

Standing Committee on Indigenous and Northern Affairs – from Francis.Cadeau@royalroads.ca

I'm an Indigenous doctoral candidate at Royal Roads University, exploring the Additions to Reserve Process (ATR) with a focus on Geomatics perspectives by a mixed methods about ATR policy & geomatics. The ATR process topic has an academic and institutional literature gap from my researcher view, that requires improvement.

Past ATR land transfers has yielded 40% of all new reserve lands since 1972.ⁱ Today, over 1000 ATR cases exist with 83% being over five years pending in process approvals that's up 4% from the prior year.ⁱⁱ Past ATR transfers have added 2.6 million acres to reserves in Canada's 'land back' program. Canada has guaranteed three to four million acres in future ATR transfers, from past land settlements. These future land transfers will be ongoing policy - operational issue, that will need more resources to fulfill the promise of new reserve-land for bands.

Several ATR transfer issues emerged from my study, that involved an Assembly of First Nations membership survey of band ATR Process experiences, of Expert & Community ATR Interviews, and the available Academic & Administrative Literature. First, ATR lacks basic reserve process statistics, second, there's little public process data about the land roles & procedures of how ATR cases are finalized by ISC & CIRNAC, and others involved. Third, a lack of documentation and technical standards about Geomatics data involved is not recognized, which is an ongoing need for all ATRs. Finally, a better program transparency, with a 137 step ATR planⁱⁱⁱ program today, needs better metrics and information from a fifty-year-old program.

ATR process study findings:

- ATR Process is driven by its Geomatics data, (Land Mapping, GIS, and Cadastral Surveying) that is not well documented to First Nations and stakeholders,

- Geomatics data work in Canada's assisted land transfer process is conducted by the Federal agents, and other authorities, but new online GIS technology is changing ATR submissions. That's not well reflected in the program's logic model, nor communicated by Canada,
- Key to improving an ATR Process is postulated that better Geomatics resources and training could improve a First Nation's transfer application, as a recognized factor to gain a transfer approval, that needs this geospatial evidence,
- ATRs have economic transfer value for band economic opportunities, but few dollar values are known, especially about pending ATRs, maybe worth ten billion dollars today,
- The ATR program needs revision with the United Nations Declaration on Indigenous Peoples (UNDRIP) protocol, and new First Nation Post-Counter mapping ^{iv} practise that will impact urban, joint and land swapping ATR options for future transfers.

Future ATR land access and resettlement is beyond my ATR research, but it does remain a major problem. In 2019, the OECD released a report - Linking Indigenous Communities with Regional Development in Canada,^v outlined the current reserve lands situation. The report was not done by Canada nor by First Nations, which is unique given the context. However, this report requires reading about reserve land factors. Their analysis & recommendations should be well considered in policy content about our future state-assisted land acquisition process by:

- a. 'Undertaking a national audit of surplus government land to identify opportunities for set asides,
- b. Together with provinces, establishing a portfolio of land to be made available for future land claim settlements,
- c. Establishing a shared national/provincial programme of land purchase,
- d. Setting up an authority to manage this portfolio of available land & this programme of land purchase, with a mandate to transfer land directly to First Nations and to support them in their own land acquisitions, as the Australian Indigenous Land Corporation does,
- e. Working

together with First Nations to address third-party interests which may delay the transfer of land, possibly via the National Additions to Reserve Advisory Committee, which already has this competence, albeit limited to the Additions to Reserve process, f. Operationalising preferential acquisition of government land to First Nations, e.g. New Zealand Right to First Refusal policy, g. Developing an online portal with information about government land to be disposed of and with information about the possibility of preferential acquisition by First Nations, as in the New Zealand Crown Property Disposals Portal.’^{vi}

Additionally, OECD recommended for the Addition of Lands to Reserves and Reserve Creation Act (ALRRCA)^{vii} in introduced amendments to the First Nations Land Management Act, which improved the ATR process, that Canada should consider:

- a. ‘Working with municipalities to shorten the length of time it takes to implement an ATR.
- b. The number of ATR requests and the length of time that they take to be resolved should be publicly reported.
- c. Offering more direct support for land acquisition, especially in urban areas or in their vicinity, where land is more valuable.
- d. Strengthening a dispute resolution mechanism to negotiate third party municipality interests.
- e. Increasing funds & resources to support environmental assessments & (cadastral) surveys.’^{viii}

The land transfers from my research perspective adding, an UNDRIP protocol should be part of the new ATR program logic but currently isn’t. An ATR remains a real estate transaction, rather than a land access & resettlement model that’s the international practice. Land is fundamental for sustainable economic development for Indigenous peoples today.

Canadian reserve land access and resettlement is, a. Modern Treaty, b. Land purchased in the market or Crownland, and c. state-sponsored policies - 2016 Additions to Reserve / Reserve Creation Policy Directive. Study findings, confirmed a literature of known procedural issues of:

- ‘No clear policy mechanism to acquire lands for submission,
- A lack of resources to support the development, submission, and review of ATR proposals,
- No clear service standards for federal officials,
- Inconsistent ATR process application tracking,
- No effective mechanism to address the interests of third parties, such as provinces, municipalities, and Crown corporations, creating roadblocks. ^{ix}

Several of these issues are hopefully resolved in an upgrading of a prior National ATR Tracking System (NATS), which is being implemented in 2023. Yet, several operational issues continue from the recent national survey on ATR process that indicated:

- Work with provinces/municipalities to implement an ATR, needs new administrative tools,
- Historic ATR land requests need to be resolved & be publicly resolved on by an ombudsman.
- ATR land pricing, especially in urban and rural lands has dramatically increased recently.
- A dispute resolution mechanism to negotiate on Third party issues needs creation for ATRs.
- Increasing funding and resources to gain Geomatics band abilities would aid ATR process.

Statistically, past ATRs have averaged 994 acres, and between 2006 and 2018, were 981 parcel approved processes, in 866 were for rural reserves and 115 for urban ones.^x The increased intention for urban land parcels is a known trend. Basic pending ATR data remains restricted to First Nations and public. The lack of an information transparency does not help the bands, nor does it help Canada communicate the process to the public. Better communications are a priority issue from my study findings, as is a better documentation about the overall ATR process.

‘Access to land is a condition for Indigenous development, and these collective land rights are crucial for the preservation of Indigenous peoples’ identities and for their subsistence.’^{xi} ATRs completed to date have contributed much land to First Nation communities with pending acres, will yield over fifty percent of reserve lands. An ATR survey undertaken by the AFN to members involved or interested in a transfer remains to be fully assessed, but its response was over sixty percent, showing it’s now an important issue.

Additionally, improvements in the Geomatics procedures to improving the ATR Process, for First Nations will benefit future land transfer applications.^{xii} Current Land Mapping, GIS, & Cadastral Surveying remain technical topics in the lengthy transfer process. Some First Nations have been successful in adding large land areas to creating reserves and/or adding parcels of strategic band economic value. Other bands have not been involved or unaware of the process. From the past ATR data, most of the transfers have been to Indian Act bands of 60%, not the First Nation Land Management or a Self-Governing band.^{xiii} Those closer to cities must access a larger valued land market with a greater land cost than in more rural band communities. Rural bands have limited economic development options, but their land availability is easier to process.

Today, most Canadians recognize or acknowledge they have a role in advancing a First Nation reconciliation, but the task is not easy. A better ‘land back’ policy remains to be created. The upcoming ATR policy review will provide a forum to present revisions about a new policy. ATR remains to have UNDRIP integrated Two-eyed seeing lands perspective for an equitable and efficient transfer that must avoid future litigation/ liability to Canada and give First Nations an aboriginal title, in secure land rights and governance. New ATR-NATS applications remain to be tested, needing new training & education. The NATS job standard needs a national Geomatics Strategy for First Nations, but few current organizations could fulfill this champion’s role.

The development of new land information tools and applications continues, and those bands not engaged in this learning face a growing gap for band operations. Several issues in the ATR topic remain – a lack of a central document about ATRs from Canada. Second, like OECD outlined, is a long term land acquisition access and planning for Canada. Third, the land market pricing has outstripped most reserve band finances that queries a land trust plan or a lands pool. Fourth, the federal government must deliver ATR completions as newer transfer numbers are not growing, and economic development from potential ATR's are delayed, as more land information for the ATR evidence is required. Fifth, the lack of program clarity of ISC and CIRNAC, as to who does what and how ATR decisions are made, needs public reporting of the Canada lands transactions. Sixth, a need for process efficiency is needed with the 137 stepped ATR, the future transfers need improved land geomatics data & procedures, to gain quicker land transfers. Seventh, the process remains under a 'reserve lands management manual', that is not a place for new lands, or a new reserve creation. Especially the urban parcel ATRs, need a new manual to serve the stakeholders, and creating an ATR Land Institute to aid First Nations and stakeholders, could improve process.

ⁱ Approved Additions to Reserves website, <https://www.sac-isc.gc.ca/eng/1466532960405/1611939046478>

ⁱⁱ CIRNAC Departmental Results Report, 2021, <https://www.rcaanc.cirnac.gc.ca/eng/1634049500493/1634049553120#chp10>

ⁱⁱⁱ AANDC, Nov. 22, 2016, Updated - Additions to Reserves (ATR) Reserve Creation Process Flowchart.

^{iv} Cadeau, Francis. 2019, March 25-29. First Nations Geomatics: a Post-Counter Map Praxis, WORLD BANK CONFERENCE ON LAND AND POVERTY, The World Bank - Washington DC.

^v OECD (2019), Linking Indigenous Communities with Regional Development, <https://dx.doi.org/10.1787/3203c082>.

^{vi} Ibid.

^{vii} The Additions to Reserves and Creation Act, 2018, <https://laws-lois.justice.gc.ca/eng/acts/A-1.3/FullText.html>

^{viii} OECD (2019), Linking Indigenous Communities with Regional Development, <https://dx.doi.org/10.1787/3203c082-en>.

^{ix} <https://afn.ca/environment/land-rights-jurisdiction/>

^x Approved Additions to Reserves website, <https://www.sac-isc.gc.ca/eng/1466532960405/1611939046478>

^{xi} RCAP (1996), "Restructuring the relationship", in Report of the Royal Commission on Aboriginal Peoples, Royal Commission on Aboriginal Peoples, <http://data2.archives.ca/e/e448/e011188230-02.pdf>

^{xii} HAL Consultants, 2001, The Impact of Land Survey & Registration Systems, Technology Management, Strategy, and Economics.

^{xiii} Approved Additions to Reserves website, <https://www.sac-isc.gc.ca/eng/1466532960405/161193904647>