves as distinct from other groups in the prevailing societies, and who form non-dominant sectors of society.”¹⁴ The historical continuity may involve the extension of one or more features, such as the residency of ancestral territories or common lineage with the original inhabitants of these lands, language, or other relevant indicators.¹⁵ However, there is a common feature between IP; their insistence to pass their land and identity to future generations, through the passage of their cultural, social and legal schemes.¹⁶

B.3- What is Indigenousness?

Jeff Corntassel and Taiaiake Alfred (2005) define Indigenousness as an identity founded as an interaction and contrast to contemporary colonialism.¹⁷ They stress that IP identity is tied to their

¹³R. Martinez Cobo, Jose *Definition of Indigenous Peoples*, United Nations, Economic and Social Council, 1982

¹⁴R. Martinez Cobo, Jose *Definition of Indigenous Peoples*, United Nations, Economic and Social Council, 1982, and, “Indigenous Peoples at the UN | United Nations for Indigenous Peoples.” *Un.org*, 2015, www.un.org/development/desa/indigenouspeoples/about-us.html

¹⁵The previous source.

¹⁶Corntassel, Jeff and Alfred, Taiaiake, *Being Indigenous*, Politics of Identity, 2005

¹⁷The previous source.

historical land and inherited culture in dispute with the colonial entities encroaching on their land and culture¹⁸

The oppositional identity and continuous struggle to defend their land and culture against

Colonizing entities distinguish IP from the rest of the planet's inhabitants. ¹⁹&²⁰

C- IP, Land, Culture, and Historical Injustice

Indigenous peoples have a profound spiritual, cultural, social, and economic connection to their lands, territories, and resources, which are fundamental to their Identity and existence. As guardians or custodians of the land, they possess crucial knowledge of managing natural resources sustainably. The loss of their land represents a loss of Identity, and their tradition of collective rights to lands and resources contrasts with dominant models of individual ownership, privatization, and development.²¹ Consequently, indigenous peoples have been pursuing recognition of their identities, culture, and suitability to historical lands, territories, and natural resources for a long time.²²

Indigenous peoples comprise approximately 5 percent of the world's population but suffer significant disadvantages and vulnerabilities. Their rights have been deliberately violated since

¹⁸Willmott, Kyle. "Taxes, Taxpayers, and Settler Colonialism: Toward a Critical Fiscal Sociology of Tax as White Property." *Law & Society Review*, vol. 56, no. 1, Law and Society Association, Mar. 2022, p. 6.

¹⁹- Willmott, Kyle. "Taxes, Taxpayers, and Settler Colonialism: Toward a Critical Fiscal Sociology of Tax as White Property." *Law & Society Review*, vol. 56, no. 1, Law and Society Association, Mar. 2022, p. 6. , and , Comtassel, Jeff and Alfred, Taiaiake, *Being Indigenous*, Politics of Identity, 2005

²⁰(Byrd, 2011). Byrd Jodi, *The Transit of Empire: Indigenous Critiques of Colonialism*. University of Minnesota Press, 2011

²¹"Indigenous Peoples Rights Are Human Rights." Amnesty International, www.amnesty.org/en/what-we-do/indigenous-peoples.

²²Comtassel, Jeff and Alfred, Taiaiake, *Being Indigenous*, Politics of Identity, 2005

European settlers colonized their territories, and their land is routinely appropriated, sold, leased, looted, and polluted by governments and private companies.²³ Multiple threats and obstacles hinder their social, economic, political, and legal development, “including discrimination, marginalization, lack of rights to land and natural resources, and denial of access to justice.”²⁴

Indigenous peoples are among the most disadvantaged groups in their countries. They continue to be over-represented among the poor, the illiterate, and the unemployed, making up Fifteen percent of the world's poor, and about one-third of the world's 900 million destitute rural people. Additionally, they are more likely to suffer from violent crime, and their well-being is modest compared to the non-indigenous population regarding most well-being indicators.²⁵

These violations have resulted in historical injustice and devastated IP progress; thus, IP continues to be one of the most disadvantaged and vulnerable groups on the planet.²⁶

Unsustainable development and applying new agricultural technologies have caused the forced displacement of many Indigenous communities. The deterioration of the environment and self-sustained ecosystems resulting from chemical fertilizers, pesticides, cash-crop cultivation and large plantations forced several IP to relocate to less deteriorated environments.²⁷

²³United Nations. “Indigenous Peoples at the UN | United Nations for Indigenous Peoples.” *Un.org*, 2015, www.un.org/development/desa/indigenouspeoples/about-us.html.

²⁴United Nations. “Indigenous Peoples at the UN | United Nations for Indigenous Peoples.” *Un.org*, 2015, www.un.org/development/desa/indigenouspeoples/about-us.html#extract

²⁵- (UN, Department of Economic and Social Affairs. Indigenous People, <https://www.un.org/development/desa/indigenouspeoples/mandated-areas1/economic-and-social-development.html>).

²⁶- The previous source.

²⁷(“United States: Closing 2018 Session, Permanent Forum on Indigenous Issues Adopts Recommendations Including Collective Rights to Lands, Territories, Resources.” MENA Report, Albawaba (London) Ltd., Apr. 2018.) (Environment | United Nations For Indigenous Peoples. <https://www.un.org/development/desa/indigenouspeoples/mandated-areas1/environment.html>)

Furthermore, IP have to pay a high price for unsustainable development. Several projects as large dams and mining activities have displaced thousands of Indigenous persons and families without adequate compensation in numerous countries.²⁸ In violation of international laws, several IP communities were forced to relocate out of national parks against their will. The tourism industry, in some countries, has also led to the displacement of Indigenous people and escalating poverty.²⁹

In most cases, Indigenous peoples' reaction to assert their rights has resulted in physical abuse, imprisonment, torture, and even death. Despite these challenges, IP continue to express their concerns over States granting concessions for extractive industries, infrastructure projects, large-scale agriculture, or hydroelectric dams without their free, prior, and informed consent. This situation has led to inevitable social, economic, and cultural conflicts between governments and IP.³⁰

According to Comtassel and Alfred(2005)³¹, all IP struggle for physical and cultural survival. They aim to live on basics constituted in their sole heritages. Additionally, their survival mainly depends on resisting colonizing states' endless tries to eliminate them ethnically, constitutionally, and materially. Globally, IP differ in their cultures, political-economic conditions, and

²⁸United Nations. "Indigenous Peoples at the UN | United Nations for Indigenous Peoples." *Un.org*, 2015, www.un.org/development/desa/indigenouspeoples/about-us.html

²⁹UN, Department of Economic and Social Affairs. Indigenous People, <https://www.un.org/development/desa/indigenouspeoples/mandated-areas1/economic-and-social-development.html>

³⁰The previous source.

³¹Comtassel, Jeff and Alfred, Taiaiake, *Being Indigenous*, Politics of Identity, 2005

relationships with dominant societies. However, they all share the consensus of enduring as distinct peoples.³²

The historical injustice that the IP suffered at the hands of the European settlers resulted from the European Supremacy views that had super-saturated the Old European International Law. European International law considered all non-European lands free spaces to own solely by European States or entities of equivalent status, even though the colonizer had no previous ownership of IP lands.³³The colonizers considered themselves entities of similar status to the European States, thus, entitled themselves to practice Sovereignty on the land of IP. The European International Law had forfeited the Right of all non-European peoples, including IP, to negotiate or practice Sovereignty on their lands.³⁴

Furthermore, the European colonizers practiced the Right to decide life and death on IP. The colonizers allowed themselves to practice direct and indirect Power on Indigenous People's bodies, considering them as external enemies who threatened their Sovereignty. Additionally, the colonizers imposed their Power and Control on the natural resources of IP lands without their permission or consent.³⁵

In the following stages, the contemporary Colonizers' plan toward IP shifted from targeting IP physical existence to target their population's cultural existence.³⁶In pursuit of their cultural survival, IP developed their Indigenous Identity as their Nationhood for which they peacefully

³² Corntassel, Jeff and Alfred, Taiaiake, *Being Indigenous*, Politics of Identity, 2005.

³³ Schmitt, Carl, *The Nomos of the Earth in the International Law of the Jus Publicum Europaeum*. New York, NY: Telos Press Publishing, 2003.
And, Said, Edward W. *Orientalism*. Vintage, 1979.

³⁴ The previous source

³⁵ Simpson, Leanne Betasamosake. *As we have always done: Indigenous freedom through radical resistance*. U of Minnesota Press, 2017.

³⁶ Corntassel, Jeff and Alfred, Taiaiake, *Being Indigenous*, Politics of Identity, 2005

resist and fight back; a distinct identity strongly related to their land and culture.³⁷ At the core of Indigenous Nationhood is the right to raise their children according to their culture. Reviving the kadoba, a human chain connecting individuals to their ancestors and grandchildren is the backbone of Indigenous Nationhood.³⁸ The revival of IP Nationhood is conditioned by preserving their land, environment, Culture, and human values.³⁹

D- Indigenous Peoples in Canada: Early First Nations

Prior to the arrival of Europeans, First Nations in what is now Canada, could satisfy all of their material and spiritual needs through the natural world's resources. Historians tend to group First Nations in Canada according to the six main geographic areas of the country. First Nations had very similar cultures within these six areas, shaped mainly by a familiar environment.⁴⁰

The six groups were: Woodland First Nations, who lived in the boreal forest in the eastern part of the country, Iroquoian First Nations inhabited the southernmost area and fertile land for planting corn, beans, and squash, Plains First Nations, who lived on the grasslands of the Prairies, Plateau First Nations, whose geography ranged from semi-desert conditions in the south to high mountains and dense forest in the North, Pacific Coast First Nations, who had access to abundant salmon and shellfish and the gigantic red cedar for building huge houses, First Nations of the Mackenzie and Yukon River Basins, whose harsh environment consisted of dark forests, barren lands and the swampy terrain known as muskeg.⁴¹

³⁷Corntassel, Jeff and Alfred, Taiaiake, *Being Indigenous*, Politics of Identity, 2005

³⁸Simpson, Leanne Betasamosake. *As we have always done: Indigenous freedom through radical resistance*. U of Minnesota Press, 2017.

³⁹ The previous source.

⁴⁰Government of Canada. "First Nations in Canada." *Rcaanc-Cirnac.CG.ca*, 2 May 2017, www.rcaanc-cirnac.CG.ca/eng/1307460755710/1536862806124.

⁴¹The previous source.

E- IP: Social Organization and Spiritual Life

There are wide variations in the six groups' social organization, food resources, homes, and spiritual beliefs widely shared by all Early First Nations. Because of their migratory style of life, First Nations of the Woodland, Plains, and Mackenzie and Yukon River Basins all built homes that were either portable or easily erected from materials found in their environments.

Haudenosaunee had relatively permanent villages.⁴² The longhouse was the most striking feature in a Haudenosaunee village. All First Nations across the country hunted and gathered plants for food and medicinal purposes. The actual percentage of meat, fish, and plants in any First Nation's diet depended on what was available in the local environment.⁴³

The social organization with IP differs from group to group according to their lifestyle. This lifestyle, in turn, is affected by food resources. Consequently, the levels of complexity and permanency of social organizations correlate with the stability of IP in a specific region. The social organization structures increase with the IP who farms and decrease with IP that depends on hunting or fishing to secure their food.⁴⁴

Iroquoian First Nations were brilliant planters who planted sufficient annual food crops of corn, beans, and squash.⁴⁵ Consequently, they established permanent communities, thus, developed complex systems of government based on democratic principles. The Huron-Wendot, had a three-tier political system consisting of village councils, tribal councils, and the confederacy

⁴²Government of Canada. "First Nations in Canada." *Rcaanc-Cimac.CG.ca*, 2 May 2017, www.rcaanc-cimac.CG.ca/eng/1307460755710/1536862806124.

⁴³The previous source.

⁴⁴The previous source.

⁴⁵Government of Canada. "First Nations in Canada." *Rcaanc-Cimac.CG.ca*, 2 May 2017, www.rcaanc-cimac.CG.ca/eng/1307460755710/1536862806124.

council. All councils made decisions on a consensus basis, with discussions often going late into the night until everyone reached an agreement.⁴⁶

Mackenzie and Yukon River Basins First Nations lived in a vast homeland where game animals were scarce, and the winters were long and severe. Those nations were primarily occupied with day-to-day survival. They were divided into several independent groups of different family units who worked together in a separate territory, with individual boundaries defined by tradition and use. A group leader was selected according to the group's needs at a particular time. For example, the most proficient hunter would be chosen leader of a caribou hunt.⁴⁷

The homes IP resides in reflect the level of stability they enjoyed and were built from available materials in their environment. Because of their migratory way of life, First Nations of the Woodland, Plains, and Mackenzie and Yukon River Basins all built homes that were either portable or easily erected from materials found in their immediate environments.

⁴⁸Haudenosaunee had relatively permanent villages. The longhouse was the most striking feature in a Haudenosaunee village.⁴⁹

As for spiritual life, all First Nations believed their values and traditions were gifts from the Creator. One of the most essential and common teachings was that people should live in harmony with the natural world and all it contained. People gave thanks to everything in nature, upon which they depended for survival and development as members of their communities.⁵⁰

⁴⁶Government of Canada. "First Nations in Canada." *Rcaanc-Cirnac.CG.ca*, 2 May 2017, www.rcaanc-cirnac.CG.ca/eng/1307460755710/1536862806124.

⁴⁷ The previous source.

⁴⁸ The previous source.

⁴⁹ The previous source.

⁵⁰ The previous source.

First Nations treated all objects in their environment—animate or inanimate—with the utmost respect. This deep respect that First Nations cultivated for everything and every process in the natural world was reflected in songs, dances, festivals, and ceremonies.⁵¹ Among the Woodland First Nations, a hunter would talk or sing to a bear before it died, thanking the animal for providing the hunter and his family with much-needed food. The Haudenosaunee, who were skilled farmers, would hold six to eight festivals a year relating to the cultivation of the soil and ripening of fruits and berries. In oral stories and legends that elders passed from generation to generation, First Nations children are taught how the world was created and are aware that they are a part of creation, and not the center of it.⁵²

F- The arrival of the European settlers and the establishment of Canada

It is alleged that the Paleo-Indians were the first peoples to inhabit North America thousands of years ago, crossing the Bering Strait from North Asia into the Americas over a land bridge (Beringia).⁵³ For thousands of years, the lands of what we know now as Canada were populated by IP. IP had their distinguished spiritual values, social organizations, and trade networks.⁵⁴ Thousands of years later, and since the late 15th Century, the French and British colonized and fought over present-day Canada. In 1534, the colony of New France was born, with stable settlements launched in 1608.⁵⁵

⁵¹Government of Canada. "First Nations in Canada." *Rcaanc-Cimac.CG.ca*, 2 May 2017, www.rcaanc-cimac.CG.ca/eng/1307460755710/1536862806124.

⁵²The previous source.

⁵³Sonneborn, Liz. *Chronology of American Indian History*. Infobase Publishing, 2014.

⁵⁴The previous source.

⁵⁵"Mapsofworld." *Mapsofworld.com*, 2019, www.mapsofworld.com/canada/.

In 1763, France and the British Crown signed the Treaty of Paris. Being defeated in the Seven Years' War, France ceded nearly all its North American property to the Crown in this treaty.⁵⁶

In 1791, the now British The Province of Quebec was divided into Upper and Lower Canada, and then both provinces were united in the 1840 Act as the Province of Canada.⁵⁷

In 1867, Canada was born as a new self-governing entity with ties with the British Crown. The new entity was founded after the Confederation between the Province of Canada, New Brunswick and Nova Scotia British colonies. "Canada" was chosen as the legal name of the newborn state, and the word "Dominion" was the new country's title.⁵⁸

However, the Crown continued to decide the Defense and Foreign policies for newborn Canada until the end of World War One. This situation lasted till 1949 when Canada was recognized as co-equal with the United Kingdom according to the Balfour Declaration of 1926, the 1930 Imperial Conference, and the passing of the Statute of Westminster in 1931.⁵⁹

Noticeably, Canada kept expanding by adding more British territories in North America, ending with Newfoundland and Labrador.⁶⁰In 1982, the Patriation of the Constitution removed the Canadian legal dependence on the British parliament. The Canadian state politically is a parliamentary democracy and a constitutional monarchy. In the decades following World War

⁵⁶Hall, Roger. "Upper Canada | the Canadian Encyclopedia." *Thecanadianencyclopedia.ca*, 2017, www.thecanadianencyclopedia.ca/en/article/upper-canada.

⁵⁷The previous source.

⁵⁸The Canadian Encyclopedia.

<https://www.thecanadianencyclopedia.ca/en/article/confederation#:~:text=Confederation%20refers%20to%20the%20process,the%20creation%20of%20the%20Dominion>

⁵⁹Hillmer, Norman. "Statute of Westminster | the Canadian Encyclopedia." *Thecanadianencyclopedia.ca*, 7 Feb. 2006, www.thecanadianencyclopedia.ca/en/article/statute-of-westminster.

⁶⁰"Mapsofworld." *Mapsofworld.com*, 2019, www.mapsofworld.com/canada/.

Two, Canadians favored multilateralism abroad and socio-economic growth. Canada today consists of ten provinces and three territories.⁶¹

The Canadian Culture is the result of the combination of the customs of the components of the Canadian population, Indigenous, French, British, and more recent immigrants. It is influenced by its neighbor, the United States of America.⁶²

G- The new European colonies and Social Organization

France and the United Kingdom's irregular forms and institutions accompanied their move to the New World. As the economy was the first motivation for colonizing North America, business was the primary form of social organization. Speaking about the French experience in North America, the management of New France until 1663 was granted to a chain of private companies responsible for developing the fur business and settling the colony.⁶³ On the British side, the Hudson's Bay Company, legally established in 1670, was the center of interest of the Crown in North America.⁶⁴

As for the social structure in New France, the colony had been a restricted society. A quasi-feudal known as the Seigneurial System was the chief organizer of the colony. In this system, the authorities approve lords or seigneurs' vast areas of agricultural lands, which they rent to peasants. However, the French authorities set a state legal system that protected the peasants against feudal coercion and enacted tight restrictions on the rates that seigneurs could

⁶¹ Sheppard, Robert. "Patriation of the Constitution | the Canadian Encyclopedia." *Thecanadianencyclopedia.ca*, 2018, www.thecanadianencyclopedia.ca/en/article/patriation-of-the-constitution.

⁶² Canada,. "Canadian Culture in a Global World." *GAC*, 2015, www.international.CG.ca/trade-agreements-accords-commerciaux/topics-domaines/ip-pi/canculture.aspx?lang=en

⁶³ "Company of One Hundred Associates | the Canadian Encyclopedia." *Www.thecanadianencyclopedia.ca*, www.thecanadianencyclopedia.ca/en/article/compagnie-des-cent-associies.

⁶⁴ Ray, Arthur J. "Hudson's Bay Company | the Canadian Encyclopedia." *Thecanadianencyclopedia.ca*, 2019, www.thecanadianencyclopedia.ca/en/article/hudsons-bay-company.

charge for these farms.⁶⁵ As a result, the Canadian peasants in New France colonies led higher incomes and more social freedom than their peers in the motherland of Europe. Hence, they called themselves "habitants" and refrained from using the term "peasants."⁶⁶

British North America (BNA) that inherited the lands of New France had witnessed rapid progress and more complex social structures. This complex social context generated from the struggle between the BNA colonies and their American neighbors, who waged a revolution against the Crown in pursuit of their independence.⁶⁷ The colonial form of government imported from Britain was a suitably conservative instrument to protect Canada from the American infection, republicanism, and democracy features. Consequently, the Church of England and a highly stratified class system with active roles of the elite dominated the social organization of the BNA colonies.⁶⁸

Amazingly, American ideas and practices saturated Canada despite the official worries about the American infection. As for the population of BNA, eventually, after the 1812 victory of "Canadian" settlers against the US troops, there was a rise of Canadian independent spirit among the settlers of BNA.⁶⁹ Consequently, the Canadian colonial period was marked by a conscious rejection of the political hegemony of the US but equally by an instinctive refusal to become a copy of the United Kingdom's pattern. Furthermore, after 1818 a new wave of British migration broke over Canada. The ethics and habits of the British settlers intermixed with those of the Americans to construct the indispensable middle ground that was "English" Canada. While

⁶⁵Mathieu, Jacques. "Seigneurial System | the Canadian Encyclopedia." *Thecanadianencyclopedia.ca*, 2019, www.thecanadianencyclopedia.ca/en/article/seigneurial-system.

⁶⁶The previous source

⁶⁷"Social History | the Canadian Encyclopedia." *Thecanadianencyclopedia.ca*, 2018, www.thecanadianencyclopedia.ca/en/article/social-history.

⁶⁸The previous source

⁶⁹"The previous source.

profound societal American features dominated Canadian society as economic assumptions, business forms, and technology, social institutions often blended the two cultures. A British sense of group and class solidarities and a more explicit class system balanced American individualism influenced Canadians.⁷⁰

Unfortunately, for CIP and French-Canadian populations, the year 1812 was the beginning of the profound change in their positions within the components of Canadian society. French Canada, as well as the IP, was affected by American and British migration. However, this influence generated the unique characteristics of French-Canadian society. According to the Canadian Encyclopedia, the Conquest left French Canada surrounded by the "English."⁷¹ By the early 19th Century, the seigneurial system was challenged by overcrowding and over-cultivated farms, which caused a decline in living standards among the growing population. Finally, the seigneurial system faded in 1854, generating economic retardation and cultural *risqué* of French Canada. There was a parallel fade of the influence of the Roman Catholic Church and the French Language, the two institutions that helped French Canadians maintain their uniqueness.⁷²

The victory of BNA Canadian" settlers over US troops had passive results on CIP. The year 1812 was the beginning of the Indigenous problem in Canada. The rise of Canadian Nationhood following their victory ⁷³, the massive move of settlers from the US to Canada⁷⁴, and the

⁷⁰“Social History | the Canadian Encyclopedia.” *Thecanadianencyclopedia.ca*, 2018, www.theCanadianencyclopedia.ca/en/article/social-history.

⁷¹The previous source.

⁷²The previous source..

⁷³“Treaty Relations: Spirit, Intent, and First Nations Perspectives.” *Www.youtube.com*, www.youtube.com/watch?v=a9dRJcZE36k&list=PLpFUtBQBgxcFGm7aQy5NxxhDAHEf1Q1r_4&index=3. Accessed 12 Mar. 2023.

⁷⁴“Treaties and Agreements.” *Www.rcaanc-Cirnac.CG.ca*, 3 Nov. 2008, www.rcaanc-cirnac.CG.ca/eng/1100100028574/1529354437231.

decrease in the number of CIP as a result of diseases the Europeans brought to Canada⁷⁵, were factors that, combined with disturbing the power balance to the favor of the colonizers.

Before 1812, the balance of Power between IP and the colonizers translated itself in fair terms in the treaties signed between both parties, like Treaties of Peace and Neutrality (1701-1760), Peace and Friendship Treaties (1725-1779), where CIP did not have to transact their land rights to the Crown. Nevertheless, in all the treaties signed after 1812, IP had to surrender their lands to the Crown.⁷⁶

Furthermore, the colonizers defined CIP as barbarians who needed to be modernized.⁷⁷

Consequently, the Crown unrecognized the CIP religious beliefs and practices when the balance of Power was in the Crown's favor. Since the 1840s, the colonizers' authorities reserved the Right to determine what religion CIP should follow, and it established policies and practices to impose its views on powerless CIP.^{78&79}

H- Canadian Indigenous Treaties

The treaties within the Canadian-IP context reflect the views of each party signing the treaty. The intention of CIP relevant to treaty-making, the function of treaties, and the methods of implementing the treaties for the CIP remained the same over the years. For CIP, treaties are a tool for peace maintenance and conflict avoidance. It is a sacred and spiritual process driven by maintaining all signing parties' interests and considering future generations' interests as well.

Thus, the treaty-making process for CIP includes religious rituals; dances, and smoking pipes to

⁷⁵Thornton, Russell. *American Indian holocaust and survival: A population history since 1492*. Vol. 186. University of Oklahoma Press, 1987.

⁷⁶"Treaty Relations: Spirit, Intent, and First Nations Perspectives." *Www.youtube.com*, www.youtube.com/watch?v=a9dRjCzE36k&list=PLpFUtBQBgxcFGm7aQy5NxdAHEf1Q1r_4&index=3. Accessed 12 Mar. 2023.

⁷⁷The previous source.

⁷⁸The previous source.

⁷⁹- The Canadian Government. (Treaties and agreements. <https://www.rcaanc-cirnac.CG.ca/eng/1100100028574/1529354437231>

consult the ancestors, and the treaty is obliged to communal approval.⁸⁰ CIP believe in the joint ownership of lands and natural resources; thus, they are open to sharing their benefits with others. They see themselves as part of the Universe and not the center of it, and they consider others as sacred objects as they are part of the creation. Naturally, they treat everyone and everything in the Universe with the utmost respect.⁸¹

The treaties signed between the Canadian Authorities and CIP before 1973 were influenced by the balance of Power and not the Rights. In the treaties signed before 1812, the settlers recognized CIP Rights in land and hunting. However, the treaties signed between 1812 till 1923 were mere transactions of IP land rights to the Crown.⁸²

Treaties with Indigenous peoples include Historic and Modern treaties (also called comprehensive land claim agreements) with Indigenous groups. For the Historic Treaties, the official launch of the Treaty-Making Process is based on the Royal Proclamation of 1763.⁸³ The Canadian Government (CG) recognizes 70 historic treaties in Canada signed between 1701 and 1923, forming the basis of the relationship between the Crown and 364 CIP, representing over 600,000 Canadian Indigenous individuals. Historic Treaties include⁸⁴: 1- Treaties of Peace and Neutrality (1701 – 1760), 2- Peace and Friendship Treaties (1725-1779), 3- Upper Canada Land Surrenders and the Williams Treaties (1764-1862/1923), 4- Robinson Treaties and Douglas Treaties (1850-1854), 5- The Numbered Treaties (1871-1921)⁸⁵

⁸⁰"Treaty Relations: Spirit, Intent, and First Nations Perspectives." *Www.youtube.com*, www.youtube.com/watch?v=a9dRjCzE36k&list=PLpFUtBQBxCGm7aQy5NxxDAHEf1Q1r_4&index=3. Accessed 12 Mar. 2023.

⁸¹The previous source.

⁸²The Canadian Government. (Treaties and agreements. <https://www.rcaanc-cirnac.CG.ca/eng/1100100028574/1529354437231>)

⁸³The previous source.

⁸⁴Branch, Government of Canada; Indigenous and Northern Affairs Canada; Communications. "Treaties and Agreements." *Www.rcaanc-cirnac.CG.ca*, 3 Nov. 2008, www.rcaanc-cirnac.CG.ca/eng/1100100028574/1529354437231#chp3.

⁸⁵The previous source.

The Treaties of Peace and Neutrality (1701 – 1760) were made to build and maintain Peace between the Colonial authorities and CIP, in addition to depriving the French troops from receiving any aid from their CIP allies at the time of signing the treaties.⁸⁶ The Peace and Friendship Treaties (1725-1779), as it appears from its name, were agreed upon to maintain Peaceful and Friendly relations between the Crown and CIP signing the treaties.⁸⁷ In the last three groups of treaties, CIP signers transacted their rights to land to the Crown.⁸⁸ (See Appendix 1 - Table 1)

The Modern Treaty era began in 1973 after the Supreme Court of Canada's decision (*Calder et al. v. Attorney-General of British Columbia*), which recognized Aboriginal rights for the first time. In the Modern Treaties era, there is a way bigger common land between the Canadian authorities and CIP. For the successive CG since 1973, there has been a recognition of IP rights, belief in equality between parties, mutual respect, and a desire to take the treaties as a path to live together in Peace and Harmony. This stance aligns with the CIP views on the treaty functions. Thus, there are many points of agreement between both parties. Nevertheless, for points of dispute, both parties choose to adopt continuous negotiations, sincere talks, and positive initiatives as tools to resolve conflicts and not to resolve issues through Power and Coercion. Since 1973, Canada has signed 26 treaties with CIP, "recognizing Indigenous ownership of over 600,000 km² of land, capital transfers that exceed \$3.2 billion, protection of old CIP lifestyles, facilitating economic benefiting from natural resources, cooperation in land and resources supervision, certainty

86- Canada, Government of Canada; Indigenous and Northern Affairs. "Treaties of Peace and Neutrality (1701-1760)." *Www.rcaanc-Cimac.CG.ca*, 14 Feb. 2013, www.rcaanc-cimac.CG.ca/eng/1360866174787/1544619566736.

87 The previous source.

88The Government of Canada. Treaties and Agreements. <https://www.rcaanc-cimac.CG.ca/eng/1100100028574/1529354437231>

regarding land rights in about 40% of the Canadian land, and associated self-government rights and political recognition." ⁸⁹

Over the past four decades, Canada's positive approach to treaty negotiations has evolved due to developments in Indigenous domestic laws, joint innovations, and past engagement with Indigenous groups and critical participants.⁹⁰

Noticeable progress in CIP rights file and in IP rights worldwide is achieved. The 2021 Annual Report of Global Witness lists many spots of lights relevant to IP rights worldwide.; the treaties between IP minorities and the governments in many countries, withdrawal of some central banks from financing some projects that violate IP Land rights, the increase of public and international awareness and support for IP rights everywhere, and numerous successes achieved by the Environmental Defenders' advocates in general⁹¹.

⁸⁹The Government of Canada. Treaties and Agreements. <https://www.rcaanc-cimac.CG.ca/eng/1100100028574/1529354437231>.

⁹⁰The previous source.

⁹¹“Annual Report 2021: Our Case for Change.” *Global Witness*, www.globalwitness.org/en/about-us/annual-report-2021-our-case-change/. Accessed 14 Mar. 2023.

Chapter Three – Literature Review

A- Introduction:

Indigenous Peoples exists in over 90 countries, representing about 5% of the global population. The IP has been, for a long and till the recent time, subject to undenied historical injustice. IP rights is a topic that received much recognition on all levels, international, regional, and national levels; however, there are a lot of promises and minor achievements in reality. The IP was subject to physical assaults for a long, which elevated in many cases to genocides. However, the physical assault was only one phase of violating IP rights. In addition to the physical assaults, there were continuous assaults on their Land and Culture, which are the backbone of Indigenous existence. For IP, the loss of Land equals the loss of culture.⁹² IP activists name the extended violation of IP rights in land and culture "Cultural Genocide."

In recent decades, many states have been trying to achieve progress in the file of IP rights. Canada is one of the most modern states that took practical steps to address CIP rights. Those efforts took several shapes and were crowned by signing treaties between the CGand some CIP. These treaties present an excellent path for reconciliation between both parties within the Canadian context. However, CIPA have different stands toward these treaties. While some CIPA consider the treaties a step toward retaining IP rights, others consider these treaties a new phase of "Cultural Genocide"⁹³ & ⁹⁴

This research aims to answer the following questions:

1- What are Indigenous activists' stands towards the treaties signed between the Canadian Government and Indigenous Peoples?

⁹² "Indigenous Peoples Rights Are Human Rights." Amnesty International, www.amnesty.org/en/what-we-do/indigenous-peoples.

⁹³ Simpson, Leanne Betasamosake. *As we have always done: Indigenous freedom through radical resistance*. U of Minnesota Press, 2017.

⁹⁴ Kingston, Lindsey. "The destruction of identity: Cultural genocide and indigenous peoples." *Journal of Human Rights* 14.1 (2015): 63-83.

2- How could future treaties better respond to the concerns of the activists and advocates who reject those treaties?

In the literature review section, the keywords to detect in previous academic resources are Cultural Genocide, Identity, Reconciliation, and Political Discourse within the Canadian-Indigenous Context.

In order to answer the two research questions, it is crucial to consult the Literature body to explore and explain the justification for different stands of Indigenous activists -the opponents and the supporters- relevant to the signed treaties between some Indigenous Canadian communities and the Canadian Government. Consequently, there was a focus on the main point of contemporary debate between the Indigenous Peoples' Activists (IPA), whether the signed treaties were a new genocide targeting the Canadian Indigenous Culture or a sincere effort to implement the rights of CIP. The review detects the conservation of the advocates relevant to the Indigenous Peoples' Identity. The researcher aims to navigate through the selected scholar's work to 1- Shed light on the views of each party and the theoretical base for such views. 2- Highlight the points of disagreement between parties in the discourse. 3- Explore the possible improvements that could be carried out to narrow the gaps between opponent parties.

Conciliation in Canada is a primary target conditionally accepted by Canadian Indigenous academics and activists. Many CIPA warns that conciliation would finally lead to the social inclusion of the CIP minority in the dominant Canadian Society. In their views, social inclusion would never regenerate IP communities with entire reservations of their cultural and Land rights⁹⁵. There are fears that treaties between the CG and CIP are a new chain of cultural Genocide of CIP rights⁹⁶.

⁹⁵Comtassel, Jeff and Alfred, Taiaiake, *Being Indigenous*, Politics of Identity, 2005

⁹⁶Simpson, Leanne Betasamosake. *As we have always done: Indigenous freedom through radical resistance*. U of Minnesota Press, 2017

The Literature Review Chapter, as a contribution to the body of Literature, is key for the analysis conducted in Chapter Four; the Discussion. Detecting the Literature and conducting the analysis are ambitious efforts to 1- collect and list views in the body of Literature on how to make improvements for any future agreements in this research, 2- suggest ways to narrow the gap between CIP who admire the treaties and CIP who reject it and the CG, and 3- suggest some tips that would if applied enhance the possibility to reach future fair agreements that could apply in other Indigenous communities other than the Canadian context.

B- IP's view of the World vs. Europeans' views

B.1- IP Perception towards Life

Simpson (2017) portrays some of her people's perspectives and life practices. All their knowledge, education, economic, and political systems of the Michi Saagiig Nishi- naabeg were designed to promote a peaceful life, not just human life but the life of all living things. Simpson also gives an example of her people's diplomacy and how treaties were made with other people to enable the share of Land and natural resources peacefully with the Wendat Indigenous People, "They asked to live in our territory at different points in history, and we made agreements with them so they could.... they lived in longhouses and farmed, and we were hunting and fishing, ricing and sugaring, traveling by the waterways."⁹⁷. In comparing this diplomatic agreement with the Wendat, Simpson mentions another treaty with the colonizers at the beginning of the colonial period; a treaty that the colonizers applied with total dishonesty. Her people "signed early treaties as international diplomatic agreements with the crown to protect the land and to ensure our

⁹⁷Simpson, Leanne Betasamosake. *As we have always done: Indigenous freedom through radical resistance*. U of Minnesota Press, 2017

sovereignty, nationhood, and way of life." However, it was not a treaty within the conventional political practices, but a termination plan with gross and blatant injustice.

The World of IP is where individuals are entitled to enjoy a high level of liberty and self-determination, regardless of age or gender⁹⁸. A lack of authoritarian powers and aggressive power resulted from coercion or hierarchy on the level of families or the entire Society. Children were full citizens with the same rights and responsibilities as adults. People were expected to figure out their gifts and responsibilities through ceremony, reflection, and self-actualization.⁹⁹ Through this freedom, there is a long-term link between individuals in IP culture. An individual is a link in an extended chain that includes generations of ancestors and generations of grandchildren.

Consequently, Indigenous Peoples had an everyday awareness about the Right of future generations in this environment¹⁰⁰&¹⁰¹. The IP believes that everything in the universe -humans, non-humans, and the environment- is a gift of the creator and, thus, deserves to be treated with respect. Being a part of the creation and not the center of it, it is essential to live with everything in the environment in Harmony.¹⁰²&¹⁰³ The IP songs, dances, festivals, and ceremonies mirror this respect and harmony. A hunter from the Woodland First Nations would talk or sing to a bear before it died, "thanking the animal for providing the hunter and his family with much-needed food," and the First Nations of the Pacific Coast had "a welcoming ceremony and offerings to the first salmon of the year."¹⁰⁴

⁹⁸Simpson, Leanne Betasamosake. *As we have always done: Indigenous freedom through radical resistance*. U of Minnesota Press, 2017

⁹⁹ The previous source.

¹⁰⁰ The Previous source.

¹⁰¹"Treaty Relations: Spirit, Intent, and First Nations Perspectives." *Www.youtube.com*, www.youtube.com/watch?v=a9dRjCZE36k&list=PLpFUtBQBgxcFGm7aQy5NxdAHEf1Q1r_4&index=3. Accessed 12 Mar. 2023.

¹⁰²The previous source.

¹⁰³Government of Canada. "First Nations in Canada." *Rcaanc-Cirnac.CG.ca*, 2 May 2017, www.rcaanc-cirnac.CG.ca/eng/1307460755710/1536862806124.

¹⁰⁴The previous source.

IP shares teachings that honor Wisdom, Love, Respect, Bravery, Honesty, Humility, and Truth as values that promote living in harmony and balance with everyone and everything in creation.¹⁰⁵ IP believes that there is room for everyone. Thus, they willingly share the Land with other IP groups and the new settlers. IP's understanding of the common ownership of Land and the land use for the interest of everyone and everything was so different from the European ideas about owning Land as private property¹⁰⁶. Native Americans did not believe in private ownership of Land; instead, they viewed Land as a resource to be held in common for the benefit of the group.¹⁰⁷ &¹⁰⁸ As a result of this understanding, IP never signed willingly a treaty with the Crown to give away their rights in their lands, unless they were forced to. Cardinal highlights that the treatment process for IP with other parties would take a long time to be approved. Discussions are democratically held within the IP community to allow everybody -as a partner in the Land- to express his opinion, and discussions would last until the community members would collectively approve the treaties.¹⁰⁹

Moreover, IP considers the rights of the next generations in the Land. An IP community held dances and ceremonies to consult their ancestors about what was suitable for the current and future generations¹¹⁰.

In contrast, Colonizers founded fields, fences, and other means of demarcating private property. As a result, Indigenous people who moved seasonally to take advantage of natural resources now found areas off-limits, claimed by colonizers¹¹¹

¹⁰⁵Government of Canada. "First Nations in Canada." *Rcaanc-Cirnac.CG.ca*, 2 May 2017, www.rcaanc-cirnac.CG.ca/eng/1307460755710/1536862806124.

¹⁰⁶Simpson, Leanne Betasamosake. *As we have always done: Indigenous freedom through radical resistance*. U of Minnesota Press, 2017

¹⁰⁷The previous source.

¹⁰⁸"Treaty Relations: Spirit, Intent, and First Nations Perspectives." *Www.youtube.com*, www.youtube.com/watch?v=a9dRjCZE36k&list=PLpFUtBQBgxcFGm7aQy5NxdAHEf1Q1r_4&index=3. Accessed 12 Mar. 2023.

¹⁰⁹The previous source.

¹¹⁰The previous source.

¹¹¹Simpson, Leanne Betasamosake. *As we have always done: Indigenous freedom through radical resistance*. U of Minnesota Press, 2017

The colonizers used aggressive power in treating both the humans of IP and the ecology in their historical Land. The European presence in the Americas caused numerous environmental changes, negatively affecting native animals and people. The changes were caused by several factors, including loss of Land, disease, enforced laws that violated their culture, and much more. Simpson (2017) tells the story of her community, which was subject to this authoritarian power in its most aggressive versions, which resulted in the removal of her people from most of their territory without their permission and consent.¹¹² The colonizers treated the environment with the same authoritarian power, which resulted in a considerable deterioration of the ecosystems of her people's territory. As she listed, "The last eels and salmon navigated our waters about a hundred years ago. We no longer have old-growth white pine forests in our territory. Our rice beds were nearly destroyed."¹¹³, in addition to prohibiting the indigenous people from fishing on their Land.

For Indigenous Peoples, there was an everyday awareness about the Right of future generations in this environment. On the contrary, the colonizers used aggressive power in treating both the humans of IP and the ecology in their historical Land. The European presence in America caused numerous environmental changes, negatively affecting native animals and people. Simpson (2017) tells the story of her community, which was subject to this authoritarian power in its most aggressive versions, which resulted in the removal of her people from most of their territory without their permission and consent. The colonizers treated the environment with the same authoritarian power, which resulted in a considerable deterioration of the ecosystems of her people's territory. As she listed, "The last eels and salmon navigated our waters about a hundred

¹¹²Simpson, Leanne Betasamosake. *As we have always done: Indigenous freedom through radical resistance*. U of Minnesota Press, 2017

¹¹³ The previous source.

years ago. We no longer have old-growth white pine forests in our territory. Our rice beds were nearly destroyed."¹¹⁴.

B.2- Colonizers' Perception towards Life

Schmitt (2003) states, "European international Law considered Christian nations to be the creators and representatives of an order applicable to the whole Earth. The term 'European' meant the normal status that set the standard for the non-European part of the Earth. Civilization was synonymous with European civilization" (p. 86)¹¹⁵. This is an implementation of the notion of the Supremacy of Europeans and a declaration for exclusive European Sovereignty on all non-European lands and their Right to ignore any political arrangements set by non-Europeans in concern to those lands. This notion stigmatizes all non-Europeans as non-civilized/barbarians; thus, they are not legally entitled to practice or claim Sovereignty on the Land they reside or control. All non-Europeans are understood to be inferiors to their European masters.

Consequently, all non-European lands are free spaces for the Europeans to take over and claim ownership. Intuitively, this is a legal base for Europeans to negotiate and practice power and control globally. (Schmitt, 2003) The concept of *jus publicum Europaeum* classified all lands to be owned by European states or entities of equal standing, or lands free territories could be occupied by a European state or an equal entity using any possible means freely and ruthlessly.¹¹⁶ According to European International Law, Indigenous Peoples were unrecognized by European settlers to negotiate or practice Sovereignty on the Land they inhabited for hundreds or maybe thousands of years, depriving them of challenging any structures set by the Europeans.

¹¹⁴Simpson, Leanne Betasamosake. *As we have always done: Indigenous freedom through radical resistance*. U of Minnesota Press, 2017

¹¹⁵Schmitt, Carl, *The Nomos of the Earth in the International Law of the Jus Publicum Europaeum*. New York, NY: Telos Press Publishing, 2003.

¹¹⁶The previous source.

Furthermore, as for the treaties the settlers agreed upon with indigenous people, it was un-respected by the colonizers whenever they could ignore it, or they applied it in ways that make it -as described by Simpson (2017)- another termination plan for IP rights¹¹⁷.

Edward Said (1979) asserts that the European Supremacy is the lens through which the Europeans see the World, the lands, and peoples, including the Indigenous peoples. The World for European leaders is Europeans versus non-Europeans. Europeans are superior, and non-Europeans are inferior¹¹⁸. European entities -and entities equivalent to them- are the only entities that possess the Right to practice Sovereignty over the Land. The Land here is the entire Earth. They are the only entities entitled to negotiate the power on Land. Supremacy has certain geographic and religious boundaries; Christian Europeans are super¹¹⁹. Christian Europeans have the right to own the World, exploit its natural recourses, control Market conditions, own the destiny of non-Europeans, and keep the Right to portray non-Europeans and own the knowledge about them, consequently leading non-European humans to their interest.

Consequently, Europeans own the destiny of non-Europeans, because they know what is good for them and because Europeans know non-Europeans better than they know themselves. The non-Europeans are nothing but what Europeans know and define¹²⁰. In other words, Europeans added to the long list of their properties and sources of Power the knowledge about non-Europeans. The power and knowledge Europeans enjoy strengthen one another¹²¹.

European ideas about owning Land as private property clashed with indigenous people's understanding of land use. Native Americans did not believe in private ownership of Land; instead, they viewed Land as a resource to be held in common for the benefit of the group or

¹¹⁷Simpson, Leanne Betasamosake. *As we have always done: Indigenous freedom through radical resistance*. U of Minnesota Press, 2017

¹¹⁸Said, Edward W. *Orientalism*. Vintage, 1979.

¹¹⁹Schmitt, Carl, *The Nomos of the Earth in the International Law of the Jus Publicum Europaeum*. New York, NY: Telos Press Publishing, 2003.

¹²⁰Said, Edward W. *Orientalism*. Vintage, 1979

¹²¹The previous source.

groups¹²². On the contrary, colonizers erected fields, fences, and other means of demarcating private property, ruining the chances of traveler IP to take advantage of natural resources who found areas off-limits, claimed by colonizers¹²³.

Though the colonizer had no previous ownership of IP lands, the European International law considered all non-European lands free spaces to own solely by European States or entities of equivalent status¹²⁴. The colonizers, though they had not formed a state yet, seem to classify themselves as entities of similar status to the European States and thus were entitled to practice Sovereignty on the Land of IP. The European International Law had forfeited the Right of all non-European peoples, including IP, to negotiate or practice Sovereignty on their lands¹²⁵.

Privileged by this understanding, the European colonizers practiced the Right to decide life and death. Foucault (2012) explained the practice of the Right to life or death as practiced by rulers or authorities in his book *History of Sexuality*. "For a long time, one of the characteristic privileges of sovereign power was the right to decide life and death."¹²⁶ (Foucault, 2012, p.135).

The ruler can practice the direct power of life or death on the body of whoever represents a challenge to the ruler's life or authority by applying the death penalty and the probability of partial or total appropriation of his wealth. Also, the ruler can practice indirect power on external enemies who threaten his Sovereignty by waging war. In this way, he exposes the life of his subjects to the danger of being killed by enemies without putting them to death himself¹²⁷. The colonizers see that IP should accept the colonizers' Sovereignty on the Land. In case the IP did not accept that, they were considered challengers to the colonizers' Sovereignty and thus

¹²² "Treaty Relations: Spirit, Intent, and First Nations Perspectives." *Www.youtube.com*, www.youtube.com/watch?v=a9dRjCZE36k&list=PLpFUtBQBgxcFGm7aQy5NxxDAHEf1Q1r_4&index=3. Accessed 12 Mar. 2023.

¹²³Simpson, Leanne Betasamosake. *As we have always done: Indigenous freedom through radical resistance*. U of Minnesota Press, 2017

¹²⁴Schmitt, Carl, *The Nomos of the Earth in the International Law of the Jus Publicum Europaeum*. New York, NY: Telos Press Publishing, 2003.

¹²⁵ The previous source.

¹²⁶Foucault, Michel. *The history of sexuality, vol. 2: The use of pleasure*. Vintage, 2012.

¹²⁷The previous source.

deserved death. Consequently, the colonizers applied the Right to Life or Death on the IP by targeting their bodies on an individual level and waging wars on them collectively. In addition, the colonizers practiced their power and control on the natural resources of the lands of IP without their permission or consent¹²⁸. The consistent maltreatment of IP by colonizers was the norm for the IP-Colonizers relationship in the Americas. These harsh policies caused, among other reasons, a vast decline of the number in IP in all Americas, including Canada. The IP number in the entire Americas dropped by 85% in 1900 compared to their estimated number in 1492.¹²⁹ It is suggested that the colonizers' activities in Canada caused a massive population loss of IP in all Americas, including Canada. Though there is no separate estimate of IP numbers in Canada, it is logical to assume that the Canadian IP population saw a radical decline in IP numbers between 1492-1900.¹³⁰ Thornton (1987) refers to the decline of IP inhabiting the Americas to European contact and colonization, new diseases, warfare and genocide, forced displacement, and annihilating ways of life. Most researchers agree that diseases from the Eastern Hemisphere, such as smallpox, measles, and influenza, were the crushing reason for inhabitants' deterioration.¹³¹ &¹³²

The historical records of the diseases, violence, and de-population of the Americas during influenza and smallpox epidemics in 1493 to 1520 show that an estimated 90 to 95 percent of the Indigenous population died within two generations of contact in 1492.¹³³

Later there was a shift from targeting the bodies of IP to targeting their population/peoples' cultural existence. Taiiake Alfred and Jeff Corntassel (2005) pointed to the plan of the first

¹²⁸Simpson, Leanne Betasamosake. *As we have always done: Indigenous freedom through radical resistance*. U of Minnesota Press, 2017

¹²⁹Hacker, J. David, et Michael R. Haines. « American Indian Mortality in the Late Nineteenth Century: the Impact of Federal Assimilation Policies on a Vulnerable Population, » *Annales de démographie historique*, vol. no 110, no. 2, 2005, pp. 17-29.

¹³⁰Thornton, Russell. *American Indian holocaust and survival: A population history since 1492*. Vol. 186. University of Oklahoma Press, 1987.

¹³¹The previous source.

¹³²Cook, Noble David. *Born to die: disease and New World conquest, 1492-1650*. Vol. 1. Cambridge University Press, 1998.

¹³³Wesley-Esquimaux, Cynthia C., and Magdalena Smolewski. "Historic trauma and Aboriginal healing." *Ottawa: Aboriginal Healing Foundation* 3 (2004): 1-99.

waves of settlers and contemporary settlers/colonizers toward IP. "Contemporary Settlers follow the mandate provided for them by their imperial forefathers' colonial legacy, not by attempting to eradicate the physical signs of Indigenous peoples as human bodies, but by trying to eradicate their existence as peoples through the erasure of the histories and geographies that provide the foundation for Indigenous cultural identities and sense of self."¹³⁴ In their opinion, the assault of settlers on IP never had an end; it just took different forms in contemporary times. While the first waves of settlers targeted the Indigenous' physical existence as individuals by killing them accompanied by the appropriation of their lands, the contemporary settlers target the cultural existence of IP by destroying their geographic existence through forced displacement and projects that target modernity and by continuous tries to erase IP histories. In clear words, the colonizers' target is eradicating all the roots that tie an indigenous individual or group to their indigenous past time and/or to their original indigenous place. By cutting off all tying roots - historical and geographical-, it would not be possible for an Indigenous individual or community to define her/himself or themselves as Indigenous.

One of the methods that contemporary colonizers follow to cut the IP with their histories is devaluating the pre-colonizing history. "Colonialism is not satisfied merely with holding a people in its grip and emptying the native's brain of all form and content. By a kind of perverted logic, it turns to the past of the oppressed people and distorts, disfigures, and destroys it. This work of devaluing pre-colonial history takes on a dialectical significance today."¹³⁵ Devaluating IP histories is a call to abandon those histories, which would degrade the value of many cultural rituals related to those histories. Thus, it could be easier to an Indigenous individual to abandon her/his entire IP culture.

¹³⁴Comtassel, Jeff and Alfred, Taiaiake, *Being Indigenous*, Politics of Identity, 2005

¹³⁵The previous source.

Indigenous Peoples want survival for their under-threat Identity, which is strongly related to their Land and culture. They want to keep their Right in raising their kids according to their culture.

This Indigenous Identity is their Nationhood that they peacefully resist and fight for. Simpson (2017) offers a clear explanation for Indigenous Nationhood. It is the reviving of the kadoba. The kadoba, in her people's language, is a human chain that includes her and connects her to her ancestors and grandchildren. What Simpson wants, and it could be claimed that this is what the average indigenous individual wants too, is very simple and broad. It is about the individuals, Land, environment, culture, human values, love, joy, respect, and living in no fear¹³⁶. It is about the revival of the notion of time as her people understand it, a continuity from past to present and future. She wants indigenous freedom, which would enable her great-grandchildren to fall in love with their Land, to unit with their environment in a sweet dance with joy. She wants the revival of the culture, stories, poems, songs, and human values of Nishnaabang.¹³⁷

For IP, their Identity should be strongly related to their culture; they should have the right to define themselves and maintain their styles of life according through their own Indigenous lens. This concept is totally opposite to the concept of assimilating IP in the dominant culture of the country they inhabit as desired by colonizers' authorities. The attempts to assimilate IP in the dominant society generated an ongoing colonial assault on their existence. Those assaults resulted in IP awareness that they are in their present occupied peoples who have been dispossessed and disempowered in their homelands; the same situation as in their sad past¹³⁸.

The IP comprehend the tries of colonizers to solely define IP as an evidence that the assault on their culture is not over yet; however, it is a specific assault on the IP rights to define themselves.

As Said (1978) suggests, the colonizers do not see the colonized nations as capable of defining

¹³⁶Simpson, Leanne Betasamosake. *As we have always done: Indigenous freedom through radical resistance*. U of Minnesota Press, 2017

¹³⁷The previous source.

¹³⁸Comtassel, Jeff and Alfred, Taiaiake, *Being Indigenous, Politics of Identity*, 2005.

themselves or speaking to themselves; they are what the Europeans see. Moreover, the colonized nations should feel gratitude for the Europeans for exploiting their lands, ruling them, and deciding for them because they -the Europeans- were civilizing those nations, a task that the colonizers never accomplished.¹³⁹

Globalization is one of the postmodern imperialism methods to erase Indigenous histories and senses of place. However, in Indigenous eyes, it is a means of a continuum of colonization. For Indigenous thinkers, Globalization is just a shift of the tools of colonial power to terminate IP History and Geography.¹⁴⁰ Thus, globalization' is a new tool in the hand of the same player to achieve the same target; Cultural Genocide of IP.¹⁴¹

IP would look suspiciously to any call that does not recognize their rights in land and culture significance. Globalization, is "in a general sense, the increasing worldwide integration of economic, cultural, political, religious, and social systems"¹⁴² Thus, Globalization is a suspicious call for IP, as it is a call for cultural integration. It is precisely the opposite of what IP desires; cultural significance and uniqueness. Also, the call to economic integration contradicts the Right declared by the UN for IP to own their own decision to integrate into a global economy or not¹⁴³.

C- The Colonial legacy in International and Canadian Juridical System and the need to see IP's issues through an IP lens

The IP peoples were subject to several types of genocides. Physical Genocide is the most apparent form of the genocides the IP had experienced. IP was subject to another form of Genocide which is Cultural Genocide. Culture Genocide took place by cutting IP roots with their

¹³⁹Said, Edward W. *Orientalism*. Vintage, 1979.

¹⁴⁰Comtassel, Jeff and Alfred, Taiaiake, *Being Indigenous*, Politics of Identity, 2005.

¹⁴¹The previous source.

¹⁴²Oxford Reference. <https://www.oxfordreference.com/view/10.1093/oi/authority.20110803095855259>

¹⁴³“United Nations Declaration on the Rights of Indigenous Peoples.” *Human Rights Quarterly*, vol. 33, no. 3, 13 Sept. 2007, pp. 909–921, www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf, <https://doi.org/10.1353/hrq.2011.0040>.

culture by forcing them to move to other territories, thus, prohibiting the IP from practicing their culture on their mother territories¹⁴⁴ & ¹⁴⁵ & ¹⁴⁶. The Canadian Justice System is super-saturated by Colonial views of Sovereignty, Land, and Culture, which contradicts many aspects of the Canadian IP views¹⁴⁷ Kathleen Mahoney in her 2019 study, "Indigenous legal principles: A reparation path for Canada's cultural genocide.", highlights that need to reform the Canadian justice system and the lawyers operating within it to be better prepared to comprehend or reconcile the relationship between Colonial and Indigenous law systems. Members of the Canadian Justice system need to receive adequate training in Indigenous Law, which is vital to design and implement proper compensations for the harms justified by colonial practices and biases. This reform would enhance the chances to reach genuine reconciliation and healing. Thus, Mahoney stresses the necessity to explore different philosophies and perceptions, to accomplish genuine reconciliation between indigenous peoples and all levels of government; National, State, and provincial authorities. Mahoney (2019) asserts that without considering Indigenous Laws, Traditions, and Practices in the core of the process of initiating and implementing reparations, State remedies to the Cultural Genocide committed against indigenous communities in Canada would fail in accomplishing Sustainable Reconciliation, or addressing the griefs generated from the forced internal displacement of many IP communities.¹⁴⁸ Mahoney (2019) asserts, as many Indigenous academics and activists believe, that the infrastructure of the Canadian judicial and political system is super-saturated with the "agenda"

¹⁴⁴ Mahoney, Kathleen. "Indigenous legal principles: A reparation path for Canada's cultural genocide." *American Review of Canadian Studies* 49.2 (2019): 207-230.

¹⁴⁵ Simpson, Leanne Betasamosake. *As we have always done: Indigenous freedom through radical resistance*. U of Minnesota Press, 2017

¹⁴⁶ Cornthassel, Jeff and Alfred, Taiaiake, *Being Indigenous*, Politics of Identity, 2005.

¹⁴⁷ Mahoney, Kathleen. "Indigenous legal principles: A reparation path for Canada's cultural genocide." *American Review of Canadian Studies* 49.2 (2019): 207-230. **And** Cornthassel, Jeff and Alfred, Taiaiake, *Being Indigenous*, Politics of Identity, 2005.

¹⁴⁸ The previous source.

of Canadian colonial masters¹⁴⁹. There is a crucial need to liberate the Canadian judicial and political system from the chains of colonial thoughts. The liberation of the Canadian judicial system is not an easy task, considering the power of the elements of the colonial network, including giant corporations.¹⁵⁰

Mahoney's (2019) study is a good reference for this research as it spots the ill-prepared Canadian Juridical body as a reason for the complication in fully recognizing Canadian Indigenous rights. Mahoney's (2019) call for purifying the Canadian Juridical systems from the legacy of the colonization era and adopting the Indigenous characteristic cultural and juridical views align with the views of Corntassel (2003) calls for considering Indigenous self-determination in putting standards by International Law when Identifying Indigenous peoples¹⁵¹.

Also, Mahoney's (2019) study aligns with the study conducted by Tam, Benita & Findlay, and Leanne & Kohen, D. (2017). In their 2017 study, the researchers highlighted the need to define Canadian Indigenous families through an Indigenous cultural lens¹⁵².

In his (2003) paper, Corntassel points to how standards were set in International Law in the Indigenous context versus the natural Right of indigenous self-identification. As a result of strict, definitional standards required by International Law, some indigenous groups are restricted from the protections they need while reifying their identities. According to Corntassel, the failure to institute a conventional definition of IP leads to Nation-State would not apply international legal rights to the World's indigenous populations¹⁵³. Corntassel (2003) surveyed various indigenous

¹⁴⁹Mahoney, Kathleen. "Indigenous legal principles: A reparation path for Canada's cultural genocide." *American Review of Canadian Studies* 49.2 (2019): 207-230.

¹⁵⁰The previous source.

¹⁵¹Corntassel, Jeff. "Who is indigenous? 'Peoplehood' and ethnonationalist approaches to rearticulating indigenous identity." *Nationalism and ethnic politics* 9.1 (2003): 75-100.

¹⁵²Tam, B., L. Findlay, and D. Kohen. "Conceptualization of family: Complexities of defining an Indigenous family." *Indigenous Policy Journal* 28.1 (2017): 1-19.

¹⁵³Corntassel, Jeff. "Who is indigenous? 'Peoplehood' and ethnonationalist approaches to rearticulating indigenous identity." *Nationalism and ethnic politics* 9.1 (2003): 75-100.

definitions and claimed it is possible to institute an accepted definition of Indigenous people that balances with Indigenous self-identification. Cornassel (2003) suggests that the model of 'Peoplehood' refined by Holm, Pearson, and Chavis (2003) presents "a new working definition of indigenous peoples that is both flexible and dynamic."¹⁵⁴

This article is helpful for this investigation, as it highlights the complexities of identifying Indigenous peoples and suggests, at the same time, it is a model that would help reach an accepted definition for IP that maintain their self-identification. Another research that stresses applying cultural principles to IP individuals is the work of Tam, Benita & Findlay, Leanne & Kohen, D. (2017), "Conceptualization of Family: complexities of defining an Indigenous family." In their paper, the authors shed light on the complexity of defining Family by providing a review of conceptualizations of Family. The authors' review finds that Family may be, in general, "conceptualized by blood, legal, or residence status, following a general systems theory approach."¹⁵⁵ However, it is crucial to revise this conceptualization in defining Indigenous Families. The reason lies in the cultural differences in Identity, kinship, language, and mobility between Indigenous and non-Indigenous populations, which need to be considered in family definitions. In their conclusion, the researchers stress the necessity to admit the complexities of families, the "limitations of using one definition versus another, and the crucial need to apply a cultural lens in defining Indigenous families"¹⁵⁶. This article is helpful for this study, as it highlights the oddity of Indigenous families; thus, the need to apply the Indigenous definition of Family to enable Indigenous families and individuals to benefit from their social rights.

¹⁵⁴Holm, Tom, J. Diane Pearson, and Ben Chavis. "Peoplehood: A model for the extension of sovereignty in American Indian studies." *Wicazo Sa Review* 18.1 (2003): 7-24.

¹⁵⁵Tam, B., L. Findlay, and D. Kohen. "Conceptualization of family: Complexities of defining an Indigenous family." *Indigenous Policy Journal* 28.1 (2017): 1-19.

¹⁵⁶The previous source.

Nagy, Rosemary, in her 2021 article, "Transformative Justice in a Settler Colonial Transition: Implementing the UN Declaration on the Rights of Indigenous Peoples in Canada.", agrees with Mahoney (2019)¹⁵⁷, on the need to get rid of the colonial network of thoughts in Canada and Canadian State structure in interpreting and applying the UN Declaration¹⁵⁸ about IP rights¹⁵⁹. Nagy (2021) develops the idea of the need for an indigenized, decolonial transformative justice that incorporates interactive change at the grassroots level through acts of Indigenous resurgence, and structural transformations at both the National and International levels through the 2007 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)¹⁶⁰. Nagy (2021), notices that though Canada had not officially signed the UNDRIP yet, however, its position has been perceptibly shifted toward the Declaration. Canada initially voted against the Declaration but is now committed to implementation per the Truth and Reconciliation Commission's recommendation. For Nagy (2021), the key issue is how the UNDRIP texts recognizing existing Aboriginal Rights will be incorporated in Section 35 of the Constitution. Nagy's 2021 paper argues that Section 35 could be a 'full box of rights' if the lid is fully opened to embrace the transformative, decolonizing provisions of the Declaration, particularly those relevant to free, prior, and informed acceptance (Nagy, 2021)¹⁶¹. Nagy senses that the Canadian State is unwilling to reform the colonial status quo, thus she stresses on the need to the continuity of grassroots mobilizations and all forms of pressures till the full recognition of CIP rights.¹⁶²

¹⁵⁷ Mahoney, Kathleen. "Indigenous legal principles: A reparation path for Canada's cultural genocide." *American Review of Canadian Studies* 49.2 (2019): 207-230. **And** Comtassel, Jeff and Alfred, Taiaiake, *Being Indigenous*, Politics of Identity, 2005.

¹⁵⁸"United Nations Declaration on the Rights of Indigenous Peoples." *Human Rights Quarterly*, vol. 33, no. 3, 13 Sept. 2007, pp. 909-921, www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf, <https://doi.org/10.1353/hrq.2011.0040>.

¹⁵⁹ Nagy, Rosemary. "Transformative justice in a settler colonial transition: implementing the UN Declaration on the Rights of Indigenous Peoples in Canada." *The International Journal of Human Rights* 26.2 (2022): 191-216.

¹⁶⁰The previous source.

¹⁶¹The previous source.

¹⁶²The previous source.

Mahoney's (2019)¹⁶³ and Nagy's (2021) assumption of the colonial roots of Canadian Law is possibly an extension of Perrin's (2017) views on International Law. Perrin, Jonas, in the 2017 article "Legal Pluralism as a Method of Interpretation: A Methodological Approach to Decolonizing Indigenous Peoples' Land Rights under International Law.", assumes that International Law is loaded with a colonial legacy, the same belief of Mahoney and Nagy in regards to the Canadian Law¹⁶⁴. Perrin (2017) recommends a pluralist reading of indigenous land rights under International Law that would liberate the International Law from colonial perceptions. In addition, Perrin proposes a methodological approach that may decolonize International Law by incorporating IP cultural aspects relevant to the relationship between Man and Land. According to Perrin (2017), the European settlers had always employed the International Law to legitimize looting IP lands. The International Law colonial legacy, especially relevant to Sovereignty and Property, led to minimizing the positive anticipated effects of the progress in Human Rights Laws.¹⁶⁵

Considering that these concepts contradict indigenous cosmology, Perrin (2017) suggests to interpret indigenous land rights under International Law through both lenses: The State Law and Indigenous perceptions in the Man-Land relationship. Thus, this State-Indigenous multi-lenses methodological approach would liberate the International Law from its mon-colonial lens interpretation and application¹⁶⁶.

¹⁶³Mahoney, Kathleen. "Indigenous legal principles: A reparation path for Canada's cultural genocide." *American Review of Canadian Studies* 49.2 (2019): 207-230.

¹⁶⁴Perrin, Jonas. "Legal Pluralism as a Method of Interpretation: A Methodological Approach to Decolonising Indigenous Peoples' Land Rights under International Law." *Universitas-XXI, Revista de Ciencias Sociales y Humanas* 26 (2017): 23-60.

¹⁶⁵The previous source.

¹⁶⁶Perrin, Jonas. "Legal Pluralism as a Method of Interpretation: A Methodological Approach to Decolonising Indigenous Peoples' Land Rights under International Law." *Universitas-XXI, Revista de Ciencias Sociales y Humanas* 26 (2017): 23-60.

D- Indigenous Peoples and Self-Governance

D.1- Accept the Treaties, why?

Adrienne M. Davidson, in her 2019 article, "Incomplete sovereigns: Unpacking patterns of Indigenous self-governance in the United States and Canada.", expresses a positive tone towards federal land claim agreements (in both Canada and the United States). Davidson (2019) evaluates these agreements as a first step toward recognizing indigenous goals for self-determination, though she considers it "Incomplete Sovereignty." Davidson (2019) is convinced that those early actions resulted in a sound increase in indigenous rights and an expanding willingness to accommodate indigenous goals for political self-determination¹⁶⁷. However, there are some variances within and between the two countries in interacting with indigenous political and economic self-determination rights. Davidson's 2019 study investigates "two critical aspects of this variation in Indigenous self-determination in the United States and Canada: (1) institutional histories embedded in geography and (2) the temporal nature of policy frameworks."¹⁶⁸ Davidson (2019) argues that the full recognition of Indigenous self-determination has been shaped in different ways and, ultimately, is limited -as Mahoney (2019)¹⁶⁹ notices- by the joint of rooted institutional inheritances and national political dynamics¹⁷⁰. Davidson's study is valuable as it sheds light on both the progress and shortages of the US and Canadian governments' developing efforts to deal with Indigenous Peoples' rights in self-determination and interpreting the reason of the variation of such progress in both countries. The achieved progress in the file of IP rights and self-determination would support the stand of Indigenous Peoples activists and advocates that

¹⁶⁷Davidson, Adrienne M. "Incomplete sovereigns: Unpacking patterns of Indigenous self-governance in the United States and Canada." *American Review of Canadian Studies* 49.2 (2019): 262-282.

¹⁶⁸The previous source.

¹⁶⁹Mahoney, Kathleen. "Indigenous legal principles: A reparation path for Canada's cultural genocide." *American Review of Canadian Studies* 49.2 (2019): 207-230.

¹⁷⁰Davidson, Adrienne M. "Incomplete sovereigns: Unpacking patterns of Indigenous self-governance in the United States and Canada." *American Review of Canadian Studies* 49.2 (2019): 262-282.

positively assess the treaties between Canadian Indigenous Peoples and Canadian governments. Courtney Jung (2019) detects more spots of light in the progress of CIP file¹⁷¹. Jung, in her 2019 article "The First Nations Land Management Act: Twenty Years of Reconciliation." assesses the First Nations Land Management Act (FNLMA) as a potential mechanism of reconciliation, noting both how the Act marks a tangible shift in IP governance and how it embeds neo-colonial, structures of power. Using a dataset of 76 of the 78 operational land codes, Jung (2019) finds that most Indigenous peoples employing the FNLMA have approved land codes that do not differ significantly from the terms of the Indian Act¹⁷². In contrast, other Indigenous communities have developed initiatives that boost the scope of their economic development and autonomy¹⁷³. Jung's 2019 research is vital for the analysis for the statistics it analyzes, which shed light on the successes in boosting the economy and autonomy of some Indigenous Peoples. The statistics justify the views of some Aboriginal activists and advocates who positively assess the treaties between Canadian IP and Canadian Governments. Those treaties could lead to fundamental changes toward implementing IP rights, as they provoke IPs' abilities to achieve their holistic goals of autonomy and better life.

D.2- Reject the Treaties, why?

For many IPA, the target is to regenerate IP culture and pass it to the new generations. Many CIPA accepted the Canadian Treaties as a step toward maintaining CIP rights, such as Lewis Cardinal¹⁷⁴, David Treuer¹⁷⁵, and Adrienne Davidson¹⁷⁶. Thus, they express their support to

¹⁷¹Jung, Courtney. "The First Nations Land Management Act: Twenty Years of Reconciliation." *American Review of Canadian Studies* 49.2 (2019): 247-261.

¹⁷²The previous source.

¹⁷³The previous source.

¹⁷⁴"Treaty Relations: Spirit, Intent, and First Nations Perspectives." *www.youtube.com*, www.youtube.com/watch?v=a9dRjCZE36k&list=PLpFUtBQBgxcFGm7aQy5NxxhDAHEf1Q1r_4&index=3. Accessed 12 Mar. 2023.

¹⁷⁵In a personal conversation with the researcher, after Treuer's lecture at the University of San Francisco in the year 2022.

¹⁷⁶Davidson, Adrienne M. "Incomplete sovereigns: Unpacking patterns of Indigenous self-governance in the United States and Canada." *American Review of Canadian Studies* 49.2 (2019): 262-282.

various IP representatives involved in the negotiating process with the Canadian Government. However, another group of IPA disapproved of these treaties as they considered it a cunning plan to legalize the Cultural Genocide of CIP. Simpson (2017)¹⁷⁷, Kingston (2015)¹⁷⁸, Alfred and Corntassel (2005)¹⁷⁹, and Corntassel (2003, 2008)¹⁸⁰ condemn those treaties as these academics and activists believe that the treaties will not lead to the maintenance and regeneration of CIP cultural concepts, on the contrary, it may lead to the full erase of IP Culture and the waste of IP Land Rights.

Simpson in her 2017 book, "As We Have Always Done: Indigenous Freedom Through Radical Resistance," demonstrates the nature of Indigenous resistance as a fundamental refusal of contemporary Colonialism focused on the rejection of the abuse of Indigenous bodies and Land. For Simpson (2017), Indigenous political resurgence should be a practice rooted in distinctively Indigenous theorizing, writing, organizing, and thinking, and never being a mechanism for inclusion in a multicultural mosaic. Simpson denounces the suggested inclusion reflecting the "destructive logic of the settler-colonial State, including hetero-patriarchy, white Supremacy, and capitalist exploitation."¹⁸¹

Simpson (2017) passively evaluates the social inclusion of the Canadian Indigenous Peoples in the dominant Society. Her book clearly and precisely demonstrates the views of several Indigenous activists and advocates who have profound conservations on the CG-CIP treaties¹⁸².

¹⁷⁷Simpson, Leanne Betasamosake. *As we have always done: Indigenous freedom through radical resistance*. U of Minnesota Press, 2017

¹⁷⁸Kingston, Lindsey. "The destruction of identity: Cultural genocide and indigenous peoples." *Journal of Human Rights* 14.1 (2015): 63-83.

¹⁷⁹Alfred, Taiaiake, and Jeff Corntassel. "Being Indigenous: Resurgences against contemporary colonialism." *Government and opposition* 40.4 (2005): 597-614.

¹⁸⁰Corntassel, Jeff. "Who is indigenous? 'Peoplehood' and ethnonationalist approaches to rearticulating indigenous identity." *Nationalism and ethnic politics* 9.1 (2003): 75-100. And Corntassel, Jeff. "Toward sustainable self-determination: Rethinking the contemporary Indigenous-rights discourse." *Alternatives* 33.1 (2008): 105-132.

¹⁸¹Simpson, Leanne Betasamosake. *As we have always done: Indigenous freedom through radical resistance*. U of Minnesota Press, 2017

¹⁸²Simpson, Leanne Betasamosake. *As we have always done: Indigenous freedom through radical resistance*. U of Minnesota Press, 2017

Gerald Taiaiake Alfred & Jeff Corntassel, in their 2005 work "Being Indigenous: Resurgences against Contemporary Colonialism.", set the standard of being Indigenous by rebelling against Colonialism in all its forms. In order to be counted Individual, an indigenous individual should condemn the old form of colonization that perpetrated physical Genocide against IP and contemporary Colonialism that is continuously committing Cultural Genocide that targets the existence of IP culture (Alfred & Corntassel, 2005). Consequently, the authors count whoever defines himself by any background other than being Indigenous as "Aboriginal" and deprive her/his of being Indigenous¹⁸³. Alfred and Corntassel (2005) focus on how Indigenous communities can regenerate themselves to resist the effects of the contemporary colonial assault and regenerate politically and culturally and discuss strategies for resisting further encroachment on Indigenous existences by Settler societies, states, and multi-national corporations. The researchers denounce "Aboriginals" in Canada and the US who choose to "define themselves solely according to their political-legal relationship to the state rather than by any cultural or social ties to their Indigenous community or culture or homeland"¹⁸⁴.

The works of the IPA, who rejected the Canadian Treaties, are a sound cry reflecting the conservations of many Indigenous activists and advocates on the treaties signed between Canadian Indigenous Peoples and the Canadian Government, and their works take a further step by suggesting strategies of resistance of what the researchers consider to neo-colonization destructive plans. Corntassel, in a following 2008 research, "Toward Sustainable Self-Determination: Rethinking the Contemporary Indigenous-Rights Discourse.", suggests theoretical and practical understandings to regenerate indigenous Nationhood and reinstitute sustainable relationships on indigenous homelands. Corntassel (2008) calls for a more holistic

¹⁸³Alfred, Taiaiake, and Jeff Corntassel. "Being Indigenous: Resurgences against contemporary colonialism." *Government and opposition* 40.4 (2005): 597-614.

¹⁸⁴The previous source.

and dynamic approach to restoring indigenous nations to replace the current States and global/regional forums that have shaped self-determination rights in a way that would deteriorate the obligations and interaction between indigenous individuals and their families and the natural World¹⁸⁵. Corntassel (2008) believes that these duties and interactions are essential for the welfare of future IP generations. Thus, Corntassel (2008) identifies alternatives to the ongoing rights discourse that would accelerate the progress of a rational and sustainable self-determination process for IP worldwide. Also, Corntassel approves the notion of sustainable self-determination as a standard for upcoming indigenous political deployment (2008). This study further suggests a different approach toward understanding and accomplishing rights in self-determination¹⁸⁶.

Kingston in her 2015 work "The destruction of identity: Cultural genocide and indigenous peoples.", conducts a serious discussion of cultural rights violations, not including direct physical murder or violence, and considers the concept of "cultural genocide" as a tool for human rights promotion and protection. Kingstone (2015) counts the devastation of indigenous cultures and the forced integration of indigenous peoples in the diagnostic lens of Genocide in two case studies of two marginalized indigenous tribes, one in US and one in Canada¹⁸⁷.

Supported by case studies findings, Kingston's 2015 research supports –the views of Indigenous activists and advocates who consider new treaties between CIP and CG a new plan for Cultural Genocide. A new genocide in the chain of genocides that targeted the physical existence of IP¹⁸⁸.

Though there are numerous light spots here and there, however, a global change is still needed. There are stories of success for some indigenous tribes in the field of innovations that boost their

¹⁸⁵Corntassel, Jeff. "Toward sustainable self-determination: Rethinking the contemporary Indigenous-rights discourse." *Alternatives* 33.1 (2008): 105-132.

¹⁸⁶ The previous source.

¹⁸⁷Kingston, Lindsey. "The destruction of identity: Cultural genocide and indigenous peoples." *Journal of Human Rights* 14.1 (2015): 63-83.

¹⁸⁸Kingston, Lindsey. "The destruction of identity: Cultural genocide and indigenous peoples." *Journal of Human Rights* 14.1 (2015): 63-83.

economic development¹⁸⁹. There are more calls to adopt Indigenous views in concern of Land and Sovereignty in the interpretation of International¹⁹⁰ and National Laws^{191&192} relevant to IP rights. The annual 2021 Annual Report of Global Witness lists many spots of lights relevant to IP rights worldwide.; the treaties between IP minorities and the governments in many countries, withdrawal of some central banks from financing some projects that violate IP Land rights, the increase of public and international awareness and support for IP rights everywhere, and numerous successes achieved by the Environmental Defenders' advocates in general¹⁹³. However, these efforts to achieve IP rights should continue, and the review of resistance strategies should continue.

The treaties between authorities and IP provoke much suspicion for Cornassel and Alfred (2005)¹⁹⁴, though the very promising results that generate from the treaties within the Canadian context. In Canada, the most significant aboriginal Land claims agreement between CG and the native Inuit people led to the creation of Nunavut in 1999, a homeland for Canada's Inuit¹⁹⁵. Pratt's (2004) paper, "Treaties vs. terra nullius: reconciliation, treaty-making and Indigenous sovereignty in Australia and Canada.", is another comparative study that compares Australian and Canadian approaches – where Canada is seen as more progressive than the Australian- to their relationships with Indigenous peoples in each country in terms of how each State responds

¹⁸⁹ Jung, Courtney. "The First Nations Land Management Act: Twenty Years of Reconciliation." *American Review of Canadian Studies* 49.2 (2019): 247-261.

¹⁹⁰ Perrin, Jonas. "Legal Pluralism as a Method of Interpretation: A Methodological Approach to Decolonising Indigenous Peoples' Land Rights under International Law." *Universitas-XXI, Revista de Ciencias Sociales y Humanas* 26 (2017): 23-60.

¹⁹¹ Mahoney, Kathleen. "Indigenous legal principles: A reparation path for Canada's cultural genocide." *American Review of Canadian Studies* 49.2 (2019): 207-230.

¹⁹² Nagy, Rosemary. "Transformative justice in a settler colonial transition: implementing the UN Declaration on the Rights of Indigenous Peoples in Canada." *The International Journal of Human Rights* 26.2 (2022): 191-216.

¹⁹³ "Annual Report 2021: Our Case for Change." *Global Witness*, www.globalwitness.org/en/about-us/annual-report-2021-our-case-change/. Accessed 14 Mar. 2023.

¹⁹⁴ Alfred, Taiaiake, and Jeff Cornassel. "Being Indigenous: Resurgences against contemporary colonialism." *Government and opposition* 40.4 (2005): 597-614.

¹⁹⁵ Kulchyski, Peter. "The Creation of Nunavut - Canada's History." *Canadashistory.ca*, 11 Aug. 2017, www.canadashistory.ca/explore/politics-law/the-creation-of-nunavut.

to calls for the recognition of Indigenous Sovereignty and Nationhood. In her analyses, Pratt suggests the existence of similarities and differences between Indigenous-state relations in Canada and Australia. Consequently, Pratt calls for "a more genuinely inclusive approach to negotiations and debates over Indigenous peoples' rights."¹⁹⁶ "This paper is essential for my study as it highlights the juridical recognition in Canada of the CIP rights in their lands before the European invasion. However, the CG – similar to the Australian Government- denies the negotiation of Indigenous Sovereignty on their territories, stressing that Sovereignty is the State's Right and cannot be distributed or split. This interpretation of Sovereignty is possibly a hurdle to ending the internal displacement of many IP communities. Also, the paper highlights the culture of rights among the Canadian authorities regarding handling the CIP Rights file. It could be possible to claim a more tangible gains for CIP in the Canadian context compared to Australian IP, due the variation of views and interaction of each State to the file of IP rights. Furthermore, there is more recognition from the Canadian Juridical system for Indigenous peoples' rights. Nevertheless, (Pratt,2004)¹⁹⁷ and Mahoney (2019)¹⁹⁸, sense more space for reform in the Canadian Juridical body to fairly address Indigenous rights.

¹⁹⁶Pratt, Angela. "Treaties vs. terra nullius: reconciliation, treaty-making and Indigenous sovereignty in Australia and Canada." *Indigenous LJ* 3 (2004): 43.

¹⁹⁷The previous source.

¹⁹⁸Mahoney, Kathleen. "Indigenous legal principles: A reparation path for Canada's cultural genocide." *American Review of Canadian Studies* 49.2 (2019): 207-230.

Chapter Four - Research Design and Methodology

A- The Methodology

The researcher chose to discuss the Canadian Treaties as Canada is one of the most progressive countries in the field of the rights of IP, especially if compared with the US¹⁹⁹ and Australia.²⁰⁰ There were critical early reforms carried out in Canada relevant to IP rights in Land and Self-determination, such as the 1999 First Nations Land Management Act "FNLMA," which Jung (2019) assesses as a potential mechanism of reconciliation, noting both how the Act marks a significant symbolic and tangible shift in First Nations governance and how it entrenches neo-colonial structures of power.²⁰¹ For Nagy (2021), Canada is currently in a transitional moment. There has been a perceptible shift in its stance toward the UNDRIP Declaration. Canada initially voted against the Declaration but is now committed to per the Truth and Reconciliation Commission's recommendation.²⁰² A key issue is how the Declaration will be subsumed under Section 35 of the Constitution, recognizing existing Aboriginal Rights. Nagy (2021), argues that Section 35 can only become a 'full box of rights' if the lid is opened to embrace the transformative, decolonizing provisions of the Declaration, particularly those around free, prior, and informed consent.²⁰³

B- Why Qualitative Method?

This research aims to answer the following questions:

¹⁹⁹Davidson, Adrienne M. "Incomplete sovereigns: Unpacking patterns of Indigenous self-governance in the United States and Canada." *American Review of Canadian Studies* 49.2 (2019): 262-282.

²⁰⁰Pratt, Angela. "Treaties vs. terra nullius: reconciliation, treaty-making and Indigenous sovereignty in Australia and Canada." *Indigenous LJ* 3 (2004): 43.

²⁰¹Jung, Courtney. "The First Nations Land Management Act: Twenty Years of Reconciliation." *American Review of Canadian Studies* 49.2 (2019): 247-261.

²⁰²Nagy, Rosemary. "Transformative justice in a settler colonial transition: implementing the UN Declaration on the Rights of Indigenous Peoples in Canada." *The International Journal of Human Rights* 26.2 (2022): 191-216.

²⁰³The previous source.

1- What are Indigenous activists' stands towards the treaties signed between the Canadian Government and Indigenous Peoples?

2- How could future treaties better respond to the concerns of the activists and advocates that reject those treaties?

In order to best address the investigation requirements, the researcher chose to adopt a Historical qualitative approach. The qualitative method is conducted in this research because of its anticipated principal findings; qualitative research methods are great in conducting initial explorations to develop theories, generate hypotheses, and move toward explanations.

Additionally, the researcher believes the qualitative method is the best for his study because of the study's aim, the available data, and how to process the data.²⁰⁴ Qualitative research methods are valuable in providing detailed descriptions of complex phenomena; tracking unique or unexpected events; illuminating the experience and interpretation of events by actors with widely differing stakes and roles; giving voice to those whose views are scarcely heard; conducting initial explorations to develop theories and to generate even test hypotheses; and moving toward explanations. In other words, the qualitative method is a method that focuses on gaining insight and understanding about an individual's perception of events and circumstances,²⁰⁵ which suits the aim of this study in understanding and analyzing the different stands of Canadian Indigenous Peoples Activists (CIPA) towards treaties.

Also, the data sources for this research are the same as the data preferred for the qualitative method. The sources of data of a qualitative method include diary accounts, documents, case

²⁰⁴Hammarberg, K., et al. "Qualitative Research Methods: When to Use Them and How to Judge Them." *OUP Academic*, 1 Mar. 2016, <https://doi.org/10.1093/humrep/dev334>.

²⁰⁵Qualitative Research Designs. https://yuli-elearning.com/pluginfile.php/4833/mod_resource/content/1/2.%20qualitative%20research%20design.pdf

studies, photographs, audio and video recordings, and transcriptions. These examples of the qualitative method are typically the same as the data of this research that includes: documents, transcriptions, texts such as articles, books, cases, comparative studies, photographs, and video recordings. The data of the research are discussed in detail in the following section.

C- Why the Historical Approach?

A historical qualitative approach is adopted in this study because it best suits the aim of the study, the data collected, and the data processing in this study. Historical research aims to reach insights or conclusions about past persons or occurrences. Furthermore, Historical research entails more than simply compiling and presenting factual information; it also requires interpretation.²⁰⁶ Historical research methods primarily involve collecting information from primary and secondary sources. While differences exist between these sources, organizations and institutions can use both sources to assess historical events and comprehensively provide proper context.²⁰⁷

D- Why this data?

The resources of the data of this study are:

- 1- Most recent and relevant research and statistics relevant to the topic.
- 2- The declarations and reports of reputable international, governmental, and local organizations, such as the UN and Amnesty.
- 3- Documents and transcriptions.
- 4- Video recordings.
- 5- Photographs, maps, and illustrations.

²⁰⁶ "How Institutions Use Historical Research Methods to Provide Historical Perspectives." *Norwich University Online*, online.norwich.edu/academic-programs/resources/historical-research-methods.

²⁰⁷ The same source.

Several articles are referred to in the study. Some of these articles reflect the views and stands of CIPA, relevant to accepting or rejecting the negotiation with the Canadian government, and the treaties generated from this negotiation. Also, the data includes two comparative studies employed in this research to highlight the significance of the most progressive stands and the outcomes resulting from that in the Canadian context compared to the Australian and the United States context relevant to the Indigenous issues. In addition, several articles in this context discuss the call to adopt an Indigenous length in establishing and interpreting International and National laws, practices, and procedures. Documents and transcripts are an essential part of the data in this study that would, by comparing its texts and historical contexts, give a deeper insight into understanding the chronicle orders of the Indigenous treaties with new settlers in general and with the Crown in particular. The reports of International and National organizations are a shred of solid evidence and reference to various points relevant to the Indigenous dilemma, their past and current sufferings, their rights, and the stand of International and National States regarding Indigenous issues. Video recording relevant to the CIP is anticipated to help generate a profound understanding of the IP views of the world, the negotiation intends of IP, and the negotiation process between CIP and other parties, in addition to the injustice treatment that IP was subject to. Also, these videos are anticipated to help detect the development of different stages of the Indigenous problem. Furthermore, the photographs would help portray Indigenous life and the suffering that CIP experienced. Additionally, the maps and illustrations relevant to the IP issues give a clearer idea of the places and events.

A deep analysis will be conducted on these texts in order to:

- 1- Explore the views of each party, with a highlight of points of agreement, and disagreement, with the exploration of possible mid-points on the disagreements.

2- Justify the stands of each party towards all points of agreement, disagreement, and possible mid-points on the disagreements.

3- Explore the areas of possible improvements in future treaties that could be carried out to narrow the gaps between both CIA parties.

E- Limitation

Because of the restrictions of budget, time, nature of this Master's Thesis, and the modest experience of the researcher with the Canadian Indigenous context, the scope of this investigation is limited to the stands of a few IP academics and activists whose views would cover only some dimensions of the Canadian Indigenous issue. Also, the research will investigate only the treaties signed in Canada, focusing on the circumstances surrounding the treaties. Another limitation is that the researcher should have conducted direct interviews with the IPA, who have different stands toward the Canadian Treaties. Instead, the researcher will rely on the written works and trusted broadcasted interviews -not conducted by the researcher- with some IPA that meet the Academic standards to be accepted as references. The researcher will conduct his research with primary focus on the Canadian context. However, the researcher aims to list suggestions and tips that would work well within and beyond the Canadian context to help reach more appealing future agreements between the IP minorities and the governments of their countries worldwide.

Chapter Five – The Discussion

A- Introduction

The discussion aims to answer the following two questions: 1- What are Indigenous activists' stands towards the treaties signed between the Canadian Government and Indigenous Peoples? 2- How could future treaties better respond to the concerns of the activists and advocates that reject those treaties?

Canadian Indigenous Peoples Activists (CIPA) have two main stands for the negotiations between the Canadian Government (CG) and the Canadian Indigenous Peoples (CIP) relevant to Indigenous Peoples' (IP) rights. The first view favors the ongoing negotiating process and accepting the signed treaties. This group of CIPA sees the treaties as a remedy for historical injustice and a step for a better present and future. The other view rejects the negotiating process and denounces the signed treaties, considering these treaties a new plan for CIP Cultural Genocide. The analysis in this Chapter is an effort to explore different aspects of the CIP problem to understand the roots of each view. The discussion aims to answer the following two questions: 1- What are Indigenous activists' stands towards the treaties signed between the Canadian Government and Indigenous Peoples?

2- How could future treaties better respond to the concerns of the activists and advocates that reject those treaties?

In addition, the researcher will justify why the study supports the stand that favors engaging in the negotiation process, relying on the positive progress in the IP file within both the Canadian and global context. Furthermore, the Chapter will include suggestions for better outcomes of future agreements and demonstrate the study's expectation that the gap between the two stands

would narrow over time. The study's recommendations and the conclusion will be at the end of the Chapter.

B - IP views of the World vs. European Views and their implementation of the Treaties

IP views everyone and everything as a sacred member of the Universe, the make of the Creator. According to Lewis Cardinal, IP believes that humans are equal and part of the Universe and not the center of it. Consequently, they deal with everyone and every object with total respect, an open mind, and a loving heart. They aim to live in Harmony and balance with the entire Universe.²⁰⁸

As for Europeans, Europeans see themselves as the only ones who have the right to own the World and exploit its natural resources.²⁰⁹&²¹⁰ Thus, the International Laws put by the European Nations in the past centuries are an extension of the belief in European Supremacy.²¹¹&²¹² An European entity in case it has to make treaties with other political powers, they are not obliged to these treaties whenever they choose not to, and in the CIP context, the colonial authorities kept for itself the sole right to interpret a signed treaty and implement it accordingly.²¹³

Treaties signed by CIP and European settlers reflect the views of each. Supremacy and Power drive the European views, while CIP views are centered on Equality and Peace. Europeans see treaties with IP as evidence of their Power when the balance of Power is in their favor. Suppose the Power balance is not in the European's favor. In that case, they see treaties as a tool to buy time till they acquire the Power that enables them to ignore the treaty terms.²¹⁴ On the contrary, IP recognizes the rights of others in land and natural resources. They see treaties as a tool to

²⁰⁸ "Treaty Relations: Spirit, Intent, and First Nations Perspectives." [www.youtube.com, www.youtube.com/watch?v=a9dRJcZE36k&list=PLpFUtBQBgxcFGm7aQy5NxxDAHEf1Q1r_4&index=3](http://www.youtube.com/watch?v=a9dRJcZE36k&list=PLpFUtBQBgxcFGm7aQy5NxxDAHEf1Q1r_4&index=3). Accessed 12 Mar. 2023.

²⁰⁹Schmitt, Carl. *The nomos of the earth*. Vol. 1950. New York: Telos Press, 2003.

²¹⁰Said, Edward W. "Orientalism." *Social Theory Re-Wired*. Routledge, 2016. 402-417.

²¹¹Schmitt, Carl. *The nomos of the earth*. Vol. 1950. New York: Telos Press, 2003.

²¹²Said, Edward W. "Orientalism." *Social Theory Re-Wired*. Routledge, 2016. 402-417.

²¹³Simpson, Leanne Betasamosake. *As we have always done: Indigenous freedom through radical resistance*. U of Minnesota Press, 201

²¹⁴The previous source.

maintain Peace and avoid future conflicts. In their understanding, the final destination of treaties is to live in Harmony and balance with others and with the entire Universe.²¹⁵

C- Canadian-CIP treaties:

Canadian-CIP treaties include both Historic treaties and Modern treaties.³The Crown is the legal name for the British and later Canadian governments: federal, provincial, and territorial.²¹⁶

The Historic Treaties are the base of the relationship between the Crown and 364 CIP, constituting over 600,000 IP individuals. Historic treaties have partially addressed IP land rights across Canada.²¹⁷

Modern-Treaties Era began in 1973 and resulted in the signing of 26 treaties. Land and resource-related negotiations are still underway in parts of the country where treaties were never signed.²¹⁸&²¹⁹Modern Treaties organizes the relationship between 97 CIP (representing about 89,000 Indigenous peoples) and the provincial, territorial, and federal governments.²²⁰

The successive CG in the Modern Treaties era adopted views that differ from that adopted by previous Canadian authorities with more recognition of CIP rights in land and culture. The Modern treaties define ongoing rights and obligations on all parties.²²¹The function of treaties is to set the basis for living together and sharing the CIP territories, with the spirit of cooperation and partnership to reach a sustainable reconciliation.²²²Thus, the specific rights, benefits, and

²¹⁵"Treaty Relations: Spirit, Intent, and First Nations Perspectives." www.youtube.com/watch?v=a9dRJcZE36k&list=PLpFUtBQBgxcFGm7aQy5NxxDAHEf1Q1r_4&index=3. Accessed 12 Mar. 2023.

²¹⁶The previous source.

²¹⁷The Canadian Government. Treaties and Agreements. <https://www.rcaanc-cirnac.CG.ca/eng/1100100028574/1529354437231>

²¹⁸Hunting, fishing, and trapping rights - Legal Line. <https://www.legalline.ca/legal-answers/hunting-fishing-and-trapping-rights/>

²¹⁹The Canadian Encyclopedia. Treaties with Indigenous Peoples in Canada. <https://www.thecanadianencyclopedia.ca/en/article/aboriginal-treaties>

²²⁰The Canadian Government. Treaties and Agreements. <https://www.rcaanc-cirnac.CG.ca/eng/1100100028574/1529354437231>

²²¹The previous source.

²²²The previous source.

duties for the parties of the treaties vary from treaty to treaty, depending on the context in which they were negotiated.²²³

All historical treaties between the British Crown and CIP were made through the lens of European International Law. The treaties are made according to the power context of each treaty. If Power is balanced between the treaty's parties, the non-European party is treated equally. Otherwise, they must surrender their sovereignty rights to the European party. The Treaties of Peace and Neutrality (1701-1760)²²⁴ and Treaties of Peace and Friendship (1725-1779)²²⁵ reflect the existing balance of Power between the Crown and the CIP then, so the CIP was not forced to surrender their lands to the Crown. However, all the following treaties represent the power imbalance in favor of the Crown; thus, the CIP had to transact their lands to the Crown. The ability of CIP to keep their Land in some Historic treaties is easy to comprehend in light of the struggle between the British Crown and France in North America and the need for the Crown to build a normal relationship with CIP and to neutralize the "Power" of CIP in the British-French Struggle on North America's lands.²²⁶ However, when the British took over the Land of the French, the Crown's appetite was open to swallow the CIP territories. Thus, all the following treaties specified the transaction of CIP rights in Land to the Crown. In addition, only some treaties reserved the Right to hunt for CIP. At the same time, the Numbered Treaties One and Two did not specify this Right.²²⁷ &²²⁸ This point supports the suggestion of the Opportunist Approach the agents of the Indian Department adopted in dealing with different CIP groups, giving the CIP the minimal possible rights.

²²³The Canadian Government. Treaties and Agreements. <https://www.rcaanc-cirnac.CG.ca/eng/1100100028574/1529354437231>

²²⁴The Canadian Government. The Treaties of Peace and Neutrality (1701-1760). <https://www.rcaanc-cirnac.CG.ca/eng/1360866174787/1544619566736>

²²⁵The Canadian Government. Peace and Friendship Treaties (1725-1779). <https://www.rcaanc-cirnac.CG.ca/eng/1360937048903/1544619681681>

²²⁶The previous source.

²²⁷The Canadian Government. The Treaties of Peace and Neutrality (1701-1760). <https://www.rcaanc-cirnac.CG.ca/eng/1360866174787/1544619566736>

²²⁸The Canadian Government. Peace and Friendship Treaties (1725-1779). <https://www.rcaanc-cirnac.CG.ca/eng/1360937048903/1544619681681>

It is noticeable that since the 1840s, the colonizers' authorities reserved to themselves the Right to determine what religion CIP should follow. Accordingly, the colonials established policies and practices to impose their methods of life and religion on powerless CIP, in what CIP activists name a "Cultural Genocide."²²⁹ &²³⁰ Sadly, the colonizers' methods of raising IP children in schools run by several churches under the supervision of the Colonial authorities committed various sorts of CIP children abuse, abuses elevating to rape and killing. Massive graveyards were discovered, which contained hundreds of corps believed to be for CIP students in schools administrated by the authorities.²³¹ The CG had previously apologized to all former CIP students of those schools and their families in June 2008, expressing its deep grief, and acknowledged the physical and cultural harm CIP students and families suffered as a result of the practices of these schools.²³² This apologize is suggested evidence of the new attitude of the current CG and defies the views of the CIPA who doubt that the current CG is an extension to previous colonial authorities. While the previous colonial authorities in the Historic Treaties era focused the assimilation even by coercion, the current CG priority is the reconciliation with the CIP.

D- The stands of CIPA towards the Modern Treaties

The CIPA has two different stands for negotiations with the CG and the signed treaties in the Modern Treaties era. One group rejects the signed treaties and considers the negotiation process and its outcomes another phase of cultural genocide, and a second group welcomes the treaties and values their outcomes. Each group has its reasons. This section aims to examine different stands of the CIPA towards the treaties and to analyze the justifications and outcomes of each

²²⁹The Canadian Government. Peace and Friendship Treaties (1725-1779). <https://www.rcaanc-cirnac.CG.ca/eng/1360937048903/1544619681681>

²³⁰Corntassel, Jeff and Alfred, Taiaiake, *Being Indigenous, Politics of Identity*, 2005

²³¹Honouring the Truth, Reconciling for the Future Summary of the Final Report of the Truth and Reconciliation Commission of Canada. https://irsi.ubc.ca/sites/default/files/inline-files/Executive_Summary_English_Web.pdf

²³²"First Nations in Canada." First Nations in Canada, 2 May 2017, www.rcaanc-cirnac.CG.ca/eng/1307460755710/1536862806124.

stand. The study would side with the stand that values the negotiation with the CG for its potential positive impact on CIP. The study suggests that the stance of CIPA who reject the treaties does not favor the CIP and does not reflect the tolerant aspects of the IP culture itself.

D.1- Rejecting the Treaties

The group that rejects the treaties justifies their stand by past, present, and future reasons.

The rejecting CIPA have several reserves that would justify their stand; the colonial legacy: the historical injustice with no compensation, the doubts towards the CG intentions from signing the treaties, the previous sour experience relevant to interpreting and implementing the signed treaties with CG, the juridical system which is still saturated with the colonial law aspects, Sovereignty, Culture and Land, Assimilation and Globalization.

In the past, the historical injustice and genocides the CIP were subject to did not heal, and this group does not believe that the treaties would heal the previous grief. For this group, there is a continuity of suffering in the present time. The standards of IP levels worldwide in the past and present are lower than that of the dominant societies and even lower than other minorities within the same state. The CIP received no compensation for all these grieves.

In addition, the domestic and international juridical body is saturated by the colonial legacy in the fields related to CIP identity. CIPA stresses that international and Canadian juridical bodies must recognize IP law aspects in dealing with IP Identity and Sovereignty issues.²³³The lack of this recognition results in many hurdles that IP in Canada and worldwide have to pass through to

²³³Perrin, Jonas. "Legal Pluralism as a Method of Interpretation: A Methodological Approach to Decolonising Indigenous Peoples' Land Rights under International Law." *Universitas-XXI, Revista de Ciencias Sociales y Humanas* 26 (2017): 23-60.

prove her or their identity as an IP and, in many cases, to reach out to some social services such as health care.²³⁴For many CIPA, without this juridical reform, CIP misery will continue.

In addition, the Sovereignty issue is a central point of dispute with the CG. While all CIPA insist on practicing their Sovereignty on their territories, the CG denies this Sovereignty.²³⁵Successive CG sees that Sovereignty cannot be split between the Nation-State and every CIP community, each on its territory. The CIPA, who reject the treaties, see that sovereignty practiced by the Canadian authorities has devastating outcomes on the CIP communities and lands. The CG had allowed the establishment of National Parks, tourism activities, infrastructure projects like hydraulic dams, and new methods of agriculture and mining industries on CIP territories without consulting CIP and guaranteeing their prior and free consent.²³⁶These activities resulted in forcing numerous CIP communities to dislocate and in the deterioration of the ecosystem and natural resources in their lands. The harms caused were enormous, that dislocation was the only option for countless CIP communities without adequate compensation. Following their cultural aspects, The CIPA believes that if they possessed Sovereignty over their historical lands, the CIP would have treated the environment respectfully and wisely exploited the natural resources for all parties' interests.

Also, the CIPA, who rejected the treaties, considered the Canadian authorities in the Modern Treaty era a second wave of colonizers. Consequently, they have profound doubts about CG's intention to sign treaties with CIP. They believe that the treaties would not achieve the CIP prime goal of maintaining their land and culture but would achieve the goal of the current generation of

²³⁴Tam, B., L. Findlay, and D. Kohen. "Conceptualization of family: Complexities of defining an Indigenous family." *Indigenous Policy Journal* 28.1 (2017): 1-19.

²³⁵Pratt, Angela. "Treaties vs. terra nullius: reconciliation, treaty-making and Indigenous sovereignty in Australia and Canada." *Indigenous LJ* 3 (2004): 43.

²³⁶UN, Department of Economic and Social Affairs. Indigenous People, <https://www.un.org/development/desa/indigenouspeoples/mandated-areas1/economic-and-social-development.html>

"colonizers." While the prime goal for the CIPA is to practice their culture on their lands, they believe that these treaties are another phase of cultural genocide that aims to secure the legalization of the previous and current encroaches on CIP lands and culture. CIPA, who reject the treaties, warn that the Modern Treaties would weaken or cut the geographic and historical ties between the current and future generations of CIP and their historical land; CIP would assimilate into the dominant society. This assimilation is the prime target of previous and current generations of "colonizers" and is fiercely resisted by CIPA. The rejecting CIPA detects the first signs of this assimilation; some CIP defines themselves according to Canadian National boundaries and not the Indigenes' boundaries. This stand would provoke some of the rejecting CIPA to the limit that they count anyone who defines her or himself by any boundary other than the Indigenous as "Aboriginal" and does not qualify for the term "Indigenous."²³⁷ The rejecting CIPA has a profound rejection of all calls for "Globalization, with its cultural and economic dimensions. While the CIPA warn from the dominant Canadian society's dissent, "Assimilation," they raise a warning from the broader dissolution or integration in the global culture and economy, "Globalization." It is possible to claim that the CG practices its sovereignty on CIP historic lands by granting licenses to significant corporations to carry out the project in CIP historical lands. Some of the activities could be seen as a part of a wide process that would lead to globalizing the economy. It seems that the rejection of numerous CIPA - from all stands - to various corporations' activities on CIP historic lands is related to both Sovereignty and Globalization concerns. However, the fears of some CIPA from the Assimilation and

²³⁷ Alfred, Taiaiake, and Jeff Corntassel. "Being Indigenous: Resurgences against contemporary colonialism." *Government and opposition* 40.4 (2005): 597-614.

Globalization would not prevent its occurrence solely. The right of IP to choose not to integrate into the Global economy is protected by the UNDRIP (2007).²³⁸

It is possible to suggest that there is a need for the integration of efforts of all CIPA to achieve their rights rather than condemning the stand of the group that participates in the negotiation process. Also, it is possible to suggest that it is better to negotiate and activate this right through negotiations with the CG, a task carried out by some CIPA who accept to negotiate with the CG, and to work on increasing the awareness of CIP from the harms of Globalization activities; the rejecting CIPA carries a task. Thus, rejecting CIPA against Globalization would help raise awareness of CIP Globalization harms; however, it is not enough to prevent the occurrence of such harms.

In addition, CG and CIP representatives' discussions show areas of disagreement relevant to interpreting and implementing some Historic Treaties²³⁹, a profound concern for CIPA from all stands. The rejecting CIPA fear that the Modern Treaties would not survive misinterpretation and biased implementation. However, rejecting the Treaty-Making process for some future fears does not address these fears. The fears could be expressed and addressed through the follow-up talks between CIP representatives and CG. The CG and CIP representatives agree upon the follow-up procedures to resolve any dispute relevant to interpreting and implementing all treaties, and committees like Independent treaty commissions in Manitoba and Saskatchewan were established to discuss all treaties related issues, Historic and Modern.²⁴⁰ The negotiation process framework is convenient for the CIPA to be involved in negotiations with the CG.

²³⁸"United Nations Declaration on the Rights of Indigenous Peoples." *Human Rights Quarterly*, vol. 33, no. 3, 13 Sept. 2007, pp. 909–921, www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf, <https://doi.org/10.1353/hrq.2011.0040>.

²³⁹The Canadian Government. (Treaties and agreements. <https://www.rcaanc-cimnac.CG.ca/eng/1100100028574/1529354437231>

²⁴⁰The previous source.

The study values all the CIPA and all Indigenous activists worldwide for their noble struggle to achieve their peoples' rights. However, the study views negotiation as a method to maintain CIP rights in land, culture, and a better life on the path of domestic reconciliation and CIP self-determination. In an analysis of the rejecting CIPA stand, the study suggests that the outcomes of this stand would not pour into the interest of CIP. Also, it is possible to suggest that some justifications for rejecting the treaties do not align with the spirit of the tolerant aspects of IP culture. Furthermore, the study tends to believe that some of these justifications are a copy of denounced colonial behavior, like judging current Canadian authorities by the behavior and practices of the previous authorities ²⁴¹, and criticizing some CIP individuals who define themselves according to National boundaries and not Indigenousness boundaries ²⁴². Indeed, no one can deny the ongoing misery in Indigenous individuals' and communities' life. The study suggests that maintaining CIP rights is a promising potential through continuous negotiation while rejecting the negotiation process would fail to maintain these rights.

CIP community or individual negotiating and approving treaties are merely practicing the Right to figure out and decide for themselves; a right which aligns with IP principles. The freedom of choice and the Right to try things is a genuine IP cultural aspect. In IP culture, children are raised to explore life, figure out things, and freely choose without parental or folk coercion. ²⁴³This braveness to try things, to figure out what is good and evil, and this freedom of choice is an IP way of life that also applies to adults. Consequently, CIP communities that negotiated and signed the Modern Treaties are practicing their Right to figure out, try and decide for themselves.

Similarly, the rejecting CIPA has the Right to reject the treaties.

²⁴¹Simpson, Leanne Betasamosake. *As we have always done: Indigenous freedom through radical resistance*. U of Minnesota Press, 2017

²⁴²Alfred, Taiaiake, and Jeff Corntassel. "Being Indigenous: Resurgences against contemporary colonialism." *Government and opposition* 40.4 (2005): 597-614.

²⁴³"Treaty Relations: Spirit, Intent, and First Nations Perspectives." www.youtube.com/watch?v=a9dRJcZE36k&list=PLpFUtBQBgxcFGm7aQy5NxxhDAHEf1Q1r_4&index=3. Accessed 12 Mar. 2023.

The CIP traditionally approves a negotiated treaty after consulting community members and even the spirits of the ancestors.²⁴⁴ For the researcher's limited knowledge, it has never been claimed that CIP representing their community had ever signed a treaty without their community approval or had ever approved a practice that violates CIP rights, such as dislocation of a CIP community or exploitation of their natural resources without their prior and free consent. Thus, it is expected that CIPA would recognize a CIP community's approval of a Treaty relevant to its land.

Furthermore, decrying some CIP individuals for defining themselves according to a national aspect violates their freedom of choice in defining themselves. This denial is a copy of the colonizers' behavior. The colonizers gave themselves an exclusive right to define IP people according to the colonizers' perspective and to decide for IP communities on their behalf without considering IP stands or views.²⁴⁵ Thus, a CIPA should not denounce whatever definition an IP individual chooses for her/himself, and activists should not decide to IP individuals or communities how to define themselves.

CIP individual rights should be preserved the same way CIP communal rights are sought to be preserved. Decrying the negotiation process is a passive stand, from the study's point of view, that would not lead to retaining and maintaining CIP individual and communal rights. On the contrary, the outcome of the "No Negotiation" stand is the continuity of CIP individuals' misery and the loss of CIP rights in Land -the mirror of their identity-natural resources and prosperity. Indeed, the deep grief of the IP past should motivate CIPA to work on eliminating the reasons for these grieves. The "No Negotiation" stand is an exact path to the continuity of these grieves, as it

²⁴⁴ "Treaty Relations: Spirit, Intent, and First Nations Perspectives." www.youtube.com/watch?v=a9dRJcZE36k&list=PLpFUtBQBgxcFGm7aQy5NxbDAHEf1Q1r_4&index=3. Accessed 12 Mar. 2023.

²⁴⁵ Said, Edward W. *Orientalism*. Vintage, 1979.

does not address their causes. It could be claimed that the death of the negotiation process is the death of hope in any future progress relevant to CIP rights and prosperity.

Genuine CIP values consider the rights and needs of other human individuals and communities and explore the path to the benefit of all parties on the Land.²⁴⁶ Consequently, there is a need to notice the new realities and rights generated from the long-term conflict. Numerous houses inhabited by non-CIP families and countless projects investing billions of dollars and employing thousands of individuals are established on numerous Indigenous territories. These new realities and rights should be considered while negotiating CIP rights; there should be a balance between the historical rights of CIP and the new facts on Land. Without considering the rights, all rights of all parties relevant to the Indigenous territories, a sustainable resolution of the IP issue is far to reach.

D.2- Accepting the Treaties

A broad group of CIPA values the negotiation process between CIP and CG for moral and practical reasons. Morally, forgiveness and interacting positively with the path of Reconciliation is the best choice for the present and future of CIP in particular and IP worldwide. Practically, Modern Treaties are beneficial, and the framework of the negotiation process is promising. Furthermore, there is a common understanding between CIP and CG regarding the treaties, their function, and the follow-up of the implementation of the signed treaties.²⁴⁷ In addition, there are extended discussions and initiatives relevant to all CIP concerns and interests.

The new attitude of CG in the modern era, the practical steps to address CIP rights, the integrated framework of the treaty process, and the tangible outcomes of implementing the signed treaties are strong reasons for the accepting CIPA to involve in the Treaty Making Process. The

²⁴⁶“Treaty Relations: Spirit, Intent, and First Nations Perspectives.” [www.youtube.com, www.youtube.com/watch?v=a9dRJcZE36k&list=PLpFUtBQBgxcFGm7aQy5NxxDAHEf1Q1r_4&index=3](http://www.youtube.com/watch?v=a9dRJcZE36k&list=PLpFUtBQBgxcFGm7aQy5NxxDAHEf1Q1r_4&index=3). Accessed 12 Mar. 2023.

²⁴⁷<https://www.rcaanc-cirnac.CG.ca/eng/1677073191939/1677073214344>

Canadian authorities in the Modern Treaties era had taken several steps that would suggest that they acted differently than the previous Colonial authorities. The Canadian authorities in the Modern Treaties era had approved items in the Canadian Constitution that recognize the CIP Rights in land and culture; section 35 of the Constitution Act, 1982.²⁴⁸ While the Constitution does not provide a precise definition of Indigenous rights under Section 35, they can include but are not limited to, ownership rights to Land, the rights to occupy and use lands and resources, such as hunting and fishing rights, self-government rights, and cultural and social rights. The Indigenous rights under Section 35 may vary across groups due to the customs, practices, and traditions that constitute their unique cultures.²⁴⁹

This Constitutional recognition is a starting step on the long path of the desired Legal Reform to liberate the Canadian juridical body from the colonial legacy. Thus, there is a crucial need for an ongoing dialogue between CIP representatives and the CG to achieve this desired Legal Reform; the legal reform needs the voice of CIP representatives to be heard at the discussion tables.

Moreover, the current authorities have apologized to CIP communities for some of the wrongs of the past and have officially declared their intention to accomplish sustainable reconciliation with CIP.²⁵⁰ The Recognition of the grief caused by previous authorities and the Apologizing for the past wrongs would help to heal the grief from one side, and Reconciliation is the path to the non-repeat of the causes of these grieves from the other side. Fairness is a genuine component of the CIP cultural legacy as well. The current generations of European Canadians are not responsible for the previous wrongs; simply because they did not commit those wrongs. Following this

²⁴⁸<https://www.rcaanc-cirnac.CG.ca/eng/1100100028574/1529354437231>

²⁴⁹<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/transparency/committees/inan-jan-28-2021/inan-section-35-constitution-act-1982-background-jan-28-2021.html>

²⁵⁰<https://www.rcaanc-cirnac.CG.ca/eng/1100100028574/1529354437231>

standard, many CIPA adopt a positive attitude toward negotiating CIP rights with the CG; an attitude which is at its core a call to Peace and reconciliation.

The CG took additional steps supporting the assumption that it is serious about reaching Sustainable Reconciliation through continuous dialogue with CIP representatives. One of these steps is the official obligation to consult CIP communities on issues relevant to their rights in land and culture.²⁵¹ Another sign of the seriousness of the CG in responding to CIP demands is setting procedures to follow up the implementation of the signed treaties and addressing the reconciliation requirements.²⁵² Such formal views and actions suggest that the current authority's attitude is not an extension of the previous colonials and should clear any doubt about the CG's intentions of involving in the negotiation process. Furthermore, the CIPA stand that values the treaties would reflect more the tolerant nature of CIP genuine values, in opposition to the stand that considers the current CG a cunning copy of previous colonizers; a stand would more resemble the behavior of the previous generations of colonizers, who defined others according to self-assumption and understanding, and not through others' deeds and principles.

As for the Sovereignty concern, it is possible to claim that there are two types of Sovereignty within the Canadian context. A broad CG Sovereignty on the entire Canadian soil and a CIP community's Sovereignty on its territory. For the researcher's modest knowledge, a CIP community or communities had never claimed their sovereignty on the entire Canadian soil. Thus, there should be no dispute relevant to this broader type of Sovereignty. Thought successive CG reject all calls to split the broader Sovereignty with numerous CIP communities; however, successive CG in the Modern era have obligated itself to achieve every CIP

²⁵¹<https://www.rcaanc-cirnac.CG.ca/eng/1331832510888/1609421255810>

²⁵²The Canadian Government. (Treaties and agreements. <https://www.rcaanc-cirnac.CG.ca/eng/1100100028574/1529354437231>)

community's self-determination on its territory.²⁵³ In the study's assumption, the CIP self-determination is so close, if not identical, to the CIP understanding of Sovereignty. Decisions relevant to CIP land and natural resources will be taken with their prior and free consent. In addition, the CG's commitment to consult CIP communities on issues relevant to their lands and refrain from making decisions solely without CIP consent would guarantee a high, if not complete, level of a CIP community Sovereignty on its land.

Modern treaties may include, but are not limited to: consultation and participation obligations, land ownership, wildlife harvesting rights, financial compensation, involvement in land use and management in particular areas, self-government, resource revenue sharing, and measures to facilitate participation in the Canadian economy, as well as preparations for the implementation of the agreement.²⁵⁴ It is possible to claim that the abovementioned rights institute most of the components of "Sovereignty" in practice. Consequently, these treaties have very positive outcomes: Indigenous ownership of over 600,000 km² of Land (almost the size of Manitoba), capital transfers of over \$3.2 billion, protection of traditional ways of life, access to resource development opportunities, participation in land and resources management decisions, the certainty concerning land rights in around 40% of Canada's land mass, associated self-government rights and political recognition.²⁵⁵

Noticeable progress in the CIP rights file and IP rights worldwide is achieved by the stand of CIPA, which sides with the Treaty-Making and Negotiation processes. The 2021 Annual Report of Global Witness lists many spots of light relevant to IP rights worldwide.; the treaties between IP minorities and the governments in many countries, the withdrawal of some central banks from financing some projects that violate IP Land rights, the increase of public and international

²⁵³<https://www.rcaanc-cirnac.CG.ca/eng/1100100032275/1529354547314>

²⁵⁴<https://www.rcaanc-cirnac.CG.ca/eng/1100100028574/1529354437231#chp4>

²⁵⁵<https://www.rcaanc-cirnac.CG.ca/eng/1100100030577/1551196153650>

awareness and support for IP rights everywhere, and numerous successes achieved by the Environmental Defenders' advocates in general.²⁵⁶

E- Roles of the Canadian Government

The Canadian Government enjoys a clear vision of Reconciliation and is adopting healthy policies to achieve the desired Sustainable reconciliation. The research notices several roles the CG is playing or should play:

- 1- Maintain a Continuous Dialogue between the components of Indigenous communities:
- 2 - Sustain the dialogue between the Canadian Government and Indigenous Peoples' representatives of all views.
- 3- Reach out to all possible Indigenous communities, sub-communities, and individuals and educate them about their rights as Canadian citizens, and not empty the yard for extremist advocates and views.
- 4- Listen to and address the hopes and fears of Indigenous individuals, Indigenous sub-communities and communities, and even Indigenous advocates who reject the treaties.
- 5- Consider that any step towards healing/resolving conflicts weakens the reserves on the treaties.
- 6- Guarantee, enhance and protect the freedom of choice for each Indigenous individual being a Canadian citizen. The same care should apply to other rights they are entitled to as Indigenous individuals, like full access to social services.
- 7- Balance the historical rights and new realities which established new rights for non-Indigenous parties, individuals, communities, and investors.

²⁵⁶“Annual Report 2021: Our Case for Change.” Global Witness, www.globalwitness.org/en/about-us/annual-report-2021-our-case-change/. Accessed 14 Mar. 2023.

The research suggests that narrowing the gap between the views of the CIPA rejecting and the CIPA accepting the treaties is crucial; however, it would take some time. Nevertheless, addressing the following demands would help narrow the gap between Indigenous advocates' views and generate healthier communication between all parties in the Canadian Indigenous context; a new approach to Interpreting Canadian Institutions, laws, and procedures recognizing IP aspects accompanied with better preparation for lawyers of Indigenous cases are needed.

Chapter Six- Conclusion

The CIP problem began when the power balance changed to favor the Crown. CIP has experienced a long history of violating their cultural and Land rights. Fortunately, the Canadian Political and Juridical body had shifted towards recognizing CIP rights. Consequently, an ongoing negotiating process occurs in Canada relevant to CIP rights. More treaties are signed, and increasing progress in CIP rights is achieved, thanks to the implementation of these Modern Treaties.

Nevertheless, a group of CIPA supports the negotiation process for moral and practical reasons. Morally, forgiveness and interacting positively with the path of Reconciliation is the best choice for the present and future of CIP. Modern Treaties are beneficial, and the negotiation process framework is promising. Furthermore, there is a common understanding between CIP and CG regarding the treaties, their function, and the follow-up of the implementation of the signed treaties. A second group CIPA condemns the treaties and their outcomes. CIPA, who reject the treaties, worry that the Modern Treaties would weaken or cut the geographic and historical ties between the current and future generations of CIP and their historical land; CIP would assimilate into the dominant society. This assimilation is the prime target of previous and current generations of "colonizers" and is fiercely resisted by CIPA. The study sides with CIPA and values the treaties for the positive, tangible results of the treaties.

Moreover, the investigation points to the roles the Canadian Government should play in Sustainable Reconciliation and supporting the moderate views. The study predicts that achieving tangible improvement in CIP aspects of life on both the individual and collective scale would enhance the stand of the CIPA supporting the negotiation. Furthermore, the study anticipates that the gap will narrow over time between the diverse stands of CIPA.

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Appendices:

Table 1 – Historic Treaties 1701 – 1923

Table 1 – Historic Treaties 1701 – 1923		
The Researcher designed the Table 1, while the source for all information mentioned in the Table is:		
1- The Government of Canada. Treaties and Agreements. https://www.rcaanc-cirnac.gc.ca/eng/1100100028574/1529354437231		
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-6- "The Numbered Treaties (1871-1921)." <i>Www.rcaanc-Cirnac.gc.ca</i> , 15 Feb. 2013, www.rcaanc-cirnac.gc.ca/eng/1360948213124/1544620003549 .		
Name of the Treaty	Signers	Terms
1- Treaties of Peace and Neutrality (1701-1760): In these treaties, Aboriginal peoples did not surrender rights to land or resources.	Sir William Johnson, superintendent of the Indian Department, and the representatives of the Seven Nations of Swegatchy on Lake Ontario near the mouth of the St. Lawrence River	The signers negotiated the neutrality of the Seven Nations. As part of the agreement, the Seven Nations agreed to abandon the French and assume a position of neutrality for the remainder of the conflict. Through this agreement, the British removed more than 800 Aboriginal warriors from the French forces and allowed British forces to move down the St. Lawrence and through its dangerous rapids without fear of attack. Also, the Seven Nations would continue to hold their lands, both villages and hunting territories.
2- Peace and Friendship Treaties (1725-1779): In these treaties, Aboriginal peoples did not surrender rights to land or resources.		The Aboriginal signatories agreed to "forbear All Acts of Hostility, Injuries and discords towards all the Subjects of the Crown of Great Britain and not offer the least hurt, violence, or molestation of them or any of them in their persons or Estates.
3- Upper Canada Land Surrenders and the Williams Treaties (1764-1862/1923)		
3-a- Three land surrenders between 1764 and 1783.	The Department of Indian Affairs and representatives of Aboriginal communities living along the shores of the St. Lawrence River and the lower Great Lakes.	These surrenders covered very small parcels of land and dealt more with security and trade than settlement.
3-b- Fifteen land surrender treaties were concluded in the Upper Canadian peninsula between 1783 and 1812.	The Department of Indian Affairs and representatives of Aboriginal communities living in the Upper Canadian peninsula	1- The documents described the groups involved in the surrender, the extent of the lands surrendered, and what Aboriginals were to receive in compensation. 2- Before 1818, Aboriginals were compensated with one-time payments in goods or money or both, paid to the signatories at the time of the treaty. 3- These treaties did not always establish reserved lands for Aboriginals to live on.
3-c- Treaties conducted between 1815 and 1860	Indian Department agents with the various IP representatives living in lands south of Lake Huron to the resource-rich lands around Lake Superior and Georgian Bay.	Surrender of all the remaining lands of Upper Canada, from the productive agricultural lands south of Lake Huron to the resource-rich lands around Lake Superior and Georgian Bay.
3-d- 1836 treaty	Lieutenant-Governor of Upper Canada Sir Francis Bond Head and IP representatives.	Establishment Manitoulin Island in Georgian Bay as a reserve for the dispossessed First Nations population. This landless population was to be encouraged to relocate to the island where they would be removed and protected from the more harmful aspects of colonial society, specifically alcohol and prostitution. Few First Nation groups, however, did relocate to Manitoulin Island.
3- e- Williams Treaties (1923)	The Canadian Government and representatives of Chippewa of the Lake Simcoe region and the Mississauga of the north shore of Lake Ontario	First Nation signatories surrender all their rights and title over the lands covering the lands between Georgian Bay and the Ottawa River; and another surrender treaty for the lands along the shore of Lake Ontario and the lands up to Lake Simcoe including hunting and fishing rights. The Williams Treaties secured the surrender of the last substantial portion of land in southern Ontario that had not been given up to the government. The conclusion of the 1923 Williams Treaties marked the cession of nearly all the remaining Aboriginal lands to the Crown.
4- Robinson Treaties and Douglas Treaties (1850-1854)		
4- a- Robinson-Superior Treaty signed on September 7th, 1850.	A- The Authorities and the leaders of Aboriginal nations living north of Lake Superior agreed to these terms.	A one-time payment of £4,000 and a £1,000 per annum thereafter for the territory around the lakes.
	B- The Authorities and the IP living around Lake Huron.	The surrender included land along the north shore of Lake Superior, from Batchawana Bay west to Pigeon River and north to the height of the land, in consideration of a one-time payment of £2 000 and a £500 annum. The region's Aboriginal inhabitants retained hunting and fishing rights in the territory until the lands were taken up for development or settlement and the lands would be set aside for each group as a reserve.
4- b- Robinson-Huron Treaty signed on September 9th, 1850	The Authorities and IP Ojibwa Chiefs	A one-time payment of £2,000 and a £600 annum. The surrender covered land along the shore of Lake Superior between Batchawana Bay and Sault Ste. Marie and the Lake Huron shore between Sault Ste. Marie and

		Penetanguishene. The Aboriginal peoples involved in the Huron treaty retained hunting and fishing rights in the territory until lands were taken up for development or settlement, and lands would be set aside for each group as a reserve.
4-c- Douglas Treaties (1850-1854): 14 Land Purchases	The second governor of Fort Victoria James Douglas and the Aboriginal people at Fort Victoria, Fort Rupert, and Nanaimo.	Land transactions between the First Nations of the Island and the British Crown. The treaties included provisions for reserved village sites and protected Aboriginal peoples' right to hunt and fish in the ceded territories.
5- The Numbered Treaties (1871-1921): 11 Treaties numbered from 1-11	The Authorities and the IP in the area between the Lake of the Woods to the Rocky Mountains to the Beaufort Sea.	Numbered Treaties promised reserve lands, annuities, and the continued right to hunt and fish on unoccupied Crown lands in exchange for Aboriginal title. All treaties had clauses for schools or teachers to educate children, and agricultural implements were promised to assist Aboriginal signatories in their transition towards an agricultural lifestyle. Treaties 1 through 7 - became the vehicle by which the Department of Indian Affairs implemented existing and future assimilation policies in the Northwest while the latter treaties allowed for the opening of the North and access to valuable natural resources. As a product of a negotiation between parties with at times competing interests, each treaty reflects the parties' goals and hard-fought desires. For example: Treaties 1 and 2 concluded in 1871, are the only ones that do not specify that the First Nation signatories maintain an ongoing right to hunt and fish in the treaty area.

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