

UNIVERSITY OF CALGARY

A Peak Aboriginal Organization:

The Need to Integrate Self-Government within Canada

by

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ABSTRACT

Aboriginal self-government has recently surfaced in Canada, but it has basically emerged at the community level. These Aboriginal self-governing communities will be unable to operate completely independently from one another. If anything, this increase in self-governing powers will make interaction even more necessary as the individual communities discover that they cannot achieve many of their goals without establishing relations with each other and the federal and provincial governments. While it will be a difficult task, it is still imperative that these Aboriginal self-governing bodies be incorporated into the existing intergovernmental process of the country. Thus, this thesis determines that a peak Aboriginal organization will be required in order to co-ordinate Aboriginal interests and integrate the extensive number of Aboriginal self-governing units into the political institutions of Canada.

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To Susan

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CHAPTER ONE

Introduction

Despite years of resistance, Aboriginal self-government is finally becoming a Canadian reality. However, the agreements that are being reached are by no means comprehensive arrangements but rather are community oriented and therefore quite small in scale. As such, it is fair to assume that there may eventually be several hundred self-governing communities operating within Canada. Obviously, it will not be easy to integrate all of these new governments into the country's political institutions. The vast number of Aboriginal self-governing units will seriously curtail their ability to interact effectively. Therefore, it is apparent that a peak Aboriginal organization will be necessary in order to facilitate communication both between the various levels of government and among the numerous Aboriginal governments.

Although the literature dealing with Aboriginal self-government has been rapidly expanding, it appears as though much of it suffers from short-sightedness. In fact, despite the seemingly abundant supply of books and articles on the subject, few have extended their focus beyond the community level. Certainly, "questions of how individual Aboriginal Canadians ... will relate as citizens to federal and provincial communities and their governments and how a third order of Aboriginal governments will mesh with the other two orders deserve a degree of attention they have not had."¹ While this thesis does not concentrate on how Aboriginal citizens will associate directly

¹ Alan C. Cairns, Citizens Plus: Aboriginal Peoples and the Canadian State, (Vancouver: UBC Press, 2000), 75.

with federal and provincial governments, it does examine how Aboriginal governments can relate with each other and with their federal and provincial counterparts.

This thesis has two main objectives. First, it is intended to demonstrate that Aboriginal self-government is going to continue to occur within an existing political system, thereby increasing the need for communication between and among governments. Second, it aims to illustrate that a peak Aboriginal organization is the manner in which to facilitate this communication and co-operation, and is the way to incorporate these governments into the intergovernmental process of Canada.

Terminology

Before proceeding, it is important to clarify a few points. Throughout this thesis the term 'Aboriginal peoples' will be relied on to describe the country's indigenous population. Its usage first achieved national attention in 1982 when it was chosen as the term to be entrenched in the repatriated Constitution and since then appears to be the most prevalently applied. While the terms 'First Nations' and 'Native peoples' are also generally acceptable, they have not been applied to as much political discourse and as a result have basically been excluded from this work for the sake of continuity. For the most part, neither has the term Indian been used beyond any references made to the National Indian Brotherhood and the Department of Indian Affairs. At times, the term Indian may have been more appropriate for the ensuing discussion but despite the temptation to use it I refrained.

Another aspect of the thesis that may require further explanation is the concept of 'a peak Aboriginal organization'. It is employed in the entire thesis as a way to describe

an Aboriginal association that would have the authority to act on behalf of Aboriginal people at a national level. In essence, it would be responsible for those areas that smaller community self-governments could not possibly control. In addition, it would be the means by which Aboriginal peoples could participate in the process of intergovernmental relations. The term organization is used instead of government to distinguish it from the community-based arrangements that are being negotiated at present, but it was also chosen for other reasons as well. It was selected because it is something that Aboriginal peoples are rather familiar with. In fact, the Aboriginal population has experimented with various types of organizations and maintains a wide assortment to this day. The word organization was also selected because it describes what Aboriginal peoples will have to do; they will have to organize their interests so as to assume responsibilities that they could not otherwise tackle.

An Ideal Model

When creating a peak Aboriginal organization, the Aboriginal communities would require a considerable degree of latitude in deciding what specific roles it might play. Still, certain structural aspects need to be described in order to demonstrate what a peak Aboriginal organization would actually mean. In an ideal model, it would likely be a national body with its constituency being made up of those communities that have already achieved local self-governing authority. While a peak Aboriginal organization would consist of self-governing communities it would also need to establish and maintain a direct connection to the Aboriginal peoples living in each of these communities. This

type of a relationship would be essential if it is to have a legitimate role in intergovernmental affairs or executive federalism.

The other characteristics of a peak Aboriginal organization are liable to be modified due to necessity. For instance, its service delivery role would presumably be dependent upon which services the Aboriginal self-governing communities believe would be better dealt with at a national level. These are likely to be services that for one reason or another will extend well beyond the borders of a single Aboriginal community. Factors such as a limited labour force or financial resources will also end up dictating which services require a peak Aboriginal organization's involvement.

The availability of resources may also cause the peak Aboriginal organization to take on a redistributive role. In fact, one of the decisions Aboriginal peoples will have to make is whether they want to utilize a peak Aboriginal organization for reallocating their financial resources. Much of this will depend on how the organization is funded. The organization would be able to act more independently if it is able to convince the federal government to provide it with unconditional grants or transfer payments. Shared cost-programs would also work, but would require a peak Aboriginal organization to move towards collecting funds from self-governing communities or direct taxation of its members.

The type of regulation that would be necessary for many of these tasks further emphasizes the need for a peak Aboriginal organization. It also accentuates the hierarchical nature of any such association. Although the hierarchical aspect of this type of organization may not comply with some cultural expectations, the reality is that it may

be necessary. Creating an effective peak Aboriginal organization will not be an easy task. To make sure that they are establishing an organization that fits their needs, Aboriginal peoples may want to consider what they want it to do in certain circumstances. By examining past situations such as the Oka conflict or the Burnt Church lobster dispute, they may be able to identify some additional powers that the organization should have.

A Distinctive Role

A peak Aboriginal organization should not be mistaken as a substitute for Aboriginal self-governing communities. Rather, it will be a tool that Aboriginal peoples can use to help them to become self-determining. It will coexist with the communities in order to make the operation of self-government more effective. The assumption is that the federal government will continue to devolve self-governing powers directly to the individual Aboriginal communities. In return, it will eventually become necessary for Aboriginal peoples to impart some of these powers onto a peak Aboriginal organization. For the most part, Aboriginals themselves will have to decide which powers they want to keep at the community level and which ones would be better off transferred to a peak organization.

Attempting to balance self-governing powers between the communities and the peak organization will not necessarily be unproblematic. For a peak Aboriginal organization to be truly effective it will need to have the authority to negotiate on behalf of its membership without requiring subsequent ratification of decisions that it makes. This does not mean that a peak Aboriginal organization would not consult with its

constituents beforehand or be held accountable by them afterwards. Rather, it means that some latitude would have to be extended to it. This is not only necessary for intergovernmental bargaining purposes; it is also required if an organization of this sort is to maintain its legitimacy. Simply put, a peak Aboriginal organization cannot be successful if its membership communities are able to opt out of agreements or constantly threaten to withdraw their support from the organization. Thus, a peak Aboriginal organization would likely have two primary responsibilities. One of its functions would be to unite the self-governing communities so that their policies could be better coordinated. The other would be to provide Aboriginal self-governing communities with a mechanism by which they could access the intergovernmental process of Canada.

Why Bother?

The current necessity to try to insert Aboriginal peoples into the existing political system comes from the fact that they “were not involved in designing the Canadian state or in fashioning its institutions and processes.”² As a result, the country's Aboriginal population was basically excluded from the mechanisms of power. While the non-Aboriginal community is somewhat willing to accommodate Aboriginal concerns to restructure the relationship, what is evident is that there is no desire to completely recreate Canada. Thus, the reality is that even after self-government is achieved, Aboriginal peoples will have to function within an existing system:

After self-government has been attained, Aboriginal Canadians will still be legally citizens of Canada and residents of provinces and territories from which

² Royal Commission on Aboriginal Peoples (RCAP), Final Report of the Royal Commission on Aboriginal Peoples: Vol. 2: Restructuring the Relationship, (Ottawa: Minister of Supply and Services Canada, 1996), 374.

many of the services they receive will come. They will remain entangled with the surrounding society. They will exist in the midst of their former colonizers.³

As such, Aboriginal peoples will have to adapt their self-governing aspirations to conform to the undeniable situation. That is, that the citizens of self-governing communities will continue to be closely connected to federal and provincial governments for various services, funds, and other assistance.⁴

There are numerous reasons why Aboriginal self-governing units will need to interact with each other and with the federal and provincial governments. To begin with, various sources have predicted anywhere from 60-80 to well over a thousand self-governing Aboriginal communities eventually being dispersed across the Canadian landscape.⁵ Due to the immense number of self-governing bodies, it will certainly not be possible for the federal and provincial governments to deal with all of them directly. The existing institutions of government in this country have not been designed for a sudden influx of so many additional participants. While some modifications to these institutions will have to occur in order to allow for Aboriginal participation, these adaptations will only go so far. For that purpose alone there is a desire to have the individual segments unite.

Second, although Aboriginal peoples, like any other portion of society, are not a homogenous group, they do have at least some common interests. While it is possible that they will be able to advance some of these interests independently, presumably

³ Cairns, Citizens Plus, 28.

⁴ Ibid., 113.

greater success would be achieved if Aboriginal peoples were to consolidate their efforts. Indeed, it is extremely unlikely that they will be able to accomplish many fundamental goals "unless some way of aggregating their positions is developed."⁶ A peak Aboriginal organization would not only be capable of formulating collective positions; it would also be an appropriate means by which these interests could be presented to the rest of the country.

Third, Aboriginal self-governing communities will have to unite because of the small size of individual Aboriginal communities and the limited resources that they have at their disposal. It is not a secret that the various Aboriginal communities that are dispersed across the country vary significantly in the types and amounts of resources that they each possess. While certain communities have advanced financial capacities, a skilled labour force and technological expertise, others may be lacking the resources to deal with day-to-day concerns. If the majority of communities are to prosper despite these differences, Aboriginal self-governing units will have to co-operate and share. Although it is not evident how redistribution among Aboriginal communities would work, it is reasonable to assume that any body that was authorized to allocate resources would require the power to enforce its decisions on its membership.⁷ Even without a formal redistribution mechanism in place, Aboriginal governments will not only have to

⁵ RCAP, Vol. 2, 166. The Commissioners describe that at best 60-80 self-governing nations could be created out of the thousand or so Aboriginal bands and communities that exist in Canada today.

⁶ Cairns, *Citizens Plus*, 138.

⁷ Jodi Cockerill and Roger Gibbins, "Reluctant Citizens? First Nations in the Canadian Federal State," *First Nations in Canada: Perspectives on Opportunity, Empowerment, and Self-Determination*, ed. J. Rick Ponting, (Toronto: McGraw-Hill Ryerson Limited, 1997), 389-90.

associate with one another, but will have to establish working arrangements with the federal and provincial governments. This additional communication will be necessary for any large-scale initiatives and is essential for effective management of shared jurisdictions.

Fourth, because Aboriginal peoples do not want self-government to be merely service administration, they will have to unite. This is primarily because individual communities cannot hope to exercise many crucial decision-making powers at a local level. For instance, these self-governing units cannot expect that they will all be able to secure a voice at constitutional conferences or be allowed access to an amending formula that currently incorporates only eleven members. Yet, Aboriginal peoples may be able to gain admittance to these structures if they enter via a single organization. If they do not unite, it is likely that Aboriginal self-governments will become solely service providers lacking any authority to change the policies that affect their people.

Overview

Thus, this thesis basically identifies the deficiencies in current self-government aspirations. Although it attempts to provide the necessary context for discussion, it does not attempt to reiterate the entire history of Aboriginal peoples in Canada. A comprehensive account of Aboriginal peoples' situation has already been provided in the over 3,500 pages of the Royal Commission on Aboriginal Peoples.⁸ In addition, the thesis does not investigate the wide assortment of problems associated with distributing

⁸ Cairns, *Citizens Plus*, 116. RCAP was the most extensive study of Aboriginal peoples ever undertaken in Canada. The Final Report of the Royal Commission was not only a 3500 page document, it was based on 178 days of testimony and witness accounts and also cost nearly 60 million dollars.

jurisdictions between federal, provincial, and Aboriginal governments. Instead, it assumes that regardless of how jurisdictions are dispersed there will inevitably be a need for communication and cooperation among the various governments. In the subsequent chapters, it will become apparent that a peak Aboriginal organization is a necessary feature of a feasible self-government arrangement in Canada.

The first part of Chapter Two examines the concept of autonomy as it relates to Aboriginal self-government. In particular, it provides much needed insight into the competing notions of sovereignty and interdependence. It illustrates how Aboriginal peoples have adopted a vocabulary that includes sovereignty and independence at the same time as the rest of the world has been consistently moving away from these concepts. This progressive march towards increased autonomy must not ignore the fact that interdependence is on the rise. Indeed, any expansion of powers by the Aboriginal population will require a greater connection to the rest of the country.

Thus, the later portion of the chapter offers federalism as a solution. It appears appropriate since it allows for a degree of autonomy while still fostering interdependence. Although the federal system thrives on uniting smaller independent components, the Canadian federal system would be overloaded if it tried to directly incorporate each and every self-governing community. Therefore, a peak Aboriginal organization appears necessary as it could consolidate Aboriginal concerns so that they could be accommodated into the existing structure without encumbering the present system.

Although Chapter Two anticipates the need for a peak Aboriginal organization, it does not indicate whether an existing Aboriginal political organization can be adapted to

take on this role. Therefore, Chapter Three delves into this question by providing an in-depth analysis of the most prominent pan-organization, the Assembly of First Nations (AFN) and its predecessor, the National Indian Brotherhood (NIB). These organizations are evaluated and assessed to determine the extent of their potential. While it is true that other Aboriginal political organizations such as the Metis National Council and the Congress of Aboriginal Peoples may have characteristics that would make them acceptable peak organizations, the members of these associations lack the prerequisite of some sort of community based self-governing capacity. These political organizations must first help their members obtain local self-government before they can expect to exercise any greater degree of authority. On the other hand, the AFN has the immediate prospect of developing into a peak Aboriginal organization because individual communities are already becoming self-governing.

Chapter Four stems from a recognition that Canada is not the only country dealing with an Aboriginal population that is aspiring to be self-determining. As such, the focus is broadened and the Canadian situation is examined in comparison to the circumstances in New Zealand and Australia. While it is understood that the developments in one country cannot simply be transferred to another country, the analysis is useful to determine whether or not there are lessons available that can be drawn on. It is evident that although both New Zealand and Australia have gone about it in different ways, both countries have begun to foster improved relations with their Aboriginal populations. These examples may provide recommendations and warnings that will be of benefit when Canada is contemplating establishing its intergovernmental affairs mechanisms.

Chapter Five takes a somewhat different approach by looking at the other side of the situation. While the rest of the thesis is mainly attempting to illustrate what needs to be done by the Aboriginal population with regards to a peak organization, it would be mistaken not to explore the alternate side. Indeed, one cannot ignore the fact that the actions that the federal and provincial governments take will have a tremendous impact on the success of Aboriginal self-government. Presumably, the federal government would make the most significant decision when it decides whether or not to maintain the current Department of Indian Affairs. Although the department has been criticized in the past for being an instrument of paternalism, it is evident that it has been changing its image for the better. It has been devolving many of its duties onto Aboriginal peoples so that they can actually govern themselves. While some people wish for DIAND to be dismantled, the fact remains that the department would still serve a purpose even after Aboriginal self-governing communities have siphoned off many of its responsibilities.

The final chapter of the thesis serves as a conclusion. It provides both general recommendations and specific advice for dealing with this emerging reality. It also serves as a reminder that the discourse on Aboriginal self-government will have to be modified so that it does not ignore the fact that Aboriginal governments will interrelate with other governments. Thus, the intended contribution of this thesis is not only to illustrate the inadequacies of current self-government initiatives; it also aims to enhance the debate on how to incorporate Aboriginal self-governing units into the existing Canadian system.

CHAPTER TWO

Balancing Sovereignty with Interdependence

Self-governing nations around the world often make decisions that have some impact on the other states that surround them. Indeed, most of these independent nations will often find themselves affected by the actions of other governments. This awareness of mutual influence has diminished the importance of independence while advancing the notion of interdependence. Such a fundamental change will have severe implications for any nation but will especially be of concern to Aboriginal peoples who have hopes for increased self-government. In fact, Aboriginal peoples in Canada will find it difficult to assert their autonomy at a time when sovereignty in the rest of the world appears to be in decline. Thus, if self-government is going to work, Aboriginal people must strike a balance between pronouncing their sovereignty and acknowledging that they, too, are interdependent.

Basically, Aboriginal people will need to exchange some of their local autonomy in order to secure their place in the Canadian federation. In essence, this is why the federal system was established. It is a way "to foster a more fruitful sense of interdependence" while allowing for a maximum degree of local autonomy.⁹ However, the federal structure cannot hope to support the involvement of a large number of self-governing communities. Therefore, Aboriginal people must establish a peak organization

⁹ A.R.M. Lower, F.R. Scott, et al, Evolving Canadian Federalism, (Durham: Duke University Press, 1958), 162.

that fits into the current system and helps them formulate constructive working relationships with one another and with both provincial and federal governments.

Terminology

Of course, the terms sovereignty and interdependence can be somewhat ambiguous and, therefore, may need further explanation. "In the ideal sense, sovereignty means the absolute or supreme power of a people to govern themselves, completely independent from interference by or involvement with other sovereign nations."¹⁰ As such, sovereignty can be described as a basic human right of self-determination in that it provides people with the authority "to define, sustain and perpetuate their identities as individuals, communities and nations."¹¹ Naturally, this definition has not remained static. One would certainly be hard pressed to find a nation in the world today that is completely independent. Our heavily industrialized world of mass communications, global transportation, and growing populations makes the concept of national isolation practically infeasible.¹² As a result, nations have become far more dependent upon one another than ever before. Essentially this is the basis for the concept of interdependence. It is founded upon nations becoming increasingly connected to each other.

An interdependent relationship does not have to be precisely equal to be of mutual benefit. In these types of associations the contribution of each party tends to fluctuate.

¹⁰ Kirke Kickingbird, "Indian Sovereignty: The American Experience," Pathways to Self-Determination: Canadian Indians and the Canadian State, eds. Leroy Little Bear, Menno Boldt, and J. Anthony Long, (Toronto: University of Toronto Press, 1984), 47.

¹¹ RCAP, Vol. 2, 108.

¹² Kickingbird, "Indian Sovereignty," 47.

For instance, when the Europeans first came to this country their ability to survive was intrinsically linked to that of the Aboriginal people. However, as time went on and the fur trade progressed, the relationship began to alter, as the Aboriginal peoples became increasingly reliant upon European trade. Eventually, the Aboriginal population became quite dependent upon the Canadian state for providing various services. Yet, with self-government advancing, there is a definite possibility that Aboriginal peoples will reduce their dependence on the Canadian state and begin to form new relationships with non-Aboriginal governments. We can already see that this is beginning to happen with both the federal and provincial governments consistently having to do business with Aboriginal people with regards to natural resource extraction or land acquisition.

Even though the Aboriginal people and the federal and provincial governments employ very similar terminology when talking about issues such as self-government, sometimes they do not mean the same things. Consider, for example, the concept of autonomy. "For many, autonomy conjures up images of secession and dismemberment; for Aboriginal peoples, autonomy resides in the restructuring of their relationship with Canada."¹³ Although Aboriginals frequently speak of sovereignty and independence, usually all that they really want is merely the opportunity to be self-determining. Still, when many Canadians hear words like sovereignty or self-government they react with concern. Yet, "no one is scared in this country by the fact that Ontario or Manitoba can

¹³ Augie Fleras, "The Politics of Jurisdiction: Indigenizing Aboriginal-State Relations," Visions of the Heart: Canadian Aboriginal Issues, eds. David Alan Long and Olive Patricia Dickason, (Toronto: Harcourt Brace Canada, 1996), 169.

make laws in education and not a single power in the world can do anything about it."¹⁴

In fact, all of the provinces and the federal government have areas of jurisdiction in which they exercise sovereign powers. Aboriginal people simply want to be afforded the same luxury.

Of course, most Canadians have trouble seeing it that way. Words such as sovereignty have rather negative overtones in this country. This is largely due to the use of a similar vocabulary in Quebec. As a result, when most Canadians are presented with terms such as sovereignty they are immediately haunted by images of Quebec separatists trying to tear the country apart. Many non-Aboriginal Canadians also find any reference to "sovereignty threatening, since it calls into doubt the very legitimacy of Canada's occupation of the land within its present boundaries."¹⁵ Naturally, Canadians do not want to have to feel guilty about something their forefathers did more than a century ago. Nevertheless, Aboriginal sovereignty does not appear to be something that Canadians should be afraid of. Only a few of the Aboriginal leaders today argue for total sovereignty, which would place them outside the Canadian state.¹⁶ Most Aboriginals simply aspire to have "a greater opportunity to determine what happens in their own

¹⁴ Georges Erasmus and Joe Sanders, "Canadian History: An Aboriginal Perspective," Nation to Nation: Aboriginal Sovereignty and the Future of Canada, eds. Diane Engelstad and John Bird, (Toronto: Irwin Publishing, 1992), 11.

¹⁵ Michael Asch, "Political Self-Sufficiency," Nation to Nation: Aboriginal Sovereignty and the Future of Canada, eds. Diane Engelstad and John Bird, (Toronto: Irwin Publishing, 1992), 50.

¹⁶ Thomas Isaac, Aboriginal Law: Cases, Materials and Commentary, (Saskatoon: Purich Publishing, 1995), 343.

communities and to ensure that what happens is appropriate from their perspective."¹⁷

Thus, they basically want to have the right to determine the course of their own lives.

The Treaties as Proof of Sovereignty

Therefore, over the years, Aboriginal people have been quite adamant about asserting their sovereignty. They claim that their right to self-government was never extinguished and consequently it still exists today. "This right stems from the original status of Aboriginal peoples as independent and sovereign nations in the territories they occupied."¹⁸ In fact, many Aboriginal peoples will point to the various treaties that were signed as proof that the Crown did recognize that they were autonomous people. These Aboriginal people argue that since both the French and the British entered into these agreements with them it demonstrates that they were viewed as being capable of conducting complex relationships with other nations.¹⁹ Even the treaty process itself suggests that the agreements that were being made were between two independent, sovereign nations.²⁰ All of these actions imply that Aboriginals were viewed as a fairly organized society with distinct government systems, competent enough to take part in and understand the arrangements which were being made.²¹

¹⁷ H. W. Thiessen, "Indian Self-Government: A Provincial Prospective," Pathways to Self-Determination: Canadian Indians and the Canadian State, eds. Leroy Little Bear, Menno Boldt, and J. Anthony Long, (Toronto: University of Toronto Press, 1984), 86.

¹⁸ RCAP, Vol. 2, 166.

¹⁹ *Ibid.*, 110.

²⁰ James S. Frideres, Aboriginal Peoples in Canada: Contemporary Conflicts, 5th ed., (Scarborough: Prentice-Hall Canada Inc., 1998), 364.

²¹ *Ibid.*

Although many Aboriginal people view the treaties as demonstrating the true scope of their autonomy, up until recently the federal government had suggested that by signing these documents Aboriginal people forfeited their right to self-government. For years, the federal government held the belief that in the treaties, Aboriginals essentially waived their independence. Of course, Aboriginal peoples were neither anxious nor willing to accept this interpretation. Instead, they have asserted that the spirit and intent behind the treaties did not extinguish their sovereignty but rather serve as a confirmation of their independence.²² Accordingly, Aboriginal people often guard these agreements for what they signify as well as for their content. The treaties represent a time when Aboriginals were on somewhat equal footing with the Crown. Ever since then, Aboriginal people have been trying to re-establish a reciprocal relationship with the various governments. Therefore, it is not surprising that many Aboriginals have viewed these documents as sacred agreements between sovereign nations.²³

The Royal Proclamation Argument

Often, the *Royal Proclamation* of 1763 is provided as further evidence that the Crown had explicitly recognized Aboriginal peoples as constituting sovereign nations.²⁴ Through the *Royal Proclamation*, the British government declared that unceded land in North America would have to be ceded through the Crown. It has been argued that by requiring Aboriginal peoples to relinquish the land to the Crown, the Crown recognized

²² Isaac, *Aboriginal Law*, 345.

²³ Frideres, *Aboriginal Peoples in Canada*, 364.

²⁴ *Ibid.*, 365.

Aboriginal ownership and consequently Aboriginal sovereignty.²⁵ Furthermore, although the *Proclamation* called for Aboriginal peoples to transfer ownership of the land to the Crown, it did not require all of the land to be transferred immediately. As such, Aboriginal peoples were able to maintain some territories in which they were not molested or disturbed. An argument has been made "that by not molesting or disturbing these political entities, one necessarily leaves them in a self-governing condition."²⁶

The *Royal Proclamation* has also been referred to as the mechanism which brought Aboriginal peoples under the protective care of the British Crown. Although it sheltered the Aboriginal population in one way, the *Proclamation* still recognized them as sovereign nations competent enough to maintain relations.²⁷ More specifically, while it provided Aboriginal people with a type of protection, it never indicated that Aboriginal peoples would be incapable of governing themselves under that protection. Rather, the *Proclamation* has served as the beginning of the Crown's fiduciary responsibility toward the Aboriginal peoples of Canada.

Recently the Canadian government has been inclined to view the *Royal Proclamation* of 1763 as the moment when the Aboriginal nations relinquished their right to self-government to the Crown. It has frequently been argued that if Aboriginal sovereignty ever really existed it was extinguished when the imperial government made its own claim for autonomy. The rationale for this belief appears to be that if Aboriginal

²⁵ For a competing discussion on Aboriginal occupancy and sovereignty, see Tom Flanagan, *First Nations? Second Thoughts*, (Montreal and Kingston: McGill-Queen's University Press, 2000), 56.

²⁶ Bruce Clark, *Native Liberty, Crown Sovereignty: The Existing Aboriginal Right of Self-Government in Canada*, (Montreal: McGill-Queen's University Press, 1990), 9.

²⁷ Erasmus and Sanders, "Canadian History," 6.

people did have sovereignty it "was so weak, as compared to 'civilized' peoples, that the mere presence of the British annulled it."²⁸ However, there is no evidence that Aboriginal sovereignty was in any way inferior to British sovereignty. Just because the *Proclamation* placed Aboriginal people under the protection of the British Crown it did not necessarily repeal their autonomy. Certainly, "under international law, a weaker power does not surrender its right to self-government merely by associating with a stronger power and taking its protection."²⁹ The United Nations has reinforced this view by claiming that "the right to self-determination is held by colonized peoples everywhere in the world, and that no successor colonial regime can extinguish that right by unilateral claims to sovereignty over the same territory."³⁰ Thus, Aboriginals have sufficient cause to continue to assert that they maintain an inherent right to self-government.

The Inherent Right

Although the Aboriginal peoples of Canada have been relatively successful in illustrating that they never relinquished their sovereignty, it does not change the fact that federal and provincial governments have been slow to recognize an inherent right to self-government. For years the Canadian government had insisted that Aboriginal peoples could possess and exercise only those powers that were granted to them by Parliament.³¹

²⁸ Ibid.

²⁹ Erasmus and Sanders, "Canadian History," 7.

³⁰ Asch, *Political Self-Sufficiency*, 47.

³¹ Leroy Little Bear, Menno Boldt, and J. Anthony Long, eds, "Introduction," *Pathways to Self-Determination: Canadian Indians and the Canadian State*, (Toronto: University of Toronto Press, 1984), xiv.

Moreover, the federal government had claimed that if Aboriginal people wanted self-government they must be willing to accept a limited, delegated form. This usually meant simply taking over from the federal government the role of service administrator.

However, many Aboriginal communities do not believe that control over service delivery is enough to meet their aspirations for self-government. They want to be able to have the authority to determine the substance of any programs that they are delivering to their people.³² It is at this level of control that Aboriginal peoples believe they will make the most progress for their communities.

An Opportunity for Federalism

Therefore, federalism is often proposed as a way in which to deal with Aboriginal difficulties. The federal division of powers would provide Aboriginal communities with the necessary amount of autonomy for self-government.³³ Federalism would also allow Aboriginal people the opportunity to have local control while still benefiting from being part of a larger entity. However, it is unlikely that the federal system would be able to incorporate an extensive number of Aboriginal self-governing communities. The sheer abundance of Aboriginal self-governing units alone would seriously curtail their ability to interact effectively with the federal and provincial governments. Thus, it is apparent that a peak Aboriginal organization would be necessary in order to facilitate communication between the various levels of government. In essence, it would provide Aboriginal peoples with a mechanism for managing their interdependence.

³² Isaac, Aboriginal Law, 349.

³³ Samuel V. LaSelva, The Moral Foundations of Canadian Federalism: Paradoxes, Achievements, and Tragedies of Nationhood, (Montreal: McGill-Queen's University Press, 1996), 142.

The Familiar Nature of a Peak Aboriginal Organization

It is significant to acknowledge the fact that a peak Aboriginal organization would not be something foreign or imposed upon Aboriginal peoples. Aboriginal people have a long history with "multi-level structures of governance."³⁴ Indeed, a number of Aboriginal nations were traditionally members of Federations and Confederacies.³⁵ These pan-Aboriginal associations were established in such a way that individual Aboriginal nations could accommodate their diversity while still benefiting from increased interdependence. This is essentially why many modern Aboriginal political organizations have a pan-Aboriginal dimension to them. It comes from the realization that, although in principle primary authority can rest with the local community government, in practice many of the powers and responsibilities would have to be exercised at higher levels.³⁶ In most cases these higher levels are governing bodies that represent an entire nation, treaty group, region or province. Consequently, it makes sense to assume that most Aboriginal people in Canada would be at least capable, if not willing, to unite under the cover of a peak organization.

The Necessity of Uniting

Without a peak Aboriginal organization in the country, it is unlikely that Aboriginal people will be able to accomplish what they want from self-government. This

³⁴ RCAP, Vol. 2, 159.

³⁵ Ibid.

³⁶ Ibid., 158.

is due to the fact that the various Aboriginal communities do not have access to identical resources:

Resources consist of the physical means of acting - not only financial, economic and natural resources for security and future growth, but information and technology as well as human resources in the form of skilled and healthy people. Resources are necessary to exercise governmental power and to satisfy the needs and expectations of citizens.³⁷

Thus, Aboriginal people cannot expect that all of their self-governing communities will be suited to take on alone the additional responsibilities of self-government. However, a peak Aboriginal organization could ensure that resources were dispersed in such a manner as to support those Aboriginal groups that may need additional assistance. In this way, problems such as a lack of experience in a certain sector, or a shortage in skilled labour could largely be avoided.³⁸

There are some Aboriginal bands that believe that they could survive in isolation. In order to do this these bands would need not only to have large land bases and large populations, but also all of the other resources that are fundamental to self-government.³⁹ They would also need to be able to seal themselves off from the rest of the world. However, "no government is an island unto itself."⁴⁰ Any self-governing community that wants to exercise real powers must first realize that this is one of its main limitations. As

³⁷ Ibid., 164.

³⁸ J. Rick Ponting and Roger Gibbins, "Thorns in the Bed of Roses: A Socio-political View of the Problems of Indian Government," Pathways to Self-Determination: Canadian Indians and the Canadian State, eds. Leroy Little Bear, Menno Boldt, and J. Anthony Long, (Toronto: University of Toronto Press, 1984), 125.

³⁹ Ibid., 165.

⁴⁰ Peter W. Hogg and Mary Ellen Turpel, "Implementing Aboriginal Self-Government: Constitutional and Jurisdictional Issues," Aboriginal Self-Government Legal and Constitutional Issues, ed. Royal Commission on Aboriginal Peoples, (Ottawa: Minister of Supply and Services Canada, 1995), 396.

such, it is to a self-governing community's benefit to develop "an extensive network of relationships."⁴¹ A peak Aboriginal organization would essentially establish those connections for the individual communities. It would ensure that these self-governing units could communicate with one another and the federal and provincial governments.

It would be naive to think that Aboriginal people will be able to consolidate their efforts without encountering any obstacles. There will likely be numerous difficulties and disagreements resulting from the fact that Aboriginal people are not a homogeneous group. Still, the Canadian population is just as diverse a society as the Aboriginal community, yet Canada has discovered that there are benefits to being united. Actually, Canada emerged because the individual provinces realized that they shared some common interests and could not attain these goals without each other's assistance. But, while there was a willingness to concede some sovereignty, the provinces were not inclined to relinquish all of their authority to act independently.

Thus, Canadians decided to form a political union whereby a central government would be responsible for common interests and the provincial governments would retain control over regional matters. In other words, federalism was selected as the manner by which the country's diversity could be reconciled with unity.⁴² It did not take long for the federal system to become a firmly entrenched institution in the country. It is now a political institution that Aboriginal peoples will be unable to ignore and one in which

⁴¹ Ibid.

⁴² International Legal Materials, Supreme Court of Canada: Reference Re Secession of Quebec [August 20, 1998] (v. 37, n. 6 (1998): pp. 1340-1377), 1356.

self-government will continue to exist. However, it is not apparent that federalism will be a constraint on Aboriginal peoples. It appears as though the federal system would be of benefit to the Aboriginal population. Certainly, there are key differences between Aboriginal and non-Aboriginal Canadians, but ultimately, they do share many of the same problems. Several of these issues emanate from the reality that both populations are distributed over an expansive territory. Therefore, we must remember that federalism was selected for Canada as a way to preserve our regional distinctions while allowing for increased interaction. It appears as though it would be appropriate in the Aboriginal situation as well.

Sensible Self-Government

Aboriginal peoples must be realistic in their aspirations for self-government. They can do this by recognizing "that self-government does not occur in a political vacuum."⁴³ Despite their scope, Aboriginal self-governing communities will continue to be part of the Canadian political system. As such, Aboriginal peoples must be willing to appreciate that Canada has an existing political structure that cannot be ignored. This is not to suggest that changes cannot be made to the governmental order of the country; it merely indicates that self-government will be somewhat confined by its environment. Thus, Aboriginal governments will need to fit into the existing structure not only on account of non-Aboriginals being fairly hostile towards the idea of radically altering their system, but also because changing the country's political institutions may not be appropriate. Indeed, one of the advantages of the federal system is the fact that it can be

⁴³ Hogg and Turpel, "Implementing Aboriginal Self-Government," 397.

adapted and modified so as to incorporate Aboriginal governments into this complex network of intergovernmental relationships without much difficulty.⁴⁴ Currently, jurisdiction is divided between the federal and provincial governments, with some areas of overlap. One can imagine an Aboriginal government being included in some sort of restructuring of the divisions of responsibilities.⁴⁵

Working Together is a Must

Although self-government is primarily an Aboriginal initiative, its success largely depends on what the governments of Canada do. If Aboriginal peoples are to exercise self-governing powers within the country's federal system, then the federal and provincial governments must provide space for this to happen.⁴⁶ There must be an opportunity and a willingness for both Aboriginal and non-Aboriginal governments to make compromises and concessions. There must also be an awareness that we are not talking about "the existence of solitudes, but the necessity of mutual respect and cooperation between Aboriginals and other Canadians."⁴⁷ Therefore, Aboriginal self-governing units will ultimately need the help of the provinces and the federal government in order to be able to meet the needs of their citizens.⁴⁸ Without that assistance, Aboriginal self-government will not live up to its potential.

⁴⁴ Ibid.

⁴⁵ Erasmus and Sanders, "Canadian History," 11.

⁴⁶ RCAP, Vol. 2, 5.

⁴⁷ LaSelva, Moral Foundations, 142.

⁴⁸ Ovide Mercredi, and Mary Ellen Turpel, In The Rapids: Navigating the Future of First Nations, (Toronto: Penguin Books Canada Ltd., 1993), 131.

Although Aboriginal self-government has the ability to give Aboriginal people the necessary freedom to be truly self-determining, it also "has the capacity to dissolve [the] moral and political ties between Aboriginals and other citizens."⁴⁹ If Aboriginal self-government simply focuses on the differences between Aboriginals and non-Aboriginals, there will hardly be any reason for the two groups to seek out a partnership. However, if both orders of government spend as much attention on areas of shared rule as they do on self-rule, then an intimate relationship will presumably develop.⁵⁰ This type of association would tend to encourage the various governments to work together in the pursuit of common goals.⁵¹ Aboriginals and non-Aboriginals would afterwards become accustomed to constructing political arrangements that were mutually advantageous.

Of course, if Aboriginal self-governments are successfully incorporated into Canadian federalism under a peak Aboriginal organization, it will provide Aboriginal people with an additional level of government. That is another reason why federalism is an attractive option for Aboriginal self-determination. Not only does the political system allow for sufficient local autonomy and increased interdependence, it also permits there to be "overlapping sovereignties."⁵² Essentially this means that the federal government, provincial governments, and Aboriginal governments can exercise sovereign powers over the same territory and the same people, but in different jurisdictions. The outcome would be that Aboriginal people would not have to choose between being an Aboriginal and

⁴⁹ LaSelva, *Moral Foundations*, 137.

⁵⁰ RCAP, *Vol. 2*, 374.

⁵¹ Hogg and Turpel, "Implementing Aboriginal Self-Government," 396.

⁵² Fleras, "The Politics of Jurisdiction," 166.

being a Canadian; they could be both.⁵³ In addition, they would no longer have to distance themselves from the provinces.

Provincial Involvement

Aboriginal people have often shown a considerable reluctance and, in some instances, outright opposition to having the various provinces involved in self-government initiatives.⁵⁴ Much of this hostility towards provincial involvement in self-government arrangements originates from the fact that the federal government often tried to offload its Aboriginal responsibilities onto the provinces. Although at times the federal government simply wanted to transfer a jurisdictional sector to make things easier for the Aboriginal population, on other occasions it was obviously trying to assimilate the Aboriginals and deny them their Aboriginal and treaty rights:

[Thus, even though Aboriginal peoples] desperately need and want the economic, technical, and administrative assistance that the provinces have to offer, they know that acceptance of such assistance means more intrusion into their affairs by the provinces. They also fear that increased involvement with and by the provinces, especially in the process of defining aboriginal rights, will jeopardize the historic trust-relationship that Indians hold with the federal government. It could undermine their special status under section 91 (24) of the Constitution Act.⁵⁵

⁵³ H.B. Hawthorn ed., A Survey of the Contemporary Indians of Canada, Vol. 1, (Ottawa: Queen's Printer, 1966), 347, Provides a discussion of how federalism allows for the same citizens to be members of more than one government at the same time.

⁵⁴ Ian B. Cowie, Future Issues of Jurisdiction and Coordination Between Aboriginal and Non-Aboriginal Governments, (Kingston: Institute of Intergovernmental Relations, 1987), 22.

⁵⁵ Leroy Little Bear, Menno Boldt, and J. Anthony Long, eds, "Indian Government and the Constitution," Pathways to Self-Determination: Canadian Indians and the Canadian State, (Toronto: University of Toronto Press, 1984), 177.

As such, any active participation by the provinces in self-government may be viewed with suspicion. The Aboriginal population does not know whether or not it can rely on the provincial governments to act in a trustworthy manner.

However, it is becoming increasingly difficult for Aboriginal peoples to avoid contact with provincial governments. It is evident that many of the provinces are now involved in service delivery to Aboriginal peoples.⁵⁶ With Aboriginals being increasingly interested in areas such as education, the administration of justice, economic development, employment and social services, it seems clear that cooperation with the provinces and territories can no longer be avoided.⁵⁷ Since there are also several areas of jurisdiction under both federal and provincial control, the likelihood of having to deal with the provinces at some point in time has become a reality. In other words, times have changed and Aboriginal self-government must adapt to the current situations.

Traditions Change

Nonetheless, there are bound to be people who will criticize Aboriginal self-government for exactly this reason. Aboriginal nationalist writers such as Gerald Alfred (Taiaiake) and Patricia Monture-Angus, for instance, do not support self-government initiatives that deviate from consensual decision-making.⁵⁸ They want a form of Aboriginal government that operates solely in accordance with their traditional principles

⁵⁶ Cowie, *Future Issues*, ix.

⁵⁷ *Ibid.*, 22.

⁵⁸ Gerald Alfred (Taiaiake), *Peace, Power, Righteousness: An Indigenous Manifesto*, (Don Mills: Oxford University Press, 1999), 28; and Patricia Monture-Angus, *Journeying Forward: Dreaming First Nation Independence*, (Halifax: Fernwood Publishing, 1999), 14-15.

and customs.⁵⁹ In their opinion, Aboriginal self-government is not an effective mechanism for Aboriginal peoples unless it adheres to a strict conventional base. For that purpose, they will likely denounce any apparent deviations from the traditional model. However, Aboriginal people "do not need to replicate the customs of bygone ages to stay in touch with their traditions, just as Parliament does not need to observe all the practices of eighteenth-century Westminster in order to honour the parliamentary tradition."⁶⁰ Aboriginal traditions are not composed of static practices and institutions that are incapable of evolving, but rather are made up of changing attitudes and practices.⁶¹ Thus, Aboriginal self-government can be adapted and modified in order to deal with emerging demands.

Therefore, even though Aboriginal self-government is essentially a way for Aboriginal peoples to reclaim their sovereignty, they must be willing to compromise some of that autonomy. Indeed, in a way it is strange that Aboriginal Canadians have been progressively marching towards sovereignty at a time when the rest of the world has been retreating from it. This departure from independence is primarily due to the belief that in order to protect one's sovereignty one must be willing to relinquish some of it. However, the Aboriginal population looks at compromises to sovereignty with great scepticism. Presumably, Aboriginal people hold the notion of sovereignty so high because it has been such a hard fight for them to get people to recognize that they have it

⁵⁹ Little Bear, Boldt, and Long, "Introduction," xvi.

⁶⁰ RCAP, Vol. 2, 117.

⁶¹ *Ibid.*, 116-17.

in the first place. Yet, Aboriginals, too, must recognize that even though they "are distinct members of Canada,... they also share a factual and moral interdependency with other Canadians."⁶²

[In addition, Aboriginal] governments would not be cut off or isolated from federal, provincial or municipal governments. As a practical matter, all governments have to coordinate their efforts and their respective jurisdictions. The image that some critics may have created of a "Swiss Cheese" Canada with pockets of independent republics is far-fetched and destructive. People have to live and work together within agreed upon terms.⁶³

Relations between the various levels of government are inevitable. As such, there needs to be a mechanism in place that encourages a fruitful relationship to develop. Federalism could work. By definition, it allows for local autonomy, yet secures the benefits of interdependence.

Conclusion

Although federalism provides the necessary conditions for sovereignty and interdependence to exist, it is not capable of effectively managing an extensive number of Aboriginal governments. Therefore, a peak Aboriginal organization must emerge in order to give the Aboriginal population a way in which to access the existing system. This organization would have to be able to bridge the communication gap among the various Aboriginal governments, and also between the federal and provincial governments. It appears that this mechanism would be able to accomplish that goal. In fact, it is evident that a peak Aboriginal organization is the most viable way in which

⁶² LaSelva, Moral Foundations, 152.

⁶³ Mercredi and Turpel, In the Rapids, 108.

Aboriginals will be able to achieve a form of self-government that is in accordance with their expectations within Canada.

CHAPTER THREE

Assessing the Potential of the Assembly of First Nations

Although it is apparent that a peak Aboriginal organization will be necessary in order to facilitate communication between the various levels of government, what is not known is whether an existing Aboriginal political organization can be adapted to take on this role. Thus, it is evident that a thorough examination of several national Aboriginal associations should be conducted. These existing organizations will need to be evaluated for their representative capacity and their mediating potential. This analysis would require an in-depth investigation of the most prominent pan-association, the Assembly of First Nations (AFN) and its main predecessor the National Indian Brotherhood (NIB).

Establishing Aboriginal Organizations

Before focusing primarily on the specific characteristics of the NIB and the AFN, it is necessary to look at Aboriginal political organizations in a broader sense. There are typically three main categories of associations involved in Aboriginal politics. They have been classified as band, local/regional, and pan-Aboriginal.⁶⁴ While at present there are several organizations to be found at each level, this was not always the case. The 1966 Hawthorne Report found that in the first half of the twentieth century, "numerous factors militated against the establishment of Indian organizations at any level above that of the band."⁶⁵ Of course, that does not mean that the Aboriginal peoples of Canada did not try

⁶⁴ Frideres, Aboriginal Peoples in Canada, 264.

⁶⁵ J. Rick Ponting and Roger Gibbins, Out of Irrelevance: A Socio-Political Introduction to Indian Affairs in Canada, (Toronto: Butterworth and Company, 1980), 196.

to establish some sort of national Aboriginal lobby group. Indeed, the League of Indians emerged in 1919 despite the adverse conditions and hostile opposition.⁶⁶ Although the League was not a particularly successful organization, it did provide the necessary foundation for future associations to build on.

One of the primary objectives of the League of Indians was to begin to break down the barriers that stood between the various Aboriginal bands. It tried to "emphasize the values and beliefs central to the culture of Canadian Aboriginals, regardless of local band differences."⁶⁷ The League basically encouraged band members to discover that a world existed beyond the boundaries of their own reserves.⁶⁸ It wanted to convince the individual Aboriginal bands that they all faced the same difficulties regardless of their membership or where they were located. In essence, the League was suggesting that in order to achieve their goals, the local Aboriginal populations should quit acting independently from one another and unite. Eventually, more and more Aboriginals heard this message and Aboriginal political organizations became increasingly common. From a relatively small number only a few years ago, they have expanded exponentially. There are currently well over one hundred Aboriginal-run political and lobby groups operating in the country.⁶⁹

⁶⁶ Peter Kulchyski, " 'A Considerable Unrest': F.O. Loft and the League of Indians," Native Studies Review (4, n. 1&2 (1988): pp. 95-117), 96.

⁶⁷ Frideres, Aboriginal Peoples in Canada, 286.

⁶⁸ Harold Cardinal, The Unjust Society, (Edmonton: M.G. Hurtig, 1969), 99.

⁶⁹ Joe Sawchuk, The Dynamics of Native Politics: The Alberta Metis Experience, (Saskatoon: Purich Publishing, 1998), 28.

Representation

Although there are now an extensive number of Aboriginal political organizations, there are still only a few that are representative of significant portions of the Aboriginal population. Of course, there is tremendous disagreement over what constitutes a representative organization. Often an Aboriginal association is deemed representative as long as it appears "to represent the views, needs and aspirations of its constituency to the government and the public."⁷⁰ This type of group thrives by bringing forward issues that are of general concern. Meanwhile, another way an Aboriginal group is seen to be representative is by its degree of responsiveness. In other words, the organization must be understood as meeting "the needs and demands of its constituency by providing services" that are required by its citizenry.⁷¹ Yet, some people believe that an Aboriginal organization can only be truly representative when its members accurately reflect the social make-up of the community.⁷² This type of mirror representation is obviously the most difficult to achieve at a national scale. Only a few organizations ever realize this aspect of representation. As a result, it continues to be one of the most frequently cited deficiencies of any Aboriginal coalition.

Although representative questions such as these ultimately ended up undermining the League of Indians, it was not long before additional attempts were made to establish a

⁷⁰ Sally M. Weaver, "Political Representivity and Indigenous Minorities in Canada and Australia," Indigenous Peoples and the Nation-State: Forth World Politics in Canada, Australia and Norway, ed. Noel Dyck, (St. John's: Institute of Social and Economic Research Memorial University of Newfoundland, 1985), 114.

⁷¹ Ibid.

⁷² Ibid.

national voice for Aboriginal concerns. By 1944, the North American Indian Brotherhood emerged, a relatively weak affiliation that would fall victim to internal strife after only a few short years.⁷³ It was followed, however, by a larger, more inclusive association that called itself the National Indian Council (NIC). While the NIC was formed in 1954, it did not become the official organization for both status and non-status Indians until 1961.⁷⁴ Regardless, the fact that the NIC membership was made up of a mixture of Indians with and without status eventually led to problems. Status Indians, believing that the organization was dominated by the non-status component, aspired to establish a national association for themselves.⁷⁵ Nonetheless, the decision to divide was mutual. Both parties recognized that they were hampered by the practical consideration that the Metis and non-status Indians were under provincial jurisdiction while status Indians were a federal responsibility.⁷⁶

The Birth of NIB

By 1968 the NIC had split into two organizations: the National Indian Brotherhood for status Indians and the Canadian Metis Society for non-status Indians.⁷⁷ While the activities of the Canadian Metis Society had some significance, they were most definitely overshadowed by the actions of the NIB. Indeed, almost instantly the NIB

⁷³ Frideres, Aboriginal Peoples in Canada, 266.

⁷⁴ William I. C. Wuttunee, Ruffled Feathers: Indians in Canadian Society, (Calgary, Bell Books Ltd., 1971), 19.

⁷⁵ Ponting and Gibbins, Out of Irrelevance, 198.

⁷⁶ Ibid.

⁷⁷ Frideres, Aboriginal Peoples in Canada, 266.

emerged as a legitimate national voice for status Indians. Much of this success had to do with what was happening in federal politics at the time. Shortly after the NIB had been established, the Liberal government introduced its 1969 White Paper on Indian Policies. Clearly, the NIB was at the right place at the right time. By responding to the 1969 White Paper, the NIB was immediately placed into a position of power. As such, it found itself being supported by the various provincial and territorial organizations (PTOs), which allowed it to mount an effective attack against the federal government's assimilation initiative.

Convincing the Liberal government not to implement its controversial policy proposals on Aboriginal rights was a major accomplishment. Perhaps even more important was the fact that the coalition that resulted from the White Paper gave the NIB a substantial support base.⁷⁸ However, this support came largely from the PTOs rather than from the Indian people directly. As a result, the NIB was beginning to take the form of a peak organization as it was primarily made up of other organizations.⁷⁹ While this unusual characteristic made the NIB a powerful force, it could only continue to be influential as long as all of its component organizations remained supportive of it. Since each of the PTOs was a unique structure with its own beliefs and values, the NIB could not count on all of them to remain in agreement. Likewise, because the PTOs often pursued different goals, they could sometimes become exceedingly competitive and even

⁷⁸ Ibid., 290.

⁷⁹ Ibid., 270.

distrustful of each other.⁸⁰ Whenever this type of behaviour would occur, it would make the NIB appear fragmented and not in control.

The federal government relied on this PTO dissension to discredit the actions of the NIB when it saw fit. However, the government still realized that it needed to consult with a national Aboriginal body. Thus, it was reluctant to totally dismiss the NIB, instead preferring to recognize the representative nature of the NIB whenever it appeared to be of benefit to the government.⁸¹ Therefore, the representative attribute of Aboriginal organizations seems to be "a political resource which governments can assign and withdraw from native organizations to serve their own interests."⁸² This was something that the federal government had tended to do with the NIB on a rather frequent basis. Depending upon the circumstances, the federal government would deal with the NIB one day and question its validity the next.

Opportunity Gained, Opportunity Lost

Still, since the NIB was able to endure the government challenges to its legitimacy, it demanded that the federal government begin to consult with it on relevant policies and programs.⁸³ Although the federal government was hesitant to allow the NIB to take a more active role in policy formation, it eventually conceded the issue. Thus, the Joint NIB/Cabinet Committee (JNCC, 1974-78) was established, and the opportunity emerged for status Indians to gain an unprecedented form of access to the upper levels of the

⁸⁰ Weaver, "Political Representivity and Indigenous Minorities," 128-29.

⁸¹ Ibid., 129.

⁸² Ibid., 144.

⁸³ Ibid., 127.

federal government.⁸⁴ In a sense, by inviting the NIB to participate in the JNCC the federal government formally acknowledged that this organization was authorized to act on behalf of the status Indian community.⁸⁵ Yet, even though this rare opportunity presented itself to status Indians, history proves that the NIB was far from successful in utilizing it. The NIB leaders had simply "not yet formulated clear policy positions in certain key areas and therefore in this respect were not yet ready for JNCC."⁸⁶

This was largely a result of the youth of the NIB. As a political association just starting out, the NIB leadership had to spend much of its time laying the groundwork for the organization. Not only did the NIB have to formulate a constitution to which all PTOs could agree, it also had to establish basic relations with the PTOs, co-ordinate the endeavours of PTOs so that they would not continue to undermine each other, and raise funds.⁸⁷ So much of the NIB's time and energy were spent on these tasks that the organization was not able to offer the JNCC enough attention. In part, this came from the message that the constituents were sending the NIB. The status Indian community wanted the NIB to be more directly involved with the individual bands and not be so closely associated with the federal government. As a result, the NIB followed suit. It

⁸⁴ Ponting and Gibbins, Out of Irrelevance, 204.

⁸⁵ Weaver, "Political Representivity and Indigenous Minorities," 128.

⁸⁶ Ponting and Gibbins, Out of Irrelevance, 206.

⁸⁷ *Ibid.*, 199.

ensured that its "priorities revolved around the internal development of Indian communities and organizations, rather than around relations with government."⁸⁸

Therefore, even though the JNCC gave the NIB the freedom to by-pass to a certain degree the Department of Indian Affairs bureaucracy and converse directly with other ministers, the Indian leaders chose not to utilize it.⁸⁹ They did not fully realize the position that they were in. By being part of the JNCC the "NIB was not merely standing outside government, sniping in a wholly negativistic way at objectionable features of government programs. Instead it had achieved penetration - of considerable scope and depth - right into government itself."⁹⁰ However, the NIB was concerned that the federal government was trying to use the JNCC to shape the organization's agenda. At times the NIB felt overburdened with requests and found itself becoming increasingly reactive to the federal government's priorities and timetables rather than working to advance its own goals.⁹¹ The association could not handle the additional workload and still pursue its own initiatives. As a result, on April 13, 1978 the NIB announced that its Executive Council had voted to withdraw from the JNCC.⁹² It had decided to examine its own structure and deal with the concerns in that regard.

⁸⁸ Ibid., 206.

⁸⁹ Peter McFarlane, "Aboriginal Leadership," *Visions of the Heart: Canadian Aboriginal Issues*, eds. David Alan Long and Olive Patricia Dickason, (Toronto: Harcourt Brace and Company Canada, 1996), 139.

⁹⁰ Ponting and Gibbins, *Out of Irrelevance*, 207.

⁹¹ Weaver, "Political Representivity and Indigenous Minorities," 127.

⁹² Ponting and Gibbins, *Out of Irrelevance*, 212.

Problems Begin to Mount

What the NIB found was that it was beset by many problems. Years of internal bickering and regional segregation had to be dealt with if the NIB was ever going to be successful. It was especially necessary for them to deal with the fact that the NIB was rarely able to count on the support of all of the various PTOs. Since the members of the NIB were first and foremost members of provincial and territorial organizations, it is not surprising that the NIB would suffer from regional dissension.⁹³ Furthermore, many of the PTOs were rather effective organizations with more direct grassroots support than the NIB.⁹⁴ As such, the NIB could not necessarily claim to know more about what the average status Indian wanted than these PTOs. The NIB was not in complete control of its direction. In addition, by attempting to secure Aboriginal support across the country it was becoming apparent that the NIB leaders were beginning to lose touch with their home communities.

Besides these representation questions, the NIB obviously had a funding problem. It was evident that the NIB spent much of its initial time on fundraising. Inevitably, the Brotherhood was forced to become financially dependent upon the very government it was attempting to influence and change. As such, it was no longer necessary for the NIB to solicit funds with as much vigour, but it became rather important for the organization to justify its expenditures.⁹⁵ Also, the NIB found that it increasingly had to comply with

⁹³ Sawchuk, *The Dynamics of Native Politics*, 48.

⁹⁴ Weaver, "Political Representivity and Indigenous Minorities," 128.

⁹⁵ Ponting and Gibbins, *Out of Irrelevance*, 226.

what the government demanded or else suffer financial repercussions. For instance, when the NIB withdrew from JNCC, the federal government felt that the NIB was trying to embarrass it so it decided to cut off a substantial amount of funds from the Indian organization. The NIB's decision to ease its criticism of the government proves that it was susceptible to this type of fiscal coercion.⁹⁶

Another Kick at the Can

In light of all these complaints that the Brotherhood was not truly representative of or accountable to the status Indian population, the NIB decided to reconstruct itself. Thus, in 1982, the NIB changed both its structure and its name and became the Assembly of First Nations (AFN).⁹⁷ This alteration was an attempt to rebuild the organization's integrity and legitimacy. Therefore, the NIB wanted to make the modifications appear to be more significant than just a simple name change. As such, the Indian leaders sought to tackle head on some of the major issues that the NIB had to deal with. The first item on the AFN's list of priorities was to change its membership base. Instead of being composed of provincial organizations, the Assembly of First Nations would be based on direct involvement of Indian bands.⁹⁸ It was hoped that bypassing the provincial and territorial organizations would give the AFN more cohesion than the NIB could establish. Thus, the AFN transcends provincial boundaries and incorporates the chiefs of individual Indian bands across the country.⁹⁹

⁹⁶ Ibid.

⁹⁷ McFarlane, "Aboriginal Leadership," 141.

⁹⁸ Ibid.

⁹⁹ Sawchuk, The Dynamics of Native Politics, 162.

This move has not been completely successful. Although the inclusion of chiefs and band councils in the AFN has increased the organization's relationship with the individual Aboriginal communities, it has not removed the regional divisions. Chiefs continue to join together on either the regional or provincial level when they are in disagreement with the AFN, and whole blocs have even walked out to boycott the AFN.¹⁰⁰ Similar to the experiences of the NIB, there are numerous examples of the AFN being both publicly "criticized and undercut by provincial and territorial leaders."¹⁰¹ As a result, the AFN has to spend a considerable amount of its time assuring the government that it has the authority to deal on behalf of the status Indian population. Although the government recognized the AFN's authority by providing it with a seat at the various First Ministers' meetings in the 1980s, and by dealing with it in regards to the 1992 Charlottetown Accord, occasionally it chooses to deal directly with either local or regional leaders.

Even though the regional divide is far from being resolved, it is apparent that the AFN has strengthened its connection to the individual Aboriginal communities. These Indian bands now have a role in the operation of the national organization through their elected chiefs. Of course, there is some criticism over this move. Certain Aboriginal leaders have accused the AFN of embracing an imposed system of government. These leaders claim that the AFN does not provide valid representation because it accepts the chief and band council system which the federal government introduced to the reserves.

¹⁰⁰ Ibid., 48.

¹⁰¹ Ibid., 34.

However, some of these accusations can be dismissed on the basis that they frequently come from PTOs, which do not have "such direct linkages themselves."¹⁰² Thus, these provincial Aboriginal associations may believe that by going directly to the status Indian population, the AFN is eroding their support base. As a result, they attack the AFN because they do not want to appear as unrepresentative bodies.

Funding Woes Continue

One problem that the NIB was not able to surmount by transforming itself into the AFN has been its reliance on federal government funding. In fact, over the years, the government has used its financial powers to tighten its control over all Aboriginal organizations. It began by encouraging more organizations to apply for government money so that the funds would be disbursed among them.¹⁰³ The various organizations soon found that rather than supporting each other they were competing against one another for the same funds. They also discovered that they had become heavily dependent on the federal government for financial support. Now, many of these organizations realize that they basically exist at the mercy of the government. Not only can the government remove its own financial backing from the individual associations, "it can also co-opt the loyalties of Aboriginal leaders or define an organization as radical in order to reduce the chances of private financing and support."¹⁰⁴ It also has the ability to either offer or withhold information that is essential for effective program planning and

¹⁰² Ponting and Gibbins, Out of Irrelevance, 241.

¹⁰³ Harold Cardinal, The Rebirth of Canada's Indians, (Edmonton: Hurtig Publishers, 1977), 179.

¹⁰⁴ Frideres, Aboriginal Peoples in Canada, 288.

operations.¹⁰⁵ This has caused many Aboriginal organizations, including the AFN, to be more considerate of the federal government when they are devising their course of actions.

The Potential Still Exists

Thus, after all of this the question remains, can the AFN take on the role of a peak Aboriginal organization capable of bridging the communication gap among the various self-governing communities and allow for a more effective relationship with the federal and provincial governments? The answer most definitely is yes. However, the Assembly of First Nations has a way to go before it is prepared for the task. First of all, it must be able to maintain its connection with Aboriginal communities. This is easier said than done. Organizations such as the AFN discover that they have to keep "attuned to the grass roots in whose interests they are supposed to be acting, but...often find themselves working on a plane that is not well understood at the grass roots level."¹⁰⁶ As such, the AFN will have to ensure that it continues to promote the interests of its constituents to the government, while informing the status Indian community that it must have some authority to negotiate on their behalf. Any organization that is "lacking the flexibility and the pragmatism to wheel and deal, to bargain, to lose today so that they can win tomorrow, is severely handicapped within the political process."¹⁰⁷

¹⁰⁵ Ibid.

¹⁰⁶ Ponting and Gibbins, Out of Irrelevance, 241.

¹⁰⁷ Ibid., 257.

Certainly this is a power that Aboriginal peoples in Canada have been reluctant to grant to their political organizations. They argue that their rights are non-negotiable. However, this has seriously impeded associations such as the AFN. Any organization without the ability to deliver their members' support for a deal made on their behalf would not be able to negotiate meaningful intergovernmental agreements.¹⁰⁸ This is reflected in the defeat of the Charlottetown Accord. While some Aboriginal peoples had approved of the accord, many others either did not vote or else outright rejected it.¹⁰⁹ The credibility of the AFN suffered when the deal failed to receive the support of many on-reserve Indians as well as several of their regional and provincial leaders, even though both the accord and the entrenchment of the right to self-government were strongly endorsed by the AFN's national chief, Ovide Mercredi.¹¹⁰ Consequently, the AFN appeared to be unaware of what the status Indian community desired and the federal government used this opportunity to resume its practice of dealing with each Aboriginal community separately. Although this has been a major setback for the AFN there is no reason to believe that it will be unable to rebound.

It is imperative that a peak Aboriginal organization be recognized as being capable of speaking for its membership. This is especially necessary when it comes to any sort of intergovernmental negotiations. The organization has to be able to commit its members to the deal that was struck and impose the decisions on to its member

¹⁰⁸ Roger Gibbins, "Citizenship, Political, and Intergovernmental Problems with Indian Self-Government," *Arduous Journey: Canadian Indians and Decolonization*, ed. J. Rick Ponting, (Toronto: McClelland and Stewart, 1986), 373.

¹⁰⁹ Cockerill and Gibbins, "Reluctant Citizens," 386.

organizations. If a peak organization cannot do this, its success will be limited. In essence, both the NIB and later the AFN have had difficulties in this regard. Whenever the NIB tried to impose its decisions on to its membership it found that at least some of the provincial and territorial leaders resisted the decisions. While the AFN does not depend as much on the support of other organizations, it too has suffered from a similar backlash from its membership. The fact that the AFN has not been able to consistently deliver members' support has made the AFN's assertion that it speaks for the status Indian population questionable at times.

Although the AFN was largely created to try to put an end to the regional dissension that frequently occurred in the NIB, it has not been entirely successful. In fact, the AFN has rarely been able to achieve an absolute national consensus. This should hardly be surprising, given all of the regional and cultural differences that have been attributed to the status Indian population of Canada.¹¹¹ Nevertheless, this regional conflict is often alluded to as a reason why the AFN is not a truly national body. Yet regionalism is something that the entire Canadian political system has trouble dealing with.¹¹² The federal government itself has rarely been able to reconcile the regional differences in the country. Therefore, it appears that a double standard is in place with regards to representation.¹¹³ If the rest of the country can operate with occasional regional factions existing, then one cannot be overly critical of the AFN on this account.

¹¹⁰ Sawchuk, *The Dynamics of Native Politics*, 35.

¹¹¹ *Ibid.*, 168.

¹¹² Weaver, "Political Representivity and Indigenous Minorities," 127.

¹¹³ *Ibid.*

While the internal factionalism of the AFN has caused problems for the organization in the past, these divisions are not necessarily insurmountable. As long as the AFN continues to provide its membership with opportunities to engage the political process, it will be able to silence much of its opposition. It is doubtful, however, that the AFN or any national Aboriginal organization will ever be able to completely eliminate regionalism. It is becoming more evident that any organization that attempts to represent such diversity will have to learn to operate with some dissension. Thus, the AFN will have to accept a moderate degree of strife and turn some of its attention to other issues.

One of the things the AFN must do is reduce its dependence upon the federal government and become much more self-sufficient. To begin with, the AFN has to explore other methods of obtaining revenues. A good start would be convincing the federal government to provide it with unconditional grants or transfer payments. Eventually it could move towards collecting funds from self-governing communities or direct taxation of its members. At present, the AFN relies on the federal government for the vast majority of its funds. Consequently it is fairly vulnerable to the type of fiscal control to which the government occasionally resorts.¹¹⁴ If the AFN is to be able to openly criticize the government, it cannot be afraid of losing its financial support. Furthermore, the federal government must not be able restrict the AFN's access to relevant Aboriginal policy information. Again, if the AFN is to have any authority, it must not be worried about being kept in the dark. Instead, it should be the source that the government relies on for its information.

¹¹⁴ Ponting and Gibbins, Out of Irrelevance, 243-44.

Conclusion

It is apparent that governments have trouble dealing with unorganized aspects of society. Accordingly, both the provincial and federal governments frequently seek out organizations that can define and articulate the interests of their people.¹¹⁵ If the AFN is to become a peak Aboriginal organization it must ensure that it continues to be the source to which these governments go in order to address Aboriginal issues. Although this has previously been the case, it "is far from assured...[given the] factional tendencies within its membership and the counter-forces of provincial Indian associations."¹¹⁶ However, if the AFN cannot prove that it speaks on behalf of the national status Indian population, it will not be included in meaningful decision making. This would be harmful to the individual Indian communities, since they cannot hope to participate in intergovernmental relations in any comparable way. Independently they are simply too weak. They need to be part of a peak Aboriginal organization in order to establish a future partnership with the rest of Canada. The AFN could be this organization.

¹¹⁵ Weaver, "Political Representivity and Indigenous Minorities," 144.

¹¹⁶ Little Bear, Boldt, and Long, "Indian Government," 178.

CHAPTER FOUR

Lessons from Australia and New Zealand

As Aboriginal self-government in Canada makes the transition from theory to practice it will inevitably encounter problems. Therefore, it may be beneficial to look to other countries that are currently dealing with similar situations to observe what they have done. In particular, it appears as though Australia and New Zealand may be useful since they, too, are experiencing a resurgence in their Aboriginal self-determination movements. Each of these countries has a distinct history and a unique relationship with their Aboriginal population that will dictate what can be done in their specific case. As a result, it will be necessary to understand each nation's differences when assessing whether or not these international structures would have any validity in Canada. Of course, it should be apparent that there is not one model of Aboriginal self-government that can be transported to all parts of the world. One cannot simply take a country's existing system and impose it on to the others. However, sometimes lessons can be drawn from the experiences in another nation. Thus, although one can assume that Canada's need for a peak Aboriginal organization to foster communication among the various levels of government is not identical to the situation in Australia or New Zealand, perhaps they still have recommendations and warnings that they can offer Canada.

The International Influence

It is not a secret that the international community has influenced domestic Aboriginal policies. The situations in other countries have occasionally served as

models, which Canada has consulted. However, these countries also fulfill another purpose. They are capable of providing a supportive atmosphere for Aboriginal endeavours to emerge. The international community has inspired such substantial changes in government procedures that it has become commonplace for Aboriginal people to look beyond their borders for both encouragement and reassurance.¹¹⁷ "Indeed, Aboriginal nationalism, cultural pride, and the pursuit of self-government would all be much weaker in the absence of supportive messages from the international environment."¹¹⁸ Therefore, Australia and New Zealand may be able to offer Canada guidance through their own experiences and direction through their support.

There is no doubt that Canada, Australia, and New Zealand have differed in their historical relations with their Aboriginal populations. Each country has taken a unique approach in dealing with its indigenous society. Yet, even though all three countries employed different techniques, they were all meant to advance the assimilation of their Aboriginal population. However, because each country went about this in a different manner, there are important distinctions in their current situations. Ignoring these differences would be detrimental to any comparisons made among the countries. Therefore, before lessons can be drawn for Canada from the Australian and New Zealand experiences one must first become familiar with their diverse approaches.

¹¹⁷ McFarlane, "Aboriginal Leadership," 137.

¹¹⁸ Cairns, Citizens Plus, 41.

The Australian Situation

In Australia the initial relationship between the Aboriginal population and the non-Aboriginal society must surely be described as hostile. Unlike the other two countries, where the original inhabitants were considered to be primitive, Aboriginal people in Australia were considered to be "sub-human, with no economic life or political organization."¹¹⁹ They were treated inhumanly and were deprived of their land without any recognition or compensation.¹²⁰ There was no willingness on the part of the Australian government to negotiate treaties, to develop friendly relations, to promote trade alliances, to purchase land, or to engage in any activities that may be deemed as government - to government relations.¹²¹ Even though colonization in Australia began in the 18th century, treaties were not signed, and it was not until the 1920s that the non-Aboriginal community began to establish distinct Aboriginal policies and programs.¹²² This lack of attention directed towards the Aboriginal population can be attributed to the federal government wishing to avoid responsibility for Aboriginal concerns. Instead, Aboriginal affairs were left entirely to the states, whose policies

¹¹⁹ Jean-Francois Tremblay and Pierre-Gerlier Forest, Aboriginal Peoples and Self-Determination: A Few Aspects of Government Policy in Four Selected Countries, (Quebec: Secretariat aux Affaires Autochtones, 1993), 29.

¹²⁰ Andrew Armitage, Comparing the Policy of Aboriginal Assimilation: Australia, Canada, and New Zealand, (Vancouver: UBC Press, 1995), 188.

¹²¹ Bradford W. Morse, Aboriginal Self-Government in Australia and Canada, (Kingston: Queens University Institute of Intergovernment Relations, 1986), 7.

¹²² Walter Rudnicki and Harold Dyck, "The Government of Aboriginal Peoples in Other Countries," Arduous Journey: Canadian Indians and Decolonization, ed. J.Rick Ponting, (Toronto: McClelland and Stewart Ltd., 1986), 386.

basically amounted to some arrangements for welfare and community services, and essentially assimilation.¹²³

Since the individual Australian states were understood to have jurisdiction over the Aboriginal peoples of the country, there is a wide array of Australian Aboriginal policy. The regional government responsibility for relations with Aboriginal peoples had essentially prevented a uniform Aboriginal policy for the entire country from developing. Policy would emerge and change, according to the circumstances of the day and the leaders that were in power.¹²⁴ This basically remained the case in Australia until 1967. That year the vast majority of Australians approved a referendum proposal to grant the federal government shared responsibility for Aboriginal affairs with the states.¹²⁵ In response to the considerable endorsement given to the referendum, the government of Australia passed the Constitution Alteration (Aboriginals) Bill. While the Bill did not prevent the states from passing laws with respect to Aboriginal affairs, it did grant the federal government the authority to legislate in this area as well.¹²⁶ Thus, the present constitutional situation in Australia has developed into one of co-operative federalism in that both the states and the federal government have concurrent jurisdiction with regards to Aboriginal peoples.¹²⁷

¹²³ Rudnicki and Dyck, "The Government of Aboriginal Peoples," 386.

¹²⁴ Tremblay and Forest, Aboriginal Peoples and Self-Determination, 31.

¹²⁵ Rudnicki and Dyck, "The Government of Aboriginal Peoples," 386.

¹²⁶ Tremblay and Forest, Aboriginal Peoples and Self-Determination, 31.

¹²⁷ Morse, Aboriginal Self-Government, 23-24.

Although not signing treaties at the time of initial contact has made it difficult for Australian Aboriginals to make claims regarding their rights, the fact that the federal government started developing policies in this area in the late 1960s has been deemed a mixed blessing.¹²⁸ While the federal and state governments are not restricted by historical documents, they must establish working arrangements at a time when blatant assimilation policies are not permitted. On the other hand, although the Aboriginal peoples are able to construct these agreements under the watchful eye of a sympathetic international community, they must willingly concede certain issues because of current realities. For instance, they must accept that any agreements that are constructed today will be taking place in the wider political system and as a result must not cause adverse effects for the non-Aboriginal Australian population.

The District Land Councils

Following the 1967 Constitution Alteration Bill, the federal government developed an elaborate collection of agencies to deal with the Aboriginal population. To begin with it established a Department of Aboriginal Affairs, a Council for Aboriginal Affairs, and an Aboriginal Development Commission.¹²⁹ However, none of these agencies has been praised as much as the district land councils which were created. These land councils are elected bodies that are run by Aboriginals and have been instituted under both state and federal statutes.¹³⁰ The councils are not only responsible

¹²⁸ *Ibid.*, 15.

¹²⁹ Rudnicki and Dyck, "The Government of Aboriginal Peoples," 386.

¹³⁰ *Ibid.*, 387.

for managing vast sections of Aboriginal lands but have also begun to perform a substantial role in bureaucratic interaction by providing Aboriginal representation on various government boards, agencies and consultative committees.¹³¹ These district land councils are peak organizations and basically provide a form of Aboriginal self-government in Australia.

Canada can learn something from the Australian experience with land councils. It is true that the "land councils provide Aboriginal peoples with the means to organize their affairs independently of the state government," but they also serve a valuable intergovernmental role.¹³² These associations can actually "serve as a buffer between Aboriginal communities and the larger world, providing a shelter of political expertise and organizational resources."¹³³ In a sense, this is what a Canadian peak Aboriginal organization would be required to do. It would need to assist Aboriginal self-governing communities by providing them with a mechanism for cooperation. Canadians should learn from the Australian situation with land councils and seek to establish a peak organization that can encourage a similar intergovernmental relationship.

Of course, over the years many people have argued that these land councils are not actually Aboriginal governments, but merely land companies.¹³⁴ Certainly there is some truth to this assertion. While the councils are authorized to represent the local

¹³¹ Roger Gibbins, Federalism in the Northern Territory: Statehood and Aboriginal Political Development, (Darwin: Australian National University North Australia Research Unit, 1988), 124.

¹³² Armitage, Comparing the Policy of Aboriginal Assimilation, 21.

¹³³ Gibbins, Federalism in the Northern Territory, 125.

¹³⁴ Morse, Aboriginal Self-Government, 82.

citizens, administer their land, negotiate economic development projects, acquire additional land, and have similar legal powers to a typical corporation, they are not Aboriginal governments.¹³⁵ Despite the range of their jurisdiction, these bodies do not perform legislative duties. Yet, even though their primary function remains land oriented, these councils are also political organizations in that they represent their constituents in relations with the federal, state, territorial and municipal governments.¹³⁶ Therefore, it is apparent that these councils need not be governments to take on the responsibilities of a peak Aboriginal organization and Canada's interest in the Australian land councils should similarly not be diminished.

The Aboriginal and Torres Strait Islander Commission

However, Canada may be able to learn more from another Australian organization, the Aboriginal and Torres Strait Islander Commission (ATSIC). The government of Australia established ATSIC in 1990 as a representative body that would also perform an administrative and funding role.¹³⁷ It currently consists of 35 regional councils which are responsible for electing an 18-member commission board.¹³⁸ Although it was primarily set up to advise the Australian government, it was believed that

¹³⁵ Ibid.

¹³⁶ Ibid.

¹³⁷ David Roberts, "Self-Determination and the Struggle for Aboriginal Equality," Aboriginal Australia: An Introductory Reader in Aboriginal Studies, 2nd ed, eds. Colin Bourke, Eleanor Bourke, and Bill Edwards, (St. Lucia: University of Queensland Press, 1998), 275.

¹³⁸ Australia, Aboriginal and Torres Strait Islander Commission, ATSIC @ a Glance, (December 2000 update, http://www.atsic.gov.au/default_ie.asp).

ATSIC could eventually provide Aborigines and Torres Strait Islanders with the necessary structure for exercising self-determination.

While ATSIC has been applauded for decentralizing a great deal of decision-making authority to the local communities, it has fallen short of its expectations. This is largely due to the fact that "it is still a semi-government body subject to Government policy, funded by the government and accountable to the Minister for Aboriginal Affairs who retains the power to direct the commission."¹³⁹ As such, there is growing concern that ATSIC lacks the necessary independence from the federal government to significantly advance self-determination.¹⁴⁰ This concern has been reiterated by many of the district land councils which insist that ATSIC does not have the authority to speak on behalf of Aborigines or Torres Strait Islanders. The hopes for ATSIC have been even further diminished in recent years as the Australian government drastically reduced ATSIC's budget and began to dictate where most of these funds could be spent.¹⁴¹

Therefore, Canada should be mindful of Australia's experience with ATSIC. An observation of it over the past decade will illustrate many of the problems associated with having substantial government involvement in the formulation of a peak organization. This is not to suggest that ATSIC is useless. It has come to serve a number of roles that have largely been welcomed by the Aboriginal population. However, if Canada is to avoid the pitfalls of ATSIC it must recognize that government involvement carries with it

¹³⁹ Roberts, "Self-Determination and the Struggle," 276.

¹⁴⁰ Max Griffiths, Aboriginal Affairs: A Short History 1788-1995, (Maryborough: Kangaroo Press, 1995), 289.

¹⁴¹ Roberts, "Self-Determination and the Struggle," 276-77.

a considerable price. It not only reduces the independence of an organization such as this but can also bring into question its capacity or authority to act on behalf of its constituency.

The New Zealand Situation

While the study of Australia has been beneficial, an investigation of the situation in New Zealand may help to solidify the analysis on peak Aboriginal organizations. New Zealand has had a rather unique relationship with its Aboriginal Maori population. This relationship has been accompanied with long-standing national agreements that govern certain aspects of Aboriginal affairs.¹⁴² One of the first agreements between the Maori population and the British settlers was the Declaration of Independence of New Zealand. It was signed in 1835 by a number of Maori chiefs and was considered to be a formal statement of Maori sovereignty.¹⁴³ More importantly, it was followed by the 1840 Treaty of Waitangi. Although this treaty bestowed upon the Maori population all of the rights and privileges of British subjects, it transferred sovereignty over New Zealand to the British Crown.¹⁴⁴

Yet, despite the agreements that were made between the Maori and the British in the first half of the 1800s, throughout the 1860s the two groups fought numerous battles over their lands. Nevertheless, these contests were not allowed to escalate past the point

¹⁴² John W. Ekstedt, "Aboriginal Self-Government: Implications of the Australian Experience," Aboriginal Self-Government in Canada: Current Trends and Issues, ed. John H. Hylton, (Saskatoon: Purich Publishing, 1994), 51.

¹⁴³ Tremblay and Forest, Aboriginal Peoples and Self-Determination, 37.

¹⁴⁴ Rudnicki and Dyck, "The Government of Aboriginal Peoples," 383.

where they would hinder their growing interdependence.¹⁴⁵ Instead, some attempts were made to incorporate the Maori into the New Zealand structures of government. Thus, in 1867 four Maori parliamentary seats were set aside (in a parliament that numbered between 83 and 120 seats since then), for Maori candidates and voters.¹⁴⁶ Apparently, this was not an act of altruism as it had little to do with a desire to cooperate with the Maori and had more to do with a recognition that any attempt to exert total British sovereignty would likely be challenged by the Maori.¹⁴⁷

Although the Maori parliamentary seats were unique, they were not exactly unprecedented in New Zealand's history. During the 1860s, gold miners from the South Island and pensioners who lived in Auckland were also offered temporary representation.¹⁴⁸ However, the Maori seats would eventually become a permanent part of New Zealand politics. While Maori legislators look to these seats with hope, many others view Maori inclusion in the New Zealand Parliament as an obstacle to Aboriginal self-government. These critics, which include both Maori and non-Maori citizens, insist that even though these seats have been in existence for over 130 years, Maori representatives have never really been "accorded positions of power in Parliament."¹⁴⁹ Yet, with Maori representation in the New Zealand Parliament the government sees little

¹⁴⁵ Tremblay and Forest, Aboriginal Peoples and Self-Determination, 35.

¹⁴⁶ Rudnicki and Dyck, "The Government of Aboriginal Peoples," 383.

¹⁴⁷ Tremblay and Forest, Aboriginal Peoples and Self-Determination, 37.

¹⁴⁸ Augie Fleras, "Aboriginal Electoral Districts for Canada: Lessons from New Zealand," Aboriginal Peoples and Electoral Reform in Canada, (Toronto: Dundurn Press, 1991), 71.

¹⁴⁹ Rudnicki and Dyck, "The Government of Aboriginal Peoples," 385.

need to try to advance Aboriginal representation elsewhere. It appears as though the guaranteed seats undermine many of the attempts by the Maori to assert their sovereignty.

The Waitangi Tribunal

Still, the Maori people of New Zealand claim that the government did recognize that they had sovereignty by virtue of the Treaty of Waitangi. This treaty is held by the Maori "to represent the contract under which they had agreed to settlement."¹⁵⁰ However, not surprisingly, the government of New Zealand did not assign the document the same authority. The government would not seriously re-evaluate its stance until it passed the Treaty of Waitangi Act of 1975. This Act was a significant advance in that it established the Waitangi Tribunal to listen to Maori grievances, to examine the claims made under the treaty, and to offer recommendations to Parliament for dispute resolution.¹⁵¹ While the Tribunal is not a peak Aboriginal organization, it does encourage an unparalleled level of interaction between the Maori and non-Maori populations and therefore, it still deserves to be analysed for relevant lessons. In particular, the functions that the Waitangi Tribunal performs should be examined, as they may be prerequisites to establishing a peak Aboriginal organization.

The Waitangi Tribunal consists of 16 members and is headed by a chairperson. These individuals adjudicate claims made against the Crown by Maori citizens, on behalf of themselves or groups that they represent. Given that the effects of the decisions may

¹⁵⁰ Armitage, Comparing the Policy of Aboriginal Assimilation, 147.

¹⁵¹ Ibid.

have implications beyond the Maori population, membership in the Tribunal strives to reflect the original partnership of Maori and non-Maori citizens that had formed the basis for the Treaty of Waitangi.¹⁵² To best accomplish this, both groups are awarded equal representation in the hopes of achieving fair dispute resolution. In effect, this composition has instilled both impartiality and credibility to a body which could not operate without them.

Originally, the Tribunal had a rather confined mandate that basically kept it from examining historical infractions. Nevertheless, the restrictions on the Tribunal were eventually reduced and the council was given the freedom to investigate other possible ways of improving Maori and non-Maori relations.¹⁵³ The increase in responsibilities for the Waitangi Tribunal has consequently made the body far less productive. With a reduction in progress, a number of cases have begun to pile up. This overloading has ultimately become the subject of much harsh criticism.¹⁵⁴ Moreover, it has caused a number of people to question the whole notion of a tribunal to resolve these grievances.

Yet, although the Tribunal has been overworked, few could argue that it has not been effective. In fact, the Tribunal has served a function that Canada may want to take note of. It has emerged out of a recognition that "there can be no discussion, let alone agreement, between parties that do not speak the same language."¹⁵⁵ Language in this

¹⁵² New Zealand, Waitangi Tribunal, *Te Rōpu Whakamana i te Tiriti o Waitangi*, (October 2000 Update <http://www.knowledge-basket.co.nz/waitangi/faq.html>).

¹⁵³ Tremblay and Forest, *Aboriginal Peoples and Self-Determination*, 40.

¹⁵⁴ *Ibid.*, 40-41.

¹⁵⁵ *Ibid.*, 43.

context does not mean words per se, but rather means a form of communication. The Waitangi Tribunal has been a device in which the Maori and non-Maori population can communicate with one another. It has been established in order to "bridge the gulf between the 'two solitudes' of New Zealand."¹⁵⁶ As a result, a certain level of communication already exists, making it far more promising for a peak Aboriginal organization to emerge and flourish.

There is no doubt that in this sense the Waitangi Tribunal has been a tremendous success. It has provided Maori and non-Maori people with an opportunity to forge a new relationship and a chance to construct a meaningful dialogue. While the recent criticisms have illustrated that the tribunal has limitations, the flaws should not detract from its value. It remains a useful structure that encourages a discourse where one is most certainly needed. Without the Tribunal, Maori and non-Maori citizens would have to find some other way in which to interact.

Thus, Canada need not adopt a tribunal for resolving past injustices between their Aboriginal and non-Aboriginal societies. In 1991, Canada created an Indian Claims Commission (ICC) that already performs many of the same functions as the Waitangi Tribunal. However, not only is the ICC far more inexperienced than the Tribunal in New Zealand, it also has a weaker mandate. Therefore, it is not yet evident that the ICC will be as successful in facilitating communication as the Tribunal has been. This should not be surprising, since our country has a different foundational relationship with its

¹⁵⁶ Ibid.

Aboriginal population that cannot be ignored. Still, the Waitangi Tribunal provides Canada with an example of an effective link between Aboriginals and non-Aboriginals.

Of course, it is not apparent that the Waitangi Tribunal will continue to be successful for the Maori people. To remain effective, it must preserve its legitimacy, which has been called into question.¹⁵⁷ However, there is a lesson for Canada in this as well. Any peak Aboriginal organization that Canada relies on to facilitate communication among the Aboriginal self-governing communities and the federal and provincial governments must not only allow for a meaningful dialogue to take place; it must also remain reputable in the eyes of those who rely on it. A peak organization that is not able to maintain its authority will have no influence on others.

Thus, despite the fact that Canada, Australia, and New Zealand share much in common in terms of their British systems of politics and law, they differ with regards to their treatment of their Indigenous populations. As such, there are apparently few lessons that can be drawn from Australia and New Zealand and applied to the Aboriginal situation in Canada. After examining their unique histories, it should be evident that the structures that work for one country will not necessarily be suitable for another. However, although each nation may end up constructing different Aboriginal policies or organizations, they all seem to be promoting increased co-operation and interaction. In Australia, this was done through the land councils, while in New Zealand it seems as though the Waitangi Tribunal was the mechanism for establishing a dialogue between the Maori and non-Maori populations. Canada does not yet appear to have a device in place

¹⁵⁷ Ibid.

that can be responsible for fostering effective communication among the various levels of government. However, clearly one will be required if Aboriginal self-government is to match its potential.

Conclusion

Although the analysis of these countries has made it clear that a peak Aboriginal organization is a necessary aspect of good relations, it has not actually determined the form that this organization should take. However, there is another lesson for Canada that can be deduced from the circumstances in the other two countries. This lesson promotes the idea that Aboriginal self-government of any form will require that existing governments provide room for it to manoeuvre.¹⁵⁸ In both of the countries examined we can see how important it is to allow the Aboriginal population to be given an area where they can progress at their own pace. Of course, that is not all that the Australian and New Zealand situations have shown us. They have also demonstrated that any new structure that is created will not exist in seclusion and, therefore, must fit into the existing system. Thus, Australia created land councils and New Zealand created a tribunal to facilitate communication in their respective countries. Canada will need to establish a peak Aboriginal organization that is appropriate for Canada.

¹⁵⁸ Ibid., 59.

CHAPTER FIVE

An Evolving Role for the Department of Indian Affairs

While self-government is primarily an Aboriginal construct whose success is largely dependent upon Aboriginal initiatives such as the creation of a peak organization, its prosperity will also depend on numerous factors beyond Aboriginal peoples' direct control. In fact, the manner in which the non-Aboriginal community responds to Aboriginal self-determination will almost certainly have an immense impact on it. More specifically, the actions of the federal and provincial governments will dictate the extent of success these projects will be able to achieve. The choices that these governments make can either impede Aboriginal self-government or help advance its position. In particular, decisions that the federal government makes about existing structures such as the Department of Indian Affairs and Northern Development following the emergence of a peak Aboriginal organization will surely have an affect on its configuration.

It is conceivable that, with Aboriginal self-governing communities securing for themselves many of the responsibilities that the Department of Indian Affairs had been in charge of, there may be increased pressure to re-examine the necessity for a government office dedicated to Aboriginal issues. Regardless, before a peak Aboriginal organization is created it would be useful to determine whether the existence of a government department would be in any way beneficial to the relationship. Specifically, would a peak Aboriginal organization cause the Indian Affairs agency to be scrapped, modified or left alone? Just as there is no agreement by all Aboriginal people on what form self-government should take, "similarly, there is no consensus about the future of the Indian

Affairs Branch.”¹⁵⁹ While there are advocates of each of the preceding options, it is likely that the transformation of the existing department would be most advantageous to the situation. As Aboriginal people struggle to deal with some of the trials and tribulations that will certainly result from exercising increased autonomy, it may be useful for them to be able to rely on the assistance of an established association.

Indian Affairs in Canada

There is no question that the Department of Indian Affairs happens to be a firmly entrenched body in this country. Indian Affairs has survived to become the oldest continuously operating branch of the Canadian government.¹⁶⁰ Its roots can be traced back to 1755 when the British imperial government originally established an earlier version of it.¹⁶¹ Although the actual bureau has undergone a considerable number of changes since then, it has nevertheless remained active to this day. Indeed, the Department of Indian Affairs and Northern Development (DIAND), as it is currently labelled, continues to manage various aspects of Aboriginal life. While self-government arrangements aim to reduce the amount of control the federal government will be able to exercise over Aboriginals, it would be illogical to assume that all of a sudden the Canadian government would cease to play any sort of role in Aboriginal peoples' lives. It is evident that both Aboriginal communities and their institutions will continue to be

¹⁵⁹ Little Bear, Boldt, and Long, "Introduction," xvii.

¹⁶⁰ David Nicholson, "Indian Government in Federal Policy: An Insider's Views," Pathways to Self-Determination: Canadian Indians and the Canadian State, eds. Leroy Little Bear, Menno Boldt, and J. Anthony Long, (Toronto: University of Toronto Press, 1984), 59.

¹⁶¹ Canada, Department of Indian Affairs and Northern Development, The Department of Indian Affairs and Northern Development, (December 1997 update. http://www.inac.gc.ca/pr/info/info108_e.html).

dependent upon the government for various programs, services and financial contributions, even as Aboriginal peoples achieve expanded self-government and self-reliance.¹⁶²

An Advocacy Agency

Although increased autonomy for the Aboriginal population ultimately has as its goal the reduction of dependency on the federal and provincial governments, it would be impractical to assume that all of the individual Aboriginal political units could become completely self-sufficient. If anything, due to the transfer of service delivery and decision making authority to Aboriginal governments, there would probably be an increased need to co-operate and communicate with other levels of government. Indeed, agreements of various kinds will be essential to making Aboriginal government not only operational but also effective and efficient.¹⁶³ While it would be possible to have this sort of interaction take place directly between the peak Aboriginal organization and the various branches of federal and provincial governments, it would be much simpler if an advocacy agency were there to assist it. While a peak Aboriginal organization would still be responsible for advocating to the government, that is a different task than advocating within the government.

The desire to simplify intergovernmental relations is based on the acknowledgement that there are harsh realities associated with Aboriginal self-government. Aboriginal people are faced with severe shortages in the skilled labour

¹⁶² David C. Hawkes, ed, Aboriginal peoples and Government Responsibility: Exploring Federal and Provincial Roles, (Ottawa: Carleton University Press, 1989), 19.

¹⁶³ Hogg and Turpel, "Implementing Aboriginal Self-Government," 397.

force, many lack any experience at policy formulation, and more do not have experience designing or implementing programs in which to administer their policy decisions.¹⁶⁴ If that is not bad enough, Aboriginal leaders have to deal with another "daunting challenge": they must confront the consequences of years of political and bureaucratic oppression, mistakes, mismanagement, and outright neglect, and they must begin this process with inadequate resources and powers.¹⁶⁵ They do not need to make this task any more difficult than it already appears it will be.

As such, it seems evident that a peak Aboriginal organization may want to encourage the federal government to maintain an advocacy agency. A corresponding government department with which to interact would prevent a peak Aboriginal organization from becoming overwhelmed and overworked trying to manage relations with all aspects of the federal bureaucracy.¹⁶⁶ Aboriginal people should be able to experience a much greater success rate with regards to their policies and programs if they can distribute some of their limited resources to those areas rather than attempting to establish direct connections to all relevant branches of government. While this department would provide indispensable assistance to a peak Aboriginal organization, it would primarily assist the individual Aboriginal self-governing communities.

At this point it may be useful to examine whether DIAND can be developed into a suitable advocacy agency. It must be recognized that the track record of the department

¹⁶⁴ Little Bear, Boldt, and Long, Pathways to Self-Determination, 125.

¹⁶⁵ Menno Boldt, Surviving as Indians: The Challenge of Self-Government, (Toronto: University of Toronto Press, 1993), 118.

¹⁶⁶ Cairns, Citizens Plus, 139.

is far from impeccable.¹⁶⁷ This has caused many Aboriginal people to become sceptical of dealing with the existing agency. For years DIAND had controlled their lives while frustrating many of the early attempts for self-determination.¹⁶⁸ Therefore, it is not surprising that many Aboriginal people would likely question the motives for maintaining the department. Perhaps this distrust of the department stems from a concern that the devolution of DIAND responsibilities would be yet another attempt by the government to relieve itself of its obligations to Aboriginal people. Thus, it would be necessary to convince the Aboriginal population that any transfer of powers to self-governing communities would not jeopardize their rights. In addition, any modification of DIAND to perform an intergovernmental role would not relieve the government of certain trust responsibilities.¹⁶⁹

Time for a Change

A transformation of DIAND may actually be something that is called for. Indeed, if the department is examined closely it soon becomes evident that throughout its past DIAND has often been the focus of extensive criticism. This criticism has intensified over the last couple of decades as the department has found itself up against an increasingly organized opposition. In fact, as a representative of the government,

¹⁶⁷ Mecredi and Turpel, *In The Rapids*, 118. They go on to explain how the department has a history of not bargaining fairly or being supportive of Aboriginal aspirations.

¹⁶⁸ Tim Schouls, John Olthuis, and Diane Engelstad, "The Basic Dilemma: Sovereignty or Assimilation," *Nation to Nation: Aboriginal Sovereignty and the Future of Canada*, eds. Diane Engelstad and John Bird, (Toronto: Irwin Publishing, 1992), 21.

¹⁶⁹ Augie Fleras and Jean Leonard Elliott, *The Nations Within: Aboriginal-State Relations in Canada, the United States, and New Zealand*, (Toronto: Oxford University Press, 1992), 81.

DIAND has become the "lightning rod" which absorbs most of the blame for any problems associated with Aboriginal policies or programs.¹⁷⁰

[As a result,] the department has been criticized for a broad range of alleged and/or substantiated wrongdoings, including excessive spending and poor financial management and accounting practices, failure to live up to its trust responsibilities to Indians, excessive red tape, favouritism to some of its clients, paternalism in its relations with clients, interference in Indian politics, and other colonial behaviour and attitudes.¹⁷¹

Clearly, this experience has led many Aboriginal people to distrust the Department of Indian Affairs. Over the years, Aboriginals have watched it displace their traditional forms of self-government and divide their people.¹⁷² Eventually DIAND would end up controlling their land, money, and many of their business transactions.¹⁷³

Thus, despite claims by the federal government that DIAND operated in Aboriginal peoples' best interests, many of these actions could be considered to be oppressive. Indeed, recent research tends to support Aboriginal peoples' claims of subjugation and neglect by exposing evidence that DIAND did not always attempt to assist Aboriginals, but rather in several cases tried to prevent them from succeeding.¹⁷⁴ As such, even with charges against the department decreasing in recent years, DIAND

¹⁷⁰ Ponting and Gibbins, Out of Irrelevance, 177-178.

¹⁷¹ J. Rick Ponting, "Relations between Bands and the Department of Indian Affairs: A Case of Internal Colonialism?" Arduous Journey: Canadian Indians and Decolonization, ed. J. Rick Ponting, (Toronto: McClelland and Stewart Ltd., 1986), 84.

¹⁷² Fred Plain, "A Treatise on the Rights of the Aboriginal Peoples of the Continent of North America," The Quest for Justice: Aboriginal Peoples and Aboriginal Rights, eds. Menno Boldt and J. Anthony Long, (Toronto: University of Toronto Press, 1985), 36.

¹⁷³ Boldt, Surviving as Indians, 109.

¹⁷⁴ Ramsay Cook, Canada, Quebec and the Uses of Nationalism, 2nd ed., (Toronto: McClelland and Stewart Inc., 1995), 77.

continues to find itself constantly defending both its performance and behaviour. This need to justify its actions can be attributed to the fact that although the department can and has changed the way it operates, reputations often take much longer to transform.¹⁷⁵

Therefore, even though DIAND has done plenty to alter its unfavourable image, including becoming more of an internal advocate for Aboriginal peoples, many Aboriginals remain reluctant to place their trust in it. For instance, sometimes when DIAND brings forward a policy that has not been endorsed by Aboriginal people, it is charged "with incompetence and inertia or, worse, with placing its own self-interest above the welfare of Indian people."¹⁷⁶ This reaction has little to do with actual policy but instead is largely due to the fact that in the past when the department did not consult with Aboriginal people prior to developing a policy it was often not carrying out its fiduciary duty. While DIAND may now be trying to act in Aboriginal peoples' best interests, it must refrain from asserting that it, "not Indians, knows what is best for Indians."¹⁷⁷

Furthermore, if DIAND wants to have a future as an advocacy agency it must continue to evolve. The department has reluctantly moved away from its policy of assimilation and has seen its role change from that of protector to manager, and finally as a money-moving and accountability department. While these alterations have been significant they have not gone far enough in displacing the paternalism that appears to

¹⁷⁵ Ponting and Gibbins, *Out of Irrelevance*, 161.

¹⁷⁶ Leroy Little Bear, Menno Boldt, and J. Anthony Long, eds, "Bureacracy, Public Policy, and Indian Government," *Pathways to Self-Determination: Canadian Indians and the Canadian State*, (Toronto: University of Toronto Press, 1984), 57.

¹⁷⁷ Ponting and Gibbins, *Out of Irrelevance*, 137.

plague Aboriginal - non-Aboriginal relations. Although DIAND has developed consultation procedures that are perceived to be a considerable improvement, consultation is not an acceptable substitute for having genuine authority to make a decision. Likewise, having responsibility for administering DIAND programs is not considered an adequate substitute for the responsibility and ultimate "decision-making authority on the *design* of the programs."¹⁷⁸ In order to enact effective changes, the department will have to further vacate areas in which it develops programs or administers services and allow Aboriginal self-governing communities the opportunity to assume control over them. It would then be up to the Aboriginal communities to determine whether they want to perform these functions for themselves or else transfer authority over these areas to a peak organization.

The Trouble with Being DIAND

While much of the criticism that falls on DIAND is deserved, sometimes the department does get a "raw deal". Indeed, it is imperative to recognize the precarious situation that DIAND has been placed. It is supposed to act in the best interests of both the government and the Aboriginal population while lacking the support of either group. Instead of being assisted, DIAND often finds itself "under siege from both sides."¹⁷⁹ Neither the government nor the Aboriginal population is willing to accept the department as belonging to them. As a result, the department "occupies one of the lowest rungs in the government hierarchy," thus leaving DIAND with very little authority to engage in

¹⁷⁸ Ponting, "Relations between Bands," 96.

¹⁷⁹ Ibid., 105.

innovative policy-making.¹⁸⁰ In addition, the department frequently complains about how difficult it can be to enact meaningful policies and programs without proficient leadership. This is not to suggest that incompetent Cabinet ministers have managed DIAND, rather that inexperienced individuals with reasonably brief tenancy usually head the department.¹⁸¹ Since these ministers are aware of the fact that their stay with Indian Affairs will likely be a short one, they do not aspire to make many significant changes.¹⁸²

It is Not All Bad

With several of DIAND's primary defects and blemishes being exposed, it may be tempting to condemn the department as a whole. However, despite its many faults, DIAND still serves an important function. It provides Aboriginal people with a way to access the Cabinet of the federal government. Without "DIAND and the minister through which they have historically expressed their collective will to the Cabinet, Indians' capacity to advance their collective interests, rights, needs, and aspirations will be further downgraded."¹⁸³ While eventually a peak Aboriginal organization might be able to perform this role for itself, maintaining a Cabinet connection is a way to ensure that the government does not forget about Aboriginal people in the interim.

¹⁸⁰ Boldt, Surviving as Indians, 75.

¹⁸¹ Canada, Department of Indian Affairs and Northern Development, Individuals Responsible for Aboriginal and Northern Affairs in Canada 1755 to 1999, (October 1999 update. http://www.inac.gc.ca/pr/info/info108_e.html).

¹⁸² Boldt, Surviving as Indians, 75.

¹⁸³ *Ibid.*, 110.

Another concern about losing DIAND is that if it is abolished and the government's remaining responsibilities are distributed to other departments and agencies, many of which have had no experience in dealing with Aboriginals, inefficiencies may expand and even paternalism might return.¹⁸⁴ As such, it makes sense to keep the personnel who already have the experience and expertise to deal with Aboriginal issues rather than to risk repeating many of the mistakes of the past.¹⁸⁵ Thus, while it may be appealing to get rid of the department, attention should be given to those roles and functions that it performs that would not transfer well. Besides its other duties, DIAND attempts to fulfil the federal government's treaty obligations, negotiates Aboriginal settlement claims, and strives to protect Aboriginal rights.¹⁸⁶ Care should be taken to safeguard the positive advancements that DIAND has already made in these areas. It would be foolish to let any valuable aspects of the department slip away just because there is a desire to change some of the remaining problems; doing this would equate to 'throwing the baby out with the bath water' just because the water was a little dirty. Certainly, this statement is not meant to trivialize the situation in any way; rather it is intended to illustrate not only how senseless but also how counterproductive such a decision would ultimately be.

¹⁸⁴ Ponting, "Relations between Bands," 109.

¹⁸⁵ Ibid.

¹⁸⁶ Frideres, Aboriginal Peoples in Canada, 197.

Self-Administration versus Self-Determination

Understandably, DIAND is becoming very concerned about its own future. As such, it has done a great deal to try to ensure that it has a continued existence. To begin with, it has significantly expanded the number of Aboriginal personnel that it relies on. In fact, even though in recent years the department has been forced to reduce the size of its staff, the proportion that is Aboriginal has been increasing.¹⁸⁷ Besides hiring additional Aboriginal employees, DIAND has generally been attempting to create a more "culturally sensitive working climate."¹⁸⁸ It has been struggling to promote Aboriginal awareness through improvements in both its recruitment and training initiatives. By doing these things the department is striving to demonstrate to the Aboriginal community that it is increasingly in tune with their aspirations. However, it is not clear that these changes have advanced Aboriginal self-determination in any way. Instead, it may be that Aboriginal peoples have "merely won the right to administer the Department's definition of the problem, rather than to control the design and delivery of programs according to Aboriginal needs and definitions."¹⁸⁹

There is an important distinction between self-administration and self-determination that must be illustrated. While self-administration would allow Aboriginal people the opportunity to manage their own affairs, self-determination offers them the prospect of making their own decisions. DIAND has been more willing to give

¹⁸⁷ Fleras and Elliott, *The Nations Within*, 78.

¹⁸⁸ *Ibid.*, 78-79.

¹⁸⁹ *Ibid.*, 80-81.

Aboriginal peoples the chance to do the former than the latter. This is due in part to the department's own concern for self-preservation. Even though DIAND knows that it is quite firmly entrenched in its current position, it is still somewhat worried about what role it will play in the future if many powers are devolved to Aboriginal people. Therefore, in order to ensure that it is not completely discarded, the department has anticipated a new role for itself. It has envisioned a position where it would shift "its emphasis from service and program delivery to 'superintending' band/tribal councils as they deliver local services and programs."¹⁹⁰ Although some Aboriginal people appreciate what they hope to be DIAND beginning to step aside to let Aboriginals govern themselves, others are offended by what appears to be merely a restructuring of paternalism.

Nevertheless, over the last couple of decades DIAND has enhanced its advisory, funding, and supportive roles.¹⁹¹ It has vacated several of its prior responsibilities so that Aboriginal peoples could acquire more authority over their own lives. However, while the department has been encouraging Aboriginal peoples to accept more of the administrative functions, it has been preserving the supervisory role for itself. Furthermore, DIAND has been "vigorously promoting the notion of its indispensability as a 'middleman' between Indians and other government departments, by emphasizing its essential professional expertise in Indian political, fiscal, cultural, economic, and legal

¹⁹⁰ Boldt, Surviving as Indians, 110.

¹⁹¹ Canada, DIAND, The Department of Indian Affairs, http://www.inac.gc.ca/pr/info/info108_e.html.

matters."¹⁹² On the periphery, the notion of retaining DIAND as a "middleman agency" appears to resemble the view that the department should become an advocacy agency. Certainly, the two perspectives share the opinion that the department has considerable qualifications that would presumably be in demand. Where the standpoints differ is in their assessment of the new role. DIAND claims that it is promoting a "middleman" role for itself while it actually appears as though it is seeking to devolve only administrative functions and retain decision-making authority.¹⁹³ On the other hand, the advocacy agency assertion recognizes that a department such as DIAND will be a necessary component to self-government but realizes that actual self-determination should lie with the self-governing Aboriginal communities and not the department.

Even though most Aboriginal people appreciate that expanded self-administration is vital to any meaningful form of self-government, they do not want to be merely service providers. Instead, they want to be able to make many of the decisions that truly affect their future existence:

The aboriginal people, whether Indian, Inuit, or Metis, want to be able to exercise greater control over their own lives and destiny as a people. Native people want the skills and the opportunities that will allow them to exercise a greater degree of self-reliance and self-sufficiency. They want a greater opportunity to determine what happens in their own communities and to ensure that what happens is appropriate from their perspective.¹⁹⁴

As a result, Aboriginal people have expressed interest in gaining additional control over several social policy matters that affect their people: education, child welfare, language

¹⁹² Boldt, Surviving as Indians, 110.

¹⁹³ Ibid.

¹⁹⁴ Thiessen, "Indian Self-Government," 86.

and other cultural affairs, to identify a few.¹⁹⁵ These areas are deemed important by the majority of Aboriginal people because it is believed that proper direction in these sections could eventually lead to a resurgence of culture and identity. There is no reason why Aboriginal people cannot take command of these essential affairs.

There are other facets of social policy that Aboriginal people would want to influence but could not possibly control. For instance, benefits such as unemployment insurance, social insurance, social assistance, and health care services could only emanate from a much larger form of government.¹⁹⁶ This does not mean that Aboriginal peoples should not be able to have say in how these programs operate. It is also reasonable to assume that, at least initially, Aboriginal governments will be ill equipped to establish and manage their own justice or health systems. It is conceivable, though, that a peak Aboriginal organization would still want to try to influence how the existing ones were run. By no means should it attempt to control areas that would be better served at the community or local level. Doing this would make the peak Aboriginal organization appear paternalistic itself, and would hinder its support. Thus, a practical co-operative arrangement that allowed for communication and negotiation between a peak organization and federal and provincial governments would be the only feasible approach.

¹⁹⁵ David A. Boisvert, *Forms of Aboriginal Self-Government*, (Kingston: Institute of Intergovernmental Relations, 1985), 57.

¹⁹⁶ Ibid.

Building a Partnership is Crucial

The existence of a partnership such as this among the various governments will not impede Aboriginal self-determination in any way. Instead, innovative alliances with the federal and provincial governments will ensure that Aboriginal peoples are finally able to reclaim their rightful place in the country.¹⁹⁷ The reality that Aboriginal governments will have to rely on non-Aboriginal governments should in no way undermine Aboriginal peoples' authority to govern themselves effectively. While self-government is based on the premise "that aboriginal peoples should have the authority to rule themselves and to manage their own affairs, ... it does not indicate if that authority is to be limited or absolute."¹⁹⁸ In essence, any meaningful form of Aboriginal self-government should empower the Aboriginal population but ought not to sever their ties to the rest of the country.¹⁹⁹ Therefore, establishing effective working arrangements with other governments is not going to jeopardize the Aboriginal right to self-government, although it may slightly compromise its operation.

Realistically, forming relationships with the federal and provincial governments will not be an option that Aboriginal governments can choose to avoid. Like it or not, even after self-government is broadened to its utmost limits, Aboriginal government will continue to exist within the context of the larger Canadian political environment.²⁰⁰

¹⁹⁷ Canada, DIAND, The Department of Indian Affairs, http://www.inac.gc.ca/pr/info/info108_e.html.

¹⁹⁸ Boisvert, Forms of Aboriginal Self-Government, 1.

¹⁹⁹ F. Laurie Barron, Walking in Indian Moccasins: The Native Policies of Tommy Douglas and the CCF, (Vancouver: UBC Press, 1997), 209.

²⁰⁰ Boisvert, Forms of Aboriginal Self-Government, 2.

Occasionally arrangements will have to be worked out in order for all of the parties involved to have their say in a specific policy area. At other times these governments will communicate simply because the decisions that they will make may have an effect on the other governments and vice versa. Having both a peak Aboriginal organization to co-ordinate Aboriginal interests and an advocacy agency to subsequently funnel those interests into the government will definitely make this sort of interaction much easier.

Changing DIAND

Assuming that DIAND can be modified, there is little doubt that it will be capable of becoming an advocacy agency. Yet, for it to be successful in its new role, any changes made to the Department would have to be more than purely cosmetic; otherwise the past legacy of distrust and suspicion that has plagued DIAND - Aboriginal relations would likely proceed.²⁰¹ Still, there may be notable advantages associated with altering at least some external aspects of the department. One transformation that is occasionally mentioned is a name change. Several political parties have gone through the process of selecting a new name in order to project a fresh image.²⁰² An alternate label may enable DIAND to cast off criticisms that it would, under different conditions, have trouble eluding. While a new name could help to ease acceptance of the department and promote the image of a new structure that is prepared to develop a new relationship with Aboriginal peoples, it alone is essentially nothing. The fact that the department calls

²⁰¹ The Special Parliamentary Committee on Indian Self-Government, "Proposals for Indian Self-Government," *Arduous Journey: Canadian Indians and Decolonization*, ed. J. Rick Ponting, (Toronto: McClelland and Stewart Ltd., 1986), 331.

²⁰² For example, the following Canadian political parties underwent a name changing experience: The Co-operative Commonwealth Federation/New Democratic Party, The Conservative Party/Progressive Conservative Party, and The Reform Party/Canadian Alliance.

itself by an unspoiled title "is no guarantee that the entrenched norms of paternalism, authoritarianism, self-interest, and self-aggrandizement by officeholders will be eliminated."²⁰³

Therefore, whether or not DIAND is known by a different name is arbitrary when considering its prospective role. Even though a so-called new identity may encourage both Aboriginal and non-Aboriginal people to view the department in another light, actual changes to its structure are what is required for it to be truly successful. The only way that DIAND can escape its tainted reputation is to alter its role so that it is no longer treating Aboriginal peoples as wards. Inevitably, this would mean that DIAND would have to forfeit much of its power and authority to individual Aboriginal communities. It would not necessarily have to get out of service delivery or program development completely for it to be suitable for its new role. But, by embracing its new function, DIAND can make communication and co-operation much easier.

Still, it is doubtful that the Aboriginal aspiration to ultimately eliminate DIAND will suddenly cease. For years there has been the desire to move away from the department and everything that it represents.²⁰⁴ Thus, perhaps maintaining a somewhat modified DIAND would only need to be a temporary measure in place while a peak Aboriginal organization was being firmly established. However, the role of the department would certainly have to be phased out "because of the complexity of the Indian situation in Canada and the broad scope of government's involvement in the lives

²⁰³ Boldt, Surviving as Indians, 140.

²⁰⁴ Mercredi and Turpel, In the Rapids, 118.

of Indian people."²⁰⁵ It essentially serves an important function and would continue to be meaningful even after Aboriginal peoples have gained the right to be self-governing. There may even be an increased demand and need for administrative and supervisory assistance as the individual communities become self-determining. Therefore, if DIAND were to be discarded it could not happen rapidly but would have to be a gradual process. This would allow Aboriginal communities "time to gain essential knowledge and experience" and give a peak Aboriginal organization the chance to develop.²⁰⁶ More importantly, it would provide Aboriginal peoples with the opportunity to establish constructive relationships with each other and with the federal and provincial governments.²⁰⁷

There is another reason for gradually dismantling DIAND. It relates to accusations that there were incidents when DIAND had shed its administrative responsibilities onto some bands before they were properly equipped to assume the additional duties.²⁰⁸ By doing this, the department had increased the likelihood that these bands would fail, thus creating the opportunity to reassume responsibility while at the same time deterring other Aboriginals from attempting to exercise greater autonomy.²⁰⁹ The only way that the federal government can defend itself against similar allegations

²⁰⁵ Ponting and Gibbins, Out of Irrelevance, 98.

²⁰⁶ Boldt, Surviving as Indians, 139.

²⁰⁷ Ibid.

²⁰⁸ Ponting, "Relations between Bands," 89.

²⁰⁹ Ibid.

today is to ensure that it transfers powers to Aboriginal communities slowly as groups like the Indian Chiefs of Alberta had suggested.²¹⁰ That way, DIAND can offer Aboriginal peoples valuable assistance by maintaining a presence while the communities are transferring some of their powers to a peak organization.

There is an alternative to the option of gradually discarding DIAND that deserves some attention. It stems from the recommendations made by the Royal Commission on Aboriginal Peoples (RCAP) concerning modifications to the current Department of Indian Affairs and Northern Development. While RCAP recognized that many Aboriginal communities would be moving towards self-government, it also realized that these communities would be progressing towards self-determination at different paces. As such, it proposed that two new departments replace DIAND: a Department of Aboriginal Relations and a Department of Indian and Inuit Services.²¹¹ The Department of Aboriginal Relations would be the primary department, emerging out of a necessity to establish and maintain an intergovernmental relationship with the new community governments. The Department of Indian and Inuit Services, on the other hand, would be a secondary department, existing in order to continue to provide services to those communities which were not yet self-reliant. It would also be in charge of those areas where the federal government still had obligations.²¹²

²¹⁰ Indian Chiefs of Alberta. Citizens Plus, (Edmonton: Indian Association of Alberta, 1970), 13-14.

²¹¹ RCAP, Vol. 2, 373.

²¹² *Ibid.*, 366.

Assistance and Support

There is no question that the form of assistance that is provided to Aboriginal peoples can be a contentious issue. Certainly there are some things that DIAND can do in order to help ensure the success of a peak Aboriginal organization. To begin with, it will definitely "have to break with wardship; ... [it will] have to break with guardianship; and ... [it will] have to embrace the concept that aboriginal peoples do have a right to self-determination."²¹³ It should not, however, have to eliminate any and all forms of assistance and support that it is capable of providing. Of course, currently it has become increasingly improper to even suggest that someone may require help. Furthermore, it is considered an insult or offence to offer aid or even advice to a segment of society of which one is not directly a member. However, in dealing with Aboriginal self-government it must be recalled that we are not talking about a foreign entity that does not have any substantial connections to the rest of the country. Instead, we are contemplating assisting fellow Canadians whose success and accomplishments will in part reflect on the country as a whole.

Of course, Aboriginal peoples should be provided with the opportunity to explore a multitude of options. They should be permitted to conduct experiments and evaluate alternatives while they gain experience with various forms of self-government.²¹⁴ Aboriginal peoples should even be allowed to make their own mistakes. There is, however, a considerable difference between letting Aboriginal peoples make their own

²¹³ Boisvert, Forms of Aboriginal Self-Government, 66.

²¹⁴ Boldt, Surviving as Indians, 139.

mistakes and standing by when they are moving towards failure. While blunders and slip-ups can be an essential part of the learning process, a substantial oversight can eventually lead to ruin. Therefore, an advocacy agency such as DIAND should not interfere with Aboriginal attempts to discover what works for them but should be prepared to assist the self-governing communities or even a peak Aboriginal organization if it is absolutely necessary.

The amount of assistance to be required will likely vary depending upon the specific self-governing community in question. However, DIAND may be able to gauge its participation according to the standards that were predetermined in the Manitoba Framework Agreement. This arrangement was set into motion on December 7, 1994 when the dismantling of DIAND was agreed upon by the department and sixty First Nations in Manitoba as represented by the Assembly of Manitoba Chiefs (AMC).²¹⁵ The agreement would allow for Manitoba Nations to not only take control over programs and services, but also secure for themselves several jurisdictions that DIAND had once been in charge of.²¹⁶ Due to the slow nature of the transfer process, it is not surprising that many people are postponing their comments on the Manitoba Framework Agreement. Still, regardless of what it accomplishes in the end, it is likely that both the Framework's successes and failures will serve as lessons long into the future.

²¹⁵ RCAP, Vol. 2, 83.

²¹⁶ The Assembly of Manitoba Chiefs and The Department of Indian Affairs and Northern Development, The Dismantling of the Department of Indian Affairs and Northern Development, The Restoration of Jurisdictions to First Nations Peoples in Manitoba and Recognition of First Nations Governments in Manitoba, (Manitoba: AMC and DIAND, December 7, 1994), 3.

Conclusion

Although it should be stressed again that the prosperity of both Aboriginal self-government and a peak Aboriginal organization is ultimately in the hands of Aboriginal peoples, it should be apparent by now that its success will also be heavily influenced by other outside factors. Specifically, the Aboriginal population will be influenced by what the federal government decides to do with the Department of Indian Affairs. It is evident that the department has been changing for the better, but depending upon how DIAND is structured in the future, intergovernmental communication could become much easier or far more difficult.²¹⁷ Thus, it is apparent that a necessary part of self-government will be establishing a discourse between a peak Aboriginal organization and the government through DIAND or some other advocacy agency.

While there remains a segment of the public that is fairly adamant about eventually getting rid of the department, there is increasing understanding that there will be at least some residual matters that must be dealt before DIAND can be dismantled. There are even certain functions, such as those that result from the government's treaty or settlement claim obligations, that cannot be transferred at all. Nevertheless, devolution can and should go much further than the current federal government attempts have gone. Indeed, it is not enough to merely reduce Aboriginal peoples' dependence on the department; DIAND must offer to give up more of its supervisory role.²¹⁸ If DIAND is to be accepted by the Aboriginal population as an appropriate advocacy agency it is

²¹⁷ Ponting, "Relations between Bands," 102.

²¹⁸ Sally M. Weaver, Making Canadian Indian Policy: The Hidden Agenda 1968-1970, (Toronto: University of Toronto Press, 1981), 48.

imperative that it demonstrate that it is mainly there to channel Aboriginal aspirations and relations to the appropriate sectors of government.²¹⁹ This would provide an internal/external distinction in the advocacy role and make competition between the peak Aboriginal organization and DIAND less likely. Whether there exists a single department with which to communicate and co-operate or a multitude of bureaucracies, a peak Aboriginal organization will nevertheless still have to establish a dialogue with the federal government. However, the subsequent relationship will be easier to maintain if there is an advocacy agency with which to form a partnership.

²¹⁹ Ponting, "Relations between Bands," 103.

CHAPTER SIX

Conclusion

There is no question that Aboriginal self-government has begun to establish its presence in Canada. Agreements are being negotiated more frequently, thereby increasing the amount of control that Aboriginal peoples have over their own lives. As such, it is reasonable to expect that ultimately several hundred self-governing communities could be operating within Canada. The country would have a difficult time incorporating such a massive influx of self-governing units into the existing political system. Indeed, these new governments would have trouble interacting with each other and with the federal and provincial governments. Therefore, it is evident that a peak Aboriginal organization will be required. This type of an association would be capable of encouraging communication and promoting cooperation among the various governments. Furthermore, a peak Aboriginal organization could be more easily integrated into the existing political system, presumably making the success of self-government considerably more likely.

This thesis attempted to demonstrate the necessity of a peak Aboriginal organization in Canadian politics. It is important to note that nowhere in the analysis was the effort made to argue the validity of self-government. Nor did the thesis go into particulars such as the precise jurisdictions that a peak Aboriginal organization would be accountable. For the most part, issues like these were excluded because they are irrelevant to the study. The point is that self-governing communities will have to interact with one another and with the federal and provincial governments regardless of the

responsibilities that they will be capable of securing for themselves. The requirement of a peak Aboriginal organization stems from the necessity to incorporate all of these individual self-governing units into the existing political system.

This is not to suggest that Aboriginal peoples must accept the institutions and arrangements in Canada as constants that cannot be altered. Rather it is meant to emphasize the fact that Aboriginal peoples make up a small minority of the country's population and at least for the foreseeable future that will remain the case. While it is rational to expect the federal and provincial governments to provide space for a peak Aboriginal organization to manoeuvre, these governments, and the citizens whom they represent, will not be inclined to completely restructure the country. Even if there was a desire to renew Canada's political system, recent attempts to alter the country's institutions, such as the Meech Lake and Charlottetown Accords, illustrate how difficult this would be. Therefore, a peak Aboriginal organization will operate in the confines of an existing political system.

Although the full implementation of a peak organization will be subject to both federal and provincial approval, the success of it will especially depend upon whether or not it is seen as legitimate by Aboriginal people.²²⁰ The potential of a peak Aboriginal organization will be relative to the amount of authority that it is able to persuade the Aboriginal population to give it. As such, it is less important to entrench this structure into the country's constitution than it is to convince Aboriginal peoples themselves that "the mandate, the power, the goals, the leadership, the philosophies and principles of" the

²²⁰ Boldt, Surviving as Indians, 158.

peak organization are sanctioned by the majority of Aboriginals.²²¹ This is something that will require far more consideration than it has acquired.

Self-Government Beyond the Community

It is actually quite fascinating that the concept of a peak Aboriginal organization has received as little attention as it has. Perhaps this disregard can be attributed to the fact that it is essentially simpler to concentrate on self-government at the local level. However, ignoring the fact that these communities will need to be connected to one another and to the rest of the country can only be detrimental to future self-government arrangements. Aboriginal peoples will not be able to operate completely independently from the rest of society. Alan Cairns described this best when he stated that "we are locked in an inescapable interdependence."²²² This means that although the notion of self-government pertains to increased autonomy one cannot disregard the fact that Aboriginal peoples and non-Aboriginal peoples will remain mutually reliant on one another. Thus, while self-government should attempt to increase Aboriginal peoples' authority, it must also recognize that there will be limits as to what these governments can and cannot do.

In fact, individual Aboriginal communities will not be able to control many of the areas that they have expressed interest. In order for them to exercise real decision-making powers in sectors such as education, health care, and justice, Aboriginal peoples

²²¹ Ibid.

²²² Cairns, Citizens Plus, 210.

will have to be able to express common interests. While many of the larger Aboriginal communities have already achieved quite significant penetration in these areas, there are limits on what they can do individually. For instance, many Aboriginal communities have enhanced their control over both elementary and secondary education, but still find themselves constrained when it comes to providing post-secondary options. As a result, these separate governing units will have to form an alliance with one another so as to be able to enact more meaningful changes and provide effective service delivery.²²³ In addition, if Aboriginal peoples want to have a role "in forums such as the First Ministers' Conference, and if they are to be built into such mechanisms as the amending formula, they will have to speak through a *single government*."²²⁴ It would be impractical to take the First Ministers' Conference and introduce several new players to it. The process could not function properly if it was suddenly overloaded with an influx of additional participants. Besides that, the existing participants would not allow themselves to be outnumbered by Aboriginal members. Indeed, the federal government and the provinces would likely accept only one Aboriginal representative joining the process, thus further emphasizing the need for a single peak Aboriginal organization.

A Single Organization

Having only one peak Aboriginal organization to represent the interests of Indians, Inuit and the Metis is not a completely unrealistic goal. Still, it may be a

²²³ Paul Tennant, "Aboriginal Rights and the Penner Report on Indian Self-Government," The Quest for Justice: Aboriginal Peoples and Aboriginal Rights, ed. Menno Boldt and J. Anthony Long, (Toronto: University of Toronto Press, 1985), 332.

²²⁴ Gibbins, "Citizenship, Political, and Intergovernmental Problems," 373.

difficult objective to reach. Aboriginal peoples did not originate as one association but were members of diverse tribes, bands and groupings. Many segments of the Aboriginal population were further divided when the Canadian government chose to fragment Aboriginals into separate communities.²²⁵ The government discovered that it was easier to control Aboriginal peoples if they were arranged in distinct categories. Thus, the notion of 'divide and conquer' was put into practice. Indeed, Aboriginal peoples were fragmented even further by classifications such as status and non-status, urban and reserve based, bill C-31 and Metis. These groupings have caused friction and conflict to emerge as the government attempted to set the various segments against one another. Moreover, the government cultivated suspicion and jealousy by employing these classifications to justify distinct treatment and unequal support.²²⁶

Nevertheless, Aboriginal peoples have still attempted to organize despite the federal government's efforts to prevent unity. This was never more evident than at the beginning of the civil rights movement, when Aboriginal people worked together combining their efforts.²²⁷ They supported each other in a common front in order to place more effective pressure on the federal government. Yet, the Aboriginal population tends to accept that there are some fundamental differences between Indians, Inuit and the Metis. They even created distinct organizations to deal with these differences and have developed fairly strong attachments to these separate structures. Thus, for the most

²²⁵ Boldt, Surviving as Indians, 85.

²²⁶ Howard Adams, "Thoughts on the Constitution and Aboriginal Self-Government," Native Studies Review, (8, no. 2 (1992): pp. 99-108), 105.

²²⁷ *Ibid.*, 105.

part they have refrained from merging the three groups into one. However, this line of thinking is becoming outdated.

While the involvement of Indians, Inuit and the Metis in one organization may appear to be an unnatural association, it is evident that they can achieve more by supporting each other than by undermining one another. At this point it may be beneficial to compare the creation of a peak Aboriginal organization to the development of Canada. "From the perspective of geography, ethnicity, culture, and politics, Canada can be seen as a highly artificial entity."²²⁸ It is made up of a heterogeneous population that is dispersed over a considerably large tract of land.²²⁹ Yet, despite the diversity of the country, Canada came together so that its citizens could achieve things that they could not hope to accomplish apart. The country's Aboriginal population should be no different.

The Inuit and Nunavut

It is important to note that the Inuit may not need to be represented by a peak Aboriginal organization in order for them to be able to communicate with one another and with the federal and provincial governments. The vast majority of Inuit have already gained access to the larger political system on account of the creation of Nunavut. When Nunavut came into existence in 1999, it provided most Inuit with "quasi-provincial status," after which, they attained a position in the existing political environment.²³⁰

²²⁸Ponting and Gibbins, "Thorns in the Bed of Roses," 128.

²²⁹ Ibid.

²³⁰ Cairns, Citizens Plus, 76.

Although Nunavut is only a territory and does not possess identical powers to a province, it still presents the Inuit with an opportunity to influence the decisions that are being made. This is more authority than Indians or the Metis currently have.

Nevertheless, some Inuit do not live in the newly created territory and, therefore, do not have access to the same powers as those people within Nunavut. This is similar to the problem that francophones who live outside of the province of Quebec face. They are not considered to be part of Quebec's responsibilities and as such, these francophones do not have the benefit of a government that is devoted to issues that affect only them. The same is true for the Inuit who reside outside of Nunavut; the Inuit - controlled territorial government does not represent them.²³¹ However, it should be emphasized that 85 percent of the population in Nunavut is Inuit.²³² Ultimately, a decision will have to be made as to whether an Inuit government should "give up" on those residing outside of Nunavut "just as Quebec has essentially 'given up' on Francophones living outside Quebec."²³³

The Metis and the Urban Aboriginal Population

It is not certain whether a peak Aboriginal organization can incorporate those Aboriginal peoples who live off of a reserve or another form of land base. What is evident is that both the urban Aboriginal population and the Metis currently lack the governments necessary for intergovernmental relations. As such, they cannot hope to

²³¹ Boisvert, *Forms of Aboriginal Self-Government*, 31.

²³² Canada, Department of Indian Affairs and Northern Development, *Information: Nunavut*, (Ottawa: Indian and Northern Affairs Canada, 2000), 1.

²³³ Ponting and Gibbins, "Thorns in the Bed of Roses," 127.

participate in a peak Aboriginal organization until they achieve self-government at a community level. This is liable to be the difficult part since "the typical urban Aboriginal population is a statistical aggregate, not a community."²³⁴ Indeed, the same is true for most of the Metis people in Canada. Very few Metis have been successful at securing a land base that can constitute a community or creating non-land based governments. Thus, this is something that the urban and Metis population will have to do prior to participating in a peak organization.

There is no Time Like the Present

Although it is clear that it will take quite some time for all Aboriginal peoples to become self-governing at a local level, it does not mean that the creation of a peak Aboriginal organization should have to wait. It would be senseless to postpone this endeavour just because the various Aboriginal groups and communities are in different stages of readiness with regards to the types of self-governing powers that they are able to exercise.²³⁵ While some communities have already begun to be self-determining, there are others that have a long way to go before they can even contemplate exercising increased control.²³⁶ This is simply reality. Nevertheless, a peak Aboriginal organization can begin with those communities that are ready. This is how Canada was formed. The fathers of Confederation did not wait for all the provinces to be on an equal plane before

²³⁴ Alan C. Cairns, "Aboriginal Peoples' Two Roads to the Future," Policy Options, (January-February 2000, 31-33), 32.

²³⁵ Thomas J. Courchene and Lisa M. Powell, A First Nations Province, (Kingston: Institute of Intergovernmental Relations Queen's University, 1992), 48.

²³⁶ Sykes Powderface, "Self-Government Means Biting the Hand That Feeds Us," Pathways to Self-Determination Canadian Indians and the Canadian State, eds. Leroy Little Bear, Menno Boldt, and J. Anthony Long, (Toronto: University of Toronto Press, 1984), 166.

they began. Rather, they started the process with those provinces that were already prepared and included provisions that would allow for the inclusion of the others later on. There is no reason why a peak Aboriginal organization could not develop in a similar manner.

Indeed, a peak Aboriginal organization will have to be flexible because Aboriginal peoples "differ enormously in the sort of powers they desire."²³⁷ Any type of peak organization will have to be able to accommodate the diverse forms of self-government that will likely exist. Eventually, there could be as many forms of self-government as there are communities.²³⁸ A peak Aboriginal organization would need to integrate all of these governments into the existing political system. A structure such as this would be required to administer the powers that Aboriginal peoples want to have control over, but cannot feasibly carry out at the community level.

Certainly the emergence of a peak Aboriginal organization that is able to incorporate the self-governing units and integrate them with the federal and provincial governments will not happen instantaneously. As indicated in Chapter Five, perhaps a peak Aboriginal organization could gradually assume control over particular areas instead of trying to manage everything all at once. Thus, the system could evolve slowly, perhaps, but nonetheless progressively. Indeed, it is clear that if too much pressure were placed on a peak Aboriginal organization to exercise authority over everything at once, it

²³⁷ Will Kymlicka, Multicultural Citizenship: A Liberal Theory of Minority Rights, (Oxford: Clarendon Press, 1995), 30.

²³⁸ Murray Angus, ..."And The Last Shall Be First": Native Policy in an Era of Cutbacks, (Toronto: NC Press Limited, 1991), 31-32.

would be liable to overload. Therefore, a modest timeline should be implemented and a peak organization should develop at a moderate pace.

The Road Ahead

By now it has been demonstrated that there is a legitimate need for a peak Aboriginal organization in Canada. What is not yet clear is whether an existing organization can be modified to take on this role. Although the in-depth analysis that was done on the Assembly of First Nations (AFN) and its predecessor the National Indian Brotherhood (NIB) suggested that the AFN has the potential to evolve into an adequate peak organization, many additional Aboriginal associations were excluded from extensive study. While it is fair to say that other Aboriginal political organizations such as the Metis National Council and the Congress of Aboriginal Peoples may have characteristics that would make them acceptable peak organizations, the members of these associations lack the prerequisite of some sort of community based self-governing capacity. Perhaps, if in the future, these political organizations are successful in helping their members gain local self-government they should be given more attention.

Another structure that was considered to be a possible peak Aboriginal organization was an Aboriginal parliament as it was described in the Royal Commission on Aboriginal Peoples (RCAP). Even though the proposed parliament would have satisfied the representative requirements of a peak Aboriginal organization by allowing members to be indirectly or directly elected according to the desire of each community, it was excluded because it fell short in many other regards.²³⁹ The primary reasons why it

²³⁹ RCAP, Vol. 2, 419.

was dismissed were that "the Aboriginal parliament would be strictly advisory; it would have no law-making powers, no expenditure powers, and no power to delay or veto legislation passed by the Commons or Senate."²⁴⁰ It was also rejected from further analysis because it ignores a critical reality of Canadian federalism by structuring the parliament in a way that would not allow for interaction with the provincial governments.²⁴¹

Although additional research could be done on each of these Aboriginal structures it may be beneficial to concentrate more on what non-aboriginal peak organizations have to offer to the formulation of a peak Aboriginal organization. Looking at these non-Aboriginal bodies may provide valuable insight as to how a peak Aboriginal organization could be structured, mandated, or even funded. At the very least, an investigation of this sort would likely serve to provide model situations for a peak Aboriginal organization to learn from.

Clearly, "the direction in which we are going is uncharted territory, with few sign posts."²⁴² Consequently, it may be appealing to leave the formulation of these measures entirely up to the Aboriginal population.²⁴³ Aboriginal peoples must surely play a major role in establishing any new institutional arrangements. However, Aboriginal self-

²⁴⁰ J. Rick Ponting, "Getting a Handle on Recommendations of the Royal Commission on Aboriginal Peoples," First Nations in Canada: Perspectives on Opportunity, Empowerment, and Self-Determination, ed. J. Rick Ponting, (Toronto: McGraw-Hill Ryerson Limited, 1997), 450.

²⁴¹ RCAP, Vol. 2, 378.

²⁴² Alan C. Cairns, Reconfigurations: Canadian Citizenship and Constitutional Change, ed. Douglas E. Williams, (Toronto: McClelland and Stewart Inc., 1995), 238.

²⁴³ Anne-Marie Mawhiney, Towards Aboriginal Self-Government: Relations between Status Indian Peoples and the Government of Canada 1969-1984, (New York: Garland Publishing, 1994), 114.

governments are not going to operate in isolation. These communities are not going to be independent entities that are detached from each other and the federal and provincial governments. Rather, Aboriginal self-government is going to continue to occur amidst an existing political system. Therefore, the federal and provincial governments should also be involved in creating a mechanism for intergovernmental communication and cooperation. This is the only way that we can ensure that Aboriginal self-government is compatible with the established political system of Canada.

REFERENCES

- Adams, Howard. "Thoughts on the Constitution and Aboriginal Self-Government." Native Studies Review 8, no. 2 (1992) 99-108.
- Alfred, Gerald (Taiaiake). Peace, Power, Righteousness: An Indigenous Manifesto. Don Mills: Oxford University Press, 1999.
- Angus, Murray. ..."And The Last Shall Be First": Native Policy in an Era of Cutbacks. Toronto: NC Press Limited, 1991.
- Armitage, Andrew. Comparing the Policy of Aboriginal Assimilation: Australia, Canada, and New Zealand. Vancouver: UBC Press, 1995.
- Australia. Aboriginal and Torres Strait Islander Commission. ATSIC @ a Glance. December 2000 update. http://www.atsic.gov.au/default_ie.asp.
- Asch, Michael. "Political Self-Sufficiency." Nation to Nation: Aboriginal Sovereignty and the Future of Canada. ed. Diane Engelstad, and John Bird. Toronto: Irwin Publishing, 1992.
- Barron, F. Laurie. Walking in Indian Moccasins: The Native Policies of Tommy Douglas and the CCF. Vancouver: UBC Press, 1997.
- Boisvert, David A. Forms of Aboriginal Self-Government. Kingston: Institute of Intergovernmental Relations, 1985.
- Boldt, Menno. Surviving as Indians: The Challenge of Self-Government. Toronto: University of Toronto Press, 1993.
- Cairns, Alan C. "Aboriginal Peoples' Two Roads to the Future." Policy Options. January-February 2000, 31-33.
- - - . Citizens Plus: Aboriginal Peoples and the Canadian State. Vancouver: UBC Press, 2000.
- - - . Reconfigurations: Canadian Citizenship and Constitutional Change. ed. Douglas E. Williams. Toronto: McClelland and Stewart Inc., 1995.
- Canada. Department of Indian Affairs and Northern Development. Information: Nunavut. Ottawa: Indian and Northern Affairs Canada, 2000.

- - - . Department of Indian Affairs and Northern Development. Individuals Responsible for Aboriginal and Northern Affairs in Canada 1755 to 1999. October 1999 update. http://www.inac.gc.ca/pr/info/info108_e.html.
- - - . Department of Indian Affairs and Northern Development. The Department of Indian Affairs and Northern Development. December 1997 update. http://www.inac.gc.ca/pr/info/info108_e.html.
- Cardinal, Harold. The Rebirth of Canada's Indians. Edmonton: Hurtig Publishers, 1977.
- - - . The Unjust Society. Edmonton: M.G. Hurtig, 1969.
- Clark, Bruce. Native Liberty, Crown Sovereignty: The Existing Aboriginal Right of Self-Government in Canada. Montreal: McGill-Queen's University Press, 1990.
- Cockerill, Jodi, and Roger Gibbins. "Reluctant Citizens? First Nations in the Canadian Federal State." First Nations in Canada: Perspectives on Opportunity, Empowerment, and Self-Determination. ed. J. Rick Ponting. Toronto: McGraw-Hill Ryerson Limited, 1997.
- Cook, Ramsay. Canada, Quebec and the Uses of Nationalism. Second Edition. Toronto: McClelland and Stewart Inc., 1995.
- Courchene Thomas J., and Lisa M. Powell. A First Nations Province. Kingston: Institute of Intergovernmental Relations Queen's University, 1992.
- Cowie, Ian B. Future Issues of Jurisdiction and Coordination Between Aboriginal and Non-Aboriginal Governments. Kingston: Institute of Intergovernmental Relations, 1987.
- Ekstedt, John W. "Aboriginal Self-Government: Implications of the Australian Experience." Aboriginal Self-Government in Canada: Current Trends and Issues. ed. John H. Hylton. Saskatoon: Purich Publishing, 1994.
- Erasmus, Georges, and Joe Sanders. "Canadian History: An Aboriginal Perspective." Nation to Nation: Aboriginal Sovereignty and the Future of Canada. ed. Diane Engelstad, and John Bird. Toronto: Irwin Publishing, 1992.
- Flanagan, Tom. First Nations? Second Thoughts. Montreal and Kingston: McGill-Queen's University Press, 2000.
- Fleras, Augie. "The Politics of Jurisdiction: Indigenizing Aboriginal-State Relations." Visions of the Heart: Canadian Aboriginal Issues. ed. David Alan Long, and Olive Patricia Dickason. Toronto: Harcourt Brace Canada, 1996.

- . "Aboriginal Electoral Districts for Canada: Lessons from New Zealand." Aboriginal Peoples and Electoral Reform in Canada. Toronto: Dundurn Press, 1991.
- Fleras, Augie, and Jean Leonard Elliott. The Nations Within: Aboriginal-State Relations in Canada, the United States, and New Zealand. Toronto: Oxford University Press, 1992.
- Frideres, James S. Aboriginal Peoples in Canada: Contemporary Conflicts. 5th ed. Scarborough: Prentice-Hall Canada Inc., 1998.
- Gibbins, Roger. Federalism in the Northern Territory: Statehood and Aboriginal Political Development. Darwin: Australian National University North Australia Research Unit, 1988.
- . "Citizenship, Political and Intergovernmental Problems with Indian Self-Government." Arduous Journey: Canadian Indians and Decolonization. ed. J. Rick Ponting. Toronto: McClelland and Stewart Ltd., 1986.
- Griffiths, Max. Aboriginal Affairs: A Short History 1788-1995. Maryborough: Kangaroo Press, 1995.
- Hawkes, David C. ed. Aboriginal Peoples and Government Responsibility: Exploring Federal and Provincial Roles. Ottawa: Carleton University Press, 1989.
- Hawthorn H.B. ed. A Survey of the Contemporary Indians of Canada. 2 vols. Ottawa: Queen's Printer, 1966 and 1967.
- Hogg, Peter W., and Mary Ellen Turpel. "Implementing Aboriginal Self-Government: Constitutional and Jurisdictional Issues." Aboriginal Self-Government Legal and Constitutional Issues. ed. Royal Commission on Aboriginal Peoples. Ottawa: Minister of Supply and Services Canada, 1995.
- Indian Chiefs of Alberta. Citizens Plus. Edmonton: Indian Association of Alberta, 1970.
- International Legal Materials, Supreme Court of Canada: Reference Re Secession of Quebec [August 20, 1998] v. 37, n. 6 (1998): pp. 1340-1377.
- Isaac, Thomas. Aboriginal Law: Cases, Materials and Commentary. Saskatoon: Purich Publishing, 1995.

- Kickingbird, Kirke. "Indian Sovereignty: The American Experience." Leroy Little Bear, Menno Boldt, and J. Anthony Long, eds. Pathways to Self-Determination: Canadian Indians and the Canadian State. Toronto: University of Toronto Press, 1984.
- Kulchyski, Peter. " 'A Considerable Unrest': F.O. Loft and the League of Indians." Native Studies Review 4 (1988): 95-117.
- Kymlicka, Will. Multicultural Citizenship: A Liberal Theory of Minority Rights. Oxford: Clarendon Press, 1995.
- LaSelva, Samuel V. The Moral Foundations of Canadian Federalism: Paradoxes, Achievements, and Tragedies of Nationhood. Montreal: McGill-Queen's University Press, 1996.
- Little Bear, Leroy, Menno Boldt, and J. Anthony Long, eds. Pathways to Self-Determination: Canadian Indians and the Canadian State. Toronto: University of Toronto Press, 1984.
- Lower, A.R.M., F.R. Scott, et al. Evolving Canadian Federalism. Durham: Duke University Press, 1958.
- Mawhiney, Anne-Marie. Towards Aboriginal Self-Government: Relations between Status Indian Peoples and the Government of Canada 1969-1984. New York: Garland Publishing, 1994.
- McFarlane, Peter. "Aboriginal Leadership." Visions of the Heart: Canadian Aboriginal Issues. ed. David Alan Long, and Olive Patricia Dickason. Toronto: Harcourt Brace and Company Canada, 1996.
- Mercredi, Ovide, and Mary Ellen Turpel. In The Rapids: Navigating the Future of First Nations. Toronto: Penguin Books Canada Ltd., 1993.
- Monture-Angus, Patricia A. Journeying Forward: Dreaming First Nations' Independence. Halifax: Fernwood Publishing, 1999.
- Morse, Bradford W. Aboriginal Self-Government in Australia and Canada. Kingston: Queens University Institute of Intergovernment Relations, 1986.
- New Zealand. Waitangi Tribunal. Te Rōpu Whakamana i te Tiriti o Waitangi. October 2000 update. <http://www.knowledge-basket.co.nz/waitangi/faq.html>.

Nicholson, David. "Indian Government in Federal Policy: An Insider's Views." Pathways to Self-Determination: Canadian Indians and the Canadian State. eds. Leroy Little Bear, Menno Boldt, and J. Anthony Long. Toronto: University of Toronto Press, 1984.

Plain, Fred. "A Treatise on the Rights of the Aboriginal Peoples of the Continent of North America." The Quest for Justice: Aboriginal Peoples and Aboriginal Rights. ed. Menno Boldt and J. Anthony Long. Toronto: University of Toronto Press, 1985.

Ponting, J. Rick. "Getting a Handle on Recommendations of the Royal Commission on Aboriginal Peoples." First Nations in Canada: Perspectives on Opportunity, Empowerment, and Self-Determination. ed. J. Rick Ponting. Toronto: McGraw-Hill Ryerson Limited, 1997.

- - - . "Relations between Bands and the Department of Indian Affairs: A Case of Internal Colonialism?" Arduous Journey: Canadian Indians and Decolonization. ed. J. Rick Ponting. Toronto: McClelland and Stewart Ltd., 1986.

Ponting, J. Rick, and Roger Gibbins. "Thorns in the Bed of Roses: A Socio-political View of the Problems of Indian Government." Pathways to Self-Determination: Canadian Indians and the Canadian State. eds. Leroy Little Bear, Menno Boldt, and J. Anthony Long. Toronto: University of Toronto Press, 1984.

- - - . Out of Irrelevance: A Socio-Political Introduction to Indian Affairs in Canada. Toronto: Butterworth and Company, 1980.

Powderface, Sykes. "Self-Government Means Biting the Hand That Feeds Us." Pathways to Self-Determination Canadian Indians and the Canadian State. eds. Leroy Little Bear, Menno Boldt, and J. Anthony Long. Toronto: University of Toronto Press, 1984.

Roberts, David. "Self-Determination and the Struggle for Aboriginal Equality." Aboriginal Australia: An Introductory Reader in Aboriginal Studies. 2nd ed. eds. Colin Bourke, Eleanor Bourke, and Bill Edwards. St. Lucia: University of Queensland Press, 1998.

Royal Commission on Aboriginal Peoples. Final Report of the Royal Commission on Aboriginal Peoples; Vol. 2: Restructuring the Relationship. Ottawa: Minister of Supply and Services Canada, 1996.

- Rudnicki, Walter, and Harold Dyck. "The Government of Aboriginal Peoples in Other Countries." Arduous Journey: Canadian Indians and Decolonization. ed. J. Rick Ponting. Toronto: McClelland and Stewart Ltd., 1986.
- Sawchuk, Joe. The Dynamics of Native Politics: The Alberta Metis Experience. Saskatoon: Purich Publishing, 1998.
- Schouls, Tim, John Olthuis, and Diane Engelstad. "The Basic Dilemma: Sovereignty or Assimilation." Nation to Nation: Aboriginal Sovereignty and the Future of Canada. ed. Diane Engelstad and John Bird. Toronto: Irwin Publishing, 1992.
- Tennant, Paul. "Aboriginal Rights and the Penner Report on Indian Self-Government." The Quest for Justice: Aboriginal Peoples and Aboriginal Rights. ed. Menno Boldt and J. Anthony Long. Toronto: University of Toronto Press, 1985.
- The Assembly of Manitoba Chiefs, and The Department of Indian Affairs and Northern Development. The Dismantling of the Department of Indian Affairs and Northern Development, The Restoration of Jurisdictions to First Nations Peoples in Manitoba and Recognition of First Nations Governments in Manitoba. Manitoba: AMC and DIAND, 1994.
- The Special Parliamentary Committee on Indian Self-Government. "Proposals for Indian Self-Government." Arduous Journey: Canadian Indians and Decolonization. ed. J. Rick Ponting. Toronto: McClelland and Stewart Ltd., 1986.
- Thiessen, H. W. "Indian Self-Government: A Provincial Prospective." Pathways to Self-Determination: Canadian Indians and the Canadian State. eds. Leroy Little Bear, Menno Boldt, and J. Anthony Long. Toronto: University of Toronto Press, 1984.
- Tremblay, Jean-Francois, and Pierre-Gerlier Forest. Aboriginal Peoples and Self-Determination: A Few Aspects of Government Policy in Four Selected Countries. Quebec: Secretariat aux Affaires Autochtones, 1993.
- Weaver, Sally M. "Political Representivity and Indigenous Minorities in Canada and Australia." Indigenous Peoples and the Nation-State: Forth World Politics in Canada, Australia and Norway. Ed. Noel Dyck. St. John's: Institute of Social and Economic Research Memorial University of Newfoundland, 1985
- . Making Canadian Indian Policy: The Hidden Agenda 1968-1970. Toronto: University of Toronto Press, 1981.
- Wuttunee, William I.C. Ruffled Feathers: Indians in Canadian Society. Calgary: Bell Books Ltd., 1971.