

## CONSERVATION AND TREATY RIGHTS

CONSERVATION AND TREATY RIGHTS: A CRITICAL ANALYSIS OF A SPORT ORGANIZATION'S PERSPECTIVE  
ON INDIGENOUS PEOPLES' HUNTING AND FISHING

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### **Lay Abstract**

The Ontario Federation of Anglers and Hunters (OFAH) is an influential organization that has criticized Indigenous peoples' treaty hunting and fishing rights and land claims for allegedly threatening conservation, recreational opportunities, and the outdoor economy. This thesis analyzes and compares the views surrounding treaty rights between the OFAH leadership and ordinary hunters and fishers inside and outside the organization. Interviews with 20 (Indigenous and non-Indigenous) respondents and a review of the OFAH's official sources showed that OFAH leaders and 55% of the respondents expressed feelings of concern, resentment, and opposition. Although OFAH leaders and 45% of the respondents displayed limited degrees of support for treaty rights, the general pattern showed how they drew on similar arguments based on equality, fairness, and a concern for wildlife to criticize and/or oppose treaty rights revealing a defensive reaction to maintain their privileges and access to resources.

## **Abstract**

The Ontario Federation of Anglers and Hunters (OFAH) is an influential sport/interest group that has a long history of advocacy and involvement with policies and management related to the conservation of wildlife and outdoor recreation. Since the 1990's, the OFAH have been outspoken with their criticisms towards particular Indigenous treaty hunting and fishing rights, co-management agreements, and land claims which are perceived to threaten conservation, future recreational opportunities, and the outdoor economy. Using semi-structured interviews with 20 Indigenous and non-Indigenous respondents and a content analysis of the OFAH's official documents, this thesis analyzes and compares the views surrounding treaty rights between the OFAH leadership and ordinary hunters and fishers inside and outside the organization. Discourse Analysis, Group Position Theory, and Colour Blind Racism theory were used to flesh out how the meanings and perceived legitimacy of treaty rights are constructed and negotiated, and whether opposition to Indigenous harvesting rights reflects a reactionary response to defend settler-Canadians' sense of superiority, privileges, and access to resources. The results showed that the OFAH and 55% of the respondents expressed feelings of concern, resentment, and in some cases opposition, revealing an established sense of group position. Although the OFAH leaders and 45% of the respondents displayed varying and limited degrees of support for treaty rights, the general pattern showed how OFAH leaders and respondents drew on similar repertoires with arguments and justifications based on equality, fairness, and a concern for wildlife conservation in order to criticize and/or oppose treaty rights. Consequently, these criticisms directly and indirectly work to define and redefine treaty rights and Indigenous treaty hunters and fishers in a negative manner. This case shows how resentment of and opposition to treaty rights within a settler colonial context embodies a perceived threat to settlers' sense of group position and the status quo.

### **Acknowledgments**

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### **List of Abbreviations**

AANDC- Aboriginal Affairs and Northern Development Canada (Formerly DIA)

AIP- Agreement-in-Principle

DFO- Department of Fisheries and Oceans

DIA- Department of Indian Affairs

EFN- Esgenoopetitj (Mi'kmaq) First Nation

HAAP- Hunting and Angling Advisory Panel

IEP- Interim Enforcement Policy

MNRF- Ministry of Natural Resources and Forestry (Formerly MNR)

NDP- New Democratic Party

NFN- Nipissing First Nation

OFA- Ontario Federation of Anglers

OFAH- Ontario Federation of Anglers and Hunters (Formerly OFA)

OOD- Ontario Out of Doors (magazine)

RCMP- Royal Canadian Mounted Police

SCC- The Supreme Court of Canada

SON- Saugeen Ojibway Nation

SON-MNRF- Saugeen Ojibway Nation- Ministry of Natural Resources and Forestry (commercial agreement)

### **Declaration of Academic Achievement**

The following is a declaration that the research within this thesis was conducted by Nick Martino, in partial fulfilment of a Master of Arts in Sociology. I recognize the important contributions and guidance from my supervisor Dr. Jeffrey Denis and committee members Dr. Victor Satzewich and Dr. William Shaffir in the design of this study, the interpretations of the findings, and their feedback throughout the writing of this thesis. In particular, my supervisor Dr. Jeffrey Denis provided invaluable advice and guidance with the theoretical and methodological orientation of this study, the interpretation of the results, and the organization of this thesis.

## **CHAPTER 1: INTRODUCTION**

### **1.1- Introduction**

The Ontario Federation of Anglers and Hunters (OFAH) are a prominent sport/interest group with a long history of advocacy for sport hunting and fishing and the conservation of wildlife. Since their formation in 1928, the OFAH have gained influence over hunting and fishing policies and management and developed close relationships with government officials, particularly from the Ministry of Natural Resources and Forestry (MNRF) (OFAH 2015; OFA Handbook n.d.; McLaren 2005). In reaction to the formal recognition of Indigenous<sup>1</sup> and treaty rights<sup>2</sup> within the *Canadian Constitution 1982*, as well as landmark court cases upholding these rights during the 1990s (e.g. *Sparrow* 1990; *Fairgreve* decision 1995; *Marshall* 1999), several non-Indigenous-settler<sup>3</sup> hunters/fishers and sport organizations such as the OFAH were actively critical of treaty hunting and fishing rights and engaged in protests and public campaigns to highlight how such rights allegedly threatened conservation, the economy, and their own hunting/fishing opportunities (Koenig 2005; McLaren 2005; King 2011).

Today, the OFAH is one of several organizations in Ontario which continues to monitor and criticize treaty rights cases, co-management agreements and land claims, including the Algonquin Land Claim, the Williams Treaty court challenge, and commercial fishing agreements in the Bruce Peninsula and Lake Nipissing (OFAH 2015; OFAH Annual Reports 2010-2014; OFAH Algonquin Webcast 2015). Although

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<sup>1</sup> When using the term 'Indigenous', I am referring to the First Nations, Métis, and Inuit people who live and have originally lived in this land (Canada and the U.S.).

<sup>2</sup> There are distinctions between Indigenous and treaty rights. According to McLeod et al (2015), Indigenous (Aboriginal) rights are collective and communal rights which manifest from the occupation and intrinsic use of land by Indigenous peoples prior to European arrival and settlement; whereas, treaty rights are context-specific rights that were negotiated through nation-to-nation agreements between specific Indigenous communities and the Crown following European arrival and settlement. Although separate, treaty rights may recognize, reinforce or reshape certain Indigenous rights. Hunting, fishing and gathering rights can derive from treaties, but are also inherent rights and responsibilities that stem from the sovereignty of Indigenous nations who have long governed themselves before European arrival, including nations who never signed treaties with the Crown (Denis 2015; McLeod et al 2015; Ladner 2009; Coates 2000; Borrows 2002; Corntassel 2012).

<sup>3</sup> The term 'settler' will refer to non-Indigenous people who arrived here throughout Canada's ongoing history of settlement and colonization.

the OFAH's advocacy has been analyzed (Dunk 2001; Koenig 2005; McLaren 2005; Wallace, Struthers and Bauman 2010), questions arise as to how their official views and policies are similar or different from their members and hunters/fishers outside the organization.

The goal of this research is to analyze and compare the views of the OFAH leadership with those of ordinary OFAH members and non-members. *To what extent do leaders, members, and non-members share views on Indigenous treaty hunting and fishing rights, and how do they attempt to influence one another? What are the points of contention and how are they expressed? Do some OFAH members resist or attempt to modify the organization's official position? If so, how?*

To investigate these questions, interviews with 20 Indigenous and non-Indigenous OFAH members/non-members, as well as data obtained from the OFAH's website, annual reports and popular *Ontario Out of Doors* (OOD) magazine, will be examined using a Discourse Analysis to flesh out the patterns and themes, and how the meanings and perceived legitimacy of Indigenous treaty rights are constructed and negotiated by the OFAH's leadership, members, and non-members throughout their social interactions. Herbert Blumer's (1958) "Group Position Theory," as recently elaborated by Bobo and Tuan (2006), Denis (2012; 2015) and Krause and Ramos (2015), and Bonilla-Silva's (2003) "Colour Blind Racism" theory will provide an initial lens to examine the extent to which opposition to Indigenous and treaty rights reflects racial prejudice and the repertoires that are mobilized to maintain power and privileges.

Overall, the results showed that the OFAH organization is active in criticizing treaty rights, co-management agreements, and land claims that are perceived to threaten settlers' sense of group position and access to resources. They do so by drawing on interpretive repertoires with arguments that emphasize the conservation of wildlife, fair and equitable sharing, equal treatment, and equal opportunities to hunt and fish. Over half of the respondents (55%) drew on similar repertoires to express their criticisms and opposition to treaty rights with the perception that they enable 'unregulated' wildlife abuse, contradict the virtues of equality, and should only be exercised with 'traditional' methods and/or

on Indigenous land. The remaining respondents displayed varying and limited levels of support and acknowledgment that Indigenous treaty hunters and fishers respect wildlife and adhere to conservation ethics and practices.

Despite this support, the general pattern revealed an established sense of group position among the OFAH's leadership and the sample of their members and non-members, and how the repertoires used to express their criticisms and opposition directly and indirectly work to communicate shared meanings that define and redefine treaty rights and Indigenous-settler relationships in a manner which perpetuates negative stereotypes, overlooks Indigenous peoples' respect for the land and their historical and contemporary contributions to conservation, and depicts Indigenous treaty hunters and fishers as a threat to conservation, fairness, settlers' access to resources, and the status quo.

### **1.2- Direction of Research:**

The thesis will proceed as follows: Chapter two will review the historical and contemporary literature about the tensions between Indigenous and settler peoples in Canada regarding treaty rights, sport hunting and fishing, and conservation, as well as the history of the OFAH and their involvement within treaty rights disputes. This is followed by an overview of the theoretical orientation, which blends aspects of Group Position theory, Colour Blind Racism Theory, and Discourse Analysis. Chapter three will discuss how the data collection was carried out and the limitations within this research. Chapter four will provide a broad overview of the OFAH and respondents' views towards treaty rights, along with background-contextual information. Chapter five delves into the details surrounding the views from the OFAH and the respondents, and how they drew on (shared) interpretive repertoires based on the principles of fairness, equity, and equality to criticize or oppose treaty rights. Chapter 6 reveals how the OFAH and several respondents also criticized or opposed treaty rights by using arguments and justifications about how such rights were allegedly enabling 'unregulated' and excessive hunting and fishing, which would threaten conservation and non-Indigenous peoples' hunting/fishing opportunities. In addition, this chapter illustrates how less than half of the respondents supported treaty rights or

acknowledged Indigenous peoples' conservation beliefs and practices, and only a few would reportedly challenge negative stereotypes or denounce the racist attitudes of fellow hunters and fishers. Chapter seven concludes with an overview of the findings and how the OFAH and more than half the respondents shared similar views, which resemble racial prejudice in the way that they draw on repertoires as a defensive reaction to criticize and oppose treaty rights that threaten their sense of group position, privileges, and proprietary claims to resources. Finally, I offer recommendations to all non-Indigenous hunters and fishers on ways to renew positive relationships with Indigenous people and avoid provoking or exacerbating racial prejudice.

## **CHAPTER 2: LITERATURE REVIEW**

### **2.1- Historical Overview:**

Hunting and fishing (and other harvesting activities) have always been central to Indigenous ways of life and have had a long presence within Indigenous and non-Indigenous relations, starting with the fur trade era in the early 17<sup>th</sup> century and lasting until the late 19<sup>th</sup> century (Payne 2004). However, by the end of the fur trade, this relationship had gone through complex changes and arrangements in relation to the multifaceted colonial processes of nation-building at the expense of Indigenous peoples' lands and ways of life, and alongside significant social, political, environmental and economic changes such as the increase in agriculture, urbanization, industrialization, railway expansion, deforestation, and the drop in wildlife populations (Report on the Ontario Game and Fish Commission 1892; Miller 2004; Gillespie 2002; Sandlos 2003, 2008; Colpitts 1998; Pulla 2012).

This coincided with and arguably influenced the decline of hunting and fishing for subsistence purposes, particularly among European settlers, the deterioration of the relationship(s) between Indigenous Nations and the new colonial state, and the shift in the (non-Indigenous) perception and participation in hunting and fishing as a means of survival to a form of pleasure and recreational sport. As a result, the 19<sup>th</sup> century witnessed an increase in tensions and legal disputes that erupted around hunting/fishing, Indigenous peoples' land and treaty rights, conservation, game laws, sport, and tourism (Report on the Ontario Game and Fish Commission 1892; Gillespie 2002; Sandlos 2003, 2008; Pulla 2012; Binnema and Niemi 2006; Waisberg, Lovisek, and Holzkamm 1997), which continues to present unresolved issues in contemporary Canadian society (The Ipperwash Inquiry 2007; McLeod et al 2015). Once sport hunting and fishing became increasingly popular and important for an outdoor tourist economy, the hunting/fishing lifestyles of Indigenous people were viewed as uncivilized and frowned upon. Negative depictions were frequently constructed, transmitted, reproduced, and reinforced within the accounts and reports from sport enthusiasts and government officials (Tough 1992; Calverley 1999; Sandlos 2003, 2008; Colpitts 1998; Pulla 2012; Binnema and Niemi 2006).



Gillespie (2002) and Loo (2001) illustrate how these negative depictions were prevalent throughout the early travel writings and journals of numerous European aristocratic big game sport hunters who travelled into what is now Western Canada during the mid-19<sup>th</sup> century. Gillespie (2002) claims these sport hunters did more than just travel and hunt, but were an extension of British imperial power and colonial expansion. Through their hunting expeditions, they created maps of the landscape and (re)named iconic landmarks which helped advance Euro-Canadians' appropriation of land that was perceived to be 'empty'.<sup>4</sup>

Within their journal accounts, the sport hunters viewed local Indigenous people and white settler 'pothunters' who hunted for subsistence as 'uncivilized' and 'unmanly'. Hunting for sport and trophies, by contrast, was considered 'civilized' as it encouraged sport hunters to have 'etiquette' and 'sportsmanship'. These upper class sport hunters emerged from an aristocratic cult that endorsed a specific code of conduct commonly referred to as the 'sporting code', which aimed to tie sport hunting with conservation and natural history and situate it within the realm of a respectable, leisurely activity. According to the sporting code, a 'true gentleman' hunted for the intellectual aspects of the chase and the love of the wilderness. The code also encouraged sport enthusiasts to hunt and fish 'fairly' by only taking fish and animals during appropriate seasons, hunting only males, ensuring a 'clean kill', and to refrain from netting or spear fishing. Through the sporting code, hunters were able to connect themselves to an activity conducted by respected, adventurous men who were concerned about the conservation and ethical treatment of wildlife (Gillespie 2002; Loo 2001; Binnema and Niemi 2006; Altherr 1978; Sandlos 2003).

Since these sport hunters did not acknowledge Indigenous peoples' conservation methods and beliefs, they deemed their hunting and fishing lifestyles to be in violation of the sporting code not only for

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<sup>4</sup> Many sport hunters named landscape features after themselves or military and political leaders. For example, British hunter James Carnegie, the Earl of Southesk, named Mount Dalhousie in Alberta after his friend Fox Maule Ramsay, the 11th Earl of Dalhousie (Gillespie 2002). Recently, the Gwich'in Social and Cultural Institute created a series of maps featuring traditional place names in the Northwest Territories and Yukon (CBC News 2015).

subsistence hunting/fishing, but for their perceived inhumane methods such as lead hunting and using traditional fishing methods such as netting and spearing (Gillespie 2002; Binnema and Niemi 2006; Loo 2001; Sandlos 2003).

These negative depictions continued to be reproduced and reinforced by non-Indigenous sport enthusiasts throughout the late 19<sup>th</sup> century as the concerns over depleting wildlife populations and resources intensified. During this time, many conservationists, naturalists, and sport hunters/fishers from all social and economic classes, both urban and rural, began to form organizations and unite together to raise awareness about the loss of resources and the benefits of conservation. The 'sporting code' that guided the earlier big game sport hunters maintained its importance and message, which not only promoted 'ethical' sport hunting/fishing, but also asserted that political advocacy was a responsibility of all sport enthusiasts and conservationists. As a result, they became politically active and highly influential in lobbying the new Canadian governments for increased and effective game and wildlife laws and initiatives to limit and control hunting and fishing and investigate the causes of wildlife depletion. This became known as the 'conservation movement' which erupted in the 1880s and accelerated throughout the 20<sup>th</sup> century in both Canada and the United States (Killan 1993; Sandlos 2003; Colpitts 1998; Gillis and Roach 1986; Binnema and Niemi 2006).

In addition to promoting conservation principles, this movement sought to create a tourist economy based on recreational sport and outdoor activities like hunting, fishing, camping, animal watching, canoeing, etc. Government officials shared their concerns and economic aspirations and created game laws to preserve a sustainable wildlife population for economic as well as environmental purposes. Provincial governments passed legislation that created open/closed seasons, mandatory licences, game tags, catch-limits, wildlife sanctuaries, re-stocking programs, increased enforcement, and harsher penalties for breaking game laws, which were often imposed on Indigenous peoples despite promises to protect treaty hunting and fishing rights (Report on the Ontario Game and Fish Commission 1892; Pulla

2012; Calverley 1999; Waisberg, Lovisek, and Holzkamm 1997; Binnema and Niemi 2006; Killan 1993; Sandlos 2003).

Unfortunately, the influence of the conservation movement on government wildlife policies had devastating consequences for Indigenous people and their traditional ways of life. The movement's goals directly and indirectly aimed to restrict Indigenous peoples' hunting and fishing lifestyles and gain access to their land in order to promote and expand tourism, Euro-Canadian settlement, and increased sport hunting/fishing opportunities. Indigenous people were scapegoated as 'poachers' by numerous sport enthusiasts, conservationists, and government officials who attributed the depleting wildlife populations to their hunting/fishing practices and helped construct and maintain the belief that they were uncivilized, inhumane, and needed to be regulated. These negative depictions were influential in guiding and justifying policies intended to control and ultimately diminish Indigenous peoples' traditional lifestyles (Tough 1992; Sandlos 2003, 2008; Colpitts 1998; Binnema and Niemi 2006; Waisberg, Lovisek, and Holzkamm 1997; Pulla 2012).

Consequently, the new game laws and economic goals led to a surge of aggressive enforcement that targeted Indigenous hunters and fishers, who were harassed and/or arrested by game wardens for continuing their hunting/fishing lifestyles (as outlined in the treaties) (Sandlos 2008; Pulla 2012; Binna and Niemi 2006; Waisberg, Lovisek and Holzkamm 1997). Provincial officials did not recognize the treaties established with the Crown and asserted that Indigenous people should abide by the laws and pay for the privilege of hunting or fishing the same as settlers (Pulla 2012).

The creation of national and provincial parks on Indigenous land is a clear example illustrating the influence from sports enthusiasts and how their interests prevailed at the expense of Indigenous peoples' lands, cultures, and lifestyles. For instance, the creation of Banff National Park in 1885 (Binnema and Niemi 2006), Algonquin Park in 1893<sup>5</sup> (Killan 1993), Riding Mountain National Park in 1936 (Sandlos 2008),

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<sup>5</sup> Killan (1993) reveals how the creation of Algonquin Park in 1893 catered to the pressures and interests of the sport/conservationist lobby and gave no thought or consideration to the Algonquin-Anishinaabek

and Quetico Provincial Park in 1913 (Waisberg, Lovisek, and Holzkamm 1997) all resulted in the hostile displacement and exclusion of Indigenous communities to gain access to their land for sporting opportunities, tourism, and Euro-Canadian settlement along with the broader attempt to assimilate Indigenous people into Western agricultural/industrial lifestyles (Sandlos 2008).

In reaction to the vicious enforcement of provincial game laws and the rapid encroachment on their territories/homelands from white settlers in the late 19<sup>th</sup> and 20<sup>th</sup> centuries, Indigenous Nations across this land were active in resisting these oppressive forces and confronted local Indian Agents and the Department of Indian Affairs (DIA) about their concerns regarding the violation of the treaties. Pulla (2012) reveals how many Indigenous Nations emphasized their nation-to-nation understandings of the treaties to the DIA as a reminder that they were free to hunt, fish, and regulate themselves on their lands without interference. This resistance is nothing new, as Indigenous Nations were (and still are) active in defending their lands and confronting European expansion and oppression (Ipperwash Inquiry 2007).

The spirit of a nation-to-nation understanding dates back at least to 1613<sup>6</sup> and the *Tawagonshi Treaty* between the Haudenosaunee and the Dutch, which was negotiated using the *Two Row Wampum Belt/Guswentá* (Gehl 2014; Parmenter 2013; Onondaga Nation 2012). Borrows (2002) explains how the *Gus-Wen-Tah*<sup>7</sup> reflects “a diplomatic convention that recognizes interaction and separation of settler and First Nation societies...The *Two Row Wampum Belt* illustrates a First Nation/Crown relationship that is

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who lived in the area. Unfortunately, this resulted in the displacement of many communities who were banned from living and hunting/fishing within the park boundaries; boundaries that were created on land that was never ceded to the Crown through treaty that continue to present issues today (Gehl 2014).

<sup>6</sup> The *Two Row Wampum Belt* diplomacy was well established before European arrival and “was exchanged and relied upon as a basis for other pre-contact treaty relationships with Indigenous Nations” (Gehl 2014, 75).

<sup>7</sup> Indigenous legal academic, Robert A. Williams, Jr. explains how the *Gus-Wen-Tah* contains a bed of white Wampum beads to symbolize the purity of the agreement followed by two rows of purple which symbolize the spirit of both ancestors. There are 3 beads of wampum separating the two rows that symbolize peace, friendship, and respect. The two rows represents the two paths or two vessels travelling down the same river. One row is a birch bark canoe for Indigenous people and their laws, customs and ways of life, while the other row is a ship for White/European people and their laws, customs and ways of life; this symbolizes how each will travel down the river side by side, but in their own boats where neither side will try and steer each other’s vessel (qtd. in Borrows 2002, 164).

founded on peace, friendship and respect, where each nation will not interfere with the internal affairs of the other” (2002, 164).

This nation-to-nation understanding is most notable within the *Royal Proclamation of 1763* and the subsequent *Treaty of Niagara 1764*, which ratified, renewed and extended the *Proclamation*, and set the fundamental and foundational relationship(s) between the British and Indigenous Nations that were supposed to be based on respect for each other’s sovereignty. This was represented and entrenched in the Wampum belts exchanged at the treaty signings, particularly at the *Treaty of Niagara*, which embodied and symbolized the diplomatic relationship(s) between equal and sovereign nations (McLeod et al 2015; Borrows 2002; Gehl 2014).

For instance, Superintendent of Indian Affairs, William Johnson, who learned from Indigenous peoples’ Wampum diplomatic traditions, presented the *Great Covenant Chain Belt* and the *Twenty-Four Nations Wampum Belt*<sup>8</sup> at the *Treaty of Niagara*. The Indigenous representatives who attended also presented the *Two-Row Wampum Belt* to reflect their understanding of the treaty and the words from the *Royal Proclamation* (Borrows, 2002; Gehl 2014).

Moreover, Indigenous Nations across the land had their own practices and philosophies of conservation and environmental stewardship to ensure that wildlife would thrive. For example, Borrows (2010) demonstrates how the Anishinaabek’s complex and highly sophisticated legal traditions provide(d) the basis for organizing resource management throughout their communities. This resource management was organized through kinship allocation based on their clan system and agreed upon by discussion and consensus, where each family of a particular clan in a particular territory has exclusive rights, duties, and obligations to ensure the respect and conservation of all living things<sup>9</sup>. The Anishinaabek accomplished this using conservation procedures such as leaving hunting areas ‘fallow’ from year to year, whereby,

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<sup>8</sup> Which represented the twenty-four Indigenous Nations that participated (Borrows 2002).

<sup>9</sup> Borrows (2010) explains how “In some locations, these kin-based allocations have been confirmed, overlain or displaced by band council-sanctioned certificates of possession under the Indian Act” (77).

some areas are hunted every second or third year, or allowing a certain amount of animals in a region to repopulate. According to Borrows (2010), these conservation and allocation measures were meant to reduce conflicts and allow a relatively equal supply of food for all members of the community.

As Indigenous Nations protested their concerns about the vicious harassment, provincial game laws and treaty violations, some DIA officials supported and defended Indigenous peoples' hunting and fishing lifestyles, particularly those of communities living in remote regions. After the provinces gained jurisdiction over wildlife and resource management<sup>10</sup>, the DIA stressed that Canada's treaty obligations needed to be recognized and that provincial authorities should be lenient and refrain from enforcing game laws. The DIA's support, however, was limited as there were many other instances where they would ignore Indigenous peoples' grievances and often encourage obedience to provincial game regulations regardless of treaty rights (Pulla 2012; Tough 1992).

By the 20<sup>th</sup> century, the DIA displayed contradictory and complex approaches of support and neglect toward the disputes between provincial authorities and Indigenous people depending on numerous factors related to the context, the location, the particular community/nation and treaty, the provincial and DIA officials involved, etc. Unfortunately, the DIA's overall efforts and support for Indigenous peoples' treaty rights and lifestyles across the land would rapidly decrease and ultimately fail to honour their treaty obligations due to the continued lobbying and criticisms from provincial officials and sport enthusiasts, the federal government's reluctance to challenge the provinces (especially Ontario) in court due to earlier losses of legal battles (i.e. *St. Catherine's Milling* case), and how most DIA officials supported assimilation and acculturation and viewed hunting and fishing lifestyles as a threat to these goals (Tough 1992; Pulla 2012; Calverley 1999).

Throughout the 20<sup>th</sup> century, the federal government would also extend its endeavors to formulate federal wildlife and conservation policies and committees in reaction to the advocacy from

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<sup>10</sup> Through landmark cases such as *R v. Robertson* (1886) and *St. Catherine's Milling and Lumber Co. v. R.* (1888) (Pulla 2012; Coates 2000; Waisberg, Lovisek and Holzkamm 1997).

influential officials, conservationists, and sport enthusiasts. This resulted in the creation of the Commission of Conservation 1909-1921, the Advisory Board of Wildlife Protection in 1916, eight new national parks, and the Migratory Birds Convention Act in 1917. In addition, several policy-makers responsible for these initiatives and institutions seemed to believe that Indigenous hunters and fishers threatened wildlife and the economy and adopted strategies into their policies that targeted Indigenous people and/or ignored their treaty rights (Sandlos 2003; Pulla 2012; Tough 1992).

This is illustrated within the annual meetings of the Commission of Conservation held during 1910-1919<sup>11</sup>, and led by the Interior Minister Clifford Sifton, which provided the foundation for modern federal/provincial conservation policies and set the framework for how government officials would approach Indigenous and treaty rights throughout the 20<sup>th</sup> century. According to Tough (1992), the personal views and official reports expressed during the commission's meetings and conferences served to define and redefine Indigenous and treaty rights in a negative manner while reducing them to mere 'privileges'. As a result, the commission made no serious effort to incorporate the Crown's treaty obligations into conservation policies (Tough 1992; Pulla 2012).

As the historical literature shows, numerous sport organizations, enthusiasts, conservationists, and government officials of the late 19<sup>th</sup> and early 20<sup>th</sup> century contributed to the multifaceted process of colonialization and played an important role not only in promoting conservation, but also strengthening, both directly and indirectly, the processes of European-settler expansion, possession taking, and increased surveillance and control over Indigenous peoples' lifestyles, cultures, and lands. Negative depictions of Indigenous peoples' treaty rights and hunting/fishing practices were constantly communicated, reproduced, and reinforced, which consequently guided and justified the imposition of federal and

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<sup>11</sup> The Commission lasted from 1909-1921, but the annual meetings were only held during 1910-1919. It was comprised of influential federal and provincial politicians, civil servants, and academics, along with guest speakers such as wildlife experts from conservation associations and business entrepreneurs (Lumber merchants). The Commission was formed by federal statute to provide recommendations for the efficient protection and utilization of natural resources with economic concerns as their main focus (Tough 1992).

provincial regulations on Indigenous hunters/fishers, the displacement of Indigenous communities, the denial of treaty rights, and the indifference of the Crown to honour the mutual respect and obligations imbedded within the treaties (Binnema and Niemi 2006; Sandlos 2003, 2008; Colpitts 1998; Waisberg, Lovisek and Holzkamm 1997; Pulla 2012).

It is within this atmosphere that the OFAH would emerge as an organization and continue the efforts and aspirations of the conservation movement by influencing wildlife policies and management for the interests of conservation, sport, and the outdoor economy. It cannot be argued that the OFAH created the negative depictions surrounding Indigenous peoples nor the policies that targeted them during this time, as most of these policies had already been implemented;<sup>12</sup> however, the latter half of the 20<sup>th</sup> century would witness rising tensions between Indigenous Nations and sport enthusiasts and organizations, such as the OFAH, in relation to the successful recognition and implementation of Indigenous peoples' hunting and fishing rights.

## **2.2- The Ontario Federation of Anglers and Hunters (OFAH): Past and Present**

The OFAH is a prominent non-profit organization with a long history of conservation efforts, political activism, and influence over policies related to wildlife and the sport hunting and fishing economy. The history of the OFAH begins on March 23, 1928 when conservationists and sport enthusiasts realized that Ontario's "greatest assets, her game resources" (OFA Handbook n.d., 1) were in imminent danger of "exhaustion and exploitation" (OFA Handbook n.d., 1) and formed the *Ontario Federation of Anglers* through an amalgamation of the *Toronto Anglers Association*<sup>13</sup> and ten other community-based outdoor groups (OFAH 2015).

The OFA's objectives involved uniting anglers and conservation associations, stimulating interest in sport fishing within the younger generations, promoting good sportsmanship, scientific research,

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<sup>12</sup> A thorough historical investigation of the OFAH's views towards Indigenous people and treaty rights and whether they were active in lobbying against them goes beyond the scope of this research.

<sup>13</sup> An organization that formed in 1925 (OFAH 2015).



investigating problems, recommending proper measures for the conservation of fish, and facilitating re-stocking programs. The motivations for the OFA's formation and their concern for wildlife can be summarized by the OFA President G.A. Warburton (1928-1930) who claimed that:

We want our streams and rivers, our lakes and ponds to continue to provide reasonably good fishing, not merely and chiefly because of the food value of the fish to be taken, but because we want our sons and their sons for generations to enjoy as we do this splendid means of innocent, healthful recreation<sup>14</sup> (OFA Handbook n.d., n.p.)

Shortly after their founding, the OFA's influence over game and wildlife policies took hold and developed substantially throughout the 1930's and beyond. For instance, the OFA sent a list of recommendations to the Department of Game and Fisheries every year in the 1930s, which influenced the Ontario government to revise or adopt new game laws and regulations. These recommendations included stricter game enforcement, daily catch limits, open/closed seasons, increased wildlife sanctuaries, limited commercial fishing in certain districts, and continued research into the causes of pollution on lakes and streams (OFA Handbook n.d.; OFAH 2015). As a result of the OFA's conservation advocacy, they were able to forge a positive relationship with all levels of government that continues today (OFAH 2015).

By 1947, the OFA had joined with several other hunting organizations to officially form the *Ontario Federation of Anglers and Hunters*. Since their official formation, the OFAH have gained over 100,000 members and subscribers, connected with 750 affiliated clubs, and have continued to engage in various activities ranging from political advocacy to environmental education and outreach. Over the years, the OFAH have extended their voice through television, radio, and social media with the creation of the popular *Angler and Hunter Television* series during the 1990s, the 2008 purchase of the popular *Ontario Out of Doors* (OOD) magazine and its extensive online presence, and the 2011 launch of the *Angler and Hunter Radio Network* (OFAH 2015).

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<sup>14</sup> This quote reveals elements of the sporting code that guided the broader conservation movement occurring in Canada during this time, which favoured fishing for sport rather than a source of food.

The OFAH's large membership and affiliates consist of people from all ages, classes, professions, religions, cultures, ethnicities, and races who live in various communities, both urban and rural, across Ontario. After joining the OFAH, members receive numerous benefits such as a yearly subscription to their popular O.O.D. magazine, insurance liability, and discounts on numerous stores in addition to being part of the conservation efforts of the organization.

This membership is bureaucratically organized into nine 'zones' (A-H, J) that expand across the province with the OFAH's head office located in Peterborough, ON. Every zone contains a democratically elected chair and an executive committee responsible for the members, sport clubs, and conservation efforts of that particular zone. The OFAH also has a board of directors with elected representatives from all the zones who are active in their management and decision making. Furthermore, the OFAH's head office staff has several management divisions which consist of numerous representatives, biologists, web designers, etc. who work within areas such as their administration, government affairs and communications, fish and wildlife services, and finance and accounting, among others (OFAH 2015; OFAH Annual Reports 2010-2014).

To communicate with their membership, the OFAH may announce information and updates in their O.O.D. magazine, radio/television shows, or online through their official website(s)<sup>15</sup> or Facebook pages. Zone executives may also provide updates through their zone meetings, which are held quarterly throughout the year and are referred to as an 'information clearing house' on all matters related to hunting, fishing, and conservation. These meetings give members the opportunity to hear about local and provincial updates, learn from the OFAH's fish and wildlife managers, head staff and board of directors, share ideas, express a concern, or participate in that zone's annual elections (OFAH 2015).

Additionally, the OFAH hosts an *Annual General Meeting and Fish and Wildlife Conference (AGM)* over several days, which resembles the zone meetings, but is much larger and unites members from all

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<sup>15</sup> Each zone may have their own website separate from OFAH's main page that may address concerns/updates related to that particular region.

zones to hear about important information and issues from the OFAH's staff and committees, as well as guest speakers such as researchers, biologists, or politicians. Similar to the zone meetings, the AGM allows members to communicate with each other, create friendships, ask questions, raise concerns, learn about issues from other zones, and connect with the leadership of the organization (OFAH 2015).

As a well-established organization, the OFAH have developed their own policies and strategic plans related to all aspects of hunting, fishing, and conservation through a democratic process that has developed over time. These policies and plans are based on input from the OFAH's board of governance comprised of numerous representatives from their head staff, board of directors, and advisory committees who address concerns and issues from across Ontario, which may vary depending on the geographical location, population, membership, etc. (OFAH Annual Reports 2010-2014). Since OFAH members have access to their zone executives and leadership, they are able to raise issues and possibly influence the OFAH's policies and plans giving the organization a 'grassroots' component within their decision making (OFAH 2015).

With clear objectives and goals, the OFAH continues to maintain their historical trend of effective advocacy and lobbying on behalf of their membership for issues and government policies related to hunting/fishing opportunities and wildlife conservation. This is accomplished by meeting with politicians, providing scientific advice, reviewing policies and legislation, sending letters and petitions, releasing media statements, and organizing rallies and campaigns. The impact of OFAH's lobbying and involvement in policy is demonstrated in the passage of the *Heritage, Hunting and Fishing Act* in 2002 and the *National Hunting, Trapping, and Fishing Heritage Day Act* in 2014, which celebrates and acknowledges the importance of hunting and fishing (and trapping) as part of Canada's culture and heritage<sup>16</sup> and the economic benefits they continue to provide (OFAH Annual Report 2014).

The OFAH also solidified their partnerships with politicians, officials, and departments from all

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<sup>16</sup> This has substantial political implications as it relates to the OFAH's critiquing and comparisons with Indigenous peoples' treaty rights, which will be discussed later in detail.

levels of government, particularly the Ontario Ministry of Natural Resources and Forestry (MNRF)<sup>17</sup>. One of their most significant accomplishments occurred in 2012 during the *National Fish and Wildlife Conservation Congress*, which was hosted and organized by the OFAH, and attended by over 400 people from Canada, the U.S., and Australia. Prime Minister Stephen Harper made a guest appearance and delivered a speech announcing the creation of the *Hunting and Angling Advisory Panel* (HAAP) in which the OFAH, along with representatives from other organizations, were appointed to sit on the panel and provide advice to federal officials, such as the Minister of Environment and the Minister of Fisheries and Oceans, on issues impacting hunting, angling, and conservation (OFAH Annual Report 2012).

Overall, the OFAH's ability to communicate with hunters and fishers both inside and outside their membership, government officials, and the general public makes them highly influential and effective at lobbying for policies that seek to benefit the conservation of wildlife, the sport hunting/fishing community, and the tourist economy. This gives truth to the OFAH's slogan which states they are "the voice of anglers and hunters" (OFAH 2016, n.p.).

In regards to Canada's formal recognition of Indigenous peoples' treaty rights and hunting/fishing practices, as reflected in the *1982 Constitution Act* and subsequent Supreme Court decisions, the OFAH and many of its members became highly critical and oppositional, particularly during the 1990s after landmark court cases such as *Sparrow* (1990). The *Sparrow* decision provided the foundation for other Indigenous Nations to successfully gain recognition of their rights (e.g. *Fairgrieve* decision- *R. v. Jones and Nadjiwon*), which the OFAH explicitly viewed as a threat to conservation and the outdoor sport industry (McLaren 2005; Koenig 2005; Nashkawa 2005).

Today, the OFAH's position towards Indigenous peoples' treaty hunting and fishing rights has shifted, though they continue to monitor and remain critical of specific legal cases involving land claims

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<sup>17</sup> For instance, both the OFAH and the MNRF work together to implement the *Invasive Species Awareness Program* in order to help keep species such as the Asian Carp from entering the Great Lakes, as well as the *Community Hatchery Program*, which helps stock fish to rehabilitate lakes across Ontario for conservation and sport angling purposes (OFAH Annual Report 2014).

(*Algonquin Land Claim*), hunting/fishing rights (1923 Williams Treaty: *R v. Howard*; subsequent court challenge), and commercial agreements with the MNRF (e.g. Saugeen Ojibway Nation-MNRF fishing agreement), depending on complex factors such as the geographical, historical, political and demographic context, the issue at hand, and the Indigenous community or nation involved (OFAH Annual Reports 2010-2014).

Over the years, the OFAH also created the *OFAH Native Affairs Advisory Committee*, which reviews and discusses court cases involving treaty rights and addresses concerns raised from particular OFAH zones. The committee also provides information and advice for the decision makers who formulate the OFAH's 'policies' and approaches towards treaty rights and land claims and are also active in contacting ministers from both the provincial and federal Aboriginal Affairs<sup>18</sup> and the MNRF about any conflicts between sport and treaty hunting/fishing and conservation (OFAH 2015; OFAH Annual Report 2010-2014).

Due to their involvement within Indigenous peoples' treaty rights, land claims, and other legal and political challenges, as well as the formation of a Native affairs committee, the OFAH remain active in educating and persuading their membership, policy-makers, and the public about their position and concerns towards treaty rights and the perceived threats they pose to wildlife and outdoor recreational opportunities. This is accomplished directly and indirectly, explicitly and implicitly, through comments, updates, narratives, petitions, etc. within the OFAH's social media, magazines, zone meetings/AGMs, and annual reports. Thus, the OFAH's strong voice, established reputation, and political connections have given them a substantial potential to influence opinions, shape the interpretive repertoires of treaty rights opponents, and reproduce images of Indigenous treaty hunters/fishers through fairly consistent coverage and criticisms which depict them as a nuisance and as a threat to wildlife, to the economy, and to non-Indigenous hunters/fishers' access to resources.

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<sup>18</sup> Ontario's Ministry of Aboriginal Affairs and the Federal Department of Aboriginal Affairs and Northern Development Canada (AANDC).

### **2.3- Contemporary Disputes and Depictions**

The 20<sup>th</sup> century witnessed the creation, implementation, and expansion of wildlife policies and enforcement procedures that ultimately served to sustain an outdoor recreational tourist economy at the expense of Indigenous peoples' lands and ways of life. Meanwhile, sport and conservation organizations, such as the OFAH, continued to form and gain significant political clout over policy-makers through their involvement in government advisory panels and committees regarding land use, re-stocking/rehabilitation programs, and game regulations, to name a few (King 2011; McLaren 2005; Koenig 2005; OFAH Annual Report 2012).

Despite these colonial entities, Indigenous Nations continued to defend their lands and ways of life, which also revolved around conservation and respect for wildlife, and urged the government to honour its treaty obligations. In response to the persistent efforts of Indigenous leaders and activists, section 35 of the *Canadian Constitution Act 1982* 'recognizes and affirms' existing Indigenous and treaty rights. This was a fundamental turning point for the relationship between Indigenous peoples and the Canadian government. But while these rights were affirmed in the *Constitution*, they were not fully specified and would be left for future court cases to interpret the meaning of section 35 and determine the scope of Indigenous and treaty rights (Coates 2000).

Scholars and activists have highlighted the problems within section 35 and the limits it poses for Indigenous people and treaty rights. For instance, according to Ladner (2009) and Henderson (2000), section 35, though beneficial to Indigenous people, places Indigenous and treaty rights under judicial interpretation and parliamentary supremacy. Similarly, McLeod et al (2015) and Corntassel (2008, 2012) illustrate how serious implications arise due to the fact that non-Indigenous individuals within the Canadian legal and political system who are predominately defining these rights do not fully grasp Indigenous philosophies and worldviews.

In the decades following the *Constitution Act 1982*, and aside from the limitations of section 35 and the Supreme Court of Canada's (SCC) role in outlining treaty rights, Indigenous people were successful

in gaining further recognition of their hunting and fishing rights through landmark court cases such as *Sparrow (1990)* and *Marshall (1999)* (Ladner 2009; King 2011). Unfortunately, this success was met with strong, prejudicial reactions from non-Indigenous sport hunters/fishers and organizations, businesses, and government officials, which echoed the negative depictions and resentment from the 19<sup>th</sup> and early 20<sup>th</sup> centuries (Gillespie 2002; Sandlos 2003, 2008; Tough 1992; Pulla 2012). Indigenous peoples' hunting/fishing practices continued to be viewed as excessive, inhumane, and a threat to wildlife and the economies that depend on them, while treaty rights were viewed as 'special rights' that allowed the continuation of perceived unregulated and irresponsible hunting and fishing. This understanding of treaty rights, coupled with context-specific disputes over access to and control over the management of resources, has led to conflicts, confrontations, and the facilitation of racial prejudice towards Indigenous people in Canada and also the United States (Mackey 2005; McLaren 2005; Koenig 2005; Dunk 2002; Dudas 2005; Bobo and Tuan 2006).

The *Sparrow (1990)* decision was the first substantial case under section 35 of the *Canadian Constitution* that would further define the scope of Indigenous and treaty rights and provide an important basis for future court cases such as *Marshall* (Coates 2000; King 2011). The *Sparrow* case began with the arrest of Ronald Sparrow from the Musqueam Band in B.C. who was charged for fishing with a net larger than the legal limit. Sparrow appealed to the Supreme Court claiming his right to fish was protected under Section 35 and the regulations imposed on the licences given to the Musqueam Band were inconsistent with the *Constitution*. In 1990, the court ruled in favour of Sparrow and recognized his right to fish for food, which was an important victory for all Indigenous people; however, the decision did not address the right to sell their catch or participate in a commercial fishery. Furthermore, this decision also contained criteria to determine if the government could justifiably infringe on treaty rights by regulating Indigenous peoples' use of the land for the purpose of conservation and resource management (Coates 2000; King 2011; Ladner 2009).

Throughout the 1990s following the *Sparrow* decision, Indigenous Nations across Ontario

experienced “....the debilitating effects of opposition to even their most benign practice of their rights to hunt and fish” (McLaren 2005, 35), including harassment by MNRF officials and a public smear campaign led by sport hunters/fishers, clubs and organizations who planned demonstrations and protests and circulated posters and flyers that contained criticisms and opposition to treaty rights, which ultimately provoked racial prejudice. This reaction is exemplified in a derogatory, racist memo that appeared on a letterhead to Ontario’s environment ministry in 1992 declaring an ‘open season’ on Indigenous people and encouraged substituting game animals with Indians, “so that the province will not lose licence revenue and hunters will not lose their skills” (qtd. in Priest 1992, A4).

During this period, the OFAH also played a major role in promoting criticisms of treaty rights and provided the reports, analysis, and propaganda that fuelled the anti-treaty rights lobby and agenda and appeared to give it some legitimacy (McLaren 2005). For instance, at the 1992 Toronto Outdoor Show held at the CNE, the OFAH’s exhibit had a display containing blown-up newspaper articles and editorials from outdoor writers across Ontario complaining about Indigenous peoples’ treaty rights and how they led to unregulated resource abuse. This included a postcard ad urging government officials to stop the ‘large Native kills’ of wildlife. After being notified of the OFAH’s display, several representatives from Indigenous Nations appeared and confronted the OFAH claiming the blown-up comments were offensive, inaccurate, and racist. They then calmly began removing the articles. Although tensions were high, the OFAH’s executive vice president assured the Indigenous representatives that any members expressing racist attitudes would have their membership cancelled (Toronto Star 1992; McLaren 2005).

Shortly after the incident at the Outdoor Show, the OFAH held an *Emergency Public Meeting for the Future of Fishing, Hunting, Tourism, and Lumbering in the Ottawa Valley* with ads reading “come out and hear of the Ontario NDP Government agenda to turn over management and control of many of *your* natural resources to the Natives of Ontario” (qtd. in McLaren 2005, 36). Guest speakers included Mike Harris, then leader of the opposition in Ontario’s legislature, the Director of Shimano Sport Fisheries Initiative, a former president of the Ottawa Valley Lumberman’s Association, and the OFAH’s (former)



executive vice president. These individuals took turns lambasting Indigenous peoples' treaty hunting and fishing rights and practices and Ontario's New Democrat Party (NDP) Government. For example, Mike Harris slammed the Indigenous policies of the NDP, while the Director of Shimano Sport Fisheries exclaimed how the NDP would turn over all natural resources to Indigenous people and bring 'apartheid' to Ontario. The OFAH's vice president presented a slide show criticizing Indigenous hunters/fishers' 'atrocities' against conservation, Indigenous self-government, and how treaty rights were *causing* racism (McLaren 2005).

By 1993, the backlash towards treaty rights intensified following Judge Fairgrieve's decision (*R.v. Jones and Nadjiwon*) in Ontario's lower courts to drop charges against former Chief of the Chippewa of Nawash Unceded First Nation<sup>19</sup> Howard Jones and Francis Nadjiwon for over-fishing according to an MNRF imposed quota<sup>20</sup> and to recognize the Chippewa's rights to fish commercially in the Bruce Peninsula. Despite this immediate victory and recognition for the First Nations, the decision left unresolved issues pertaining to the level of commercial activity in the fishery, where and when to fish, geographic range, etc., which would be settled through contentious negotiations for a co-management fishing agreement involving the Saugeen Ojibway Nation (SON), the federal DIA, the Ontario government, and the MNRF throughout the following decades (McLaren 2005; Koenig 2005).

The *Jones and Nadjiwon* decision also frustrated non-Indigenous sport hunters, fishers and organizations, particularly the OFAH and sectors of their membership and affiliated clubs in the area who felt the Saugeen commercial fishery would unfairly exploit and threaten the existing fish populations, as well as the fish being stocked/introduced<sup>21</sup> by sport fishing groups. They further believed the commercial

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<sup>19</sup> The Saugeen Ojibway (Anishinaabe) Nation is made up of The Chippewa of Nawash Unceded First Nation (also known as the 'Cape Croker First Nation') who live on Georgian Bay and the Chippewa of Saugeen who live on the shores of Lake Huron. Both share traditional territories in the Bruce Peninsula (Chippewa of Nawash 2014; Saugeen First Nation 2015).

<sup>20</sup> Using the principles set out in the *Sparrow* decision, Judge Fairgrieve claimed the MNRF's quota system unjustifiably infringed on the Chippewa's Aboriginal and treaty rights.

<sup>21</sup> 'Exotic' fish such as Pacific Salmon or Hybrid Splake were introduced for sport fishing purposes in the Bruce Peninsula, however, they were impacting the ecosystem and other fish such as the Lake Trout who

fishing would obscure their fishing opportunities and ruin the recreational sport fishing and tourist economy that was established in the area (McLaren 2005; Koenig 2005; Wallace, Struthers and Bauman 2010).

As a result, the OFAH and their affiliates were significantly involved with exacerbating the tensions and disputes that would arise between sport fishers and the Chippewa of Nawash. This was achieved by providing legal arguments that criticized the Chippewa's fishing and commercial rights, as well as the *Sparrow* decision, section 35 of the *Canadian Constitution*, and Indigenous self-government and co-management through numerous publications, statements, articles, meetings, and papers/reports<sup>22</sup> that were circulated throughout its membership and government departments and committees. The overall message was that Indigenous hunters/fishers were abusing resources, and therefore, all must be subject to the same treatment and laws despite the *Constitution* and SCC decisions (McLaren 2005; Koenig 2005).

In January of 1995, Nawash members had joined the OFAH and presented a resolution to a Zone H meeting attempting to challenge the misconceptions and persuade the OFAH to change its anti-treaty rights position. Unfortunately, the resolution was defeated by a vote of 82 OFAH members to 3 Nawash members and the OFAH would continue with their agenda (McLaren 2005). In March 1995, the Chippewa of Nawash hosted a conference at Port Elgin, ON called the *Nawash Fisheries Conference*, which was intended to bring anglers, non-Indigenous scientists, biologists, and managers together with Indigenous commercial fishers and managers to discuss issues related to fish populations and the environment, and combine/compare science and Indigenous knowledge for the purposes of co-managing the fishery (McLaren 2005; Koenig 2005).

Despite these attempts to challenge negative depictions and gain support for a co-managed

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have naturally lived in the waters for centuries (Koenig 2005; McLaren 2005).

<sup>22</sup> Such as OFAH's 1994 paper titled *Problems Arising from Sparrow: Politics and Conservation*, and their submission to the Royal Commission on Aboriginal Peoples in 1993 titled *Self-Government and Co-management in Ontario: The OFAH submission to the Royal Commission on Aboriginal Peoples* (McLaren 2005).

fishery, tensions exploded in the summer of 1995 resulting in violent confrontations between sport enthusiasts and fishers from Nawash, both on land and on water, which became dubbed 'the summer of hate'<sup>23</sup> (McLaren 2005). Nawash fishers experienced harassment and protests by sport fishers and their nets and boats were sabotaged, stolen, or defaced with graffiti. On August 5, 1995, a Nawash woman and her daughters were selling fish at the Owen Sound open market when a mob of 75-100 angry sport anglers connected to sport organizations such as the OFAH, alongside an elected politician, marched into the market and confronted the Nawash vendors while protesting against the lack of government concern for non-Indigenous interests (Koenig 2005; McLaren 2005; Wallace, Struthers and Bauman 2010).

In reaction to this vicious opposition, many community members, non-Indigenous anglers, academics, anti-racist organizations, unions, and faith based groups formed to provide support for the woman at the market and the Chippewa of Nawash, and to counter the violence, opposition, and racism towards their fishing rights. As a scuffle broke out, these allies linked arms to prevent the sport fishers from attacking the Nawash stall, but were unable to prevent a protestor from throwing a plastic bag of rotting salmon at them (Wallace, Struthers and Bauman 2010; McLaren 2005; Koenig 2005).

In the following weeks, Nawash fishers continued to experience anti-treaty rights protests, violence, and vandalism, such as the beating and stabbing of Nawash band members by a mob of non-Indigenous perpetrators in Owen Sound, deliberate destruction of Nawash boats and nets, and further violence<sup>24</sup> where, in many cases, few were charged (McLaren 2005; Koenig 2005). Near the end of the decade, the violence and confrontations would decrease, but the resentment, criticisms, and protests would persist up until and after fishing agreements were reached with the MNRF in 2000, 2005, and 2013. For instance, sport fishers gathered in 2013 to protest against the new fishing agreement and the lack of consultation from the government, though protestors insisted it was not against the Ojibway (Gowan

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<sup>23</sup> This was also the summer of the Ipperwash tragedy, where Anishinaabe protestor Dudley George was shot and killed by an Ontario Provincial Police officer (Ipperwash Inquiry 2007).

<sup>24</sup> In October of 1995, someone took a gunshot at (another) Nawash fishing boat (McLaren 2005).

2013).

Within this time, the OFAH had abandoned its adversarial position towards the Saugeen Ojibway Nation due to a change in leadership in the 1990s, and possibly a response to criticisms from Indigenous and pro-treaty rights groups and/or to accommodate an increasingly diverse membership (McLaren 2005; Koenig 2005). However, they have continued to monitor, report, and address concerns from their membership about the Saugeen Ojibway Nation-Ministry of Natural Resources and Forestry (SON-MNRF) fishing agreements (McLaren 2005; Koenig 2005; OFAH Annual Reports 2010, 2012, 2014).

Although the OFAH relaxed their criticisms towards the Saugeen Ojibway, they remained active and involved in lobbying against the further recognition of treaty hunting/fishing rights, agreements, and land claims that are perceived to threaten wildlife and non-Indigenous peoples' outdoor opportunities.

According to McLaren:

By the mid-1990s, the OFAH had switched from reporting on Native hunting and fishing 'outrages' to disseminating analysis of section 35 of the Constitution, critiques of Supreme Court of Canada decisions (particularly Sparrow) and defining what involvement First Nations should have (if any) in the harvesting and management of resources (2005, 37)

For instance, in 1994 the OFAH was an intervener in the *R. v. Howard* case, in which the SCC concluded that the 1923 Williams Treaty had extinguished the hunting/fishing rights of the seven signatory Indigenous Nations, who allegedly agreed to surrender their rights in their traditional areas beyond their reserves. This case arose after George Howard from the Hiawatha First Nation was charged for fishing off reserve and out of season in the Otonabee River (Supreme Court of Canada 2015; Switzer 2012). As an intervener, the OFAH supported the decision arguing that the conditions of the treaty were valid and their rights had been surrendered (OFAH Annual Report 2012).

By 2012, the Williams Treaty Indigenous Nations were challenging the *Howard* decision in litigation in the Federal Court of Canada, which was supported by both the Ontario and federal governments. During the proceedings, the Ontario government adopted an 'Interim Enforcement Policy'

(IEP)<sup>25</sup>, which respects the Williams Treaty Nations' traditional hunting/fishing rights for personal, social, or ceremonial purposes in their treaty area without subjection to provincial regulations and enforcement<sup>26</sup> (Switzer 2012; Williams Treaties First Nations 2014). In response, the OFAH opposed the IEP and the further recognition of hunting/fishing rights and have continued their (unsuccessful) advocacy against the Williams Treaty Indigenous Nations (OFAH Annual Report 2012).

The OFAH also continue to lobby against commercial fishing by the Nipissing (Nbisiing) First Nation (NFN), despite the Nbisiing's inherent and treaty rights to fish for food, cultural, and commercial purposes<sup>27</sup>, and fail to acknowledge how the NFN have created and implemented conservation measures and have partnered with the MNRF to ensure the sustainable management of Lake Nipissing (NFN 2016). Additionally, the OFAH are heavily critical of and engaged within the *Algonquin Land Claim*, which is a comprehensive land claim initiated in 1991-92 as a result of the historical and ongoing appropriation of Algonquin land in east-central Ontario, despite no treaty ever being signed between the Algonquin-Anishinaabeg and the Crown (Gehl 2014; Lawrence 2012). Throughout their lobbying, the OFAH have emphasized 'doomsday' scenarios about the impending threat to conservation and access to resources that would allegedly occur under Algonquin management (OFAH Annual Reports 2010-2014) without regard for the divisions and displacement of the Algonquin-Anishinaabeg due to historical and ongoing colonial processes (illegal logging, settler encroachment, etc.), nor a concern for re-establishing a nation-to-nation relationship between Canadians and the Algonquin (Ghel 2014; Lawrence 2012).

The OFAH's concerns about and advocacy against treaty hunting/fishing rights, practices, and

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<sup>25</sup> The Interim Enforcement Policy (IEP) was developed under the NDP government in the early 1990s (McLaren 2005).

<sup>26</sup> Except under certain circumstances (i.e. safety) and with discretion.

<sup>27</sup> Which was recognized through the *R.v. Commanada* case in 1990 (*R.v. Commanada*, [1990] O.J. No. 1603). This case was an appeal from members of the Nipissing First Nation for convictions under the Federal Fisheries Act and the Ontario Fisheries Regulations. The Nipissing members argued that their treaty rights negated the need for provincial licencing, and the MNRF had no right to restrict or limit their fishing. The convictions were quashed and the Nipissing obtained the ability to fish for commercial purposes (Quicklaw 2016).

land claims are not a unique and discrete position. Rather, they are connected to the historical and broader realm of anti-treaty rights sentiment that has long fuelled settler-colonialism across Canada. Similar to the *Jones and Nadjiwon* decision, for example, tensions heightened in the Maritimes after the *Marshall* decision in the late 1990s, which saw disputes over resources and resource management, a surge of resentment and racial prejudice towards Indigenous people and treaty rights, and further assertion/clarification of the government's ability to infringe on these rights (King 2011).

The *Marshall* case arose in 1993 when a Mi'kmaq man named Donald Marshall Jr was arrested and charged for fishing and selling eels without a licence on the Atlantic coast. Marshall appealed to the SCC and argued he had a right to fish and sell his catch according to the *Friendship Treaties* of 1760-61. In September 1999, the SCC acquitted Marshall from his charges and affirmed that the Mi'kmaq did have the right to sell their catch and earn a 'moderate livelihood'. Many Mi'kmaq communities celebrated following the decision and were hopeful about gaining economic independence and control over their own resource management (King 2011; Krause and Ramos 2015).

Once Mi'kmaq communities began exercising their rights and participating in the commercial fishery, they were met with protests, criticisms, and in some cases violence. This was clearly demonstrated when the Esgenoopetitj Mi'kmaq First Nation from Burnt Church, New Brunswick began to fish and sell lobster according to their own regulations. By October 1999, Mi'kmaq fishers experienced harassment and protests from non-Indigenous fishers, commercial businesses and unions such as the Maritimes Fisherman's Union and the West Nova Fisherman's Coalition who were concerned that the Esgenoopetitj fishery would decimate the lobster populations. Some individuals would go so far as to attack Mi'kmaq fishers and their fishing boats or destroy their lobster traps.

As these protests escalated, the SCC revisited their decision and clarified the justification to infringe on treaty rights, which would become known as *Marshall II*. *Marshall II* provided the framework that allowed the government, or Minister responsible, the ability to regulate the Esgenoopetitj fishery for the purpose of conservation (King 2011; Krause and Ramos 2015). King asserts that "Within this ruling, the

Court has reinforced the legal position of conservation, and the social and political power of the conservation discourse. For the Federal Government, conservation continues to be the most powerful reason that the Government can give for limiting treaty and Aboriginal rights” (2011, 6).

In reaction to the concern over conservation, the Esgenoopetitj First Nation drafted their own fishery regulations, the *Esgenoopetitj First Nation (EFN) Fishery Act* and the EFN Management Plan, which embodied the Mi'kmaq idea of conservation referred to as *Netukulimk* and the political sovereignty, spirituality, and traditional knowledge of the Mi'kmaq people (Barsh 2002; King 2011). These regulations worked to implement traditional and spiritual knowledge with modern science, assert Mi'kmaq sovereignty, and counteract the Canadian Government's discourse of conservation and its use as a political tool (King 2011). By 2000, they sought to integrate their policies and management plans, but were faced with opposition, this time stemming from federal agencies such as the Department of Fisheries and Oceans (DFO), the RCMP, and the Coast Guard who intended to halt the Mi'kmaq fishery through violent enforcement and intimidation. After years of violence and confrontations, the Esgenoopetitj First Nation signed an 'Agreement in Principle' with the Federal Government in 2002, in which they agreed to abide by government fishing regulations in exchange for fishing boats, licences, quotas in all regional fisheries, and research money (King 2011).

Since the disputes following the *Marshall* decision and the fishing agreements with the DFO, Krause and Ramos (2015) have revealed that relationships have improved in certain areas between Mi'kmaq and settler fishers, though these relations are inconsistent and rarely extend into the private sphere. Furthermore, interviews with settler fishers showed that underlying resentment persists towards the *Marshall* decision and the Mi'kmaq fishing community in part because they received government supported access to the commercial fishery through gear distribution and tax exemptions.

Opposition to Indigenous and treaty rights has also been well documented in the U.S. where anti-treaty movements and organizations have formed in reaction to the recognition of hunting and fishing rights (Bobo and Tuan 2006; Dudas 2005; Daum and Ishiwata 2010; Goldberg-Hiller and Milner 2003).

More generally, Dudas (2005) explains how the latter half of the 20<sup>th</sup> century witnessed an eruption of racial prejudice and counter activism to the rights revolutions and victories from historically marginalized people based on the perception that the success of affirmative action programs or the affirmation of treaty rights are ‘unfair’ privileges or ‘special rights’ that threaten core American values such as individual merit and equal opportunity.

In particular, treaty opponents have used the ‘special rights’ argument to create a binary logic between *equal* and *special* rights (Goldberg-Hiller and Milner 2003; Dudas 2005; Daum and Ishiwata 2010). Goldberg-Hiller and Milner (2003) describe how “Special rights arguments have been used to delegitimize some rights claims and the institutions, resources, identities, and other meanings that undergird them, while calling on another set of institutions, resources, identities, and meanings that are upheld as contrasting supports for equal rights” (1078). This version of equality is based on a universal and normative conception that is self-sustaining and ahistorical and encourages the notion that long-standing claims of injustice have somehow been settled and forgotten and equal opportunity is/should be provided for everyone. Consequently, this view downplays the historical and contemporary structures and events which have contributed to enduring inequalities and presents treaty rights claimants as ‘selfish’, ‘greedy’, and irresponsibly demanding unearned claims to pursue their own personal interests at the expense of everyone else (Dudas 2005; Daum and Ishiwata 2010; Goldberg-Hiller and Milner 2003).

As this literature shows, the OFAH’s advocacy and position on treaty rights connects to the broader pattern of anti-treaty rights sentiment felt by many non-Indigenous sport hunters and fishers throughout Canada and the U.S., which has had a tremendous impact on Indigenous peoples and which perpetuates the settler colonial processes that sport enthusiasts have supported and contributed to since the 19<sup>th</sup> century. The following section will outline the theoretical orientation used to analyze the data obtained from the OFAH’s reports and policies, as well as the interviews conducted with OFAH members and non-members.



## **2.4- Theoretical Orientation**

This thesis draws on Group Position theory, Colour Blind Racism Theory, and Discourse Analysis as theoretical lenses to analyze the OFAH's position in comparison to the views and understandings of OFAH members and non-members regarding treaty rights. Specifically, it explores the extent to which non-Indigenous hunters/fishers' views on Indigenous treaty hunting and fishing rights are a reflection of racial prejudice and examines how these views are communicated, reproduced, reinforced, or challenged through interpretive repertoires that maintain the group position of settler-Canadian hunters and fishers within the racialized social hierarchy.

### **Group Position Theory**

Herbert Blumer's (1958) Group Position Theory proposes that racial prejudice exists in a sense of group position rather than a set of feelings that individuals of one racial group have towards another group. His analysis shifts the focus away from individual experiences to a concern with the collective processes in which the 'dominant' racial group defines and redefines the 'subordinate' racial group<sup>28</sup> and the positional arrangements between them, and how racial prejudice emerges when the former group's sense of superiority and privileges are challenged by the latter group.

For Blumer (1958), there are two important aspects to this process of defining 'others' alongside the development of the sense of group position. First, this process occurs within complex interactions between members of the 'dominant' group such as leaders, officials, prestige bearers, individuals and laypeople who express their feelings, ideas, and images of the 'subordinate' group to one another. This takes place through talk, stories, gossip, anecdotes, news accounts, messages, etc. in which "separate views run against one another, influence one another, modify each other, incite one another and fuse

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<sup>28</sup> I take caution when using terms such as 'dominant' and 'subordinate' within this context, as I feel it is a disrespect to Indigenous people who are thereby compared against the 'dominant' group and cast as the 'subordinate' group. I feel there should be an alternative way to express the unequal power relations between racial groups resulting from colonization in a manner that does not reproduce or reinforce people as 'subordinate'. Throughout this paper, I will refrain from using these terms if possible.

together in new forms” (Blumer 1958, 5). It is through this interaction that images of the ‘subordinate’ group are created and a sense of group position is set.

The second aspect of group definitions involves the formation of an ‘abstract image’ where “the subordinate group is defined as if it were an entity or whole” (Blumer 1958, 6), which transcends individuals’ encounters and immediate experiences and becomes a collective image that is adopted by members of the ‘dominant’ group. Blumer claims this process occurs within the ‘public arena’ such as legislative assemblies, public meetings, conferences, the media, etc., and is proliferated by ‘big events’ that touch on deep sentiments and raise fundamental questions about the relationship between racial groups. Moreover, individuals or groups that have prestige and power such as intellectual and social elites, public figures, and strong interest groups are especially influential in the formation of the sense of group position and the characterization of the ‘subordinate’ group as an ‘abstract group’.

Blumer asserts that racial feelings and attitudes fundamentally depend on the positional arrangement of racial groups (1958, 4). He claims there are four types of feelings that are prevalent within the racial prejudice of the dominant group, including a feeling of superiority, feelings that the subordinate race is different and alien, feelings of proprietary claim to certain privileges and advantages, and a fear that the subordinate group is challenging the dominant group’s position and entitlements. Therefore, racial prejudice emerges as a defensive reaction or protective device when the dominant group’s sense of position, integrity, and superiority is threatened by the subordinate group for transgressing boundaries and challenging the status quo. According to Blumer, “the positional arrangement of the two racial groups is crucial in race prejudice. The dominant group is not concerned with the subordinate groups as such but it is deeply concerned with its position vis-à-vis the subordinate group” (Blumer 1958, 4).

Furthermore, this sense of group position provides (and guides) the dominant group with “its framework of perceptions, standards of judgement, and patterns of sensitivity and emotions” (Blumer 1958, 4). Although dominant group members may have varying feelings and views toward the subordinate group, Blumer asserts that the sense of group position transcends individuals and gives them a common

orientation and a sense of how things 'ought to be' regarding the positional arrangement of racial groups within the social hierarchy.

Group Position Theory is useful for analyzing the colonial dynamics within Indigenous-settler relations in Canada and the U.S., and how racial-ethnic tensions and prejudice erupt within settler communities due to a perceived or actual threat to their sense of group superiority and access to land and resources (Blumer 1958; Krause and Ramos 2015; Denis 2015, 2012; Bobo and Tuan 2006).

In a case study involving a proposal to relocate an Indigenous child welfare facility to a rural white town in Northern Ontario, Denis (2012) illustrates how the non-Indigenous citizens and town councillors used several strategies in an attempt to stop the relocation, which included delaying tactics, race-neutral justifications, and the creation of new rules. Local white citizens expressed racially prejudiced views, particularly towards Indigenous leaders and activists, revealing how such prejudice was a defensive reaction to a perceived threat to their group interests and the status quo (Denis 2012).

Krause and Ramos (2015) use a Group Position framework to demonstrate how Mi'kmaq-settler relations continue to experience tensions fifteen years after the *Marshall* decision contrary to numerous accounts that public relations have improved. Interviews with settler fishers revealed how misconceptions and underlying resentment towards Mi'kmaq fishers and the *Marshall* decision persist due to the perception that the Mi'kmaq received tax exemptions, government supported access to the commercial fishery, and a greater advantage over settlers through the recognition of their treaty rights.

Similarly, Bobo and Tuan (2006) reveal how racial prejudice and opposition towards the Chippewa and their treaty right to fish off-reservation using traditional methods<sup>29</sup> in Northern Wisconsin during the 1990s was a defensive and protective reaction fuelled by the perception that treaty rights would lead to the exploitation and decimation of fish populations, threaten the sport and tourist economy, provide unequal fishing opportunities for the Chippewa at the expense of white Americans, and

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<sup>29</sup> Spear fishing methods.

contradict the deeply held American values of equality and equal treatment.

Using Group Position Theory as an analytical lens is suitable for analyzing the OFAH's official position on Indigenous treaty hunting and fishing rights and the extent that their position is shared by hunters and fishers inside and outside the organization. Since prominent interest groups are said to contribute substantially to shaping the dominant group's sense of group position by providing arguments and justifications used to maintain their power and privilege (Blumer 1958), this theory assists in determining how the OFAH's leadership, members, and non-members attempt to influence one another, and the extent to which their views and policies reflect a defensive reaction to maintain their group position, privileges, and access to resources for hunting and fishing purposes.

#### **Discourse Analysis and Colour Blind Racism: Interpretive Repertoires and Racial Ideology**

Discourse Analysis is useful for analyzing how the meanings and understandings surrounding treaty rights are constructed, communicated, reproduced, reinforced, and challenged. This involves identifying and focusing on the functional and contextual aspects of language and how particular discourses are used to construct versions of social reality or events within verbal interaction and written text (Potter and Wetherell 1987, 1992; Willig 2008; Jorgensen and Phillips 2002). Potter and Wetherell (1987, 1992) suggest discourse analysts should focus on the "interpretive repertoires" which people use during social interaction. They prefer the use of this expression over "discourse" to emphasize the flexible and dynamic use of language within the process of constructing and negotiating meaning:

By interpretative repertoires, we mean broadly discernable clusters of terms, descriptions and figures of speech often assembled around metaphors and vivid images. In more structuralist language, we can talk of these things as systems of signification and as building blocks used for manufacturing versions of actions, self and social structures in talk. They are some of the resources for making evaluations, constructing factual versions and performing particular actions (Potter and Wetherell 1992, 90)

Therefore, Potter and Wetherell are concerned with 'language use', what is achieved by that use, and how interpretive repertoires are also 'flexible resources' that social actors may intentionally or unintentionally select or manipulate in a way that fits most effectively in the context, which not only works to construct

and communicate meanings and understandings, but also to achieve a particular social objective (Jorgensen and Phillips 2002, Potter and Wetherell 1987, 1992).

Using this framework, Potter and Wetherell studied the language and repertoires within racial prejudice, and “how forms of discourse institute, solidify, change, create and reproduce social formations” (1992, 3). Similar to Critical Discourse Analysis, Potter and Wetherell aimed to locate racial discourse within the study of ideologies and the ideological effects of peoples’ accounts which reproduce discourses that legitimate and maintain social inequalities (Jorgensen and Phillips 2002; Potter and Wetherell 1992). In a study focusing on the accounts from white New Zealanders regarding Maori culture, Potter and Wetherell found that participants used two different repertoires, ‘culture as heritage’ and ‘culture as therapy’, revealing the ways in which white New Zealanders made sense of ‘race-relations’ based on remnants from the broader discursive systems of their colonial legacy, and how they had available repertoires at their disposal which were fluidly drawn on and contained legitimating ideological functions (Potter and Wetherell 1992).

Building off this work, Bonilla-Silva (2003) suggests analyzing social actors’ racial views within the framework of racial ideology or the ‘racially based frameworks’ used to explain, justify, or challenge the racial status quo. This racial ideology is the medium through which race relations are understood and provides the basic ‘rules of engagement’ and scripts for ones’ racial subjectivity and for the development of a racial identity within the racial hierarchy. According to Bonilla-Silva, a new racial ideology has emerged in the post-civil rights era which is indirect, subtle, ostensibly non-racist, and has incorporated many ideas endorsed by racial minorities such as equal opportunity and the denouncement of overt public racism and discrimination. He refers to this new ideology as “Colour Blind Racism” and argues that it is established in the abstract extension of egalitarian and liberal values to racial minorities and makes use of free market ideology and culturally based arguments to explain, legitimate, and justify the contemporary racial order and racial inequalities.

Using the format advanced by Potter and Wetherell (1987, 1992), Bonilla-Silva (2003) proposes

that colour blind racism should be regarded as an interpretive repertoire comprised of three elements: frames, styles (or race-talk), and racial stories that social actors' can draw on to explain and maintain their social position within the racial hierarchy. He asserts that colour blind racism is not fixed, but highly flexible and interactive, which enhances its legitimating role and allows it to accommodate contradictions, exceptions and new information, as well as the ability to manoeuvre across various contexts and produce various accounts and presentations of the self. Thus, colour blind racism gives whites the ability to safely criticize or oppose any institutional approaches to alleviate racial inequalities<sup>30</sup> in a principled manner, while appearing reasonable, logical, and non-racist.

Discourse Analysis, Group Position theory, and Colour Blind Racism theory are compatible for analyzing and comparing the views surrounding treaty rights among the OFAH, their members and non-members. These theoretical frameworks can assist in fleshing out how the interpretive repertoires expressed within their policies and accounts work to construct, negotiate, reproduce, or challenge the meanings and understandings of treaty rights on the one hand, and if/how such language is used to defend non-Indigenous hunters and fishers' sense of group position, power, and access to land and resources on the other. Moreover, these frameworks can assist in determining if/how racially prejudiced views are expressed with an attempt to appear moral, reasonable and non-racist, and whether non-Indigenous hunters/fishers draw on particular frames, styles, and stories, which serve to legitimize the racial inequities directly or indirectly caused by colonial processes, and which ultimately maintain their group position within these inequitable structures.

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<sup>30</sup> Or honour and respect treaty rights and a nation-to-nation relationship with Indigenous nations (Gehl 2014).

### **CHAPTER 3: METHODOLOGY**

The research within this thesis aimed to analyze and compare the views of the OFAH leadership with those of ordinary OFAH members and hunters and fishers outside the organization (non-members) based on the following research questions: *To what extent do the OFAH leaders, members, and non-members share views on Indigenous treaty hunting and fishing rights, and how do they attempt to influence one another? What are the points of contention and how are they expressed? Do some OFAH members resist or attempt to modify the organization's official position? If so, how?*

To answer these research questions, Indigenous and non-Indigenous OFAH members and non-members were interviewed and data obtained from the OFAH's official sources was reviewed. The OFAH were chosen as a case study due to their large membership and long history of advocacy within government wildlife policy and management, as well as their active involvement in legal cases related to Indigenous treaty rights and land claims.

#### **3.1- Data Collection and Analysis**

To gather data, semi-structured interviews with open-ended questions and a content analysis of the OFAH's official documents were used to investigate the meanings, understandings, and perceived legitimacy of Indigenous and treaty harvesting rights and how they are constructed and negotiated between the OFAH's leaders, members, and non-members. Using purposive and snowball sampling (Babbie and Benaquisto 2002), Indigenous and non-Indigenous hunters/fishers were recruited through friends, acquaintances, and strangers. Recruitment postings were also advertised online through social media and within outdoor shops and gun ranges in Southern Ontario.

In total, 20<sup>31</sup> OFAH members and non-members were interviewed face to face or by telephone (8 OFAH members, 5 former members and 7 non-members). This included 19 males and 1 female<sup>32</sup> with 17

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<sup>31</sup> Data (6 interviews) from a 2015 research assignment in SOC742 Qualitative Methods was also used.

<sup>32</sup> Sport hunting and fishing is disproportionately a male activity, so the lack of a female voice in this study is not unexpected. An interesting question for future research would be whether female hunters and fishers share the same views as OFAH and male hunters and fishers.

identifying as non-Indigenous/white, 3 identifying as Indigenous (two respondents had treaty rights), and all residing in Southern Ontario. Interviews were completely voluntary and respondents were given an overview of the study before they provided their signed and/or oral consent. Each interview ranged from 25 minutes to 1 hour and included open-ended questions that inquired into the respondents' views and knowledge towards Indigenous peoples' treaty rights and practices, and whether or not they were aware of and agreed/disagreed with the OFAH's policies. Interviews were recorded, transcribed, and coded for relevant excerpts which provided the foundation for the themes and discourses analyzed below.

Using a content analysis and purposive sampling (Babbie and Benaquisto 2002), additional data was collected from the OFAH's official website (including Annual Reports from 2010-2014 and online articles and updates), the OFAH's webcast regarding the Algonquin Land Claim, and articles from the OFAH owned magazine *Ontario Out of Doors* (OOD). These sources, particularly the OFAH website and webcast, contained information on the organization's official statements, updates, and reports on Indigenous peoples' treaty rights and land claims, and provided documents titled, *Principles Related to Fair Sharing of Resources (An OFAH Discussion Document)* and the *Algonquin Land Claim Input Document* which outline their 'policies' toward First Nations and Métis peoples. Excerpts from these sources were selected and analysed to gain insight into the OFAH's official views on the subject.

### **3.2- Coding Typology:**

Once the data was collected, organized and transcribed, the relevant excerpts were selected and assigned a coding tag to represent the interview and excerpt number (e.g. Int3/E1). The excerpts were then organized and paired together into low level, descriptive categories, which eventually formed higher level, analytical categories and provided the foundation for the formation of themes and discourses (Willig 2008) that reflect and represent the meanings and understandings surrounding treaty rights.

### **3.3- Limitations:**

There are several limitations within this study. One limitation relates to the use of a purposive sampling method and the small sample of respondents who were interviewed. Although this sampling



method is suitable for accessing members of a population for which there is no sampling frame and for attaining an in-depth understanding of their views (including how they use interpretive repertoires to defend and justify their positions), the results cannot necessarily be generalized to the larger population of Ontario hunters and anglers (Babbie and Benaquisto 2002). Thus, the discourses and themes that arise throughout the accounts of a few OFAH members and non-members may not generalize to all OFAH members or represent the OFAH's official stance on the topic.

The use of a purposive sampling technique, as well as a Discourse Analysis, may also promote a subjective bias within the process of data collection, coding and interpretation, in which my personal views on the subject may influence the study. As a white male hunter and OFAH member, I have associated with numerous non-Indigenous OFAH members/non-members who would often share similar criticisms and complaints about Indigenous hunters and fishers regarding fish and wildlife abuse. As a supporter of Indigenous peoples' treaty rights, I would often ignore and discount these complaints and, in some cases, openly challenge the critics on their views and assumptions. My subscription to the magazine, *Ontario Out of Doors*, and my membership with the OFAH has also exposed me to the organization's policies, criticisms, and advocacy within particular treaty rights cases, agreements, and land claims. Indeed, these experiences motivated me to further investigate and critique the negative views surrounding treaty hunting and fishing rights from OFAH's leaders, members, and non-members.

Reducing the impact of any subjective biases requires maintaining reflexivity throughout the data collection and analysis and recognizing my personal assumptions and political opinions that may have an influence on the research questions, design, and interpretation of the results (Willig 2008). Most importantly, I have sought to be aware of the implications of the results, my white settler identity and privilege, the reactions of the respondents during the interviews, and the colonial context in which this study takes place.

Due to my status as a white male graduate student and an OFAH member, some interviewees may have been reluctant to openly express their opinions on the subject. Although I did not reveal my

personal opinions about treaty rights to the interviewees, the research questions (and popular stereotypes of left-leaning academics) may indirectly suggest that a critical analysis will transpire. As a result, the hesitancy of some non-Indigenous interviewees could have resulted from a fear of appearing 'racist' during a recorded interview for an academic study. On the other hand, Indigenous interviewees also may have felt wary about the intentions of the study, and how their treaty rights and opinions would be analyzed and discussed by a settler academic.

Another limitation is the inadequate number of Indigenous hunters/fishers that participated in the study. Although three Indigenous respondents were interviewed and disclosed their experiences and awareness of the discrimination and racial prejudice towards their rights, there is a considerable lack of Indigenous voices and perspectives within this manuscript. Additional interviews would have provided a greater balance of opinions and information on the topic.

## **CHAPTER 4: FINDINGS AND DISCUSSION- AN OVERVIEW**

### **4.1- The OFAH's Position on Treaty Rights and Land Claims**

The OFAH's positions and policies towards treaty hunting and fishing rights in 2015-2016 are not as overtly confrontational as they were during the 1990s, but instead are complex, contextual, and dependent on several factors including, but not limited to, the particular treaty or land claim involved, the geographical, historical and demographic features, and the perceived and actual effects it may have on wildlife, outdoor recreational opportunities, and access to land and resources. What remains clear is that the OFAH continue to be vigilant towards the further recognition of Indigenous peoples' treaty hunting/fishing rights, land claims, co-management and commercial fishing agreements, and actively engage in updating and informing their membership, policy-makers, and the public about their policies and criticisms through fairly consistent coverage within their social media, the *OOD* magazine, zone meetings/AGMs, petitions, and especially their official annual reports, which provide an overview of the individual reports from all sectors of the OFAH's bureaucracy.

Although the OFAH monitor a wide range of topics, they have been particularly vocal and critical of the Algonquin Land Claim, the 1923 Williams Treaty court case challenge, the SON-MNRF commercial fishing agreement(s), and the Nipissing First Nation's commercial fishery due to the perceived threat these cases pose to conservation, sport hunting/fishing opportunities, the outdoor economy, and most importantly, 'fair' and 'equal' treatment and consideration during court cases or negotiations. However, the OFAH have been very concerned about their reputation since the 1990s and have riddled their coverage with 'disclaimers'<sup>33</sup> which openly announce their support for treaty rights, land claims, and section 35 of the *Constitution*, but are subsequently followed by harsh and consistent criticisms that communicate underlying meanings, assumptions, and negative depictions of Indigenous people. These

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<sup>33</sup> Hewitt and Stokes offered the term 'disclaimers', which are "specifically conversational tactics people invoke before they launch ahead into something commonly judged as inappropriate" (Adler and Adler 2012, 253).

criticisms and concerns are expressed directly and indirectly, explicitly and implicitly, through interpretive repertoires with arguments and justifications based on the virtues of equality and equal opportunities and a concern for wildlife conservation, which gives the OFAH the ability to carefully criticize these specific rights and claims in an ostensibly non-racist, socially acceptable manner while defending their group position, interests, and the status quo.

#### **4.2- The Views from OFAH Members and Non-Members**

Interviews with twenty OFAH members and former/non-members revealed many insights into the extent of their knowledge on treaty rights and the OFAH's stance, the variation that exists within the opinions, meanings and understandings towards such rights, and how they were learned, communicated, reproduced, reinforced, and challenged within the respondents' social interactions. The results showed that all seventeen non-Indigenous respondents displayed limited to no knowledge on treaty rights and expressed feelings and opinions ranging from resentment and opposition to differing levels of support. In particular, eleven (55%) of the non-Indigenous respondents criticized or opposed treaty rights based on a concern and assumption that treaty hunters and fishers could hunt/fish 'whatever' and 'whenever' they want without any regulations or repercussions, which would presumably threaten conservation and give an unfair advantage to Indigenous people.

Due to this (mis)understanding, several respondents drew on repertoires asserting that treaty rights contradicted the cherished values of equality and should be phased out or abolished, while others proposed that treaty hunters and fishers should only be allowed to use 'traditional' methods and/or exercise their rights on Reserve rather than Crown land. Although more overt and oppositional, these criticisms and concerns are comparable to the OFAH's and illustrate how both the OFAH's leaders and their members and non-members draw on repertoires with similar arguments and justifications based on equality and conservation in order to criticize or oppose treaty rights.

On the other hand, the remaining nine (45%) respondents (6 non-Indigenous; 3 Indigenous) claimed to support treaty rights and acknowledged that many Indigenous communities respect wildlife

and abide by their own conservation practices; however, three (15%) of these (non-Indigenous) respondents displayed uncertain and limited support due to the perceived possibility of excessive hunting/fishing. Nonetheless, non-Indigenous respondents who supported treaty rights apparently were not influenced by the negative information and testimonies they had witnessed from other hunters and fishers, as some either openly challenged the stories/comments expressed by their friends and family or denounced them as 'racist' or as acts of jealousy. The three Indigenous respondents (two of whom had treaty rights) were fully aware of the resentment and criticisms towards their hunting and fishing rights and discussed instances of exclusion and racial prejudice that they or their friends/family had experienced, revealing how, in some cases, negative attitudes have escalated into active forms of racial discrimination.

Despite the OFAH's consistent coverage and criticisms of specific treaty rights alongside their attempts to influence their members and the public, eighteen (90%) of the twenty respondents said they were neither aware nor influenced by the OFAH's endeavours, while two (10%) of the respondents, both with an Indigenous identity, were either slightly aware or well educated on the OFAH's policies and advocacy. Those who had become OFAH members did not join due to the organization's position on treaty rights, but for numerous other reasons such as the OFAH's conservation efforts, their insurance liability, or the yearly subscription to the OOD magazine.

Consequently, all of the non-Indigenous respondents indicated that they had learned or heard about treaty rights through personal experiences, stories, and "off the cuff" comments from their friends, family, acquaintances, and strangers through online hunting and fishing forums and face to face interactions, which illustrates how the images surrounding Indigenous people and treaty rights are communicated, reinforced, and sometimes challenged within public and private domains. Moreover, this research demonstrates an established sense of group superiority and entitlement among the respondents who opposed treaty rights and shows how this sense of group position could have developed through interactions which intentionally and unintentionally define and redefine Indigenous people with treaty rights as a threat to conservation and to settler-Canadians' group interests.

**CHAPTER 5: INTERPRETIVE REPERTOIRES BASED ON FAIR SHARING, EQUITY, AND EQUAL OPPORTUNITIES**

The ideas of fairness, equity, and equality were salient within the OFAH's commentary, and are the foundation of their official policies and principles related to treaty rights and land claims. These notions were expressed through several variations within their coverage of the Algonquin Land Claim and the Williams Treaty court challenge, and formed the basis of an interpretive repertoire used to defend and maintain group position. Specifically, the OFAH sought to maintain or enhance settler hunters/fishers' privileges and access to resources by using the language of fair and equal treatment, fair sharing (equitable allocations) of wildlife<sup>34</sup>, equal opportunities to hunt and fish, and equal consideration of non-Indigenous interests, policies, and concerns within treaty or land negotiations, court cases, and treaty-related agreements. This language implies that the further recognition of Indigenous treaty rights and land claims has the potential not only to threaten conservation and hunting/fishing opportunities, but also the cherished (Canadian) values of fairness, equity, and equality. This is illustrated below within the theme *Fair and Equitable Resource Sharing*.

Moreover, the theme *Our Rights, Heritage and Traditions are the Same* demonstrates how a particular strategy was employed, which draws on these principles and mimics and appropriates some of the treaty rights language and legal arguments that have been successful for Indigenous people in an attempt to equate Indigenous experiences with settler experiences and to illustrate and communicate a shared meaning that hunting and fishing is just as significant for the culture, heritage, and spirituality of settler Canadians as it is for Indigenous people such as the Algonquin-Anishinaabeg.

Likewise, interviews with OFAH members and non-members revealed that 50% drew on interpretive repertoires of fairness and equality to question the relevance and legitimacy of treaty rights and to endorse and justify the revision or abolition of such rights. The theme *Treaty Rights as Unfair and*

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<sup>34</sup> The amount of licences and tags distributed to hunt/fish wildlife.

*Contradictory to Equality: Equal Application of Rules and Regulations* illustrates the use of this repertoire. In addition, the theme, *Past is the Past: The Revision and Abolition of Treaty Rights for the Purpose of Equality* shows how interviewees expressed this repertoire through an ahistorical lens emphasizing that treaties, and other facets of colonization, are merely part of Canada's history and are inconsistent with contemporary values of equality.

### **5.1- The OFAH's Policies and Principles of Fair-Sharing: Defending Group Interests**

#### **5.1a- Fair and Equitable Resource Sharing**

The OFAH's belief in and endorsement of fair and equitable sharing is a significant, complex, and foundational principle that guides their policies towards treaties and land claims and provides the basis for an interpretive repertoire used within their advocacy. This echoes and reinforces a repertoire already acquired by treaty rights opponents, both in the U.S. (Dudas 2005; Bobo and Tuan 2006; Goldberg and Milner 2003) and Canada (Mackey 2005), which contains ostensibly non-racist arguments and criticisms that social actors can draw on to discredit and oppose treaty rights and land claims and protect their hunting/fishing opportunities, while appearing fair, tolerant, articulate, and non-racist. The use of this repertoire is powerful in its ability to influence opinions and provoke resentment, opposition, and racial prejudice towards Indigenous people, treaty rights, and sovereignty based on the premise of equality and making everyone equal.

This repertoire resembles aspects of Bonilla-Silva's (2003) 'Colour Blind Racism' and especially the frame of 'abstract liberalism', in which an abstract extension of egalitarian and liberal values are employed as a means to uphold racial inequalities. By using abstract liberalism, settler Canadians and Americans can manoeuvre in various contexts such as answering race-related questions, discussing racial issues, or arguing against approaches/policies aimed at resolving racial inequalities or historical injustices, such as affirmative action/employment equity programs or honouring treaty rights, with the claim that it is a violation of 'equal opportunity'. Although it may not be intentional, the OFAH's repertoire works to explain, justify, and reinforce a racial ideology about the positional arrangement of Indigenous and non-

Indigenous hunters and fishers, which maintains longstanding racial inequalities that Indigenous people have endured and challenged for centuries. Through this, and in line with Colour Blind racism, the OFAH provide the medium through which Indigenous-settler relations are understood, as well as the 'rules of engagement' and scripts which nurture non-Indigenous hunters and fishers' racial identities and sense of group position.

Similarly, Blumer (1958) explains how powerful interest groups (like the OFAH) contribute to the collective process of defining and redefining members of another racial group, and how a sense of group position emerges from this process. One aspect involves complex interactions between members of the dominant group, in which definitions of another racial group are presented and feelings are expressed through talk, tales, stories, and gossip on the one hand, and how separate views converge, influence, modify, and fuse together new images of that racial group on the other.

Through the use of this repertoire within the OFAH's official policies and advocacy, a sense of group position is visible in how treaty rights, land claims, and Indigenous hunters and fishers are portrayed not only as a threat to settlers' power, privileges, and access to resources, but also to core values of equality. As such, the OFAH has publicly delivered the intellectual arguments that criticize treaty rights and defend settler group interests, thereby contributing to the 'currents of views' and 'currents of feelings' (Blumer 1958) among non-Indigenous hunters and fishers by defining Indigenous people with treaty rights as a threat to fair and equal treatment.

The Algonquin Land Claim has received a consistent and substantial amount of coverage and criticisms by the OFAH<sup>35</sup>, which has presented the overall message that the negotiations and the Agreement-In-Principle (AIP) were not transparent, did not consider the interests of non-Indigenous people or provide fair consultation, and did not formulate a hunting/fishing policy that reflected the

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<sup>35</sup> The Algonquin Land Claim has been discussed within their annual reports (2010-2014), official website, the *Ontario Out of Doors* magazine (OOD), official policy documents, and a webpage with a 1hr30min webcast, designed specifically to promote awareness and criticisms of the claim. See [www.algonquinlandclaim.ca](http://www.algonquinlandclaim.ca).



OFAH's principles of 'fair sharing'<sup>36</sup>. The OFAH's *Principles Related to Fair Sharing of Resources (An OFAH Discussion Document)* and their *Algonquin Land Claim Input Document* outline their policies related to First Nations and Métis people and the Algonquin Land Claim and exemplify their promotion and endorsement of fair sharing:

All society must share, or have the opportunity to share, in the benefits accruing from this natural resource trust. Shared benefits include the environmental, economic and social returns from the resource. They also include less easily measured returns, including quality of life, peace of mind and way of life. We believe that no use or right is or should be exclusionary (OFAH Fair Sharing 2015, 1)

By stressing how 'all society' must be able to share, access, and benefit from resources in the claim area, the OFAH indirectly imply that 'fair sharing' is disregarded within the Algonquin claim and non-Indigenous people will be unfairly excluded from benefits which go beyond their hunting/fishing opportunities to include their 'quality and way of life'. The OFAH conclude with a firm statement that no 'right is or should be exclusionary' in a manner that reinforces their concern over fair sharing, while criticizing treaty rights that are perceived to threaten or exclude their group interests and hobbies/lifestyles surrounding recreational outdoor activities.

Within both documents, the OFAH make several references and comparisons to the demographic and population differences between Indigenous and non-Indigenous people in the claim area, which provides clarity into how their notions of fair and equitable sharing play out within the context of the Algonquin Land Claim. For example, the OFAH illustrate how the Algonquin population is much smaller and will have unfair and disproportionate access to wildlife and hunting/fishing opportunities, while the non-Indigenous population, which is much larger, will be treated unfairly and excluded from such opportunities. The OFAH stress that:

Resource sharing must recognize the degree to which First Nation members have integrated into

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<sup>36</sup> Indigenous scholars such as Lynn Gehl (2014; 2016) have also criticized the Algonquin Land Claim, the AIP, and the overall Comprehensive Land Claims Policy, as it lacks meaningful collaboration with Indigenous Nations and requires the Algonquin and other nations to relinquish their rights to the land in exchange for a one time buy-out and a small portion of their land.

society and benefit fully from the advantages of that society, including land ownership, business development, social, education, health, safety, and employment benefits. This is especially important in the Algonquin claim, where the size of the non-aboriginal population, the degree of development, and the long history of land and resource use sets it apart from northern claims (OFAH Algonquin Input 2015, 3)

Resource sharing must recognize the relative sizes of the aboriginal and non-aboriginal populations. In the area claimed by the Algonquins, there are over 1.4 million non-aboriginals. The most recent aboriginal population estimate is approximately 7,000 individuals (OFAH Algonquin Input 2015, 3)

Resource sharing must recognize that hunting and fishing, and other resource uses are an integral part of the heritage and traditions of nonaboriginal peoples in the claim area (some 7th generation). All Crown lands in the claim area have existing uses (forestry licenses, hunting camps, trap lines, parks, etc.). Hunting and fishing are essential to the well-being of all participants, regardless of ancestry or “rights.”<sup>37</sup> (OFAH Algonquin Input 2015, 3)

As these statements show, the OFAH attempts to illustrate the ‘unfairness’ of the claim, as well as promote their principles of fair sharing by highlighting how the Algonquin people in the claim area have not only assimilated into and ‘benefited’ from the Euro-Canadian lifestyle, but will gain more benefits through the land claim, despite the significant difference in population size. Additionally, this strategy attempts to emphasize how hunting and fishing are equally important for the *heritage, traditions* and *well-being* of non-Indigenous people which presents the underlying meaning that the Algonquin people should not be given any ‘special’ rights, priority, or ‘unfair’ advantage over the settlers who have lived in the area for generations<sup>38</sup>. Unfortunately, the OFAH pay no attention to how these demographic imbalances were created historically through disease, displacement, etc. (Gehl 2014).

Upon closer examination, the OFAH’s suggested format for fair and ‘equitable’ sharing through the allocation of resources is complex and contingent on many factors such as the fluctuations of fish and wildlife populations in the area and the conservation measures used to sustain a healthy ecosystem. Although their stated goal is to promote and implement an equitable sharing plan within the Algonquin

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<sup>37</sup> The use of quotations around this word within this context reveals overtones of sarcasm and discontent towards treaty rights.

<sup>38</sup> This will be analyzed and discussed in detail in the next theme.

Land Claim, the OFAH do claim to support the recognition of “a ‘priority allocation’ for First Nation use (as directed by the courts)” (OFAH Fair Sharing 2015, 6), which would give the Algonquin people a slight increase in the amount of fish and wildlife they’d be able to take. Inside their ‘fair sharing’ document, the OFAH provide a hypothetical example:

For ‘unallocated’ fish species, a priority allocation might take the form of:

- A larger ‘catch limit’ than other members of society e.g. if the catch limit is normally 2 fish, the Algonquin catch limit might be 4
- Longer seasons
- Provision for different fishing techniques
- Differing access

For ‘allocated species’ such as moose, ‘priority allocation’ might take one of the following forms, for example:

- If Algonquins represent 1% of the total population in the claim area, the Algonquin allocation might be 2% of the total available adult validation tags
- Algonquins receive 1% of tags- but have an extended season providing a much greater opportunity for success;
- Some variation of the preceding combined with the ability to harvest moose within Algonquin Park. This might take the form of an overall greater percentage allocation e.g. 4% with the clear understanding that the allocation must be taken wholly within Algonquin Park (OFAH Fair Sharing 2015, 6-7)

These examples provide insight into the desired features of a ‘priority allocation’ and fair-sharing arrangement that the OFAH perceives to be fair, mutually beneficial, and based on an ‘equitable’ rather than an ‘equal’ allocation<sup>39</sup>. This ‘priority allocation’, however, is expressed within the OFAH’s terms and does not stray far from the status quo nor their goal of securing and legitimizing their version of an ideal equitable sharing arrangement based on the population size differences. When considering the prevalence of the OFAH’s strategic repertoires within their commentary on the Algonquin claim, it raises questions as to whether the OFAH are more concerned about maintaining their own access to resources, rather than resolving long-standing and profound historical injustices in a ‘fair’ and sincere manner, which

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<sup>39</sup> The OFAH emphasize an ‘equitable’ rather than an ‘equal’ allocation because an ‘equal’ allocation plan would give the Algonquin population, which is much smaller, substantially more opportunities to hunt and fish over the non-Indigenous population, which is much larger. This further illustrates the reasons and logic motivating the OFAH’s principles and advocacy for fair and equitable sharing.

acknowledges the Algonquin's uniqueness, history, connections to the land, and sovereignty<sup>40</sup>. From an Algonquin perspective, the land claim area was never ceded or surrendered to the Crown and remains Algonquin territory (Gehl 2014; Lawrence 2012); therefore, what right does the OFAH have to tell the Algonquin how much they can hunt and fish?

The OFAH's coverage of the 1923 Williams Treaty court case challenge in 2012 by the signatory Indigenous Nations<sup>41</sup> also draws on the principles of fairness and equality, which correspondingly work as an interpretive repertoire that constructs the 1923 Williams Treaty in a particular manner to reach their social and political objective of maintaining laws that apply equally to everyone in the treaty area. Within their 2012 Annual Report under the 'Government Affairs and Policy' section, the OFAH provides an overview and a historic timeline of the 1994 *Howard* decision and the OFAH's intervener status, the 2012 court challenge, and how the Ontario Government had adopted an Interim Enforcement Policy (IEP) that allows Indigenous people to hunt/fish for personal consumption, social, or ceremonial purposes without being subject to provincial enforcement procedures (Williams Treaty First Nation 2014). The OFAH explain:

By adopting the Interim Enforcement Policy while the case is still before the courts, the province appears to be prejudging the outcome of the trial in favour of the First Nations and undermining years of equal treatment of all anglers and hunters, including those from Williams treaty First Nations. In November, the OFAH met with senior MNR staff who briefed us on the province's position in the case. At the time, it became clear that despite the Supreme Court ruling in *Howard*; despite the OFAH's involvement in this issue at the Supreme Court; and despite the impact this case could have on non-aboriginal hunting and fishing in Ontario, the province deliberately did not inform the OFAH of the litigation, or the province's change in position prior to going to trial. In mid-November the OFAH met with the federal Minister's senior policy advisor to advise of our displeasure at this turn of events, and to determine why the federal government had changed their position in this matter (OFAH Annual Report 2012, 36)

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<sup>40</sup> Within the OFAH's *Algonquin Land Claim Input Document*, they make a statement on how "Negotiation of unsettled claims and grievances must accept sharing of resources as a fundamental underpinning" (OFAH Algonquin Input 2015, 3), which reveals a degree of insincerity for the effects of colonization forced on the Algonquin people in their attempts to secure their (non-Indigenous) group interests and access to resources.

<sup>41</sup> Who are challenging the Canadian government's interpretation of the 1923 Williams Treaty to restore their hunting/fishing rights in their traditional territories off-reservation (OFAH Annual Report 2012; Switzer 2012).

This statement clearly illustrates the OFAH's displeasure with the IEP, the Canadian government(s), and the court case in general, as it is perceived to be undermining "years of equal treatment" for both non-Indigenous and Indigenous hunters and fishers. The reference to 'equal treatment' within this context translates to the equal application of laws, and how the government's actions undermined these laws and the deeply held values of equality. In addition, the OFAH also express their discontent about the lack of notification on the court challenge and the change in the government's position in a way that implies the government is not only ignoring the interests of non-Indigenous people (as well as deliberately ignoring the OFAH) and previous court decisions, but is giving the Williams Treaty First Nations unfair and unequal treatment.

In September of 2015, the OFAH commenced a judicial review proceeding within the Ontario Superior Court of Justice (*OFAH v Ontario*<sup>42</sup>) in an attempt to legally discredit the IEP and the Williams Treaty case, though without success. The OFAH claimed that the IEP was contrary to the equal rights guaranteed under the *Charter of Rights and Freedoms* and discriminates (against non-Indigenous people) on the basis of 'race' (CanLII 2015). For example, within the *Notice of Application*, the OFAH states:

The race-based distinction created by the IEP creates a disadvantage by perpetuating both prejudice and stereotyping against the claimant group. The stereotyping results in a perpetuation of the prejudice and disadvantage, particularly in that it uses an impermissible dispensation of power to surrender the rule of law to an arbitrary political agenda (qtd. in CanLII 2015)

The IEP imposes burdens and denies benefits in a manner that has the effect of reinforcing, perpetuating and exacerbating the claimant's disadvantage (qtd. in CanLII 2015)

These legal arguments reveal the OFAH's repertoire of equality, which is used as a flexible resource (Jorgenson and Phillips 2002) in an attempt to challenge the recognition of the Williams Treaty First Nations' hunting/fishing rights and communicate the message that the IEP is perpetuating stereotypes and prejudice towards Indigenous hunters and fishers by giving them an advantage due to

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<sup>42</sup> *The Ontario Federation of Anglers and Hunters v Ontario*, 2015 ONSC 7969, Court File Number- 318/15, December 18, 2015.

their race. The meanings embedded within their arguments present the IEP as a nuisance and allude to how the signatory nations, along with the support of the Ontario Government, are using their political power to selfishly and unfairly change the law for their own convenience. On the other hand, they present the prejudice towards such rights as an inevitable and legitimate outcome and suggest that the equal application of laws, contrary to the IEP, will stop the stereotypes and prejudice. As a result, the OFAH strategically places blame on treaty hunters and fishers for the prejudice and stereotypes they face instead of denouncing those who hold prejudiced views towards them and their treaty rights.

#### **5.1b- Our Rights, Heritage and Traditions are the Same**

Within the OFAH's interpretive repertoire based on the principles of fairness, equity and equal opportunity, a specific strategy is utilized, particularly within their coverage, policies, and narratives on the Algonquin Land Claim, which uses these principles, but also mimics and appropriates the treaty rights language and perspectives of Indigenous people in an attempt to convey the message that hunting and fishing is just as important for the culture, heritage, traditions, and 'spirituality' of non-Indigenous (predominantly white) Canadians as it is for Indigenous people such as the Algonquin-Anishinaabeg; therefore, they suggest settler Canadians' hunting and fishing 'rights' and access to resources in the claim area should be recognized and given equal importance and treatment during the land claim negotiations.

This linguistic strategy seeks to discredit the land claim and the Algonquin-Anishinaabeg's history, culture, and connection to the land, and communicates shared meanings about hunting and fishing in relation to one's (settler Canadian) identity, culture, and personal experiences. Moreover, it contributes to and strengthens the possibility of non-Indigenous people inside and outside the land claim area forming a sense of group position ("us") in relation to Indigenous people ("them") who are perceived to threaten the status quo. As Blumer (1958) suggests, "to characterize another racial group is, by opposition, to define one's own racial group. This is equivalent to placing the two groups in relation to each other, or defining their positions *vis-à-vis* each other" (4). This particular strategy is consistent with Group Position Theory, as it communicates shared meanings about settlers' group position by attempting to characterize

Indigenous peoples' culture, history, and traditions as the same as those of settlers, and therefore not deserving of 'special rights,' which ultimately works to maintain longstanding racial inequalities.

Dunk (2002) has revealed similar findings regarding the OFAH's linguistic strategies and provides compelling insight into the role and meaning of hunting for non-Indigenous Canadians and "...the way in which concepts such as culture, tradition and heritage are employed by groups that are composed largely of white men, a segment of the population in nation states such as Canada that have comprised the dominant norm against which the subordinate and/or minority others have had to struggle" (38). Dunk illustrates how the OFAH used a similar strategy within a legal and public relations campaign that launched in reaction to the cancellation of the Ontario spring black bear hunt in 1999 and made its way to the Ontario courts<sup>43</sup>. In court, the OFAH's lawyers sought to re-instate the bear hunt with the assertion that hunting was an integral part of non-Indigenous Canadians' culture, expression, and identity, and how the cancellation represented a restriction of their 'right' to hunt and freely express themselves, which was argued to be protected under the *Canadian Charter of Rights and Freedoms*<sup>44</sup>. Through this legal assertion, the OFAH attempted to equate the Indigenous experience with the settler experience, as well as mimic and appropriate the treaty rights language and arguments that have been successful for Indigenous people in Canada. Dunk explains:

These arguments represent an explicit attempt to claim a legal and moral position equivalent to that of aboriginal people in terms of the relationship to nature and in terms of cultural tradition and the legal and political rights that flow from them. Of particular significance is the emphasis on the spiritual nature of hunting to white hunters' identity (2002, 45)

The language within the OFAH's legal arguments and advocacy surrounding the spring bear hunt resembles the linguistic strategy prevalent within their coverage and commentary on the Algonquin Land

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<sup>43</sup> The OFAH along with The Northern Ontario Tourist Outfitters (NOTO) and several other individuals initiated an application for judicial review within the Ontario courts.

<sup>44</sup> Under section 2(b)- the right to freedom of thought, belief, expression etc.; the OFAH also argued the Minister did not follow proper procedures regarding an environmental assessment or provide indisputable proof that their action was necessary to achieve conservation (Dunk 2002).

Claim, and demonstrates the flexibility of how this language can be expressed in different contexts to defend their hunting and fishing interests, opportunities, and access to resources. In regards to the Algonquin claim, the OFAH openly state the reasons for their advocacy:

For all Ontario residents, we want to maintain: 1) public fish and wildlife conservation management; 2) public fishing and hunting opportunities; and 3) public access to fishing and hunting opportunities. We want to maintain our culture, our heritage, our way of life, and our quality of life (OFAH Annual Report 2013, 59; OFAH Webcast 2015)

As this quote shows, the OFAH's advocacy is based on the perception that hunting and fishing is vital for the non-Indigenous Canadian identity, culture, heritage, lifestyle, and well-being. Within this context, however, the message contains the connotation that the Algonquin are a threat to "us" and "our" aspirations and provides a convincing justification for their criticisms and advocacy.

The OFAH's Native Affairs and Advisory Committee echoes this language within their 2013 annual report:

Throughout our decades of dedicated work on the Algonquin Land Claim, the OFAH has advocated for fairness and equality in the negotiation process to reflect the long and storied tradition of non-Algonquin settlement and participation in outdoor recreational activities in the land claim area. This requires more open and transparent consultation of resource users in the land claim area with a clear explanation of how their input was used in the negotiation process. The OFAH has attempted to bring a conservation-based approach to the Algonquin land claim negotiations; however, the Harvesting Chapter of the AIP does not adequately reflect Ontario's existing and successful fish and wildlife management model. OFAH staff carried out a thorough review of the draft AIP and provided extensive comments to both Ontario and Canada (2013, 40)

The statement begins by emphasizing their desire for fairness and equality within the negotiation process and consideration for the 'long and storied tradition' of Euro-Canadian settlement and participation in hunting and fishing in the claim area, which illustrates how the OFAH are constructing a romanticized version of history based on white settlement and recreational sport activities that assisted in the formation of their culture, heritage, and traditions. Unfortunately, this version of history disregards and erases the unfair and unequal treatment of the Algonquin Anishinaabeg Nation, including the longstanding history of colonization, displacement, illegal encroachment, and land appropriation, as well as how government officials deliberately ignored the 28 petitions, speeches, and appeals sent between



1772 and 1881 on behalf of Algonquin representatives and continued implementing legislation that would displace and divide the Algonquin Anishinaabeg Nation contrary to the nation-to-nation relationship that was supposed to be the foundational framework since the *Treaty of Niagara 1764* (Gehl 2014; Borrows 2002).

Furthermore, the emphasis on how the Harvesting Chapter within the AIP does not reflect Ontario's conservation model reveals a paternalistic approach which implies that the settler state's knowledge and management skills regarding conservation are superior to and more effective than those of the Algonquin-Anishinaabeg and other Indigenous Nations. This reveals the underlying sense of group superiority which Blumer (1958) considers one of the four feelings prevalent in racial prejudice. Through this assertion, the OFAH assume that Indigenous Nations cannot manage fish and wildlife responsibly and should adopt Ontario's wildlife management model.

Within the OFAH's 2013 president's report titled, *Land Claims in Ontario- What does the Future hold?*, the (former) president reiterates this strategy in relation to the Algonquin Land Claim and the Williams Treaty court challenge:

The Algonquin Land Claim and a court challenge to the Williams Treaty are two examples of native claims that have the potential to drastically affect our access to natural resources, impact on fish and wildlife species and affect our ability to hunt and fish as we have done for generations. We do not dispute that First Nations people have rights under Section 35 of the Constitution, nor do we dispute their right to harvest fish and wildlife for sustenance and ceremonial purposes. These rights are enshrined in law and have been reaffirmed by the Supreme Court of Canada. However, somewhere along the line, the government negotiators, the courts and our politicians seem to have overlooked the fact that many of our forefathers fished and hunted for the same reasons as First Nations peoples, and that for them, the right to do so was an equally important part of their collective heritage. The right to hunt and fish, and the ability to access our natural resources to engage in these activities is a part of our history, a fact that is often overlooked by negotiators who sit at the table representing the government, and supposedly, all Canadians (OFAH Annual Report 2013, 68)

The president begins by portraying the claim and court challenge as a threat to non-Indigenous Canadians' hunting and fishing opportunities and the conservation of wildlife populations with the underlying assumption that Indigenous hunters and fishers do not practice or believe in the ethics of conservation

and sustainability. This is followed by a 'disclaimer', which reveals an attempt to avoid appearing racist, critical, or oppositional to Indigenous treaty rights and land claims with the assertion that the OFAH supports section 35 of the *Canadian Constitution 1982*; however, considering the context of this language, it appears there is a stronger concern to defend their group interests rather than the spirit of Indigenous treaties. The use of this disclaimer also reflects a stylistic element within Colour Blind Racism (Bonilla-Silva 2003), namely the use of semantic moves to avoid being labelled as racist (as in "I'm not racist, but...").

The president finishes with the allegation that government officials, negotiators, judges and politicians are not only providing inadequate consultation, transparency, and consideration for their concerns, but are also ignoring how 'our forefathers'<sup>45</sup> also hunted and fished for the same reasons<sup>46</sup> in an effort to equate the significance of hunting and fishing with the culture and heritage of both Indigenous and non-Indigenous people. In addition, the president mimics and appropriates the treaty rights language used by Indigenous people to define and redefine the 'rights' of non-Indigenous people with the same political, legal, and symbolic importance as treaty rights.

Similarly, this strategy is used within the OFAH's policies of fair sharing to communicate a shared meaning and illustrate the significance of hunting and fishing for the spirituality and identity of non-Indigenous hunters and fishers:

Fair Sharing must recognize that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration. As such, 'Fair Sharing' must be flexible to respect specific local circumstances. Consistent with this, discussion related to fair sharing in the context of the Algonquin Land Claim should:

- Recognize that hunting and fishing are extremely important activities for the spiritual re-creation and sustenance of all participants – both native and nonnative. Hunting and fishing truly represent a fundamental form of expression which is part of the shared cultural heritage of both native and non-native society in the area of the claim
- Reflect the fact that hunting and fishing are no longer a 'subsistence' activity for

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<sup>45</sup> The reference to 'our forefathers' reveals a sense of tribute to the early European, white colonialists.

<sup>46</sup> Although this is true to an extent, in most cases Indigenous people have been hunting and fishing in the same regions for hundreds or thousands of years for food and as a way of life, whereas settlers came from somewhere else and do not have the same spiritual and ancestral ties to the land.

many members of the Algonquin and Nipissing communities. Rather, their activities are conducted in a similar manner, with a similar purpose of 'spiritual re-creation' and sustenance, and as part of a shared cultural heritage with other members of society

- Reflect the fact that, hunting and fishing as carried out by most Algonquins and Nipissings are not a distinctive or distinguishing characteristic of that society (OFAH Fair Sharing 2015, 3-4)

These statements clearly demonstrate how the OFAH advances the perception that recreational hunting and fishing provides the same spiritual significance and sustenance for both Indigenous people, such as the Algonquin Anishinaabeg, and settler Canadians whose culture, heritage, traditions, and practices are conducted in the same manner and for the same purposes. Moreover, this language simultaneously attempts to discredit Algonquin rights and the significance of hunting and fishing for the Algonquin and their connection to the land by claiming they are no longer a 'subsistence activity' nor a 'distinctive or distinguishing characteristic' for the Algonquin and Nipissing communities, but are equally similar to non-Indigenous Canadians living in the area.

Using this language, the OFAH have also lobbied to have their own (non-Indigenous) 'rights', culture, and heritage 'recognized' through various pieces of legislation such as the *Heritage Hunting and Fishing Act S.O. 2002* (OFAH 2002; Legislative Assembly of Ontario 2002) and the *National Hunting, Trapping, and Fishing Heritage Day Act* in 2014 (OFAH 2014; Parliament of Canada 2014), which acknowledges and celebrates the important contributions to Ontario's heritage and economy and wildlife conservation by recreational sport hunters and fishers<sup>47</sup>. The passage of the *Heritage Act* in 2002 also paved way for the *Fish and Wildlife Heritage Commission* where OFAH members hold positions that promote and preserve recreational sport hunting and fishing (Nashkawa 2005; Government of Ontario 2015). The implementation of the *Heritage Act* has drawn several criticisms (McLaren 2005; Nashkawa 2005) regarding the implications of this legislation for Indigenous people. Nashkawa (2005) explains:

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<sup>47</sup> The OFAH (2002) explain on their website how "The Act, that passed with all party support, recognizes the right to fish and hunt and affirms the past, present and future efforts of the outdoors community and their enormous contributions to natural resources management".

What is particularly offensive to the Anishinabek Nation is the fact that the OFAH has successfully had non-Native peoples "rights" to harvest recognized under the Heritage Hunting and Fishing Act and by other means while demeaning and diminishing the rights of First Nations harvesters. The fact that the Harris Tories put hunting and fishing for sport ahead of the recognition of constitutionally protected rights is particularly insulting. It is also frustrating and sad that efforts by First Nations to become more involved in resource management were largely ignored while industry and special interests agendas were not only accepted but supported by the use of government funds (2005, 16-17)

In addition, the OFAH have established the *OFAH-Mario Cortelluci Hunting and Fishing Heritage Centre* which provides information about the history of the OFAH, sport hunting and fishing, conservation, biology and wildlife, etc. (OFAH Heritage Centre 2016). Unfortunately, the centre has little to no history about Indigenous peoples or their contribution to the conservation of resources. One respondent (an OFAH member) noted how:

They have that heritage centre now, and they do information about animals and Canada and all that stuff, but you see very little on any kind of Native heritage or that kind of stuff, like we've gone through there, it's a very little building, but you don't see a lot on that, and you'd think there would be (OFAH Member-Interview 13, 2015).

### **Summary**

Overall, the notions of fairness, equity, and equality were prevalent within the OFAH's policies and coverage of Indigenous land claims and treaty rights, such as the Algonquin Land Claim and the Williams Treaty court challenge, and formed the basis of an interpretive repertoire with various linguistic strategies which allows them to appear reasonable, articulate, and non-racist and to position themselves as truly concerned with upholding the cherished values of fair sharing, equality and wildlife conservation, while they defend their group interests and access to resources.

One particular strategy used by the OFAH revealed an attempt to equate the Indigenous experience with that of non-Indigenous people by mimicking and appropriating Indigenous peoples' treaty rights language and legal arguments in order to ascribe the heritage 'rights' of non-Indigenous people with the same weight as Indigenous peoples' treaty rights, and to illustrate and convey shared meanings on how hunting and fishing are equally important for the culture, traditions, and spiritual well-being of both

Indigenous and non-Indigenous people. Embedded within this language is the underlying message that Indigenous people should not be given any 'special' advantage because settler Canadians' heritage and traditions are essentially the same<sup>48</sup>.

This is consistent with Group Position theory (Blumer 1958) and Bonilla-Silva's (2003) Colour Blind Racism (abstract liberalism) in the way the OFAH use egalitarian and liberal arguments to discredit the need to address substantive inequalities and to justify and maintain settlers' group position. Consequently, the use of these repertoires within their commentary, as well as their successful efforts to have their 'rights' legitimized and acknowledged through legislation, disregards Indigenous sovereignty, ignores Indigenous beliefs and practices regarding conservation and respect for wildlife, delegitimizes Indigenous history and their connections to the land, and directly and indirectly portrays the Algonquin Nation and the Williams Treaty First Nations as a threat to the virtues of fair and equitable sharing, equal treatment, and conservation. Moreover, this language is strongly persuasive, which not only has the potential to resonate or influence the perspectives of their membership and the public, but also provides repertoires for treaty rights opponents.

This raises important questions: *To what degree have the OFAH's official policies on fairness, equity and equality shaped or been shaped by people inside and outside their membership? Do OFAH members and non-members share similar or different views?* The following section will provide insight into these questions and illustrate the themes prevalent within the accounts of OFAH members and non-members.

## **5.2- Questioning the Relevance and Legitimacy of Treaty Rights: Repertoires from OFAH Members and Non-Members**

Interviews with OFAH members and non-members revealed that ten (50%) respondents drew on

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<sup>48</sup> This is a false equivalency because the OFAH assume that Indigenous peoples' treaty rights were granted for 'free'; the OFAH and others who make this argument are ignoring what they (settlers) get from treaties (the right to live and govern themselves on Canadian soil!).

an interpretive repertoire similar to the OFAH's in order to question the relevance and legitimacy of treaty rights and illustrate how they are (allegedly) unfair and contradict the values of equality and equal treatment for non-Indigenous hunters and fishers. Although similar to the OFAH, these respondents had limited to no knowledge of specific treaty rights or land claims and were more explicit with the use of this repertoire to endorse and justify the revision and abolition of all treaty rights (*Treaty Rights as Unfair and Contradictory to Equality: Equal Application of Rules and Regulations*). Moreover, respondents also expressed this repertoire through an ahistorical lens by claiming treaties, as well as the historical injustices resulting from colonization, are a thing of the past and conflict with today's aspirations of maintaining an equal society (*Past is the Past: The Revision and Abolition of Treaty Rights for the Purpose of Equality*). Despite the similarities, these respondents, and many others, were unaware of the OFAH's policies, reports, and advocacy, which shows that the OFAH had less influence than expected on these particular respondents. Nevertheless, the OFAH's commentary has the potential to resonate among the respondents and possibly strengthen their anti-treaty rights rhetoric.

#### **5.2a- Treaty Rights as Unfair and Contradictory to Equality: Equal Application of Rules and Regulations**

When asked about their feelings and views towards Indigenous treaty hunting and fishing rights, nine (45%) respondents drew on a repertoire based on the virtues of fairness and equality to suggest how provincial regulations, fees, and tag requirements should be equally applied to everyone despite treaties or treaty rights. Respondents 2 and 11 exemplify the use of this repertoire:

It's not fair to other hunters, and it's not fair to the animals themselves. I think it should be just completely wiped out, and we should all be under the same law as Canadian citizens to be, you know, subject to the same rules; I think it's sort of time that we got on the same page with it, you know, and we could be, you know, it would be unifying, if anything; some people might not like it at first, but give it a couple of generations and it'll just be the way it is (Former OFAH Member-Interview 2, 2015)

I got to say, it is 2015, and I generally hold a negative view towards it. I think now it's kind of uhh, you know, in this day and age, I don't think it's fair to have two separate sets of rules for two different sets of people who are, you know, they are as human as anyone else is; why should they have their own set of rules they can follow? They are still living within in Canada; they may not recognize the nation of Canada, but unfortunately (laughs a bit) it's recognized by just about

everyone else on the earth, so I'd have to say that I'd have to disagree with it (OFAH Member- Interview 11, 2015)

As Colour Blind Racism Theory (Bonilla-Silva 2003) would predict, both respondents express their discontent by using the repertoire of equality to criticize and illustrate the unfairness of treaty rights and how everyone should be subject to the same laws with the indication that treaty rights should be abolished. Respondent 2's support for such abolishment is particularly explicit and justified not only by the will to uphold the values of equality, but as a perceived catalyst to uniting Indigenous and non-Indigenous people. In contrast, respondent 11 uses rhetorical questions and sarcasm to indirectly "prove" the unfairness of treaty rights. Respondent 11 clarifies his position:

It's the idea of two separate sets of rules for people, like they're still people, they're the same as you and I, and everyone's had a little bit of a different history, everyone has a different ancestry, but we are all the same humans, we all share the same DNA more or less, so why are they given two sets of rules?... I'm not anti-Native by any means, but I am pro-equal rights for everyone, pro-resource management (OFAH Member- Interview 11, 2015)

The respondent provides further insight into his views behind equality and equal treatment based on a shared human experience and genetic makeup and how treaty rights are perceived to conflict with and threaten these values. Most importantly, the reference to being a 'pro-equal rights' advocate illustrates how this repertoire allows the respondent to openly criticize and oppose treaty rights while attempting to appear fair, tolerant, intelligent, and non-racist. On the surface, the respondent might sound anti-racist, but when viewed in the context of more complete information about colonization, treaties, etc., the argument falls apart.

Both respondents also attempted to highlight the unfairness of treaty rights by presenting a story or a hypothetical situation with children as an analogy. Respondent 2 explains:

A guy was fined \$30,000 this past summer uhh at a particular Lake uhh I've been there when the Ministry checks your boat at the launch, and they make sure you don't have fish in a live well for transport. You have to have them on ice or in a cooler, right; can't transport live fish, so that's a \$30,000 fine for one guy, but if he's Native that's fine. We can't do anything, sorry to bug you. They wouldn't even bug you (laughs) you wouldn't even be checked; you could have 1000 fish in there, and they probably wouldn't even check you, so....it's time to stop doing that! It seems so silly when you talk about it, you know, it's like, if you have two children, and you tell one they can

do what they want and the other one's got to obey a bunch of rules, how are these kids going to react to each other and to you? It's uhh it's a recipe for chaos (Former OFAH Member- Interview 2, 2015)

The respondent's story of poaching is used in comparison with those who exercise their treaty rights to show how treaty hunters/fishers are not only comparable to poachers, but also a threat to conservation due to their exemption from provincial harvesting laws and regulations. He clarifies his point by using children as an analogy to further show the unfairness of treaty rights and how the use of such rights can lead to social disruption and tensions between Indigenous and non-Indigenous people. As previously shown, Respondent 2 also claimed that treaty rights should be 'wiped out', which would be 'unifying'.

Respondent 11 articulates a similar analogy:

In like super, simple terms it's like saying, you know, say you have an identical twin, and your parents say, 'well, you know what, your bed time is at 6pm every day', it doesn't matter what, but your brother, who was born the same day as you, is basically the same guy, he can stay up until whenever he wants, play video games, he has his own set of rules, and we have a different set of rules for you'. That wouldn't seem very fair now would it? (OFAH Member- Interview 11, 2015)

The respondent's use of this analogy is also intended to discredit treaty rights and reveal the unfairness resulting from unequal treatment, but differs from respondent 2's strategy by attempting to reinforce his previous remarks that both Indigenous and non-Indigenous people are identical (i.e. shared human experience, similar DNA) and should not have an advantage over one another through two sets of rules, as it contradicts the values of fairness and equality.

Aside from the use of this particular strategy, other respondents drew on the repertoire of equality, but emphasized how Indigenous people with treaty rights should pay fees for tags/licences, which was argued would contribute to conservation:

We pay for licences which goes to management and enforcement; they don't have to pay for tags! No one should hunt out of season, it should be equal across the board! (Non Member- Interview 9, 2015)

I feel that, you know, conservation is a big thing, and I think that everybody should have to buy tags because that money goes into the conservation groups as well, like wildlife officers, it's all a



part of it, it all helps you know (Non Member- Interview 4, 2015)

What bugs me is that the Indians can still go and hunt moose and we can't; that's probably the reason why there's less moose. They should have to abide by the same rules as everyone else (Non Member- Interview 8, 2015)<sup>49</sup>

All three respondents reveal a perceived sense of unfairness resulting from treaty rights with the understanding that treaty hunters and fishers do not contribute to or pay for conservation efforts and unfairly get additional opportunities that aren't available to non-Indigenous hunters/fishers, who are perceived to be the sole contributors to conservation. In regards to resource abuse, respondent 8 explicitly attributes the declining moose population in Ontario to Indigenous treaty hunters with the implicit assumption that they are indifferent to conservation and sustainability and need to be regulated by the same rules as everyone else, though the other respondents also imply a similar connotation.

#### **5.2b- Past is the Past: The Revision and Abolition of Treaty Rights for the Purpose of Equality**

This theme illustrates how five (25%) participants drew on an interpretive repertoire based on the ideals of fairness and equality, but specifically expressed with an ahistorical view using action-oriented language and rhetorical questions which provide the justifications and arguments to criticize the relevance and legitimacy of treaty rights within contemporary Canadian society and to openly support the revision or abolition of such rights to make everyone equal. These accounts are comparable to the racial stories within Colour Blind Racism, which are narratives that appear in the justifications or criticisms used to maintain racial privilege, and which become part of the racial folklore that is shared and believed by members of the dominant group (Bonilla-Silva 2003).

According to Bonilla-Silva, racial stories encompass 'story lines' that are often based on impersonal and generic arguments expressed through "socially shared tales that are fable-like and incorporate a common scheme and wording" (2003, 72). One common story line expressed in the post-

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<sup>49</sup> The respondent is referring to the Ontario MNRF's decision to limit the amount of moose tag allocated for hunting (CBC News 2015).

civil rights era contains ahistorical arguments (i.e. the past is the past) which resembles the storylines expressed by OFAH members and non-members to emphasize how present generations are not responsible for historical injustices or obligated to historic treaties.

When asked about their views towards treaty hunting and fishing rights, respondent 4 explained:

Well, I just feel that it could be revised as things change, as society changes, I think things like that should be looked at changing as well. I would say phasing out eventually. I think everybody is equal at the end of the day you know. Make certain choices to bring to certain places, I think it should be phased out eventually, and water under the bridge, you know. In one hundred years from now, I don't feel that all that money should be paid out. I feel like that has been enough. I just feel that society was wrong in the past, I think we paid due diligence for that since now, over and over again, I just wonder when is it going to stop? How much do I have to pay? How much do we have to pay? (Non-Member- Interview 4, 2015)

Other respondents shared similar views, but suggested a certain time and age limitation on treaty rights:

Like I said, once upon a time, the government apologized for their actions and gave the Native people certain rights, but, you know, let's have a bit of limitation; let's have a time limit on it. It is unreasonable to have someone's great great great grandchild, you know, have all these rights that he never suffered for. He or she was never persecuted by the government and never went to the residential schools sort of thing. The question is where do you draw the line? You know, in 300 years or so, are we still going to be talking about treaty rights and the things that happened back in the pioneer times that have long since been over? I should think not! I think (laughs) why then...certainly learn from history, but we don't have to keep apologizing to uhhh a certain specific set of people. You know, there's a little bit of white guilt present within the world to all sorts of different races and religions or what-not, but there's a point where we have to say, look, the past is the past. It's unfortunate, but it's time to grow and move on and learn from it, but uhh what's over is over! Let's kind of evolve and keep going! (OFAH Member Interview 11, 2015)

I really do feel that something should be done about it, right, you know, I'm not saying treat everybody the exact same because there are certain people, like, I'm okay with (*Voice changes tone, more cheerful and sincere*) giving them their own, like I think they should have their own set of regulations, not to separate them, but to give them more rights because I'm not going to sit down and take everything from you, like for the people who actually, legitimately, I don't know how many people in the world actually go out and harvest according to their needs, I would hate to take that from these people, you know, I would hate to have an opinion that helped towards making that man's life more difficult, but for the people who hadn't lived through that, maybe there should be a year, an age gap where like, okay if you were born before 1960 or whatever, go throw out all the nets you want or something like that, if you're born after 1960, you know, then you have to live like us (Former OFAH Member-Interview 14 2015)

In line with Colour Blind Racism (Bonilla-Silva 2003), the respondents' comments illustrate the

use of a repertoire with storylines conveyed through an ahistorical lens, which promotes the values of equality with action-oriented language and rhetorical questions used to articulate and justify their preference for the review, revision, and/or future abolishment of treaty rights. In particular, each respondent suggests that historical injustices resulting from colonization have been solved and no longer persist, and that treaty hunting/fishing rights or benefits stemming from treaties are irrelevant, contradict the values of equality, and should be 'phased out' within a certain time-frame. Respondent 14's comments slightly differ and may reflect an attempt at impression management with the use of a 'disclaimer' to show his support for treaty rights (i.e. 'their own set of regulations' or 'more rights'), but then endorses an age limitation that implies such rights should only be available to people who have directly suffered from the policies of colonization; unfortunately, colonization is assumed to be a thing of the past (pre-1960) with no residual effects for the younger generations of Indigenous people.

Additionally, respondent 14 wants to avoid holding an opinion that could make someone's 'life more difficult', but is seemingly unaware of the longstanding grievances and the systemic colonial policies that are manifested within Canada's institutions (ongoing dispossession of Indigenous lands, lack of clean drinking water, unequal funding for schools, etc.), as well as the government's legal and moral obligation to honour treaty rights (Ladner 2009; Borrows 2002), and how his comments and support for the limitations of these rights indirectly contribute to a longstanding pattern of settler support for colonial assimilation based on principles of "equality" (Tough 1992; Dudas 2005; Daum and Ishiwata 2010; Goldberg-Hiller and Milner 2003; McLaren 2005).

### **5.3- Similarities and Differences: A Comparison Between the OFAH, their Members and Non-Members and the Repertoire of Equality**

The OFAH and several members and non-members all drew on a similar interpretive repertoire with arguments and justifications based on the values of fairness and equality to illustrate how treaty rights were (allegedly) unfair and threatened these virtues, while also advocating for equal treatment, opportunities, and access to resources. As a result, treaty rights or land claims are discussed in an

ahistorical manner either by ignoring the history of colonization and selectively highlighting and romanticizing a certain version as demonstrated by the OFAH leadership within their reports and advocacy, or by denouncing the relevance and legitimacy of treaties and treaty rights, as well as the history and contemporary effects of colonization, which was displayed by certain OFAH members and non-members who explicitly supported the revision or abolition of treaty rights.

Although they shared a resemblance, these repertoires differed in content and the context in which they were expressed, revealing the flexibility of how these repertoires can be used in various ways to achieve similar social and political objectives. For instance, the OFAH used the repertoire of equality to criticize specific cases that were perceived to conflict with their principles of 'fair' and 'equitable' sharing and access to resources. In particular, the OFAH used a linguistic strategy which consisted of mimicking and appropriating treaty rights language and legal arguments to equate Indigenous experiences and rights with those of settlers, and to promote the notion that hunting and fishing are just as important for the culture, heritage, traditions, and spirituality of non-Indigenous people as they are for Indigenous people.

By contrast, OFAH members and non-members did not adopt this language and had limited to no knowledge about these specific cases or treaty rights; however, they still drew on the repertoire of equality during the interviews to illustrate the perceived unfairness and irrelevancy of treaty rights in general and to justify their support for the equal application of laws, regardless of Indigenous or non-Indigenous status. Respondents 2 (former OFAH member) and 11 (OFAH member) also used a unique strategy to illustrate their point by presenting a poaching story and a hypothetical situation using children as an analogy, which slightly differed from the OFAH's strategy, but appears to pursue the same goal of preserving the status quo and their group interests in a socially acceptable manner.

In regards to Group Position Theory, the OFAH, their members, and non-members reveal an established sense of group position by using these repertoires to criticize or oppose treaty rights that give Indigenous people a perceived unfair advantage and additional opportunities to hunt and fish, which directly and indirectly works to define and redefine treaty rights and the Indigenous-settler relationship in

a way that casts Indigenous people who exercise their treaty rights as a nuisance and as a threat to equality, the status quo, and the conservation of wildlife and resources.

Blumer (1958) asserts that prominent interest groups are highly influential with contributing to a sense of group position and a common orientation for members of the 'dominant' group. The OFAH, which is a large and politically influential organization, was hypothesized to play a substantial role in providing or facilitating this orientation for non-Indigenous hunters and fishers. Although there is no evidence that the OFAH's coverage and policies had a direct influence on the small sample of members and non-members who were interviewed for this project, the organization is still attempting to gain support and expand their advocacy with repertoires that have been previously shown to exist (Dudas 2005; Goldberg-Hiller and Milner 2003; Mackey 2005; Bobo and Tuan 2006) and have a strong ability to resonate with and elicit shared meanings among settler Canadians regarding identity, culture, and personal experiences, as well as a sense of group position, which can provide a breeding ground for racial prejudice. Consequently, this contributes to and continues the longstanding pattern of colonial support and lobbying by sport hunters and fishers in Ontario for government policies that would provide them with access to and control over Indigenous peoples' land and restrict Indigenous peoples' traditional hunting and fishing lifestyles, all the while promoting and expanding white settlement, tourism, and increased sport hunting/fishing opportunities for a lucrative outdoor-tourist economy (Sandlos 2003, 2008; Colpitts 1998; Binnema and Niemi 2006; Waisberg, Lovisek, and Holzkamm 1997; Pulla 2012).

In addition, this repertoire reveals features of Colour Blind Racism, particularly the frame of 'abstract liberalism', which uses arguments associated with political and economic liberalism to justify and explain racial inequalities and maintain the privilege of the 'dominant' racial group (Bonilla Silva 2003). By criticizing or opposing treaty rights with arguments promoting fair sharing, equal opportunity, or the equal application of laws, the OFAH, their members, and non-members are able to express their views, while contributing to the maintenance of a subtle racial ideology that supports and perpetuates racial inequalities and works against efforts at meaningful reconciliation/restitution and the re-establishment of

a nation-to-nation relationship between Indigenous nations and the Canadian state (Corntassel 2012; Borrows 2002; Gehl 2014).

**CHAPTER 6: TREATY RIGHTS, CONSERVATION AND GROUP INTERESTS: A PERCEIVED THREAT TO FISH  
AND WILDLIFE**

Beyond the *principles* of “equality” and “fairness”, the OFAH’s coverage and commentary on the Algonquin Land Claim, the SON-MNRF commercial agreement, the Nipissing First Nation commercial fishery, and the Williams Treaty court challenge also draw on an interpretive repertoire consisting of *pragmatic* arguments, criticisms and justifications that reveal and reinforce opposition to treaty rights, agreements, and land claims that are perceived to threaten non-Indigenous peoples’ hunting/fishing opportunities and access to land, enable unregulated and abusive hunting/fishing practices, and threaten wildlife populations, habitat, and conservation efforts. Embedded within the OFAH’s language are the insinuations that Indigenous people are indifferent to conservation and cannot manage resources responsibly and effectively, which will hurt not only wildlife, but also non-Indigenous peoples’ group position and access to resources. This is demonstrated below within the themes *Threat to Hunting and Fishing Opportunities* and *Concerns and Assumptions about Resource Abuse*.

The OFAH’s criticisms towards the Algonquin Land Claim, the SON-MNRF agreement, and the Williams Treaty court challenge also encompass a binary opposition that contrasts between the law-abiding, paying (non-Indigenous/non-treaty) hunters/fishers who are directly responsible for the conservation of wildlife and resources *versus* the unregulated, non-paying (Indigenous) hunters/fishers, with perceived ‘special rights’, who allegedly do not contribute to conservation, but rather exploit the wildlife that are sustained by the money and efforts of others. The theme *Use of a Binary Opposition to Defend Access to Resources: Paying for Licences and Conservation* analyzes this binary logic and how it is used to discredit certain treaty-related agreements and land claims that threaten the status quo.

OFAH members and non-members expressed various views towards treaty rights, but most accounts (55%) displayed explicit and implicit criticisms and resentment and divulged how images of treaty hunters and fishers are negotiated, reinforced, and even challenged through social interaction with

family, friends, acquaintances and strangers. In particular, the theme *“Whatever They Want, Whenever They Want”*: *Treaty Rights Lead to Unregulated Hunting and Fishing and Resource Abuse* shows how respondents assumed treaty hunters and fishers were free to hunt/fish excessively without a concern for conservation or regulation.

Other respondents endorsed the notion that treaty hunters/fishers should only be able to exercise their rights if they are using ‘traditional’ methods (*‘Support’ for Traditional Methods to Limit Perceived Treaty Rights Abuse*) on Reserve land (*Preference for Boundaries: Segregation for Conservation*) to presumably hinder wildlife abuse on Crown land. By contrast, the theme *Challenging Negative Images and Stereotypes* exemplifies how some respondents challenged stereotypes and supported treaty rights, while acknowledging that Indigenous people believe and partake in the conservation of wildlife.

### **6.1- Conservation and Access to Resources: The OFAH’s Criticisms of Treaty Harvesting Rights**

#### **6.1a- Threat to Hunting and Fishing Opportunities**

Throughout the OFAH’s recent coverage of Indigenous peoples’ land claims, especially the Algonquin Land Claim, is the message that non-Indigenous peoples’ future hunting and fishing opportunities and access to resources will be substantially threatened or blocked completely if their interests and concerns surrounding conservation and fair sharing are not adhered to. According to Group Position Theory (Blumer 1958), feelings of proprietary claim to resources and a perceived threat to group interests is the main source of racial prejudice. The language used by the OFAH within this particular commentary resembles a defensive reaction to the Algonquin claim which entails an underlying incitement of fear and a sense of victimization that has a strong potential to facilitate opposition to land claims and treaty rights on the one hand, and provide justifications for such opposition on the other.

Within a 2013 report titled *Land Claims in Ontario- What Does the Future Hold?*, the (former) OFAH president provides a daunting future scenario for non-Indigenous hunters and fishers living in the claim area. He begins by discussing his experiences teaching youth the firearms safety and hunter education courses and how “nothing can match the joy and pride on the kids’ faces as they proudly display



their certificates after completing an intense week of classroom and outdoor instruction. I know they are all looking forward to their future as anglers and hunters and their role as conservationists” (OFAH 2013, 68). He continues:

However, as I spent the week surrounded by all of those eager young faces, I couldn't help but reflect upon all of the challenges facing us and wondering what kind of hunting and fishing opportunities await those kids and my three young grandchildren, given the competing pressures of government reductions in natural resources funding and involvement, increasing numbers of native land claims, expanding access restrictions and a host of other issues that we are currently grappling with. The Algonquin Land Claim and a court challenge to the Williams Treaty are two examples of native claims that have the potential to drastically affect our natural resources, impact on fish and wildlife species and affect our ability to hunt and fish as we have done for generations (OFAH 2013, 68)

The OFAH president's story is comparable to the racial stories embedded within Colour Blind Racism, as it establishes an emotional narrative which works to grasp the readers' attention, influence their direction of thought, and foster concerns for the (non-Indigenous) children's future outdoor opportunities. The president subsequently delivers a grim warning about the impending loss of the children's hunting and fishing opportunities due to the Algonquin claim and the Williams Treaty case, which can elicit shared memories between non-Indigenous hunters and fishers about their hunting or fishing experiences and bonding moments with family and friends, and how such land claims and/or treaty rights may threaten these experiences and moments. In addition, the use and emphasis on children within this context reveals a direct and indirect attempt to embellish the perceived impact of land claims on hunting/fishing opportunities in a way which frames such claims as something that needs to be addressed from a defensive standpoint.

The criticisms and concerns toward the Algonquin claim were also prevalent within the OFAH's *Ontario Out of Doors* (OOD) magazine and were exemplified within a 2011 article titled *Drawing Boundaries: The Algonquin Land Claim*:

It will impact hunting and fishing opportunities. It will alter the way resources are managed and moose tags are allocated. It will affect public access to crown land, as well as the ownership of some provincial parks. It might also pressure our natural resources and impact our local, provincial, and national economies. How you ask? Well, we'd tell you if we knew. That, in a

nutshell, is the problem with the Algonquin Land Claim. There's simply no meaningful public consultation regarding it. Instead, negotiations are conducted behind closed doors and no one's talking about what's on the table (Galea 2011, 36)

This commentary reinforces the deep-seated concern towards the Algonquin claim and promotes a sense of victimization not only to the land claim, but to a government that is perceived to disregard non-Indigenous peoples' interests and concerns<sup>50</sup>. Similar to other accounts, the language is expressed through an ahistorical lens that ignores the process of colonization and why this claim exists in the first place. Instead, they focus on how non-Indigenous hunters/fishers are treated unfairly by the lack of consultation and consideration for their interests and opportunities; consequently, consideration for the Algonquin peoples' history, interests, and connections to the land is absent<sup>51</sup>. Since the *OOD* magazine is more likely to be read than the OFAH's annual reports, the ideas within this coverage can reach a larger audience and potentially influence opinions to a higher degree, which may provoke opposition, rather than support, for the land claim.

Despite their commentary and criticisms towards the Algonquin claim, the OFAH's stance and policies towards land claims and treaty rights is complex and contextual, as they are not opposed to all Indigenous claims, rights, and related agreements, as long as they are not perceived to threaten wildlife, conservation, and their own hunting and fishing opportunities. In *Principles Related to Fair Sharing of Resources (An OFAH Discussion Document)*, the OFAH provide an overview of how they want their policies and principles to be implemented in the Algonquin claim, while making a comparison to other land claims/agreements that have met the OFAH's standards and gained their praise and approval. For instance, the OFAH praised the Tsawwassen Agreement in B.C. for 'confirming' a number of their

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<sup>50</sup> This resembles the attitudes of "the Boys" in Dunk's (2003) study of working-class white men in Thunder Bay, in which they position themselves against Indigenous people and government elites.

<sup>51</sup> Although consideration for the Algonquin peoples' interests and the injustices they've faced is limited and next to absent in most of their coverage, the OFAH do claim they do not dispute the validity of the Algonquin Land Claim nor the 'special rights' (under Sec 35 of the *Canadian Constitution*) of the Algonquin and Indigenous people (OFAH Webcast 2015); however, their strong criticisms and consistent coverage speaks otherwise and raises questions as to whether they do in fact dispute the validity of the land claim.

principles related to fair sharing in contrast to the Algonquin claim:

...while the specific allocations within the agreement may be questionable, there are a number of fundamental principles regarding fair sharing that have been established or re-enforced through the agreement that have significant merit (OFAH Fair Sharing 2015, 3)

By praising the Tsawwassen agreement<sup>52</sup> through a comparison, the OFAH is attempting to demonstrate the 'ideal agreement' and expose the perceived flaws of the Algonquin claim and how it does not adhere to the OFAH's principles of 'fair sharing' that preserves non-Indigenous peoples' hunting/fishing opportunities. Moreover, this comparison may reflect a form of 'impression management' that works to deter accusations of racism; providing an example of an Indigenous claim/agreement they support<sup>53</sup> allows them to criticize other claims, rights, or agreements that are perceived to threaten non-Indigenous peoples' access to resources with seemingly race-neutral and pragmatic, science-based arguments that implicitly defend and maintain their sense of group position.

#### **6.1b- Concerns and Assumptions about Resource Abuse**

This theme illustrates how the OFAH displays a defensive reaction to maintain their group interests by directly and indirectly expressing their discontent and concern towards the Saugeen Ojibway Nation-Ministry of Natural Resources and Forestry (SON-MNRF) commercial agreement, the Nipissing First Nation commercial fishery, and the Algonquin Land Claim based on the perception, and in some cases, the

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<sup>52</sup> The OFAH also praise and approve of the Nisga'a Final Fishing Agreement and the Lheidli T'enneh Wildlife Harvest Plan Agreement, in order to illustrate the failings within the Algonquin claim; these agreements are not perceived to threaten wildlife or non-Indigenous peoples' hunting and fishing opportunities (i.e., 'fair sharing'). Consequently, Indigenous scholars such as Taiaiake Alfred (2000) have criticized the B.C. process and agreements like this, as it requires First Nations to relinquish future claims and recognize Crown sovereignty.

<sup>53</sup> Denis (2015) found similar results in Northwestern Ontario, in which white residents with close Indigenous friends and spouses often expressed laissez-faire racism (which "...entails probabilistic (not categorical) stereotyping of Indigenous peoples, blaming of Indigenous poverty and social problems on Indigenous people themselves (not historical or structural factors)" (221) and resisting meaningful policy efforts to diffuse racism within Canada) to preserve their sense of group superiority and justify racial inequalities through three mutually reinforcing processes: subtyping, ideology-based homophily, and political avoidance norms. The OFAH's praise for the Tsawwassen agreement resembles a form of subtyping where individuals (or this case, particular treaties or agreements) "...who violate stereotypes are interpreted as exceptions that prove the rule" (Denis 2015, 231).

assumption that they are or will lead to 'unregulated' hunting/fishing practices, poor management, and subsequently the abuse of resources and wildlife populations, which will hurt the hunting/fishing opportunities of non-Indigenous people<sup>54</sup>.

In a 2013 report titled *Aboriginal Commercial Fisheries Setting a Double Standard for Conservation*, the OFAH president expresses his disappointment with the 2013 SON-MNR commercial fishing agreement:

The OFAH was extremely disappointed that the Ontario Government negotiated and signed the agreement on behalf of the people of Ontario without prior consultation. Following a review of the agreement, the OFAH is having trouble determining where and how the perspectives of recreational anglers were negotiated into the agreement. Although this is the third consecutive SON-MNR agreement, it is the first time SON commercial fishing efforts will be expanded into Owen Sound and Colpoy's Bays. The agreement also has new provisions that allow for the netting of fish in close proximity to the mouths of tributaries, which could negatively affect the spawning runs of several fish species. These new provisions are concerning because of potential threats to public safety and conservation of the resource. In addition to these new issues, the OFAH continues to be concerned about a lack of consideration in the SON-MNR agreement for other fish species harvested as by-catch by the commercial fishery (OFAH Annual Report 2013, 74)

The quote begins with the notion that non-Indigenous fishers were not considered within the agreement in a way that hints at a sense of victimization, then continues to explicitly assert how the agreement is a 'potential' threat to the conservation efforts of fish populations and public safety, which indirectly portrays the Saugeen Ojibway as irresponsible and overlooks their concerns and conservation efforts, as well as how non-Indigenous Canadians' sport fishing and stocking of 'exotic' fish unnatural to the waters<sup>55</sup> have impacted fish populations among other factors (McLaren 2005; Koenig 2005). This limits a deep, intellectual analysis and approach to resource management and the various factors affecting fish populations in the Bruce Peninsula and Lake Huron, and presents a one-sided, brief commentary that places the culpability for resource abuse on the Saugeen Ojibway<sup>56</sup>, while lambasting the Ontario

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<sup>54</sup> This theme overlaps with the previous theme: *Threat to Hunting and Fishing Opportunities* (i.e. the concern over the abuse of wildlife and resources overlaps and connects with the concern for lost hunting/fishing opportunities).

<sup>55</sup> Such as Salmon.

<sup>56</sup> It should be noted that the OFAH's 2014 Annual Report (Zone H 2014 Report) does publish an update

Government (MNRF) for supporting such an agreement and ignoring the OFAH and non-Indigenous fishers' concerns.

The president continues to explain the threats posed by Indigenous commercial fishing agreements and also provides a paternal reminder about the benefits of conservation and the consequences that will arise without them:

When conservation is not prioritized over other social, cultural, economic or political considerations, we all lose. We only need to look at the current state of the Lake Nipissing Walleye population to see the devastating effects of unregulated commercial fishing. One hundred years of fish and wildlife conservation management in North America tells us that unregulated harvest is not compatible with conservation. Although the SON-MNR agreement is more formal than what we see for the Lake Nipissing Walleye gill net fishery, it still obliges us to pause and ask: does this agreement place conservation as the utmost priority? (OFAH Annual Report 2013, 74)

The first sentence has an underlying connotation that Indigenous peoples' treaty fishing rights and practices are disconnected from conservation aspirations, concerns and efforts, which will be detrimental for everyone including Indigenous people. The president then provides an example of the Lake Nipissing Walleye decline and reinforces the notion that the Nipissing First Nation<sup>57</sup> were solely responsible for the decline due to their 'unregulated' fishery. Despite the president's remarks, the Nipissing First Nations' conservation and resource management efforts, such as the creation of the Natural Resource Department and the enactment of fishing laws, moratoriums, defined seasons, gear etc. (Nipissing First Nation 2016; Beaucage 2008), prove that their fishery is far from 'unregulated'; however, in the absence of mentioning such regulations, the president's remarks have a strong potential to influence the readers' interpretation and reinforce negative stereotypes.

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which credits the SON for conservation research: "The University of Guelph, with the assistance of Saugeen Ojibway Nation (SON) are doing netting in Colpoy's Bay in Georgian Bay of Lake Trout, Lake Whitefish, and Rainbow Trout for an analysis on stress. The study will include measurement of some internal organs and stress chemicals, which will likely be hormone steroids, and other like chemicals" (OFAH Annual Report 2014, 58).

<sup>57</sup> Though, they refrain from openly naming the Nipissing First Nation; instead, they refer directly to the 'commercial fishing' while indirectly implying that it is the Nipissing First Nation responsible for the 'unregulated' commercial fishing.

Also, the reference to “one hundred years of fish and wildlife conservation management” (74) indirectly presents a romanticized version of history that highlights how non-Indigenous sport enthusiasts were responsible for the management and conservation efforts of wildlife and resources over the last century, which works to discredit and erase the thousands of years of Indigenous peoples’ conservation efforts that sustained a healthy abundance of wildlife populations that the European settlers benefited from<sup>58</sup>.

The OFAH president finishes by claiming the SON-MNRF agreement is ‘more formal’ than the Nipissing fishery, but continues to indirectly reinforce the belief that the Saugeen Ojibway Nation are a threat to fish populations by asking the rhetorical question on whether they place “conservation as the utmost priority” (74). Though not direct, the rhetorical question contains subtle hints of sarcasm and references to how the Saugeen Ojibway and the fishing agreement are indifferent to conservation. These criticisms are not new, as the OFAH have consistently published similar concerns and assumptions for decades. Since the disputes and confrontations that erupted in the 1990s, the OFAH have abandoned their overtly oppositional stance towards the Saugeen Ojibway Nation, but they have continued to monitor and publish their disapproval towards the SON’s fishing practices and the SON-MNRF agreement(s). For instance, in 2005 the OFAH released a news update on their website titled *OFAH Issues Warning About MNR and Cape Croker Talks* which includes a statement from their (former) president expressing the concern towards the SON’s commercial fishing:

While we support native treaty rights, the O.F.A.H. is absolutely opposed to altering longstanding boundaries for native commercial fishing around Bruce Peninsula. Any changes which would allow for a native commercial fishery in the bays will have a detrimental effect on local fishing, fish stocking, volunteer hatchery projects, as well as businesses and retailers who depend on the economic boom of this area’s world-renowned recreational fishery (OFAH 2005)

This statement reflects the same concerns that were prevalent within the 2013 accounts from

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<sup>58</sup> With the arrival of Europeans, some of the fish and wildlife were quickly driven to extinction (or close to it). For instance, the Sturgeon population in the Rainy River (Treaty 3) area was virtually decimated within a short period by European commercial fishers in their quest for caviar (Waisberg et al. 1988).

the OFAH's leadership and exposes how they have been asserting these claims for decades (though in increasingly subtle ways). If these threats were as dire as the OFAH implies, one would think that the fish would have been completely decimated within that time span! Another tactic is how the president begins with a 'disclaimer' stating their 'support' for Indigenous treaty rights, but subsequently delivers harsh criticisms of those rights with a discouraging prediction for the future of non-Indigenous fishers and entrepreneurs. This calls into question whether the OFAH's use and placement of their 'supportive' language is sincere, or is used as a way to deter any accusations of racial prejudice and/or opposition towards Indigenous people and treaty rights and maintain a non-racist image. Nonetheless, for decades the OFAH have been asserting that the Saugeen Ojibway Nation would decimate the fish populations.

The same message is prevalent in a webcast about the Algonquin Land Claim which the OFAH created to provide information and rally support from their members and the public. Within the 1hr30min webcast, the OFAH staff<sup>59</sup> provide an overview of the claim and reiterate the same concerns and daunting predictions published within their previous coverage, such as the fear of losing hunting, fishing and outdoor recreational opportunities, the threat to the economies that rely on these activities, the loss of (non-Indigenous) 'heritage' and 'traditional' cultural activities, restricted access to land and resources, loss of property, the lack of public consultation and consideration from government officials, and, of course, the uncertain fate and assumed threat to wildlife populations and habitat.

Within the webcast, an OFAH representative gives an overview about the transfer of land to the Algonquin people and the fate of fish and wildlife management:

What will the Algonquin Land Claim mean for fish and wildlife management within the region? So, what we know from the AIP from the Algonquin Land Claim is that fish and wildlife resources will now need to reach a crisis point before management is considered. This is fundamentally different from what we know; as non-Algonquins in this region, we have a comprehensive set of rules and regulations that we follow for fishing and hunting; we have seasons, we have size limits, we have harvest limits, we have a science-based process and a system of rules and regulations that we follow that manage our fish and wildlife resources not only for now, but for future

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<sup>59</sup> Alongside guest speakers from other organizations such as the *Canadian Sports fishing Industry Association* (CSIA) and the *Federation of Ontario Cottagers' Association* (FOCA).

generations to enjoy; but what we see with fish and wildlife resources now needing to reach a crisis point is that this has created a separate management system for Algonquins and non-Algonquins. So, this system of fish and wildlife management is key to the conservation of our fish and wildlife resources in Ontario, and it has been that way for over one hundred years, so we don't understand why you'd want to change that now? (OFAH Algonquin Webcast 2015)

The comments reinforce the message that fish and wildlife will suffer under the management of the Algonquin and strengthens the perception that they are indifferent to conservation and cannot effectively manage their own resources, which not only perpetuates stereotypes and resentment, but works against the efforts to re-establish the nation-to-nation relationship that is vitally needed to facilitate reconciliation between Indigenous peoples and settler Canadians.

Within the remarks, the OFAH representative also aims to demonstrate the superiority of Ontario's fish and wildlife management model by contrasting the perceived unorganized and unregulated management model that will take place under the Algonquin-Anishinaabeg *versus* the non-Indigenous Canadian model that contains a 'science-based, comprehensive set of rules and regulations'. This overlaps with the next theme, which demonstrates the OFAH's use of a binary opposition. Interestingly, the OFAH's discouraging outlook for the future of wildlife in the claim area under Algonquin management is only speculation based on information from the AIP and not documented facts of resource abuse; however, the OFAH's consistent reinforcement of 'doomsday' messages presents Algonquin hunters and fishers as reckless abusers of wildlife without a concern for the future.

#### **6.1c- Use of a Binary Opposition to Defend Access to Resources: Paying for Licences and Conservation**

In addition to the concerns over the potential loss of hunting/fishing opportunities and the threat to wildlife populations from resource abuse and poor management, the OFAH's commentary indirectly fosters a subtle binary opposition, which assists in defining and redefining one's group position in relation to the 'other'. This binary logic is where group positioning is most clear, as it entails the law abiding hunters/fishers who pay for licences and are responsible for the conservation of resources *versus* the deviant hunters/fishers who do not pay for licences or contribute to conservation, but benefit from



others' work and money. The use of this binary opposition within the OFAH's criticisms targets land claims and treaty agreements that are a perceived threat to non-Indigenous hunting and fishing, reinforces the intensity of the threats, and defines and maintains their sense of group position and proprietary claim to resources (Blumer 1958) in the course of defending their group interests.

This binary logic is prevalent within a 2013 report titled *Aboriginal Commercial Fisheries setting a Double Standard for Conservation*, regarding the SON-MNRF commercial agreement:

As anglers, we are not strangers to following a complex set of rules and regulations. Abiding by these regulations is just one of the ways that licensed and law-abiding anglers in Ontario are directly contributing to the conservation of our fishery resources (buying a license is another). Read through your copy of the Ontario Fishing Regulations Summary (if you were lucky enough to get your hands on one - see page 2) and you will see that anglers in Ontario are restricted by seasons, gear, creel limits, size limits, and geographic restrictions. The principles of conservation are not unique to the management of recreational fisheries and, therefore, the rules of conservation must be applied universally across all users for the benefit of the fishery (OFAH Annual Report 2013, 74)

For decades the Saugeen Ojibway Nation, especially the Chippewa of Nawash, have suffered from protests, confrontations (many times violent), and opposition to their treaty rights and fishing practices despite the SON's efforts to prove their concern for conservation and sustainability<sup>60</sup> (McLaren 2005). One explanation for the continuous criticisms and opposition to the SON fishery by non-Indigenous fishers, including the OFAH, may connect to the perception that SON fishers are allowed to irresponsibly exploit and profit from fish populations that were directly sustained and stocked by non-Indigenous fishers who are perceived to be responsible for the conservation of fish and wildlife in the area. Considering this history, the OFAH president's use of a binary opposition, which reflects this understanding, has the strong potential to provoke deep rooted tensions and fuel opposition not only to the SON's treaty right to fish commercially, but also to their right to govern themselves and co-manage the fishery with the Ontario

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<sup>60</sup> As mentioned before, non-Indigenous sport fishers in the area continued to voice their opposition and organized a protest in reaction to the 2013 fishing agreement (Gowan 2013). This corresponds to the OFAH's persistent monitoring and criticizing of the 2013 SON-MNR agreement. However, the extent to which the OFAH had an influence on the protestors is unclear.

Government.

Although the binary opposition prevalent within the OFAH officials' commentaries is understood to exist between Indigenous and non-Indigenous hunters/fishers, the coverage on the 1923 Williams Treaty not only reveals the use of a similar binary, but provides insight into the details behind the OFAH's position regarding treaty rights. After expressing their concern about the court challenge to the 1923 Williams Treaty by the signatory Indigenous Nations, the OFAH explains how:

One of the most significant consequences of the Williams Treaty is that it extinguished any and all special hunting and fishing rights. Since 1923, everyone who fishes and hunts in south-central Ontario abides by the same hunting and fishing regulations under one unified fish and wildlife conservation management regime dictated by the Fish and Wildlife Conservation Act, Fisheries Act, and Ontario Fishery Regulations. Conservation and people have both been well served as a result of the Williams Treaty. All fish and wildlife resource users pay reasonable fees to ensure our successful fish and wildlife conservation management regime is sustained into the future. We all share the benefits of our fish and wildlife resources in times of plenty and share the pain when nature dictates lower levels of those benefits (OFAH Annual Report 2013, 39- 40)

As this quote shows, the OFAH supports the 1923 Williams Treaty as it (allegedly) extinguished any 'special' hunting and fishing rights and ensured Indigenous hunters/fishers from those treaty nations had to abide by the same provincial regulations and pay the same licence fees as non-Indigenous hunters/fishers. The binary logic appears within the underlying reference to how conservation and the status quo in South-Central Ontario was previously maintained as a result of the Williams Treaty, in contrast to the current actions by the signatory First Nations who are perceived to threaten wildlife and the current social and political arrangement by their court challenge to the 1923 Williams Treaty in order to restore their treaty hunting and fishing rights.

Although indirect, this coverage and commentary portrays the Williams Treaty First Nations as a threat to wildlife in a way that ignores their conservation philosophies and concerns and disregards their sovereignty and attempts to correct historical injustices. The OFAH fail to acknowledge how "Williams Treaties First Nations have a special relationship with the lands, including the water and resources- not only in their traditional area, but throughout gichii mukinaak (Big Turtle). Protection, conservation and

sustainable collaborative management are a priority for the Williams Treaties First Nations” (Williams Treaty First Nation 2014). Furthermore, the IEP still provides MNRF officials the ability to take enforcement action if an individual is caught:

Hunting and fishing in an unsafe manner; taking fish and wildlife for commercial purposes (where a commercial harvesting right has not been recognized by a Court and no license is held); taking fish and wildlife that puts conservation objectives at risk; hunting or fishing on privately owned or occupied land without permission of the landowner (Williams Treaty First Nation 2014).

Nevertheless, the OFAH’s use of a binary logic reveals the complexity and contextual aspects of their official stance concerning Indigenous hunters/fishers with treaty harvesting rights and Indigenous hunters/fishers without such rights. The attitude towards the 1923 Williams Treaty reveals how the OFAH are not necessarily opposed, critical or resentful of all treaties, treaty rights, or the Indigenous hunters/fishers who exercise their treaty rights, as long as these rights are not perceived to give an unfair advantage<sup>61</sup> or threaten wildlife and/or non-Indigenous peoples’ hunting, fishing and economic opportunities and access to resources.

This provides important and compelling insight into the details surrounding the OFAH’s stance in relation to Group Position Theory. It reveals how their criticisms and discontent, which targets the Algonquin Land Claim, the SON-MNRF agreement, the Nipissing First Nation commercial fishery, and the Williams Treaty court case goes beyond a set of negative feelings towards a particular racial group, as well as their passion and concern for wildlife conservation, and delves into the power dynamics within the racialized social hierarchies and positional arrangements (Bonilla-Silva 2003) that have resulted over the last two centuries between Indigenous and non-Indigenous people in relation to the formation and popularity of outdoor sport and recreational activities and a lucrative economy.

### **Summary**

The preceding analysis demonstrates how the OFAH’s criticisms towards the Algonquin Land

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<sup>61</sup> i.e. ‘special’ rights that exempt hunters/fishers from purchasing licences or abiding by provincial regulations; fair sharing-equitable access to wildlife/resources (OFAH Fair Sharing 2015).

Claim, the SON-MNRF commercial agreement, the Williams Treaty court challenge, and the Nipissing First Nation commercial fishery draw on interpretive repertoires, which align with Group Position Theory and Colour Blind Racism, as they may incite fear, concern, and a sense of victimization, and reinforce opposition to treaty rights, agreements, and land claims that are perceived to threaten conservation, hunting/fishing opportunities, access to land, and the economy by allowing allegedly unregulated and abusive hunting/fishing practices under a separate and a perceived ineffective wildlife management system. In addition, some criticisms, particularly towards the Algonquin Land Claim and the SON-MNRF agreement, entail the indirect use of a binary opposition, which clearly illustrates group positioning and feelings of proprietary claim to resources in the way that the OFAH contrasts between the (non-Indigenous) law-abiding, paying hunters/fishers who are perceived to be directly responsible for the conservation of wildlife and resources *versus* the (Indigenous/treaty) unregulated, non-paying hunters/fishers who (allegedly) do not contribute to conservation and exploit wildlife at others' expense.

The OFAH's comparison between the Algonquin claim and other treaty agreements, such as the Tsawwassen Agreement, as well as the commentary and criticisms towards the 1923 Williams Treaty reveals the complexity and contextual aspects of their official position and how the OFAH are not opposed to or critical of all treaties, treaty rights, or the Indigenous hunters/fishers who exercise their treaty rights, as long as these rights do not threaten the status quo and are not perceived to threaten wildlife or give an unfair advantage over non-Indigenous people.

Nonetheless, the OFAH's interpretive repertoires used to express their criticisms and concerns contain underlying meanings that portray Indigenous hunters/fishers and particular Indigenous Nations as 'unregulated' abusers of wildlife who are indifferent to conservation and cannot manage resources responsibly and effectively. Although the OFAH does not express explicitly racially prejudiced views towards Indigenous people, their consistent coverage, criticisms, and concerns towards particular Indigenous and treaty rights contributes to an already established racialized social hierarchy and positional arrangement by upholding non-Indigenous hunters/fishers' sense of superiority and entitlement. This is

accomplished with the use of interpretive repertoires that define and redefine Indigenous treaty hunting/fishing rights and the relationship between Indigenous and non-Indigenous hunters/fishers, while incorporating ostensibly non-racist, science-based, pragmatic arguments and justifications that allow the OFAH to criticize and even oppose certain treaty rights, agreements, or land claims, which are perceived to transgress boundaries and threaten their group position and access to resources (Blumer 1958) without appearing 'racist'.

### **6.2- Conflicting Images of Treaty Rights and Wildlife Abuse: Accounts from OFAH Members and Non-Members**

Interviews with OFAH members and non-members revealed a range of views towards treaty rights. However, 55% of the accounts contained explicit and implicit criticisms and resentment and provided compelling insight into how images of treaty hunters and fishers are constructed, communicated, reinforced, and challenged through various forms of social interaction with family, friends, acquaintances and strangers.

As mentioned before, most of the non-Indigenous respondents had limited to no knowledge of treaty rights, beyond the idea that these rights exempted Indigenous hunters and fishers from provincial laws. Numerous respondents assumed that treaty hunters and fishers were free to hunt/fish excessively without a concern for conservation or regulation (*"Whatever They Want, Whenever They Want": Treaty Rights Lead to Unregulated Hunting and Fishing and Resource Abuse*), while other respondents endorsed the notion that treaty hunters/fishers should only be able to exercise their rights if they are using 'traditional' methods (*'Support' for Traditional Methods to Limit Perceived Treaty Rights Abuse*) and on Reserve land (*Preference for Boundaries: Segregation for Conservation*). This reasoning was based on the assumption that wildlife abuse on Crown land will be prevented and non-Indigenous peoples' hunting/fishing opportunities will be preserved. In contrast to these views, some respondents expressed support for treaty rights, challenged stereotypes, and acknowledged that Indigenous people believe and partake in the conservation of wildlife (*Challenging Negative Images and Stereotypes*).

**6.2a- “Whatever They Want, Whenever They Want”: Treaty Rights Lead to Unregulated Hunting and Fishing and Wildlife Abuse**

This theme represents how eleven (55%) respondents expressed resentment towards treaty rights based on the understanding that such rights allow Indigenous people the ability to hunt/fish ‘whatever’ and ‘whenever’ they want without any repercussions, which is perceived to threaten wildlife populations and conveys an implicit message that Indigenous hunters and fishers are unconcerned with the philosophies and practices regarding conservation, sustainability, and respect for wildlife. In relation to Group Position Theory (Blumer 1958), the respondents’ accounts illustrate a defensive response from a fear that their group position, or their privileges and proprietary claims to resources, are under threat. This is illustrated by the following excerpts:

If we continue to allow people to have the right to hunt and fish whatever they want, whenever they want, I think that we’re just going to slowly kill off our lakes and our forests and everything is kind of going to go to shit, so you know, I’m not exactly a fan of like unlimited hunting agenda, I like it, you know, being regulated, and I respect, you know, the bag limits and everything when I’m hunting you know. I don’t think it’s right that a group of guys can go out and shoot a deer during breeding season and ruin that animal’s chance to reproduce and add to the ecosystem (Former OFAH Member- Interview 2, 2015)

There are set things that are pretty well known as a standard across the fucking nation, wherever you talk to, whoever you talk to, and one of them would be is uhh the right that they have to uhh they call it hunting, but hunting out of season is classified in normal terms as poaching. Umm, and they are allowed to do this with no limits, with no end in resources in sight; they’re allowed to use many people to track, they are allowed to use people, uhh anybody, we have to use people that only have fucking licences, that are licenced hunters; they can use anybody, so they could get together twenty guys, go drink a 24 beer or two, and say ‘okay, let’s go surround this fucking bush’, and uhh let’s purge everything that’s in it out of it (Non-Member- Interview 6, 2015)

Well, you know, they put restrictions on us, but the Natives can go and hunt moose whenever they want. That’s why the moose population is low, and we suffer! (Non-Member- Interview 9, 2015)

The comments show how the resentment towards Indigenous people and treaty rights is expressed through a sarcastic and angry overtone that attributes the resource abuse (or potential for abuse) to Indigenous hunting/fishing practices. Respondent 6’s remarks stand out, as they explicitly reveal his anger,

dissatisfaction, and prejudiced views in the way he associates treaty hunting and fishing as 'poaching' and labels Indigenous people as careless, irresponsible, and under the influence of alcohol. Most respondents voiced or heard similar understandings about treaty rights and resource abuse through racial stories such as testimonies<sup>62</sup> that were based on first or second hand knowledge:

I've gone out to the bush before and seen carcasses wasted myself, I've heard stories of hunting close to Natives' land and guys going out there and just found a deer shot and wasted. Basically, two deer shot and nobody touched them; two rifle holes to the heart (OFAH Member- Interview 16, 2015)

I've actually seen first-hand a few things that I do not agree with like uhh, out here, the Natives can get their netting licence, you can net certain lakes for walleye, where I can't fish the lakes, and I can't keep the walleye because they are protected in the lakes, but yet these guys can go out and drop gill nets, and I've witnessed all the fish come back in the totes and these lakes are heavily populated with jackfish as well, and I don't see one jackfish coming in these totes. So you know there's fish that have drown in those nets, that have just been thrown over-board and not kept because maybe they are a little more difficult to clean or what-not, but that's a waste- I do not agree with that one bit; I've seen that first hand (Non-Member- Interview 4, 2015)

My personal opinion on the issue, I'm a little tainted towards the situation just because I've seen so much waste, and that's what I disagree with. You know, a hundred years ago the Indigenous people of Ontario or Canada in general, they didn't waste anything; they didn't waste any part of any animal that they ever took from the land, and nowadays, I was fishing at a river, and we walked down to an area because we fish at the waterfall down there once in a while and what-not, and there was guys just sitting there like pitch forking, like throwing them in their truck, and they weren't hitting their truck, and they left Walleye all over the place; that kind of stuff, I disrespect, I have no respect for that kind of stuff, like if you're going to waste something, then I do not believe that they should be given the right to having no limits on what they harvested (Former OFAH Member- Interview 14, 2015)

The respondents' testimonies reveal how they were certain that wildlife abuse and wasteful practices had occurred based on their first-hand experiences, but upon closer examination, these stories may contain assumptions and over-exaggerations based on brief appraisals and amateur forensics. For instance, respondent 16 briefly described his and other hunters' encounter with wasted carcasses, but does not know for sure whether it was left by an Indigenous hunter who presumably does not care about wildlife,

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<sup>62</sup> According to Bonilla-Silva (2003), there are two types of racial stories: storylines and testimonies. Testimonies are "accounts where the narrator is a central participant in the story or is close to the characters in the story" (72).

or possibly a non-Indigenous hunter who accidentally shot an animal without a tag (or out of season).

Perhaps, someone had yet to retrieve it or went for help. Did the friends of the respondent really know if the two deer were shot with a rifle?

Similarly, respondent 4 believed the netting practices of treaty fishers led to the waste of jackfish, which was based on his assessment of the catch brought back to shore in 'totes'. However, he did not directly witness if the fish actually 'drown' or were 'thrown overboard', but still embraces this assumption. In addition, respondent 14 assumed that the 'pitch forking' methods displayed by treaty fishers was excessive and wasteful, but he did not know for sure what the fishers did with their catch afterwards; perhaps the fishers were gathering food for their community to last for the rest of the season.

Whether or not wildlife abuse took place, the respondents believed their experiences provided sound evidence and 'facts' that appear to have influenced and reinforced their opinions on the topic. As Colour Blind Racism Theory (Bonilla-Silva 2003) suggests, sharing first-hand testimonies through an emotional narrative renders the respondent's 'facts' more credible and authentic and provides a stronger ability to justify, explain, and convince others about (in this case) the perceived wasteful and excessive practices of Indigenous treaty hunters/fishers. Ultimately, these stories reproduce negative images and stereotypes, based on questionable appraisals, assumptions, and over-generalizations.

Furthermore, all twenty respondents heard testimonies on several occasions from family, friends, acquaintances, and strangers which echoed the same accounts about treaty rights and resource abuse, and expose how (mis)understandings and information are communicated through interaction. When asked if they had heard people discuss treaty rights, these respondents replied:

Yeah, the same basic thing that umm just [Indigenous] people come into areas and hunting before the opening seasons and kind of running stuff out or shooting certain stuff in the area before, you know, [non-Indigenous] people paying for the tags and waiting all year to do it (sarcastic tone) (OFAH Member- Interview 3, 2015)

When I go with my friends, I worked at an outdoors store and, you know, that place is like a bar, you know what I mean? Everyone comes in to talk about their problems or, you know, fishing, hunting, you know, everybody's got a story to tell, so you hear so many negative stories of over-



harvesting and people abusing the system, and it's not just Indigenous people, like, you know, how often do you see, most of the time it's people without an understanding, most of the time it's foreign people, like people from another country because ummm I don't think they, they're just ignorant to the way fisheries work here, you know what I mean? (Former OFAH Member- Interview 14, 2015)

As these comments show, both respondents admit to hearing similar stories regarding alleged resource abuse and provide insight into how and where such knowledge is communicated<sup>63</sup>, as well as how racial stories appear over and over in the justifications or criticisms used to maintain white settler privilege (Bonilla-Silva 2003).

Within his story, respondent 3 also presents a binary opposition, similar to the ones used by the OFAH, through the comparison between non-Indigenous, paying hunters who abide by provincial rules and Indigenous treaty hunters, who are exempt from these requirements and are thought to have an unfair advantage. Respondent 14 notes how outdoors shops can also be social hubs where people interact, share stories, and establish friendships as they shop, which provides an arena for negative images of Indigenous hunters/fishers, treaty rights, and 'foreign people' to be communicated, reproduced, and reinforced throughout the white settler hunting/fishing community which includes a substantial amount of OFAH members.

Respondent 2, an outspoken critic of treaty rights, also comments on other peoples' testimonies and offers a glimpse into the learning process regarding treaty rights:

Most of it comes from word of mouth, from talking to other people in the areas, and talking to older hunters especially, because they've been around it. I find it's got to be 80% of it is through word of mouth, people telling stories, and the rest of it would be online, Facebook, forums (Former OFAH Member- Interview 2, 2015)

Similar to the accounts from other respondents, most of the information he obtained was through stories shared by friends and acquaintances and also social media such as Facebook and online forums.

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<sup>63</sup> In addition to the testimonies they heard, each claimed to have first-hand experience witnessing resource abuse. Respondent 3 claimed that Indigenous hunters shot a moose in an area where they hunt a week before the season opened, which was perceived to 'ruin' their hunting chances; Respondent 14's testimony was mentioned above.

The OFAH and their *OOD* magazine both have popular online Facebook pages, which give updates on numerous topics and provide space to share stories, comments, and links. In reaction to an article about the decrease in moose tag allocations posted on both Facebook pages, several bloggers expressed negative comments blaming the declining moose population on Indigenous people and treaty rights even though the article never mentioned such information. The comments were eventually deleted, but clearly revealed how social media can play a major role in providing a public forum to criticize and define Indigenous people in a negative manner. Such online interactions may influence opinions or strengthen views already established by the 'evidence' gained from first-hand experience.

Aside from social media, four (25%) respondents mentioned how 'off the cuff' comments were often uttered within their hunting or fishing groups:

I don't think anyone knows enough about it to say too much, but there's the whole...when there's the issue about like how many does or how many doe tags do we have left in the deer season or like, you know, the season is coming to a close, and we still have to get a deer or something; ummm....there's been comments about 'oh the Indians can hunt all year round' or whatever...sort of with a, with a tinge of bitterness or something in the comment, but they are just sort of off the cuff comments, no one has really gone on a real 'diatribe' about it (OFAH Member- Interview 1, 2015)

Umm, I'm sure (laughs a bit) people have their mixed views on stuff. I've heard, you know, you get the odd comments from guys that are complaining that 'oh they can', you know, I guess it's mostly Pickerel that we're mostly fishing, but 'oh you know, they get to take as many as they want' and you know, 'we can't touch them' and blah blah blah blah blah, and they always have some smart-ass remark to make about, but that's more racism than anything else, as far as I'm concerned (OFAH Member- Interview 13, 2015)

These two respondents, who also claimed to disagree with the testimonies they heard, highlight how negative comments surrounding Indigenous people are casually expressed and have become normalized within some hunting or fishing groups. Interestingly, respondent 13 denounces the comments he witnessed as 'smart-ass remarks' that are merely racist. Although the 'off the cuff' comments apparently did not affect the respondent's views, they still have the potential to communicate and contribute to the re-occurring (and often taken-for-granted) negative images surrounding Indigenous people that are saturated within the interactions of settler hunting and fishing groups across Ontario.

**6.2b- Support for 'Traditional' Methods to Limit Perceived Treaty Rights Abuse**

In addition to the perception that treaty rights allow unregulated hunting/fishing all year round, three (15%) respondents claimed that the use of 'modern' technology, such as rifles and shotguns, by treaty hunters could lead to the decimation of wildlife populations, as opposed to using 'traditional' methods such as a bow and arrow. The logic behind this claim implies that if Indigenous people want the right to 'freely' hunt/fish as their ancestors did before white settlement, then they should use the same traditional methods, which are perceived to limit the amount one can hunt. It also assumes that Indigenous people cannot use firearms responsibly. Respondents 1 and 15 conveyed this notion:

I (sigh) I (sigh) I had nothing to do with when those treaties were decided, I mean if that's something that they feel they should, if that's something that they're able to do, they should do it, I mean, I feel like there's a part of me that is conflicted because in this day and age, it is a different context than when the treaties were signed, you know, I'm not sure if very few people are hunting and fishing for sustenance anymore umm and we're definitely employing different technologies, you know, it's a lot easier to go shoot ten deer than it would be to hunt them with a bow or something; but that said, umm those agreements are in place, and until someone changes them I think they should be free to exercise their rights within them (OFAH Member- Interview, 1 2015)

I don't think they should be able to use high-powered rifles to shoot deer in our area where you are not allowed to use that, so if they use traditional methods like hunting with a bow and arrow, I'm okay with that (OFAH Member- Interview 15)

Respondent 1 claimed to support treaties and treaty rights, but his views are conflicted based on a concern that historic treaties are outdated and did not account for the use of different technologies that could enable excessive hunting and threaten wildlife populations. Respondent 15 revealed a similar concern and openly expressed his preference for the use of traditional methods over rifles. When asked to elaborate, he explained how "I just don't think that is right, like if there's laws, I think we should all have to abide by them unless you want to stay within your bounds" and "they should not be allowed to hunt with high powered rifles where ever they want, and I guess shoot what we call out of season, but it's in season for them" (Interview 15, 2015). Though reluctant to fully express his opinions, the respondent alludes to a perceived unfairness and proposes that Indigenous hunters should abide by the rules using

traditional methods, or stay on their own land<sup>64</sup> to avoid threatening wildlife populations.

Respondent 6 expressed the same opinion, but used derogatory references and explicit sarcasm:

I have no problem with Natives having the right to hunt whenever they want, to take whatever they choose to take, as long as it gets used, but if they were using traditional methods; the traditional methods that *they* had. So, if they want to sit there and chuck spears at deer, you damn well go for it, but if you're going to use a gun, you're only allowed to use a gun in season (Non-Member- Interview 6, 2015)

They sit there and claim that they need to hunt like this, so they can supply themselves and their own Native traditional ways, but how can they turn around and say that? They never originally had firearms right? So, yes, hunting to them is traditional, but it should be done with traditional methods; fishing is traditional, but it should be done with traditional methods; and then that way, let them take whatever bounty that they want (Non-Member-Interview 6, 2015)

The respondent's angry and sarcastic remarks not only conceptualize Indigenous people and their traditional hunting/fishing methods as backwards and inefficient, but reflect an attempt to illustrate how treaty rights are unfair and threaten conservation by highlighting a perceived hypocrisy between the use of firearms and partaking in traditional/cultural practices and lifestyles, which did not originally rely on firearms and are not considered (by these respondents) a legitimate traditional practice. Indeed, the respondent ignores how firearms were used by some Indigenous people hundreds of years *before* treaties were signed (Worcester and Schilz 1984). This perpetuates the assumption that Indigenous peoples' cultures, traditions, and hunting/fishing practices are stagnant in time, unadaptable and should avoid the use of "modern" methods like firearms because they cannot be used appropriately and responsibly<sup>65</sup>. As a result, a dichotomy is created that attempts to define the strict divisions and limits on which fundamental elements differentiate traditional and modern Indigenous cultures and practices.

#### **6.2c- Preference for Boundaries: Segregation for Conservation**

This theme illustrates how three (15%) respondents were insistent that treaty rights should only be exercised on Indigenous land rather than Crown land based on the premise that Indigenous hunters

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<sup>64</sup> This view will be analyzed further in the next theme.

<sup>65</sup> This argument was prevalent within several reactions towards a Feb 9, 2015 posting about the moose tag limitations on the OFAH's Facebook webpage; the posting and comments were eventually deleted.

will use their rights to hunt and fish excessively, which will threaten wildlife populations:

You have this nice plot of land that is only for native hunters; they can hunt there whenever they want for whatever they want and we're not allowed to go there, but they can still come to our hunting grounds and ruin it (sounds spiteful)....I also don't think that we should be going onto their land and hunting that, it's like, I think it should be separated, and it's just a matter of marking boundaries and enforcing it (Former OFAH Member- Interview 2, 2015)

Stereotypes are there for reasons. It's because they have truth behind them. There could be a lot of truth behind them, or there could be just vague truth behind it, but the truth behind what they are allowed to rape, pillage and poach off everybody's land that is called Canada, not their own land. Now if they were going to rape, pillage and poach their own reserve land, then let them go for it, but it's the problem that they can come onto the Crown's land that they're allowed to rape, pillage and poach the Crown land (Non-Member-Interview 6, 2015)

That's Crown land! They can't go hunt when they want! If they want to do that on their land, go ahead, but when you come onto Crown land, you should have to obey the rules (Non-Member-Interview 8, 2015)

These comments show how the respondents assumed wildlife would be excessively taken without regard for conservation if treaty hunters/fishers are allowed on Crown land. To solve the perceived problem, respondent 2 suggested a separation with clear boundaries and enforcement, so that Indigenous hunters are segregated and do not threaten wildlife on Crown land or interact with non-Indigenous hunters. Respondent 6, who also advocated for the use of 'traditional' methods, continued to assert his criticisms and opposition in a derogatory manner by drawing on similar arguments about a perceived need for geographic segregation, while reproducing negative associations with treaty hunting/fishing and poaching based on a belief that stereotypes contain 'truth'. Respondent 8's remarks, though very brief, align with this view and recommend the equal application of laws for treaty hunters and fishers on Crown land to avoid resource abuse.

#### **6.2d- Challenging Negative Images and Stereotypes**

Despite the views and testimonies about the alleged abusive practices of treaty hunters and fishers, eight interviewees (40%) voiced disagreement and dissatisfaction with such opinions and evidence and did not view treaty rights as an impetus for wildlife abuse. These accounts test the features of Group

Position Theory and reveal how several non-Indigenous hunters and fishers were not influenced by the racial stories (Bonilla-Silva 2003) they witnessed, which define Indigenous hunters and fishers as a threat to their group interests. Blumer (1958) explains:

The sense of group position dissolves and racial prejudice declines when the process of running definitions does not keep abreast of major shifts in the social order. When events touching on relations are not treated as “big events” and hence do not set crucial issues in the arena of public discussion; or when the elite leaders or spokesmen do not define such big events vehemently or adversely; or where they define them in the direction of racial harmony; or when there is a paucity of strong interest groups seeking to build strong adverse image for special advantage- under such conditions the sense of group position recedes and racial prejudice declines (7)

In addition to lacking knowledge about or being influenced by the OFAH’s advocacy, these respondents did not consider treaty rights abuse to be a serious concern or a ‘big event’ that threatened conservation or their sense of group position and access to resources. This reveals that images of Indigenous hunters and fishers are contested, and, as will be shown, sometimes challenged by both Indigenous and settler hunters and fishers within the public arena. Respondent 13, who is a supporter of treaty rights, states:

I absolutely don’t think it’s a threat to the conservation of animals or anything like that. I think that threat is more, you know, how many thousands of people come a year from the States to hunt and fish and trophy hunt and they just want to take the head home with them kind of thing, and you know, you see all these camps up north that are \$5-\$6-\$7-\$8,000 per person to go up there and shoot an animal and not take the meat with them, and (sighs) I think that may be more of the issue than anything else. There are a lot of groups of people that over-fish and stuff, and I don’t think it’s Native people.....I don’t see Indigenous people being an issue, you know, they’re very respectful for animals, conservation, and taking animals for the right reasons and all that other stuff (OFAH Member- Interview 13, 2015)

As these comments show, the respondent does not attribute wildlife abuse to Indigenous hunters and fishers, but rather acknowledges their respect for wildlife. On the other hand, he criticizes the practices of sport/trophy hunters and fishers who vacation in Ontario and recognizes that over-hunting and fishing can occur throughout every cultural or racial/ethnic group. The criticisms towards sport/trophy hunting and fishing were also noted by an Indigenous respondent with treaty rights:

There’s some guys that will go out to catch a big fish like a Sturgeon and will ‘fight’ with the fish for an hour just to take a pic. That fish probably burned lots of calories because of it, and they don’t even eat the fish. They (sport fishers) aren’t harvesting for their family or food. I hear people complaining about Indigenous harvesting, but many go out burning gas on the lake with

big boats, drinking and throwing their cans in the water (Non-Member- Interview 10, 2015)

This quotation provides insight into the perspective of a treaty hunter/fisher and his concern for conservation, wildlife, and the environment through his criticisms and contrasts between fishing for food rather than sport, the objectification and domination of animals (i.e. fishing for a pic), and irresponsible behaviours such as littering.

Respondent 12, another supporter of treaty rights, discussed his views and reactions to the accusations about treaty hunters/fishers and resource abuse:

That just comes down to pure jealousy. I mean, again, a lot of people get upset when they think they are abusing it, but I get upset when I think somebody is abusing the food bank, and it doesn't have to be, it's not a Native, it's anybody else; you abuse something, people don't like it and they talk about it, but nobody has proof that anybody is abusing it, but they automatically think they are because that's probably what they do (laughs) you know, that's why they are saying it, so yeah you do hear it, but not as much out of season (OFAH Member- Interview 12, 2015)

[Question: Do you ever say anything?] Oh yeah! I'll be the first person to say, 'did you see it? Did you see him do that? Did he actually, say they are talking about a moose, did you see him drag it out of the woods?' 'Well, no, somebody told me'; 'well then shut up!' you know, not unless you saw it! (OFAH Member- Interview 12, 2015)

The respondent attributes the resentment he witnessed to 'pure jealousy' and claims to have discredited fellow hunters/fishers' testimonies about treaty rights abuse, which illustrates how definitions and images surrounding Indigenous people and treaty rights can be challenged rather than reinforced within social interactions. The respondent's willingness to challenge others contradicts the political avoidance norm discussed by Denis (2015), in which public discussions of colonization and racism towards Indigenous people are, in some cases, taboo. According to Denis, avoiding race-talk, along with other mutually reinforcing social processes (i.e. subtyping, ideology-based homophily), allows white settlers to maintain a superior sense of group position, despite daily positive contact with Indigenous friends and family. By challenging others' views within a group setting, respondent 12 illustrates that such avoidance norms can be breached among non-Indigenous hunters and fishers, potentially unsettling their sense of group position.

Other respondents exhibited limited support for treaty rights due to the lack of information on the topic and a view that resource abuse could be a problem. For instance, respondent 7 was reluctant to express his opinions and revealed a degree of uncertainty about his support for treaty rights:

I think uhh....well, I mean, it's hard to have too strong of an opinion without knowing the specifics about it, you know, about what regulations, like if there are any regulations that they need to follow or what-not, but if.....I guess uhh.....I guess I'm generally okay with it, as long as ummm.....overall, wildlife populations are being managed reasonably well, like uh....the thing is, you know, I don't think things have changed in a while in that regard, and there aren't any major problems that I am aware of...I guess I'm pretty okay with it (Former OFAH Member- Interview 7, 2015)

Though the respondent 'guessed' he was 'okay' with treaty rights, his uncertainty appeared to be founded on a concern towards a lack of regulations and management and the possibility of wildlife abuse.

Moreover, the lack of knowledge about treaties may have been another reason for his reluctance to take too strong of a position.

Respondent 5 displayed similar uncertainty and concern regarding wildlife abuse, which appeared to limit his support for treaty rights. When asked whether he feels treaty rights leads to abuse, he explained:

Umm...I think obviously no matter what, there's certain aspects or a certain percentage of a group of people that will abuse the rights or take them to their maxes; I believe that it is abused, yes, but at the same time there's a good amount of people that don't abuse it, that actually feed their families with it, and they don't have a fishing season, they can go fish and do whatever they want kind of thing, I get that. But again, yeah, there's a good chunk of people that do abuse it, and those people always wreck it for the people that don't abuse it....I'd say it's more or less something that I don't think about that much. I mean, I go out to the lake and you see how many fish they keep compared to how many *we're allowed* to keep, and it bugs you in a way, but at the same time, I mean...I guess you can say I agree with it (Non-Member- Interview 5, 2015)

Respondent 5 recognized that not all treaty fishers were wasteful or excessive, but still believed that treaty rights allowed the potential for these behaviours. His remarks also reflect a degree of resentment by the manner in which he compared the amount of fish caught by treaty fishers to his own, and the uncertainty reflected in his reluctant support of treaty rights.

Indigenous respondents who had treaty hunting and fishing rights knew too well the resentment



and prejudice towards them and their rights. Respondent 10 explained:

There's lots of racism- many people say we're lazy and drunks and all that. My friends experience it more than I do (Non-Member- Interview 10, 2015)

They [non-Indigenous hunters/fishers] see it as competition- competing over resources. Indigenous people have a different relationship with the crown than non-Indigenous people. People in Northern Ontario understand treaty rights a little more, but people in Southern Ontario are a little less sympathetic (Non-Member- Interview 10, 2015)

This respondent shows an acute awareness about the racism and resentment towards treaty rights, as well as its connection to the competition over access to resources, which is a significant component behind racial prejudice according to Blumer's (1958) Group Position Theory. Interestingly, the respondent asserted that non-Indigenous people in Northern Ontario are more sympathetic compared to those in Southern Ontario, based on his own experience. Although this respondent may not have experienced racism in Northern Ontario, Denis (2012, 2015) and Dunk (2003)<sup>66</sup> found that racial distinctions between white settler and Indigenous people were important and powerful symbols in Northern Ontario, and as a result, various forms of prejudice were expressed towards Indigenous people, even by those who had Indigenous friends and spouses<sup>67</sup>.

Respondent 18, a treaty hunter/fisher and former OFAH member, divulged his negative experiences and how he was kicked out of a hunting group comprised of non-Indigenous hunters due to his Indigenous identity and treaty rights:

A lot of people think that Native people just slay animals, and that they don't have bag limits, that they don't care, they just take, right...When I was criticized for being Native and hunting in the marsh, and 'you Indians are just going to kill everything', the person that more or less ostracized me from that hunter group, he came and apologized to me a couple of weeks ago at this BBQ thing, and he said to me, 'I've felt like hell for 5 years, because I said those things, I actually took your deer stand', and this and that, 'but I wanted to tell you you're always welcome to come

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<sup>66</sup> Dunk (2003) found that racial prejudice was often expressed among a certain group of white, working-class males, referred to as 'the Boys', and how "their racism is rooted in the immediate experience of their everyday lives and the prejudices and practices which are widely present in the culture of the Anglo-Saxon world" (107).

<sup>67</sup> Denis (2015) revealed how laissez-faire racism (blaming Indigenous people for their social problems and rejecting policies and practise intended to rectify them) was prevalent even among white residents in Northern Ontario who had intimate contact with Indigenous people.

back', you know, he wanted to make himself feel better basically (Former OFAH Member- Interview 18, 2015)

Although he received an apology, the respondent considered it too little, too late, and his exclusion, along with the negative stereotypes he repeatedly encountered, had hurt him deeply. The awareness and experiences of both respondents 10 and 18 demonstrate how the resentment towards treaty rights sometimes goes beyond negative attitudes and opinions to include active forms of racial discrimination.

Although most non-Indigenous respondents knew little about the OFAH's policies on treaty rights, Indigenous respondents generally revealed a greater awareness of the organization's position. For instance, respondent 10 did not know the details of the OFAH's policies, but claimed he saw a logo at a social event which read: "The Ontario Federation of Aboriginal Haters" (Non-Member- Interview 10, 2015), which shows that the OFAH's stance is known and viewed critically among Indigenous people in Ontario.

Respondent 20, an Indigenous hunter and former OFAH member, knew of the OFAH's policies on treaty rights and conservation and explained how:

I felt there was this emphasis on sustainability that appealed to me, right, and so the interesting thing is that the OFAH creates this wedge issue around sustainability between Indigenous and non-Indigenous people, when I think the idea of sustainability can create solidarity between Indigenous and non-Indigenous people (Former OFAH Member- Interview 20, 2015)

Additionally, the respondent was fully aware of the OFAH's position and advocacy within the Algonquin Land Claim: "When you type in the Algonquin Land Claim online, the first thing that comes up is this disgruntled OFAH person who claims that Indigenous people are going to steal their cottages, you know, and destroy the land" (Former OFAH Member- Interview 20, 2015).

Indigenous scholars have also criticized the OFAH's policies and advocacy throughout the 1990s and into the new millennium (McClaren 2005; Nashkawa 2005). According to Nashkawa (2005):

The OFAH has not restricted its lobbying to increasing opportunities in resource management for its own benefit. It has also been one of the most aggressive and outspoken opponents of negotiations between the Ontario government and First Nations on resource management and land claim issues. Some examples include the OFAH's position against commercial fishing

agreements on the Bruce Peninsula and the successful lobby for the cancellation of the Community Harvest Agreements that the Williams Treaty First Nations had signed (16)

Thus, these accounts show how the OFAH have developed a negative reputation among Indigenous hunters and fishers due to the organization's advocacy against and criticisms of Indigenous harvesting rights. Although the OFAH may claim to support treaty rights and section 35 of the *Constitution*, as well as treaty agreements that adhere to their principles and Ontario's wildlife management model, this small sample of data shows how the organization is still perceived to be outspoken critics and opponents of treaty rights and land claims in Ontario.

### **6.3- Similarities and Differences: To What Extent do the OFAH, their Members and Non-Members Share Views Towards Treaty Rights and Wildlife Abuse?**

The results showed that the OFAH leadership and more than half of the twenty respondents had a substantial concern that treaty rights would lead to wildlife abuse and a restriction on their hunting/fishing opportunities, though this was expressed in different ways. For example, several respondents voiced overt resentment and opposition towards treaty rights, but had limited knowledge beyond the perception that treaty hunters and fishers were allowed to hunt and fish 'whatever' and 'whenever' they want. This information was communicated, reproduced, and learned primarily through (usually indirect) personal experiences, stories, and 'off the cuff' comments from family, friends, acquaintances and strangers within face to face and online interactions. Indigenous respondents were fully aware of the resentment and stereotypes towards their treaty rights and provided insight into their experiences with discrimination and racism from non-Indigenous hunters and fishers. Contrary to the non-Indigenous respondents, two of the three Indigenous respondents were either well educated on the OFAH's policies and advocacy (demonstrated by respondent 20) or revealed how the OFAH were gaining a negative reputation among Indigenous people (respondent 10).

Interestingly, not all non-Indigenous respondents were critical of treaty rights nor did they approve of the stereotypes and testimonies they encountered. Respondents 1, 12 and 13, all OFAH

members, said they supported treaty rights and either challenged other hunters/fishers' testimonies regarding wildlife abuse (as illustrated by respondent 12) or deemed them as racist (expressed by respondent 13), thereby revealing how the negotiation process surrounding the meanings and opinions about treaty rights among the OFAH's membership is complex and far from unified. These accounts also reveal how a sense of group position may not develop if stereotypes (defining Indigenous hunters and fishers as a threat) are not reinforced, or if strong interest groups, such as the OFAH, fail to influence public opinion (Blumer 1958).

Despite the support for treaty rights by a few respondents, many had criticisms and concerns resembling those articulated by the OFAH, even though they were (largely) unaware of the OFAH's coverage and policies. Unlike the (lay) respondents, the OFAH leadership are knowledgeable and engaged in monitoring treaty rights cases, agreements, and land claims, as reflected in their consistent coverage, reports, articles, and advocacy on these issues. Although the OFAH's criticisms were often explicit, their resentment was indirect, subtle, and masked by disclaimers and repertoires with pragmatic arguments and emotional narratives that enable them to criticize treaty rights and land claims in a seemingly non-racist manner.

As previously shown, the OFAH are not opposed to or critical of all treaty rights or land claims as long as they are not perceived to interfere with non-Indigenous peoples' hunting/fishing opportunities, threaten wildlife, or stray far from the OFAH's principles of 'fair sharing' and Ontario's wildlife management model. By contrast, the respondents' opposition to treaty rights was based on a generalized understanding which did not acknowledge the details and differences among treaties and hunting/fishing rights across Indigenous Nations or the conservation philosophies, practices, and regulations by which Indigenous hunters/fishers abide.

This opposition and limited knowledge displayed by the respondents has serious implications and highlights the OFAH's potential to influence and gain support from members and non-members who already resent and oppose treaty rights by providing selective coverage, facts, reports, and repertoires

with arguments and justifications that correspond with the respondents' existing perceptions and experiences. For instance, the OFAH's selective coverage romanticizes a history of conservation and white settlement, while excluding the history of violent displacement, land appropriation, and the ongoing effects from colonization that continue today (Sandlos 2003, 2008; Binna and Niemi 2006; Killan 1993; Gehl 2014; Ipperwash Inquiry 2007).

Furthermore, the OFAH's coverage overlooks the historical and contemporary conservation philosophies and practices of Indigenous Nations, which is most notably revealed in their implicit and explicit references towards the 'unregulated' Nipissing commercial fishery, the poorly managed practices resulting from the SON-MNRF agreement(s), or the impending loss of wildlife that will allegedly occur under Algonquin management. Regardless of whether the OFAH's criticisms are geared toward particular rights and claims, some of their language may affirm stereotypes about Indigenous hunters/fishers and wildlife abuse, and strengthen anti-treaty rights arguments.

When taken together, the experiences, testimonies, and opinions of most of the non-Indigenous respondents, along with the OFAH's advocacy, coverage and policies, indicate a defensive response to maintain settlers' sense of group position and existing opportunities and privileges against the perceived threats that treaty rights pose. They also reveal the process of how the negative images of treaty rights are communicated and continuously defined, redefined, and sometimes challenged throughout various contexts and interactions among settler hunters and fishers. By criticizing and blaming treaty rights for enabling 'unregulated' wildlife abuse, the OFAH leaders, members and non-members can position themselves as part of the 'dominant' group within the racialized social hierarchy based on the perception that non-Indigenous hunters and fishers are more responsible, law-abiding, and concerned with conservation compared to Indigenous treaty hunters and fishers.

This presents a contradiction. On the one hand, the OFAH and most of the non-Indigenous respondents claim to support 'equality' and 'equity' rather than 'hierarchy'. Yet, by opposing Indigenous peoples' treaty rights, they are entrenching social inequalities (obtaining access to Indigenous land and

resources that were never legally surrendered) and also suggesting a moral hierarchy in which settler hunters and fishers are more responsible, law-abiding, etc. than Indigenous hunters and fishers. Group Position Theory is clearly illustrated within this process in the way that Indigenous hunters and fishers are defined and positioned as the threatening 'other' by settler hunters and fishers, and in how the latter's views serve to maintain and justify settlers' group position and proprietary claim to resources.

## **CHAPTER 7: CONCLUSION**

The goal of this research was to analyze and compare the views surrounding treaty rights between the OFAH leadership and ordinary Indigenous/non-Indigenous OFAH members and non-members. This paper showed how the OFAH and a majority of non-Indigenous respondents drew on similar interpretive repertoires with arguments and justifications based on equality and a concern for wildlife conservation in order to criticize or oppose treaty rights. Although the opinions varied and revealed a limited degree of support among the OFAH's leadership and 45% of respondents, the general pattern highlighted feelings of concern and resentment due to the perception that treaty rights give an unfair and unearned advantage to Indigenous people, which would enable 'unregulated' hunting/fishing and threaten wildlife and non-Indigenous hunters and fishers' access to resources. Despite the similarities, none of the non-Indigenous interviewees were aware of the OFAH's policies and advocacy showing how the organization had little influence on these particular members and non-members.

These findings confirm and diverge from my original expectations. Throughout the study, it was expected that the OFAH would have a critical view of specific treaty rights and land claims, as I was previously familiar with their coverage. What was not expected was the lack of awareness about the OFAH's advocacy displayed by all the non-Indigenous respondents, as well as how two of the three Indigenous respondents were in fact aware of the OFAH's advocacy<sup>68</sup>.

The lack of awareness from most respondents, however, conflicts with Group Position Theory and Blumer's suggestion that strong interest groups are highly influential in shaping the sense of group position. One explanation could point to the geographical location where the interviews took place: all of the interviewees either live in or are originally from Southern Ontario, which is a highly urbanized environment where treaty rights cases are less visible. Whereas many respondents were from areas where legal disputes or negotiations surrounding treaty rights or land claims are minimal or not covered

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<sup>68</sup> Perhaps, this latter finding should not be a surprise since the OFAH have been advocating against Indigenous and treaty rights for decades.

extensively by the media (or the OFAH), interviews with hunters and fishers from the Bruce Peninsula or the Algonquin claim area may reveal a greater awareness about the OFAH's advocacy<sup>69</sup>. Additionally, most OFAH member respondents claimed they joined the OFAH for the membership benefits such as insurance and/or a subscription to the *OOD* magazine, rather than for political purposes<sup>70</sup>.

Although the OFAH appears to have little direct influence on the interviewees' attitudes towards treaty hunting/fishing rights, the data show that the organization continues to be highly influential within wildlife and conservation policy, which has profound implications for Indigenous people and their rights. The OFAH's influence is exemplified within their role on the *Hunting and Angling Advisory Panel (HAAP)*, and how they lobbied to have *non-Indigenous* sport hunting and fishing 'rights' and heritage recognized through the *Heritage, Hunting and Fishing Act* in 2002 and the *National Hunting, Trapping, and Fishing Heritage Day Act* in 2014.

Nevertheless, the findings from this study demonstrate that Colour Blind Racism and Group Position theory are compatible for analyzing how images of treaty rights and Indigenous hunters and fishers are portrayed, reproduced, and reinforced, and how the OFAH leaders, members and non-members draw on similar repertoires to criticize or oppose treaty rights in a seemingly non-racist manner. As a result, these repertoires indirectly reinforce a racial ideology which maintains longstanding racial inequalities and defends non-Indigenous hunters and fishers' sense of group position, privileges, and proprietary claims to resources.

As Group Position theory would suggest, prejudice towards Indigenous people with treaty rights is a collective phenomenon and arises as a defensive reaction to a perceived threat to settlers' group position, privileges, and interests. This raises a fundamental question: Are the criticisms and/or opposition

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<sup>69</sup> One of the three Indigenous respondents (Respondent 10; non-member) who was aware of the OFAH's reputation lived near the Williams Treaty area. Further interviews with hunters and fishers from these areas may produce different results.

<sup>70</sup> In addition to the benefits that come with an OFAH membership, many respondents noted how they joined the OFAH due to the organization's lobbying efforts surrounding conservation and hunting and fishing.



to treaty rights considered racist? Are the OFAH and the respondents racist?

To determine if the criticisms of or opposition towards treaty rights from the respondents and the OFAH's leadership is driven by racial prejudice is complex. Scholars have acknowledged the difficulty in assessing contemporary racial prejudice, as it is, for the most part, no longer overt, but subtle, hidden and ostensibly non-racist (Quillian 2006; Bonilla-Silva 2003; Dudas 2005). The OFAH are very concerned about their reputation, and do not condone or intend to hold racially prejudiced views towards Indigenous people and treaty rights. As previously shown, the OFAH do not criticize or oppose all rights and claims unless they are perceived to conflict with their principles of fair sharing, conservation, and Ontario's wildlife management model. Within their coverage and criticisms, the OFAH leaders are careful not to appear overtly racist and often state their support for treaty rights and section 35 of the *Constitution* with an emphasis on how their criticisms are strictly about conservation, though their support for treaty rights within this context could be argued to be a form of impression management. Similarly, OFAH members and non-members who criticize, resent and oppose treaty rights do not necessarily intend or consider their views to be racist, since the repertoires they draw on provide arguments and justifications which allow them to denounce treaty rights while appearing fair, reasonable, and tolerant.

According to Blumer (1958), there are four types of feelings which constitute racial prejudice: feelings of superiority, a feeling that the 'subordinate' race is different and alien, feelings of proprietary claim to certain privileges and advantages, and a fear or suspicion that the 'subordinate' group will threaten the 'dominant' group's position and interests.

The criticisms and opposition expressed by the OFAH and the respondents correspond with at least some of these feelings<sup>71</sup>. For instance, feelings of superiority appear subtly within the OFAH's criticisms towards the Algonquin Land Claim, the SON-MNRF agreement(s), and the Nipissing commercial

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<sup>71</sup> However, to gain a deep understanding on whether the respondents and the OFAH leadership are considered racist according to group position theory, further interviews are necessary to investigate if they display all four feelings.

fishery, and are conveyed from a paternalistic standpoint that contains implicit meanings and assumptions that Indigenous people cannot manage hunting and fishing responsibly or efficiently. As a result, wildlife and conservation are said to be threatened if they do not replicate Ontario's wildlife management model, which is perceived to be more effective. The feeling that Indigenous people are 'different' or 'alien' does not explicitly appear within the OFAH's criticisms, but is apparent within the remarks of at least one respondent (respondent 6) who expressed overt derogatory and degrading stereotypes about Indigenous people in comparison with white people.

Feelings of proprietary claim/entitlement and fear over a threat to group interests, which is considered the main source of racial prejudice (Blumer 1958), were among the most salient aspects within the repertoires of the OFAH and the respondents. This is most notably revealed in the way the OFAH leadership invokes fear and a sense of victimization towards particular treaty rights, agreements, or land claims with the allegation that they threaten wildlife, the economy, future outdoor recreational opportunities, equitable allocations, equal treatment within negotiations, and most importantly, non-Indigenous Canadians' culture, heritage and traditions, which are equated with those of Indigenous people. Respondents expressed similar feelings of fear, along with resentment, and drew on similar repertoires to openly endorse either the revision or abolition of treaty rights (to make everyone equal), the equal application of laws on Crown land, the mandatory use of 'traditional' methods on Crown land, or the segregation of Indigenous/treaty and settler hunters and fishers.

In particular, the repertoires based on fairness, equity and equality reflect Colour Blind Racism, specifically, the frame of 'abstract liberalism', which uses free-market and culturally based arguments to explain and justify racial inequalities and maintain settlers' position and privileges (Bonilla-Silva 2003). By using these arguments, the OFAH and the respondents can flexibly manoeuvre across various contexts and oppose treaty rights or any efforts to honour nation-to-nation relationships without appearing racist.

Furthermore, the OFAH's use of a binary opposition between Indigenous and settler people clearly illustrates group positioning and underlying feelings of fear and a proprietary claim to resources in

how they contrast the law-abiding, paying hunters/fishers with the 'unregulated', non-paying treaty hunters/fishers. This aligns with several of the respondents' views that non-Indigenous hunters/fishers are the only ones contributing to conservation through the payments of licences/tags, while Indigenous treaty hunters/fishers, who don't have to meet these requirements, are excessively and relentlessly taking wildlife at the expense of others. Consequently, this perception nurtures a (settler) sense of group superiority and encompasses the notion that settler hunters and fishers are more deserving of access to resources, but are treated unfairly due to the recognition of treaty rights, which are perceived to give Indigenous people an unjustifiable advantage.

In short, although the OFAH may not intend to hold prejudiced views towards Indigenous people, their consistent coverage, criticisms, concerns, and advocacy indirectly contribute to a racialized social hierarchy in Ontario by fostering a sense of group position and providing a common orientation for settler hunters and fishers. This is accomplished with commentary that defines and redefines Indigenous and treaty rights and the Indigenous-settler hunter and fisher relationship in a manner which communicates shared meanings about settler identity, culture, and personal experiences with family and friends, and lambastes particular treaty rights, agreements, or land claims that are perceived to transgress boundaries and threaten settlers' group interests, privileges, and memorable experiences. Indeed, it seems only as long as Indigenous hunters and fishers conform to non-Indigenous hunters and fishers' ideas of the way things 'ought to be' (i.e. fair-sharing; equal application of laws), will they and their rights be spared from criticism and opposition.

Although most respondents were unaware of the OFAH's coverage and learned about treaty rights through interactions with family, friends, acquaintances and strangers, the use of similar repertoires, along with shared concerns and resentment, illustrates how the OFAH's messages have a strong ability to resonate with the respondents and elicit shared meanings that either strengthen their arguments, affirm their (mis)understandings towards treaty rights, or provide a basis for racial prejudice. However, the results also showed that not all non-Indigenous respondents were critical of or oppositional

to treaty rights; some would even reportedly challenge or denounce the negative stereotypes expressed by their friends and relatives. This provides compelling insight into the ongoing negotiation process of how the meanings surrounding treaty rights are communicated, reproduced, reinforced, and challenged within public and private spaces.

The findings from this study can help build on Group Position Theory and Colour Blind Racism by demonstrating the importance of analyzing interest groups and the extent to which they contribute to a sense of group position and racial prejudice, and by fleshing out the distinct interpretive repertoires used by such groups to maintain access to resources and privileges within a settler-colonial context in Southern Ontario. In particular, these findings build on the theories by providing a basis for further research to investigate how and why settler hunters and fishers challenge these repertoires, on the one hand, and how and why a sense of group position may fail to form, on the other.

Additionally, these results echo many of the findings within Denis' (2012; 2015) analysis of Indigenous-settler relations in Northern Ontario, Dunk's (2002) investigation of the OFAH's legal arguments used to reinstate the spring bear hunt, and Bobo and Tuan's (2006) multivariate analysis of white Americans' attitudes towards the Chippewa of Wisconsin's treaty fishing rights.

Using Group Position Theory, Denis (2015) showed how laissez-faire racism was often expressed by white settler people in Northern Ontario despite long-time friendships and marriages with Indigenous people, and in relation to three mutually reinforcing social processes: subtyping, ideology-based homophily, and political avoidance norms, which interacted to sustain settlers' sense of group position. According to Denis, "prejudice is not defined by an absence of intergroup friendships; it is a defensive reaction to perceived group threat" (2012, 458). The findings from my thesis correspond to this process. In a twist on subtyping, for example, the OFAH praise certain agreements (e.g. Tsawwassen agreement) that adhere to their principles of fair sharing, while viewing them as exceptions that prove the rule and using them to discredit other land claims. On the other hand, the non-Indigenous respondent's reported confrontation with a friend over the use of negative stereotypes contradicts the notion of a political

avoidance norm and shows how, under certain conditions, such norms can be breached and dominant perceptions challenged.

Within another study, Denis (2012) revealed how racial prejudice erupted towards Indigenous people in Northwestern Ontario after a proposal to relocate an Indigenous child welfare facility. Local white residents and municipal councillors used strategies such as delaying tactics and race-neutral justifications to prevent the relocation of the facility and defend the status quo. Likewise, my results reveal the strategic use of specific repertoires within the OFAH and the respondents' commentary, which adds to Denis' (2012) findings by showing how settlers can draw on a wide range of tactics and repertoires to defend and maintain their sense of group position or access to resources.

Dunk's (2002) analysis of the OFAH's legal arguments within the spring bear hunt cancellation illustrate an attempt to mimic the language used by Indigenous people and equate Indigenous experiences and cultures with those of non-Indigenous, predominantly white, hunters and fishers. My results add to Dunk's analysis and demonstrate the flexibility of this language and how it is used within the OFAH's criticisms of the Algonquin Land Claim in an attempt to equate Algonquin culture, heritage, and spirituality with that of non-Indigenous Canadians in order to legitimize their policies of fair sharing and defend and maintain non-Indigenous group interests in the claim area.

Also similar to my results, Bobo and Tuan (2006) found that white Americans drew on arguments claiming the Chippewa of Wisconsin's treaty fishing rights were outdated and threatened fairness and equality (equal rights for everyone), fish populations, and the sport fishing economy, as well as the notion that Indigenous people should stay on Reservation land and/or avoid the use of modern equipment. According to Bobo and Tuan, the opposition to treaty rights was fuelled by stereotypes, which is a strong indicator of racial prejudice, particularly how the complaint about wildlife abuse is easily generalized to Indigenous people and their rights and connects "to a bundle of ideas understood as a form of racial prejudice, rather than a legitimate and practical grievance" (2006, 100). At the same time, and consistent with my findings, they found that several settlers, including hunters and fishers, acknowledged the

importance of treaties, supported the Chippewas' treaty rights, and did not view their fishing as abusive or excessive.

Bobo and Tuan's (2006) study shows how the arguments used by treaty opponents in the U.S. also form the basis of interpretive repertoires which are flexibly used by the OFAH and settler hunters and fishers in Canada. Although Bobo and Tuan discussed the rise of anti-treaty rights lobby groups (e.g. 'Equal Rights for Everyone'; 'Stop Treaty Abuse'), they did not thoroughly investigate the social dynamics within these organizations. Building on their research, this thesis provides details into the views, policies, and reasons behind the advocacy of a prominent Canadian sport organization (i.e. OFAH) that is critical of selected treaty rights, as well as the extent of their influence on their membership and the public.

Although this thesis presents compelling insight into the OFAH and respondents' views, it must be acknowledged that there was a lack of Indigenous and female participants. Future research should include a greater amount of interviews with female and Indigenous hunters and fishers to investigate their views surrounding treaty rights and the OFAH's advocacy, and analyze any gender or intergroup differences and similarities on the topic. Interviews with OFAH members from areas where treaty rights cases or land claims have experienced racial tensions or criticisms from the OFAH (i.e. Bruce Peninsula; Algonquin claim area) could also provide greater understanding into the views, awareness, and degree of influence from the OFAH. Moreover, future research should investigate how some non-Indigenous hunters and fishers come to support treaty rights and how they challenge or react when confronted with racial stories containing negative stereotypes about Indigenous hunters and fishers.

Overall, the concerns and criticisms expressed by the OFAH and the respondents reveal how a sense of group position and aspects of Colour Blind Racism merge and blend in reaction to a perceived threat to settlers' group interests and the status quo (Blumer 1958; Bobo and Tuan 2006; Denis 2012; 2015). Although these criticisms and concerns towards treaty rights may seem to some readers to be just a few negative attitudes from a few individuals, they continue the longstanding collective support and contribution by settler sport hunters/fishers, both in Canada and the U.S., to policies that undermine

treaty rights and aim to control Indigenous peoples and their ways of life since at least the late 19<sup>th</sup> century (See Chapter 2; Binnema and Niemi 2006; Tough 1992; Sandlos 2003, 2008; Bobo and Tuan 2006). Unfortunately, these criticisms seek to discredit and delegitimize treaty rights, land claims, co-management agreements, and Indigenous peoples' connections to the land, disregard history, conflict with ongoing efforts at reconciliation and re-establishing nation-to-nation relationships, and perpetuate the contemporary facets of colonization.

### **Final Thoughts and Recommendations**

There is no simple way to counter the reproduction of stereotypes, misinformation, and racial prejudice against Indigenous people and treaty hunters and fishers. Although increased knowledge, education, and positive inter-group contact have been shown to decrease negative beliefs and feelings towards outgroups (Allport 1979), such approaches may not be able to tackle the underlying deeply entrenched racial ideologies (Bonilla-Silva 2003; Dixon, Durrheim and Tredoux 2005) or settlers' sense of group superiority and entitlement within a settler colonial context (Denis 2012, 2015). Nonetheless, education and raising awareness is a first step in shifting the sense of group position, which requires non-Indigenous people to think about ourselves and our relationships in new and different ways. This may generate more willingness to confront colonial injustices rather than protecting one's narrowly defined group interests.

The findings showed that most non-Indigenous respondents' views about treaty rights (and a sense of group position) were formed by interactions with family, friends, acquaintances, and strangers revealing little influence from the OFAH. If a sense of group position is formed through complex interactions not only by interest groups, but also by lay people within the public realm (Blumer 1958), it is up to non-Indigenous hunters and fishers themselves to hold each other accountable and challenge the norms around racism within hunting/fishing groups, at outdoor shops, online, etc. This is no easy task and there are many barriers one may face for speaking out (i.e. 'race traitor'). As a white settler hunter/fisher, I urge the OFAH and my fellow non-Indigenous outdoors people to consider the following

recommendations:

- Learn about and have sincere compassion and empathy for the history of colonization and its effects today, the history and significance of treaties, and the mutual responsibilities and obligations that the Canadian government and people have failed to live up to (Ipperwash Inquiry 2007; McLeod et al 2015; RCAP 1996; Truth and Reconciliation Commission 2015).
- Realize that “treaties are living agreements” (Nawash 2005, 7) and “...are not historic artefacts from some distant time. They remain vitally important and relevant today” (Ipperwash Inquiry 2007, 154).
- Know that Canada was founded as a result of treaties with First Nations, and non- Indigenous people in Ontario have benefited substantially from these treaties, including our access to hunting and fishing areas (Ipperwash Inquiry 2007; McLeod et al 2015).
- Recognize and appreciate the historical/contemporary conservation practices, beliefs, and contributions of Indigenous peoples across the land, and how they also have a great concern for conservation and sustainability (Leblanc et al 2011; King 2011; McLaren 2005).
- Understand the importance of meaningful reconciliation/restitution (Corntassel 2012; Truth and Reconciliation Commission 2015) and re-establishing nation-to-nation relationships built on friendship, trust, and respect for Indigenous Nations and their sovereignty (Gehl 2014; Borrows 2002; Truth and Reconciliation Commission 2015).
- Understand and appreciate that Indigenous harvesting rights are not simply political/legal entitlements and do not flow or get handed down by the Canadian government or legal system. Rather, they are “cultural responsibilities and relationships that Indigenous people have with their families and the natural world (homelands, plant life, animal life, etc.) that are critical for their well-being and the well-being of future generations” (Corntassel 2008, 107) and that pre-exist and are separate from the Canadian state (Corntassel 2008, 2012; McLeod et al 2015; RCAP 1996).



- Acknowledge that negative attitudes and stereotypes are not discrete, but connect to a longstanding collective opposition to treaty rights that expands across the country and the border (and that is central to legitimizing the settler-colonial system).

To the OFAH leadership:

- Understand and appreciate that racial prejudice towards Indigenous people in Ontario is prevalent and can easily be ignited (even if unintentionally) by the OFAH's consistent advocacy, criticisms, concerns, and selective coverage whether or not they are geared towards a specific treaty right or claim.
- Understand that your actions and coverage can have a profound negative impact on Indigenous communities (McLaren 2005; Koenig 2005; Nawash 2005).
- Understand, empathize, and show compassion for the historic and contemporary facets of colonization and how the OFAH indirectly contributes to this process.
  - For instance, the attempt to equate Indigenous rights, culture, heritage, and spirituality with settler hunters and fishers is insulting to Indigenous people and works to discredit Indigenous peoples' rights, cultures, and connections to the land.
- It is imperative to change and abandon the approach and tone within your coverage and include/highlight the positive aspects of Indigenous peoples' conservation practices, beliefs, success stories, and fish/wildlife management models which may differ from Ontario's management model. We need to acknowledge that we have things to learn from Indigenous peoples' traditional conservation practices, beliefs, values, etc.
- Change the name and the role of the OFAH's Native Affairs Committee (perhaps to "the OFAH's Committee on Reconciliation/Restitution and Conservation") to work on creating approaches and policies which sincerely strive to form good relations with Indigenous Nations.
- Recognize and understand that the OFAH's advocacy and criticisms, particularly towards the recent Williams Treaty court challenge, the SON-MNRF agreements, the Nipissing commercial

fishery, and the Algonquin Land Claim, are impeding the process of establishing good relations between Indigenous and non-Indigenous people and costing the OFAH membership thousands of dollars in the process (i.e. *Ontario Federation of Anglers and Hunters v Ontario* 2015).

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