Applying a Post-Modern Framework to Native Self-Government in Canada

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ABSTRACT

Applying a Post-Modern Framework to Native Self-Government in Canada

Paul Downing

Due to their historical occupation of this country prior to European settlement Aboriginal people have special status in this country. Long viewed as wards of the Canadian state, Aboriginal people are no longer willing to remain in that position. Today natives are exerting pressure on the Canadian state to recognize them as self-governing people. This demand for self-government is one of the most complex issues facing the Canadian state and threatens the sovereignty of the nation-state. To date, a number of attempts have been made at arriving at a working form of native self-government. The Canadian state has been unsuccessfully trying to develop a universal concept for self-government, applicable for all natives and binding to all ten provinces. Instead what it should attempt is a community-based post-modern approach. Where each native community is consulted as to what type of self-government that particular community wishes to realize.

Acknowledgements

I would like to thank my wife Pamela for her endless support. As well I would like to thank Bell Canada for use of its private materials. This thesis would not have been possible without the guidance, wisdom and patience of Reeta Tremblay. This thesis is dedicated to the memory of my parents Paul and Josephine Downing.

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CHAPTER ONE

An General Introduction to the Issue of Native Self-Government within Canada

The nation-state is a direct product of late eighteenth and early nineteenth century liberal democracy theory which stemmed from such political thinkers as Locke and Rousseau. The liberal ideological principles of this doctrine, which advocates a state based on a tolerant and open form of inclusive self-determination, went largely unchallenged in the western world for well over a century. Yet now, there are emerging within the world a tide of social and political pressures that are laying siege to the traditional political hegemony of the nation-state. These pressures on the nation-state are chiefly the result of ethnonationalistic fragments attempting to wrestle power from the structures of the nation-state proper.

Primarily emanating from within the boundaries of the nation-state itself these forces are predominating demanding the dismantling of the nation-state along ethnic lines. Demands for self-determination are being heard from groups

which were once considered immersed fragments of the greater nation-state. Using the same liberal ideological principles of national self-determination these groups are espousing their own claims to an inherent right to self-determination. The irony is that by acknowledging the same rights to determination for peoples within its boundaries that the state as a whole espouses the nation-state is in fact weakening its own structural integrity.

The arrival of ethnonationalism in the nation-state is in fact a form of divergence nationalism within the nation. This divergence nationalism generally becomes a source of intrasocietal conflict as it adds another layer of complexity to already diverse workings of the nation-state.[1] This added level of complexity is sometimes sufficient to hasten the dismantling of a nation-state. On a world-wide scale peoples are calling for the devolution of states and the creation of new ones based solely on the prime catalyst of ethnicity.

The demand that all peoples should have their own state is the expression of cultural identity taken to political extremes and can represent the dangerous outcome of ethnonationalism voiced in its strongest sense.[2] This demand

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[1] Wladron, Arthur N. "Theories of Nationalism and Historical Explanation" World Politics No.3 April 1985: p.433

[2] Michael D. Levin. Ethnicity and Aboriginality: Case Studies in Ethnonationalism, (Toronto:University of Toronto Press, 1993)

poses a number of problems. For example, it places extraordinary pressures on the state which must commit itself to counteracting internal call from members of its minority ethnic groups for partition of the state along ethnic lines. Also, it is a practical geographical impossibility that every group which considers itself a nation will be able to achieve its asserted goal of statehood. As Walker Connor has pointed out it is impossible to reconcile this desire since there are far fewer states then their are ethnic people.[3] On a darker note, predication of political legitimacy along lines of ethnic identity often is used to camouflage a dangerous racial pursuit for a pure nation-state.[4] Furthermore, the very definition of the nation-state, asserts that the "state is a given and not must not be comprised", precludes it from wilfully tolerating its societal segments from calling for the weakening of the state. If these elements persist in the pursuing their claims governments may resist with force any ethnic drive towards self-determination which threatens to dismantle the state.[5]

Canada is also a nation-state thoroughly steeped in the

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p.3

[3] Walker Connor, "The Politics of Ethnonationalism", Journal of International Affairs, 27(1), 1973, p.11

[4] Hoffman, Stanley. "Formal and Informal Nationals". The Atlantic Monthly, August 1993, p.101

[5] Walker Connor, op., cit. p.12

philosophical conventions of the western liberal democratic tradition and the voices of ethnonationalism have also be heard in this country. The institutions and ideals used to cultivate political growth of the nation-state are here, as elsewhere in the world, being confronted with ethnonational demands. Demands which if not properly channelled and understood will prove to be highly disruptive to the well-being of the Canadian state.

In Canada, natives regularly employ the concept of enthnonationalism in their dealings with the Canadian state. Aboriginal peoples use the distinctiveness of their cultural identity as a means of entrenching their own political legitimatization. Of course by virtue of their historic occupation of this continent natives have always maintained a level of cultural distinctiveness which set them apart from other Canadians. Or as Michael Levin wrote, "Aboriginality is a more refined claim to distinctiveness based on historical experience. It emphasizes status as the original occupants of a place, adding depth to the idea of cultural difference."[6]

In researching the goals of native self-determination one quickly realizes that this form of ethnonationalism includes the unique political feature of self-government. The incorporation of the idea of self-government differentiates

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[6] Michael D. Levin, op., cit. p.4

the natives push towards self-determination from corresponding campaigns elsewhere in the world. The reason for this is that the aboriginal notion of self-determination works on the alternative notion of self-government as opposed to absolute sovereignty.[7] By seeking to employ self-government within the bureaucracy of the Canadian state natives are prepared to accept a level of political autonomy and recognition that is short of sovereignty.

It should come as no surprise that native people in Canada are choosing to refute the ideological assumptions of liberal democracy. Even though Canada professes the benefits of a multicultural society, natives in this country have long been a marginalized group.[8] A minority constituency of conquered and colonised people who have watched their cultural and social traditions erode against a continuous and massive onslaught of western cultural imperialism.

In order to better understand just what natives are attempting to achieve in their drive for self-government it is necessary to have a clearer perception of the native population. Therefore, a description of Canada's indigenous people is required.

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[7] Michael D. Levin, op., cit. p.6

[8] Charles Taylor, Multiculturalism and "The Politics of Recognition", (Princeton: Princeton University Press, 1992), p.26

A DESCRIPTION OF THE NATIVE POPULATION OF CANADA

The most recent Statistics Canada population survey, conducted in 1991, revealed that slightly over one million people (1,002,675) claim aboriginal ancestry.[9] This means that Canada's aboriginal population accounts for almost four percent of the nation's total population and comprises the fourth largest ancestral group in the country.[10] As these numbers indicate the aboriginal population of this nation represents a substantial proportion of Canada's total population base. But, it would be a mistake to conclude that the figure quoted above embodies one homogenous aboriginal population. On the contrary, the aboriginal population of this country is nearly as diverse as it is large.

Canada's indigenous population is composed of four distinct groups; Status Indians, Non-status Indians, Metis, and Inuit. This segregation of Canada's aboriginal community into these four groups is as a much a function of legality as it is a function of racial, cultural or geographical differentiations. The federal government refuses to confer equivalent legal status on all four groups. Due to this

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[9] Canada's Aboriginal Population by Census Subdivisions and Census Metropolitan Areas, (Minister of Industry, Science and Technology, Catalogue No.94-326, Ottawa 1994) p.8

[10] Michael Asch, Home and Native Land: Aboriginal Rights and the Canadian Constitution, (Toronto: Methuen Publications, 1984) p.3

decision there exists in the Canadian state a hierarchy among Canada's aboriginal people where some groups have more rights than others. The reasoning behind the federal government's position and its impact will be discussed later in this paper.

Status Indians, frequently referred to as treaty Indians, have special legal status in the eyes of the federal government. The term status Indian is applicable to any person who is registered as an Indian or entitled to be placed on the Indian register.[11] Persons with the title of status Indians fall under the legislative and administrative auspices of the federal government. The federal government assumes the responsibilities of providing education, health, welfare, and economic development services for status Indians. A person identified as a status Indian is usually, but not always, attached to a Indian band.

Non-status Indians are individuals who for a variety of reasons are excluded from the Indian register. A person designated as a non-status Indian is not permitted to access the services which are provided for status Indians by the federal government. As a result non-status Indians must apply for federal services through the same agencies as do ordinary

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[11] James S. Frideres, Native Peoples in Canada: Contemporary Conflicts, (Scarborough: Prentice Hall Canada Inc., 1988) p.28

Canadians.[12]

As aboriginal people the Metis occupy a unique position among Canada's indigenous people. This because the Metis bloodline is a mixture of European and native North American Indian. The Metis are mainly found in Western Canada, primarily in the two provinces of Saskatchewan and Manitoba. Metis are excluded from accessing the government services reserved for status Indians. Furthermore, the federal government asserts that Canada's Metis population are a matter of provincial and not federal concern.[13] This final point will be further examined later on in this paper.

The Inuit are the indigenous people who for over a century were called Eskimos. Primarily known for the fact that they inhabit the hinterland of the far Canadian north the Inuit are a native people with their own unique culture and way of life. Due to the isolation afforded them by virtue of their chosen area of location the Inuit are probably the aboriginal people in this country that have been least affected by contact with people of European extraction.[14]

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[12] James S. Frideres, op., cit. p. 70

[13] John Weinstein, Aboriginal Self-Determination Off a Land Base, Base, (Kingston: Institute of Intergovernmental Relations Queens University, 1986) p.9

[14] James S. Frideres, op., cit. p.70

These aboriginal communities, or nations as they would refer to themselves, include over 500 tribal bands across Canada which are represented at the national and provincial levels by well over 50 different aboriginal organizations.[15] Some of the more powerful organizations are the Assembly of First Nations (AFN), Native Council of Canada (NCC), Metis National Council (MNC), and the Inuit Committee on National Issues (ICNI). Each of these groups incorporates a different section of the aboriginal community. The AFN speaks for status Indians, while the NCC represents non-status Indians and Metis. The MNC also represents Metis people. Inuit representation is provided by the ICNI.

It is key to realize that these organizations were not formed in a haphazard fashion solely to collect as many members as possible. Rather each group has its own constituency which embodies very specific ideals and demands from its leadership at both the provincial and the national level. The observer must resist the temptation to paint all the separate organizations with the same brush, these groups are not representative of a singular homogenous perspective. But, one thing all these associations do have in common is that they have all contributed to spawning an increased

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[15] Franks C. Aboriginal Peoples and Constitutional Reform: Public Adminstration Questions Relating to Aboriginal Self-Government, Published by the Institute of Intergovernmental Relations: Queen's University, Kingston Ontario, 1987, p.92

political consciousness among Canada's native population. This heightened political awareness is responsible for the development of a new native politic.

The New Politics of Canada's Aboriginal People

In Canada at the present time, aboriginal people are engaged in a process of cultural and political rejuvenation. This rejuvenation is fuelled mainly by the desire to reestablish control over their political and cultural identities. Natives are seeking to halt a process of acculturation which began when the first Europeans set foot on the shores of North America more than four centuries ago.[16] This rejuvenation process has lead to the formation of a new politic among natives in this country.

Natives are primarily attempting to alter their association with the Canadian state through the concept of "self-government". This ambitious concept proposes to redefine the institutional mechanisms that tie the aboriginal communities of this country to the Canadian state. At its core self-government seeks to make natives masters of their own houses. Stated simply, the idea of self-government is predicated on the belief that native communities or nations

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[16] Bruce G. Trigger Natives and Newcomers: Canada's "Heroic Age" Reconsidered, (Montreal: McGill-Queen's Press, 1985) p.129-150

should have the right, if they so desire to exercise it, to operate as self-governing independent autonomous states within Canada.

This new politics exhibits a strong sense of urgency. Self-government is not only viewed as a governing device but also a healing apparatus. The evidence of this is echoed in the tenor of the statements issued from the native leadership. First, native leaders assert the claim to aboriginal self-government as a means of alleviating the abysmal economic and social conditions faced by the vast majority of Canada's aboriginal population. Second, these same leaders point to the hardships endured by natives in Canada resulting from the systemic racism of the dominate white culture and the negative effects of such prejudice on aboriginal communities and cultures.[17] Third, an ongoing process of acculturation has lead to a situation where some native communities find their cultural survival balanced precariously over the brink of imminent and total demise. Many native leaders now consider the attainment of aboriginal self-government as the linchpin in the current effort to safeguard and redeem aboriginal culture in this country.

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[17] Sharon McIvor, "Sharing Power: How Can First Nations Government Work" in Frank Cassidy eds., Aboriginal Self-Determination: Proceedings of a Conference held September 30 - October 3, 1990, (Toronto: Institute for Research on Public Policy, 1991) p.83

Where once natives were content to remain relatively passive wards of the Canadian state, the new native politic operates in a decidedly more proactive fashion. Aboriginal people are no longer willing to continue in the role as silent partner in their relationship with the Canadian government. They are now striving to obtain a larger role in the decision-making processes which influence their lives. With the goal of revitalizing native cultures and developing their own unique political institutions, natives are currently attempting to restructure the relationship which exists between native communities and the Canadian state. The nature of this relationship has been widely criticized by natives has being essentially flawed. Natives have long argued that their dealings with the Canadian government are fundamentally structured in a asymmetrical hierarchical fashion which accommodates the needs of the Canadian state at the expense of native people.

Aboriginal politics have truly added a new political perspective to this country's national agenda. Gone are the days when natives simply fell into a jurisdictional category of compete governmental supervision. Those once seemingly powerless natives have gathered their strength and forged political alliances which now pressure the Canadian elite. This means that for those who extol the virtue of aboriginal self-government their dream has never been closer to fruition.

This has become evident in the tact that present day native leaders are taking with regards to the self-government question.

For example George Erasmus, then National Chief of the Assembly of First Nations, opened a Toronto symposium on aboriginal self-government with the following remarks.

> **"We had been here for tens of thousands of years. It is important for people to realize that. The exercise of sitting down on a nation-to-nation basis was not a new phenomenon to indigenous people."[18]**

This symposium serves to highlight the growing importance that is currently being attached to aboriginal issues and the quest for some form of aboriginal self-government. The remarks are indicative of a new consensus that is emerging among natives across this country. That consensus being that the aboriginal peoples of this continent were in full possession of nationhood status prior to their first contact with Europeans. Furthermore, these aboriginal nations have retained the right to self-government to the present day.

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[18] Georges Erasmus, Preface to Discussion in Frank Cassidy eds. Aboriginal Self-Determination: Proceedings of a Conference held September 30 - October 3, 1990, (Toronto:Institute for Research on Public Policy, 1991) p.22

The Governmental Players

On the opposite side of the self-government debate from the natives we find the provincial and federal governments. One should refrain from concluding that these governments always coordinate their activities in responding to the demand for self-government. In fact, at times the federal and various provincial governments articulate positions which are at cross purposes to each other. For reasons which differ from province to province the federal government frequently finds itself at odds with its provincial political counterparts on native issues. The governments have a wide range of concerns with respect to development and implementation of aboriginal self-government. At times the interests of the provinces and federal government converge in matters of native politics but, experience shows the tendency here is for divergent policy platforms in these matters.

With respect to the federal government, it finds that it is legally bound to Canada's aboriginal people. While this legal commitment was constitutionally entrenched in the BNA Act and was reaffirmed when the constitution was repatriated in 1982 the true nature of the historical relationship that has existed between natives and the Canadian state is perhaps captured best by a separate piece of legislation known as the Indian Act. The act exemplifies a colonialist mindset and is

a poignant example of what can go wrong when a conquering people fail to respect the nature of difference in those they have conquered. The act effectively transformed natives into wards of the Canadian state and conveyed sweeping powers on the government to legislate the daily lives of aboriginal people.

This Act was originally passed in 1876 has undergone a number of revisions throughout the years. Amendments to the Act usually conveyed greater power over natives into the hands of the federal government. These transgressions included the right to seize Indian land for non-native use as well as the now much publicized catastrophic policy of taking native children off reserves and placing them in boarding schools in order to receive a proper education and become "civilized". The Indian Act's present embodiment is a result of its last major revision which was undertaken in 1951. Interestingly this latest incarnation of this document bears a striking resemblance to the original legislation of 1876. Proving that the ideological shifts required to move government and native relations into the 21st century have not yet transpired within the bureaucracy of the Canadian state.

The Concept of Self-Government

One of the problems associated with self-government is that the concept remains largely abstract. Partly because of this there exists a profusion of opinions as to what self-government means. A wide number of varying opinions on the subject of aboriginal self-government means it is difficult to get a definitive answer as to what it will mean in pragmatic terms.[19] In attempting to define aboriginal rights along with the emerging right of self-government one quickly learns of the plethora of views on the subject. The abundance of views definitely raise more questions then they solve. What do natives want when they advocate the development of self-governing mechanisms? What will be the role of the Department of Indian Affairs once a self-governing agreement is in place? Will Canadian laws apply on Indian lands? These questions are just a few of the reasons why it is a difficult and at times acrimonious debate to resolve. It is a complex and often shifting field of public policy containing the disparate convictions of the many participants absorbed in the debate.

One of the most pertinent questions in this debate circumscribes the notion of inherent rights versus delegated rights. Natives claim their right to enact self-government is

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[19] Donald Purich, Our Land: Natives Rights in Canada, (Toronto: James Lorimer and Company, 1986) p.215

an inherent right, which exists without the required consent of the provincial or federal governments. The predication here is that the right inherently belongs to all aboriginal Canadians. For their part, the federal and most provincial governments are only prepared to accept the notion of self-government as a delegated right.

One should not gloss over the very critical distinction between these two positions. It has raised quite the clamour among the parties involved in this debate. An interpretation of self-government as an inherent right definitely enhances the argument that self-government is an option that natives are perfectly entitled to implement if they so choose. This position which undermines the role of the federal and provincial governments in defining native self-government.

On the other hand, if viewed as a delegated right, then the federal and provincial governments become major participants in the devising and implementing of any self-government agreement. For obvious reasons the natives have chosen to push the inherency perspective, while the governments ardently support a interpretation of self-government based on the premise of delegated rights.

Moreover, these aboriginal organizations have adopted a unique approach towards self-government. As opposed to trying

to develop a single universally accepted notion of self-government the aboriginal groups have fostered a highly decentralized piecemeal approach to the concept.[20] The gist of this approach is centred around a commitment to the local community. It is based on the assumption that needs of each community will be unique and hence will require individually tailored self-governing mechanisms. Piecemeal approaches necessitate the proactive participation of natives in the creation of any form of preferred self-government. So, as opposed to having the national native association dictate the terms to individual communities it is the communities that will function as the theoretical developers of self-government. This illustrates a bottom-up approach towards political government and its administration which is far from commonplace in the Canadian state. From this viewpoint aboriginal self-government may constitute a form of governmental jurisdiction closer to the principles of direct democracy than that which currently exists in the Canadian state.

However, even though the aboriginal citizenry shares the desire to become self-governing the debate continues as to what type of self-government mechanism is best suited for each

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[20] Hawkes David Negotiating Aboriginal Self-Government: Developments Surrounding the 1985 First Ministers' Conference, published by Institute of Intergovernmental Relations, Queen's University, Kingston Ontario, 1985, p.41-43

community. Native communities across this country are not all subject to the same social and economic forces. Therefore, each community will have different reasons for choosing a particular self-governing structure. To date, three potential models have emerged as the most probable types of self-government, they are; the sovereign state model, the municipal model, and a hybrid of the sovereign state and municipal model.[21] These three models, each sketching out an alternative approach to self-government, are for all intensive purposes the only pragmatical options that are presently being discussed. As we will see the federal and provincial governments have definite views on what type of model the aboriginal people should be permitted to employ. All three will be further discussed and detailed in a later section of this thesis.

As we will see the controversy over these and other questions is partly responsible for the extremely wide gap which separates the natives from both levels of government. To narrow this gap a discernible set of guidelines, acceptable to both sides, is required.

To this date the participants have not forged a set of guidelines which can be used as a framework to encourage the installation of any self-governing mechanism. But, a certain

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[21] Purich, p. 211-12

broadly accepted guideline on the subject of self-government has been widely accepted among Canada's aboriginal communities. Bruce Clark in his book, Native Liberty, Crown Sovereignty, furnishes us with a working definition of self-government. Clark defines self-government in the following manner, "...self-government...means making one's own laws, laws that can have precedence over the laws of outsiders when the laws conflict."[22] This interpretation stems from Clark's belief that the aboriginal communities of Canada have an inherent right to self-government based on the Indians historic occupation and possession of this continent prior to its colonization by Europeans. This guideline would meet with ardent opposition from certain segments of Canadian society. But, it seems unlikely that it would encounter much resistance from aboriginal Canadians who are pursuing the concept.

Roger Gibbins and Rick Ponting are two scholars who provide a further clarification on this topic. They have identified four key points which encompass the aspirations that natives hold for self-government.[23] They are:

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[22] Bruce Clark, Native Liberty, Crown Sovereignty: The Existing Right of Self-Government in Canada, (Montreal: McGill-Queens University Press, 1990) p.6-7

[23] Roger Gibbins and Rick Ponting, "An Assessment of the Probable Impact of Aboriginal Self-Government in Canada" in Alan Cairns and Cynthia Williams, eds. The Politics of Gender, Ethnicity, and Language in Canada, (Toronto: University of Toronto Press, 1986) p.180-182

> 1. Greater self-determination and social justice. Protection of and control over one's own destiny, rather than subordination to political and bureaucratic authorities based outside the ethnic group.
>
> 2. Economic development to end dependency, poverty, and unemployment. Economic justice in the sense of a fair distribution of wealth between the aboriginal and non-aboriginal populations.
>
> 3. Protection and retention of aboriginal culture.
>
> 4. Social vitality and development that will overcome such existing social problems as ill health, the housing crisis, irrelevant and demeaning education, and alienation.

Described in these terms the idea of self-government represents a marked departure from the historical relationship that has existed between natives and the Canadian state. And as with all new ideas that present serious challenges to the established order an understanding of their evolutionary development is required. The history behind the idea is equally as interesting as the idea itself. Aboriginal self-government has been subject to evolutionary forces through the years. To return back to the work of Clark is helpful since it distinguishes three separate stages in the development of aboriginal self-government.[24] These stages are located in three different historical Canadian epochs. First, there is the colonial stage of self-government which took place while Canada was a colonial province of the British crown. The second stage in the evolution of self-government took place

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[24] Bruce Clark, op., cit. p.192-195

during the rise of responsible government in this country. Finally, the third stage belongs to the modern era and according to Clark was characterized until very recently by a strong tendency, on the part of the federal government, to have aboriginal people assimilate into the "White" Canadian mainstream.

Each one of Clark's stages represents a pivotal stage in the development of the Canadian state. The stages can be further narrowed down to three significant dates in Canada's history. They are; 1763, 1867, and 1982. The first date of 1763 corresponds to Canada's colonial period and in particular to the Royal Proclamation of 1763. This proclamation is the first example of a treaty between natives and the British crown in which the recognition and protection of native nations, including land claims, is explicitly stated.[25]

The second date of 1867 is easily recognized by Canadians as the moment associated with the rise of responsible government in this country. In that year the British North America Act (BNA Act) came into effect. The only specific mention to natives in the BNA Act is found in section 91 paragraph 24. This section simply states that the federal government has exclusive jurisdiction to legislate for,

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[25] Moore Kermot The Will To Survive: Native People and The Constitution, Hyperborea Publishing, Val d'Or (Quebec), 1984, p.41

"Indians and Lands reserved for Indians".

In 1982, Clark's third stage in the development of self-government, the constitution was repatriated along with the Charter of Rights and Freedoms. The new constitution served to highlight the growing importance of natives on Canada's political landscape. A number of sections are contained within the constitution and the Charter which bear directly on natives. Section 25 of the Charter and sections 35 and 37 of the constitution focus exclusively on native issues. Of particular concern for this paper is section 37 which legislated the convening of a series of First Minister's Conferences (FMC) on aboriginal issues including self-government.

The repatriation of the constitution serves as a watershed in the development of native politics. The event not only placed native issues on the constitutional table, it also led to the consolidation of native groups across the country on a scale unprecedented in Canadian history. The coalescence of these groups provided an added dynamic fulcrum by which natives could induce leverage on the Canadian government and its bureaucracy.

I will examine each of these stages in greater detail later in this paper to determine the precise nature of their

impact on the evolution of the notion of aboriginal self-government. For now what is important for us to bear in mind is that self-government as a concept has a varied and substantial history in Canada. What has emerged as today's political demand from aboriginal people is the result of an ongoing process which took over a century to produce.

The Mood of the Nation with Regard to Self-government

The current mood of the nation reflects a willingness among the general Canadian population to amend the social and economic injustices that have historically plagued natives. But, it remains to be seen whether or not the average Canadian will support the prospect of aboriginal self-government. The wholesale changes required to accommodate a transition to native self-government will doubtlessly have spinoff consequences for the Canadian public. Consequences that the public may not, regardless of their underlying sympathetic view towards the native predicament, be prepared to accept.

In fact, a 1994 Angus Reid survey of Canadians attitudes on selected aboriginal issues reveals that aboriginal self-government remains problematic from the standpoint of public opinion.[26] There is no such thing as a broad public consensus

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[26] Canadians and Aboriginal Peoples, 1994, Angus Reid Group, Inc., Published by Angus Reid Group Inc., Toronto, p.76

on the issue. The Reid study asked Canadians to identify the issues they perceived as the major priorities facing this country's aboriginal people. The study shows that self-government is not considered a pressing issue by the public at large.[27] In fact, out of a list of nine top-of-mind priorities identified by the public self-government placed seventh. Only fourteen percent of Canadians cited self-government as the central issue facing native people. This recorded percentage actually represents a slight decrease in public support for self-government from previous Reid studies.

The issues that Canadians prioritized ahead of self-government were; alcohol/drugs (21%), integration/adaption (20%), unemployment (19%), racism/discrimination (19%), education (18%), and land claims (15%). The two priorities ranked behind self-government were culture which was mentioned by 12 percent of Canadians and poverty which was cited as the central issue facing natives by just nine percent of the Canadian population.

All of the issues listed ahead of self-government have a decidedly socio-economic tinge. The public's preoccupation with social problems may stem from the familiarity that the Canadian public has with these issues. Many of these problems, especially as they relate to Indian reserves, have

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[27] Angus Reid. op., cit. p.23

a long standing history of media documentation. It also requires less effort and information, on the public's part, to focus on traditional social problems then would be required to develop a workable understanding of self-government.

The Angus Reid study also shows that Canadians are about equally divided on the issue of whether or not self-government is an inherent right, a delegated right, or even if the right as such even exists in the first place[28]. At 35 percent a slight plurality of Canadians expressed the opinion that self-government is an inherent right of aboriginal people. The percentage of people willing to voice this opinion has actually increased in the past four years. In September of 1990, immediately following the diffusion of the Oka crisis only 27 percent supported the inherency argument.

Just under one-third of the public (32%) view the right as delegatable. The feeling among this group is that natives must entreat the blessings of the federal and provincial governments before any self-government project can begin to take meaningful shape. The level of public support for this position is evenly dispersed right across the nation with a high of 35 percent in the Atlantic region of the country and a low of 30 percent recorded in Ontario.

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[28] Angus Reid. op., cit. p.80

Fully 32 percent of Canadians take the view that aboriginal peoples have no more right to self-government than any other ethnic group in this country. The number recorded for this group represents a drop off of seven percentage points from a high of 39 percent registered in the autumn of 1990 following the Oka crisis. With respect to regions, those living in the provinces of Quebec, Manitoba, and Saskatchewan are more likely than others to state that natives have no more of an inherent right to self-government than any other ethnic group.

If self-government were to become a reality a vast majority of Canadians are of the opinion that the political organizations which emerge from this should resemble that of municipalities rather than being structured along the lines of provinces or sovereign states. The Reid study states:

> "A full majority of 52 percent of those participating in this April 1994 research indicated that, under self-government, aboriginals should have delegated powers like Canadian municipalities, and still be subject to federal and provincial government authority. At the same time, many members of the general public would be willing to see aboriginals exercise a higher degree of political power under self-government: 36 percent of those surveyed felt Canada's native peoples should have significant powers, something like provincial governments within the Canadian federal system; one in ten (9%) thought that self-governing natives should have complete sovereignty like a separate nation, with federal and provincial governments having no authority on native land except in negotiated areas of jurisdiction."[29]

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[29] Angus Reid, op., cit. p.81

While Canadians appear to favour a conceptual framework for self-government that is orchestrated towards a municipal-like power structure, the public is nonetheless willing to grant significant sovereign-like powers in specific jurisdictions.[30] Areas where public sentiment would tolerate significant aboriginal rights include; housing, education, health care, child welfare, and law enforcement. Public support of natives exercising sovereignty or provincial-like powers was over fifty percent in each of the jurisdictional areas listed above.

A possible explanation for the high level of public support for what appears on the surface to resemble a devolution of state powers may stem from the public's confidence in the overall ability of self-government to improve the lives of natives. Canadians in general share a common ground with natives in that they are optimistic that self-government will improve the quality of life for native Canadians. Fully 55 percent of those surveyed for the Angus Reid study indicated that they believed the standard of living for aboriginal people could improve if native self-government became a reality.[31]

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[30] Angus Reid, op., cit. p.84

[31] Angus Reid, op., cit. p.89

While results of the Angus Reid survey indicate a general supportive attitude for self-government, this backing is not without conditions. Canadians are almost universal in their belief that native self-government should follow the same basic liberal democratic principles which govern other levels of governments in the Canadian state. With 85 percent of Canadians expressing this view, there is widespread agreement among the public that aboriginal self-government should be tailored along lines that are familiar to Canadians.[32] All sympathies aside it appears that Canadians have no compunction in limiting the extent to which aboriginal self-government may contradict with the political paradigm of liberal democracy. As we will observe later in this paper this position is fundamentally identical to the stance asserted by both the federal and provincial governments in the FMCs. The stringent advocacy of this position by the governments at the FMCs proved an insurmountable obstacle.

Another opinion articulated by Canadians may prove equally problematic with respect to self-government. If aboriginals eventually have self-government on their own land Canadians believe that they should no longer have any special status or rights.[33] The fallout from this position potentially can pose a serious dilemma for natives. In their dealings

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[32] Angus Reid, op., cit. p.91

[33] Angus Reid. op., cit. p.91

with Canadian governments natives have always maintained that theirs was a special relationship with the state. The evidence of this special relationship is witnessed via the numerous treaties and agreements existing between natives and the government, agreements that no other ethnic group in this country could arguably purport to secure. It is doubtful that natives would be willing to relinquish the special status that is afforded to them even if self-government becomes a reality.

This last opinion as expressed in the Angus Reid survey also touches on the thorny issue of the "urban Indian". The public feels quite strongly that self-government and any negotiated powers attached to it should only be applicable to those natives living on reserve lands. This view is in direct conflict with the stated native objective of including all natives regardless of where they live, on reserves or in cites, in negotiations on self-government. Yet, it is difficult to envision any form of self-government which is equally implementable on Indian reserves and in city environments.

While the phenomenon of native urbanization remains largely unstudied there is still enough evidence to recognize it as a critical issue in native circles.[34] With respect to registered Indians who have the right to live on reserve

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[34] Frideres, op., cit. p.257

lands, more than 35 percent of these Indians live off-reserve, usually in large metropolitan centres. As the following table shows this migratory trend towards the urban centres has steadily increased over the past forty years.

Growth of the Native Population in Urban Centres[35]

	1951	1961	1971	1986
Calgary	62	335	2265	3865
Edmonton	616	995	4260	10795
Montreal	296	507	3215	7485
Regina	160	539	2860	5175
Saskatoon	48	207	1070	5380
Toronto	805	1196	2990	5595
Vancouver	239	530	3000	11015
Winnipeg	210	1082	4940	18000

The figures quoted above include numbers for status and non-status Indians as well as Metis. The table shows that the issue of native urbanization is predominately but not exclusively a concern in the Western region of this country. And these are not the only Western cities with a sizable native population. When one factors in the number of native people living in such communities as Prince Albert, Prince Rupert, and other smaller western towns and cities, the ratio of western urbanization to that of its eastern equivalent

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[35] Statistics Canada, Metropolitan Areas: Dimensions, 1986, p.221

becomes even larger. Furthermore, only looking at those natives that are fully settled in the city, these statistics do not provide the complete picture, transiency is another major component of the native urban landscape. Many natives who leave the reserve end up migrating back and forth between the reserve and low paying jobs in the city.[36]

Since such a significant percentage of the indigenous population is situated off of the reserve the Canadian public's desire to restrict native self-government to those living on recognized Indian territory may provide problematic. Native leaders are quite right when they lament the loss of community members to the large urban centres. In the cities, natives risk increased exposure to the forces of acculturation which prey upon those who live within their boundaries. That unique sense of nativeness is easier to usurp from a single band member than from an entire community. A part of the solution to the rift that exists here between the native leadership and the Canadian public may in fact reside in actually implementing self-government. If self-government actually produces the desired outcomes on reserve lands, these include sustainable economic development and improved social services, natives may face less inducement to leave the reserves.

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[36] Frideres, op., cit. p.272

Chapter two

Post-modernism: A New Paradigm

Our understanding of the world is largely shaped by our philosophical perspectives. Any event can be interpreted from a variety of perspectives depending on the philosophical and political paradigms employed by the observer. These paradigms help to secure the observer into a fixed set of beliefs which in turn fashion the types of interpretations open to the observer. As well, the question of individual interpretation is in many respects closely connected to the issue of methodology. In many instances what a person perceives is a direct result of the methodological approach undertaken. The methodological underpinnings of a paradigm, be they political or philosophical, provide the intellectual foundation which serves as the road map for the paradigm's implementation.

For most of this century the Western world and its leading intellectuals have been concerned with the ongoing debate that raged between proponents of the two most dominate paradigms in western culture, Capitalism and Marxism. Needless to say there are a variety of other paradigms which have emerged and have extolled their various virtues in western culture, but in general the debate between Capitalism

and Marxism with their differing economy viewpoints has held centre stage.

Regardless of their many differences there is one point at which Capitalism and Marxism converge, both of these paradigms, in their unaltered forms, accept the notion of modernity. Modernity represents the notion that society can improve and liberate itself with the use of science and knowledge.[1] The fundamental concept behind the notion of modernity is the belief that society is in a continuous state of progress. The supposition of modernity maintains that with the aid of human reason and the development of the natural sciences mankind can develope a fuller and more comprehensive understanding of the world and of the problems that plague it. The search for knowledge coupled with man's rational cognitive abilities will, according to precept of modernity, foster the creation and cultivation of a more rational and civilized world.

Many scholars have claimed that the kernels of modernity are to be found in the sprouting of the 18th century philosophical tradition referred to as the Enlightenment.[2]

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[1] Rosenau, Pauline Marie Post-Modernism and the Social Sciences: Insights, Inroads, and Intrusions, Princeton University Press, Princeton, 1992, p.4

[2] Harding, Sandra "Feminism, Science, and the Anti-Enlightenment Critiques", in Feminism/Postmodernism, editor

The Enlightenment tradition with its stress on the procurement of reason and knowledge has had far reaching effect on the development of Western thought especially in fields such as epistemology and ontology. Hence, modernity taking its clue from the Enlightenment seeks to define and classify the natural world and all of its information and knowledge. The larger hope of modernity is to present the belief that the world can be understood through the process of acquiring knowledge. The world, through modernity, would become knowable through a faith in science and reason which would be capable of presenting a totalized theory explaining the world. This theory would encompass all of society and represent the ultimate achievement of mankind. Furthermore, modernity using the Enlightenment as a starting point seeks to legitimatize this process so as to make it unquestionable.[3]

The effect of modernity on society has been extremely ubiquitous, its trappings are found in most if not all of our major institutions and this is especially the case with our academic institutions. The "hard sciences" such as chemistry and biology were pulled into the empirical rationalism offered by the Enlightenment. The reason for this seems straight forward since these sciences need to focus on the provable

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Linda J. Nicholson, Routledge Press, New York, 1990, p. 83

[3] Lyotard, Jean-Francois The Postmodern Condition: A Report on Knowledge, University of Minnesota Press, Minneapolis, 1979, p. 30

scientific fact in order to progress in any substantial fashion. These sciences want to know what is knowable, therefore their interest in modernity seems rather natural. But with regard to the social sciences or "soft sciences", as they are sometimes called, the interest in modernity, is somewhat harder to recognize. The social sciences such as philosophy and political science require less hard evidence than the natural sciences, hence the pejorative term "soft sciences", but, they are nonetheless built on a modernist perspective.[4]

But not all scholars adhere to the tenets espoused by the modernist's school of thought. Modernism and its assumptions about life and society have been severely criticized by a group of intellectuals who advocate a methodological approach referred to as Post-Modernism. This new paradigm which started to emerge at some point following the Second World War, just as the industrial engines of society began to burgeon to previously unheard of levels of economic productivity. These forces of change, which offered its converts a new ideological framework, start to grow in both intensity and magnitude. Its main selling point was that it extended the opportunity to re-examine a post-industrial

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[4] Yeatman, Anna "A Feminist Theory of Social Differentiation", in Feminism/Postmodernism, editor Linda J.Nicholson, Routledge Press, New York, 1990, p.284

world, whcih was crumbling via idealogical malaise.[5]

As opposed to the modernist's approach which tries to develop general theories regarding issues, post-modernism attempts to illustrate that there is no possibility or usefulness in building grand totalizing theories which attempt to explain the nature of reality. In the words of Jean-Francois Lyotard, one of the most noted post-modern critics, "Let us wage war on totality".[6] This statement refers to the commitment by the practitioners of post-modernism to confront any and all theories which claim to depict and analyze the nature of the world. Theories which make such claims are referred to as "meta-narratives" by post-modernists.

Post-modernists refuse to believe that the world can be understood by theories which claim to account for all the questions and at the same time provide all the answers. These totalizing theories are criticized by post-moderns because they are too far reaching in scope and too theoretical in nature. For example, it is for these reasons that many post-modernists reject Marxist analysis.[7] By way of its design

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[5] Sarup Madan, An Introductory Guide To: Post-Structuralism and Postmodernism, University of Georgia Press, Athens, 1989, p.130

[6] Lyotard p.82

[7] Fraser, Nancy and Nicholson, Linda J. "Social Criticism without Philosophy: An Encounter between Feminism and Postmodernism", in Feminism/Postmodernism, editor Linda J. Nicholson, Routledge Press, New York, 1990, p.23

post-modernism seeks to compel society to reevaluate all of societies "isms". The post-modern method takes aim at a diverse range of topics and fields, these include Capitalism, Marxism, Christianity, secular humanism, liberal democracy, and modern science to name just a few.[8]

The arrival of post-modernism has created quite a stir. Post-modernism started to question all the established theoretical frameworks, to break them down to reveal their inherent contradictions and weaknesses. If the history of modernity stood for the search for order in the universe then the arrival of post-modernism symbolised the conquest of subversion and anarchy.[9] Post-modernism started to raise serious questions about how knowledge and truth should be pursued. In post-modernism, "Relativism is preferred to objectivity, fragmentation to totalization."[10]

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[8] Rosenau p.6

[9] Klinkowitz, Jerome Rosenberg/Barthes/Hassen: The Postmodern Habit of Thought, University of Georgia Press, London, 1988, p.110

[10] Rosenau p.8

Post-modernism: Parts and Pieces

Post-modernism takes much of its roots from a form of literary criticism referred to as "deconstructionalism".[11] This form of literary criticism attempts to tear down a work of literature piece by piece, in effect to deconstruct it as opposed to construct it. What is revolutionary about this process was that it ventured to examine the text from a completely revised vantage point. Instead of looking at what is said in the text deconstruction focuses attention on the reader and on what is marginalized or left out of the implicit meaning of the text. Barbara Johnson in her book, A World of Difference, describes the process of a deconstructive reading as follows:

> "As a critique of a certain Western conception of the nature of signification, deconstruction focuses on the functioning of claim-making and claim-subverting structures within texts. A deconstructive reading is an attempt to show how the conspicuously foregrounded statements in a text are systematically related to discordant signifying elements that the text has thrown into its shadows or margins, an attempt both to recover what is lost and to analyze what happens when a text is read solely in function of intentionality, meaningfulness, and representativity. Deconstruction thus confers a new kind of readability on those elements in a text that readers have traditionally been trained to disregard... In this sense it involves a reversal of values, a revaluation of the signifying function of everything that, in a signified-based theory of meaning, would constitute noise."[12]

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[11] Norris, Christopher Deconstruction: Theory and Practice, Methuen Press, London, 1982, p.18

[12] Johnson, Barbara A World of Difference, Johns Hopkins University Press, Baltimore, 1987, pp.17-18

Thus deconstruction attempts to draw attention to parts of the text that have traditionality been ignored, in the hopes of arriving at new interpretations of the text. This is possible say deconstructionalists such as Jacques Derrida because of the ambiguity that exists within language between the signifier and the signified.[13] The text according to Derrida, perhaps the most famous deconstructionalist of the French school, is a very complicated instrument and can carry multiple meanings. The text opens itself up to multiple interpretations because of the distance that exists between the intention of language, on the part of the author, and the meaning which is prescribed to the written word by the reader.

In fact, deconstructionalists and post-moderns in general believe that the only way in which a text can have meaning is to amplify the importance of the reader and diminish the role of the author.[14] Post-modernists, through the use of deconstructive analysis, believe the role of the author only adds to the confusion surrounding a text. The author is an instrument seeking to impose meaning onto the text and meaning, say the post-modernists can only originate in the mind of the reader.

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[13] Norris p.24

[14] Rosenau p.25

How does one bridge Derrida's intellectually labyrinthine notion of the text with the more pragmatic challenges of political existence? Does talk of intertextuality and the proliferation of intepretations have genuine veracity to those concerned with politics? Derrida's argues that it does. Deconstruction for Derrida is a politcal practice, its aim is to dislodge the logic by which a particular system of thought and, going deeper, a whole system of political structures and social institutions maintains its force.[15] This assumption by one of the world's leading post-modern thinkers certainty serves to solidify the political ramifications of this movement.

Before going forward it would be useful to identify some of the basic axioms of the post-modern framework. Following this we can examine divisions among the various post-modern school trends of thought. As with any movement there is bound to be numerous offshoots within it which branch off in various directions, taking up different intellectual perspectives along the way. Once we have identified the main axioms of the post-modern movement we will see how these different groups within the movement interpret these basic axioms to fit their own ideological perspectives.

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[15] Madan Sarup, op., cit. p.60

Perhaps the most important of these concepts, for politcial consideration, is the meta-narrative. The idea of the meta-narrative is a theory often found in the arguments of modernity, such as secular humanism, which claim to represent the truth.[16] The tendencies of these theories is to advance the worthiness of their truth-claims based on the global principles put forward within the theory. These theories seek to find solutions to the problems of humankind. They seek to encompass and globalize the issues, at the heart of these theories, claim post-modernists, is the desire to simplify the problems of humanity.

Post-Modernists refer to meta-narratives as "grand theories". These so called grand theories are rejected by post-modernists who maintain that truth on a global scale is impossible. According to post-modernists, the modern world in which we live is too complex and interrelated to suggest the possibility of making any sort of truth-claims based on the idea of a meta-narrative. Some post-modernists present an alternative to substitute for the notion of the meta-narrative which will be discussed later in this paper.

Closely associated with the notion of the meta-narrative is the idea of logocentric systems.[17] A logocentric system is

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[16] Ibid p.26

[17] Rosenau p.117

a system which utilizes externalized universally accepted truthful propositions as a means of shoring up its proclamations. According to post-modernists such systems are based on self-constituted logic, these suffer from a circular, self-referential, and self-satisfying form of methodology. The major weakness of these systems is that no grounds exist for external validation or substantiation.[18]

The notion of "good" and "evil" would be an example of logocentric system. By referring to the idea of "the good" a theory is making the assumption that the audience is already aware of the fact that the good is naturally preferable to what is called evil. Logocentric systems are representative of self-contained logic patterns. Since the theory rests on logic which by definition is not considered disputable. By making reference to some outside reference of truth, logocentric systems start from a faulty premise because post-modernists do not believe in the existence of a universal notion of truth.

Of further significance to the post-modern framework is belief in the concept of intertextuality. Intertextuality stresses the idea that all events in the world are

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[18] Jacques Derrida, Of Grammatology, (Baltimore: Johns Hopkins University Press, 1976) p.49

interrelated.[19] No single event exists independent of its surrounding environment. Everything which passes in this world is seen as connected in some manner to every other event in the universe. Therefore, some post-modernists claim, any attempt to analyze by an observer is fruitless because there are too many variables to allow for a proper understanding of an event.

As we have seen the notion of the text is very prominent in the post-modern movement and takes its meaning from the deconstructionalist method of analysis. Post-Modernist's aver that everything which transpires in this world is a text and therefore, open to multiple readings. This assumption on the part of post-modernists has important consequences for our understanding of the social sciences and the world in general. As Rosenau puts, "...if all of human thought and action can be understood as a text, then the whole of social science becomes a candidate for post-modern analysis."[19] This statement naturally confers onto the post-modern movement a massive area in which it can practice its postulates. Therefore, the role of the text allows the movement and its advocates to extend post-modern analysis to the entire scope of human affairs.

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[19] Ibid p.112

[19] Ibid p.40

Of equal importance to the post-modern movement is the discussion revolving around the existence of the "subject" in the post-modern world.[20] For the most part post-modernists reject, in varying degrees, the traditional definition of the subject. The subject is seen as one of the last vestiges of modernity. The subject is viewed as an attempt by author, or more appropriately an attempt by those seeking authority, to influence the outcome of an event or text. Post-Modernists believe that the traditional role of the subject has always been one of subjugation. One of the main reasons that post-modernists reject the idea of the subject concerns their ongoing desire to do away with authoritative relationships, thus:

> "... existence of the subject implies one human being is under the control of another, dependent on the other; a social science researcher (subject) guides the students (objects) participating in an experiment, and the interviewer (subject) directs the respondents (objects) in filling out a questionnaire in a public opinion poll."[21]

In the post-modern frame of reference the collapse of long standing established theories such as Marxism and Liberal Capitalism bodes ill for the modernist rational subject.[22] This is the case because post-modernists believe that the modernist subject is a construction designed to oversee the

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[20] Ibid p.43

[21] Ibid p.50

[22] N.J. Rengger, "No Time Like the Present? Postmodernism and Political theory" Political Studies (Vol.40, September 1992) p.564

production of a privileged access to truth. The access to truth is opened up once the logocentric systems of modernity are cast aside thus deflating the privileged location attained by the rational subject who through use of these systems purports an unsustainable proportion of knowledge. A level of knowledge the rational subject must concede is only relative once it is removed from its logocentric moorings.

In place of their traditional view of the subject post-modernists have erected a theory which is anti-subject, this is especially true with respect to the social sciences. Post-Modernists such as Derrida and Foucault, who it will be shown represent the extreme form of post-modernism, deem that the subject is nothing more than a "position in language". For these post-modernists the subject is nonessential to their analysis which by its deconstructive nature concentrates on language and multi interpretative readings[23]. In this methodological approach the subject with its predetermined subjugated function fulfils the role of intellectual repository and is thus concerned obsolete due to its passive character.

Post-Modernists also incorporate unusual notions of time, space, and history into their methodological approach. Post-

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[23] Ibid p.43

Modernists want to pay more attention to time and space at the expense of history.[24] History is criticized for a number of reasons. First, post-modernists contend that there is no real knowable past which can claim to represent an evolutionary progress of human development. Second, post-modernists dispute the claim that historians are objective. Third, the modern notion of reason leads historians to explain the past. Finally, the role of history is rejected by post-modernists because it is seen to transmit human cultural values from one generation to another thus imposing one set of values on a different generation of people.[25] At the heart of these criticisms against history lays the post-modern notion that history is merely a massive ideological meta-narrative which endeavour to control the present through an explanation of the past.

Post-Modernists have derived their ideas about history primarily from the development of two theories of history.[26] The two theories are the "end of history" theory and the "new history" theory. The end of history movement tries to locate the meaning of history in small local stories of ordinary people as opposed to the larger tradition tale that is the standard fare of the historian. The end of history movement

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[24] Ibid p.62

[25] Ibid p.63

[26] Ibid p.64-6

put forward the idea that the progress of society has come to a halt. What this last statement means depends on who you listen to, for some scholars it refers to the triumph of western capitalism as an idealogy and for others it alludes to utter futility associated with any attempt at improving society.

Post-Moderns maintain that modern concepts of time and space are merely illusions, people are subject to these illusions due to their frame of reference, the real (Newtonian) world. Post-Modernists believe that real time and space are less open to measure than society realizes.[27] While it professes to be anti-scientific, ironically the post-modern notion of time and space relies heavily on the science of physics. Decades before the arrival of post-modernism the field of quantum physics started to reveal how the observable world differed in substantial ways from the actual workings of the universe. Quantum mechanics revealed that the world was not as certain and discernable, with respect to space and time, as was once believed.[28]

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[27] Ibid p.67-70

[28] Gribbin, John In Search of Schrodinger's Cat: Quantum Physics and Reality, Bantam New Age Books, New York, 1984, p.155-177

The Two Schools of Affirmative and Skeptical Post-modernism

Post-Modernists have divided themselves into two major schools commonly referred to as the skeptics and the affirmatives. Among its members the school associated with the skeptics boast many of the most influential post-modernists, these include people such as Jacques Derrida, Michel Foucault, and Jean-Francois Lyotard. This group has come to be associated with the darker more negative side of post-modernism. It produces an account of modern life that sees very few positive elements within the framework of the modern industrial world.[29] The post-modernists associated with the skeptical school have inherited a strong bias from the works of Friedrich Nietzsche and Martin Heidegger.[30] This influence has led the skeptical school to adopt a somewhat nihilistic approach to its conception of the world and society in particular.

Many skeptics, for example, believe that there is no such thing as "absolute truth". Skeptics believe that all knowledge is mere personal perception. Accordingly all personal perception is subject to extreme individual interpretation and prejudice. People therefore, can never claim that any opinion they hold is a universal truth

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[29] Rosenau p.135

[30] Ibid p.93

regardless of the topic. Since in the eyes of the skeptics all statements that purport to represent a version of truth are subject to a variety misrepresentations resulting from the vast complexity of society. In fact skeptics claim that it is precisely the considerable complexity of society that has led humanity to a point where there are no certainties in life.

Skeptics are also extremely opposed to the idea of the meta-narrative. Skeptical post-modernists claim that all meta-narratives are attempts at truth justification within a logocentric context. Their insistence that there is no possibility of a universal truth compels them to refute such movements as Marxism and secular humanism. These movement, or any similar, which claim to offer a solution to humanities problems are seen as misrepresentative totalizing theories by the skeptics. This is especially true, claim the skeptics, in the case of political movements. "Modern politicians are worthless, corrupt, or absurd; the political systems they direct are without redeeming qualities."[31]

Thus the skeptical post-modern view of the world maintains that people have little or no chance whatsoever in altering their environment. Hence, if one was a post-modern skeptic, there would be no point in joining a political association since such a venture would be considered pointless

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[31] Ibid p.140

from the outset due to one's philosophical point of view. As a consequence of this conviction post-modernists who practice the skeptical doctrine have dismissed all of the major political and social movements current in the world today.

Unlike the skeptics the affirmatives espouse a more pro-active approach in their utilization of the post-modern doctrine. While the affirmatives, like the skeptics, also reject the notion of the meta-narrative, their rejection of it is less complete. Even though they do not believe in universal truth affirmatives do profess a belief in local or community truth.[32] Truth for the affirmative school carries a more subjective disposition. Even if it is not possible to ascertain any global truths, affirmatives believe that individuals can still acquire a level of personal truth which will be of benefit to them in their daily lives. Hence truth exists only on the small or local level, the level where people interact in their daily lives.

As a result of their concern for the community coupled with the possibility of local truths, affirmatives are more willing then their skeptical counterparts to adopt positive political activists positions. Affirmatives preach a return to a more liberated democratic world where people can have an affect on their environment. Therefore a variety of political

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[32] Ibid p.145

and social movements are embraced by these post-moderns. Affirmative post-modernists are attracted to a particular type of social movement:

> "Post-Modern social movements are interpretive, connective (intertextual); they search to have an impact on seemingly remote structures of everyday life. They call for the return of the subject, and in the field of politics the specific character of the new post-modern subject takes shape: here the post-modern (subject) individual has no choice but to confront modern agency and authority."[33]

The affirmatives' acceptance of the role of the subject has important consequences for all post-modern social movements. Without the subject there can be no agency and without the existence of agency social movements are rendered worthless. As we shall see later in this paper the role of the subject is significant to any post-modern social movement. This is especially true when one attempts to interpret the native self-government crusade through a post-modern looking glass because this native movement is highly subject driven in that it is based on a notion of "Otherness". Basing their claims to self-government on ethnicity natives have trumpeted the prominence of the subject.

Affirmatives take up ideological positions which as a rule are more flexible then the positions assumed by their skeptical counterparts. Of course, being more flexible has

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[33] Ibid p.147-148

also led to a wide range of affirmative positions some more credible than others. The affirmative post-modern stance has come to be associated with an assortment of groups and causes including, new age healing and modern versions of witchcraft.[34]

Criticisms of Post-modernism

Regardless of what post-modern position one favours or what one thinks about the extreme members associated with either the skeptical or affirmative camp, it must be admitted that the post-modern movement has not gone unnoticed. Yet, not all of the attention directed at the movement has been positive. The onslaught of post-modernism as an intellectual postulate has generated its share of criticisms. Most of the criticisms have been aimed at the positions put forward by the skeptical post-modernists. This criticism of the skeptical position is hardly surprising concerning the novelty of a number of their stances.

Foremost among the critics of post-modernism is the American critic and scholar Camille Paglia. In her book, Sex, Art, and American Culture, Paglia strongly rejects the post-modernists concept of history as a meaningless product of modernity. Thus she writes:

"What is needed now is a return to genuine historicism,

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[34] Ibid p.152

> based on knowledge of and respect for the past. The fashionable French posturing -"there are no facts"- has got to stop. There are no certainties, but there are well-supported facts which we can learn and build on, always with the flexible scholarly skepticism that allows us to discard prior assumptions in the face of new evidence."[35]

Paglia questions the validity of a movement which does away with the sum total of centuries of human intellectual pursuits. It is impossible for Paglia to accept the anti-intellectual position promoted by post-modernism. This is especially the case with respect to the post-modernists rejection of modern science. Post-Modernists as a result of their anti-enlightenment positions doubt whether it is possible for science to play a positive role in today's world. For post-modernists science only serves to collaborate the accepted totalizing meta-narratives of western culture. Paglia counters this position by making reference to the AIDS crisis. As she correctly points out, if modern science can not save us from the terror of the AIDS epidemic where else can society turn ?[36] Obviously science is needed to combat the spread of this disease regardless of what the post-modernists think about the nature of scientific inquiry.

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[35] Paglia, Camille Sex, Art, and American Culture, Vintage Books, New York, 1992, p.231

[36] Ibid p.242

Paglia sees other inherent contradictions within the post-modern movement. These individuals who profess anti-intellectual views from the post-modern pulpit do so under the guise of intellectual superiority. The post-modernists may state there is open debate and a multitude of interpretations for any text, according to Paglia, the post-modernists do not engage in debate, rather they practice an extremely boring form of pedantic monologue.[37] Noting that the discourse practised by the French post-modernists is so dry and tedious, she refers to the prominent figure of Foucault as a "ninny".

Paglia believes that the post-modern movement goes to extremes; it doubts everything and refuses to recognize any positive contribution in anything that has come before it. To her post-modernism is academic chaos. She is not alone in her reproaches of the post-modern movement. Barbara Johnson also recognizes that in its extreme form the movement can be viewed as the effort by a group of intellectuals who are self-indulgent and share a love of meaninglessness and nihilism.[38] According to Johnson the deconstructionalists approach can become a never ending circle where the act of the analyst becomes more important then the outcome of the analysis.

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[37] Ibid p.214

[38] Johnson p.11

Rosenau also identifies a number of problems with the post-modern method of analysis.[39] She mentions three serious problems that cloud the post-modern horizon. First, post-modernism fails to recognize that some interpretations are bound to be better than others. This imparts a methodological relativism to post-modernism that is difficult to digest in some instances. The attitude that "anything goes" in the post-modern world of interpretations is just as likely to lead to misinterpretations. Surely within the context of an event some interpretations will be better suited than others. This is an important criticism against the movement and one that must be taken seriously by any advocate of the post-modern school. In fairness it must be mentioned that the affirmatives do in fact believe that some interpretations are preferable to others. Therefore, this criticism is levied against the skeptical branch.

Second, the post-modern use of deconstruction as a methodological tool makes everything that the movement produces sound the same. To back up her claim Rosenau points to the Derridian language in which the movement is steeped. Here again Rosenau delivers a strong criticism of the movement. Much of post-modern analysis sounds the same because the same bizarre terms keep reappearing over and over again. More importantly the use of deconstruction always

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[39] Rosenau p.122-124

brings the analyst back to the question of language. In the sense that many post-modernists reduce everything to the role of language the movement is quite rigid. While the use and understanding of language is naturally important it may not in the final analysis be the primary component of the event or text. In an attempt to represent the margins deconstruction may in fact be missing the heart of the matter.

The third important criticism identified by Rosenau questions whether post-modernism makes any positive contribution. Is post-modernism really only a means of reducing and criticizing? Certainty the school of post-modernism represented by the skeptics is open to such attacks. But, the affirmatives with their more pro-active stances are sheltered from this criticism. But, nonetheless this is a serious criticism of a large portion of the movement. The answer that a skeptic might give to this question is simply to state that the post-modern position is the only one that accurately represents today's complex and alienated world.

The Link between Natives and Post-modernism

The post-modern movement seeks to give "voice" to groups that have been traditionally marginalized by the cultural canons of the dominant segments of society. From the post-

modern vantage point political validity is not so much a function of constituent numbers or lobbying power as it is a function of political authenticity. This political authenticity or "truth" is found essentially at the community or local level, the level where people interact with the institutions and regulations that shape their daily lives. Therefore the post-modern paradigm is ideally suited to the aboriginal cause and their quest for self-government, since it places all political perspectives on an equal footing. It means that all aboriginal perspectives, regardless of the size of the community, are as meaningful as any perspective held by the larger provincial or federal governments.

By turning inwards the local or community levels of government post-modernists believe citizens can once again actively participate in the political process. Thus the post-modern political doctrine is one that advocates a pro-active behaviour with respect to political involvement. One of the aims of the post-modern movement is for communities to reclaim the truth and simplicity of the past. This aim has important ramifications for Canada's aboriginal communities as can been witnessed from the following quote regarding indigenous and post-modern political movements:

> "... post-modernists speak of a return to the past: recapturing all that was valued and sacred in their own, now lost, primitive traditions, renouncing all that the colonial powers required, retrieving all that

> decades of Western imperialism negated and made a shambles of."[40]

The above quote solidifies the correlation between the arrival of an aboriginal movement championing the rights to self-determination and the evolution of the post-modern paradigm. Aboriginal organizations across the country have expressed the importance of their community based approach in attempts to solve the problems that have plagued their communities. The fact that the term self-government conjures up so many miscellaneous interpretations within the aboriginal community supports the case for interpreting the recent pro-active political stance by these aboriginal communities as evidence of their inclusion into the post-modern paradigm. Aboriginal communities are currently seeking solutions to their societal problems through the vehicle of self-government which are tailored to suit particular needs and desires of each community. The involvement at the local level to guarantee that the process adequately reflects the community requirements is systematic of a post-modern approach to political reform. The post-modern focus on decentralized political activity ensures that unique and distinct political visions have the opportunity to rise to the surface. In this new form of politics the divisions between the personal,

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[40] Rosenau, p.153

political, and the cultural have become increasingly fluid.

Dangling a post-modern banner above the political activities of Canada's aboriginal community is an extremely practical methodological endeavour. As authors Yvonne Dion-Buffalo and John C. Mohawk have pointed out post-modernism is directly tied to the end of colonialism.[41] With the passing of the colonial epoch the dominant ideological discourses of western culture that triumphed along with European mercantile and military expansion can be successfully undermined. Thus we have arrived at a moment in the intellectual history of the West when, "...new theories about what can possibly be conceived and uttered within the West's discourses are being constructed and politicized."[42]

As explained by Stephen White in his book, Political Theory and Postmodernism, these new theories are rapidly evolving into new social movements that provide political voice to society's traditionally marginalized elements.[43] The commitment by Canada's native communities to securing a new political relationship with the Canadian state built by

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[41] Yvonne Dion-Buffalo and John C. Mohawk, "Thoughts from an Autochthonous Center: Postmodernism and Cultural Studies", Akwe:Kon Journal, (IX:4, Winter 1992) p.16

[42] Yvonne Dion-Buffalo and John C. Mohawk, op., cit. p.20

[43] Stephen White, Political theory and Postmodernism, (New York: Cambridge University Press, 1991) p.4-7

reaching into an eclectic grab bag of native historical political traditions of governance coupled with a myriad of concepts taken from the nation-state paradigm is an example of just such a movement.

Chapter three

Three Versions of Aboriginal Self-government

Before discussing some of the actual proposals it is important to understand exactly what are the main functions of aboriginal self-governments. According to the author C.E.S. Franks there are six important functions associated with this notion. They are: 1) cultural preservation, 2) cultural adaptation, 3) service delivery, 4) economic development, 5) resources and environmental management, 6) law and enforcement.[1] These six areas encompass the major powers that aboriginal leaders would like to see transferred over to the jurisdiction of aboriginal communities. In truth these six functions and all powers sought by the natives as a result of their quest for self-government fall under the auspices of two types of Aboriginal rights.[2] These two types of rights are the right to self-determination or self-government and the set of rights which fall under the heading of general property rights. Aboriginal communities have exercised property rights, usually with little success, since the time of the

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[1] Franks, pp.35-36

[2] Asch, p.6

Royal Proclamation. But, the right to self-government, which is a political right, is a relativity new source of power for the native community in this country and is still in the process of being defined. If these are the rights that the aboriginal people are interested in obtaining through the negotiation on self-government what are the concerns of the federal and provincial governments?

There are three general areas of concern, regarding aboriginal self-government that have drawn the attention of the federal and provincial governments.[3] The first of these involves the difficult problem of financing and the related touchy issue of shared federal -provincial responsibility. A second concern to the two present levels of government focuses on the question of whether the right to aboriginal self-government was a pre-existing right. If the right to self-government was defined in such a fashion then the possibility exists that the aboriginal nations of this country did not require the permission of either the various federal or provincial governments to fashion their own version of self-government. Furthermore if the right was viewed as pre-existing then the natives could realistically claim to be sovereign powers beyond the reach of either the federal or provincial governments. The third area of concern, especially for the provinces, deals with the likely off-loading of

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[3] Hawkes, Aboriginal Peoples and Constitutional Reform, p.17

programs and services on the backs of the provincial treasuries which might result from any self-government agreement. There is the potential here for a significant portion of the financial burden associated with the numerous programs and services available to natives to be transferred to the provinces. When one considers that the 1987 budget for DIAND, a federal department, was more than 800 million$ it is not surprising to learn that many provinces have forcefully expressed their aversion to such a prospect.[4]

As has been mentioned early in this paper the various aboriginal associations have all developed a series of different approaches to the concept of self-government. The need for a variety of approaches stems from the fact that the social and economic conditions for each band can differ quite radically from one band to the next. Therefore no one single solution to the question of self-government is likely to emerge. But, returning to the introduction we can recall that three models have emerged which in all foreseeable likelihood will dominate the course of the debate over self-government. Once again these models are the sovereign state model, the municipalities model, and a hybrid between the two of these choices.

The best example of the sovereign state model is perhaps

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[4] Franks, p.23

the proposal put forward by the Inuit people of northern Canada.[5] Called the Nunavut proposal it would see to it that the Inuit people would acquire most of the powers needed to be regarded as an independent nation. The plan would establish a Nunavut nation with defined boundaries. The Inuit would take control of all services and programs which are presently under the control of the federal government. Also, the plan would give the Nunavut nation the right to negotiate international treaties with other Inuit peoples. The governmental institutions that would be created out of this proposal would resemble those of the provinces.

The Nunavut proposals contain many controversial components not the least of which is a proposal that would effect the rights of non-Inuit people who happen to be living inside Inuit territory. This component of the proposal states that individuals of non-Inuit descent would have to reside inside of the Nunavut nation for three years before they could participate in any of the democratic processes of the Nunavut government. The obvious problem is that this component of the Nunavut proposal contradicts the political freedoms guaranteed to all Canadians by the Charter. Perhaps even more importantly this section of the Nunavut proposal flies in the face of a statement made by the Indian Affairs minister Tom Sidden. Speaking for the government on the possible

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[5] Asch, pp.95-103

development of aboriginal self-government the minister remarked:

> "While the Government of Canada is Committed to helping aboriginal communities take more control over their own affairs and determine their own future, this must be achieved through a concept and a process that is within the laws and Constitution of Canada."[6]

The major problem here is that aboriginal peoples are defined by race and therefore in all likelihood that racial dimension will also be carried over into the creation of their self-governing institutions. This is a problem that has arisen for a number of aboriginal groups wishing to attain self-governing status. Another example is the Dene people who in their proposals for self-government also have stated their intent to place voting restrictions on non-Dene who happen to live within their territory.[7] This may prove to be a very difficult problem to resolve since it pits two fundamentally opposing notions against one another.

The Dene proposal is an example of the hybrid model which rests somewhere in between the sovereign state and municipalities model. Like the Nunavut proposal the Dene wants the right to enter into agreements with other aboriginal

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[6] Siddon, Thomas remakes on the topic of self-determination for aboriginal peoples, found in Aboriginal Self-Determination: Proceedings of a Conference Held September 30 - October 3, 1990, p.160

[7] Asch, pp.96-99

nations. But, the Dene proposal is highly focused on the community. Each community would be largely independent within the Dene confederation. Spending would be split between the Canadian and the Dene nation. Therefore the federal government would maintain more control under the Dene self-government proposal than under the proposal put forward by the Inuit.

Both the Dene and Inuit proposals were put forward in one fashion or another at the mandated FMC in 1983 and again in 1985. On each occasion the proposals met with stiff opposition from a number of the provincial governments. Provinces like Alberta and Manitoba felt that these proposals would go too far in granting the aboriginal peoples the right to self-government. They worry that if these proposals are accepted they will act as precedents in negotiations with the native communities that reside within their provinces.

Another fear that these proposals have raised is the possibility that they will create a third level of government more or less equal to the federal and provincial levels of government. This would result in a tripartite situation of shared jurisdictional overlaps. The provinces are correct in assuming that the many aboriginal associations are intent on creating a third level of government. This is, in fact, the

stated goal of the AFN.[8]

By far the best known example of a municipal model of aboriginal self-government is the agreement reached between the federal government and Sechelt Indian band of British Columbia.[9] The agreement has proved very successful for the Sechelt band which is a conglomeration of west coast indian tribes. The band has taken on all of the responsibilities associated with municipal management. This form of municipal self-government is the type most closely associated with a community based approach to the problem of self-government. The agreement with the Sechelt band has allowed the community to take control over its own direction. In addition the agreement allows the band to work at the community level to create the type of administrative machinery best suited to its particular requirements. The band now controls areas such as health, education, regional economic development and law enforcement.

According to Richard Price, Professor of Native Studies at the University of Alberta, the municipal or community based approach to aboriginal self-government presents the best method for solving the dilemma posed by the issue of

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[8] Erasmus, p.28

[9] Clark, pp.168-71

aboriginal self-government.[10] The key behind this approach Price states is the fact that it accounts for the, " Tribal government's need for more extensive community discussion and thinking-through process...".[11] An added feature to the community based to self-government is that there are a variety of approaches to choose from if a band elects to go this route.

In accordance with post-modern political approaches the community based approach accounts for the many diverse needs of a living and growing community:

> "All these approaches (community-based) have several common and positive themes. First, all recognize there is a tremendous historical, geographical, demographic, and cultural diversity among aboriginal communities in North America. Therefore, each aboriginal community must consciously choose its own appropriate specific institutional forms of authority and then attempt to negotiate specific institutional forms of authority by gaining community and governmental acceptance and recognition."[12]

Of all the possible approaches to the question of self-government the community based approach has met with the least resistance. No doubt part of the reason for this stems from the fact the that this approach more than any other conserves

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[10] Price, Richard "A Community-based Approach to Indian Self-Government", in Aboriginal Self-Determination: Proceedings of a Conference Held September 30 - October 3, 1990, pp. 51-62

[11] Ibid, p.57

[12] Ibid, p.58

the status with respect to federal and provincial relations. If native self-government operates along the lines of municipal government then the provinces can be assured of their position in the hierarchy of power within the Canadian state. In this scenario the self-governing mechanisms acquired by the aboriginal communities would ensure that these communities are firmly entrenched in a position which is below both the federal and provincial governments.

But, at the same time this approach may offer the most likely road to success for many aboriginal communities for two reasons. First it allows the individual communities to develop their versions of self-government. Second, it will probably be easier for the numerous aboriginal communities to negotiate individual deals with the federal and provincial governments than it would be to arrive at large encompassing agreements on the issue of self-government. The failure of the FMC on the issue of self-government serves as witness to this fact.

The Evolution of Aboriginal Self-government

Returning to Bruce Clark's book Native Liberty, Crown Sovereignty, we find three separate stages in the development of aboriginal self-government.[13] As was mentioned earlier

[13] Clark, pp.192-95

these stages are located in three different historical Canadian epochs. First, there is the colonial stage of self-government. Which as the name implies represents the stage during which Canada was a colony of the British Empire. The second stage in the evolution of self-government which took place during the rise of responsible government in this country. Finally, the third stage belongs to the modern era and according to Clark was characterized until very recently by a strong tendency, on the part of the federal government, to have natives integrate into Canadian society.

It is not surprising that Clark decided to divide the evolution of the right to self-government into three stages, as there are three significant dates in Canadian history that pertain to the development of self-government. These dates are 1763, 1867, and 1982 respectively. Each one of the stages presented by Clark corresponds to one of these consequential dates. The colonial period corresponds to the Royal Proclamation of 1763 which was issued by the British crown. In 1867 with the rise in responsible government the British North America Act (BNA Act) went into effect. In 1982 the constitution was repatriated along with the Charter of Rights and Freedoms. Each of these events will be examined to determine the impact they have had on the evolution of the aboriginal right to self-government.

The Royal Proclamation of 1763 in part reads as follows:

> "And whereas it is just and reasonable, and essential to our interest and the security of our Colonies, that the several Nations or Tribes of Indians with whom we are connected, and who live under the our Protection, should not be molested or disturbed in the Possession of such Parts of our Dominion and Territories, as not having been ceded to or purchased by us, are reserved to them, or any of them, as their Hunting Grounds."

The Royal Proclamation was the first written treaty between the aboriginal and the British crown in which the protection and recognition of the native nations was explicitly stated.[14] The most important section of the above passage is the section which states that the several Nations and Tribes of Indians, "... should not be molested or disturbed ...". This section has been used by authors like Michael Asch in his book, Home and Native Land, to claim that aboriginal nations attained a recognized right to self-government.[15] Asch claims that the proclamation of 1763 set the stage for all future aboriginal claims to self-government because it explicitly recognizes the right of native self-government on all lands that they have not ceded or sold to the crown. The proclamation is important for natives because it places them outside the political framework of Western culture. It in effect grants them "special status" within the

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[14] Moore, Kermot The Will To Survive: Native People and The Constitution, Hyperborea Publishing, Val d'Or (Quebec), 1984, p.41

[15] Asch pp.57-8

Canadian state.

In fact many native organizations claim that the right to self-government which stems from the Royal Proclamation of 1763 is still in effect today. They assert that the proclamation granted natives the right to self-government and since it was issued by the crown only the crown could repeal which such an edict.[16] In defense of their claims these organizations point to the fact that nowhere in Canada's legal history is there evidence that the Canadian government ever sought to have the 1763 edict revoked.

In fact as Clark points out in his book many aboriginal associations insist that the notion of native self-government which was recognized and founded by imperial law in 1763 has been supported by Canadian constitutional common law precedents. Thus, natives should not be overly interested in negotiating any form of self-government agreement with the federal government since there is no need to bargain for powers that one already possesses. From this perspective the real danger is that the native associations might end up losing powers to the federal and provincial governments, powers which as natives they have had since 1763.[17]

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[16] Clark, p.123

[17] Clark, p.147

Following on the heels of the Royal Proclamation the next major occurrence in the debate over the self-government issue took place when the Canadian confederation was formed. The only specific mention to indians in the BNA Act of 1867 is found in section 91 paragraph 24. This section simply states that the federal government has exclusive jurisdiction to legislate for, "Indians and Lands reserved for Indians". Judging from this meagre reference to natives in the BNA Act by the time confederation had rolled around, the importance of natives to the federal government had started to wane. According to Doris Ronnenberg, president of the NCC this lack of attention paid to aboriginal in the BNA Act is merely a reflection of the established view of the period that indians belonged to a vanishing race.[18]

Even though the BNA Act seemed to neglect the concerns of natives, Bruce Clark maintains that its over all effect on Canada's natives was negligible at best. The act according to Clark left Canada's aboriginal peoples with the right to self-government they obtained in 1763 completely intact.[19] This was the case because of section 129 which states that, " all Laws in force in Canada, Nova Scotia, or New Brunswick at the Union...shall continue in Ontario, Quebec, Nova Scotia, and

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[18] Ronnenberg, Doris remarks made during a discussion entitled "Sources of Power: What is First Nations Self- Government", found in Aboriginal Self-Determination, p.39

[19] Clark, p.105

New Brunswick respectively, as if the Union had not been made." Therefore all compacts made before the union were still on the books and thus, the aboriginal right to self-government remained in place.

The repatriation of the constitution in 1982 was the next major event in the ongoing evolution of aboriginal rights. But, to truly understand how this act has effected aboriginal peoples certain events which took place prior to the repatriation of the constitution need to be highlighted. Chief among these events was the passing of the Indian Act in 1914. This act represents one of the most encompassing parental impositions of federal authority into the lives of individuals ever passed in the House of Commons. The Act confirmed that the federal government believed natives to be "wards of the state", almost every aspect of an Indian's life was covered by the Act. Furthermore the content of the Act indicated that the government did not believe that aboriginal people had the propensity to competently govern their own affairs.

The act represents a truly massive encroachment on the notion of aboriginal self-government by the federal government as well as the provinces. For example, section 88 of the act, which is still enforceable, stipulated that provincial laws of general application apply to Indians and Indian enclaves. Many aboriginal groups consider this section of the Indian Act to

be a direct affront to aboriginal sovereignty especially as it permits laws of provincial origin to be applicable on native reserves.[20] Undoubtedly this provision of the act has proved to be a cumbersome obstacle, in the past, for those aboriginal communities that wished to practice any measurable degree of autonomy. It is hard for natives to claim the right to self-government as already existing when their communities are subject to the laws of the state in the same fashion as any ordinary municipality.

It is not difficult to understand why the Indian Act is held in such infamy by many of Canada's natives. It is seen as an outright attempt by the government of the day to compel natives to assimilate themselves into "white" Canada. While the document itself recognizes the government's responsibility towards Canada's natives and claims to offer them cultural sanctuary the reality of the situation is quite the opposite. History offers us insurmountable evidence that the Indian Act was a catastrophic and antagonistic implementation of a dominant culture's ideology onto the backs of the Indians in the hopes that it would facilitate the absolute absorbtion of natives into Canadian society.

Another important event occurred in 1973 when government announced a new policy on the settling of land claims

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[20] Ibid., pp.129-30

disputes. Known as the Statement on Claims this document anticipated that all future agreements on land claims would include some form self-governing mechanism as part of the settlement.[21] This represented a reversal for the federal government which had during the 1960s pursued an assimilation approach towards natives in this country. This new policy on the part of the federal government represented a significant watershed in the relations between Canada's aboriginal peoples and the federal government. However, what is truly noteworthy about the new policy is that it compelled aboriginal groups to negotiate with the government for rights which they already claimed to possess. Regardless of what the aboriginal communities thought about the proclamation of 1763 the federal government had chosen to ignore any of its potential impact in its own dealings with the aboriginal communities.

With a new policy in place which seemed committed to the granting of some form of aboriginal self-government to Canada's native communities the stage was set in 1982 for the repatriation of the constitution. One needs to look back to the 1970s to better understand the circumstances that led to the inclusion of aboriginal rights into the 1982 constitution package. From the mid 1970s onward native people started to ask for constitutional protection for their rights as

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[21] Asch, p.65

indigenous people.[22] In response to their efforts the federal government included the issue of native rights in its White Paper on the Constitution entitled A Time for Action. Bill C-60, the companion legislation to the White Paper contained a provision which would exempt certain aboriginal rights from the Charter of Rights the Trudeau government was proposing.

By 1979, aboriginal associations like the National Indian Brotherhood , the Native Council of Canada, and the Inuit Tapirisat of Canada were participating in the federal-provincial Continuing Committee of Minsters on the Constitution (CCMC). Their involvement with CCMC brought natives activity into the constitutional reform process. The object of the entire process was to repatriate the Canadian constitution.

True to the diversity which is common within any movement the aboriginal community of this country was deeply divided over whether or not to support the government's bid to bring the constitution home to Canada. Some groups felt that a truly Canadian constitution was the surest way for the aboriginal peoples to finally have their rights recognized by the Canadian government. Other groups feeling that the new Canadian constitution would provide even less protection for aboriginal then already existed lobbied hard against the

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[22] Hawkes. Negotiating Aboriginal Self-Government, p.6-7

repatriation of the constitution in this country and overseas in England.[27]

The Repatriation of the Constitution and the FMCs

When the constitution was finally repatriated in 1982 the event generated widespread support throughout much of the Canadian population at large with the exception of Quebec. However, the same can not be said for Canada's aboriginal community which tended to view the event with either a degree of scepticism or outright distrust. No single individual was capable of encapsulating this distrust better than Mohawk Chief Bill Two Rivers when commenting on the signing of the constitution he said, "With one swipe of the pen, they are committing genocide on Indians by making them Canadian citizens."[28]

The natives had good reason to be distrustful of the new constitution and especially the process which led to its creation. In 1981 as talks were under way to draw up the new constitution section 35 which guarantees aboriginal rights was deliberately excluded when a draft run of the text was presented at a FMC. The section was discarded largely at the insistence of the provincial governments which were concerned

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[27] Hawkes, Negotiating Aboriginal Self-Government, p.9

[28] Asch, p.89

over the possible jurisdictional consequences which could result from a legal recognition of aboriginal rights being placed in the constitution.[29] It was only after a significant degree of heavy handed lobbying had taken place that the section was reinstated into the text of the Constitution. It is this incident which took place with respect to the first paragraph of section 35 that perhaps provides an interesting insight into the mind set of both the federal and provincial governments with respect to aboriginal rights. As was already mentioned when the draft run of the document appeared in 1981 the references to aboriginal rights stated in section 35 had been deleted. Native groups lobbied hard to get the aboriginal rights reinsertion into the document. At this they were successful accept with one major change. The word "existing" had been added to the first paragraph of section 35 before "aboriginal and treaty rights". The net result of this addition to the section meant that there was some question as to what aboriginal rights were still existing. This important inclusion of the word "existing" would set off an entire debate as to what were the existing rights of aboriginal peoples in this country.

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[29] Hawkes, David C. Aboriginal Peoples and Constitutional Reform: What Have We Learned?, published by the Institute of Intergovernmental Relations; Queen's University. Kingston (Ontario), 1989, p.6

This incident serves to emphasize the mindset of the federal government. While the government was prepared to discuss some limited form of self-government it was not willing to admit that an aboriginal right to self-government was an inherent right. Furthermore the federal government, as did the provinces, refused to accept the idea that any form of agreed to self-government package could exist outside the edifice of the Canadian state. This decision on the part of the federal government would prove to be one of the major stumbling blocks in the way of a negotiated self-government agreement.

During this time there was a great deal of turmoil surrounding the entire constitutional process. Many aboriginal leaders and their association saw this turmoil as their opportunity to throw their hats into the constitutional ring.[30] Some of the major aboriginal associations like the NCC and AFN which were in favour of getting aboriginal rights entrenched in the new constitution decided they had to get involved in the constitutional process. The decision was taken to ensure that native rights were properly safeguarded.

Section 25 of the Charter of Rights and Freedoms, and sections 35 and 37 of the new constitution are of direct

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[30] Mandel, Michael The Charter of Rights and the Legalization of Politics in Canada, Wall and Thompson, Toronto, 1982, pp.248-49

interest to aboriginal Canadians. It has already been mentioned that section 37 required the holding of FMC with guaranteed aboriginal participation. The main topic of these conferences was the development of some form of aboriginal self-government which would be amiable to the provinces, the federal government, and the aboriginal associations. Four such conferences were held between 1983 and 1987.

On the heels of the Constitution the government released the Penner report in 1983 which recommended, in a pervasive fashion, that aboriginal communities be given self-government. Also, the report recommended that the right of self-government be entrenched in the constitution.[31] So as the aboriginal communities across the nation prepared to participate in the first of the constitutionally mandated conferences there was a certain degree of optimism within the aboriginal community, especially the AFN members. The notion of self-government had moved from being an area of interest only to aboriginal to one of the major concerns of the federal government. Even though there was no concrete definition of the aboriginal right to self-government it seemed at the time that the mood was right for a consensus on the issue. With this in mind the various aboriginal entrants to the conferences were prepared to forward their own individual versions of self-government.

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[31] Purich, p.201

The Penner Report specifically deals with the issue of self-government for "Band" Indians and thus fails to examine the Metis aspect of the question. For this reason the report did not receive support from Canada's Metis communities. The Metis felt that the report neglected their needs and wants.[32] But more importantly the federal government choose to ignore the recommendations found in the Penner Report. Perhaps this was because these recommendations which called for a meaningful and constitutionally entrenched form of self-government for Canada's *Indian First Nations* went too far for the federal government. But, as the section 37 process initiated there were hopes that the Penner Report could facilitate the attainment of aboriginal self-government.

Unfortunately little progress was made on the subject of self-government during the section 37 process. The largest problem seems to have been trying to arrive at a definition of aboriginal self-government which all the parties could accept. Another major source of irritation for many of the aboriginal organizations attending the conference stemmed from their shared belief that a number of the provinces were only present at the bargaining table because section 37 compelled them to attend.[33] The aboriginal associations claim that the entire

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[32]. Gaffney, p.51

[33] Hawkes, Aboriginal Peoples and Constitutional Reform: What Have We Learned?, p.10

process lacked the required political will which was so desperately needed if the process was going to work. The native groups maintain that the barriers to self-government presented by the various levels of official government soon became insurmountable and the entire process degenerated into a series of opposing camps which contented themselves with launching verbal attacks on their perceived enemies.

To be fair to the Federal government, any sort of agreement would have been very hard to arrive at during the series of mandated FMCs. There are a number of reasons why the section 37 process may have been doomed to fail from the start.[34] The conferences were too high profile for any real advancement to be achieved in the area of aboriginal self-government. Too much pressure was placed on the participants. The process with all the media attention it garnered was too public to achieve its goals. A further hindrance to the success of the FMCs was the rigid timetable which was applied to the procedure. The serious and cumbersome nature of these constitutional discussions did not lend themselves to the inflexibility of a rigid timetable. The highly bureaucratic nature of the conferences also contributed to their failure. More leeway may have been required if the participants were to have any chance of arriving at a settlement agreeable to all sides. The large side of the negotiations may have also

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[34] Ibid., pp 26-29

contributed to the disappointing outcome of the conferences. In all 17 parties took in the section 37 process. In retrospect it seems unrealistic to expect so many different members, each with their own agenda, to arrive at a political accommodation. And finally the agendas which were prepared for the conferences, via a series of preparatory meetings, were often vague and allowed the conferences to degenerate into a series of political statements without any hope of compromise.

The section 37 FMCs failed to arrive at a definition of aboriginal self-government which was acceptable to all parties. Though much can still be learned about the federal government's position on aboriginal self-government from this series of exacerbating conferences. Prime Minster Trudeau opened the first FMC in 1983 with a statement that tied aboriginal government to aboriginal community government.[35] This pronouncement by the Prime Minster clearly shows that the federal view of aboriginal government explicitly places the notion of aboriginal self-government within the auspices of the Canadian state. Once this statement had been uttered by Trudeau the provinces most opposed to aboriginal self-government British Columbia, Alberta and Saskatchewan, seized their opportunity and took up hardline positions against the notion of meaningful aboriginal self-government.

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[35] Gaffney, p.36

The federal government even got involved in aboriginal politics before this conference got under way. At the last minute Trudeau decided to invite a member of the MNC sit at the negotiating table. Doubtless this was done to promote division among the ranks of the aboriginal representatives. Trudeau must have realized that the invitation to MNC would be perceived as an insult to the NCC who had a larger Metis constituency and claimed to represent all Metis. Any signs of infighting among the aboriginal groups would be taken as a sign of weakness to be exploited by both the federal and provincial governments. If the differences of opinion among aboriginal associations were sufficient enough to hamper the negotiation process who could expect the conference to succeed?

The conference could not reach agreement on a workable definition of self-government which could be entrenched in the constitution. However, with regard to self-government objective the conference did provide a constitutional amendment which committed all parties to the continue the process in 1984. As well, this amendment added clarification to the nature of treaty rights in the constitution.[36] In the final analysis what the conference did manage to achieve was the safeguarding of th· status quo.

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[36] Ibid., p.45

While the 1983 FMC dealt with a number of aboriginal questions such as sexual equality, treaty rights and self-government it was clear by the time the 1984 FMC had arrived that the predominate topic would be aboriginal self-government. Equally clear was the realization on part of the various actors involved that arriving at an agreement acceptable to all parties was going to prove very difficult.[37] This conference like its predecessor failed to achieve its desired goals. The federal government was willing to discuss self-government while at the same time realizing that a unanimous agreement on self-government was beyond the practical scope of the conference. The prospects for success through a multilateral process started to wane in the eyes of some participants. By the end of the conference the AFN was calling for bilateral talks with the federal government.[38]

By the time the 1985 FMC rolled around there was a new mood in the air. The Tories under the leadership of Brian Mulroney had recently been elected into office. There was a refreshing mood of national reconciliation in the air as the 1985 FMC approached. Mulroney brought with him to the conference a new type of brokerage politics which concentrated on the art of the deal and the notion of mediation. Mulroney

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[37] Hawkes, Aboriginal Peoples and Constitutional Reform: What Have We Learned?, p.9

[38] Gaffney, p.74

hoped to capitalize on his skills as a labour-management negotiator.

To the surprise of many participants the federal government tabled a draft accord which proposed to amend the constitution to "...recognize and affirm the rights of aboriginal peoples of Canada to self-government within the Canadian federation where those rights are set out in negotiated agreements, and to commit governments to participate in negotiations directed toward concluding agreements with aboriginal people relating to self-government.[39] The accord had three key elements. First, it recognized and affirmed the right of aboriginal peoples to be self-governing. Second, it committed governments, provincial and federal, to direct negotiations with aboriginal groups towards the concluding of self-government agreements. Third, it provided constitutional protection for such agreements.

In another surprising move government officials indicated that for a constitutional accommodation to be acceptable it must be supported by all of the aboriginal organizations at the table.[40] This unanimous support from the aboriginal associations was not forth coming for two reasons. First, the

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[39] Hawkes David, The Search For Accommodation, published by the Institute of Intergovernmental Relations, Kingston, 1987, p.5-6

[40] Ibid., p.26

native organizations did not relish the idea that they had to negotiate for the right to self-government, a right they believe to be inherent, with the federal government and the provinces. Second, this accord would give the provinces a veto on the matter of aboriginal self-government. If a province was determined to deny natives within its boundaries self-government all it had to do was stall on the negotiation process or take up a position unacceptable to its native communities.

This conference ended abruptly when Prime Minster Mulroney could not achieve a compromise on the issue of self-government. But, the conference did point the process in a new direction when the federal government announced that it intended to pursue individual self-government agreements with individual aboriginal communities. David Crombie, the minster for DIAND stated that these negotiations would be "...community-led, community-based (i.e. local), tailored to individual circumstances, and that they would take place at a practical level and at a measured pace."[41] This announcement represented a new direction in the process of negotiating self-government with Canada's native population. As opposed to the multilateral "top-down" approach of previous negotiations this statement reflected a "bottom-up" approach to the problem of self-government. This "bottom-up" strategy is indicative of

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[41] Hawkes, Negotiating Aboriginal Self-Government, p.39

the approach advocated by the AFN at the end of the 1984 FMC.

The best way to examine what type of aboriginal self-government the federal government had in mind when it undertook this initiative is probably illustrated by the Sechelt Indian Band Self-Government Act of 1986.[42] This agreement in effect turns the Sechelt band into a municipal-style government. Under the act the band has control over education, health and local taxation. The federal officials were quick to declare that the Sechelt agreement was proof positive that its "bottom-up" approach self-government could produce the desired results. While this may be true for the federal government and even the provinces, since any agreement that positions aboriginal governments beneath both the federal and provincial governments, a Sechelt style municipal agreement is hardly the political buttress that aboriginal peoples have been seeking in their quest for self-government. This form of agreement falls short of the political recognition that groups such as the AFN are endeavouring to obtain for their people.

Prior to the 1987 FMC a number of key issues were being hotly debated among the various parties involved in the final

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[42] Cowie, Ian Future Issues of Jurisdiction and Coordination Between Aboriginal and Non-Aboriginal Governments, published by the Institute of Intergovernmental Relations, Kingston, 1987, pp.31-32

section 37 conference. These included: federal versus provincial responsibility, adequate financing, the right to aboriginal self-government as an inherent right versus one that needed government recognition, jurisdiction of aboriginal governments, land base issues, and the idea of a provincial veto on aboriginal self-government negotiations.[43] In an attempt to defuse some of the controversial aspects of native self-government the federal government offered to finance the "lion's share" of any self-government agreement for Indian and Inuit. Holding to its position that the Metis were a provincial as opposed to federal responsibility the government refused to extent this benevolent offer to any self-government agreement in which Metis where involved.[44]

Bill McKnight the Minster for Indian and Northern Affairs had this to say about his government's position on aboriginal self-government, "The Indian leadership doesn't like the comparison to municipal government, but without saying a word, I think that within the existing constitutional framework of Canada, that is what we are talking about."[45] The Minster was right to assume that the native leaders were disgruntled with such comparisons. Native peoples wanted more out of the

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[43] Hawkes, The Search for Accommodation, pp.9-13

[44] Hawkes, Aboriginal Peoples and Constitutional Reform: What Have We Learned?, p.19

[45] Ibid., p.18

federal government. For over a decade the federal government had claimed that it was prepared to discuss meaningful self-government yet, over that same period the federal government position on self-government had remained primarily intransigent.

Once the conference was under way it became apparent to the aboriginal organizations in attendance that the federal government was willing only to discuss various forms of municipal self-government. With the federal government firmly entrenched into its own positional bunker the provincial governments were more than willing to support the federal position. Once the limits of the discourse had been set there was little likelihood of arriving at a solution. So like the three FMCs before it, the 1987 FMC adjourned without fulfilling its intended purpose. With this the final curtain was lowered on the section 37 constitutional process. After a great deal of investment in both time and money the constitutionally mandated process had failed to deliver the goods. Perhaps more importantly the entire exercise had left something of a foul taste in mouths of those who partook in the venture.

Observers believed that following the conclusion of the section 37 procedure there was a policy vacuum in the area of

Indian affairs.[46] There appeared to be a lull on initiatives from all sides. A viable explanation for this quiet on the aboriginal front is that ensuing the much publicized section 37 conferences all parties including the public needed a break from the turmoil and confusion that appeared to follow the process.

The next federal attempt at entrenching aboriginal self-government came with the Mulroney's government 1991 attempt at renewing the Canadian constitution. The proposal package attempted to deal with a number of outstanding Canadian constitutional issues in one sweep. The proposals dealt with bringing Quebec into the constitution, senate reform, and aboriginal self-government among other things. The package claimed to have something for everyone. However in the end the package had little for anyone as it was soundly defeated in a national referendum.

The proposal concerning aboriginal self-government read as follows:

> "The Government of Canada proposes an amendment to the Constitution to entrench a general justiciable right to aboriginal self-government within the Canadian federation and subject to the Canadian Charter of Rights and Freedoms, with the nature of the right to self-government described so as to facilitate interpretation of that

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[46] Ibid., pp.53-4

right by the courts."[47]

The federal government also stated that it wanted to provide the aboriginal community with guaranteed presentation in a newly revised senate chamber. In many respects the federal government was offering less in this round of constitutional remodelling than it had during the section 37 process. By maintaining that the right to aboriginal self-government would be made subject to the Charter, the federal officials were straightforward in their belief that the law of Canada would supersede any aboriginal self-government agreement. As well, the proposal clearly asserts that any form of self-government is understood to operate within the framework of the Canadian state. As for the guaranteed representation in the senate, there was little to interest natives in this aspect of the proposals. It is unlikely that a few natives in the senate would have been able to wield any real power. Besides, natives are not interested in belonging to the Canadian senate. They wish to have their own governing mechanisms as opposed to being tied to Canadian structures.

This brings us to the present Liberal government of Prime Minster Jean Chretien and the most recent federal stance on the issue of aboriginal self-government. The liberal position

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[47] Shaping Canada's Future Together: Proposals, Minster of Supply and Services Canada, Cat. No. cp22-24/1991E, 1991, p.7

on aboriginal policy was put forward in the party's "Red Book" which is entitled Creating Opportunity: The Liberal Plan for Canada.[48] The plan itself speaks in general terms of how a liberal government would work to alleviate the sorrowful economic and social conditions under which most aboriginal people live. But, with respect to self-government the liberal "Red Book" is particularly vague. The book does not provide a solid explanation of what the Liberals mean by the term self-government.

To date the only data available on which to draw any conclusions on the liberal government's policy towards self-government comes from its announcement that Manitoba will become a test cite for aboriginal self-government. Moreover, this experiment is a test case for the eventual dismantling of the Department of Indian Affairs. However, Indian Affairs Minster Ronald Irwin has already stated that the details of the agreement are not worked out as of yet.[49] According to the Minster, the process of implementing the Manitoba project could take anywhere from two to ten years.

Already the liberal proposal has drawn cries of protest from the provincial government in Manitoba. Provincial

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[48] Creating Opportunity: The Liberal Plan for Canada, Published by the Liberal Party of Canada, Ottawa,1993, pp.96-103

[49] The Globe and Mail, 11 March 1993, p.A1, A6

politicians are worried that the plan might force the province to make up any short falls in financial resources that may result from the federal government dislodging itself from the picture. Of course, the provinces may be correct in their fears. Perhaps, in times of debt reduction the federal government is looking for ways to reduce its expenditures. But, until the plan has been put to the acid test there is no real way of judging the present federal government's commitment to solving the issue of aboriginal self-government. Having said this it must be remembered that the liberal party's "Red Book" is explicitly vague on the subject of aboriginal self-government and does little to refute the undertakings of past federal governments.

Furthermore if the new federal plan is nothing more than another federal proposal that requires the consent of the provinces it is unlikely that Manitoba or any other province will acquiesce to the principles of the plan. The provinces will probably consider the plan too financially risky to support. Finances are one of the sacred touchstones around which the provinces have traditionally gathered to impede the impetus towards aboriginal self-government.

Whether this plan represents a radical departure from the standard position of the federal government on the issue of aboriginal self-government remains to be seen. But, judging by

the echoing imprint of the past, chances are that this proposal constitutes another in a sequence of federal designs which only pay lip service to the legitimate political aspirations of Canada's aboriginal peoples.

What does the future hold?

There are two possible ways in which to seek solutions to the difficulties surrounding the issue of aboriginal self-government.[50] The parties involved can attempt to find a solution to the problem by having the right to self-government entrenched in the constitution. This would mean that all the parties involved would have to arrive at some kind of understanding as to what self-government means. Giving their past attempts in this vein it seems rather unlikely that such a consensus is likely to be looming on the political horizon in the foreseeable future. The more plausible alternative is that the parties involved will seek to find accommodation on the issue of self government through a series of political accords.

These accords would be negotiated between individual bands and the federal and provincial governments. The advantage to this approach is that it brings less bulk to the negotiating table. By attempting to negotiate on an

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[50] Hawkes, Negotiating Aboriginal Self-Government. pp.15-16

individual level, one band at a time, fewer issues are involved and thus the process of bargaining is more manageable. It should be mentioned however, that this method does have its drawbacks. This piecemeal approach to negotiating aboriginal self-government could result in the creation of an aboriginal hierarchy. Due to the diversity in economic and social conditions that exist in the aboriginal communities across the country in any face to face negotiations some bands and tribes will be in a better bargaining position than others. Strong political will on the part of the governments and especially the aboriginal peoples will be required to prevent this from occurring.

Obviously certain problems involved in the self-government issue will be harder to sift through than others. The most difficult of these include the many financial responsibilities involved in any self-government agreement and the possible off-loading of programs on to the provinces. Here again what is needed is the political will to make the process work. Once again it will be easier to find this political resolution if the process is carried out within the context of a community-based approach to self-government.

The current debate surrounding aboriginal self-government has taken on a decidedly post-modern twist. While the national aboriginal associations claim to speak for all of

their members, in reality these groups tend to represent their own bureaucratic perspectives as often as they represent those of their membership. A clear example of this was the dissension which took hold within the AFN last year over the AFN's decision to support the Charlottetown Accord. A large portion of the membership broke ranks with the AFN, usually along band or tribal lines, and decided to vote against the accord in the referendum.

This type of activity within the aboriginal movement signifies that the movement is a ripe target for the employment of a post-modern political perspective. The fact that individual negotiated self-government agreements represent the best hope for the establishment of self-governing enclaves also indicates that the aboriginal movement has a decidedly post-modern tinge.

The community-based approach holds the possibility of answering the outcry of native's current crisis of representation.[51] This crisis involves the arrival of a new type of politic on society's centre stage. A politic in which established political idioms are being seriously challenged by natives who are no longer willing to remain a peripheral political constituency. As native groups start to demand

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[51] Roy Boyne and Ali Rattansi, "Postmodernism and Society", (London: Macmiillan, 1990), p.17

political rights which are meant to be unique to themselves the difficulty becomes one of attempting to resolve the profusion of these legitimate demands. Another area of concern stems from the fact that native claims are based on the racial element of ethnicity. This poses unique problems for the various levels of government in this country. Liberal democratic principles would suggest that ethnicity is not an appropriate measuring stick when it comes to the allocation of individual or community rights. What then is a workable solution?

To arrive at a solution using community-based self-government one needs to properly define what is meant by the term "community". In the native sense the word community refers to "band" or "tribe". These bands or tribes are represented at the national stage by their various organizations. But, each individual native collective represents a unique grouping of people willing to take a proactive stance on the issue at hand. Furthermore, as political institutions native bands or tribes have a history of using a "consensus" model of decision-making. This search for consensus among community members ensures that any self-government agreement will have community support and the greater this support the more likelihood of a successful agreement.

For the negotiations to succeed the federal and provincial governments must be willing to truly listen to the Native communities. It is the communities who are in the best position to recognize the nature and causes of their problems. As well, Native communities are better equipped than outsiders, in this case the federal and provincial governments, to deal effectively with their own problems.

By suggesting a community-based approach as the best solution to the present impasse over native self-government I am in effect backing the option which is least likely to draw serious criticism from the Canadian public. Since for the most part a community-based approach will mirror a municipal form of government in many facets and thus be recognizable to Canadians. It is more probable that for those Canadians who do oppose the special powers associated with community-based self-government they will do so because of a feeling that these powers should apply to all Canadian municipalities and not just native communities.

It is likely that criticism of a community-based approach will likely come from both the native community and the Canadian public but, for two entirely diametrically opposed reasons. First, natives may oppose it because community-based self-government will clearly place native self-government in a hierarchial structure beneath both the provincial and

federal levels of government. On the other hand, the public may find the concept difficult to ingest because it will provide natives with powers and options not available to non-natives. The true nature of this problem runs beyond purely mundane political operations of running a native community or a typical Canadian municipality. What is at issue here is an ideological confrontation.

The problem is how does one reconcile the concept of native self-government with the equally compelling and conventional view that the sovereignty of the nation-state is paramount to all forces, internal or external, which threaten it. The nation-state, in this case Canada, by its own definition must wield absolute sovereignty over its recognized land mass and the people who live within that territory. Therefore, the native push for self-government clearly represents a direct challenge to that sovereignty. But, the Canadian state has already asserted that it will only negotiate self-government as it pertains to agreements which place aboriginal people squarely within the shadow of the Canadian state. As well, evidence shows that the Canadian public is only willing to permit a limited form of self-government, and not a version of it which fosters outright native sovereignty. Therefore, the only fashion in which the Canadian state is likely to allow native self-government is if that form of government clearly falls within the established

parameters of the existing state.

Of course, for many natives community-based self-government will fall short of their stated goal of recognition of natives as people who possess an inherent right to sovereignty. Contemplated from a ideological perspective the community-based solution refuses to reconcile the sovereignty of the Canadian state with the demands for native self-government. Instead what it offers is in all likelihood the only pragmatic solution obtainable to all parties involved. On the ideological front the governments fair better than the native collectivities as the governmental hierarchical structure remains largely intact. But, on the practical front natives will have the possibility to improve their daily lives and gain control of their own destiny to large extent.

In examining this crisis of representation in regard to the native issue of self-government it becomes evident that an all encompassing "totalizing" solution lays beyond the reach of this country's policy makers. The evidence to support this point of view is found in the turbulent history associated with the quest for self-government that was described earlier in this chapter. But, this doesn't mean that the process is necessarily compelled to repeat itself, there is an alternative solution.

By adopting a framework which utilizes the postulates of affirmative post-modernism the unique circumstances of individual native communities can be assessed and a suitable community-based self-government agreement formulated. This type of approach probably represents the best opportunity to overcome the impasse which has bogged down the process to date. A post-modern political context allows the participants to concentrate on local considerations which will be so indispensable to the successful completion of any self-government agreement. As well, the post-modern route opens the way to a plethora of possible solutions each sculptured to the specific needs of that unique native community.

Of course the danger does exist that calls will arise among population that natives are being permitted to live outside the political constructs of Canadian society. And this will no doubt be true to some extent since the likelihood that self-governing agreements will include clauses which contravene facets of the Charter. But it must be recalled that natives, from a legal perspective, are already differentiated via the Constitution from average canadian citizens. Therefore, on closer inspection the stretch required for the Canadian state to implement a post-modern community-based approach to the issue of self-government is not as lengthy as it first appears.

However, the major hurdle in the quest for meaningful self-government still remains the federal government. If self-government is to become a reality for Canada's native peoples Ottawa must do away with its traditional lethargy on the subject. If Ottawa is willing to take the initiative the traditional obstacles that have obstructed the development of self-government can be overcome. Ottawa, with some effort on its part, can persuade the provinces that aboriginal self-government is in the best interests all concerned. Of course, this will require a fair degree of work by all parties concerned, but in the end the rewards of a more just and equitable society will be worth the endeavour.

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