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INDIGENOUS PEOPLES OF CANADA AND THE UNITED STATES OF AMERICA: ENTERING THE 21ST CENTURY

by James S. FRIDERES

I INTRODUCTION

All around the world, indigenous groups, e.g., Maori of New Zealand, Saami of Sweden, Ainu of Japan, Indians of North America, are building solidarity over such issues as sovereignty and self-determination. Their efforts have thus far culminated in the writing of the Declaration of Indigenous Peoples Rights, which is now before the United Nations. Even though much of the land base of indigenous peoples has been lost and much of their political and social structure has been eroded, they have survived. In fact, many would say that they are experiencing a cultural renaissance.

While indigenous groups recognize that historical events have dulled their claims, they wish to survive as an ethno-cultural group, maintain their dignity and participate in the larger social and economic structures of their society. In practical terms this means they wish to control the use of land, water and natural resources which affect them. Of equal concern are economic and social policies which impact upon their lives.

Major confrontations between Indians and non-Indians have taken place over the past three decades as indigenous groups participate in ongoing social and political activities.[1] Issues such as self-government, sovereignty, and Native rights are central to Indians as they push for political and legal change in the United States and Canada. Before addressing the current structure of Indian policy in both countries, and how Indians have positioned themselves as they enter the 21st century, we need to provide a demographic profile of Indians and a brief history of Indian policy for each country. This introduction will provide the reader with sufficient background to fully understand current Indian policy and the political and legal decisions which are taking place as we head into the 21st century. It will also provide the reader with an appreciation of the issues confronting Indians.

[1] There is considerable diversity in the usage of terms to identify the original inhabitants of North America. Canadians tend to use generic terms such as *First Nations*, *Aboriginals* or *Natives*. More specific, legal terms are *Indians* and *Metis*. On the other hand, Americans do not use these terms and prefer to use *Amerindian* or *Native American* as their "marker" for original inhabitants of the continent.

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II DEMOGRAPHIC PROFILE

2.1 Canada

At the time of sustained contact with Europeans (1500), it is estimated that over 200,000 Indians occupied the land. After four hundred years of colonization, disease, and poverty, this number was reduced to less than half. However, since the beginning of the 20th century, a reduction in mortality and an increase in health care have led to a resurgence of the Indian population. Today the Indian population has increased to over 500,000 and if broader definitions are employed, the number increases to over one million (see table 1).

Today, Indians make up four percent of the total population. Their residential patterns reveal they are dispersed throughout Canada, making up less than one percent of the total population in the province of Prince Edward Island as compared with over sixty percent in the Northwest Territories. Forty three percent of Aboriginals live in the prairie region of Canada while only four percent in the Atlantic provinces. Slightly more than one fifth of the Indian population resides in Ontario while ten percent are in Québec. The remainder live in the northern regions of Canada. These patterns are a result of both the historical decimation of the Indian population in the East[2] and the forced migration of Indians from East to West as colonization took place.

The original inhabitants represent different legal and social categories.[3] For example, the category *Indians* is a legal term and individuals entitled to call themselves Indians must meet historical and legal conditions, e.g., must be a descendent of an Indian, must have government recognition through birth records, and must not be a descendent of someone who renounced their Indianness or cannot legally prove their Indian status.[4] Indians are further subdivided into those who may legally live on reservations (land set aside by the government and held in trust) and those who cannot. Another subdivision of Aboriginals are those who are legally defined as Metis (the biological product of Indians and European immigrants).[5] These individuals are legally recognized in the Canadian constitution and by provincial authorities in the provinces of Alberta and British Columbia. Yet, in other parts of Canada, Metis have no legal or political standing (Morse & Giokas, 1995). The third subdivision represents northern residents. Inuit (originally referred to as Eskimos) reside in northern regions of Canada and have achieved both legal and political recognition. The recent creation of Nunavut

[2] Beothuk-Indians in Newfoundland were exterminated by settlers and ceased to exist by the 20th century.

[3] In the present paper we will use the term *Indians* or *Native Americans* unless otherwise warranted. In the current legal literature, Canadian officials refer to Aboriginal as a way of encapsulating diverse groups such as Metis, Inuit, and Indian; all of which are legal entities.

[4] For example, for years section 12,1,b of the *Indian Act* stated that an Indian woman who married a non-Indian man would loose her Indian status as would her children. This clause was recently revoked but only for a select number of living individuals.

[5] Other, often derogatory names have been given to these individuals, such as *half-breeds*.

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(a land area encompassing most of the eastern Arctic) gives Inuit political control over this area (Moss, 1995).

Table 1: *Comparison of Aboriginal Population and Expenditures in Canada and the United States*

	Canada (1991)	**United States (1990)**
Status Indians	553,000	1,959,234
on reserve	326,000	1,306,234
off reserve	227,000	653,000
Non-Status Indians	405,000	---
Metis	192,000	---
Inuit (Eskimo/Alaska)	41,000	85,698
Percentage of total population	3.7%	1.2%
Number of Aboriginal bands/tribes	605	516
Land in Trust	1.11 M hec.	22.68 M hec.
Number of Reserves	2,364	287
Federal Funding	Cdn$5.4 billion	Cdn$6.6 billion
Per Capita Expenditure	Cdn$13,109	Cdn$6,621
Economic Dev. Expenditure	Cdn$347 million	Cdn$59.8 million
Education Expenditure	Cdn$928 million	Cdn$629 million
Health Expenditure	Cdn$836 million	not available

The Inuit will also be provided substantial sums of money to carry out their own development plans. The last group identified are those referred to as *non-status* Indians. These are individuals who may have all the phenotypical traits of Indians and/or live like Indians but are not legally registered as Indians.

Over five hundred years of colonization and tutelage have left Indians disorganized, alienated, powerless and with feelings of self-hatred. Socio-economically, Indians are the lowest of any ethnic group in Canada. Involvement in the labour force is minimal with unemployment rates running as high as 85 percent on reserves. The occupational structure for Indians also reveals important differences from the general Canadian population. Most Indians work in the primary industries while few are involved in managerial, professional, technical or even clerical jobs. Government transfer payments, e.g., social welfare, unemployment insurance, disability insurance, represent the largest single source of income for Indians. For those in the labour market, few make the median Canadian salary. In summary, job wise, Indians are un- and under-employed. While Indian education is changing, the current working age population has minimal education (less than grade nine). Today, perhaps because of the change in

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educational policy, the younger cohort is staying in school longer and continuing into postsecondary education.[6] Nevertheless, today we find that fewer than twenty percent of Indian students finish high school (compared to 75 percent of non-Indians) and an even smaller number complete some university.

Most aboriginal languages are extinct or near extinction. Data show that the ratio of home language use to mother tongue for all aboriginal language groups is well below 100. For example, only 71 percent use Ojibway, one of the major languages, as a home language (Silverman & Nielsen, 1992). The involvement of Indians in the criminal system is well known and Ducharme (1986) points out that nearly seventy percent of Indians have been incarcerated in a correctional center at some time before they reach 25 years of age.

After World War II, many Indians began to move to the cities. As a result, nearly forty percent live in urban areas. For those who remain on the reserves or in rural areas, living conditions are not unlike those in undeveloped countries. Half the Indian housing fail to meet basic standards of physical condition, with one third over-crowded and less than half the homes having sewer or water connections. Infantmortality rates are sixty percent higher than the Canadian average and Indians live, on average about 20 years less than the average Canadian. The major cause of death is "accident, poisoning and violence" with the rate per 100,000 population well over 150 and three times the Canadian rate. The Indian population in Canada is young, with nearly 40 percent under the age of 15.

The above figures accentuate the need for solving problems facing Indians today. These data also reveal that a larger number of Indians will enter the labour market over the next decade – into a labour market that cannot deal with the number now trying to enter the market. Nevertheless, over the past two decades, Indians have experienced some improvements in their quality of life. Living conditions and other measures of "well being" show there have been some improvements, e.g., life expectancy has increased, median income has increased, infant mortality has decreased. However, at the same time, we find that the difference between Indians and the general Canadian population on many of these measures is larger today than a decade ago (Fleras & Elliott, 1992).

2.2 United States of America

Researchers argue that at the time of first contact with Europeans, the Indian population in the North American continent was between two and fifteen million (Stuart, 1987; Stiffarm & Lane, 1992). After three centuries of contact, the population dropped to less than one eighth of that (Snipp, 1989) although the impact of disease, wars and settlement varied. As the 20th century emerged, the Indian population in the

[6] Prior to the 1960's, most Indians were sent to religious residential schools. Then, in 1960, Indians were sent to provincially funded public schools. More recently, Indian communities have established their own schools.

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United States had declined to about a quarter of a million. Today Indians make up less than one percent of the total American population. Moreover, they are thinly dispersed throughout the states and even in areas of heavy concentration, the Mountain and Pacific regions, they make up less than three percent of the total population. In Alaska they only make up fifteen percent of the total state population. Nevertheless they are the fastest growing ethnic group in the United States, increasing 73 percent over the past five decades. It is a young group, with only eight percent over the age of 60 (compared to 17 percent of the total United States population) and nearly 40 percent under the age of twenty (compared to nearly 30 percent of the total United States population). The median age for Natives in 1990 was 26 while for all Americans it was 33.

In *United States vs. Rogers*, in 1846 the United States Supreme Court ruled that a Native American must have some biological heritage linking him or her to the original inhabitants of North America AND they would have to have some social acceptance within an Indian community. By the late 1800's, individual tribes were allowed to devise their own criteria for determining who was an Indian. Nevertheless, Congress has the final authority to determine who is Native American and they have consistently used the *blood quantum* theory.[7] Until the mid sixties, any person with 1/32 Indian blood could be placed on the Indian roll and considered Indian. However, as the numbers continued to grow, Congress enacted the 1/4 blood rule to be considered a legal Indian and eligible for various social and economic programs.[8] Intermarriage for Indians is common and this has added new concerns over defining who is an Indian. Today, over one third of Indian husbands have non-Indian wives.

Prior to World War II, most American Indians remained on the reservations. However, by the end of the war, nearly one hundred thousand had moved to urban areas. The federal governments' relocation program (1953-72), accelerated this process and took an additional one hundred thousand Indians off the reservations and into cities. In addition, twice that number moved to urban areas during this time period solely because they thought they could obtain a better life in the city, e.g., enter the labour market. By 1980, eleven metropolitan areas across the United States had Indian populations well over ten thousand (Los Angeles had the largest, with over sixty thousand). Five additional cities had Indian populations between five and ten thousand. However, we find that a majority of Indians still live in rural areas.

While over one hundred Indian languages still exist and are used in varying degrees, a similar number have become extinct or nearly extinct. The continuance of Indian languages occurs where large numbers of speakers are concentrated in rural areas, e.g., Navajo. Employment on reservations is low and unemployment rates are between 25

[7] In 1934 it was decided by Congress that anyone defined as an Indian would have to be a descendent from a legally recognized tribe and living on a reservation or have at least one parent with Native American bloodline.

[8] This policy was successfully challenged in 1985 when the courts ruled that the constitutionality of the use of the sole *blood quantum* theory was illegal.

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and 36 percent. Their participation in the labour market determines their income and Indians have median incomes which are about two thirds of that of whites (McLemore, 1991).

Educational attainments of Indians are much lower than those of non-Indians. In 1991 only about one half of all Indians over the age of twenty four had completed high school compared to over two thirds of non-Indians (McLemore, 1991). Indians are achieving some control over the content and style of education and the proportion of Indian children in Bureau of Indian Affairs schools has decreased over time. By 1990, less than ten percent of Indian children were enrolled in Indian Affairs schools; the remainder attended nearby public schools. Today, more than 127,000 Indians are enrolled in colleges across the nation and about nine percent attend one of the twenty three Indian controlled community colleges (Feagin & Feagin, 1996). While most Indian colleges are small, poorly financed, and not fully accredited, this represents a major change over the past two decades. The percentage of Indians completing university has risen recently to nearly ten percent but when compared with non-Indians, it represents less than half the rate.

As would be expected from the above figures, quality of life for Indians is well below that achieved by other Americans. Health statistics show that Indians are still more likely to die early in life and that they live 15 to 20 years less than a non-Indian. And while infant mortality rates have been reduced substantially (82 down to 11 deaths per 1,000 births), Indians still have a higher rate than the country's average and suffer a disproportionate number of deaths from causes that reflect their poor quality of life.

III NORTH AMERICAN HISTORY AS IT RELATES TO INDIANS

In the period of early contact until mid 18th century, Indians dealt mainly with European traders who wished to exploit the natural resources of the new world. At the same time, Catholic missionaries set upon a goal of converting Indians who they felt were capable of becoming Catholics AND who wanted to be converted. From the Indians' perspective, they tended to view the Europeans and missionaries as a nuisance, not a cultural or military threat. By the mid 1750's, the British, declaring war on the French, needed to stabilize their relationship with the indigenous population. As such, they created an Indian Department to establish formal relations with the Indians, protect Indians from traders and control the actions of colonists. After the Treaty of Paris (1753) was signed, France relinquished all its North American Territories to the British which opened the borders of Canada and promoted the settlement of lands by colonists. Many Indians objected to this act, e.g., Pontiac and his followers objected to the claim of sovereignty by Britain and captured several British forts, but their technological inferiority (especially in the area of arms and munitions) led to their eventual defeat.

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Nevertheless, to demonstrate their concern over the treatment of Indians, Britain agreed to establish the *Royal Proclamation of 1763*[9]. This treaty of peace and alliance between Great Britain, France, Spain and Portugal, ended the *Seven Years War*[10]. The Proclamation is important for Indian people in that it has two provisions which are directed specifically at them. First, it states that abuses in colonists' purchasing land from Indians will cease. It explicitly states that colonists are forbidden to purchase land from Indians where the Crown had permitted Indian settlement. If Indians wanted to sell their land, they could only do so to the Crown. The second provision states that land outside the boundaries of Québec (1763), Ruperts Land, as well as lands located west of the source of the rivers that flow into the sea from the west and northwest, will be set aside for Indians. It clearly specifies that land within the area described above cannot be purchased by colonists without prior authorization by government authorities (Dupuis & McNeil, 1995).

British rule was disputed by the thirteen colonies and with the conclusion of the American Revolution (1776), the United States of America was created. By 1791, Upper and Lower Canada were established although they remained under British jurisdiction. Indian policy was controlled by the military until 1830, when it was replaced by a civilian agency. Overall, early Indian policies were bifurcated. At the global level, diplomacy, deliberations and treaty making were the cornerstones of the policy. However, at the local level, treaty breaking, intolerance and fraud were the basis for dealing with Indians (Thompson, 1996).

3.1 The United States of America

The Indian policy of the United States of America emerges out of the British policy prior to the American Revolution. Thus the *Royal Proclamation* (1763) forms the basis of American Indian policy. It is only the lack of clarity in the *Proclamation* that allowed the two countries to develop different Indian policies over the past two centuries. However, like Canada, which created a centralized Indian Affairs agency, the United States adopted such a bureaucratic structure. Today the Bureau of Indian Affairs centrally administers all Native American issues. As Brock (1993) points out, the United States legislation on Indians and Indian issues is complex, comprising over 5,000 federal statutes, 2,000 federal court opinions and nearly 400 ratified treaties and agreements.

Prior to the creation of the United States of America, the British government generally ignored Indian rights or Indian claims. Moreover, the small number of Europeans entering and developing the new country did not concern Indians, since the fur trade was at its pinnacle during the 1760's and all parties were benefiting from the trade.[11]

[9] The *Royal Proclamation* is not a statute but an edict by the British Government.

[10] While parts of the Proclamation were revoked in the *Québec Act* of 1774, the *Act* went on to say that nothing in the *Act* was to extend, nullify vary or alter any right, title or possession, however derived and all rights, titles and possessions were to remain in force as if the *Act* had not been passed.

[11] Much of the conflict occurring was that of inter-tribal warfare where Indian tribes were attempting

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As colonization continued, the British unilaterally invoked the *Right of Discovery* doctrine, claiming control over all land and people. This doctrine was supported in 1823 with the Supreme court decision (*Johnson vs. McIntosh*) which ruled that Indians did not hold title to their land and thus could not sell it directly to non-Indians.

As the fur trade declined in importance the United States began to see the benefits of Indians as allies.[12] The tentative and vulnerable status of an emerging nation forced the Americans to sign treaties with Indians and recognize tribal authority (Brock, 1993). However, treaty signing didn't begin until after the American revolution and most took place between 1789 and 1871. Throughout the 19th century, immigrants began to settle and agriculturalize the land previously held by Indians. As the 19th century ended, no more treaties were signed and Congress began to remove Indians from their lands. By the early 20th century, much of the Indian land had disappeared, many Indians had died from wars and disease, and Indians were subjected to detribalization and assimilation policies (Cornell, 1988).

The result of such a policy was the basis for major Indian wars. As a result of these wars and diseases, Indians were forced to settle on lands set aside by the federal government for Indians, i.e., reservations. Nevertheless it was during this period that the American courts recognized the status of tribes as "domestic dependent nations."[13] In the *Cherokee Nation vs. Georgia*, 1831 ruling, the courts advanced the domestic dependent nations thesis. This ruling stated that tribes were distinct political entities which had inherent self-governing rights and were derived from the Indians' original occupancy of the land. It was a case where a weaker state placed itself under the protection of a stronger one, all the while remaining a state. One year later the *Worcester vs. Georgia* decision further strengthened this ruling. It declared that the state of Georgia did not have the legislative authority to supersede Cherokee law. Moreover, it determined that Indian internal powers of self-government were not restricted by treaties or federal/state acts. As Brock (1993) points out, the only limit was tribes attempting to engage in international treaties or contracts subject to Congressional authority. A more recent ruling in the *Native American Church vs. Navajo Tribal Council*, 1959, found that Indian tribes are not states, they have a higher status than that of a state.

Genocide and assimilation were the thrusts of all federal policy directives employed in the late 19th and early 20th century. Several strategies were employed to achieve these goals. First, the communal basis of Indian land tenure was removed and fee simple was given to many individual Indians. The *Allotment Act* (1887) gave individual Indians the right to own land and dispose of it. It struck at the heart of the Indian

to control the fur trade.

[12] Indian Affairs was placed under the direction of the War Department in 1789.

[13] It is important to remember that the legal doctrine of tribal sovereignty and the legal definition of the relationship between the federal government and tribal governments are applicable ONLY to Indians living within recognized communities, e.g., living on reservations. For example, urban Indians are excluded from this characterization as are Aleuts and Eskimos living in Alaska.

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communal way of life and destroyed the indigenous social organization. Records show that between 1887 and 1934, 2.75 million hectares (60 percent of the Indian land base) was sold to white settlers. In addition, the Bureau of Indian Affairs began a major effort to interfere with the "day to day" operations on the reservations, engaging in direct management which struck at the very basis of Indian culture. New systems of government were introduced, the concept of individual rights was made an integral component of the new reservation and capitalism was unabashedly promoted in the reservations. It was also at this time (1871) that Congress declared that Indian tribes were no longer to be defined as "independent" nations. They also decreed that any powers Indians had were not inherent but delegated by Congress and thus could be removed at will by Congress. To facilitate this new policy and implement the provisions, the reservation system was created (1871-87).

This assimilation policy was carried on into the early 20th century. Then in 1934 a new direction in American Indian policy emerged under the leadership of the new Commissioner of Indian Affairs, John Collier. His new policy was to treat a band or tribe as a unit of community organization and build upon it. In many ways, Collier was an early advocate of self-government. Over the next decade, the Bureau of Indian Affairs developed nearly one hundred tribal governments, all within existing reservations. However, a new Indian policy was developed after World War II, now referred to as the *termination policy*. In 1953 the termination policy was implemented (lasting until the early 1960's) and thousands of Indians were removed from their rural communities. The termination of over one hundred reservations took place and the land ceased to be defined as a reservation; it now could be purchased by non-Indians.

3.2 Canada

As Britain entered the 19th century, it began to develop a new set of policies regarding Indians. It was clear by this time that Indians were no longer important military allies and the development of Canada refocused on issues of immigrant settlement and exploitation of the natural resources, e.g., furs, timber, minerals. As such, policies were implemented which gave the government the right to establish treaties, transfer the obligation of Indian integration to religious organizations and vest all Indian lands in the federal Crown.

By 1867 (Canada Confederation), all the basic features of Canadian Indian Policy were in place (Armitage, 1995). In 1876 the first comprehensive *Indian Act* was established; representing an amalgamation of many prior, disparate *Acts* relating to Indians and Indian lands. This new *Act* established a definition of "Indian"[14] as well as policy with regard to how the Crown would treat Indians (from the boardroom to the bedroom) and the rights and obligations of Indians, e.g., election of chiefs and

[14] Until recently, the term "Indian" was clearly defined under the Indian Act. It noted that *Indian* meant: any person of Indian blood reputed to belong to a particular band, any child or any such person and, any woman who is or was lawfully married to any such person. Since the 1970's there have been many changes to this definition although its central thrust remains intact.

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councils, taxation rights, sale of Indian land, control of intoxicants, provisions for becoming a citizen of Canada and voting in federal/provincial elections. However, it is important to note that at NO time did the federal government act or define Indians as having nation status or having any inherent rights. During the next fifty years, yearly amendments were made to the *Indian Act*. The central thrust of the *Indian Act* was to control and assimilate Indians and all actions taken by the Crown were directed toward that goal. The administration of the *Indian Act* (since it was placed under civilian auspices in 1830) was through a superintendent, who had wide discretionary powers with regard to how to govern and deal with Indian people (created under the *British North America Act, 1867*). Today the Minister of Indian Affairs is responsible for Indians and their land through a large, complex bureaucratic structure consisting of over 20 departments, 5,200 employees and a yearly budget of over Cdn$6 billion (Frideres, 1995).

During the second half of the 19th century and well into the 20th century, the government of Canada dealt with Indians and their lands by entering into treaties with them. These legal agreements specified the rights and obligations of both parties although it is unlikely that the Indians fully understood the specific terms or consequences of the terms within the treaty. These treaties were undertaken because the British needed to settle large tracts of land quickly and unimpeded. On the other hand, Indians were forced to sign these treaties due to the devastating impact of diseases such as smallpox and tuberculosis, the decimation of the buffalo and (in the United States), the massacre of Indians opposing westward expansion. By the late 1920's, most of Canada had been "treatied out".[15]

At the end of World War Two, a joint committee of both the Senate and the House of Commons recommended new guidelines for future Indian Policy which resulted in a new *Indian Act* being passed (1951). This new *Act* included a political voice for Indian women, more self-government for Indians, easing of enfranchisement regulations, cooperation with provinces in delivering services to Indians and educational policies for Indian children. These sweeping changes to the *Indian Act* reversed the emphasis on assimilation and moved the policy toward integration into the social, political and economic mainstream of Canada.

In 1969 the government, wishing to facilitate the integration of Indians into Canadian society, introduced a *White Paper* which suggested that Indians no longer be a legal entity, reservations be dissolved and the *Indian Act* be done away with. If Indians and Indian lands no longer existed, there would be no reason to continue the large bureaucracy and provinces would take over services for Indians.

[15] In earlier times, Treaties of Peace and Friendship had been established with Eastern Indians. The *Royal Proclamation of 1763* was a form of treaty. However, it would not be until the mid 1800s that the major "numbered" treaties were taken with Indians. These treaties ceded most of the land west of Ontario to the Crown.

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Indians objected to the *White Paper* and a coalition of Aboriginal, religious, and non-government organizations along with the provinces, lobbied the federal government to withdraw the proposed policy. In 1973 a formal withdrawal took place.

It was during this time that Indians began to refocus their efforts on self-government and sovereignty. Their cause was given a substantial boost when the Supreme Court ruled in 1973 that Indian rights existed independent of the Crown. While the court did not identify what these rights were, it was the first time that Indian rights were declared as existing. Subsequent actions by the federal and provincial governments have recognized broader Aboriginal rights. The *Canadian Constitution Act* (1982) recognizes "the existing Aboriginal and treaty rights of the Aboriginal peoples of Canada," and the *Charter of Rights and Freedoms* (1982) was qualified so as "not to abrogate or derogate from any aboriginal, treaty or other right or freedom that pertained to the aboriginal peoples of Canada..." One year later the *House of Commons Special Committee on Indian Self-Government* produced a report calling for an expansion of self-government so that Natives could be recognized as a distinct order of government in Canada.

IV RECENT EVENTS AND NEW DIRECTIONS

We begin this section by identifying some recent events defined as *milestones* which would reconfigure Indian-White relations as well as begin the long process of integrating Indians into the larger society. We wish to identify four issues currently being negotiated by Indians in their push to achieve greater self-determination and obtain a better quality of life for themselves and their children.

4.1 Canada

After the demise of the *White Paper*, there was a concerted drive toward devolution of Indian affairs from the federal government to Indians. During the late 1970's and early 1980's, many provisions for Indian administration of various programs, e.g., education, community, were handed to Indian communities. Indian control over some programs has had moderate success but since funding remains solely in control of the federal government, control over the administration of programs seems to be a weak form of Indian control. There is no question that the federal government has moved to a less centralized and more flexible funding arrangement and allowed local Indian communities to take on greater administrative duties. However, after nearly twenty years of negotiations, it would seem that Indian self-government is nothing more than a community by community negotiation over powers and jurisdiction that approximate municipal governments (Fleras & Elliott, 1996).

In the push for Indian self-government, the federal government developed a policy of community-based self-government. The community-based self-government policy was announced in 1986 in an attempt to push through Indian development while side-stepping the *Indian Act*. A decade after its introduction, the *Indian Act* has been

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viewed as a vehicle for providing Indians a measure of self-determination while at the same time, a major impediment for Indians achieving self-government. In this strategy, the federal government offers Indian communities the chance to "throw off the yoke of colonialism" and take on self-determination and develop self-government. When it was first introduced, many Indian communities viewed the policy as a "make work" project while others saw it as a community development project. Others saw it as a way in which the government could off-load its responsibilities to Indians without providing Indian communities with commensurate power or resources. Today, fewer than fifty bands have reached the point of submitting a formal proposal to the Department of Indian Affairs and Northern Development. Most Indian leaders view it like other government policies directed toward Indians: restrictive in nature and specifying conditions that make it impossible for Indian communities to become less dependent on government institutions (Ponting, 1991). As Boldt (1994) points out, these policies are not developing the concept of Indian nationhood but rather new forms of constraint and dependency.[16]

4.1.1 Economic Development

Recent economic initiatives involving Indians and private enterprise are regional or local in scope. Perhaps the greatest impetus for involvement of Indians in the labour market was the passage of the *Employment Equity Act* (1986). This *Act* forced federally-regulated companies, e.g., banks, transportation companies, crown corporations, and corporations which obtained government contracts with a value of over Cdn$200,000 to review their employment policies and procedures with regard to four targeted groups: visible minorities, women, disabled people and Aboriginals. As a result of this *Act*, almost two thirds of all "equity" programs involving Indians were introduced over the past five years.

Sloan & Hill (1995) argue that an increased emphasis on corporate-Indian relations is also a response to changes in the business environment. Specifically, the changes in demographic and political realities have forced corporate Canada to rethink its policies with regard to Indians. For example, in the Northwest Territories, nearly 60 percent of the population is Aboriginal (Metis, Inuit, Indian). Government sources suggest that the Aboriginal population will grow by 50 percent in the next twenty-five years, and these figures suggest a changing customer base and a new profile for the workforce. Other considerations such as Aboriginal people controlling 20 percent of the land mass of Canada poses potential problems for developing or transporting natural resources, e.g., pipelines, utilities. Government policies have also contributed to this shift in thinking about Aboriginal peoples, e.g., employment equity legislation, human rights legislation, surface lease agreements, land claims settlements, and self-government are all new programs implemented by the federal government over the recent past. In some cases, corporate Canada has found linkages with Aboriginal peoples provides benefits to their operation. Companies dealing with Aboriginal

[16] For a listing and detailed explanation of various criticisms of this policy, see Ponting (1991).

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people have opened new markets, and developed stable, long-term work forces, especially in the North. This fundamental shift in thinking has not taken place in corporate America. While Indians have a vision of economic development which is trimodal (entailing a revitalized traditional economy, a modern industrial base and government grants), this type of economic development simply will not stand the test of time nor allow Indian communities to become economically independent. Moreover, many Indians believe that once political autonomy has been achieved (self-government), Indian communities will become economically independent. Many Indians argue that with the passage of Bill C-115 (*Indian Act Amendment on Taxation*, 1988) which established the power of band councils to levy taxes on property on reserves, economic development is not far behind.[17] However, reality suggests that this is not the case and in fact, the causality of the argument is the reverse. Economic independence produces political independence.

Taxation has also been an economic issue Indians have dealt with for many years. Indians were exempt from taxation before Confederation and this is codified in the *Indian Act*. However, this exemption is limited to property situated on the reserve and income generated on the reserve. In 1983 the Supreme Court ruled (*R. vs. Nowegijick*) that an employer's physical location was the key to determine whether Indian income was taxable. They ruled that if an Indians' property was to be tax exempt, the employer had to be on the reserve. Nearly a decade later, it was decided that the physical location of the employer was not sufficient for determining whether or not Indian income was tax exempt. In *R. vs. Williams* (1993), the Supreme Court ruled that three factors had to be evaluated to determine the tax status: (1) the purpose of the exemption, (2) the character of the property, and (3) the incidence of taxation on that property.

While this test is more flexible than the earlier one, it is also less clear and predictable and does not afford total tax exemption for Indian income. This means, in practical terms, that even if the Head office of an Indian company is on a reserve, its property may still be taxable by the Crown. In addition, it is important to note that Indians still pay taxes. For example, Indians are liable for custom and excise taxes, they pay hospitalization taxes imposed by provincial governments and they must pay most federal and provincial taxes when making purchases off the reserve. In summary, after several Supreme Court cases, it seems there is little judicial support for the claim by Indians that there is an Indian right to tax exemption.

When Indians have tried to develop businesses which involve the sale of consumptive goods, e.g., gas, tobacco, the provincial governments have placed limits on the amount allowed to be purchased by the band tax free. After estimating how much of the goods would be sold to Indians, any additional amounts purchased by the band would have provincial taxes applied. Other retail sales on the reserve require that the band pay the applicable provincial taxes first and then the band applies for a refund of the original

[17] The Indian Taxation Advisory Board was established a year later to assist band councils in setting up appropriate tax by-laws.

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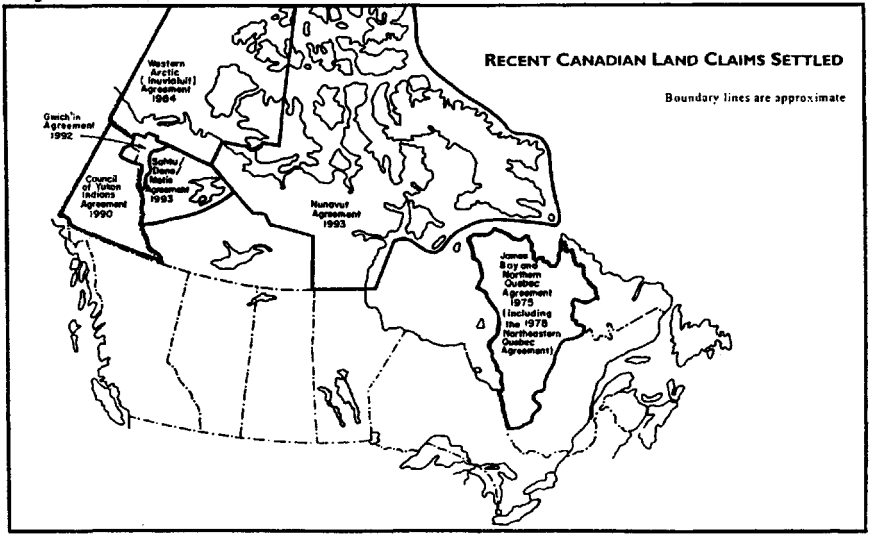
tax paid. Attempts to become economically independent by solely on-reserve development will fail with some exceptions, e.g., oil and gas rich reserves. If an Indian community is to become economically viable, there must be sustainability to the economic developments and linkages to external markets. Indians need to consider an expanded economic model that will bring both employment and business opportunities and only through full participation in the mainstream Canadian economy can economic independence occur.

4.1.2 Land Issues

Peace and Friendship treaties were entered into with Indians in the Maritimes during the 1700's. By the mid 1800's, land treaties were imposed upon Indians in southern Ontario. From that time on until 1930, the Canadian government "treatied" with Indians from Ontario to Alberta and some of the Northwest Territories.

However, Map 1 reveals that most of Yukon, British Columbia, northern Québec, and the Northwest Territories were never treatied out. These land claims have been at the core of the major legal battles that have taken place over the past two decades and continue to take up time and money of Indians. There are currently 70 land claims waiting to be settled. In addition, many "specific" claims have yet to be settled. These are claims about lands taken away from Indians without proper compensation or in contravention with other conditions of the treaty. Since the Office of Native Claims no longer exists, Indians are now forced to negotiate a political settlement or take their case to court. Considerable time, effort and money have been expended by Indian communities in their attempt to receive compensation or reclaim lands illegally taken from them.

Map 1: *Recent Canadian Land Claims Settled*



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4.1.3 Self-Government

While Indians have been fighting for self-determination, sovereignty and self-government since the day Europeans landed on Canadian soil, their efforts were not successful until the landmark decision of the Supreme Court – *Calder vs. Attorney-General of British Columbia* (1973). This decision affirmed Aboriginal rights and paved the way for current demands for self-government by Indians. In 1982, Aboriginal rights were entrenched in the Constitution and gave, for the first time, formal affirmation and recognition of the existence of Aboriginal and treaty rights. Indian groups united in their fight with the federal and provincial governments over self-determination and sovereignty. While little progress was made during a series of First Ministers' Conferences on Aboriginal Matters (meetings held by the premiers of all provinces and Territories as well as the Prime Minister and other federal officials such as the Minister of Indian Affairs, 1982-87), the negotiations were significant on two fronts. First, they mobilized Indian groups and created a focused "enemy." This also provided a political and media platform for articulate Indian leaders, allowing Canadians to see Indians in a very different context than the usual stereotype. Second, the issue of self-government became a public topic and Canadians were exposed to the concept, its various meanings and possible strategies for implementation. Canadians were forced to assess the logic of the argument and how they might implement such a strategy. Finally, Canadians were exposed to the costs and benefits of such a strategy and the implications of what it would mean to a united Canada.

By 1987, there was a profound change in the mentality of politicians, courts and Canadians with regard to Indian self-government. Today discussions taking place focus on the form it will take, not whether or not it is going to happen. In short, as Brock (1993) points out, the right to self-government went from being a disputed item in the early 1970's to an accepted direction of government policy and negotiated constitutional clauses in 1992.

The creation of the *Canadian Charter of Rights and Freedoms* has allowed individuals and groups to approach the courts to challenge government policy. Under the new *Charter*, an alternative "backup" exists for groups when the political forces or will of the Crown has failed them. Each time constitutional stalls have occurred, Indians have approached the courts to affirm their rights. In the end, political negotiations between Indians and the government are taking place within a legal arena. Recent court decisions have been far more liberal in their interpretation of Indian rights than the political process. Even though court decisions such as Guerin, Simon, Sioui and Sparrow have confirmed Aboriginal rights, these decisions and others have also limited the prospect for Aboriginal self-government.[18]

[18] Court decisions are more zero-sum decisions which polarize the adversaries and limit the alternatives. Political decisions on the other hand allow for compromise and negotiation.

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In their quest for self-government, Indians are negotiating with the federal government at two levels. At the more concrete level, they are requesting the transfer and delivery of services, ranging from education, health care to more exotic services such as gambling, from the federal government to their own communities. While many of these requests form the basis for self-determination, there is a sense of pragmatism involved in much of the substance within these negotiations; Indian people believe that they can prosper only if they are able to develop the policies (both economical and social), administer and deliver the services. As Brock (1993) points out, at the second level, the rhetoric is more aggressive and idealistic. The nature of discussion between the federal government and Indians at this level is more abstract and attempts to create an ethos in which the more specific negotiations take place. Indians feel they were successful in doing this throughout the debate regarding the repatriation of the *Canadian Constitution* (to ensure that Indians were beneficiaries of the *Constitution*) and they continue to feel it is an appropriate strategy. As such, Indians are continuing their demand for special status in the structure of Canada and they use the language of nationalism to place the issue in context.[19]

While negotiations over self-government are taking place under several guises, progress continues to move slowly. Aboriginals have expressed their frustration with the premises, scope and pace of the negotiations (Hogg & Turpel, 1995). The *Royal Commission on Aboriginal Peoples* (1990) was created to address the issue of self-government and make recommendations which were to be taken up by the government and implemented. Six years later and at a cost of over Cdn$60 million, the Commission has now tabled its Final Report. The Final Report recommends that Cdn$35 billion be spent on Aboriginals over the next twenty years, in addition to the over Cdn$6 billion it spends each year. The specific recommendations range from the Queen and Parliament issuing a royal proclamation acknowledging mistakes, the creation of an Aboriginal parliament, creation of an independent tribunal to decide on land claims, to training ten thousand Aboriginal professionals in the area of health and social services. The Commission feels that if the more than 440 recommendations were implemented, the social and economic gap between Aboriginals and non-Aboriginals would be reduced by 50 percent in twenty years.

While the recognition of the inherent nature of the right of self-government has been formally noted by the federal government, it does not answer the question as to what are the contents of these rights or how these rights will link and integrate with the political structure of Canadian society. Thus far the courts have been called upon to make these decisions and they have advanced the case of Aboriginal rights in a rather multidirected and disjointed manner. A review of the Supreme Court decisions over the past decade would not allow the reader to make any clear predictions about future decisions regarding Aboriginal rights.[20]

[19] There have been occasions when subgroups of the Indian communities, e.g., women, have taken issue with the leadership and accused them of being out of touch with the realities of their constituencies.

[20] Hogg & Turpel (1995) argue that the issues of Aboriginal rights and self-government are not

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The concept of Aboriginal self-government is not easily reconciled with the existing political structure of Canadian society. As Hogg & Turpel (1995) point out, there are many principles in the present Canadian Constitution which are inconsistent with the recognition of Aboriginal self-government, the most important being the principle of exhaustiveness. This principle has divided all jurisdictions between the federal and provincial governments and leaves no room for Aboriginal government except for what might be delegated by the other two levels of government. In short, this means that Aboriginal self-government is much like municipal governments. Nevertheless some unique agreements for self-government have taken place, e.g., Sechelt Indians, First Nations of the Yukon. For example, the Sechelt Indians have negotiated a self-government *Agreement*. The *Agreement* notes that federal and provincial laws of general application apply to the Sechelt Indians and their lands. However, in the case of provincial laws, the laws of the Sechelt Band take precedence. Thus, if there is an inconsistency between provincial and Sechelt law, Indian law is paramount. However, when an inconsistency exists between federal and Sechelt law, federal law is paramount. Hogg & Turpel (1995) point out that the *Sechelt Act* is silent on the definition of inconsistency so that the narrow "express contradiction" test would probably apply.

Thus far in Canada today, the Crown has recognized the right of self-government[21] but has not established any framework by which to implement such a policy. While it is to be commended that Canadians have accepted the principle of self-government, it does little to help Indians achieve self-determination. On the other hand, the development of a formal framework for Aboriginals and its equal application across the more than 2,000 bands and 600 reserves would be nearly impossible. Moreover, this kind of approach does not take into account the different situations, cultures and aspirations of Indian peoples living throughout Canada. Hogg & Turpel (1995) suggest that a "contextual statement" (like that proposed in the failed *Charlottetown Accord*) be part of the Aboriginal self-government policy. This idea is that such a statement would frame self-government jurisdiction in light of the purposes and objectives that were desired by the specific Aboriginal group seeking self-government.

The contextual statement is based on the premise that Aboriginal government would be a third level of government, with its own jurisdiction. This model would ensure that the culture of Indian society (including languages, institutions, traditions) would be safeguarded and developed while helping Indian people maintain a link with their environment. Thus, Aboriginal government would have exclusive jurisdiction over issues identified above and allow them to control their own development. In the end, they would be able to achieve self-determination on a number of social, economic, and political dimensions. If this model were adopted by the other two levels of

suitable for resolution by the courts and would better serve all Canadians if they were dealt with through the political process.

[21] If self-government is inherent, then it would not be contingent upon federal or provincial recognition. On the other hand, if it is contingent upon governments recognition, then the right is not based upon the historical use and occupation of Aboriginal peoples over the land in Canada.

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government, it would represent a major departure from the status quo and the powers given to Aboriginal peoples under the *Indian Act*.

The courts have given some indication that a limited right of self-government is possible. The *Sparrow* decision and the courts declaration that decisions about Aboriginals calls for a liberal and generous interpretation about Aboriginal rights (*Nowegijick*) supports this possibility. However, at the same time, the courts have noted that sovereignty and underlying title to the land remain with the Crown. Over all, the courts have not dealt with the substantive issue as to whether or not the right of self-government has been extinguished or still remains.

Both Indians and government agree that self-government expresses the desire of Indian peoples to control their destiny (Isaac, 1995). Indians feel that they need to determine their social and economic activities and be accountable to Indian leaders, not government or agents of the Crown. At the same time, the definition of self-government has been at the heart of the disagreement between Indians and the government. Governments feel the concept is too broad in meaning while Indians feel it is too narrow and restrictive (Canada, 1989). Moreover, the form of self-government is viewed differently by each group. Some Aboriginals want total sovereignty while others want to achieve some control over their lives but wish to stay within the federal structure of Canada.

The federal government and provincial officials are slowly trying to convince Indians that they have moved from a colonial wardship and assimilationist position to one which is supportive of Indian self-government. However, as Boldt (1994) points out, this is a partial myth. While there has been some movement in allowing Indians to take control of their affairs, it is also true that the same government structure remains (Indian Affairs) as it did in 1876 when the first *Indian Act* was implemented. Moreover, the self-government policy has been designed by Indian Affairs personnel, regulated by government and implemented by politicians. He argues that Indian special status will disappear, Indian self-government will become municipal government and institutional assimilation will take over. The wish to do away with Indian status can be seen in the 1969 *White Paper* and later the 1985 *Nielsen Report*. There is concern that another attempt is underway to do away with the legal status of Indians but this time under the guise of Indian self-government.

At present, 178 Indian bands have submitted formal proposals to the federal government to seek some form of self-government. Nearly half of these have progressed to the "agreement in principle" stage. While ostensibly this new policy is to serve Indians and help them toward self-determination, the truth may be closer to the fact that the policy is self-serving and does not provide Indians with the proper tools or resources to become economically or politically independent. As Boldt (1994) points out, this shuffle means that the Indians are being asked to deal with local issues on the reserves but remain under control of the federal agency through a complex set of rules, conditions and standards with regard to action Indians can take.

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Hogg & Turpel (1995) argue that self-government will not take place through constitutional reform. They argue that it can only take place through a political accord with the existing two levels of government. A major advantage of such a strategy would be to reduce the cost and make the process expeditious. Rather than negotiate separate accords on all the various issues of self-government, a single negotiation could be signed. This process has successfully been used by the federal, Territorial and First Nations in the Yukon as they struggle to finalize an Agreement. Notwithstanding the above "successes," the Government of Canada still denies treaty status to any self-government agreement and this poses a major impediment to this type of solution.[22] However, some attempts using this model have been successful and in 1995, the Chiefs of Manitoba and the Minister of Indian Affairs concluded an Agreement which would dismantle the federal agency within the province and turn over funds and decision making responsibility to provincial Indian organizations.

There seems to be a concern by government that if Aboriginal self-government is obtained, the collective rights of Indians will come into conflict with individual rights of both Indians and non-Indians. Gibbins & Ponting (1986) argue that individual rights under the Canadian *Charter of Rights and Freedoms* is the very crux of Canadian citizenship. Thus, it is felt that individuals will stand to lose under "group" governments in which individuals have no rights. This has already been demonstrated when some Canadian bands have sought to thwart Bill C-31 which granted equal protection under the law to both Indian men and women (Ponting, 1993).

4.2 United States

When the Democrats came to power in the 1960's, they endorsed the notion of economic development among Native Americans. As Thompson (1996) argues, this was a time of cultural renewal for Native Americans; new policies of self-determination and plans for "partnership self-help" were promoted by senior government officials. Later the *Indian Education Act* was passed which allowed Native Americans to gain control over their schools and the funds given to them by the federal government. Soon to follow were the *American Indian Religious Freedom Act*, the *Tribally Controlled Community College Assistance Act*, the *Indian Child Welfare Act* (all in 1978) and finally the *Archaeological Resources Protection Act* of 1979.

Executive policy and legislative enactments since the 1960's suggest that the United States government is attempting to change its traditional trustee role. However, the reader should be cautioned that at the present time, the Bureau of Indian Affairs continues to exercise considerable influence over Indian affairs in most institutional contexts, e.g., education, housing, roads. The United States government, like the Canadian federal government, holds legal title to tribal lands and other major tribal assets. As such the federal government has considerable fiduciary duty to Indians and

[22] The question is whether or not a self-government agreement that has been denied the status of a treaty may still be constitutionally protected under section 35 of the *Constitution Act* (1982) as an expression of Aboriginal rights.

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can be held liable if mismanagement is proven.[23] This trustee doctrine also supports a broader, non-judicially enforceable obligation accepted by the legislature and the executive in dealing with Indians. As a result, Anaya et al. (1995) point out, the Bureau of Indian Affairs increasingly sees its trustee responsibility as developing Indian self-government and not continuing its paternalistic style of governing.

In 1970 a new policy promoting Native American self-determination was initiated when the President declared the assimilation policy a failure and called for legislative measures to ensure Indian self-determination. In 1974 the *Indian Financing Act* was established with a budget of Cdn$50 million which would provide loans and grants for economic development on the reservations. This new policy was further set in motion by the *Indian Self-Determination and Education Assistance Act* (1975). The central thrust of this *Act* is to allow Native Americans to gain control of the planning and administration of all federal programs related to them.[24] It promotes an orderly transfer of programs and services from government to Indians. Other federal agencies, e.g., Secretary of Interior, Secretary of Health and Human services, now negotiate "self-determination contractors" with the tribes so they can plan, conduct and administer federal programs for the development of Indian resources.

With the 1980 election, a new conservative government was elected. This new conservative government (lasting until 1992), invoked a "termination by accountants" policy in which fiscal allocations to Indians were cut substantially. There were some notable exceptions to this "anti-Indian" government such as the *Indian Tribal Government Tax Status Act* (1982), which allowed tribes to enjoy tax exemptions as many states do. Nevertheless, this conservative government reaffirmed the goal of reducing Indian dependency on the federal government and pledged to support further Indian self-determination. The goal was to deal with Indians on a government-to-government basis.

In 1988 the *Indian Self-Determination Act* was amended to allow tribes to enter into a self-government "pact" with the federal government. Under this new agreement, Indian tribes extended their powers of self-determination to other areas of control, which until then, had been carried out by the Bureau of Indian Affairs and the Indian Health Service. As a result of this amendment, block grants are provided to Indian tribes and they set the priority of their needs, how programs will be established and carried out to meet those needs.

Some programs have actually incorporated Native American cultural perspectives into legislation's, e.g., *Indian Child Welfare Act* of 1978. The *Act* maximizes tribal jurisdiction over child placement and limits state intervention in such decisions. The *Indian Health Care Improvement Act* was implemented to improve Indian Health and

[23] Only recently did the Canadian courts impress upon the Crown that they held a fiduciary duty to Indians.

[24] This Act was recommended by the American Indian Policy Review Commission which had a number of Indians as members.

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encourages maximum participation of Indians in the planning and delivery of those services. Other acts such as the *Indian Religious Freedom Act* and the *Native American Graves Protection and Repatriation Act* firmly spell out the "special relationship" between government and Indian tribes.

In 1994, President Clinton met with the leaders of all 547 federally recognized tribes in the United States. At that time, two executive orders were given. First, he publicly noted that tribal authorities were to be given the same deference and respect as that given to state governments. This means that federal officials will have to deal with tribal officials directly and not shuffle them off to the Department of Interior and the Bureau of Indian Affairs. Second, he modified the *Endangered Species Act* which allows Indians to collect and use Eagle feathers for use in various ceremonies. Following this meeting, Indian leaders met with the Attorney General and Secretary of the Interior to discuss ways to strengthen tribes' sovereign status.

4.2.1 Land

In 1946 an Indian Claims Court was created to help Indians achieve a just settlement for land claims disputes dating back to the turn of the century. During its tenure it heard 614 cases. Of these, 204 were dismissed as having no merit while the remainder were decided in favour of Native Americans. In 1978 it was disbanded and the 68 cases still remaining as well as all new cases are now heard by the Court of Claims. In all cases heard by the Indian Claims Court or the Court of Claims, land has never given back to the Indians. Successful claims netted nearly Cdn$1 billion but little of this was returned to the claimants. All expenses incurred in the trials had to be first subtracted and paid to the federal government before payment was made to the Indian claimant.

Under current constitutional arrangements, if Indians do not accept the decision of the court, they have to go back to Congress to obtain permission to sue the United States Government. As one could expect, many cases have yet to be ruled on by Congress. For example, the Sioux in the Black Hills area of the state of South Dakota claim that the Fort Laramie Treaty of 1868 was broken. The case has finally gone through the courts for which the United States Supreme Court set a figure of Cdn$122 million as compensation. However the Sioux do not want financial compensation but a return of the land. The Supreme Court refused to make a judgment requiring the return of the land, once again forcing the Indians to return to Congress, since only it has the power to deal with land (see *United States vs. Sioux Nations of Indians*, 1980).

As the seventies unfolded, land claims became an even more important issue. During the past two decades major land settlements such as the Alaska claims and the Blue Lake land claims of the Indians of Taos Pueblo, New Mexico have been settled. However, other land claims seeking reinstatement of tribal status and compensation for lost land and damages have yet to be fully dealt with.

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4.2.2 Political

Unlike their Canadian counterparts, Native Americans have developed a powerful, politically active organizational structure.[25] The modern day "Red Power" movement started in 1961 at a Chicago conference which involved influential tribal leaders and a few radical, young, well educated Indians. Out of this conference was born the National Indian Youth Council. In 1964 this organization responded to the Supreme Court of the state of Washington's nullification of eleven federal treaties that had guaranteed the fishing rights of Indians living in the state. The Youth Council organized a protest lasting two years and culminating in the US Department of Justice appearing before the Washington State's Supreme Court on behalf of the Indians. Flush with such success, other "obstructive" confrontations by Indian organizations took place such as the occupation of Alcatraz Island (1969). In 1970 the American Indian Movement was established and quickly developed into a national organization. Members of this organization assumed militant strategies and began with a protest march (The Trail of Broken Treaties), the occupation of the Bureau of Indian Affairs Offices and the occupation of Wounded Knee (1973). It has continued to be a major political force for Native Americans. One year later, the International Treaty Council was created and provided a vehicle for taking their issues to the United Nations. In Canada, the National Indian Brotherhood was a powerful lobbying force during the 1970's but died out by the 1980's. In its place the Assembly of First Nations was created which is made up of chiefs from all of the bands in Canada. Since then, the emergence of splinter groups from within, such as legal and non-legal Indians, have reduced the effectiveness of this Canadian organization.

The goal of these organizations has been to regain their land base and have their collective rights as nations acknowledged. This linkage has happened in two ways: (1) the organizations have provided a platform for discussing common issues to all Indians, no matter where they lived, and (2) the suppression of the radical Indian movement by the government in the 1960's and 1970's produced a backlash which brought about greater solidarity among Indian groups. While they have accomplished many objectives, their impact has been dulled by several factors. First of all, they have not been able to develop strong linkages throughout the United States. Nor have they been able to create stable linkages with "mainstream" organizations, e.g., church groups, political parties. At best only a thin veneer has linked various Indian groups together. Second, structural and demographic differences between Indians such as socio-economic status, region, and politics have brought about disorganization and intragroup conflict to the overall movement. Nevertheless, Indians feel that their organizations have changed the federal governments policies toward Indians and produced some changes desired by Indians.

[25] When AIM (The American Indian Movement), a radical Indian organization attempted to establish itself in Canada, it was summarily rejected by nearly all Canadian Indian leaders. To the extent AIM existed in Canada, it was supported solely by young, radical Indians.

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Indian mobilization has been divided between "tribal based mobilization" and "ethnic based mobilization." This bifurcation of mobilization has in part been brought about by the actions taken by government. Federal policy has vacillated between recognizing tribes as the foci of government programs and legislation and taking an alternative approach that "Indianness" was the relevant ethnic distinction for policy purposes. As a result, an analysis of Indian organizations reveals a three-layered structure: the tribal level, pan-tribal level and the ethnic level.

4.2.3 Sovereignty

Unlike those in Canada, tribal governments in the United States have long been recognized as having inherent powers. Moreover, the strategies for providing self-government differ between the two countries as we head into the 21st century. In the United states, it was decided over 150 years ago that Indians have the right to self-government and are to be viewed as domestic nations. Native Americans have not tried to use constitutional reform as a basis for achieving self-government since they already have this right embedded into the political structure.[26] Instead, Native Americans have used the courts to support their claims to self-government. Nevertheless, the political and legal structure of the United States has prevented Indians from achieving greater levels of self-determination.

The debate over self-government is not a political issue in the United States. As noted earlier, sovereignty is a given. However, this does not mean that there have not been debates over the issue. While the government of the United States has tried to restrict the rights of Indians, the courts have remained an integral part of Indian resistance to this infringement. Tribes resort to the courts on a regular basis to deal with state governments trying to exercise their "states rights" over Indian rights, including land claims (Ewan, 1996). In the end, the issues facing Indians are primarily in the legal and not the political sphere, so characteristic of the Canadian scene.

Time and time again, the American courts have set limits on the federal and state government's ability to encroach on tribal powers. Nevertheless, there has been some erosion of Indians rights over time, forcing tribes to take a defensive and reactive stance to legal issues. One noticeable change to this stance has been the establishment of the Native American Rights Fund in 1970 which is a nonprofit national legal defense firm, representing various tribes in lawsuits and negotiations for treaty rights. Nevertheless, courts have not always ruled in favour of Native Americans. For example, in 1996, the Supreme Court ruled (*Seminole Tribe vs. Florida*) that under the 11th amendment, a state may not be sued by an Indian tribe in federal court, even if the state is violating a federal law designed to protect Indians and the Indians are trying to protect themselves from a violation of a federal right (Ewen, 1996).

[26] It would seem extremely difficult to introduce constitutional reform in the US since change in the American Constitution requires an amendment to be passed by two thirds majorities in both houses of Congress as well as by three quarters of the states. In over two hundred years, there have only been 26 constitutional amendments passed. Moreover, Americans tend to see their Constitution as immutable.

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As one can see from the above, no clear and coherent legal perspective can be seen developing over time as one reviews the decisions of American courts. The contradictory rulings seem to be based on a variety of "doctrines," and in the end, each decision can be explained by the politics of the day. Nevertheless, American courts have been fair and sympathetic to Indian concerns while the actions of Congress have not.

4.2.4 Economic

Recently, the federal government has attempted to develop industries on reservations. However, most of these industrial complexes have not been successful nor produced economic returns to Native Americans. Cottage industries on the reservations have also been encouraged and these have been marginally successful for a small number of individuals. There are substantial natural resources on reservations and there has been some attempt to develop these resources, e.g., reservations encompass about one third of all low-sulfur coal, six percent of the US total gas and oil reserves and nearly half of all known uranium reserves. However, it is difficult for small, independent businesses to enter into a transnational economy. To deal with potential economic developments on the reservations, forty tribes created the Council of Energy Resources Tribes in 1971. Today membership has increased to nearly sixty. This organization provides technical and financial assistance to other member groups and shares its expertise with Indian communities seeking to develop their economies. Another group, the League of First Nations (formed in 1995) is a group of independent Indian business owners (from Iroquois communities).

Presently, the threat to Indian economies (via taxation) on the reservations has tribes searching for new ways to forge ahead in the economic front. At stake is the long-held Indian assertion of sovereignty based on aboriginality in their own lands (Martin, 1996). The Supreme Court has once again opened this issue by ruling in a 1980 case (*Washington vs. the Confederated Tribes of Colville Indian Reservation*) and again in 1989 (*Cotton Petroleum Corporation vs. New Mexico*) that the existence of a tribal tax does not necessarily invalidate a state tax even when the result is dual taxation. Thus, if businesses were to locate on a reservation, they could be forced to pay both a tribal and state tax. Under such circumstances few industries or business would choose to settle on Indian land. In some cases, Indian tribes and state governments have signed agreements or compacts which provide for tax sharing, preventing dual taxation; such has been the case with the Fort Peck and Assiniboine Sioux tribes in Montana.[27]

Recent complications in economic development are a result of a Supreme Court ruling (*Department of Taxation and Finance of the State of New York vs. Milhelm Attea & Bros Inc.*) in 1994. Under this ruling, the state of New York is permitted to collect taxes on goods sold to non-Indians from Indian retailers. Making economic decisions

[27] Rather than fight the state and face exorbitant litigation costs, many Indian tribes are negotiating with the state to stop dual taxation on reservations.

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even more unclear, the state of Oklahoma sued the Chickasaw Nation (*Chickasaw Nation vs. Oklahoma Tax Commission*) in an attempt to tax the sale of gas on Indian lands. The Supreme Court ruled in favour of the Chickasaw Nation (1995) saying that the state's attempt to impose a fuel tax interfered with the tribes right to self-government.[28] Outside the courts, the House of Representatives is considering a bill (1996) which will prohibit the Bureau of Indian Affairs from transferring any land into trust for any tribe unless the Secretary of Interior has been informed that a binding agreement has been established between the Tribe and the state regarding the collection and payment of state and local sales and excise taxes by non-Indians on Indian land.[29] While this bill has yet to pass the Senate, the chair of the subcommittee has been an outspoken opponent of Indian sovereignty.

The use of land and rights over water have become major economic issues for some reservations. For example, when the United States government first set up laws regarding water, it invoked the "prior appropriation" law which stated that the land closest to the origin of the water had first rights and then the next closest land, and so on. When reservations were established in the late 1800's, little thought was given to the force of this law. After many years of fighting, the courts created the Winters Doctrine of reserved water rights. Stated simply, all users of rivers had to go to court and the courts would then decide how much of the water they could use since all individuals (claims up and down stream) now had water rights. However, the determination of the amount of water rights for Native Americans was set at what one lawyer has referred to as "unconscionable" levels. As a result, many reservations are unable to sustain certain types of development due to lack of water.

A more recent economic activity (gambling) is now being developed by Native Americans and is a major economic enterprise. In 1994, Native American groups in more than twenty states operated over 200 gambling operations. No other commercial activity on Indian lands has matched the success of gambling operations that have been put in place over the past two decades and Thompson (1996) estimates that profits collectively exceed Cdn$5 billion each year. In comparison, Canada has only recently legalized casino gambling and fewer than six Indian casinos are currently in operation. In both countries, non-Indian companies such as management companies or equipment industries have aligned themselves with Indians in an attempt to cash in on the benefits of legalized gambling.

[28] Oklahoma is now considering enacting legislation that would impose the tax at the point of sale but allow Indians who pay the tax to apply for a refund.

[29] The argument is that revenues for the state are lost by allowing tax-free sales to non-Indians. In addition, non-Indian businesses claim these are unfair business practices. The state of New York, for example, claims that it loses Cdn$100 million each year.

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V CONCLUSION

In attempting to renegotiate their position in society, Native Americans have used the courts in a reactive and defensive manner while Canadian Indians have used the courts to expand and recognize their right to self-government. While Native Americans have used the courts for well over a century, it is only recently that Canadian Indians have approached the courts.[30] Historically, Canadian courts used narrow and positivistic approaches to resolve Indian claims. For example, the claim of self-government by Native peoples is based upon five normative claims (Macklem, 1995): prior occupancy, prior sovereignty, treaty agreements, self-determination and the preservation of minority cultures. However, when issues are taken to court, the cases are generally limited to one argument and do not consider the issues underlying other claims. This is one of the reasons why many Indians feel that courts are not the best place to resolve claims. Today Indians have moved to the political forum to solve legal and social issues facing their communities. For example, the political negotiations of the 1970's and 1980's led to the constitutional entrenchment of Aboriginal and treaty rights as well as major land claim settlements.

Today's Native peoples are suspicious of any actions taken by government or business which involve them. They have been taught costly lessons from the past and there is a view by Natives that government and business have a hidden agenda each time they approach them to support or partner. Similarly, they are wary of self-government as supported by the government. There is a feeling by some that it is a disguised way in which assimilation will be hastened and control will be in a more benign form.

After reviewing the actions taken by government with regard to Indians, we find that financial considerations are of crucial importance. Over the past two decades, the governments have been cutting the budget for Indians, downsizing, delegating services to Indian communities and decentralizing national structures. Many have argued that what government calls devolution is simply another way of channeling the government's responsibility to Indian communities. The issue remains as to whether or not Indians can deal with the new obligations without sufficient time to prepare, funds to support, and the will to integrate outside ideas into the Indian way of life.

Within the economic sphere, relationships with Aboriginal people are increasingly important to corporate Canada. In Canada, many companies have been implementing active corporate Aboriginal relations programs designed to build constructive partnerships with communities and expand employment and business opportunities for Aboriginal people.[31] On the other hand, this does not seem to be true for the United States.

[30] This seemingly reluctance to use the courts by Canadian Indians is partially due to the legal restrictions imposed by the Crown in limiting the Indians' ability to resort to the courts.

[31] This action may in part, be due to the creation of the *Employment Equity Act*, 1986 which forces private and public businesses to implement equity programs for women, disabled, visible minorities and Aboriginals.

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Any commitment to Aboriginal people to integrate them into the economics of the corporate world must be multi-dimensional and long term. For any policy to achieve success, several aspects of the policy must be addressed simultaneously. First, the participation of Aboriginal peoples must be backed by the leadership of the corporation, including the Board of Directors. Anything less than top-down, corporate leadership to significant strategic commitments will result in failure. Second, policies must be implemented and integrated into the ongoing business corporate culture. Third, companies must promote education and training, beginning with programs to encourage young people to stay in school. This means that programs that both directly and indirectly influence school attendance must be supported. In addition, corporations must provide educational opportunities and support for Aboriginal students once they decide to continue their education. Fourth, corporations must provide access to pre-employment training in specific skills or business areas. Fifth, companies must enhance employment opportunities through a number of measures. For example, they might implement comprehensive work programs which increase the recruitment, retention and advancement of Aboriginal people. Targeted measures is another technique that can be effective in increasing the representation of Aboriginal peoples in workforces. A sixth strategy is to enhance Aboriginal business participation by providing business opportunities or developing business capabilities.

While examples of the above could be provided in both the United States and Canada, the actual number of successful, sustainable corporate-Aboriginal economic activities over the past two decades remains small. Companies are in the business of making money and if a market can be tapped without sharing it, private enterprise will do so. Only if Aboriginals are able to stop, slow down or otherwise frustrate the efforts of money-making ventures will corporations review alternatives such as establishing a joint venture with Aboriginal communities. Given the diverse interests and the immense power of major transnational corporations, negotiating with Aboriginals is not always necessary. The use of Indian political power (particularly in the United States) and the courts has become a major technique for Aboriginals to deal with corporate initiatives.

Today the American Congress has instituted a new pattern of assuming its federal trust responsibility that is similar to termination, as seen in some state-administered block grants for tribal programs or the outright elimination of tribal line items from budgets (Martin, 1996a). For example, the cuts to the 1996 Interior Appropriations budget averaged eleven percent compared to the 32 percent cuts for tribal fisheries, law enforcement, courts and child welfare.

These new "backlash" bills of the 1990's are similar to those enacted in the 1970's and 1980's. For example, in 1978-79, there were 13 anti-Indian bills introduced to Congress. A similar number were presented in 1985. These bills focus on eliminating indigenous water rights, tribal sovereignty, treaties and jurisdiction (Martin, 1996a: 29).

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Nevertheless, Indians need to rebuild their vision, developing their traditional philosophies and using them as guiding lights to the future. Many Indians feel that because Indians are still distinct in society and despite the fact that many people have predicted their demise many times, they will continue to remain Indian. However, as Boldt (1994) points out, they may remain distinctive, but not necessarily Indian. Their distinctiveness is partially a function of being marginalized, holding specific legal status, experiencing racism, living on reserves and other social attributes. However, these are not cultural attributes which make them distinct. At present, Indians are experiencing a massive deculturalization process in which traditional social systems, normative patterns and other cultural practices are disappearing. Moreover, a culture of dependency has emerged. There is an urgent need for cultural revitalization to take place if Indians are to survive the next generation as Indians and not as member of a "culture of poverty." Members of the community (cultural maximizers) need to develop and socialize other members of the community with regard to Indian culture (from language to philosophy) (Boldt, 1994).

If democracy was the ultimate concern in dealing with Indians, treaty and other claims would have been settled long ago. Co-optation would be replaced by legitimate representation and government insistence on unilaterally proclaimed laws, e.g., Indian citizenship, would no longer be an issue. Nor would anti-Indian lobbyists use rhetoric to deny Aboriginal people their just entitlements as set out in the treaties.[32] Governments have a profound direct, day-to-day control over Native people and their lives. They are able to set budgets, determining how much money will be spent on such activities as education and social services. They also have what has been called "plenary power," meaning that they can do almost anything they want in terms of Indian-Federal relations. Such power can be used to grant self-government or terminate the federal relationship (Trahant, 1996: 30).

Both Americans and Canadians seem to want to recognize the distinctiveness of Indians and have not rejected outright the concept of self-government or self-determination. However, at the same time, both countries have hedged their support to such a reconceptualization, particularly if it means there will be changes to power structures and a redistribution of resources. In the end, while there may be some changes, the central policy structures and the definition of these policies still remains within the control of the federal government. If Indians are to enter the institutional spheres of 21st century America, they must begin to play a significant, ongoing political and economic role.

[32] In the United States, government actions are seen as turning tribes into felons because if the tribes did not accept the reduction of sovereignty, they would be committing crimes against the state. The states are arguing that they have supreme power, regardless of the existence of federal treaties.

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References

Anaya, S., Falk, R. & Pharand, D. (1995). *Canada's Fiduciary Obligation to Aboriginal Peoples in the Context of Accession to Sovereignty by Québec*. Ottawa: Royal Commission on Aboriginal Peoples (Volume 1: International Dimensions).

Armitage, A. (1995). *Comparing the Policy of Aboriginal Assimilation: Australia, Canada and New Zealand*. Vancouver: University of British Columbia Press.

Boldt, M. (1994). *Surviving as Indians*. Toronto: University of Toronto Press.

Brock, K. (1993). The issue of self-government: Canadian and American Aboriginal policy compared. In D. Thomas (ed.), *Canada and the United States: Differences that Count* (pp. 252-70). Peterborough: Broadview Press.

Canada, Government of (1989). *Indian Self-Government Community Negotiations: Guidelines*. Ottawa: DIAND, Minister of Indian Affairs and Northern Development.

Cornell, S. (1988). *The Return of the Native: American Indian Political Resurgence*. New York/Oxford: University Press.

Ducharme, M. (1986). The segregation of native people in Canada: voluntary or compulsory, *Currents*, Summer: 2-3.

Dupuis, R. & McNeil, K. (1995). *Canada's Fiduciary Obligation to Aboriginal Peoples in the Context of Accession to Sovereignty by Québec*. Ottawa: Royal Commission on Aboriginal Peoples (Volume 2: Domestic Dimensions).

Ewen, A. (1996). A supreme question of power: High Court paves legal road to States' supremacy, *Native Americas* 13 (2): 26-9.

Feagin, J. & Feagin, C. (1996). *Racial and Ethnic Relations*. Upper Saddle River, New Jersey: Prentice Hall.

Fleras, A. & Elliott, J. (1992). *The Nations Within*. Oxford, Toronto/Oxford: University Press.

Fleras, A. & Elliott, J. (1996). *Unequal Relations*. Scarborough: Prentice Hall Canada Inc.

Frideres, J. (1995). *Native People in Canada: Contemporary Conflicts*. Toronto: Prentice Hall (fourth edition).

Hogg, P. & Turpel, M. E. (1995). Implementing aboriginal self-government: constitutional and jurisdictional issues, *The Canadian Bar Review* 74(2): 188-224.

Gibbins, R. & Ponting, J. (1986). An assessment of the probable impact of Aboriginal self-government in Canada. In A. Cairns & C. Williams (eds.), *The Politics of Gender, Ethnicity and Language in Canada* (pp. 171-245). Toronto: University of Toronto Press.

Isaac, T. (1995). *Aboriginal Law: Cases, Materials, and Commentary*. Saskatoon, Saskatchewan: Purich Publishing.

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All use subject to https://about.jstor.org/terms

Macklem, P. (1995). *Normative Dimensions of the Right of Aboriginal Self-Government. Aboriginal Self-Government.* Selected papers commissioned by the Royal Commission on Aboriginal Peoples. Ottawa: Minister of Supply and Services, Canada: 1-54.

Martin, K. (1996a). Indians not taxed: will sovereignty survive? *Native Americas* 13 (2): 14-25.

Martin, K. (1996b). Under his authority, *Native Americas* 13 (3): 22-9.

McLemore, S. (1991). *Racial and Ethnic Relations in America.* Boston: Allyn and Bacon.

Morse, B. & Giokas, J. (1995). *Do the Metis Fall Within Section 91(24) of the Constitution Act, 1867? Aboriginal Self-Government.* Selected papers commissioned by the Royal Commission on Aboriginal Peoples, Ottawa: Minister of Supply and Services, Canada: pp. 140-277.

Moss, W. (1995). *Inuit Perspectives on Treaty Rights and Governance. Aboriginal Self-Government.* Selected papers commissioned by the Royal Commission on Aboriginal Peoples, Ottawa: Minister of Supply and Services, Canada: pp. 55-139.

Ponting, R. (1991). An Indian policy for Canada in the twenty-first century. In C. Remie & J. Lacroix (eds.), *Canada on the Threshold of the 21st Century* (pp. 431-46). Amsterdam: John Benjamins Publishing Company.

Ponting, R. (1993). Aboriginal dilemmas of the Federal State in Canada. In H. Ottens & F. Toppen (eds.), *Canadian Dilemmas: Environment and Constitution* (pp. 89-101). Canadian Studies Seminar, Hilversum, The Netherlands.

Silverman, R. & Nielsen, M. (1992). *Aboriginal Peoples and Canadian Criminal Justice.* Toronto: Butterworths.

Sloan, P. & Hill, R. (1995). *Corporate Aboriginal Relations.* Toronto: Hill Sloan Associates Inc.

Snipp, M. (1989). *American Indians: The First of This Land.* New York: Russell Sage Foundation.

Stiffarm, L. & Lane, P. (1992). Demography of Native North America: a question of American Indian survival. In M.A. Jaimes (ed.), *The State of Native America: Genocide, Colonization, and Resistance.* Boston: South End Press.

Stuart, P. (1987). *Nations Within A Nation: Historical Statistics of American Indians.* New York: Greenwood Press.

Thompson, W. (1996). *Native American Issues.* Santa Barbara: ABC-CLIO Publishers.

Trahant, M. (1996). Seeking representation, *Native Americas* 13 (3): 30-1.

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