

Answer Key--Discriminatory Law Case Study: *Indian Act (1876)*

<https://www.thecanadianencyclopedia.ca/en/article/indian-act>

Law: *Indian Act (1876)*

Background Information:

This law is over 140 years old and still exists; significant amendments have been made during this time, but the restrictions described below were imposed at some point during the Act. The *Indian Act* applies to First Nations of Canada, but not the Inuit or Métis peoples.

The original aim of the *Indian Act* was to control most aspects of Aboriginal life to achieve assimilation - so First Nations people lose their identity and be absorbed in the dominant European culture.

How did this Law maintain inequalities? Consider political, social, and economic factors.

**This a brief list of some of the most notable discriminations.*

Political:

- allowed government to control most aspects of Aboriginal life
- introduced residential schools; amendments in 1894 and 1920 required children to attend
- Indian Status could be taken away if a First Nations person graduated university, became a Christian minister, etc.; women could lose status by marrying a non-status man (**Status** is the legal recognition of First Nations heritage and comes with certain rights).
- First Nations people were not allowed to form political organizations
- restricted traditional self-governance by instituting a band council governance system (more similarities to European-style government)
- First Nations people were denied the right to vote in federal and provincial elections

Social:

- First Nations people were restricted from leaving the reserve without permission from Indian agent
- prohibitions against speaking Indigenous languages

- prohibitions against Indigenous religious practices
- potlatch and other cultural ceremonies were illegal during some of this law's history
- a women's status rights were dependent on her husband (non-status married status = status, status with another band - another band, can lose status if widowed, etc.) , while men could keep their status

Economic:

- created tax exemptions in reserves
- the sale of alcohol to First Nations people was prohibited
- the sale of ammunition to First Nations people was prohibited

How was this law reformed or amended?

The most significant amendments took place in 1951 and 1985. Changing social views and awareness after World War II led to the removal of the worst political, cultural and religious restrictions. This also marked the first time that First Nations peoples were consulted in the process.

In 1969, Pierre Trudeau's introduction of the White Paper, which would have removed the Act among other sweeping changes was met with resistance, as it would have also taken away special status and rights for Indigenous Peoples. This was ultimately withdrawn.

In 1985, the government passed Bill C-31, which addressed some of the more egregious problems with Indian status in the act.

Legacy of Law:

There is divided sentiment regarding the *Indian Act*. It is responsible for some of the most discriminatory and harmful acts in the relationship between Canada and the First Nations. Despite its amendments, some consider it to still be overly paternalistic. However, because the *Indian Act* outlines the obligations of the Canadian governments to First Nations people and also defines status, many do not believe it should be fully eliminated.