

Traditional Methods of Determining Tribal Membership

by

Jennifer Lynn Shade
B.A. Child and Youth Care, University of Victoria, 1997

A Thesis Submitted in Partial Fulfillment of the
Requirements for the Degree of

MASTER OF ARTS

in Interdisciplinary Studies

We accept this thesis as conforming
to the required standard

[REDACTED]
Dr. T. Rennie Warburton, Supervisor (Department of Sociology)

[REDACTED]
Dr. John Borrow, Departmental Member (Faculty of Law)

[REDACTED]
Dr. Leslie Brown, Departmental Member (School of Social Work)

[REDACTED]
Professor David Turner, External Examiner (School of Social Work)

© Jennifer Lynn Shade, 2002
University of Victoria

All rights reserved. This thesis may not be reproduced in whole or in part, by
photocopy or other means, without the permission of the author.

Supervisor: Dr. T. Rennie Warburton

Abstract

Inequalities are being perpetuated in three of the four current types of Band membership codes used among First Nations in Canada. The focus of this study is on how traditional tribal/community membership was determined in Kwakwaka'wakw/Laich-kwil-Tach communities in British Columbia before the Indian Act. Through the use of oral history as well as qualitative analysis, traditional methods of tribal/community membership are compared with the codes currently used to define and decide band membership in three specific communities. Current methods of determining band membership in most cases can be combined with traditional methods of determining tribal/community membership to form a membership policy that is conducive to the survival of First Nations people. There is also an examination of the impacts current band membership codes have on First Nations people and their communities.

Examiners:

[REDACTED]
Dr. T. Rennie Warburton, Supervisor (Department of Sociology)

[REDACTED]
Dr. John Borrows, Departmental Member (Faculty of Law)

[REDACTED]
Dr. Leslie Brown, Departmental Member (School of Social Work)

[REDACTED]
Professor David Turner, External Examiner (School of Social Work)

Table of Contents

Abstract	Page ii
Tables of Contents	Page iii
List of Tables	Page iv
Acknowledgement	Page v
Dedication	Page vi
Chapter 1, Introduction	Page 7
Chapter 2, Historical Overview of Band Membership	Page 14
Chapter 3, Literature Review	Page 29
Chapter 4, The Research	Page 44
Chapter 5, Traditional Methods of Determining Band Membership, Interviews	Page 50
Chapter 6, Conclusion	Page 68
Bibliography	Page 80
Appendix A	Page 84
Appendix B	Page 85
Appendix C	Page 87
Appendix D	Page 88
Appendix E	Page 89
Appendix F	Page 90
Appendix G, Proposed Band Membership Rules	Page 91

List of Tables

Table 1	Rules Governing Entitlement to Indian Registration Under the 1985 Revisions to the Indian Act.	Page	25
Table 2	Parental Combinations and Entitlement Outcomes for the Models of Membership Codes based on Two Parent Descent Rules	Page	38
Table 3	Parental Combinations for Membership Codes based on 50% Blood Quantum	Page	40
Table 4	Parental Combinations and Entitlement Outcomes for Membership Models based on The Rules of the Indian Act and Unlimited One Parent Descent Rules	Page	42

Acknowledgements

I would like to take this opportunity to say thank you to all of the Elders that I have spoken with throughout my research and shared in my learning process. The knowledge that I have acquired is extensive and has forced me to realize how important Elders are to First Nations people in Canada and how important it is to try and get as much information as possible from them as they (Elders I interviewed) fear the knowledge will be lost.

I would also like to thank my thesis committee. In particular I would like to thank my supervisor, Dr. T. Rennie Warburton for his knowledge and assistance throughout my thesis process, Dr. Leslie Brown for always being there and being positive, Dr. John Borrows for his knowledge of First Nations people and issues and Professor David Turner for his positive comments and insightful analysis.

I would like to acknowledge the Campbell River Indian band and its financial support in my pursuit of education, for if they had not supported me with my education I would not be where I am today.

Gila'kasla.

Dedication

I would like to dedicate this thesis to my Nan and Papa who were instrumental in my life and pushed me to strive for what I want in life. I also want to dedicate this thesis to my parents, Judy and Colin Shade, as they are solely responsible for instilling the strength and confidence that I possess today.

Chapter 1

Introduction

This research study has been designed as a response to the inequalities that began with the implementation of band membership criteria in the Indian Act. Up until 1985 the Department of Indian Affairs and Northern Development has dictated who was an “Indian” and who was a “band member.” On April 17, 1985, Bill C-31, Amendments to the Indian Act came into effect. One of the significant changes that Bill C-31 implemented was the option for Canadian bands to assume control of their own membership, if they chose to establish membership codes for themselves in writing and in accordance with Section 10 of the Indian Act. Of the 596 bands in Canada, 236 of the bands chose to adopt their own membership codes under Section 10 of the Indian Act created by Bill C-31.¹ There are four types of membership codes that bands in Canada have chosen to use.² The first type is the one-parent descent rule; whereby a person is eligible for membership based on the membership or eligibility of one parent. The second type is the two-parent descent rule, which declares that to become eligible, both parents of the applicant must be members or eligible for membership. The third type is blood quantum rules, which bases eligibility on the amount of Indian blood a person possesses (typically 50%). The fourth type is similar to or uses the Indian Act rules, which base membership on sections 6 (1) and 6 (2) of the Indian Act, which requires the person to have Indian status in order to qualify for band membership.³

¹ Stewart Clatworthy and Anthony H. Smith, *Population Implications of the 1985 Amendments to the Indian Act*, prepared for the Assembly of First Nations, December 1992, pg. iii.

² Ibid.

³ Ibid.

Through examining the above information and the information gathered through interviewing Elders I have proposed a membership rules that are in the best interests of the longevity of First Nations people in Canada and that also incorporates traditional methods of determining membership, which prevailed before the Indian Act (see Appendix G). Currently most of the literature and research available on Indian band membership is directly distributed or paid for by the Department of Indian Affairs and Northern Development. I have compared the current literature on membership codes with the traditional method of determining tribal/community membership and examined if there are common themes. One piece of this comparison that I have thoroughly examined is the different impacts that the four types of band membership codes in Canada have on First Nations communities. The results of this research could be presented to First Nations/Indian Bands in Canada as a First Nations source of information about band membership or as alternatives to their current band membership codes. Awareness among First Nations in Canada that there are other types of band membership codes out there may inspire them to consider changes. Currently most Indian bands in Canada still use the Department of Indian Affairs and Northern Development guidelines on membership codes as a template for their own band membership codes and I would like to examine why this is the case.

Methods of determining band membership is an important issue to First Nations people because with the current methods in the next fifty years, or two generations, if Canadian Indian bands continue to use their current membership codes, it has been projected that there will be a drastic decline in the status Indian Register population.⁴ I

⁴ Stewart Clatworthy and Anthony H. Smith, *Population Implications of the 1985 Amendments to the Indian Act*, prepared by the Assembly of First Nations, December 1992, pg. ii.

see this as something that we need to rectify as First Nations people. We need to assert our right to take complete control of our band membership codes and lists.

My interest in the Indian Act and band membership stems from the divisions that the membership codes have produced in my family and community. Government policies and band membership codes have been instrumental in the division of First Nations communities. In particular, my family has been divided by band membership and Indian status. I belong to the Campbell River Indian Band, which currently states, “all new band members must have Indian status.”⁵ My grandmother lost her Indian status when she married a white man in 1954. As a result my father who was already born had Indian status and the five children that his mother and her husband had, did not qualify for Indian status. When Bill C-31 came into effect in 1985 all of my grandmother’s children were given 6 (2) Indian status and Campbell River Indian band membership. Bill C-31 did not take into account the fact that the Indian men that chose to marry non-Indian women gave those women Indian status and band membership upon marriage. Consequently, the Indian man and his wife’s children would have 6(1) or full Indian status and are able to pass on Indian status regardless of their partner’s ancestry. When the women who married non-Indian men’s children received Indian status it was only 6 (2) or equivalent to half-Indian and if they chose to have children with a non-Indian their children were not be eligible for Indian status.

At the present time there are large numbers of First Nations people being excluded from band membership lists all over Canada. Their right to live in their communities is not being acknowledged because they are not seen as members of their communities.

The focus of this study is on three bands from the Kwak waka'wakw/Laich-kwil-Tach Nations in British Columbia. As contact with non-tribal/community members (non-Indians) was prevalent before the Indian Act was legislated, these Nations traditionally had their own methods of determining tribal/community membership within their villages. What were their traditional methods for determining membership and how do they compare to current types of band membership codes being used today? Is there a membership code that is in the best interest of preserving First Nations populations? If there is, could these codes include a combination of the current band membership policies with traditional methods of determining membership and would First Nations people want to use them? Do the current band membership codes have impacts on First Nations people and their communities? If so, what are they? This research study will have Kwak waka'wakw/Laich-kwil-Tach Elders determining who is, and who is not an "Indian."

Through the use of oral history as well as qualitative analysis I have included a comparison of literature and the input provided by First Nations people. The literature included current government documents, publications, interviews and traditional oral histories from various Elders, which represent one band from Kwak waka'wakw Nation and two bands from the Laich-kwil-Tach Nations in British Columbia. Though this topic of band membership is very political and I expected some major political reactions in the communities, this did not occur. Though I did not encounter this issue I had expected some of the Elders to be focused on blood quantum and strong ancestral lines to define band membership. I also thought that some of the Elders I interviewed may not want Bill C-31 women and their children to be accepted into bands and did not encounter this. I

⁵ Campbell River Indian Band, *Campbell River Indian Band Membership Rules*, 1988, pg. 5.

was also interested in finding out if the Kwak waka'wakw and Laich-kwil-Tach traditions were similar to one another or different. I discovered that both nations had very similar methods for determining membership before the Indian Act was implemented. I had expected the issue of resources/money to play a large political role in my research and was pleasantly surprised when most of the participants were either not concerned about funding or not concerned enough to not accept people into the band. Most bands have been reluctant to change their band membership codes to be inclusive of non-status members because the government will not provide the band with additional funding for programs. The government only allocates monies to bands based on the number of status Indians living on the reserve. Of the bands that I selected to work with I approached the Cape Mudge band that uses a One-parent descent rule and accepts non-status members. Though I did not delve very far into the subject I did not discover any particular methods that the Cape Mudge band uses to handle the lack of funding for non-Status band members.

In being brought up in the Kwak waka'wakw/Laich-kwil-Tach culture I have been taught to introduce myself using my grandparents, my territory and my name. I had anticipated possible political issues as my fair appearance generally leads people to presume that I am white. By introducing myself using proper protocol and letting participants know who I am and where I come from I was able to minimize this issue.

In choosing three bands that I am linked to both ancestrally and culturally I was also able to avoid some typical band politics. Though it may have been a challenge to track down people at band offices and health centres in the beginning, when I did contact

people they were prompt to help and were great with showing me where the Elders lived and introduced me to them.

One of the particularly important impacts that band membership codes currently have on First Nations people and communities is what I view as the biggest political issue for this research, resources/money. Canadian Indian bands rely on government funding to run programs, and government funding is only received for the status Indians living on the reserve. If membership codes allow for the inclusion of non-status band members, the Canadian government expects the Indian band to bear the added expense. Therefore, First Nations people/bands and the government need to come up with some alternatives in solving this problem.

In the process of this thesis I have discovered how membership was decided in Kwak waka'wakw/Laich-kwil-Tach communities before the Indian Act. I have compared how these methods of determining membership differ from the current methods used to determine band membership and describe some of the devastating affects that the current band membership policies are having on First Nations communities. I have used all of the data and information gathered to develop a band membership policy that is in the interest of prolonging the life of First Nations and also reflects both traditional methods of determining membership and contemporary forms of determining band membership.

The results of this study will be useful to all First Nations people, status Indians, non-status Indians, Metis and First Nations people throughout Canada. This study can be used to develop a template of a design for a band membership code that reflects traditional knowledge and increases the longevity of First Nations/Indian Bands or it may

provide awareness to First Nations/Indian Bands that there are other options available to them. With a lot of work this research could be published and distributed as a resource to First Nations people that are developing new band membership rules. The participants will be empowered by the knowledge that they provided for this study, by the support and reassurance of working with myself as a researcher and know their knowledge may have an impact on First Nations people throughout Canada. The participants will be empowered by the respect I have for their interest and the knowledge that they have brought to the study.

Chapter 2

Historical Overview of Band Membership

Since 1850 the Government of Canada and the colonial Indian Act has defined who is an “Indian”. The right of First Nations people to decide who belongs in their communities and who doesn’t belong in their communities was taken away. Over the last one hundred and fifty years the government has slowly progressed from a very general and inclusive definition to a more restrictive and very precise definition of an “Indian”.

The Department of Indian Affairs and Northern Development has used its power to define who an Indian is. Prior to 1985, the government used amendments to the Indian Act to base both membership and Indian status on a patrilineal ancestral line. Indian status and band membership were defined and decided together. Entitlement to Indian status usually carried with it an automatic entitlement to band membership. However, the terms “band membership” and “Indian status” are no longer synonymous. After 1985 individual bands or Indian Affairs could determine band membership but Indian status is always determined by Indian Affairs.

Sections of the Indian Act that include definitions of “Indians” were developed to divide the men from the women. This was the government’s subtle form of assimilation. In 1869, the government chose to strip status from all Indian women that married non-Indian men. This particular section of the Indian Act had devastating effects on communities. Women are the bearers of children and if they are not status Indians or band members then their children are also excluded from both.⁶ In order to deliver the

⁶ Imai, Shin and Hawley, Donna. *The 1995 Annotated Indian Act*, Thomson Canada Limited, 1994, pg. 18.

government's message that men are the ones that determine ancestral lines, the Indian Act brought in the policy that stated; when an Indian man married a non-Indian woman she was eligible for Indian status.⁷ Therefore, an Indian man was able to pass his Indian status and band membership on to his non-Indian wife and half-breed children. By permitting men to marry non-Indian women and still pass on Indian status the government was admittedly allowing white society's women to infiltrate the community with their values and morals.⁸

There have been various amendments to the Indian Act over the last one hundred and fifty years. The next section traces how band membership and Indian status were determined over these amendments.

In 1850, the legislatures of Upper and Lower Canada passed parallel legislation for the first time, and attempted to define the term "Indian" legally. This definition was broad and included any person deemed to be First Nations by birth or blood and reputed to belong to a particular band or body of Indians, persons inter-married to any such Indian, all persons residing among Indians, whose parents on either side were Indian or are Indians of such body or tribe and persons adopted in infancy by Indians and residing in the village or upon lands of such tribe or body of Indians.⁹

In 1851, Lower Canada's definition of an Indian was amended to specifically include non-Indian women who married Indians and their descendants.¹⁰ Non-Indian men married to Indian women and living among the Indians were indirectly excluded

⁷ Advisory Council on the Status of Women, "Indian women and the Indian Act," April 23, 1976, pg. 5.

⁸ Shade, Jennifer. *What motivates the Campbell River Indian Band*, December 14, 2000.

⁹ Smith, Derek G. *Canadian Indians and the Law: Selected Documents, 1663-1972*, Carleton Library Number 87, McClelland and Stewart Limited, 1975, pg. 40.

¹⁰ Indian and Northern Affairs Canada. *Identification and Registration of Indian and Inuit People*, 1993, pg. 3.

from legal status as “Indians”. This amendment was the beginning of discrimination between Indian men and Indian women.

In 1857, the colonial government developed and implemented a new model for assimilation and called it the “Act for Gradual Civilization of the Indian Tribes in the Canadas”. An “enfranchisement” provision was included in this Act for the first time.¹¹ This Act permitted an Indian to give up their Indian status and band membership voluntarily. If an Indian man enfranchised, his wife and children were automatically enfranchised with or without their consent. Enfranchised people could receive incentives, land and a sum of money from yearly revenues received by the band.¹²

Amendments to the Indian Act in 1869 introduced measures related to the status of Indian women after marriage to non-Indians or to members of other bands. On marriage to an Indian man, an Indian woman became a member of her husband’s band and children from the marriage would belong to their father’s tribe only.¹³ On marriage to a non-Indian man, an Indian woman was no longer a member of her band and was not considered an Indian within the meaning of the Indian Act. Children of such a marriage were not entitled to be registered as Indians.¹⁴ This amendment perpetuated the discrimination established in the 1851 amendments.

The definition of “Indian” in the 1876 Indian Act emphasized male lineage. An Indian was defined as any male person of Indian blood reputed to belong to a particular

¹¹ Smith, Derek G. *Canadian Indians and the Law: Selected Documents, 1663-1972*, Carleton Library Number 87, McClelland and Stewart Limited, 1975, pg. 51.

¹² Indian and Northern Affairs Canada. *Identification and Registration of Indian and Inuit People*, 1993, pg. 3

¹³ Smith, Derek G. *Canadian Indians and the Law: Selected Documents, 1663-1972*, Carleton Library Number 87, McClelland and Stewart Limited, 1975, pg.75.

¹⁴ Indian and Northern Affairs Canada. *Identification and Registration of Indian and Inuit People*, 1993, pg. 4.

band; any child of such a person; and any woman lawfully married to such a person. If an Indian woman married a non-Indian man, she lost her status. The Act's subsequent amendments also continued and furthered the policy of enfranchisement. Various incentives to enfranchise existed, including access to voting rights. Enfranchisement became compulsory in a number of circumstances; for example, it was automatic if an Indian became a doctor, lawyer, or Christian minister, or earned a university degree.¹⁵

In 1918, significant changes were made to the registration criteria, particularly to enfranchisement provisions. The government took control over bands to determine who could enfranchise. Before 1918, government efforts to promote enfranchisement had been thwarted by bands that refused to approve enfranchisement of Indians who lived away from their communities. The 1918 amendments provided that a person living away from their community could enfranchise without approval of the band and the wife and minor children of such persons were automatically enfranchised with them. These amendments also provided for the enfranchisement of unmarried women and widows. Minor children of widows were automatically enfranchised with their mothers, while minor children of unmarried women were enfranchised only if their name appeared on an enfranchisement order.¹⁶

The last major changes made to the Enfranchisement Policy in the Indian Act took place in 1951. Though this only occurred in a few instances the change included the enfranchisement of a whole band and its conversion into a local municipality.¹⁷

¹⁵ Werrett, Jill. *Indian Status and Band Membership Issues*, Library of Parliament Research Branch, February 1996, pg. 3.

¹⁶ Indian and Northern Affairs Canada. *Identification and Registration of Indian and Inuit People*, 1993, pg. 4.

¹⁷ Smith, Derek G. *Canadian Indians and the Law: Selected Documents, 1663-1972*, Carleton Library Number 87, McClelland and Stewart Limited, 1975, pg. xix-xx.

In 1951 significant overall changes were made to the registration and membership criteria of the Indian Act. These amendments established the Indian Register as a centralized record of all persons registered under the Indian Act. The Office of the Registrar was established to maintain the Indian Register and to determine the eligibility of individuals for registration as Indians in accordance with the Indian Act.¹⁸ The general list is important because section 5 of the 1951 Act states that the Indian register shall consist of band lists and general lists. It is useful to remember that prior to the 1951 Act there was no Indian register. All versions of the Indian Act recognized that there were many Indians who did not belong to bands. One example of this can be seen in section 15 of the 1868 Act where the government refers to tribes, bands and bodies of Indians as a description of where Indians belonged.¹⁹

Following the proclamation of the revised Indian Act on September 4, 1951, the Indian Agents arranged for the posting of each membership list in a conspicuous place, where band notices were ordinarily posted, to ensure that all persons eligible for band membership were included. Protests concerning the inclusion, deletion or omissions of persons, made by band councils or by individuals, were reviewed by the Registrar and a decision was rendered.²⁰

In the 1951 amendments to the Indian Act section 11 designated those people entitled to be registered, and section 12 those people not entitled. "Status" or "registered" Indians were also generally band members. The 1951 Act, section 11(e), provided that an illegitimate child of a Indian female was entitled to be registered as an Indian if the

¹⁸Smith, Derek G. *Canadian Indians and the Law: Selected Documents, 1663-1972*, Carleton Library Number 87, McClelland and Stewart Limited, 1975, pg. xix-xx.

¹⁹Gilbert, Larry. *Entitlement to Indian Status and Membership Codes in Canada*, Carswell Thomson Professional Publishing, 1996, pg. 47.

Registrar was satisfied that the father of the child was an Indian. If the latter were found to be true, the Registrar would declare that the child was entitled to be registered.²¹

Section 12(1)(b) provided that an Indian woman who married a non-Indian man was not entitled to be registered. In contrast, section 11(1)(f) stated that the wife or widow of any registered Indian man was entitled to Indian status. Section 12(1)(a)(iv) is known as the “double mother” clause. This clause provided that a person whose parents married on or after 4 September 1951 and whose mother and paternal grandmother had not been recognized as Indians before their marriages could be registered at birth. However, these individuals would lose their status and band membership on their 21st birthday.²² Due to the implementation of Section 12 (1)(b) criticism was prompted because women were excluded from legal Indian status and from residence on reserves.

After an interim policy and an unsuccessful attempt at legislative change, Bill C-31, An Act to amend the Indian Act was tabled in the House of Commons on 28 February 1985, passed on 17 June and given Royal Assent on 28 June 1985. The bill was backdated to 17 April 1985, so that the Indian Act could conform to the equality provisions of the Charter of Rights and Freedoms. The amendments were intended to remove discrimination, restore status and membership rights, and increase control by bands over their affairs.²³ These amendments made major changes to the eligibility criteria for registration as an Indian. The federal government continues to maintain control over who is registered as an Indian and the rights that flow from registration. The

²⁰ Indian and Northern Affairs Canada. *Identification and Registration of Indian and Inuit People*, 1993, pg. 6 & 7.

²¹ Ibid.

²² Wherrett, Jill. *Indian Status and Band Membership Issues*, Library of Parliament Research Branch, February 1996, pg. 3.

²³ Ibid.

bill represented a compromise between the positions of First Nations women and non-status Indian groups, and the national status Indian organization, the Assembly of First Nations.²⁴

Section 6(1) of the current Indian Act continues the entitlement of persons registered as Indians before 1985. It also opens the possibility of reinstatement of women who lost their Indian status through marriage, children enfranchised as a result of their mother's marriage, persons not included in the register under the "double mother" clause and illegitimate children of Indian women born prior to 14 August 1956. This section also provides an opportunity for first time registration of people previously without Indian status.²⁵ The concept of enfranchisement that permitted both voluntary and involuntary loss of status was removed.²⁶ Section 6(2) permits the registration of persons with only one parent entitled to be registered under section 6(1). The Act does not permit the registration of individuals with one non-status parent and one parent entitled to registration under section 6(2). As a result of this provision, known as the "second generation cut-off," status would be terminated after two successive generations of inter-marriage between Indians and non-Indians.

This "second generation cut-off rule" has been the most important target of criticism in Bill C-31. People registered under section 6(2) have fewer rights than those registered under section 6(1), as they cannot pass on Indian status to their child unless the child's other parent is also a registered Indian. One criticism comes from women who,

²⁴ Smith, Derek G. *Canadian Indians and the Law: Selected Documents, 1663-1972*, Carleton Library Number 87, McClelland and Stewart Limited, 1975, pg. 5

²⁵ Wherrett, Jill. *Indian Status and Band Membership Issues*, Library of Parliament Research Branch, February 1996, pg. 6.

²⁶ Indian and Northern Affairs Canada. *Identification and Registration of Indian and Inuit People*, 1993, pg. 8.

prior to 1985, lost status because of marriages to non-Indian men. These women are able to regain status under section 6(1); however, their children are entitled to registration only under section 6(2). In contrast, the children of Indian men who married non-Indian women and whose registration was before 1985 are section 6(1) status Indians and are able to pass Indian status on to their children regardless of the father's ancestry. The provisions of the new Act apply to both men and women and created new rules for transmitting status that perpetuate past discrimination against women.²⁷

Children of unmarried non-Indian women and Indian men are also treated differently according to gender. Male lineage criteria in the legislation prior to 1985 permitted the registration of all such male children born before 1985. However, after the passage of Bill C-31, female children born to Indian men and non-Indian women between 4 September 1951 and 17 April 1985 became eligible for registration only as the children of one Indian parent.²⁸

A big part of Bill C-31 was Section 10, which stated "a band may assume control of its own membership if it establishes membership codes for itself in writing in accordance with this section".²⁹ Indian bands were now given the opportunity to assume control of their own membership codes,³⁰ until June 28, 1987, exactly two years from the date that Bill C-31 was passed. The 1985 amendments to the Indian Act recognized the rights of Indian bands to determine their own membership. These same amendments stipulated that the Department of Indian Affairs and Northern Development would

²⁷ Holmes, Joan. *Bill C-31 Equality or Disparity? The Effects of the New Indian Act on Native Women*, Canadian Advisory Council on the Status of Women, March 1987, pg. 2.

²⁸ Indian and Northern Affairs Canada. *Identification and Registration of Indian and Inuit People*, 1993, pg. 8.

²⁹ Imai, Shin and Hawley, Donna. *The 1995 Annotated Indian Act*, Thomson Canada Limited, 1994, pg. 18.

³⁰ Indian and Northern Affairs Canada. *Identification and Registration of Indian and Inuit People*, 1993, pg. 8.

continue to maintain band lists until the band assumed control of their membership and became responsible for maintaining their own membership codes.³¹ If by June 28, 1987 bands did not create their own membership codes, the option to assume control of their own membership under section 10 of the Indian Act is still available.³² All members of an Indian band are registered as Indians but all persons registered as Indians are not necessarily members of a band. Some of these people continue to be included in a separate list known as the General list with the Department of Indian Affairs and Northern Development.

In preparation for Indian Bands to assume control of band membership Indian Affairs and Northern Development Canada developed an information booklet called *Indian Band Membership*. This booklet was designed to assist Indian Bands in the development of their own membership codes. Section IV of this booklet provides information regarding the process for establishing membership codes. Each band that wished to use section 10 of the Indian Act to determine their own band membership codes had to have a majority of electors agree to have their band implement its own rules.³³ Section IV of *Indian Band Membership* describes four key suggestions that Indian Bands might consider in the process for establishing membership codes. Section V of *Indian Band Membership* offers some suggestions on the development of membership codes. In regards to membership criteria the Department of Indian Affairs had nine suggestions as to what Indian Bands may want to include in their membership codes.

³¹ Indian and Northern Affairs Canada. *Identification and Registration of Indian and Inuit People*, 1993, pg. 8.

³² Indian and Northern Affairs Canada. *Changes to the Indian Act, 1985*, pg. 5.

³³ *Ibid.* pg. 4.

Most of these suggestions were used as a template by bands that chose to create their own membership codes.³⁴

Beginning on June 28, 1987, First Nations that adopted membership codes were required to accept as band members all those who were registered under the Act or eligible to be registered. In addition to the categories of people listed above, the codes adopted on or after June 28, 1987 were required to accept the following three additional categories as band members. The first category includes people who had lost status prior to 1985 because of so-called “voluntary enfranchisement” (and who now are registered or eligible under section 6 (1)(d) and 6 (1)(e) of the amended Act). The second category includes people both of whose parents are or would have been entitled to register (the balance of the 6 (1)(f) registrants who have only one member-eligible parent). The third category includes people one of whose parents is or would have been entitled to register under section 6 (1) of the Act and whose other parent is or was non-Indian or those who are registered under section 6(2) of the amended Act.³⁵

The deadline to notify Indian Affairs and Northern Development to take control of one’s band membership codes was June 28, 1987. This deadline created pressure to complete codes quickly and the ensuing rush peaked in that month of June. Of the six hundred and one First Nations in Canada, two hundred thirty-six chose to adopt membership codes under sections of the Indian Act created by Bill C-31. Eighty-one percent of the band membership codes were adopted in that month alone and seventy-two percent were adopted in the period June 16th to 28th. As a result of the time pressures

³⁴ Indian and Northern Affairs, *Indian Band Membership*, 1985.

³⁵ Stewart Clatworthy and Anthony H. Smith, *Population Implications of the 1985 Amendments to the Indian Act*, prepared by the Assembly of First Nations, December 1992, pg. 10 & 11.

these codes contain many problems. Very few are “user friendly.” Most draw heavily on the language of the Indian Act and can only be understood by someone who understands the Indian Act. The “meaning” of band membership codes is not readily available to the people whose lives they affect.³⁶

According to the Department of Indian Affairs and Northern Development I am a status female classed as a 6(1)(a) and also belong to the Campbell River Indian Band. My father was born illegitimately and was granted 6(1)(a) Indian status and Campbell River Indian Band membership when a change was made to the Indian Act in 1951. According to the Canadian government my mother is a non-Indian. She gained 6(1)(a) Indian status and Campbell River Band membership when she married my father in September of 1971. The Indian Act Section 6(1)(a) states that a person was registered or entitled to be registered as an “Indian” prior to April 17, 1985 when Bill C-31 came into effect. Essentially, this means that I have “full status” and can pass 6(2) status onto my children even if I marry a non-Indian. In addition to members of my family and community, there are likely thousands of more people who prior to Bill C-31 had lost their status or were ineligible for status due to something one of their parents had done. My grandmother had 6(1) status, which was revoked in 1954 when she married a non-Indian man. My grandmother and her husband had five more children in addition to my father.

When Bill C-31 came into effect my grandmother had already passed away. Her other five children all were reinstated as 6(2) status Indians and gained membership to the Campbell River Indian Band. Due to the “Second Generation Cut-Off”, an obvious form

³⁶ Clatworthy, Stewart and Smith, Anthony H. *Population Implications of the 1985 Amendments to the Indian Act, Appendix A: Analysis of Membership Codes*, 1992, pg. 2.

of assimilation brought forth through the Indian Act, none of my aunts' or uncles' children will gain Indian status or band membership as they did not marry or have children with a status Indian. Campbell River Indian Band's current band membership codes state that in order to qualify for band membership the person must have Indian status. Though the Campbell River band has chosen to take over their band membership codes and lists, they have chosen to hinge band membership on Indian status and are perpetuating the Indian Act rules. It is rare to find band membership codes that deviate from the standard Indian Act template and it is imperative to find a variety of membership codes that use other models.

Table 1

Rules Governing Entitlement to Indian Registration
Under the 1985 Revisions to the Indian Act

Parental Combination	Status of Children
6(1) and 6(1)	6(1) eligible
6(1) and 6(2)	6(1) eligible
6(2) and 6(2)	6(1) eligible
6(1) and non-Indian	6(2) eligible
6(2) and non-Indian	not eligible

Through researching band membership codes and the Indian Act Sections pertaining to Entitlement and Membership, I wanted to develop new non-discriminating

membership rules, which would be more inclusive to all Indians but especially, Bill C-31 Indians. This is useful to my family, my community, status Indians, non-status Indians and any bands in Canada that are interested in changing their current method of determining membership. The exploration of this topic is crucial because approximately 90% of the information I came across has been sponsored and distributed by the Department of Indian Affairs and Northern Development. I believe it is imperative to see First Nations people doing research on the development of new band membership codes which will increase the longevity of band populations rather than push them towards their own demise.

As Bill C-31 and its injustices have directly affected my family and community, I think that setting a blood quantum of one-quarter could be one acceptable method of determining membership, as it would include providing status to the grandchildren of Bill C-31 women. This could also possibly alleviate some of the tensions surrounding this current issue. In Bill C-31 those children who have a non-Indian parent and a parent that falls under Section 6(2) are not eligible for status and in turn may not be eligible for band membership. If the blood quantum was set at one-quarter the status Indian population would reflect the true status Indian population, as it would be if the Department of Indian Affairs and Northern Development had not been and still is discriminating against First Nations females. These population calculations would include the grandchildren of both Indian men and women that married non-Indians. Currently only the grandchildren of Indian men and non-Indian women are eligible for status and that is unfair to Indian women and their children and grandchildren.

One crucial aspect of this issue is that not many bands in Canada realize that in choosing to take over their own membership codes and lists, they were allowed to include non-status band members. Very few of the original 236 bands that took over their membership codes and lists have taken advantage of this. The thing that is troublesome about this is that the bands that do accept non-status band members are expected by the government to come up with the economic shortfall as a result. The majority of funding that currently comes from the Canadian government is given to bands for the number of status Indians living on the reserve. Another fact that most First Nations people do not realize that is that non-status band members have all the same rights that the status band members have.³⁷ The Department of Indian Affairs and Northern Development acknowledges these non-status band members. Ultimately this means that these individuals automatically fall under jurisdiction of the Indian Act and its rules and regulations. I find it very troubling that non-status band members are acknowledged by Indian Affairs and Northern Development yet Indian Affairs will not give them Indian status. Many of the Elders and I believe that if a community deems a person to be “Indian” and they belong to that community, the government should also recognize these people as status Indians.

I would like membership codes to be in the best interests of longevity of bands and to conform to traditional methods of determining tribal membership. I believe the longevity of bands is essential to the survival of First Nations people in Canada. Current band membership codes are diminishing the numbers of eligible members at a startling rate and if they continue on this path they will not be around for much longer (See Lit.

³⁷ Woodward, Jack. *Native Law*, Carswell Company Limited, 1989, pg. 44.

Review, pg. 30). Therefore, I have placed the longevity of First Nations as a priority in my research.

In order to ascertain whether longevity was also the sentiment of my home and surrounding community, I decided to interview Elders to inquire as to how traditional tribal/community membership was determined before the Indian Act. I then compared their responses with current membership codes the bands were using and as well as other membership codes based on lineage. I also examined literature that contained other opinions on the inequalities of the Indian Act and how this has affected bands in Canada and how this has impacted First Nations communities.

Chapter 3

Literature Review

The following section examines previous literature and debates on the topic of band membership. For me the main issue is the need to create a policy that will allow all of the people who were discriminated against in the Indian Act to regain Indian status as well as increase the longevity of bands throughout Canada. Also, it is imperative that First Nations people in Canada get informed in all arenas concerning band membership especially including the laws and the Indian Act.³⁸ One thing that I have learned is that very few First Nations people have ever heard of non-status band member having the same rights as a status band member on the reserve. Jack Woodward's, *Native Law* goes into great depth on what kind of rights non-status band members have. It is particularly interesting that non-status band members in some situations are brought under the parameters of the Indian Act. If the Canadian government is going to acknowledge non-status band members as Indians that need taken care of, then why won't they give them Indian status?

Currently a good majority of bands will disappear in the next hundred years with the use of the Indian Act and/or Membership policies based on the Indian Act. In one study the authors have predicted the total population of Registered Indians in Canada which was 552,480 in 1992 to increase for 45 years after which it is expected to decline by the year 2091 to a level just slightly above the population in 1992.³⁹ This decline is

³⁸ Woodward, Jack. *Native Law*, Carswell Company Limited, 1989, pg. 44.

³⁹ Stewart Clatworthy and Anthony H. Smith, *Population Implications of the 1985 Amendments to the Indian Act*, prepared by the Assembly of First Nations, December 1992, pg. 37.

attributed solely to the inheritance rules of the Indian Act and the effects of out-marriage.⁴⁰ Consequently, through the examination of out-marriage rate, births and deaths the future is indeed bleak for many First Nations in Canada. The hardest hit bands are the ones who currently use rules contained in the Indian Act, 50% blood quantum rule or two-parent descent rule. Statistics for these two groups vary from the size of the population declining to a point that the membership population in 2091 is reflective of as little as 17% or as much as 69% of the population of those First Nations in 1992.⁴¹ One common theme in all of the two-parent descent, blood quantum and Indian Act rules is the rapidly declining number of children that will be eligible for membership and the rapidly increasing number of people over 45 years of age. In 2091, for three bands which currently use the two-parent descent rule children will either no longer be eligible for membership or will comprise between at the most 5% of the total band population.⁴²

The Department of Indian Affairs and Northern Development's 1993 publication *Identification and Registration of Indian and Inuit People* is a wealth of information when it comes to Indian status and Indian band members. This document outlines Indian legislation, the Indian Act prior to 1985, the Act since 1985, implications of Bill C-31, current issues, and Community Self-Government Negotiations and Registration. Amendments to the Indian Act passed in 1985 made major changes to the criteria for registration. However, there is no provision in the Act to register the children of persons entitled to registration under Section 6(2) unless the other parent of such child is also

⁴⁰ Stewart Clatworthy and Anthony H. Smith, *Population Implications of the 1985 Amendments to the Indian Act*, prepared by the Assembly of First Nations, December 1992, pg. 37.

⁴¹ *Ibid.* pg. 99-120.

⁴² *Ibid.* pg. 117, 120 & 122.

entitled to registration. This section of the publication provides support in my establishment that the Indian Act has been and still is discriminating. This information should encourage the 360 bands still allowing the Department of Indian and Northern Affairs to control their band membership to reconsider different opportunities or methods of determining band membership.

Jill Wherrett's, *Indian Status and Band Membership Issues* paper supplies background information on Registration and band membership under the Indian Act, changes introduced by Bill C-31, and the impacts of that Bill.⁴³ She points out that the most important target of criticism is the "Second Generation Cut-Off," which results in the loss of Indian status after two successive generations of parenting by non-Indians. She raises two fundamental questions about what it means to be a community and who has the right to determine membership. In this article, Wherrett states membership is important, as it enables one to own property on a reserve, and share in band assets.⁴⁴ Linked to status and membership, she says are also practical issues regarding the provision of programs and services, and the additional cost created, as those who attain status become eligible for federal programs and services. Wherrett tells the reader that bands are free to develop their own membership codes, yet some of them are reluctant to accept new members without guarantees of increased funding from government. I have the same opinion as Wherrett in regards to the faults of "Second Generation Cut-Off" and exclusion of First Nations people. The Indian Act's "Second Generation Cut-Off" in most cases eliminates the right to live on reserve, participate in band elections and

⁴³ Wherrett, Jill. *Indian Status and Band Membership Issues*, Research Branch of the Library of Parliament, February 1996. pg. 1.

⁴⁴ Ibid. pg. 8.

referendums, and the right to self-determine membership.

Prior to Bill C-31 in 1985, the Advisory Council on the Status of Women (ACSW) published *Indian Women and the Indian Act* in 1976. ACSW argued that Indian women must be included in the intended protection against discrimination on the grounds of sex under the proposed Human Rights legislation (Bill C-72).⁴⁵ The ACSW states another problem is the injustices inflicted on those women already, and still being inflicted, by the enforcement of Section 12(1)(b) of the Indian Act. They say that a practical solution to this problem would be for all parties to come up with a rational revision of the Indian Act. Though this paper was published prior to Bill C-31 it is still relevant to my research. Currently the grandchildren of Bill C-31 women who married non-Indian men and whose children also have non-Indian partners are ineligible for status due to the "Second Generation Cut-Off." Prior to 1985 when an Indian man married a non-Indian woman, whose children also chose non-Indian partners can pass 6(2) status on to their children. Arguably Bill C-72 of the Human Rights Legislation that includes protection against discrimination on the grounds of sex should apply to the Entitlement section of the Indian Act. If Bill C-72 were successfully applied to those children whose grandmothers lost their status by marrying a non-Indian man it would help entitle them to receive Indian status.⁴⁶

In Membership Issues Illustrate Cultural Differences: Decisions Should Protect Culture, Leaders Say, Paul Barnsley talked to various First Nations Organizations and Bands, including Nathan MacGillvary who in 2000 was currently in a Federal court case that would decide whether his granddaughter will get Indian status. His daughter did not

⁴⁵ Advisory Council on the Status of Women, *Indian Women and the Indian Act*, April 23, 1976, pg. 1

⁴⁶ Ibid.

disclose the name of the father and the government workers assumed the father was non-Indian. MacGillvary points out that "non-native women aren't even asked the question."

Chief Richard Davis of Alberta Swan River First Nation, Gerald Taiaiake Alfred, a Mohawk, Sandra Lovelace and the United Native Nations in BC all agree that a very important band membership issue is self-determination.⁴⁷ Who gets to decide membership? Though Lovelace and Alfred both state that membership should be determined by lineage or ancestry, they have differing opinions on how it should be done. Lovelace speaks to recognition through ancestry while Alfred's community states that "persons must have two grandparents included, or who are entitled to be included, on the Membership list" to become a member.⁴⁸ I agree with Lovelace in the fact that I believe status and band membership should be determined through lineage. I do not agree with Alfred and his community's philosophy of basing membership on blood quantum of 50%. By using a 50% blood quantum code we would still be discriminating against the grandchildren of women who chose to marry non-Indians and therefore dividing the community into different categories of people that cannot get band membership. To base membership on 50% blood quantum brings First Nations people right back to where the Department of Indian Affairs and Northern Development wants them to be. Essentially, a membership code like this is duplicating Indian Affairs' "Second Generation Cut-Off". This type of band membership code works on the same premise of blood quantum as the Indian Act.

The Akwesasne and Kahnawake membership codes are similar in that they are

⁴⁷ Barnsley, Paul. *Membership issues illustrate cultural differences: decisions should protect culture*, Windspeaker, February 2000, v. 17 (10) pg. 6-7.

⁴⁸ Kahnawake, *Kahnawake Membership Code*, Eastern Door, v.8, No.24, July 9, 1999.

quite strict, even when compared to the Indian Act. The Akwesasne require that new members have two parents from the Mohawk Nation in Akwesasne. The Kahnawake require one or two grandparents who are on the membership list and a lineage trail tracing back eight generations to determine 50% Kahnawake blood. A person who has been accepted into the community through a traditional process can also gain Kahnawake membership. My opinion on these two membership policies is that they are too strict. They are going to decrease the number of band members and force all of the people not entitled to membership out of the community. With the rising number of inter-racial marriages today, a band using this type of membership code will reduce its population and eventually eliminate itself.⁴⁹ By doing this one may believe that a band would be strengthening and preserving their culture and Nation yet, in the end they are carrying on assimilation without the help of the Indian Act. With any incidence of inter-marriage bands that use 50% blood quantum membership will increase in the start but will gradually and then rapidly diminish in numbers to roughly 25% of the population in 1992.⁵⁰

Another point that is brought up by most of the people in the articles is the relationship between band membership and financial resources. Victoria Thomas, the president of the United Native Nations in British Columbia states that the federal government underestimated in its projections on the number of people to be reinstated through Bill C-31.⁵¹ The government anticipated an increase of 56,800 registered

⁴⁹ Clatworthy, Stewart and Smith, Anthony H. *Population Implications of the 1985 Amendments to the Indian Act, Appendix A: Analysis of Membership Codes*, 1992, pg. 116&117.

⁵⁰ Ibid. pg. 43.

⁵¹ Barnsley, Paul. *Membership issues illustrate cultural differences: decisions should protect culture*, Windspeaker, February 2000, v. 17 (10) pg. 6-7.

Indians. The actual increase far exceeded the number anticipated.⁵² Thomas also mentions the capping of resources for First Nations people because funding is only received for the status Indians living on the reserve.

The Department of Indian Affairs was criticized by First Nations groups for grossly underestimating the initial number of applicants, for having an inadequate and inefficient registration process, and for the complexity of the documentation required to apply for status.⁵³ There has been a significant financial impact from the expansion of the status Indian population, and a heavy demand placed on Indian communities for the provision of services. It has meant that they did not receive sufficient funding from the Department of Indian Affairs and Northern Development.⁵⁴

Rob McKinley's, *Inuit Ancestry Lost With The Stroke Of A Pen*, is focused on the Labrador Inuit Associations' new eligibility criteria for membership codes, which were determined during land claim discussions with the province of Newfoundland and the federal government.⁵⁵ McKinley describes how the Labrador Inuit Association is using new eligibility criteria, determined during land claim discussions, to downsize their 5,000 members. McKinley describes how Lisa White, a descendant of the Labrador Inuit, received a letter telling her that under the "Connection to Community" section of membership criteria, she was no longer a member of the Labrador Inuit. Indian Affairs spokesperson Lynn Boyer told Windspeaker that the "Labrador Inuit Association is in charge of its own membership. Despite the fiduciary responsibility of Canada to all First

⁵² Wherrett, Jill. *Indian Status and Band Membership Issues*, Research Branch of the Library of the Parliament, February 1996, pg. 8.

⁵³ Wherrett, Jill. *Indian Status and Band Membership Issues*, Research Branch of the Library of the Parliament, February 1996, pg. 14.

⁵⁴ *Ibid.* pg. 8.

⁵⁵ McKinley, Rob. *Inuit ancestry lost with the stroke of a pen*, Windspeaker, October 1998, v 16 (6), pg. 9.

Nations people, including the Inuit, the federal government has left it up to the associations to tell them who is and who is not Inuit."⁵⁶

Labrador Inuit Membership can be revoked if a person has no direct Inuit blood, and if they or their parents were not born in the Labrador land claim area. If there is Inuit blood, it has to be at least one-quarter or 25% in order to maintain membership. An anonymous employee with the Labrador Inuit Association told McKinley the association was reducing its membership to only the purest forms of Inuit people before the Labrador land claim settlement is made.⁵⁷ Though this scenario demonstrates the self-determination of the Labrador Inuit it also demonstrates how First Nations organizations can make a decision that has significant impacts on not only individuals but also families and communities. These impacts in particular can affect an individual's right to identify with a people or territory, the right to live on reserve and to participate in band government.

The House of Common's *Minutes of Proceedings of the Special Committee on Indian Self-Government*, witnesses were unanimous that each Indian First Nation government should determine its own membership. These minutes talk about the use of the Indian Act and how it contains "detailed and complicated provisions defining membership in an Indian Band. Enforcement of these provisions frequently means that people who do not meet these criteria must move away from the community, thus leading to the loss of cultural identity by subsequent generations." "The Committee asserts as a principle that it is the rightful jurisdiction of each Indian First Nation to determine its

⁵⁶ McKinley, Rob. *Inuit ancestry lost with the stroke of a pen*," Windspeaker, October 1998, v 16 (6), pg. 9.

⁵⁷ Ibid.

membership, according to its own particular criteria.”⁵⁸ I also think that First Nations should be able to self-determine their membership codes. I agree with the House of Commons in that the current enforcement of membership through the Indian Act leaves a number of people out. These people are not Status; therefore they cannot live in the community. This forces them to leave the community, and leads to loss of cultural identity by subsequent generations. In my research I will be able to use this report to back up the concept of self-determination in regards to band membership and the importance of band membership to First Nations peoples’ identity.

The following three bands demonstrate differences in band membership codes throughout Canada that have a similar belief that preservation or ensuring the longevity of their people is important. Comparable to the Campbell River Indian band, the Kahnawake, Squamish and Ehattesaht Band’s Membership Rules all include similar preamble or philosophy but differ extensively in deciding band membership. The Kahnawake have been noted to have strict and controversial membership code.⁵⁹ The Campbell River Band decides with the two-parent descent rule or on the basis of Indian status.

⁵⁸ House of Commons, *Special Committee on Indian Self-Government*, October 12 and 20, 1983, Issue No. 40, pg. 54 & 55.

⁵⁹ Barnsley, Paul. *Membership Issues Illustrate Cultural Difference: Decision Should Protect Culture, Ladies Say [Bill C-31]*, *Windspeaker*, Fall 2000, v. 17(10)

Table 2

Parental Combinations and Entitlement Outcomes for the Models
of Membership Codes based on Two Parent Descent Rules

Parental Combination	Section 6 Entitlement	Membership Entitlement
6(1) member and 6(1) member	6(1)	eligible
6(1) member and 6(2) member	6(1)	eligible
6(2) member and 6(2) member	6(1)	eligible
6(1) member and 6(1) non-member	6(1)	not-eligible
6(1) member and 6(2) non-member	6(1)	not-eligible
6(1) member and non-Indian	6(2)	not-eligible
6(1) non-member and 6(1) non member	6(1)	not-eligible
6(1) non-member and non-Indian	6(2)	not-eligible
6(2) non-member and 6(2) non member	6(1)	not-eligible
6(2) non member and non-Indian	non-Indian	not-eligible

The Ehattesaht rules are based on a one parent unlimited descent rule. The key point for the next four Bands is their interest in preserving identity as a distinct group of people and determining solidarity of their nation in Canada. The Kanien'keha:ka Elders of Kahnawake, are aware of the threatened loss of their identity, values, traditions and heritage as Kanien'keha:ka Nation and this strongly compels them to render a declaration

stating this in the preamble of their membership codes.⁶⁰ The Squamish Nation recognizes their inherent right to govern themselves with their traditional territories in order that they may survive as a distinct people within Canada in a manner consistent with their heritage, their culture and their values. This is pronounced in the Squamish Nation Membership Code.⁶¹ The Ehattesaht band states that their membership rules are the vehicle for the continuing existence of the Ehattesaht as Aboriginal People and ensuring the longevity of the Ehattesaht communities.⁶² The object of the Campbell River Indian Band membership rules is to protect and enhance cultural integrity, social harmony and economic stability of the band.⁶³

Both the Squamish Nation and Big Island Band membership codes focus on the requirement that a person have at least 50% Indian blood from their nation. Both the Campbell River Indian Band and Musqueam Indian Band still use Indian Act rules that require a person to be a status Indian in order to become a Band member. Squamish, Big Island, Campbell River and Musqueam are all perpetuating the 50% blood quantum or “Second Generation Cut-Off Rule” to establish band membership, which was the practice before 1985. These four membership codes are dictating what the Indian Act has done for years. They had and still have the opportunity to develop band membership codes that do not duplicate the Indian Act.

⁶⁰ Kanien'keha:ka of Kahnawake, *Kahnawake Membership Code*, Eastern Door, July 9, 1999, v. 8, No. 24.

⁶¹ Skwxwu7mesh Nation, *Skwxwu7mesh Nation Membership Code Amendments*, Skwxwu7mesh Nation Fall '96 Newsletter, 1996.

⁶² Ehattesaht Tribe, *Ehattesaht Membership Rules*.

⁶³ Campbell River Indian Band, *Campbell River Indian Band Membership Rules*, 1988.

Table 3
Parental Combination for Membership Codes based on
50% Blood Quantum

Parental Combination	Quantum of Children	Membership Entitlement
100% and 100%	100%	eligible
100% and 50%	75%	eligible
50% and 50%	50%	eligible
100% and 0 %	50%	eligible
50% and 0%	25%	not-eligible

* This is a basic break down of membership entitlement. The figures can get more complex.

The next three membership codes all have useful aspects. Te Runanga o Ngai Tahu (Maori Nation in the South Island of New Zealand) uses a Whakapapa (family history/blood descent) from the Kaumatua Treaty of 1848 to determine Maori ancestry. This is very open, liberal and inclusive. You can have 6 generations of intermarriage with Non-Maori and still be entitled to Maori membership.⁶⁴ I am undecided whether that is a little excessive in that people can be detached from the community and culture and still get Maori membership. I believe that attachment to community is important and

⁶⁴ Caldwell, Russell. *Whakapapa Ngai Tahu, a Guide to Enrolment and Research*, Te Runanga o Ngai Tahu Whakapapa Unit, 1996.

like how the Labrador Inuit Association's stipulate members must have "Connection to the Community." Though I believe this is a good idea, I am unclear on the parameters of this section and believe it would be difficult to decide to what extent a person would or should be required to have "Connection to the Community".⁶⁵

The Naskapi recognize membership through the use of the Indian Act; an illegitimate and legitimate descendant in the male or female line is entitled under the Indian Act. Other ways the Naskapi determine membership are if one is born in the territory, or one is ordinarily a resident in the territory.⁶⁶ I like that the Naskapi include illegitimate descendants but I am unclear on how you can apply membership by residency.⁶⁷

The Ehattesaht Tribe Membership Rules are based on a one parent descent and includes all persons born to two Ehattesaht parents, any child born out of wedlock and all those persons who can prove their Ehattesaht/Nuu-chah-nulth ancestry through direct or collateral lineage, whether maternal or paternal. In addition to these rules they also accept members who were adopted out to non-Native society, women who lost Indian status by marriage to a non-Native and all persons who were restricted from registering through the operations of the "Double Mother Rule". These are "children who lost their status at age 21 because their mother and their father's mother did not have status under the Act before their marriage."⁶⁸

There is very limited information on the development of band membership codes.

⁶⁵ McKinley, Rob. *Inuit ancestry lost with the stroke of a pen*, "Windspeaker, October 1998, v 16 (6), pg. 9.

⁶⁶ <http://www.atreide.net/cnc/neqa/neqa3.htm>, North Eastern Quebec Agreement – Section 3, March 3, 1999.

⁶⁷ Naskapi Nation, *Naskapi Membership Rules*.

⁶⁸ www.inac.gc.ca/pubs/wanted/question.html, December 7, 1999, pg. 2.

Most of the information that I did find perpetuated inequalities and were not in the interest of the longevity of First Nations people. Of the four types of current band membership codes in Canada, the unlimited one-parent descent rules are the most inclusive. The unlimited one-parent descent rules extend eligibility to all the descendants of those whose acquired rights were protected at the time the codes came into effect.⁶⁹ The most important point about these rules is that you can be a band member and not be a status Indian. This code is quite liberal and includes in the initial population all those eligible for registration to the band.⁷⁰

Table 4

Parental Combinations and Entitlement Outcomes for Membership Models based on the Rules of the Indian Act and Unlimited One Parent Descent Rules

Parental Combination	Section 6 Entitlement	Membership Entitlement	
		Indian Act Rules	Unlimited One Parent
6(1) member and 6(1) member	6(1)	eligible	eligible
6(1) member and 6(2) member	6(1)	eligible	eligible
6(2) member and 6(2) member	6(1)	eligible	eligible
6(1) member and non-Indian	6(2)	eligible	eligible
6(2) member and non-Indian	Not Entitled	not eligible	eligible

⁶⁹ Stewart Clatworthy and Anthony H. Smith, "Population Implications of the 1985 Amendments to the Indian Act," prepared for the Assembly of First Nations, December 1992, Appendix A, pg. 27.

⁷⁰ McKinley, Rob. *Inuit ancestry lost with the stroke of a pen*, Windspeaker, October 1998, v 16 (6), pg. 9.

Based on the material there is one major challenge for my research. *This challenge would be to determine how bands could accept more Band members as well as receiving the resources/money to compensate for the additional Band members.*⁷¹

⁷¹ McKinley, Rob. *Inuit ancestry lost with the stroke of a pen,* Windspeaker, October 1998, v 16 (6), pg. 11.

Chapter 4

The Research

For this research I chose to use a combination of oral history done through interviews and qualitative analysis. I chose to use oral history because the section of the community I have targeted is Elders. In many societies older individuals are seen as repositories of historical knowledge. They may have the time and inclination to share what they know, but may lack access to publication.⁷² Oral history was the most effective method to get the valuable information needed from Elders for this study. Oral history is a mode of transmitting stories, legends or information about past First Nations societies. One example is that traditionally Elders tell a story to describe an event or send a message from the past. I looked to get information from past First Nations societies regarding how their nation's membership was traditionally determined.

The use of a combination of oral histories and interviews allowed the Elders to tell their own story in their own words as much as possible within a developmental framework.⁷³ Historians, journalists, community groups, anthropologists, women's studies scholars and sociologists have used the oral history method to understand individual lives or social phenomena.⁷⁴ In my quest to find out how membership was determined before the Indian Act, I decided to interview Elders and asked them questions that lead them to tell stories from their family or community. In First Nations communities Elders are seen as the keepers of knowledge. Oral history is invaluable for

⁷² Shulamit, Reinharz. *Feminist Methods in Social Research*, Oxford University Press, 1992, pg. 141-142.

⁷³ Ibid. pg. 131.

⁷⁴ MacKinnon, Catherine, *Sexual Harassment of Working Women*, Yale University Press, 1979, pg. xii-xiii.

historians who seek information that is unlikely to be contained in written records.⁷⁵

Knowledge has traditionally been passed on to Elders orally and they in turn pass their knowledge on orally to continue the sharing of knowledge between generations. The use of oral histories enables the author (and others) to “hear” individuals and to “see” patterns derived from the study of a number of individuals.⁷⁶

The method of qualitative analysis that I have used is gathering data and information, analyzing it and finding common themes that have thread themselves throughout the material. The categories/themes may also emerge from the questions I ask, or they may simply reflect the critical events that I identify in my research participants’ stories.⁷⁷ Upon completing the interviews with the Elders and analyzing the data I was able to then compare the information gathered from Elders to the literature that I have previously reviewed.

In the process of developing a method I examined literature from various sources and then decided that interviews and oral history would enhance and develop my research. In deciding how many bands to talk with and how many Elders I would interview I knew initially that I wanted to focus on Campbell River, which is my home community. I originally thought that interviewing Elders from another band would provide my band with the knowledge of how another band determines membership. In going through the literature the theme of four band membership rules emerged and I decided that ideally I would like to interview four bands that represented these rules. In examining the band membership codes used by all Kwak waka’wakw/Laich-kwil-Tach

⁷⁵ Shulamit, Reinharz. *Feminist Methods in Social Research*, Oxford University Press, 1992, pg. 131

⁷⁶ Ibid. pg. 129

⁷⁷ Tutty, Leslie. M. Rothery, Michael. Grinnell, Richard M. Jr., *Qualitative Research for Social Workers*, Allyn and Bacon, 1996, pg. 102-103.

nations I was able to determine that none of the bands used the 50% blood quantum rule and therefore decided to interview Elders that represented the remaining three band membership rules. In order to keep the size of my research to a minimum and ensure that I was focused I decided to research the Kwak waka'wakw/Laich-kwil-Tach nations. For Kwak waka'wakw/Laich-kwil-Tach people, four is a sacred number. So in determining the number of Elders that I was going to work with I chose to work with four from each community. I chose to approach three different bands from the Kwak waka'wakw/Laich-kwil-Tach Nations, and ask two representatives to select four elders that can explain how their nation's membership was traditionally determined. I only chose three bands that represent three of the currently used band membership codes. I chose the Cape Mudge band that uses the One-parent descent rule; the Campbell River band that uses the Two-parent descent rule and the Namgis band that still has the Department of Indian Affairs and Northern Development determine their membership by Indian status as well as control their band membership list. I only interviewed Elders from three communities because I was unable to locate a Kwak waka'wakw/Laich-kwil-Tach band that used the fourth type of membership rules, which is 50% blood quantum.

In talking with health centres, Elder's coordinators and Band offices in the Kwak waka'wakw/Laich-kwil-Tach nations I came to realize that the number of Elders in the Kwak waka'wakw nation is depleting, as is the case of Elders in the Laich-kwil-Tach nation where the number of Elders is rapidly depleting. In Cape Mudge and Campbell River it was pretty difficult to come up with four Elders for me to talk with. In each of the latter communities there are only a couple of other Elders that I may possibly have been able to choose from over and above the four Elders I worked with. I was able to get

four Elders from the Namgis band with a few others left over but the number of Elders in Campbell River and Cape Mudge were significantly less in numbers.

Both the Campbell River Band and the Cape Mudge Band belong to the Laich-kwil-Tach nation and the Namgis Band belongs to the Kwak waka'wakw nation. These are two different groups of First Nations people that live and have lived since time immemorial as neighbors. Though there are some differences the culture is quite similar in regards to the dancing and singing. The greatest difference is in the languages that the two groups speak. The Namgis people speak Kwak'wala and the Laich-kwil-Tach speak Liq'wala. Again there are similarities in the language, for instance they can understand one another and speak to each other, although there are some great differences in some of the words in either language.

I asked the Elders 11 open-ended questions to enable them to tell their story with little influence from the questions (see Appendix C). In all of the interviews with participants in this study I explained what the intentions of the study were and the kind of information I was looking for from them. I chose to use qualitative analysis to allow me to compare and contrast and develop themes from information that is currently available on determining band membership. Culture is an essential element that needs to be addressed to ensure that traditions are being taken into consideration when new membership rules are designed. One other benefit of using qualitative analysis is that this approach “expects that a close relationship between the researchers and the participants will develop and will have a reciprocal influence on each other.”⁷⁸ It is important to

⁷⁸ Tutty, Leslie M. Rothery, Michael and Grinnell, Richard M. Jr., *Qualitative Research for Social Workers*, Allyn and Bacon, 1996. pg. 9.

develop relationships with the participants to ensure that they feel comfortable enough to speak their minds and not withhold information that could be valuable.

After I chose the three bands from the Kwak waka'wakw/Laich-kwil-Tach territory I spoke with one or two people at band offices or health centres and had them recommend Elders to be interviewed (see Appendix D & E). I met with the Elders twice and later visited on a few occasions to ensure that they were comfortable with me and wouldn't hesitate to ask me any questions that they might have. I analyzed the material gathered through the information process and was pleasantly surprised at how similar the responses from the Kwak waka'wakw nation and the Laich-kwil-Tach nations were. I found several themes that thread themselves throughout the material.

I think it is important to start out with a description of the Elders I interviewed. I interviewed four elders, two males and two females from each of the three different communities, totaling 12 Elders ranging from 69 to 92 years of age.

One of the strengths of using multiple interviews is that after my initial interview I was able to evaluate my questions and reword them. This process has allowed me to enhance both my interview skills as well as provided me with an abundance of contacts in my home community as well as two other communities. Another strength for using interviews and oral history is that throughout the process I have gotten to know all of the participants well and now have a broader sense of some of the connections that the Kwak waka'wakw and the Laich-kwil-Tach nations share. One of the limits to using interviews and oral history is that though I am happy with my results and the Elders that I interviewed I will always wonder how my research would have turned out if I had been directed to interview a different set of participants. It would have also been interesting if

there was a Kwak waka'wakw/Laich-kwil-Tach community that used 50% blood quantum and I wonder how similar or different my results would have been.

The use of these research methods has allowed me to connect with Elders and various communities and has given me a new found knowledge of band membership and how communities truly feel about their own membership codes and their quest to want to take over and run their own membership.

Chapter 5

Traditional Methods of Determining Tribal/Community Membership

In my discussions with both the Campbell River band Elders and the Namgis band Elders none of them knew how their bands currently decided band membership. Of the four Elders that I interviewed in Cape Mudge only 2 knew how their band was deciding membership and one of them knew because he was on the committee when the policy was made. Some people may find the results startling in that 10 of the 12 Elders that were interviewed did not know how band membership was decided in their communities. I however, was not. Through informal knowledge as well as my formal research it has been very common for me to ask people if they know how their band decides membership and have them not know. Sometimes they don't know and sometimes they think that they know and I tell them the true way that their band determines membership. I believe this is due to a lack of both communication and an initial lack of involvement with the community as a whole and/or in the development of their band membership codes.

The first community where I spoke with Elders was in Alert Bay (Namgis). The Namgis band is classed as Section 11 band under the current Indian Act and do not currently control their band list or determine their own membership. The Department of Indian Affairs and Northern Development continues to decide how membership is determined and who gets membership.

The second community that I interviewed Elders was in Campbell River. The Campbell River band is classed as a Section 10 band under the Indian Act. They have

control of their band membership list and developed their own band membership rules, which are based on having Indian status.

The third community that I interviewed Elders was in Cape Mudge. Cape Mudge is classed as a Section 10 band according to the current Indian Act. They have taken control of their band membership list and developed a band membership code that is based on the one-parent unlimited descent rule.

I will begin this section by showing the questions that I asked the Elders and give you an idea of how they answered them. I will finish this section with a few observations from these interviews.

Are you happy with your band's current Band membership codes? If yes, why? If no, why not?

All eight Elders from Campbell River and Namgis were not happy with the present band membership codes and all of them would like to see either the band take control of membership or have traditional family orientation determining who is a member. Two of the Namgis Elders were definitely not happy with Indian Affairs controlling their membership but they do not think their band is ready or has enough educated people to take care of it. They would like to see young people get educated and then have the band take over the membership code and list. All four of the Elders in Cape Mudge were happy with the way their band membership is currently determined because in traditional society if you were born into a family you belonged, and this is one of the ways in which they currently determine their membership.⁷⁹

⁷⁹ Ruby Wilson, Elder, Cape Mudge Band, January 2002.

To your knowledge, in traditional society, before the Indian Act, how was tribal/community membership determined? Specifically, how was inter-marriage of community members to non-community members decided?

In traditional Kwak waka'wakw/Laich-kwil-Tach society before the Indian Act membership was determined by ancestry. Elder said, "You were born into a tribe; if you had Indian blood in your veins then you were a member. We were a hospitable people."⁸⁰ Elder said, "The Chiefs would decide who was a member and the women would go to the man's tribe or village."⁸¹ Elder said, "The high ranking Chiefs, other Chiefs and the family Elders would decide who was a member. The old people were very accepting and that's why white people got in so easily."⁸² Elder states, "Membership was all about family ownership of lands and rivers. We were family oriented back then, as long as you came from a family you belonged to the tribe."⁸³ Elder responded, "We had our own government. Decisions were made by the Chiefs and Elders. The women went to the man's tribe unless a women's family was Chiefs: a high-ranking man would marry her and share her high-ranking status."⁸⁴ Elder said, "When you marry someone you went to your spouse's village. Most times it was the women that went with the husband's family/tribe and so did their children."⁸⁵ Elder said, "The husband's nationality controlled the nationality of the children. Unless they stayed with the wife's family, the children belonged to the mother's family. This occurred because sometimes the wife's

⁸⁰ Chief Pat Taylor, Namgis Band, January 2002.

⁸¹ Ruby Wilson, Cape Mudge Band, January 2002.

⁸² Peggy Svanvik, Namgis Band, January 2002.

⁸³ Captain George Quocksister, Campbell River Band, January 2002.

⁸³ Chief Albert West, Namgis Band, January 2002.

⁸⁴ Glenn Johnson, Cape Mudge Band, January 2002.

family made an agreement. If the man was useful he would stay with his wife's family in their camp."⁸⁶ The above description of how traditional Kwak waka'wakw/Laich-kwiltach membership was determined is very similar to what the Cape Mudge Indian band currently uses to decide band membership. The Cape Mudge band uses a Membership committee to review applications and in traditional society it was decided by the high Ranking Chiefs, other Chiefs and family Elders. In both the current Cape Mudge rules and in traditional society membership was contingent on a lineal tie to the community or a tie through marriage.

One Elder responded, "My father was Swedish and he was welcomed into the community but he didn't have a say in what happened. Half-breeds were taken on by family, so that if anything happened to the child's parents then the children would be taken care of."⁸⁷ One of the stories of membership that was told was about one of the Elders' uncles. "My Uncle Sam Henderson was a half-breed and he was accepted. When he chose to marry the Chief's eldest daughter, the Chief told him that he had to change. He had to make a choice. If he was going to marry his daughter then he needed to go Indian or he wouldn't allow the marriage to his daughter. He decided to go Indian and marry the Chief's daughter."⁸⁸ "When an Indian married a non-Indian the kids were accepted: they wouldn't be seen as white because that would leave them with nothing."⁸⁹ In this way, one could say that with the stories told by many of the Elders that non-member and non-Indians were accepted into traditional society.

⁸⁶ Captain George Quocksister, Campbell River Band, January 2002.

⁸⁷ Glenn Johnson, Cape Mudge Band, January 2002.

⁸⁸ Kenneth (Butch) Henderson, Campbell River Band, January 2002.

⁸⁹ Ruby Wilson, Cape Mudge Band, January 2002.

“We had our own membership rules. It took place in our Potlatching Laws. The heads of families and Chiefs decided and you would be acknowledged by both of your parents’ families. The Potlatch is where it was validated. Anyone with ancestry was accepted and the people that married out are accepted they can come back. The main reason why the colonial government banned Potlatching was because the roots of our culture was imbedded in it. This is where our business happened.”⁹⁰

Do you see your Band’s current membership codes increasing or decreasing or maintaining membership in your community?

Through my discussions with the Elders from the Campbell River Band I heard different responses from each Elder. I also heard some confusion around what they thought was happening with the population in their community. The Campbell River Band is comprised of 15 Laich-kwil-Tach tribes. One Elder who is also a hereditary Chief in the original Awahoo Tribe says that our current method of determining band membership is a violation of our Native National rights and that he does not agree with it. “In terms of family orientation a lot of the people that are registered here do not traditionally come from here. That needs to change and we need to renew the band list to reflect who belongs to the band traditionally in a family orientation.”⁹¹

One Elder thought that it was staying the same and that it didn’t seem much better than it used to be. After living in her husband’s community for several years she moved home. Since returning to her village she never notices the band getting bigger, and it is about the same size as when she first came back.⁹² Another Elder thought that the

⁹⁰ Donald Assu, Cape Mudge Band, January 2002.

⁹¹ Captain George Quocksister, Campbell River Band, January 2002.

⁹² Violet Duncan, Campbell River Band, January 2002.

population was increasing due to the number of births in the community.⁹³ There are more people marrying non-Indians and the population is going up. However, the Campbell River band membership codes cut down the number of people eligible for band membership.⁹⁴ For the Campbell River band it appears that band membership has not dramatically increased or decreased.

Again, the Elders from the Cape Mudge band had mixed ideas about the population. Two Elders saw the population rising as the band was accepting all people with Indian blood, which is defined as “blood of a person lineally descended from a litwiltok person or other North American aboriginal persons” including women and children that have been left out by Indian Affairs and Northern Development.⁹⁵ One Elder does not get out much and has little contact with the band office or meetings and did not know how the population is being affected.⁹⁶ The last Elder saw the population of the Cape Mudge Band staying the same. She really hasn’t noticed it getting bigger or smaller.⁹⁷

Two of the Namgis Elders see the population of the band maintaining itself. They also note that if half-breeds were accepted then membership would increase.⁹⁸ One of the male Elders from the Namgis band thinks that the population is decreasing and that it isn’t the way it used to be. “The government wants to make your tribe smaller so you won’t have a voice and that something needs to be done.”⁹⁹ The other male Elder thinks that the population will increase in time. “Right now it is steady but families are getting

⁹³ Eleanor Cliffe, Campbell River Band, January 2002.

⁹⁴ Kenneth (Butch) Henderson, Campbell River Band, January 2002.

⁹⁵ Cape Mudge Band, *Cape Mudge Indian Band Membership Rules*, 1987, pg. 2.

⁹⁶ Glenn Johnson, Cape Mudge Band, January 2002.

⁹⁷ Joyce Grey, Cape Mudge Band, January 2002.

⁹⁸ Ethel Alfred & Peggy Svanvik, Namgis Band, January 2002.

⁹⁹ Chief Albert West, Namgis Band, January 2002.

bigger and the Namgis have amalgamated with other bands. With other bands joining, the presence of intermarriages and the absence of birth control are all contributors to making the population grow.”¹⁰⁰ A consistent message from the Namgis Elders is that they believe that membership should be self-determined but they would like to see young people educated before new membership rules are implemented and band control of the membership list takes place.

If you think back to before the Indian Act and Indian agents, do you know any stories or legends about membership in your tribe/community? If yes, are you willing to share it?

When asked about stories or legends about membership in their communities most stated the same well known examples. George Hunt was an English man that worked for the Hudson’s Bay Company. He married a high-ranking Native woman from Fort Rupert (Kwakwiltl Band), was accepted and was able to share her high-ranking status in Kwak waka’wakw culture and society. They had many children who were also accepted in the community. Today the Hunt family is still located in Fort Rupert, is still high-ranking and is large in numbers.¹⁰¹ Another example of non-Indians being accepted in communities is Sam Henderson. Sam Henderson was a half-breed. His father Kenneth Henderson was Scottish and his mother was from Blunden Harbour. Kenneth Henderson had two children with a Native woman from Blunden Harbour and one child with another Native woman. All three of Henderson’s sons were brought up by their Native mothers in their mothers’ village. Their own communities and the communities of the women they eventually married accepted them.¹⁰² In using the information gathered

¹⁰⁰ Chief Pat Taylor, Namgis Band, January 2002.

¹⁰¹ Peggy Svanvik, Namgis Band, January 2002.

¹⁰² Kenneth (Butch) Henderson, Campbell River Band, January 2002.

in the research process it is evident that non-Indian people had infiltrated First Nations communities and were accepted as members of both the community and cultural society.

If traditional tribal/community membership was reinstated today, how do you see the population being affected? Do you think something like this would even be possible?

When asked whether the Namgis Elders think traditional methods of determining membership could be brought back they unanimously said, yes. However, two of the four Elders think that the Namgis people, especially the younger people, need the teachings they were taught when they were growing up.¹⁰³ “The community could get together once a week because we need more people to learn to speak our language. More Kwak’wala will strengthen our culture and society.”¹⁰⁴ “There were a lot of young people

adopted out and people made you go where your husband was from. It would increase the population and we would need more land space to accommodate the people returning to the community.”¹⁰⁵ It is evident that the Namgis Elders believe that a return to traditional methods of determining tribal membership is possible but they would like to see community members get educated first. At the current time the Namgis Elders don’t believe that their community possesses the ability to control and decide their band membership.

Cape Mudge Elders were unanimous that the traditional method of determining tribal/community membership before the Indian Act would definitely be possible because what they are currently using is very similar to the traditional method. “If your family

¹⁰³ Chief Albert West & Peggy Svanvik, Namgis Band, January 2002.

¹⁰⁴ Chief Albert West, Namgis Band, January 2002.

¹⁰⁵ Peggy Svanvik, Namgis Band, January 2002.

comes from Cape Mudge then you can belong.”¹⁰⁶ In comparing traditional methods of the Cape Mudge people and the current method of determining band membership it is apparent that Cape Mudge’s current method is very similar with a few changes. One noticeable change is the structure of a Membership committee. Traditionally membership was decided by high ranking Chiefs, other Chiefs and family Elders and did not have a set of written directions and requirements for new applicants.

Though all of the Elders in Campbell River agree that membership could be reverted back to the traditional method, there was some disagreement among them about the effect on the population size. One Elder said that traditionally membership was determined by family orientation, therefore if the band were to completely revert to traditional methods the population would be significantly smaller as a large number of the current band members don’t originally come from Campbell River.¹⁰⁷ The remaining three Elders agree that traditional methods of determining tribal/community membership could be reinstated and think that the population would increase in size. One concern about the growing size of the population was that the reserve is already too small to accommodate all of the current band members but they wouldn’t want to turn anyone away from being a member of the Campbell River Band. There was an agreement among the Campbell River Elders that traditional methods of determining membership could definitely be reinstated but the population implications differed. One Elder says that traditional membership was determined by family orientation and that many of the families currently registered in Campbell River don’t originate from the tribe. The other

¹⁰⁶ Ruby Wilson, Cape Mudge Band, January 2002.

¹⁰⁷ Captain George Quocksister, Campbell River Band, January 2002.

three Elders also stated that membership was determined by family and would have an increasing effect on the population.

In your opinion, through the use of Band membership codes, how can we include and not exclude people and to what extent should we include and exclude people in determining band membership?

Three of the four Cape Mudge Elders think that their band membership policy should be inclusive; the fourth one abstained from answering the question. “It should include people as long as they have Indian blood from Cape Mudge and there should not be a limit put on it.”¹⁰⁸ “If they have a right to be here they belong. We should be able to do some screening. We don’t want to have people who would be a bad influence on the community, especially the children.”¹⁰⁹ One Elder specifically mentioned that if you have a great great grandparent from here then you have the right to be here.¹¹⁰ Conclusively, the Cape Mudge Elders agreed that if a person has ancestry or lineage that derives from the Cape Mudge band they are entitled to be registered as band members.

All of the Elders from Campbell River would like to see the band membership inclusive. “The simplest thing is to accept people with ancestry from here.”¹¹¹ “Any member of your family by-blood should be included in the tribe.”¹¹² “Kinship based on the inherent right families is the answer. If they are not kin then they wouldn’t belong here and they do not have the right to belong here.”¹¹³ The Campbell River Elders were consistent in the requirement of family ancestry or lineage to decide band membership.

¹⁰⁸ Donald Assu, Cape Mudge Band, January 2002.

¹⁰⁹ Ruby Wilson, Cape Mudge Band, January 2002.

¹¹⁰ Glenn Johnson, Cape Mudge Band, January 2002.

¹¹¹ Kenneth (Butch) Henderson, January 2002.

¹¹² Eleanor Cliffe, Campbell River Band, January 2002.

¹¹³ Captain George Quocksister, Campbell River Band, January 2002.

There was a mixture of responses from the Namgis Elders regarding being inclusive or exclusive when determining membership. They suggested a little of both. “If they have a connection to the band it is alright but we should be careful. We could do some screening and put a limit on it to keep out the undesirables. We need to have control over who comes in and be able to take them out.”¹¹⁴ The latter statement is to avoid situations like the one that involved a disgruntled spouse of a band member that burned down the Bighouse in Alert Bay. “It should be inclusive but also exclusive. It has to be based on blood.”¹¹⁵ “We should be inclusive and there should not be a limit or blood quantum to exclude people. If you are from here, you belong here.”¹¹⁶ “They (Indian Affairs and Northern Development) knew what they were doing, so they blocked our membership. There shouldn’t be a limit, there never was; it should be like it used to be.”¹¹⁷ Though the Namgis Elders answers differed the common goal of basing membership on family heritage was consistent.

If your band is currently using the Indian Act, would you like to remain using it or would you like your band to develop their own band membership code? If yes, why?

It was unanimous for Campbell River Elders that they should not continue using the Indian Act (ie. Indian status) to determine band membership. “We should develop our own rules.”¹¹⁸ “We should encourage people to know who they are and where they

¹¹⁴ Peggy Svanvik, Namgis Band, January 2002

¹¹⁵ Chief Pat Taylor, Namgis Band, January 2002.

¹¹⁶ Ethel Alfred, Namgis Band, January 2002.

¹¹⁷ Chief Albert West, Namgis Band, January 2002.

¹¹⁸ Eleanor Cliffe, Campbell River Band, January 2002.

come from.”¹¹⁹ “Tribe member affiliation should take band membership’s place with nationalities recognized.”¹²⁰

Currently, the Namgis band membership is controlled and decided by the Department of Indian Affairs and Northern Development. All of the Elders would like to eventually see the band take control of developing their own band membership rules and band list from the Department of Indian Affairs and Northern Development. “If we develop our own membership codes it would make us a stronger nation.”¹²¹ “The band should take over the membership rules and list. It would be hard to do, we don’t have many educated people here.”¹²² “I would like to remain using Indian Affairs to determine our band membership until we are able to get people educated. The band will gain strength; there are a lot of people that don’t have esteem. We can take the good things from the white people and we don’t need to keep the bad things.”¹²³

Did you know that you could have Indian status and not Band membership? Having Indian status does not necessarily mean that you have band membership and band membership does not mean that you have to have Indian status.

Only three of the men that were interviewed knew that it was possible to have Indian status and not band membership and that you could have band membership and not be a status Indian. The other three males and six females did not know that it was possible and most were interested in how it was possible. Some were under the impression that band membership and Indian status were synonymous. I explained that

¹¹⁹ Violet Duncan, Campbell River Band, January 2002.

¹²⁰ Captain George Quocksister, Campbell River Band, January 2002.

¹²¹ Chief Albert West, Namgis Band, January 2002.

¹²² Chief Pat Taylor, Namgis Band, January 2002.

¹²³ Peggy Svanvik, Namgis Band, January 2002.

prior to 1985 band membership and Indian status were synonymous because Indian Affairs and Northern Development defined and decided both.

If at some point your band chose to accept Band members that do not have Indian status, did you know that the Government of Canada only provides funding to your band based on the number of Status Band members? Does this make a difference for you?

In Cape Mudge one of the Elders said that if funding for bands was dependent on the number of status Indians it would make a difference for him. “It makes people struggle. The government should keep things equal for all.”¹²⁴ Though this Elder viewed the process as unfair it does not make enough of a difference that he would not accept non-status band members. It does not make a difference that Indian Affairs will only give funding to bands for the number of status Indians. “If you qualify for membership it is not your fault that the government doesn’t qualify people as Indians even if their community considers them to be one.”¹²⁵ In the end all of the Cape Mudge Elders agreed to continue to keep accepting non-status band members but were not comfortable with the inequalities of Indian Affairs and the lack of support that Indian Affairs offers to bands that accept non-status band members.

The results were split among Campbell River Elders, two of whom said that the government allotting funding to only the status band members did not matter to them and that it did make a difference to them but not enough that they wouldn’t want to accept non-status band members. “We should get funding for everyone that is on the tribal affiliation list. If you qualify for membership, you are accepted and I will force equality

¹²⁴ Glenn Johnson, Cape Mudge Band, January 2002.

¹²⁵ Donald Assu, Cape Mudge Band, January 2002.

with the Department of Indian and Northern Affairs.”¹²⁶ Consistently the Campbell River Elders did not want to exclude people in the band membership process. The exclusion of people that do not have Indian status would continue the perpetuation of the Indian Act and if people are entitled to be registered it is because they come from that tribe.

All four Namgis Elders had similar responses in that they thought it would be a hardship for their families if they can't get status. “The government is ripping us apart.”¹²⁷ “It will be hard to do, in order to maintain Nimpkish Band rule. You have to be born in a place, its right to accept people from here.”¹²⁸ “Funding does matter because we need all the help we can get but we can't leave people off the band list at the expense of not receiving funding for them.”¹²⁹ All four Namgis Elders were in agreement to accept band members that did not have status but were dissatisfied with Indian Affairs and their decision to not provide funding non-status band members.

Observations from Interviews

These interviews and the Elders' oral history really made me look at who I interviewed, what band they currently belonged to, what band they used to belong to, if any and why they changed bands if they did. Through this process I discovered that only half of the Elders I interviewed originally came from the band that they currently belong to. Three of the women I interviewed do not belong to the band that they were originally

¹²⁶ Captain George Quocksister, Campbell River Band, January 2002.

¹²⁷ Chief Albert West, Namgis Band, January 2002.

¹²⁸ Chief Pat Taylor, Namgis Band, January 2002.

¹²⁹ Peggy Svanvik, Namgis Band, January 2002.

born into or belonged to. These three women currently belong to a band that they were transferred into upon their marriages to their husbands. All three women moved to their husband's bands. One of the men I interviewed does not belong to the band he originally belonged to or was born into because he transferred bands to belong to his wife's band. Also, one of the men I interviewed did not belong to the band that he was born into or originally belonged to because he was not brought up there and his sister invited him to come live in Campbell River with her. Eventually, he realized he liked it there and that he would like to stay so he transferred into the Campbell River Band.

I found it fascinating that I had interviewed Elders that literally represented all of the various ways that one could get traditional tribal membership. Of the Elders that I interviewed all were originally born into tribes. Some of the women I interview married into their husband's band and one man married into his wife's band and a couple of Elders transferred into other bands to be closer to family. First Nations people had their own form of government. One example can be found in the following example. Several of the Elders that I interviewed told stories of how outsiders were granted membership into bands with the permission of high-ranking Chiefs, other Chiefs and Elders as these members of the community had the authority to accept newcomers.

Overall, the quality of material I was able to obtain was both useful and informative to myself and will be informative to anyone who is interested in looking for information or options when deciding to take over their own band membership list or in developing new band membership codes.

This has been both an educational experience for me and for most of the Elders that I worked with. I wouldn't even know where to begin to tell you the enormous

with the Namgis Elders I was struck by their comments on the subject or thought of Jesus or Christ. I found it fascinating that religion appeared to have had a more significant impact on the most northern and remote band that I had chosen to work with. Of the four Elders I interviewed two are originally from the Namgis territory and the other two originally come from other northern remote communities. They were all very spiritual and knowledgeable in their cultures as well as traditions but at some point all four Elders spoke about kids nowadays, and respect or the lack of respect that kids have now. They all were quite firm in their belief that it wasn't that way when they grew up. One female Elder in Alert Bay came from a Chief's family. Her dad was the Chief. She said, "girls have babies all the time now, it doesn't matter how old they are or if they are going to do it on their own. When I grew up we knew there was certain things that we couldn't do. If I got pregnant and had a baby that would shame my dad."¹³⁰ I find this concept that things are really different now is understandable. A few of these Elders are very close to 90 years of age or they are in their early 90's. I would think that in just under a century that a great deal of things would have changed.

In choosing to focus my research on three different bands in two separate nations I was not too sure what to expect. In the beginning I was a little apprehensive about studying two separate nations as I didn't want the data collected to make one nation look better than the other. I realize how complex both the Kwak waka'wakw and the Laichkwil-Tach cultures are and was ready for anything. I decided it would make for an interesting study and would be educational for both nations. My anticipation was that the information I gathered would be similar but have a few distinctive differences. I was

¹³⁰ Ethel Alfred, Elder, Namgis Band, January 2002.

pleasantly surprised when the information I gathered from the Elders was very similar to one another. I don't think that I would be able to draw any kind of line in my research to say, the Kwak waka'wakw say this and the Laich-kwil-Tach say that. The information I received was intermeshed in culture and I believe that this is because both nations traditionally Potlatched and it was through this hierarchal system that membership was decided and determined.

Chapter 6

Conclusion

The exploration of the topic of band membership codes is crucial because approximately 90% of the information I came across has been sponsored and distributed by the Department of Indian Affairs and Northern Development. Drawing on the concept of longevity of band populations from interviews with 12 Elders from three Aboriginal communities I would like to see First Nations people doing research on the development of new band membership codes, in order to increase the longevity of band populations in Canada.

One common theme I encountered was that most of the Elders that I spoke with said that they were unsure on whether they had the knowledge that I was looking for. In the end, nearly all had underestimated their abilities as they were very knowledgeable as to how membership was traditionally determined and very helpful in providing a strong foundation for my thesis.

The Elders that were 75 years of age and older reported that they were lonely. Repeatedly, I would hear that no one would come and visit them, yet most of them came from large families. I realized that the Elders are worried because their families are not visiting them and they are not passing on the knowledge that they have. I struggled with the thought of that for a while as I am constantly seeking more knowledge, especially regarding our culture and our language and found it hard to believe that people (young or old) who lived in the same town didn't go and visit these Elders. I told the Elders that I could never get enough of old people. It is these encounters with Elders that forced me to

realize what a gift these Elders have and that we as First Nations people need to get as much information from them as we can before they are gone.

There are currently four main types of membership codes in Canada. Many Nations in Canada have left their band membership lists and membership rules in the hands of the Department of Indian Affairs and Northern Development. These membership rules are based on sections 6(1) and 6(2) of the Indian Act. This makes band membership and Indian status synonymous. If you have one then you automatically get the other. A benefit to using this method to determine band membership is that through the use of the "Second Generation Cut-Off" blood lines will remain strong. Another benefit is that if all band members are status Indians then the band does not have to worry about fluctuations in funding or a lack of funding from the government as they will be receiving funding for all band members. The drawback to this method is that the presence of inequalities existed previous to 1985 and the "Second Generation Cut-Off" may make blood lines strong but in the process it perpetuates the inequalities set forth by Indian Affairs and neglects a number of people who may consider themselves to come from a particular nation.

The two-parent descent rule bases eligibility on the premise that both of the applicant's parents are members or are eligible for membership. One of the benefits to the two-parent descent rule is that guaranteeing that band members are coming directly from the nation can unify and strengthen their communities. If all band members are deriving from the same nation it would allow these bands to reclaim or solidify their cultures and languages if necessary. The disadvantage of using a two parent descent rule is that depending on the size of your nation it may not be possible to find a partner from the

same nation that is not related. Also, children should not be punished and disallowed membership because their parent decided to have a child with a non-member. The two parent descent rule is stricter than using the Indian Act to decide membership and has more detrimental effects on First Nations communities. Depending on the rate of out marriage to status Indians in other nations there could be large numbers of status Indians that do not qualify for band membership. Identity is very important to First Nations people. First Nations people identify with territories, waterways and nations. If they are not a band member it would have devastating effects on their lives. If all membership rules were as exclusive as the two parent descent rules there would be very few bands left with adequate numbers of members today for a sustainable community.

The blood quantum rules base eligibility on the amount of Indian blood a person possesses (typically 50%). Blood quantum rules maintain a list of members that have no less than 50% Indian blood. This allows the bands to unify and strengthen their lineage. It also allows bands to pool their cultural and language resources. By only allowing in members with 50% or more Indian blood, bands are able to purify their nation to ensure that they can maintain their existence. A drawback to this method of determining membership is that this is a perpetuation of the Indian Act's "Second Generation Cut-Off" rule and it draws a fine in which people who are and are not entitled to band membership. These people could have Indian status but not be entitled to band membership. Again, this leaves First Nations people wondering about their identity and where they belong.

The one parent descent rule bases band membership on the membership or eligibility for membership of one parent. These rules are very open and allow any person

with lineage or ancestry to belong. The disadvantage to this is that the opportunity rises for bands to accept non-status band members and they will not receive any funding from the Department of Indian Affairs and Northern Development for these band members... These membership rules allow for the blood quantum to minimize and may open up the opportunity to lose culture and language if people have minimal contact with the nation. Though the one parent descent rules do have some drawbacks I believe that it is the best option for bands to use. If bands are worried about loss of culture or language and a lack of involvement in community, special clauses can be added to the membership rules. Depending on the community's needs special clauses can include anything from a language requirement, demonstration of community ties or the formation of a membership committee that reviews new applications.

The two-parent descent rule, 50% Blood quantum and the Indian Act rules all leave people out who should be considered members and this causes divisions in First Nations communities. If the membership codes determine that you are not a member, this will have serious consequences for you. If you are not a member of the band, you are not entitled to responsibilities and privileges that band members have. One of the most important privileges for a First Nations person is the right to reside on the reserve. If you cannot live on the reserve then you will not have access to programs and services offered on reserve. Nor, will you have access to learning the language.

In going through the various papers, books, booklets and reports I have discovered that the one-parent descent rule, possibly combined with some other criteria is in the best interests of the preservation of Indian bands. I have proposed a membership code, for the Campbell River Indian band which is based on both the one-parent descent

and traditional methods of determining membership. This method of determining membership allows everyone who should be a member and is a member to have access to all of the benefits of being a member. (See Appendix G)

In the one-parent descent rule a single Indian ancestor is sufficient to qualify a person for membership and all of the descendants of the initial member-population will qualify. One-parent descent rule is inclusive of all descendents of a band member. All of today's members qualify, including children whose other parent is a non-member. However, in addition to the one-parent descent rule I would like to see bands use some provisions within their membership codes regarding the use of traditional knowledge. Prior to contact traditional methods of membership worked for hundreds of years. In order to develop membership codes bands should speak to their Elders to decide how membership was traditionally determined. First Nations could use traditional methods of determining membership as a template when developing a membership code based on one-parent descent. Traditional methods of determining band membership generally involved the use of family connection or ancestry to determine membership. This is also true for the one-parent descent rule, which could be more easily understood if the traditional methods of determining membership were added to it, First Nations would thrive. By creating membership rules that reflect both traditional as well as modern methods of determining band membership Indian bands will receive the best from both worlds.¹³¹

A very important part of a First Nations person's identity is being able to identify as an Indian or a band member. First Nations people belong to Nations or Tribes not to

¹³¹ Shade, Jennifer. *Using Membership Rules to Preserve Indian Bands*, December 19, 2000, pg. 23

Canada. Ruey Darrow, the Ft. Sill Apache Chairwoman states, “it’s not so much blood as it is you know who you are, and you feel in our heart and your spirit that you belong to this group.”¹³² As band members people identify with the environment that they live in, whether it is the reserve or territory that First Nations people live in, or it is the people that live in the community and on the surrounding land. First Nations people need to identify with people, ancestors and a land base. Another part of identity for First Nations people is receiving social acceptance from band members in their community.¹³³

The reserve is an important source of personal identity: it is part of one’s traditional homeland, one’s community. Being a member of an Indian band allows First Nations people to access their culture and gives a sense of belonging.

If you do not have band membership you will not be able to live on the reserve. If you do not live on reserve, you will be left out of the community loop. Speaking from experience as an off-reserve band member, it is very difficult to find out what is happening in your community if you do not live there. You will not have access to learn about your culture or be told when cultural events are taking place in the community. You will not have the right to vote for chief and council or decide on the allocation of resources/money in the community. You will not be able to participate in the political aspect of living on the reserve. As a non-resident of the reserve you are entitled to participate in the nomination or voting process of a Band election but may have little or no information on people in the community. Membership is important for First Nations people because it determines who shares in the responsibilities and privileges of the

¹³² Foster, David. *Culture: Who is a real Indian*, Associated Press, 1998.

¹³³ Shade, Jennifer. *The Impacts Membership Codes have on Aboriginal Communities*, December. 8, 2000, pg. 3.

community.¹³⁴ Membership essentially guarantees Indian Bands an identity that will be preserved in the future, for their self-defined membership will now be a basic right protected by law. Some Indians look upon band membership as the basis of their identity. To many Indians, band membership is important because it provides them with protection, stability, benefits, and a voice.¹³⁵ The use of membership codes that are inclusive of both status and non-status Indians would preserve Indian bands.

I interviewed Elders to ascertain how traditional tribal/community membership was determined before the Indian Act and compared these with current membership codes based on lineage. I have also looked at other opinions on the inequalities of the Indian Act and how this has affected bands in Canada and how this has impacted First Nations communities.

In finding a definition for, “Traditional Methods of Determining Tribal Membership” it can be concluded that for the Kwak waka’wakw/Laich-kwil-Tach nations it was decided by the Chiefs and Family Elders. To become a member of the tribe was determined by one’s ancestry. You were born into a tribe. Predominantly you would come from the village that your father came from but in some instances men did move to live with their wives’ family. Likewise for women, when they grew up to marry they would generally move to their new husband’s village unless she was from a high ranking family and he might then be invited to live with her family. Membership was based on blood and family or kinship. If you have the blood from a particular tribe in your veins then you have the right to belong to that tribe.

¹³⁴ Indian and Northern Affairs, 1985. *Indian Band Membership*. Pg. 4.

¹³⁵ *Ibid.*

Upon examining the gathered information I have drawn several key concepts/themes through comparing both current membership codes and traditional methods of determining tribal/community membership. Through my research I was able to ascertain that Elders in general were concerned with how their bands were currently deciding membership and viewed the longevity of their people as a priority. Through the constant reminder from the Namgis and Campbell River Elders that the current methods of determining membership are “not how it used to be”, I wanted to develop a proposed membership code that benefit not only the bands involved in this study but bands all over Canada. It would provide an example of what a traditional/contemporary band membership code would look like.

Through the use of the Ehattesaht Tribe, the Qualicum Band, the Cape Mudge Band, the current Campbell River Indian band membership codes and information gathered from interviewing Elders I have developed a new non-discriminating membership code, which is based on the Kwak waka'wakw/Laich-kwil-Tach traditions and is also inclusive of contemporary codes. I have titled this membership code, “Awahoo-Laich-kwil-Tach Tribal Affiliation Rules”(see Appendix G for full code). This code is based on both the one-parent descent rule and traditional methods of determining membership for the Campbell River Indian band. This method of determining membership allows everyone who should be a member and is a member to have access to all of the benefits of being a member. Specifically, this code allows people that can trace their lineage or ancestry to members of the tribe and people that were adopted as children to apply for membership. This essentially means that the number of intermarriages between other tribes or other nationalities does not rule out tribal affiliation.

However, one stipulation with applying for membership through the use of these rules is that each applicant must obtain written support or sponsorship of at least (5) members of the tribe in the age of majority (18 years and over). This stipulation has been added so that the membership committee will have a vaster amount of information to make their decision. For example, if the membership committee decides that “ties to the community” are important, through the use of the sponsorship letters they can determine to what extent the applicant has community ties. Another example of the necessity of sponsorship was mentioned by a few of the Elders in their interviews. Tribes need to know who they are accepting into their communities because they want to have members that are good role models for the children. They do not want to allow in members that may have detrimental effects on the community. As a part of my own community’s continuing process of amending or changing our current band membership rules I am going to propose the “Awahoo-Laich-kwil-Tach Tribal Affiliation Rules” to the Chief, Council and membership.

This membership code is more inclusive to all Indians and especially, Bill C-31 Indians that are currently being left off band membership lists. This membership code reflects the interests of First Nations people, will help to prolong the existence of First Nations people in Canada, and will also reflect traditional methods of determining tribal/community membership. This membership code is useful for my family, my community, status Indians, non-status Indians and any Bands in Canada that are interested in changing their current method of determining membership.

The most crucial factor that is causing divisions in First Nations communities is money. Doesn’t money make the world go round? We have been colonized to the point

However, one stipulation with applying for membership through the use of these rules is that each applicant must obtain written support or sponsorship of at least (5) members of the tribe in the age of majority (18 years and over). This stipulation has been added so that the membership committee will have a vaster amount of information to make their decision. For example, if the membership committee decides that “ties to the community” are important, through the use of the sponsorship letters they can determine to what extent the applicant has community ties. Another example of the necessity of sponsorship was mentioned by a few of the Elders in their interviews. Tribes need to know who they are accepting into their communities because they want to have members that are good role models for the children. They do not want to allow in members that may have detrimental effects on the community. As a part of my own community’s continuing process of amending or changing our current band membership rules I am going to propose the “Awahoo-Laich-kwil-Tach Tribal Affiliation Rules” to the Chief, Council and membership.

This membership code is more inclusive to all Indians and especially, Bill C-31 Indians that are currently being left off band membership lists. This membership code reflects the interests of First Nations people, will help to prolong the existence of First Nations people in Canada, and will also reflect traditional methods of determining tribal/community membership. This membership code is useful for my family, my community, status Indians, non-status Indians and any Bands in Canada that are interested in changing their current method of determining membership.

The most crucial factor that is causing divisions in First Nations communities is money. Doesn’t money make the world go round? We have been colonized to the point

that we are letting money determine who we are. The number of on-reserve status band members determines current funding allocations to bands. If the government treated non-status band members and status band members equally and allotted funding according to this statement, First Nations people could change their membership codes to be inclusive of non-status members and not suffer any financial consequences. If bands were receiving additional funding for new members, I think that most of the Indian bands in Canada would want to make amendments to their current membership codes or choose to develop new membership codes.¹³⁶ With combined effort from large numbers of bands throughout Canada we could collectively persuade the government to give additional funding for programs and services to bands for non-status band members.

It is quite evident that the government has mistreated and still mistreats First Nations people through the use of the Indian Act. As I chronologically progressed through the amendments to the Indian Act I can clearly see how the Department of Indian Affairs has labeled and divided First Nations people. “Why is it that only Indians have to deal with a system like the Indian Act? Do other nationalities have to go through what we do? If you marry a Chinese person, or Japanese person or an Iranian, does that mean that you become Chinese?”¹³⁷ These are questions that I was repeatedly asked from many of the Elders. The answers to most of the questions was, no. I could not tell them why the government has not tried to tell other Nationalities how to deal with themselves, their spouses and their children. I am not even sure if they wanted an answer or if they were just trying to understand what was going on for themselves.

¹³⁶ Shade, Jennifer. *Impact Membership Codes have in Aboriginal Communities*, December. 8, 2000, pg. 15.

¹³⁷ Ruby Wilson, Cape Mudge Band, January 2002.

I find the whole process and use of the Indian Act appalling. It is time that we, First Nations people take control and decide our own fate. We need to find a way to change the things that the Indian Act has done and make amends with our own people for perpetuating the cycle that the Indian Act started.¹³⁸ The population of bands is rapidly diminishing and bands need to make changes to their band membership rules for the survival of First Nations people. The Campbell River Indian band uses band membership rules that are based on a two parent descent. In 1991, Campbell River had 463 band members. However through the use of their current membership rules their band will be devoid of children by 2070 and will reduce to approximately 23 members by 2091.¹³⁹ The Namgis First Nation band membership is currently governed by the Indian Act. Their membership population will shrink from 1231 in 1991 to 492 in 2091 and be almost devoid of children.¹⁴⁰ The Cape Mudge band uses a one parent unlimited descent rule and will grow from 704 in 1991 to 1549 in 2091 and children will comprise 20% of the member population.¹⁴¹ With statistics like these Canadian bands need to take action, take over their band membership rules and lists and preserve the populations of their communities.

I think that when reasonable Treaties are agreed upon and signed membership will change. Through Treaties bands should gain back some of their traditional lands and resources. This will help bands that do not have enough land to house their members. I think that when we have our self-government established and we are equal to municipal

¹³⁸ Shade, Jennifer. *Using Membership Rules to Preserve Indian Bands*, December 19, 2000, pg. 22.

¹³⁹ Clatworthy, Stewart and Smith, Anthony H. *Population Implications of the 1985 Amendments to the Indian Act*, prepared for the Assembly of First Nations, December 1992. pg. 120-122

¹⁴⁰ Ibid.

¹⁴¹ Ibid. pg. 103-104.

governments our relationship with the government will drastically change. We will have to work together with the government to formulate a structure that supports First Nations people in their communities. An open line of communications between First Nations and the federal government will be imperative for a plan like this to work.¹⁴²

As the first step in the process of educating bands, I will provide the Campbell River Indian band, the Cape Mudge Indian band and the Namgis First Nation with copies of my thesis. I am also giving a copy of my thesis to all of the Elders that participated in my research. I will supply a copy of my thesis to the Assembly of First Nations as they have distributed valuable information on band membership. I will prepare a clear and concise summary of my thesis to distribute to band offices through the membership clerks and the Chief and Council. In order to begin changes in Kwak waka'wakw/Laichkwil-Tach communities, Chief Al West of the Namgis First Nation and I are working together to meet with all the Chiefs and family Elders at the next Potlatch to discuss the issue of band membership and methods of preserving membership populations.

¹⁴² Shade, Jennifer. *Using Membership Rules to Preserve Indian Bands*, December 19, 2000, pg. 22.

Bibliography

Advisory Council on the Status of Women, *Indian Women and the Indian Act*, April 23, 1976.

Akwesasne Nation, *Akwesasne Membership Code*, June 26, 1987.

Barnsley, Paul. *Membership Issues Illustrate Cultural Differences: Decisions Should Protect Culture*, *Windspeaker*, February 2000, v.17 (10).

Boldt, Menno. *Surviving as Indians: The Challenge of Self-Government*, University of Toronto Press, 1993.

Caldwell, Russell. *Whakapapa Ngai Tahu, a Guide to Enrolment and Research*, Te Runanga o Ngai Tahu Whakapapa Unit, 1996.

Campbell River Chief and Council, *Letters to Indian Affairs Re: Section 10*, June 1987

Campbell River Indian Band, *Campbell River Indian Band Membership Rules*, 1988.

Campbell River Indian Band, *Discussion with Band Members at Band Meeting*, November 4, 2000.

Campbell River Indian Band, *Notice of Poll*, 1988.

Cape Mudge Band, *Cape Mudge Indian Band Membership Rules*, 1987.

Clatworthy, Stewart and Smith, Anthony H. *Population Implications of the 1985 Amendments to the Indian Act*, prepared for the Assembly of First Nations, December 1992. (DIAND provided funding to AFN)

Ehattesaht Tribe, *Membership Rules*,

Foster, David. *Culture: Who is a real Indian*, Associated Press, 1998.

Gilbert, Larry. *Entitlement to Indian Status and Membership Codes in Canada*, Carswell Thomson Professional Publishing, 1996.

Hawley, Donna Lee. *The Indian Act Annotated*, Carswell Company Limited, 1984.

Holmes, Joan. *Bill C-31 Equality or Disparity? The Effects of the New Indian Act on Native Women*, Canadian Advisory Council on the Status of Women, March 1987.

House of Commons, *Indian Special Committee on Self-Government*, October 12 and 20, 1983, Issue No. 40.

Huntley, Audrey. *Aboriginal Women and Bill C-31: research in action*, Windspeaker, April 1999, v.16 (12).

Hutchison, Janet L. *A paper tiger for aboriginal women's rights*, Law Now, Oct/Nov 99. v.24 (2), pg. 14-17.

<http://www.atreide.net/cnc/neqa/neqa3.htm> , North Eastern Quebec Agreement – Section 3, March 3, 1999.

Imai, Shin. *The 1998 Annotated Indian Act*, Carswell Thomson Professional Publishing, 1998.

Imai, Shin and Hawley, Donna. *The 1995 Annotated Indian Act*, Thomson Canada Limited, 1994.

Indian and Northern Affairs, *Changes to the Indian Act, 1985*.

Indian and Northern Affairs, *Identification and Registration of Indian and Inuit People*, June 1993, Serial QS-5305-030.

Indian and Northern Affairs, *Impacts of the 1985 Amendments to the Indian Act (Bill C-31), 1990*

Indian and Northern Affairs, *Indian Band Membership, 1985*.

Indian and Northern Affairs, *The Elimination of Sex Discrimination from the Indian Act*, August 1982.

Isaac, Thomas. *Aboriginal Law, Cases, Materials and Commentary*, Purich Publishing, 1999.

Jamieson, Kathleen. *Indian Women and the Law in Canada: Citizens Minus*, Advisory Council on the Status of Women, 1978.

Kalbfleisch, Elizabeth. *Back to court while the women wait: Indian bands win a temporary reprieve to control membership*, Alberta Report, June 23, 1997. v.24 (28) pg. 34.

Kanien'keha:ka: ka of Kahnawake, *Kahnawake Membership Code*, Eastern Door, v. 8, No.24, July 9, 1999.

MacKinnon, Catherine, *Sexual Harassment of Working Women*, Yale University Press, 1979.

McKinley, Rob. *Inuit ancestry lost with the stroke of a pen*, Windspeaker, October 1998, v16 (6).

Qualicum Band of Indians, *Qualicum Indian Band Membership Rules*, 1987.

Shade, Jennifer. *The Impacts Membership Codes have in Aboriginal Communities*, December. 8, 2000.

Shade, Jennifer. *What motivates the Campbell River Indian Band*, December 14, 2000.

Shade, Jennifer. *Using Membership Rules to Preserve Indian Bands*, December 19, 2000

Shulamit, Reinhartz. *Feminist Methods in Social Research*, Oxford University Press, 1992.

Silman, Janet. *Enough is Enough: Aboriginal Women Speak Out*, Women's Press, 1987

Skwxwu7mesh Nation, *Skwxwu7mesh Nation Membership Code Amendments*, Skwxwu7mesh Nation Fall '96 Newsletter, 1996.

Smith, Derek G. *Canadian Indians and the Law: Selected Documents, 1663-1972*, Carleton Library Number 87, McClelland and Stewart Limited, 1975.

Starr, Vina. *Campbell River Band Meeting Agenda*, February 22, 1988.

Starr, Vina. *Letter of Report to Chief and Council*, January 25, 1988.

Tutty, Leslie. M. Rothery, Michael. Grinnell, Richard M. Jr., *Qualitative Research for Social Workers*, Allyn and Bacon, 1996

Wherrett, Jill. *Indian Status and Band Membership Issues*, Research Branch of the Library of Parliament, February 1996.

www.inac.gc.ca/pubs/wanted/question.html, December 7, 1999.

Interviews

Ethel Alfred, Namgis Band, January 2002.

Donald Assu, Cape Mudge Band, January 2002.

Eleanor Cliffe, Campbell River Band, January 2002.

Violet Duncan, Campbell River Band, January 2002.

Joyce Grey, Cape Mudge Band, January 2002.

Kenneth (Butch) Henderson, January 2002.

Glenn Johnson, Cape Mudge Band, January 2002.

Captain George Quocksister, Campbell River Band, January 2002.

Peggy Svanvik, Namgis Band, January 2002.

Chief Pat Taylor, Namgis Band, January 2002.

Chief Albert West, Namgis Band, January 2002.

Ruby Wilson, Cape Mudge Band, January 2002.

Appendix A
Letter to Participants

To Whom It May Concern:

My name is Jennifer Shade. I am a student in the Masters of Arts in Interdisciplinary Studies program at the University of Victoria. Your name was given to me by the _____ Band Office. I am requesting your participation in a research study on Traditional Tribal/Community Membership in Kwak waka'wakw/Laich-kwil-Tach communities.

This study was developed out of my concern for the Membership codes that my band, the Campbell River Indian Band is currently using. The information gathered in this study will be used to develop a new Band Membership code design that will incorporate traditional methods of determining Tribal/Community Membership with current membership policies to increase the longevity of First Nations people in Canada.

I am asking you to participate in a one possibly two interviews over the next 4 months for approximately one to two hours. This is to give you time to describe your traditional knowledge of your nation and how Tribal membership was determined in your community pre-Indian Act legislation.

Your responses to the interview will be kept strictly confidential, and individual responses will not be shared without consent. Your rights to remain anonymous and rights to privacy will be respected.

You have the right to withdraw from the research study at any time.

If you are willing to participate in my study please read and sign the attached consent form. Thank you for your assistance.

Your help will be greatly appreciated and could make an important difference to other First Nations people.

If you have any questions, please do not hesitate to phone me at (250)-754-9919. If you are concerned or have questions for my supervisor you can call Rennie Warburton at (250) 721-7061 or the Associate Vice-President, Research at (250) 472-4362.

Sincerely,
Jennifer Shade
Student Researcher

Appendix B

Informed Consent

You are being invited to participate in a study entitled “Traditional Methods of Determining Band Membership” that is being conducted by Jennifer Shade. Jennifer Shade is a Graduate student in the department of Interdisciplinary Studies at the University of Victoria and you may contact her if you have further questions by phoning her at (250)-754-9919, contacting her Supervisor Rennie Warburton at (250)-721-7061. In addition, if you have any concerns at any time please contact the Associate Vice-President, Research at (250)-472-4362.

As a Graduate student, I am required to conduct this research as part of the requirements for a Masters of Arts degree in Interdisciplinary Studies with a specialization in Aboriginal Government, Law and Sociology. This research is being conducted under the supervision of Rennie Warburton. You may contact my supervisor at (250)-721-7061.

The purpose of this research project is to identify traditional methods of determining Tribal/Community Membership and examining how these methods could be combined with the current methods of determining Band Membership. I am also going to examine the impact that Band membership codes have on First Nations communities.

Research of this type is important because currently the majority of materials available on Band Membership policies and current methods of determining Band Membership is distributed and decided by the Department of Indian and Northern Affairs.

You are being asked to participate in this study because your name was referred to my by _____ at the _____ Band office. I had requested the name of Elders from your community that would be able to share their knowledge of Traditional methods of determining Tribal/Community membership.

If you agree to voluntarily participate in this research, your participation will include one possibly two interviews with myself in to your home, your Band office or somewhere that you feel comfortable.

Participation in this study may cause some inconvenience to you, including the loss of a couple of hours of your time. I realize that many Elders have very busy lives and would appreciate any time that you could give her.

The only known or anticipated risks to you by participating in this research is that for some people Band membership may stir up some hard feelings towards Indian and Northern Affairs for their discrimination against women and division that their membership codes have drawn in First Nations communities across Canada.

The potential benefits of your participation in this research could impact First Nations people throughout Canada. This information could aid First Nations in deciding on how to determine Band Membership in their communities.

Your participation in this research must be completely voluntary. If you do decide to participate, you may withdraw at any time without any consequences or any explanation. If you do withdraw from the study your data will be used in the analysis of the research, if you agree to this in writing.

Your responses to the interview will be kept strictly confidential, and individual responses will not be shared without consent.

I will attempt to protect your anonymity if you do not want to have your name used but I am conscious that if people in your community know that you are working on this research study than most people in other Kwak waka'wakw/Laich-kwil-Tach communities will also know.

As part of my Masters of Arts in Interdisciplinary Studies I am required to do an Oral Defence of this research study. Other planned uses of this data may include publishing portions or results of this research and I may also present portions or results from this research. I may display portions of my research or the results of this study on the Internet.

Data from this study will be kept in my files and be available through the University of Victoria.

It is anticipated that the results of this study will be shared with others in conferences or publications.

In addition to being able to contact the researcher (and, if applicable, the supervisor) at the above phone numbers, you may verify the ethical approval of this study, or raise any concerns you might have, by contacting the Associate Vice-President, Research at the University of Victoria (250)-472-4632.

Your signature below indicates that you understand the above conditions of participation in this study and that you have had the opportunity to have your questions answered by the researcher.

Name of Participant

Signature

Date

A copy of this consent will be left with you, and a copy will be taken by the researchers.

Appendix C

Proposed Tribal/Community Membership Interview Guide

(Not necessarily in this order)

(These questions will be used as a guide for meetings with Elders)

- 1) Do you know how your band currently determines, who is a band member? If no, I will explain what code their band uses.
- 2) Do you see your Band's current membership codes increasing or decreasing or maintaining membership in your community?
- 3) Are you happy with your band's current Band membership codes? If yes, why. If no, why not?
- 4) How do you see your Band's current membership codes affecting the population of your community?
- 5) To your knowledge, in traditional society, before the Indian Act, how was tribal/community membership determined? Specifically, how was inter-marriage of community members to non-community members decided?
- 6) If traditional tribal/community membership was reinstated today, how do you see the population being affected? Do you think something like this would even be possible?
- 7) In your opinion, through the use of Band membership codes, how can we include and not exclude people and to what extent should we include and exclude people in determining band membership?
- 8) If you think back to before the Indian Act and Indian agents, do you know any stories or legends about membership in your tribe/community? If yes, are you willing to share it?
- 9) If your band is currently using the Indian Act, would you like to remain using it or would you like your band to develop their own band membership code? If yes, why?
- 10) Did you know that you could have Indian status and not Band membership? Having Indian status does not necessarily mean that you have band membership and band membership does not mean that you have to have Indian status.
- 11) If at some point your band chose to accept Band members that do not have Indian status, did you know that the Government of Canada only provides funding to your band based on the number of Status Band members? Does this make a difference for you?

Appendix D

Guide for Telephone Conversation with Bands and Band Representatives

- 1) Provide a brief description of what I am doing and ask for the name of the Elders Coordinator and the Culture Coordinator at the band office. If the band office does not have either of these positions or one of these positions I will ask the receptionist to suggest someone else that may be able to help me.
- 2) Ask Band Representative to refer me to 4 Elders in their community that are knowledgeable of how Band/Tribal/Community membership was determined before the Indian Act?
- 3) Introduce myself and describe what I am doing. Provide a copy of letter of consent to demonstrate what I am doing.
- 4) Answer any question and provide any additional information that the band office or employee requests.

Appendix E

Questions for Band Office Representatives That Are Referring Elders

- 1) Does this Elder currently live in your community or to your knowledge have they lived in your community?
- 2) To your knowledge do you think that this Elder can speak openly about Band/Tribal/Community membership after white people arrived but before the Indian Act was implemented?
- 3) Is this Elder currently involved with your Traditional culture, or have they been in the past?
- 4) How old is the Elder you are referring?
- 5) Can you describe this person's contribution as an Elder in your community? ie. Are they active members of the community, do they attend Elders conferences.

Appendix F

**List Of Possible Bands To Approach From The
Kwak waka'wakw/Laich-kwil-Tach Nations**

Method of Determining Membership	First Nation/Band Name
Two-Parent descent rule	Campbell River Indian Band Gwa'sala-Nakwaxda'xw Nation Quatsino First Nation
One-Parent descent rule	Kwakiutl Band Council Cape Mudge Band/Wei Wai Kai First Nation Qualicum First Nation
Indian and Northern Affairs has control	'Namgis First Nation Homalco First Nations Tsawataineuk Indian Band Da'naxda'xw First Nation

Appendix G

Proposed Traditional – Contemporary Combined Band Membership Rules

Awahoo-Laich-kwil-Tach

Tribal Affiliation Rules

Preamble

We, the people of the Awahoo-Laich-kwil-Tach Tribe assert our sovereign status as a nation and inherent Rights be fully protected under section 35 of the Constitution Act, 1982, of Canada. This recognizes and affirms the existing aboriginal and treaty rights of the aboriginal people of Canada; and,

Whereas section 25 of the Constitution Act, 1982 of Canada provides that the guarantee of individual rights and freedoms, Aboriginal, Hereditary, Inherent rights be fully protected, fostered and nurtured and to ensure justice and security to maintain Awahoo-Laich-kwil-Tach principles, practices, traditions and customs to promote harmony and common good, therefore do enact and establish these Membership Rules.

Whereas the people of the Awahoo-Laich-kwil-Tach Tribe is a community of aboriginal people in Canada; and,

Whereas the majority of the electors of the Awahoo-Laich-kwil-Tach Tribe have duly consented as annexed hereto in Schedule A;

NOW THEREFORE, the Tribe enacts as follows:

1. Title

These rules may be cited as the Awahoo-Laich-kwil-Tach Tribal Affiliation Rules.

Philosophy

The object of these Rules is to protect and enhance the cultural integrity, social harmony and economic stability of the Tribe.

We, the Awahoo-Laich-kwil-Tach, further state that these membership rules are the vehicle for the continuing existence of the Awahoo-Laich-kwil-Tach as Aboriginal people and ensuring the longevity of the Awahoo-Laich-kwil-Tach communities by:

Safeguarding all, what we were, what we are now and what we hope to be in the future as Awahoo-Laich-kwil-Tach.

The underlying principle of the Awahoo-Laich-kwil-Tach Tribe is Recognition, Respect, Honor and Dignity for all members regardless of rank or station in life within the community. For longevity of Awahoo-Laich-kwil-Tach Tribe, the Communal and Collective Rights of the community supercedes the individual right.

Interpretation

Use of Liq'wala words

These rules will use Liq'wala words that have significant meaning to the Awahoo-Laich-kwil-Tach Tribe and other people who are of Laich-kwil-Tach ancestry.

Protocol and Respect

The AWAHOO-LAICH-KWIL-TACH TRIBAL AFFILIATION RULES shall recognize, respect and honor the Rules, Codes, Standards, traditions and Customs of Tribes, bands and Clans from the Laich-kwil-Tach geographic boundaries.

2. Maintenance of Tribal Affiliations List

(a) The Tribal Affiliation of the Awahoo-Laich-kwil-Tach Tribe shall consist of all those persons entitled to be members of the

3. Definitions in these Rules:

- a) "Adult" – means a person of full age, 18 years.
- b) "Child" - includes a child born in or out of wedlock, a person under the age of eighteen years, legally adopted child and a child adopted in accordance with Awahoo-Laich-kwil-Tach traditions and customs.
- c) "Collective" – a group of individuals brought together.
- d) "Communal" – belonging to a community where ownership of property is shared along with shared responsibilities.
- e) "Collateral Lineage" – a line of connecting persons who are not directly related but whose relationship comes from the same ancestor.
- f) "Culture" – a total way of life of a person or a society that influences the expression or positive qualities to be fully and clearly displayed.
- g) "Custom" – established usage; social conventions carried on by tradition and enforced by social disapproval of any violation.
- h) "Descendent" – a person who can prove blood relationship to an ancestor.

- i) “Direct line” – a line of descent traced through those persons only who are related to each other directly as descendant.
- j) “Elder” – a person of at least the full age of fifty years, or a person younger than fifty years who understands and is knowledgeable of Awahoo-Laich-kwil-Tach Principles, Values, Vision and lives by them and also who knows Awahoo-Laich-kwil-Tach Culture, Tradition and Practices.
- k) “Hereditary Chief” – a person who by Awahoo-Laich-kwil-Tach Tradition is a head or ruler of a Big House in the Awahoo-Laich-kwil-Tach Tribe.
- l) “Heritage” – something that belongs to a person by reason of birth or by right of inheritance.
- m) “Indian Blood” – refers to the blood a person who is lineally descended from an Awahoo-Laich-kwil-Tach person.
- n) “Inter-tribal marriage” – means a marriage between a tribe member and a person who is a member of another band/tribe as defined in these Rules.
- o) “Membership clerk” – means a person appointed by the Council to perform the duties of registrar of Tribal affiliation list.
- p) “Membership Committee” – means the committee that is duly appointed by the Awahoo-Laich-kwil-Tach Council pursuant to Part 10 paragraph a.
- q) “Minor” – includes a child born in or out of wedlock, a person under the age of eighteen years, legally adopted child and a child adopted in accordance with Awahoo-Laich-kwil-Tach traditions and customs.
- r) “Traditions” – the handing down of beliefs, legends and customs from generation to generation by word of mouth.
- s) “Tribe” means the Awahoo-Laich-kwil-Tach Tribe;
- t) “Tribal Affiliation List” means the list of persons belonging to the Awahoo-Laich-kwil-Tach tribe and is maintained by the tribe.

4. Original Tribal Affiliation

- 4 (1) All those persons whose names appear on the Awahoo-Laich-kwil-Tach Tribal Affiliation list as maintained by the Awahoo-Laich-kwil-Tach immediately prior to these Rules coming into effect.

5(1) Tribal Affiliation Entitlement

The following persons may apply for membership within the Tribe:

- a) Persons with Indian blood within the meaning of these Rules;
 - b) Persons who were legally adopted at the time of being a child by a member of the band.
- 5 (2) All persons who desire to apply for membership in the tribe pursuant to paragraph 5 (1) must obtain the written support of at least five (5) members of the tribe of the age of Majority (18 years and over).

6. Classes of persons referred to in paragraph 5 herein include:

- a) Natural children born of Inter-tribal marriages within the meaning of these rules;
- b) Spouses of tribe members who marry within the meaning of an Inter-tribal marriage according to these rules;
- c) Members of other tribe who wish to transfer their membership;
- d) A child who is adopted by a tribe member;
- e) An adopting Awahoo-Laich-kwil-Tach parent or parents of any child may make application for adoption to the Membership Committee;
- f) Former members, their spouses and minor children who renounced their membership in the tribe and wish to apply for re-instatement;
- g) Any person with Indian blood (Awahoo-Laich-kwil-Tach blood) within the meaning of these Rules
- h) A child born to at least one Awahoo-Laich-kwil-Tach tribe member is entitled to be registered in the Tribal Affiliation list providing the other parent, if not a tribe member, consents in writing to the registration of the child;
- i) All those persons who can prove they are Awahoo-Laich-kwil-Tach through direct or collateral lineage, whether maternal or paternal; and they can meet the requirements of the Tribal Affiliation Rules;
- j) If the biological mother/father is non-Aboriginal, the Awahoo-Laich-kwil-Tach father/mother has the right to make application for Awahoo-Laich-kwil-Tach Tribal Affiliation to the Awahoo-Laich-kwil-Tach Tribe.

7. Persons not Entitled to Apply

For greater certainty the following persons are not entitled to Tribal Affiliation of the Awahoo-Laich-kwil-Tach Tribe:

- a) Persons who are not of Aboriginal descent;
- b) Persons of the full age of eighteen years and who are registered in the Band list of a Band of Indians other than the Laich-kwil-Tach Tribe and who have not requested that their names be deleted from such other lists.

8. Sponsorship of Applicants

- a) The applicant must have sponsorship in form of a written document from a current member of the Awahoo-Laich-kwil-Tach tribe, who is in good standing and is the full age of 18 years.
- b) A newly sponsored member may not sponsor a new member for a period of five years.

9. Application for Tribal Affiliation

- a) Any person applying for registration must do so in writing.
- b) All applicants must provide written support from at least (5) members of the Awahoo-Laich-kwil-Tach tribe in the age of majority, pursuant to section 5(2).
- c) An application for membership by any person not yet the age of eighteen years, shall be made by the parent of legal guardian of that child.
- d) All applicants must provide documentary evidence of entitlement to Tribal Affiliation, such as:
 - i. A family tree that links to the Awahoo-Laich-kwil-Tach Tribe; and,
 - ii. A long form birth certificate; or,
 - iii. A marriage certificate; or,
 - iv. A court adoption Order.
- e) Any person of Aboriginal Descent who is not entitled for registration on the Awahoo-Laich-kwil-Tach Tribal Affiliation List with Indian Affairs, may apply to have his/her name registered on the Awahoo-Laich-kwil-Tach Tribal Affiliation List.
- f) The onus of proof on any matter rests with the person applying for membership.
- g) The Membership Committee shall consider an application for membership within two months of the application.
- h) The Membership Committee shall within six months of receiving the application recommend in writing to Chief and Council whether to accept or deny any application for membership.
- i) Chief and Council shall within two months of receiving the Membership Committee's recommendation in respect of any application for membership put the application before the tribe in the written form or in the form of a meeting for a decision. The application for membership shall be decided by the majority of the Awahoo-Laich-kwil-Tach electors.
- j) Notwithstanding this section a person whose application for membership is accepted at the tribal level shall be entitled from the day his/her application is consented to by the band.
- k) All applications must be given to the Membership Clerk and addressed to the Membership Committee.

9 (1) The Membership clerk shall review all applications to ensure:

- a) The application is complete; and,
- b) Appropriate documents are enclosed.

10. Loss of Membership

- a) Any person who gained Tribal Affiliation prior to April 17, 1985 through marriage to a band member shall lose his/her membership upon divorce from the Tribal member.
- b) The name of a Tribe member who becomes the member of another band shall be removed from the Awahoo-Laich-kwil-Tach Tribal Affiliations list effective the date his/ her name is added on the Band list of the other band.

11. Membership Committee

- a) There shall be established a Membership Committee. The Membership Committee shall review all applications for membership and make recommendations in respect of such applications.
- b) The Membership Committee shall consist of not more than five persons who shall be elected by secret ballot at an Awahoo-Laich-kwil-Tach Tribe meeting.
- c) The Membership Committee shall consist of persons:
 - i. Whose names appear on the Awahoo-Laich-kwil-Tach Tribal Affiliation list; and
 - ii. Who are at least the full age of eighteen years; and
 - iii. Who are not during the duration of their appointment Chief and Council or a member of the Tribal Council; and
- d) The Membership Committee shall meet from time to time as required but not less than once every three months.
- e) The elected members of the Membership Committee shall sit for a term not more than three years.
- f) A quorum of the Membership Committee shall be three.

12(1) The duties of the Membership Committee shall be:

- a) To review all applications for Tribal Affiliation membership that is submitted to the Membership Clerk; and
- b) To insure that all relevant evidence is submitted to the Committee from the applicant.
- c) To submit a report to the Tribal Council and Tribe electors with respect to each of the applications for Tribal Affiliation Membership.

13. Appeal Procedure

A protest or appeal from the decision of the electors may be made in writing to the Awahoo-Laich-kwil-Tach Tribal Council within 3 years by:

- 1) The applicant;
- 2) The agent of the applicant; or,
- 3) A tribe member.

14. The notice of protest or appeal must state the provision in these Rules, which gives rise to the protest or appeal. The onus of establishing the grounds lies with the applicant.

15. A protest or appeal may be made pursuant to paragraph 13 if the appeal or protest is based on new substantial evidence to be considered by the electors.

16. Upon receipt of a notice of protest or appeal the Tribal Council shall:

- 1) Submit the Notice of appeal to the Membership Committee to be duly processed.
- 2) Call a Tribe meeting of the electors within six (6) months to hold a vote on the protest or appeal;
- 3) Give thirty (30) days notice in writing of the meeting to all tribe members both on and off reserve.
- 4) Post the said notice in the Tribal office for thirty (30) days before the said meeting of electors.

17. Regulations

- a) The Chief and Council may make orders and Regulations to carry out the purposes of these Rules.
- b) Orders and Regulations made under this section shall be posted at the Tribal Office for no less than thirty (30) days subsequent to being made.

18. Amendments to the Rules

These Rules may be amended if one third (1/3) of the electors sign a petition to Tribal Council, which outlines the reason for the proposed amendment.

19. Upon receipt of the petition, the Tribal Council shall:

- 1) Give thirty (30) days notice in writing to all tribe members, both on and off reserve of a special meeting to vote on the proposed meeting; and,
- 2) Post a copy of the said notice in the Tribal office for thirty (30) days prior to the said meeting; and,
- 3) attach the text of the proposal amendment to the notice.

20. If the proposed amendment receives the consent of a majority of the electors at the meeting called for that purpose, these Rules shall be amended accordingly.

21. Notwithstanding the amendment procedure prescribed in this section, the Tribal Council shall call a general tribe meeting within ninety (90) days of the first anniversary of the coming into force to review these Rules.

22. Coming into Effect of the Rules

These Rules shall come into force on the day that the electors from the Awahoo-Laichkwil-Tach Tribe approve these Rules.

Vita

Surname: Shade

Given Names: Jennifer Lynn

Place of Birth: Nanaimo, British Columbia, Canada

Educational Institutions Attended:

University of Victoria

2000-2002

Malaspina University-College

1993-1997

Degrees Awarded:

B.A. Child and Youth Care University of Victoria

1997

Honours and Awards:

Malaspina University-College, B.A. Child and Youth Care Entrance Scholarship

UNIVERSITY OF VICTORIA COPYRIGHT LICENSE

I hereby grant the right to lend my thesis to users of the University of Victoria Library, and to make single copies for such users or in response to a request from the Library of any other university, or similar institution, on its behalf or for one of its users. I further agree that permission for extensive copying of this thesis for scholarly purposes may be granted by me or a member of the University designated by me. It is understood that copying or publication of this thesis for financial gain by the University of Victoria shall not be allowed without my permission.

Title of Thesis:

Traditional Methods of Determining Tribal Membership

Author


Jennifer Lynn Shade

April 29, 2002