

ABORIGINAL SELF-GOVERNMENT

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N.B. Any substantive changes in this publication which have been made since the preceding issue are indicated in **bold print**.

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ABORIGINAL SELF-GOVERNMENT⁽¹⁾

ISSUE DEFINITION

Aboriginal self-government has become a prominent issue in Canada over the past several decades. While attention focused on constitutional reform in the 1980s and early 1990s, the agenda in recent years has shifted toward policy and legislative changes. **Significant developments in 1998-99 included the federal government response to the Report of the Royal Commission on Aboriginal Peoples in January 1998, the conclusion of the Nisga'a Final Agreement in August 1998, and establishment of Nunavut in April 1999.**

Aboriginal peoples in Canada are defined in the *Constitution Act, 1982* as Indians, Inuit and Metis. **The estimated Aboriginal population in 1999 is 1,377,900. This figure includes 390,300 Status Indians on reserve, 284,500 Status Indians off reserve, 426,800 Non-Status Indians, 61,000 Inuit and 215,300 Metis.**⁽²⁾

BACKGROUND AND ANALYSIS

A. Aboriginal Approaches to Self-Government

Prior to contact with Europeans, Aboriginal peoples relied on a variety of distinctive ways to organize their political systems and institutions. Later, many of these institutions were ignored or legally suppressed while the federal government attempted to impose a uniform set of vastly different Euro-Canadian political ideals on Aboriginal societies.

(1) This paper replaces an earlier text (Current Issue Review 89-5) with the same title.

(2) Department of Indian Affairs and Northern Development, 1999-2000 Estimates, Part III – Report on Plans and Priorities, p. 11.

For many Aboriginal peoples, self-government is seen as a way to regain control over the management of matters that directly affect them and to preserve their cultural identities. Self-government is referred to as an “inherent” right, a pre-existing right rooted in Aboriginal peoples’ long occupation and government of the land before European settlement. Many Aboriginal peoples speak of sovereignty and self-government as responsibilities given to them by the Creator and of a spiritual connection to the land. Aboriginal peoples do not seek to be granted self-government by Canadian governments, but rather to have Canadians recognize that Aboriginal governments existed long before the arrival of Europeans and to establish the conditions that would permit the revival of their governments. Treaty Indians often point to treaties with the Crown as acknowledging the self-governing status of Indian nations at the time of treaty signing.

In an effort to achieve their self-government goals, Indian, Inuit and Métis groups have sought constitutional, legislative and policy changes. For Status Indians a number of initiatives have increased local control under the *Indian Act* and allowed the negotiation of new legislative frameworks to replace that Act. However, many First Nations maintain that any form of delegated authority is inconsistent with an inherent right of self-government. Inuit have pursued self-government through public government arrangements in the north in conjunction with land claims, while the Métis have advanced various claims for land and self-government.

Aboriginal peoples have also drawn on the right of self-determination and international law to support their claims. The developing body of international law on human rights has focused much attention, in recent years, on the right to self-determination as it applies to Aboriginal peoples. Aboriginal organizations have argued that the inherent right of self-government is an aspect of the right of self-determination recognized in the United Nations Charter and in the Draft Declaration of the Rights of Indigenous Peoples.

B. The Evolution of Federal Policy

In 1867, section 91(24) of the *Constitution Act, 1867* gave the federal government jurisdiction over Indians and lands reserved for the Indians. The first *Indian Act* was enacted in 1876, consolidating existing laws regarding Indians. A Supreme Court decision in 1939 also brought Inuit within federal responsibility. Métis, with the exception of those living in Métis settlements in Alberta, were not subject to special federal or provincial legislation.

Up to the 1950s, government policies attempted to assimilate Aboriginal peoples into the larger non-Aboriginal society. Indian band councils exercised limited, federally delegated power to govern a land base within reserves and the primary decision-making responsibility rested with the Minister of Indian Affairs and Northern Development or with the Department. In the 1950s, the transfer of Indian Affairs programs to bands, provinces and other federal agencies began. The devolution of programs continues to the present day. In 1969, the federal government issued its White Paper on Indian Policy, which essentially proposed the termination of special status for Indians and the devolution of services and programs to the provinces. Intense Indian opposition led to the eventual withdrawal of the policy and mobilized national political organization among Aboriginal peoples in Canada. While Aboriginal peoples have asserted their rights to self-government since contact with Europeans, the drive for Aboriginal self-government began during the 1970s to take on greater force and coordination at the national level.

In 1982, a Special Committee of the House of Commons on Indian Self-Government was appointed to review legal and institutional issues related to the status, development and responsibilities of band governments on reserves. Its 1983 report, known as the Penner Report after Committee chair Keith Penner, recommended that the federal government recognize First Nations as a distinct order of government within the Canadian federation, and pursue processes leading to self-government. It proposed constitutional entrenchment of self-government and, in the short term, the introduction of legislation to facilitate it.

The Penner Report presented the basis for a significant departure from then current federal policies regarding Indian bands. (It should be noted that the Committee examined only Indian self-government, not self-government for all Aboriginal peoples.) The report raised the profile of Aboriginal issues and had a significant impact on the constitutional debate.

Over the next few years, constitutional issues dominated discussions of Aboriginal self-government (see below). In March 1985 the federal government adopted a “two-track” approach to self-government. On one track were constitutional negotiations. On the second track were community-based negotiations with Indian bands, and a tripartite process between the federal government, provincial governments, and Métis and Non-Status Indians. A

cabinet minister was designated Interlocutor for Non-Status Indians and Métis and was to serve as lead minister for tripartite negotiations. In April 1986, the federal government released its Policy on Community-Based Self-Government Negotiations. This was an initiative to increase band control and decision-making and provide more scope for community government than was possible under the *Indian Act*, through legislated self-government agreements.

Another avenue for developing self-governing arrangements was the process under which the federal government, since 1973, has negotiated comprehensive land claims settlements. Comprehensive claims are defined as claims based upon traditional use and occupancy and unextinguished Aboriginal title (i.e., not dealt with by treaty or “superseded by law”). According to the revised statement of comprehensive claims policy in 1986, a new feature of the policy was the possibility of negotiations on a broader range of self-government matters. The 1986 policy statement explicitly provided, however, that self-government arrangements negotiated through claims settlements would not receive constitutional protection without a constitutional amendment to that effect. This meant that the government preferred to negotiate self-government arrangements separately from other matters in order to avoid entrenchment under s. 35(3) of the *Constitution Act, 1982*. Subsection 35(3) provides that the recognition and affirmation of existing treaty rights in s. 35(1), includes “rights that now exist by way of land claims agreements or may be so acquired.” A number of agreements have included a self-government component.

C. Constitutional Change

The demands of Aboriginal organizations led to the recognition and affirmation of existing Aboriginal and treaty rights in the *Constitution Act, 1982*. Four constitutional conferences were held between 1983 and 1987 to attempt to further define those rights. The first amendments to the 1982 Constitution were agreed to at the 1983 conference. They included recognition of rights arising from land claims agreements and a commitment to include Aboriginal peoples in constitutional conferences dealing with their rights. In the conferences that followed, Aboriginal self-government emerged as the dominant issue. However, in the absence of a clear understanding of the content of a right to self-government, parties failed to reach an acceptable agreement.

Following the failure of the 1987 First Ministers’ Conference on Aboriginal Rights to produce a self-government agreement, governments turned their attention to the

broader constitutional agenda. In the process, Aboriginal peoples were excluded from participation in the constitutional negotiations that led to the 1987 Meech Lake Accord. This produced strong Aboriginal protests that contributed to the Accord's defeat in 1990. After much negotiation, the provincial premiers, territorial government leaders, Aboriginal organizations and the federal government agreed, as part of the 1992 Charlottetown Accord, on amendments to the *Constitution Act, 1982* that would have included recognition of the inherent right of self-government for Aboriginal people. For the first time, Aboriginal organizations had been full participants in the talks; however, the Accord was rejected in a national referendum. With regard to the Aboriginal provisions, concerns over the content of self-government continued to be voiced. As well, not all members of the Aboriginal community had approved of the negotiation process or the Accord itself.

During the debates leading up to and following the referendum of October 1995, Aboriginal peoples raised issues related to their self-determination in the event of Quebec's secession. The Crees of Quebec argued that no annexation of them or their territory to an independent Quebec should take place without their consent, and that if Quebec has the right to leave Canada then the Cree people have the right to choose to keep their territory in Canada. Following the referendum, Aboriginal groups asserted that they must have a role in any future constitutional discussions.

D. The Current Federal Approach

The current approach of the federal government features both negotiations on comprehensive self-government agreements with individual or groups of First Nations, and incremental steps toward self-government through the transfer of authority or development of more flexible arrangements in particular sectors, such as education and First Nations financing.

1. Response to the Report of the Royal Commission on Aboriginal Peoples

The Royal Commission on Aboriginal Peoples released its final report on 21 November 1996. Volume 2 of the five-volume report addressed governance issues. The Commission set out an approach to self-government built on the recognition of Aboriginal governments as one of three orders of government in Canada.

Among the recommendations, the report called for both new legislation and bureaucratic reorganization by the federal government. Recommendations included:

- a new Royal Proclamation to set out the principles for a new relationship and outline new laws and institutions that would be established;
- passage of an Aboriginal Nations Recognition and Government Act;
- elimination of the Department of Indian Affairs and the position of Minister of Indian Affairs;
- establishment of a new Cabinet position, the Minister for Aboriginal Relations, and a new Department of Aboriginal Relations to negotiate and manage agreements with Aboriginal nations. A Minister of Indian and Inuit Services and a new Indian and Inuit services department would be responsible for delivering services at the federal level;
- passage of an Aboriginal Parliament Act to establish a representative body of Aboriginal peoples that would evolve into a House of First Peoples and become a part of Parliament.

The federal government responded to the report in January 1998 with *Gathering Strength – Canada’s Aboriginal Action Plan*. This included a Statement of Reconciliation expressing Canada’s regret for past actions that had resulted in damage to Aboriginal peoples and communities. It also set out an agenda for the development of a new relationship between the federal government and Aboriginal people. The agenda centres on four objectives: renewing the partnership; strengthening Aboriginal governance; developing a new fiscal relationship; and supporting strong communities, people and economies.

- ***Gathering Strength* noted that the federal government had recognized the right of self-government as an existing inherent Aboriginal right within section 35 of the *Constitution Act, 1982*, and outlined self-government processes that are ongoing.**
- **With regard to the Royal Commission recommendations calling for a restructuring of federal institutions, the government responded that was “open to further discussions on the departmental and institutional arrangements that could improve existing systems.”**
- **With respect to the recognition of Aboriginal governments, the federal government said it would “consult with Aboriginal organizations and the provinces and territories on appropriate instruments to recognize Aboriginal governments and to provide a**

framework of principles to guide jurisdictional and intergovernmental arrangements.”

- **The government intends to focus on capacity-building in the negotiation and implementation of self-government. It is prepared to work with Aboriginal people on the possible establishment of governance resource centres that could help Aboriginal people develop models of governance, provide guidance on best practices, and support capacity development in administrative and financial management.**
- ***Gathering Strength* expressed the federal government’s willingness to work in partnership with Treaty First Nations to achieve self-government within the context of the treaty relationship, and to establish tripartite processes that link discussions on treaties with governance, jurisdictional and fiscal negotiations. The government is also prepared to consider the creation of additional treaty commissions, similar to the Office of the Treaty Commission in Saskatchewan.**

2. Self-Government Policy

With few prospects for constitutional change following the 1992 referendum, the Liberal government elected in 1993 committed itself to recognizing the inherent right of self-government and implement it without reopening constitutional discussions. In August 1995, the federal government formally announced its new policy. Key principles of the policy are:

- the inherent right is an existing Aboriginal right under section 35 of the *Constitution Act, 1982*.
- self-government will be exercised within the existing Canadian constitution.
- the *Canadian Charter of Rights and Freedoms* will apply to Aboriginal governments.
- federal funding for self-government will be achieved through the reallocation of existing resources.
- where all parties agree, rights in self-government agreements may be protected in new treaties under section 35 of the Constitution, as additions to existing treaties, or as part of comprehensive land claims agreements.
- laws of overriding federal and provincial importance will prevail, and federal, provincial, territorial and Aboriginal laws must work in harmony.

Under this policy, the range of subjects that the federal government is willing to negotiate includes matters internal to the group, integral to Aboriginal culture, and essential to

operating as a government or institution. Examples are the establishment of government structures and internal constitutions; membership; marriage; Aboriginal languages, culture and religion; education; health; social services; policing; enforcement of Aboriginal laws; and others. In a number of other areas, such as divorce, the administration of some justice issues, gaming, and fisheries co-management, the federal government is prepared to negotiate some measure of Aboriginal jurisdiction. A number of other subject matters are not open to negotiation, however. These can be grouped under two headings: 1) powers related to Canadian sovereignty, defence and external relations; and 2) other national interest powers. Financing self-government would be the shared responsibility of federal, provincial, territorial and Aboriginal governments.

The Minister of Indian Affairs has a mandate to enter into negotiations with First Nations, the Inuit, and Métis groups in the north. The Federal Interlocutor for Métis and Non-Status Indians has a mandate to enter into negotiations with Métis south of the 60th parallel and Indian people who reside off a land base. For groups without a land base, the government is prepared to consider forms of public government, the devolution of programs and services, the development of institutions providing services, and arrangements in those subject matters where it is feasible to exercise authority in the absence of a land base.

DIAND has reported that, as of the fall of 1998, over 80 negotiations, involving over half of all First Nation and Inuit communities, were in process.

3. Manitoba Dismantling

In March 1994, the Minister of Indian Affairs announced that DIAND's regional office in Manitoba would be dismantled and its responsibilities transferred to the First Nations of Manitoba. A memorandum of understanding was signed between Canada and the Assembly of Manitoba Chiefs (AMC) in April 1994, and a Framework Agreement to begin the process of dismantling was signed in December 1994.

The Framework Agreement sets out the process to dismantle DIAND operations, develop Manitoba First Nations government institutions, and restore to Manitoba First Nations governments the jurisdictions currently held by DIAND and other federal departments. Discussions between the Assembly of Manitoba Chiefs and federal officials on the details of the Framework Agreement began in April 1996. **Media reports state that the implementation of the initiative is taking longer than originally anticipated, due to the complexity of negotiating issues of jurisdiction and governance. An independent three-year review of the process, required by the Agreement, was completed in early 1999.**

4. Sectoral Initiatives

Sectoral or incremental initiatives have been developed in several areas. Examples include agreements to transfer education jurisdictions and enhance First Nations' authority over reserve land management, and to provide for greater flexibility in managing funding.

On 14 February 1997, the Minister of Indian Affairs and Mi'kmaq Chiefs of Nova Scotia signed a Final Agreement, with the involvement of the government of Nova Scotia, to transfer legislative and administrative jurisdiction for Mi'kmaq education to nine First Nations in Nova Scotia. The result of six years of negotiations, the Final Agreement will lead to the transfer of \$140 million for Mi'kmaq education to the Nova Scotia Mi'kmaq over a five-year period. **Federal legislation to implement the Agreement received Royal Assent in June 1998.**

In the area of land management, chiefs of 13 First Nations from British Columbia, Alberta, Saskatchewan, Manitoba and Ontario signed a Framework Agreement with the Minister of Indian Affairs on 12 February 1996. A fourteenth First Nation joined at a later date. The agreement is intended to give the First Nations control over reserve lands and resources and end the discretion of the Minister under the *Indian Act* over land management decisions on reserves. **Enabling legislation was passed in Parliament in June 1999.**

In terms of First Nations funding, the department has a pilot project with about 70 First Nations to examine new financial transfer arrangements (FTAs). These are intended to increase First Nations' control, flexibility and accountability over funding.

E. Self-Government Arrangements

Over last two decades, several self-government arrangements have been developed, both in conjunction with land claim settlements and independent of them.

1. James Bay and Northern Quebec Agreement, Northeastern Quebec Agreement

The Cree and Naskapi First Nations of northern Quebec were the first Aboriginal groups to negotiate self-government as part of their land claim agreements (the James Bay and Northern Quebec Agreement and Northeastern Quebec Agreement) in 1975 and 1978. Provisions

for local government were implemented in 1984 by the *Cree-Naskapi (of Quebec) Act*, which replaced the *Indian Act* for the Cree and Naskapi, and limited the responsibilities of the federal government in the day-to-day administration of band affairs and lands. All the Cree and Naskapi bands were incorporated and some of their lands constitute municipalities or villages under the *Quebec Cities and Towns Act*. Band corporations have by-law powers similar to those possessed by local governments under provincial legislation.

The James Bay and Northern Quebec Agreement also provided for a form of government for the Inuit signatories. *An Act concerning Northern villages and the Kativik Regional Government (Kativik Act)* established Inuit settlements in northern Quebec as northern village municipalities under provincial legislation. The Kativik Regional Government has the powers of a northern village municipality over those parts of the territory that are not part of the village corporations, and regional powers over the whole territory including the municipalities. The governments are not ethnic in character -- all residents, Aboriginal and non-Aboriginal, may vote, be elected and otherwise participate; however, over 90% of the population in the area are Inuit and receive benefits under the James Bay Agreement. The federal and Quebec governments have been negotiating with Makivik Corporation, which represents the Inuit, to further the self-government powers gained by the Inuit of Northern Quebec under the James Bay Agreement.

2. Sechelt Indian Band

In May 1986, the *Sechelt Indian Band Self-Government Act* was passed after 15 years of negotiation and consultation. This was a specific piece of legislation that allowed the Sechelt Indian Band, located on the British Columbia coast about 50 kilometres north of Vancouver, to move toward self-government. The Act granted authority to the Sechelt band to exercise delegated powers and negotiate agreements about specific issues. Under the legislation, the community was set up as a legal entity with the power to enter into contracts and agreements; acquire, sell and dispose of property; and spend, invest and borrow money. The community was empowered to set up its own constitution establishing its government, membership code, legislative powers and system of financial accountability. The elected council has the power to pass laws on a range of matters, including access to and residence on Sechelt lands, administration and management of lands belonging to the band, education, social welfare and

health services, and local taxation of reserve lands. The legislation transferred fee-simple title of Sechelt lands to the band and contains a provision for the negotiation of funding agreements in the form of grants or transfer payments administered by the band council. The Sechelt Indian band has municipal status under provincial legislation.

Some Aboriginal groups have criticized the Sechelt model as municipal-type arrangement, governed by provincial legislation. The Sechelt people contend that theirs is a unique model, established in response to their particular situation, and not intended to constrain other communities.

3. Yukon First Nations

The Council for Yukon First Nations, the government of the Yukon and the federal government signed an Umbrella Final Agreement (UFA) on 29 May 1993. The UFA established the basis for the negotiation of final land claim settlements and self-government agreements with each of the 14 Yukon First Nations. The UFA provides land, cash compensation, wildlife harvesting rights, land and resource co-management, and protection for the culture and heritage of Yukon Indians. It also sets out the framework for individual Yukon First Nations Final Agreements, which will incorporate the UFA and address the specific circumstances of each First Nation.

Four First Nations, Vuntut Gwitchin, Nacho Nyak Dun, Champagne and Aishihik, and Teslin Tlingit, signed individual land claim and self-government agreements in 1993, which came into effect in 1995. Land claim and self-government agreements for the Selkirk First Nation and Little Salmon/Carmacks First Nation were concluded in July 1997 and came into effect in October of that year. On 16 July 1998, Tr'ondëk Hwëch'in First Nation became the seventh Yukon First Nations to sign final land claims and self-government agreements.

Under the *Yukon First Nations Self-Government Act*, these First Nations have law-making authority over internal management of the First Nations; laws of a local or private nature on settlement land in relation to matters such as land use and control; hunting, trapping and fishing; the licensing and regulation of businesses; and the taxation of interests in settlement land and other modes of direct taxation of First Nations citizens on settlement land. The First Nations have authority to enact laws for their citizens

throughout the Yukon in the areas of language, culture, health care, social and welfare services, and education. First Nations constitutions provide for citizenship codes; the powers, composition and procedures of governing bodies; financial reporting systems; and procedures to protect the rights of citizens. Most sections of the *Indian Act* cease to apply to the First Nations, their citizens and their settlement lands. Five-year Financial Transfer Agreements with the federal government provide funding for programs and services.

On 16 April 1999, land claim and self-government agreements for the White River First Nation were initialled. Agreements for the six remaining Yukon First Nations are at various stages of negotiation.

4. Nunavut

For decades, Inuit of the central and eastern Arctic have been calling for the creation of a new territory. This effort took on added impetus in 1976 when the Inuit Tapirisat of Canada submitted a proposal to the federal government requesting the creation of a new territory to be called Nunavut (“our land” in the Inuktitut dialect of the region). A 1982 plebiscite and several years of negotiations followed. A key provision of the Tungavik Federation of Nunavut land claim agreement, which was finalized in 1991, was the creation of a new territory. The final agreement committed Canada, the Government of the Northwest Territories, and the Tungavik Federation of Nunavut to negotiate a political accord to deal with powers, financing and timing for the establishment of the Nunavut government. This political accord was formally signed in 1992. Inuit control through public government is premised upon the existence of an Inuit majority in Nunavut. Currently, 85% of the population of the region is Inuit.

The Nunavut territory and government was established on 1 April 1999. It has jurisdictional powers and institutions similar to those of the government of the NWT. **On 15 February 1999, residents of Nunavut held their first election for members of their Legislative Assembly. Paul Okalik was selected as the territory’s first premier.**

5. The Nisga’a Final Agreement

On 4 August 1998, representatives of the Nisga’a Tribal Council, the federal government, and the government of British Columbia initialled the Nisga’a Final Agreement. The Agreement is intended to settle the land claim of the Nisga’a Nation, located in B.C.’s Nass Valley. It includes provisions related to land, resources, financial

compensation and governance. Under the Agreement, the Nisga'a have a central government (Nisga'a Lisims Government) and four village governments, similar to local government arrangements, all of whose structures, duties and functions are spelled out in the Nisga'a constitution. The Agreement provides for Nisga'a law-making powers over matters such as culture and language, public works, regulation of traffic and transportation, land use, and solemnization of marriages. The Nisga'a would continue to provide health, child welfare, and education services under existing arrangements, but could also choose to make laws in these areas. All Nisga'a law making powers would be concurrent with those of Canada and British Columbia. Under the Agreement, powers related to solemnization of marriages, social services, and adoption apply to Nisga'a people throughout the province, with their consent. The Agreement also provides that people residing on Nisga'a Lands who are not Nisga'a citizens will be consulted about and may seek a review of decisions that directly and significantly affect them and can participate in elected bodies that directly and significantly affect them.

The Agreement has been ratified by the Nisga'a Nation and the British Columbia Legislature. Federal legislation to ratify the agreement is expected to be introduced in Parliament in the fall of 1999.

Various other land claim and self-government negotiations are currently ongoing.

- The chiefs of the United Anishnaabeg Councils, which represents eight First Nations in south central Ontario, and the Minister of Indian Affairs signed an Agreement-in-Principle on Anishnaabe Government on 21 June 1998.
- On 14 October 1998, the Deline Land/Financial Corporation Ltd. and the Deline Dene Band, the Northwest Territories government and the federal government signed an agreement on process and schedule for self-government negotiations.
- On 26 November 1998, leaders of the Anishinabek Nation in Ontario signed a framework agreement with the federal government to negotiate Aboriginal governance for the Anishinabek Nation.
- On 10 May 1999, representatives of the Government of Newfoundland and Labrador, the federal government, and the Labrador Inuit Association (LIA) initialled the Labrador Inuit Land Claims Agreement in Principle.

- **On 18 May 1999, the Micmac Nation of Gespeg, the Quebec government, and the federal government signed a framework agreement for negotiating self-government for the Micmac Nation of Gespeg.**

F. Other Developments

1. British Columbia Treaty Process

On 1 March 1996, the *British Columbia Treaty Commission Act* formally establishing the B.C. Treaty Commission came into effect, as did the provincial *Treaty Commission Act* and a resolution of the B.C. First Nations Summit. **As of 23 April 1999, 51 First Nations, of the 197 in British Columbia, were active in the B.C. Treaty Commission process. On 16 April 1999, representatives of the governments of Canada and British Columbia and the Sechelt Indian Band signed an Agreement-in-Principle, the first in the British Columbia Treaty Commission process.**

2. Saskatchewan Treaty Commissioner

In December 1996, the Office of the Treaty Commissioner of Saskatchewan was re-established to facilitate self-government negotiations and to assist with exploratory discussions on treaty issues. This expanded the mandate of the Office, which was created in 1989. Saskatchewan judge David Arnot was appointed to a five-year term as Treaty Commissioner.

3. International Issues

A Draft Declaration on the Rights of Indigenous Peoples was completed in 1994 after 12 years of negotiations between governments and indigenous groups. In August 1995, the U.N. Economic and Social Council passed a resolution to establish a working group at the U.N. Human Rights Commission to further elaborate the draft document. Canada is included in this group. Aboriginal organizations have criticized the Canadian government for attempting to water down Aboriginal rights to self-determination in the document. The aim of the Human Rights Commission is to elaborate further on the Draft Declaration for its consideration and adoption by the U.N. General Assembly within the International Decade of the World's Indigenous People,

which ends in 2004. **During an April 1999 session of the Human Rights Commission, delegates discussed the possible establishment of a permanent forum for indigenous peoples within the UN system.**

PARLIAMENTARY ACTION

- 1984 - *Cree-Naskapi (of Quebec) Act* was passed by Parliament, implementing a chapter of the James Bay and Northern Quebec Agreement.
- 1985 - *An Act to amend the Indian Act* was passed by Parliament granting Indian band councils new by-law powers over band membership, reserve residence and alcohol regulation.
- 1986 - Parliament passed the *Sechelt Indian Band Self-Government Act*, providing for the first Indian self-government legislation independent of a land claims agreement.
- 1988 - *An Act to amend the Indian Act (designated lands)* granted Indian band councils clear powers to levy local taxes on Indians and non-Indian reserve residents.
- 1993 - The *Nunavut Act* and the *Nunavut Land Claims Agreement Act* were given Royal Assent, the final step towards the creation of a new territory.
- 1994 - Bill C-34, the *Yukon First Nations Self-Government Act* received Royal Assent on 7 July 1994.
- 1995 - Bill C-107, the *British Columbia Treaty Commission Act*, was introduced to Parliament on 18 October. The bill received Royal Assent on 1 December.
- 1998 - Bill C-39, an Act to amend the Nunavut Act and the Constitution Act, 1867, received Royal Assent on 6 July.**
- 1999 - Bill C-49, First Nations Land Management Act, was approved by Parliament.**

CHRONOLOGY

- 1763 - The Royal Proclamation recognized the rights of the “several Nations or Tribes of Indians ... who live under our protection.”
- 1867 - Legislative authority with respect to “Indians, and Lands reserved for

the Indians” assigned to Parliament at Confederation.

- 1876 - First consolidated *Indian Act*.
- 1951 - Last major revision of the *Indian Act*.
- 1969 - The federal government issued its White Paper on Indian Policy, proposing termination of special Status. The Paper was withdrawn due to Indian opposition.
- 1975 - James Bay and Northern Quebec Agreement signed.
- 17 April 1982 - *Constitution Act, 1982*, s. 35 affirmed and recognized the existing Aboriginal and treaty rights of the Aboriginal people of Canada.
- 14-16 March 1983 - First Ministers’ Conference on Aboriginal Constitutional Matters. Agreement was reached on a constitutional amendment specifying that “existing treaty rights” in s. 35 includes existing and future land claims settlements.
- 3 November 1983 - Report of the Special Committee on Indian Self-Government.
- June 1984 - Passage of the *Cree-Naskapi (of Quebec) Act*.
- 9 October 1986 - The *Sechelt Indian Self-Government Act*, S.C. 1986, c. 2, received Royal Assent.
- August 1991 - The federal government appointed a Royal Commission on Aboriginal Peoples.
- August 1992 - An agreement on constitutional reform was reached in Charlottetown; it would have entrenched the inherent right of Aboriginal peoples to self-government in the *Constitution Act, 1982*.
- October 1992 - The Charlottetown Accord was rejected in a national plebiscite.
- 7 July 1994 - Bill C-34, the *Yukon First Nations Self-Government Act*, was granted Royal Assent.
- 7 December 1994 - The Minister of Indian Affairs and Northern Development and the Grand Chief of the Assembly of Manitoba Chiefs signed a Framework Agreement setting out the process for dismantling DIAND regional operations in Manitoba and permitting negotiations to transfer jurisdiction in various areas to First Nations control.
- 10 August 1995 - The federal government formally launched a new process for negotiating Aboriginal self-government, based on the recognition of the inherent right self-government as a right under the Constitution.

- 3 May 1996 - Education Agreement-in-Principle signed by Minister of Indian Affairs and Mi'kmaq Chiefs from Nova Scotia.
- 21 June 1996 - National Aboriginal Day declared by Minister of Indian Affairs Ron Irwin.
- 21 November 1996 - Release of the final report of the Royal Commission on Aboriginal Peoples.
- 7 January 1998 - Federal response to the report of the Royal Commission on Aboriginal Peoples.**
- 4 August 1998 - The Nisga'a Final Agreement was initialled.**

SELECTED REFERENCES

- Cameron, K. and G. White. *Northern Governments in Transition: Political and Constitutional Developments in the Yukon, Nunavut and the Western Northwest Territories*. The Institute for Research on Public Policy, Montreal, 1995.
- Canada, Department of Indian Affairs and Northern Development. *Federal Policy Guide, Aboriginal Self-Government: The Government of Canada's Approach to the Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government*. Minister of Indian Affairs and Northern Development, Ottawa, 1995.
- Canada. House of Commons Special Committee on Indian Self-Government. *Second Report: Indian Self-Government in Canada*. 1st Session, 32nd Parliament, Issue No. 40.
- Doerr, A. "Building New Orders of Government – the Future of Aboriginal Self-Government." *Canadian Public Administration*, Vol. 40, No. 2, Summer 1997.
- Grand Council of the Crees (of Quebec). *Sovereign Injustice: Forcible Inclusion of the James Bay Crees and Cree Territory into a Sovereign Quebec*. Grand Council of the Crees, Nemaska, Quebec, 1995.
- Green, Joyce. "Constitutionalising the Patriarchy: Aboriginal Women and Aboriginal Government." 4 *Constitutional Forum* 110, Summer 1993.
- Hamilton, A.C. *A New Partnership: Report of the Honourable A.C. Hamilton, Fact Finder*. Minister of Indian Affairs and Northern Development, Ottawa, 1995.
- Hogg, P. and M.E. Turpel. "Implementing Aboriginal Self-Government: Constitutional and Jurisdictional Issues." *The Canadian Bar Review*. Vol. 74, No. 2, June 1995, p. 187-224.

Peters, E., ed. *Aboriginal Self-Government in Urban Areas*. Institute of Intergovernmental Relations, Queen's University, Kingston, 1995.

Royal Commission on Aboriginal Peoples, *Aboriginal Self-Government: Legal and Constitutional Issues*. Royal Commission on Aboriginal Peoples, Ottawa, 1995.

Royal Commission on Aboriginal Peoples. *Report of the Royal Commission on Aboriginal Peoples: Volume 2. Restructuring the Relationship*. Canada Communications Group, Ottawa, 1996.