

Aboriginal Self-Governance in North America

Canadian Studies Program

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Rapporteur's Summary

by Stephen Pitcher

The conference on Aboriginal self-governance was preceded by a convivial (and delicious!) banquet, at which keynote speaker J.R. Miller supplied a masterful overview of the topic. His historical insights provided an extremely useful basis for the discussions of Native identity and governance that ensued.

Dr. Miller began by quoting from an 1830 Ontario document codifying widespread modifications in Ojibwe (Chippewa) governance, which incorporates aspects of the incoming settlers' law into traditional practice (e.g., election, rather than first-son succession, of chiefs). While proclaiming their intention to govern themselves "according to our ancient customs," this melding of past and present-day features acknowledged the likelihood of long-term coexistence with the European newcomers.

Self-governance had long been the norm among pre-contact First Nation peoples, in a variety of styles tailored to the needs and conditions of the individual groups. Miller provided a detailed survey of these governance styles, from the fragile autonomy of Mi'kmaq chiefs, to the more "prominent and directive" institutions of less densely populated groups like the Haudenosaunee, to the matrilineal and matrilocal Iroquois (whose all-important corn was farmed by women). Many groups participated in intratribal councils, while retaining considerable autonomy for their communities. Particularly among smaller, or more nomadic, groups, a high level of democracy existed, with individuals able to move freely from band to band if they so desired. Leadership accountability was widespread, with an unsatisfactory performance leading to the leader's replacement. As in most societies, more authoritarian governance occurred in situations requiring greater social cohesion, such as a war or a bison hunt. Alliances and associations among some tribes—such as the Blackfoot confederacy of southern Alberta and the Plains Cree—Assiniboine alliance—testified to experience with external governmental functions. The potlatch ceremony of Pacific coast peoples represented another form of handling foreign relations.

The French erroneously summed up this rich array of self-governance as *ni foi, ni roi, ni loi* ("neither faith, nor king, nor law"); "faith," in fact, underlay all aspects of First Nation life, and precise forms of government were everywhere to be seen. European blindness to Aboriginal self-government systems had the beneficial effect, however, of temporarily shielding Native traditions from attack. Trade flourished to the Europeans' satisfaction, and there was no perceived reason to disturb the Indigenous status quo. Ultimately, however, the post-1812 end of British–American hostilities and the founding of the Hudson's Bay Company led to the massive immigration of British settlers, whose intent to create

towns and farms depended little on trade and was in many ways in direct conflict with First Nation land use. Arising from this tension in the 1830s was an assimilationist “civilization” policy, which rapidly abandoned a tactic of encouragement for one of coercion. The *Gradual Enfranchisement Act* of 1869, intended to “confer on First Nations the blessings of British government,” was eventually incorporated into the 1876 *Indian Act*, with the addition of features empowering the government to depose chiefs and to veto Native legislation. This Act was the ominous prelude to a series of intrusive governmental attempts to restructure First Nation governance and lifeways, which inspired vehement Native resistance, particularly among Iroquois groups in Ontario and Quebec. By the early twentieth century, resistance had taken the form of the attempt on the part of the Six Nations reserve—peopled by Iroquois convinced that they were allies, rather than subjects, of the Crown—to gain international recognition from the newly created League of Nations; their pursuit of sovereignty continues to this day.

First Nations attempts to mount a response to governmental oppression have met with numerous obstacles, the most salient being the pervasive poverty that severely curtailed travel and the ability to hire lawyers; this situation was exacerbated by the 1927 revision to the *Indian Act* outlawing fund-raising in pursuit of “an Indian claim.” Yet political organization has continued to advance, with the 1960 coalescence of First Nations, status and non-status, and Métis peoples into the National Indian Council (subsequently divided into the National Indian Brotherhood and the Canadian Métis Society); the 1971 formation of the Inuit Tapirisat of Canada; and today’s Assembly of First Nations and the Métis Nation of Canada, Inuit Tapirisat (also spelled Tapirii) Kanatami (and, as we would subsequently learn much about from Teresa Edwards, the Native Women’s Association of Canada). The deployment of these organizations has not only continued the fight against governmental injustice, but has provided an invaluable education in political engagement for First Nation peoples.

Increasingly vehement Native activism contributed not only to a shift in the larger society’s perception of the Native community, but to a slowly evolving awareness of racism. The influential 1966–67 *Survey of the Contemporary Indians of Canada: Economic, Political, Education Needs and Policies*, produced under the leadership of UBC anthropologist Harry Hawthorn, exposed some of the abuses and institutionalized hopelessness endured by First Nations people throughout Canada. The Trudeau government of the 1960s appears to have floundered through a series of unsuccessful compromises (the “White Paper” of 1969, for instance), but Native activism continued to grow in tenacity and effectiveness, resulting in widespread demonstrations, protests, and litigation. The right to land, services, and self-administration was crucially advanced in the 1975 James Bay and Northern Quebec Agreement, and by the Nunavut and Nisga’a Treaty arrangements of the Inuit and Nass Valley peoples respectively.

The struggle for self-governance that is the principal theme of this conference has continued to expand through recent decades. An investigation of the legality of treaties of which the parties involved clearly understood the terms in quite different ways, shifting governmental accommodations of Native demands and shifts in governments themselves, and legislation that sometimes appears to favor Native aims while withdrawing the means

of achieving them have resulted in a combination of hard-won advances, bitter defeats, and a long way to go before Aboriginal control over Aboriginal existence is achieved. But the pursuit of self-governance has gained momentum, and Dr. Miller concluded that government “according to our ancient customs” has an extensive past, a robust present, and would appear to have a bright future.



The conference was opened by Nelson Graburn, who welcomed attendees and participants to the Department of Anthropology’s Gifford Room, and announced that the occasion marked his last appearance as Director of Canadian Studies, as that position would be filled in July by Professor Irene Bloemraad of the UC Berkeley Department of Sociology. He acknowledged the sponsorship of the Bluma Appel Fund, founded by the bequest of the well-known Canadian philanthropist Bluma Appel, urging those present to emulate this gesture when their time came, if not before. Some generous friends of Canadian Studies, who wish to remain anonymous, also helped with conference expenses. On the theme of sponsorship, it was then divulged that the Government of Canada had for the first time refused to assist Canadian Studies in funding this event, indeed had discontinued funding entirely to all social sciences programs and events throughout the United States. These dire tidings seemed the more harsh in the context of Dr. Graburn’s modest recitation of the many ways in which the UCB Canadian Studies Program strives to be of assistance to anyone performing Canada-themed research, and its sincere aspiration to provide a warm welcome to students coming to Berkeley with Canadian interests—in his words, to “try to look after them and see them through.” Apart from enjoining those of Canadian citizenship to “go back and vote, in six years, to change the situation,” Dr. Graburn declined to dwell on the catastrophic ramifications of this decision taken by the government of Canada, and proceeded to an introduction of the chair/discussant of the opening panel, Professor Beth Piatote of the UC Berkeley Native American Studies Program. (Please see the link to “Participant Bios” on the conference main page for information regarding the presenters.)

SESSION I: HISTORICAL BACKGROUND

Chair/discussant Beth Piatote introduced the first panel’s cross-Canadian, multidisciplinary participants: Michael Behiels (Ottawa, History), Robert Talbot (Ottawa, History), Gordon Christie (British Columbia, Law), and Cheryl Suzack (Toronto, English), then turned the floor over to the day’s first presenter.

Michael D. Behiels, “The National Indian Brotherhood/Assembly of First Nations: Mega-Constitutional Reform and the Quest for Self-Governance, 1968—1982”

The quest for Canadian Aboriginal self-government goes back a long way, beginning with the frequently disregarded Treaties of 1763 and renewed in the 1960s by growing con-

cerns over social welfare. In 1963, at the suggestion of the Canadian government, anthropologist Harry Hawthorn convoked a committee which produced a survey (informally known as “The Hawthorn Report”) of Canadian Aboriginal peoples, in which was promulgated the concept of “Citizens Plus”—the idea that Indians possessed the full rights of citizenship *in addition to* retaining Indian status, treaty benefits, and such consideration as was due them as the original inhabitants of the land and owners of its resources. Prime Minister Pierre Trudeau’s government responded with the 1969 White Paper on Indian Policy, which sought, among other things, to delegate fiduciary responsibility for Indian welfare to the provincial/territorial governments and to pursue a policy of Indian integration into mainstream society. This document was thoroughly rejected by the Aboriginal population, and in 1970 the Indian Chiefs of Alberta produced the manifesto *Citizens Plus* (informally known as the “Red Paper”), whose demands, echoed in a number of documents produced by other Aboriginal groups, were to become canonical in the struggle for Aboriginal rights: preservation of and respect for the distinct status, rights, and traditions of Indians; the rejection of delegated responsibility; the necessity for economic, social, and cultural development of the Reserves; recognition of the sovereignty of Indian nations; and a commitment to the improvement of Indian health and education. In the face of this vigorous rebuttal, the White Paper was dropped.

Mega-constitutional negotiations were begun in 1968 without Indian involvement, and when Prime Minister Trudeau sought to remedy that omission in the second round of negotiations (1978—79) he was met by vehement protests from the Canadian premiers, whose implacable opposition to Aboriginal participation in government was to become a defining aspect of Crown—Aboriginal politics thereafter. Nevertheless, the Constitution Act of 1982 contained important guarantees of Aboriginal rights in Sections 25 and 35, legal instruments that played a key role in discussions throughout this conference.

Behiels’s talk focused on the evolution of the National Indian Brotherhood/Assembly of First Nations (NIB/AFN) and the participation of these organizations in mega-constitutional negotiations. He contends that a particularly dynamic role in the struggle for Aboriginal rights was played by radicalized Western Canada Indian organizations and chiefs. All of these entities fervently believed that the right to self-government was guaranteed and non-negotiable. In the course of their involvement with mega-constitutional politics, and influenced to an extent by the activities of the secessionist *Parti Quebecois*, the NIB honed its political skills and refined its goals, primary among them the legal entrenchment of rights, recognition of sovereignty, and an equal place at the negotiating table. The concept of patriation—that the management of Canadian law was a Canadian, rather than a British, responsibility—also entered the dialogue.

Trudeau’s government lost in 1979 to the Progressive Conservatives, whose promises of equality in negotiation were both protested by the premiers and denounced by the NIB. The Liberal Party returned in 1980, and the renewal of constitutional reform ultimately resulted in the 1982 Constitution Act, which in turn found a mixed reception among Aboriginal and Royal politicians. That Section 35 had been struck from the resolution infuriated the AFN Chiefs, and they were successful in getting that crucial piece of legislation re-

stored. These contributions to constitutional reform proved a formative, if at times a divisive, factor in the development of Canadian Aboriginal politics.

Robert Talbot, “Métis and Non-Status Indian Organizations in the Era of Mega-Constitutional Politics” [link to presentation](#)

Dr. Talbot’s presentation dealt with the ways in which Canadian mega-constitutional processes affected Aboriginal, and particularly Métis and Non-Status Indian (MNSI), populations, in their ways of addressing social rights and services, education, and their very identity as Canadian citizens. Primary among these issues was the Canadian government’s apparent intention to devolve responsibility for social services to the provinces. A principal feature of this response was the development of the concept of “Citizens Plus,” which articulated the entitlement of Aboriginal people to all the rights of citizenship as well as emphasizing their status as a people demographically, culturally, and historically distinct. The primary thrust of this development in legal terms was the drive for constitutional entrenchment of treaty and Aboriginal rights, which was, and is, perceived as indispensable to the actualization of those rights.

While the MNSI approach was pragmatic, it was non-negotiable: integration *without assimilation* was the only acceptable goal. MNSI objectives were officially pursued by the Native Council of Canada (NCC; formed in 1971), an entity both less radical and, initially at least, less dedicated to the idea of self-government than its status-Indian counterpart, the National Indian Brotherhood (NIB). This strategic alliance of Métis and Non-Status Indians chose to perceive the “Constitutional ‘no-man’s land’” they inhabited as one in which they had nothing, diplomatically speaking, to lose.

Talbot described the history of the NCC’s interaction with Ottawa under its charismatic leader, Harry Daniels (NCC president 1975—81), and the modifications to which its original objectives—representation, recognition, services, and the honoring of land claims—were subjected over the years. While self-government was not an initial priority of the NCC, in its 1978 presentation to the Task Force on National Unity the NCC cited that objective, and insisted on the importance of a land base (another crucial issue that recurred throughout the conference), while rejecting the “Two Founding Nations” thesis still mysteriously prevalent in political discourse, and appealing for a legally effective, broadened definition of the term “Indian.” The NIB still, as it had from the beginning, rejected MNSI membership, fearing that such “dilution” would reduce their influence.

With the increased awakening of MNSI identity, political capacity, and pride, legal advocacy became increasingly effective, to the point that both treaty rights and the broader definition of “Indian” were constitutionally entrenched in 1981’s Section 35 (subsequently withdrawn and replaced in amended form—a harrowing compromise commonly referred to as the “Kitchen Accord,” or, in Quebecois terms, the “Night of Long Knives”).

Ultimately, NCC pursuit of MNSI aims—among them the constitutional entrenchment of Aboriginal rights and the inclusion of Métis people under the rubric “Aboriginal”—proved a formative, but a divisive, experience. Yet it was one that caused an acknowledgment of

the efficacy of political pragmatism, and one which fostered a gradual devolution of government to Aboriginal people, regardless of ethnic terminology.

Gordon Christie, “The Trap of Historical-Legal Narratives: Aboriginal Rights to Governance in Canadian Law” [link to presentation](#)

After thanking the locally Indigenous peoples for hosting him on their land, Dr. Christie framed his presentation as a story—one whose themes and emphases varied according to the viewpoint from which it was being told. Against the background of the Constitution Act’s Section 35, which recognizes and affirms existing Aboriginal and treaty rights, the narrative encompasses a variety of legal dicta, beginning with the Royal Proclamation of 1763, with respect to their effect on Aboriginal issues. While technically adhering to the factual elements of the “story,” the Canadian government was seen to offer a highly edited version of the narrative, such that the manner in which a given legal instrument was interpreted, rather than its explicit textual content, strongly determined its impact on the matter at hand.

The “chapters” in Christie’s story consist of a litany of legal decisions, all decisive in ways that may or may not have accorded with their authors’ intent. The first chapter examines the First Nations’ objection to the Enbridge pipeline as a land use both offensive to and harmful to them—one alien to their traditional way of regarding *their* land. Central to this protest, and to those which followed, was the assertion that decisions regarding the use of Aboriginal lands, and the treatment of Aboriginal populations generally, should be made in a manner respecting and utilizing Aboriginal legal practices, not purely from a White, Royal, Ottawa perspective.

Having examined a number of crucial legal decisions, including *R. v Sparrow* (1990, Supreme Court of Canada [SCC]), *Johnson v M’Intosh* (a hugely influential 1823 U.S. Supreme Court decision ruling that private citizens could not purchase land from Native Americans), *R.v Van Der Peet* (1996, SCC), *Mitchell v M.N.R.* (2001, SCC, regarding sovereignty), and *Haida Nation v B.C.* (2004, SCC), Dr. Christie concluded that the Crown had essentially narrated itself into sole possession of power over Aboriginal affairs, to be “shared” with those principally affected—namely, First Nations citizens—on a discretionary basis. This linguistic/legalistic “trap” could only be escaped through a repeated and undiminished retelling of the Aboriginal “story” by its actual protagonists, and a refusal to accept the official, Royal version and the pressure to “make the best deal” that invariably accompanied it.

Cheryl Suzack, “Local Self-Determination Struggles in Canada: Exploring their Gender Implications in Two Case Studies” [link to presentation](#)

Dr. Suzack thanked local First Nations people and professed her delight to be in “one of the most beautiful places I’ve ever been.” She then described an aspect of the struggle for Indigenous self-determination called “Active Silence” (in contrast to the “passive silence” by which Indigenous peoples have frequently consented to their “historical erasure,” or

the “deep colonizing” that silently takes place as institutions gradually usurp traditional lifeways). This important form of protest is performed by the women of Indigenous communities “working behind the scenes.” Suzack cited in this context the importance of the work of Dr. Val Napoleon (Law Foundation Professor of Aboriginal Justice and Governance at the Faculty of Law, University of Victoria), who argues that “self-determination is a principle of the highest order, yet remains bitterly contested.”

Self-determination consists of two parts: the recognition of the right of an Aboriginal nation to govern itself, and a fully collective decision-making process; in many respects both of these components are informed by gender issues. In her ensuing analysis of two case studies, Dr. Suzack demonstrated that women have often had the duty of governing forced upon them, without garnering the recognition that effort deserves. The first of these case studies concerns the Northwest Territories Sahtu Dené and their struggles to gain recognition of, and compensation for, their exposure to radiation due to the operation of the Port Radium Mine. The Sahtú town of Déline has been described as a “village of widows,” due to the high mortality rate (discounted by government-sponsored research) of the three generations of Indigenous men who worked the mines without being informed of the risks involved. Radioactive tailings of such potency that they were sold to the Manhattan Project were transported by Indigenous laborers and used as land fill; entire communities were exposed to hazardous radioactivity through direct contamination and contaminated water and food sources without warning. Ninety-eight Dené Elders traveled to Tokyo to participate in a ceremony commemorating the atomic bombings of Japan in the final throes of World War II, not only to protest the abuse of their own human rights but to offer an apology for their unwitting complicity in the construction of the bombs.

Dr. Suzack’s second case study dealt with the ongoing Enbridge Northern Gateway Project for building pipelines to transport crude oil out of, and natural gas condensate back into, Alberta, and the resistance against it mounted by the Heiltsuk Indians of Bella Bella, British Columbia, whose territory the highly toxic substances would traverse. At the forefront of the Bella Bella protest was Jessie Housty, Director of Traditional Ecological Knowledge for the Qqs Projects Society, finalist for the 2010 Ecotrust Indigenous Leadership Award, and founder of the Thistalalh Memorial Library. (Suzack remarked that “nothing touches the heart of a literary scholar like a library in an Indigenous community!”) Also making a decisive contribution to the protest was an entirely self-motivated hunger strike on the part of young Bella Bella students, whose intent was to show what life would be like after an oil spill destroyed traditional food sources. A joint review panel was convened, then hastily abandoned when its members felt threatened by the festive reception of the local populace, whom they deemed “out of control”; (Suzack showed footage of toddlers holding signs). Hearings were reconvened, but as Bella Bella Chief Marilyn Slett commented, the loss of a day and a half of discussion showed disrespect to the people of the community, many of whom had prepared at length for an opportunity to be heard that now would not be forthcoming.

Dr. Suzack concluded that Heiltsuk self-determination existed in active practice, but that there was a fundamental unwillingness on the part of the Canadian government to

recognize that fact. This creates the responsibility of Indigenous peoples to make intangible lifeways tangible to the government—to express the things that are true to them in a way that communities and official bodies outside that experience can understand. The activism she described among Indigenous women and youth ultimately creates a responsibility for scholars and the public at large to help the government see that what Indigenous communities say is true—“because it *is* true”—since a government’s unwillingness to acknowledge a people’s lifeways has implications for us all.

In closing, Suzack advised those present to view a video clip she’d been unable to show at the conference, recording William Housty’s address to the National Energy Board on Heiltsuk culture.

PLENARY DISCUSSION

Michael Behiels (MB): It’s a real dilemma as to how to deal with this “being trapped,” as you put it—in the ongoing changing discourse of courts, of the political cultures, of the ideologies. The big issue I’ve always found is how do you get out of trap? Do you simply physically withdraw from the discourse into a kind of parallel (but not communicating) discourse? The AFN decided to opt out of the process completely, and missed the opportunity to work on the kind of Section 35 it and its members could have accepted. I’d like to hear you comment just a bit more about this trap that keeps reappearing. The traps never go away over the long history; they keep reappearing in a different form, in a different place. I think this is a conundrum for the Aboriginal peoples around the world, as to what to do: do they try to get into the system and change it for their purposes, or do they remain outside the system? This is a really huge dilemma.

Gordon Christie (GC): I agree. This is something that is talked about endlessly in circles where people talk about this subtle question of self-determination. “Self-government” is seen as the kind of language that gets you into the trap: when you start talking about that you are already deeply into this discourse. There are a number of ways that people can try to get away from getting their heads caught in this noose, which is like this snare: you don’t notice that you’re in this trap until you get further in, and the snare begins to tighten, and before you know it you can’t breathe. There are a couple of things people can do to avoid this. People are doing this already. Some First Nations on the pipeline route are just going back to their old ways of making decisions, and saying, “Let’s just make decisions the way we traditionally make decisions.” [The ways have] been updated: they aren’t doing things the way they did them 200 years ago. They’re going back to original models and modifying them to fit with the current situation of their communities, and making decisions about how they want the land to be used. It may in a practical sense be ineffectual, because the government reacts with force, as it did at Oka and at Gustafson Lake. The government just sends in what they call the police, which ends up being just a military force. But you have to do that, because the alternative is to accept the discourse, and if you accept the discourse in this context, what you’re really accepting is the inevitability of this pipeline. If they continue just to work within the system, and push for things

like expanded duties to consult, at some point the pipeline is built. The only chance of actually avoiding this outcome is to push for these alternatives. One thing I try to talk to people about is the fact that the discourse that comes out of the courts is the court trying to please the state, as an arm of the state. And the state itself is the people. So if Canadians as a whole, or enough Canadians, understand what is going on, and say, "Wait a minute. You're telling a story here that doesn't capture the richness of the interaction between the Crown and the Aboriginal peoples, and you're not getting to the core problem here, which is that the sovereignty of Aboriginal peoples has been avoided and ignored and, in a sense, destroyed in some cases"; if Canadian people understand the story that way, the way I've been telling it, perhaps we can take back the state. And that would then transform the discourse. It's a bit pie-in-the-sky, I think, but the alternative is that pipelines just get built.

MB: I think there is another alternative. I think the notion of a shared sovereignty, or equal sovereignty, as you have in a federal system, is really part of the solution; a centralized Aboriginal government for all Canadian Aboriginal peoples, that represented all of the communities, in a provincial government sense, where they would have institutionalized power, like all of the provinces, and they would work within that kind of framework, really part of the federal system. Not a third order of government, but simply one more level of government, sharing equal sovereignty within a federal system. They would then be able to work with the other provinces, who would support them. I see this ultimately as a need to get institutionalized power. Because if you're always on the outside without institutionalized power in a federal system, you don't stand a hope in hell of winning anything. And you're at the mercy—you're right—of the courts' story continually, and that story evolves, as it has evolved over 200 years. If you start going back over all of the court cases over the last 200 years, including the JCPC ones, you'll see that it is a trap, an endless, infinite trap. So they have to get *in*. The question is, what kind of structure do you want in getting in? And I think it has to incorporate *all* of the Aboriginal people. You can't have 100 or 600 provincial governments that would have any kind of impact. The francophone minority communities had the same problem: they're a small minority in all of the provinces outside of Quebec, and they wanted sectoral governance over their schools. In many provinces they have one francophone school board; that's it. All of the francophones in that province belong to one school board. And they have constitutional authority over those schools. Do you see where I'm going with this? If you could build that sectoral power, as a community—this could be in the area of natural resources, for example—they would develop sectoral power, shared power over natural resources in their communities. And that would give them a basis with which to move forward on all of the other areas for sectoral power: education, health, social services, on and on. They would build, sector by sector, autonomy and shared power.

GC: I agree with what you're talking about, because what I'm pushing for is opening a discussion like that; but we're only going to have the discussion if we find a way to get out of the story the courts are telling. One thing you're imagining is something that might have come out of the '92 accord, had that not failed in referendum. But I agree that's where

things have to go: we can't go to that place we're talking about—this kind of constitutional reconfiguration—until we get out of this trap of narrative the courts are telling.

Beth Piatote: Cheryl, could you add to that?

Cheryl Suzack: I would just add another kind of shared authority, and shared relationship, that Indigenous and non-Indigenous have. Tankers, oil companies, and pipelines don't get along. They're combatants of the worst kind. If something goes awry, and the oil is spilled, the tanker could have been at fault, or the pipeline could have been at fault; but the fault is always somewhere other than with the people who made those pipelines. I think we already have a shared concern with environmental catastrophes and the damages that are done, and I think *that*, in and of itself, is a moral and ethical rationale to work together in ways that give us a different kind of shared authority—one that doesn't have to default to a government idea, but says something about our genuine sense of humanity. I keep coming back to the humanity of it, because I think it's such a powerful argument to be made for what we have to do: it's a powerful element of what we have in common.

Audience Member: I'm curious if this self-governance concept is different from simply the self-governance on a reserve—if it passes on to individuals outside the reserve. Would a British Columbian who moves to Saskatchewan still have British Columbian rights, or is the reserve a self-governing entity in itself—that it's not a right to an individual Native?

MB: I'm trying to think of model in which all Aboriginal peoples, wherever they live in Canada, could function at a certain level of government, like a provincial government, and below that you could have a structure for all kinds of municipal governments within that larger structure. Think of how a province functions. In fact, it's through the provinces, and through the local governments, that we have the largest impact, and interface with government. It's at the local level, and at the provincial level. We rarely have much to do with the federal government overall. Everything that really happens, happens at the local and at the regional and at the provincial level. [Aboriginal peoples] somehow have to give themselves a basis of power, in which they can elect representatives, all of the Aboriginals participating in electing representatives to that provincial government, which would be within the federal system. The provincial governments under our federal system have one hell of a lot of power. So there has to be some kind of model in which all of Canada's Aboriginal peoples, as they grow in numbers over the next ten, twenty, thirty, forty, fifty years, are going to be able to exercise power within the federal structure. Trying in a sense to be out of it but in it at the same time I don't think is going to work. I can't think of any way in which you can make it work. That's the problem. What we do have, is we have a tried and true federal system over 140 years now. We know how it functions and how it has evolved; we know the strengths and the weaknesses of it. So I think Aboriginal leaders are going to have to start thinking "outside the box," to give themselves a basis of constitutionalized power—one that's recognized by the courts, and where they can find allies in other provinces.

Minnie Grey: I don't really have a question. I was just really interested in all the talk this morning—the history, the trip down memory lane: thank you very much! I was there through all those constitutional talks, and the "stories." And I think that sometimes as Ab-

original people we get caught up so much in language being used that is outside of our own language: “self-government”; “self-determination.” I think a lot of this will continue in the discussions [this afternoon]. As Inuit in Nunavik that have a land claim settlement—the James Bay and Northern Canada Agreement. Based on that, we proposed a form of government, and I thought it was really great proposal. Then my region, my people, proceeded to reject the idea. So what do we do now? Is it a lack of history? Maybe the versions of different stories are being heard more than the history that actually happened. All that work that went into ensuring that we are entrenched in the constitution, and now a generation has passed without that knowledge of history, so that when we propose a solution to a dilemma going on in our people, the new generation, who have no idea what has happened, all the hard work that our previous leaders did to get there, get a pen and mark a ballot, and reject something that has historically been moving forward. You’ll hear all about that [in her presentation]. I thought it was a great way to introduce this afternoon’s discussions.

SESSION II: CASE STUDIES

Rita Ross: I’ve been working with Nelson Graburn for twenty-five years. (To Nelson: How did that happen?)

Nelson Graburn: I’ve enjoyed being your assistant.

Dr. Ross proceeded to introduce Dr. Graburn—a lengthy task, given his many accomplishments. **Chair/discussant Nelson Graburn** thereupon delivered biographical information regarding the panelists, and divulged that he may have met Minnie Grey when she was four years old, on an occasion when a storm prevented his progress by dog sled and he took refuge in her camp; he wore a red parka at the time and was thus named “Big Red,” and, he feels, probably lurks as some sort of huge red ghost in her consciousness. Charlotte Côté, too, was familiar to him, if in less exotic terms, as she had been a graduate student active in Canadian Studies at Berkeley.

Teresa Edwards: “Reclaiming Our Nations: Gathering Women’s Wisdom”

Ms. Edwards’s presentation addressed the need to reconcile indigenous value systems with those articulated by the imposed government (when the latter *are* articulated), such that efficacious dialogue can be conducted without abandoning one’s native tradition. It was therefore appropriate that Edwards began in a traditional mode, greeting the assemblage in her native Mi’kmaq, thanking the indigenous people of the region, and introducing herself by the name given her in a traditional ceremony, Young Fire Woman. She told us that beginning in her original language grounded her in who she really was, while her name confirmed that no matter how old she became, she would remain young in spirit.

In her work as both the In-House Legal Counsel and Director of Human Rights and International Affairs with the Native Women’s Association of Canada (NWAC) Edwards travels

across the country (and recently to Maui) to encourage indigenous women to take power and research the means for them to do so. NWAC arose in part as a response to the overwhelmingly male focus of previous indigenous organizations (e.g., the National Indian *Brotherhood*) and because of legal injustices specifically injurious to women, such as the loss of status when marrying non-Native, non-status or Métis men. Edwards specializes in investigating the legal structures of discrimination and the means of legal redress. She feels that one impediment to cohesion among the Native community is the plurality of languages employed (in sharp contrast to the advantages enjoyed by francophone Canadian activists); yet in the vast diversity of Aboriginal language and culture lies enormous wealth as well.

Other challenges to indigenous political effectiveness include those of time—being told, for instance, to compose revisions to the Indian Act within the space of a half year, when the general perception is that it will take years to undo the effects of centuries of imposed government—and the need for better education within the aboriginal population, about which the women Edwards consulted were emphatic. Imposed governmental definitions of Indian “authenticity” (involving such legalistic trivia as on- versus off-reservation residency) are another hurdle to be leaped. Edwards experiences conflict in her work as a legal mediator in these struggles; as she put it, “Can you tear down the master’s house with the master’s tools?”, adding that she would never advise anyone to go to the Canadian Supreme Court in search of a better system of governance: “I would never want our way to be interpreted by these men in a court room.”

Assets to be cultivated in the native struggle for self-governance include an increasing focus on women’s teaching of traditional knowledge, and the collaboration of potent allies, among them Amnesty International, the Quakers, United Nations delegates, and organizations like CAIROS. There is, and always has been, a strong base of indigenous self-government (which presently includes one hundred and eighteen female chiefs and over 800 invaluable female counselors within our 633 communities). There is, and always will be, more work to do: Ms. Edwards intends to work with women on increasing their participation in leadership and decision-making roles in the upcoming year. Edwards also plans to continue to focus on women as caretakers of land and water (a traditional assignment), and to assist in the education of our youth to inform them on how peaceful actions can help them to take on their traditional responsibilities to the earth. Her own responsibilities, and those of other Aboriginal women, were strictly enunciated: the responsibilities to the earth, to the Mi’kmaq Nation, to her community both on and off reserve, to the youth, to the Elders, and last, to oneself.

Minnie Grey: “Nunavik Government: Appraisal and Solutions to Impasse” [link to presentation](#)

Ms. Grey began by protesting a crucial omission from her long and praise-filled introduction: she is also a hockey mom. She thanked the crowd and local indigenes in her native tongue, saying that she appreciated being in these beautiful lands for the first time and hoped to return. Grey was a key negotiator in, and proponent of, the 2011 failed referen-

dum for Inuit regional self-government—an outcome she had worked toward for ten years only to see it rejected by her own people. While she professed no conclusive knowledge as to the reasons for this defeat, a discussion of the issues involved formed the basis of her presentation.

Some historical background to this disappointing vote was in order. At the time of the European arrivals, the Inuit had long been a self-governing society. Their land, originally referred to by the newcomers as “Rupert’s Land,” was ceded to the Hudson’s Bay Company and ultimately added to the Province of Quebec via what is known as the 1912 Extensions Act—all without its original inhabitants being informed of the fact.

This territorial usurpation was followed by a societal one, in which the formerly nomadic Inuit were forced into communities and steadily deprived of their traditional authority and the means to pursue their customary lifeways. Eventually it became obvious to the Inuit of Nunavik that there was a need for a stronger political base, and the Northern Quebec Inuit Association (NQIA) was formed, in large part through the agency of Charlie Watt (now Senator Watt), in the 1970s. At about the same time, the James Bay Hydroelectric Project was announced, without consulting the people native to the region and promptly opposed by them. After several bouts of litigation the James Bay and Northern Quebec Agreement (JBNQA) was signed in 1975, and termed by Crown Special Representative John Ciaccia “an agreement without precedent in the history of North America in relations between the State and native peoples.”

Echoing a theme voiced by Teresa Edwards, Ms. Grey described the Native organizations then beginning to form as lacking cohesion. When the Quebec government of René Lévesque recommenced negotiations regarding Native governance, the Premier pleaded with varying groups, among them the Nunavik Constitutional Committee (NCC), to come together in their production of a proposal for Nunavik governance. Their progress was interrupted by the national debate over constitutional reform eventually resulting in the Charlottetown Accord of 1992. When resumed, the process of negotiating Nunavik governance was once again sidelined by the 1995 referendum on Quebecois sovereignty.

In 1997 negotiations began for the establishment of a Nunavik Commission, and a political accord was signed in 1999 resulting in a commission mandated to design a Nunavik government. This commission agreed on a complete set of recommendations in 2001, and an Agreement-in-Principle was achieved in 2007, involving two phases. In the first phase, major public Nunavik institutions (KRG, KSB, NRBHSS) would be amalgamated into the “Nunaviup Kavamanga,” halving the quantity of personnel involved; in the second phase, the nature and jurisdiction of this new government would be determined. Upon reaching a final agreement, the amalgamated entities would have been replaced by a single elected public body—*Uqarvimarik*, or “Nunavik Assembly”—which would have included four representatives and a leader elected at large in Nunavik, comprising the Cabinet of the Nunavik Regional Government (NRG). The NRG would have assumed jurisdiction over regional government and been open to all Nunavik residents; its creation would have been fully incorporated into legal structures of provincial and federal government. But the ref-

erendum was rejected by its constituents, for reasons that remain open to analysis, and the struggle for Inuit self-governance continues.

Ms. Grey's presentation closed with a slide of a woman with a newborn child, captioned by the word "Nakurmiik"—"Thank you" in Inuktitut.

Charlotte Coté: "Nuu-chah-nulth Tribal Council: Past, Present, and Future"

Dr. Coté said that she had no PowerPoint presentation and would therefore use as a backdrop for her talk a photo of her beside President Obama, the latter grinning and signing a book. She admitted that she would love to be able to say he was signing *her* book but that, in fact, he was signing *his*. (She did actually turn out to have a perfectly fine PowerPoint display.)

Dr. Coté then thanked Canadian Studies Program personnel, recognized and paid respect to the Ohlone people, and proceeded to her topic—the history and structure of Nuu-chah-nulth government and its interaction with the foreigners who, with the Royal Proclamation of 1763, appointed themselves the rulers of the Indigenous peoples of Canada.

Her great-grandparents, of whom she showed a picture, were among the last of her tribe raised to practice whaling as a traditional means of sustenance. The fourteen tribes comprising the Nuu-chah-nulth Nation inhabit a coastal region of spectacular beauty and great, specifically marine, abundance—not only whales, but "wonderful oysters" and all manner of other sea life. The name for her people and their land, Tse-shaht, means "the place that reeks of whale remains"—it was where whales were brought ashore to be divided up.

As the conference repeatedly affirmed, the struggle for Aboriginal authority has a long history. The Indigenous peoples of British Columbia began uniting as early as the 1900s, having seen their title to lands they had settled abrogated since at least 1867, when the British North America Act made Indians, and "lands reserved for Indians," a "federal responsibility." Federal law also redefined British Columbian Indian social structure as one consisting of "bands"—a determination that would have extensive repercussions for them. The Nuu-chah-nulth had traditionally consisted of a loosely knit group connected through language, culture, and kinship ties, yet relatively independent in terms of dialect and social and economic systems; but they were united in the fight for land rights. In 1958 they formed the West Coast Allied Tribes (later the West Coast District Council), and during the 1960s their activism became a major political force in response to the British Columbia government's ongoing refusal to recognize Native title to and ownership of their land.

A campaign by Canada's government proceeded to attempt the eradication of Indian culture and tradition and spirituality (the ban on potlatch was particularly damaging to the First Nation people of the west coast), and to replace Native governing systems with ones alien to the people involved. The much-discussed governmental "White Paper" contained, according to Native activist Harold Cardinal, a "thinly disguised programme of extermination through assimilation"; it did, however, generate a vigorous response, specifically in the form of the "Red Paper," a manifesto by western Indian chiefs issuing the rallying cry of "Citizens Plus" (not citizens *minus*). The "White Paper" served the function (undesired

by its authors) of awakening Native people to the extent of activity required of them to retain “rights we already *had*.”

This was a theme that dominated the conference: that the struggle for Aboriginal authority is not one dedicated to the acquisition of new, or special, powers, but rather to the restoration of powers Indigenous people had previously possessed, and to which they were preeminently entitled. Dr. Coté regularly interacts with students aged between 17 and 21, who are “clueless about the ‘60s”—a period during which First Nations activism matured. She feels it is important to constantly remind them that they would not even be in her classroom were it not for the struggles of earlier Native people. The Nisga’a in particular, by lodging the 1960s *Calder v. British Columbia (Attorney General)* suit, brought recognition to the issue of a people’s entitlement to its own land.

The formation of tribal councils occurred with this struggle as a background, and constituted an active response to the attempts by the government to override traditional governance: they were created by Native people “to meet their own political, social, and economic objectives.” The Nuu-chah-nulth system of governance involves small groups (some of 200 people; 9,000 people now come under Nuu-chah-nulth Tribal Council [NTC]), and councils composed of Chiefs and leaders. The NTC, helmed by a President, Vice-President, and an Executive Director, attempts an equal representation of the Native populace in its pursuit of social and political objectives; it is a sophisticated and democratic system of governance. Coté’s uncle, George Watts, was President of the NTC, and spoke in the 1980s of the council’s significance: “Self-governance is teaching your children to survive. I tell my children, you’re going to survive and you’re going to be stronger than we are. I tell the people in government, you don’t want to be around when our children grow up, because they’re not going to put up with you.”

A prominent Nuu-chah-nulth protest in 1984 addressed the preservation of Meares Island, whose ecology was being compromised by logging. The point was made that “you cannot negotiate for land that cannot be lived on,” and Coté expressed her astonishment, in the context of that litigation, that the justice in the appeal “actually listened to us,” and declared that “It is pointless for Native people to negotiate for their land when the property is gone.”

Five northern Nuu-chah-nulth groups collaborated on joint treaty negotiations resulting in a sizable settlement of cash and land. The Nuu-chah-nulth are now shifting from a centrally driven policy framework to one that recognizes greater local autonomy. Whether that will result in an end of the era of tribal councils remains to be seen.

PLENARY DISCUSSION

Charlotte Coté (CC): I have a question for Minnie: you said that your Nation was getting close to signing this agreement but it went out to the communities and they voted it down. Has there been any discussion around that? Have there been any reasons why they rejected it?

Minnie Grey (MG): After ten years of working on this particular project we took the content of the draft final agreement to the people, to all of the communities. There was a month-long tour, there was another month-long discussion, and this was according to rules that were set up. If there's going to be a referendum, there are going to be a time schedules to meet and so on. In retrospect I think we should have said screw the rules: we're going to have more time to discuss it. I can't say there was one particular reason why people said no. The discussion and debates went like wildfire, especially through these social media. One other thing I thought as a lead negotiator: the negotiating parties had these legal rules that we had to respect. After presenting the content of the draft final agreement, during the public debate we were to be quiet. I couldn't even defend the agreement I had negotiated, because of the referendum rules. (We went under the Quebec Director General for Elections and Referendums.) When you really think about it, when I showed the history of what the Inuit of Nunavik had from 1975 on, since the James Bay and Northern Quebec Agreement, the James Bay and Northern Quebec Agreement became a very good tool for us to progress. We had a lot of economic opportunities: Makivik Corporation owns airlines and various companies collectively on behalf of the Inuit community, and we have become very politically adept and have very good relations with both levels of government. But somehow, somewhere along the line, we've lost a generation of people. In listening to the history of the constitutional talks and the land claims agreements, '70s era to the early '90s, somewhere along the line we lost people. In 2011, when it came down to the presenting that whole history and all that vision that the Inuit of Nunavik had to the present people, [a problem was that] 60 percent of our population is young; from the time that the James Bay and Northern Quebec Agreement came to be, and became a way of life in Nunavik, with the people that had been involved . . . the people who had been children then just watched it go by. When this vision that had been then was finally becoming reality, people said "What is that? I don't know anything about that. I never heard anything about that." So it just goes to show that you need to have the people [involved]. It's not that we didn't try to involve them. Believe me, in the ten years I was working on this file, we used every form of media. We went to every regional meeting, to every local meeting, we went on local radio, we went on regional radios, we published newsletters, we went to every annual members' meeting. But I have to say that there's a certain generation that has become very ignorant about what is going on politically in our societies. And I think that was the case with what happened in Nunavik.

Roy Huhndorf (RH): What is the outlook for the future? Will there ever be a chance to revisit this question?

MG: Although there has been a kind of a debate going on surrounding this particular draft final agreement based on the history, there's a new generation that's coming out to say, "Well, what about our constitutional rights, and our Native rights? It's not real self-government." There's quite a bit of debate going on. But although there are very different points of view, one thing we still have in common, thank goodness, is that we still would like to pursue this form of government for Nunavik, although one [view] is very extreme and one is toward this path that was chosen from the James Bay and Northern Quebec Agreement, we're trying to find common grounds. We're having discussions; we've had

two major regional meetings on that. The latest discussion at the Makivik general meeting really did not lead to anything, but there was a resolution passed to say there will be a new advisory committee formed to find ways to find a common ground. So we keep moving. But in all of this, we have been reassured by the Quebec and the federal government that they are still very interested in coming back to the table. It's just that Nunavik has to decide what it wants.

Michael Behiels (MB): I worked in the NWAC archives a number of years ago and wrote an article on the conflict between the NWAC and AFN [Women's Council] as they moved toward the Charlottetown Consensus Report. The heart of that of course was this agreement in 1984—85 about restoring status, leaving membership in the hands of the bands. How many women and children have been reinstated, and how many of those who have gained status have gained membership? Where are you at in that battle? Is there any sort of improvement, or will you have to go to court again in order to gain the resources that would allow for those communities to accept the new status members as members of the community?

Teresa Edwards (TE): That's a good question. One of the major problems that we always have with the struggle over power is that it always comes down to money. The exclusion of women in the constitutional talks, even in membership, entitlements, benefits as they relate to status, came from the fact that Native communities were already in extreme poverty and struggling with the budgets that they had already at hand in their attempts to govern their communities and provide for water, roads, schooling, housing, and the rest, with limited budgets. Even now, if you look at the Federal Budget 2012 the government just released, as far as investment in education our funding levels are still far below any provincial or territorial educational system, for on-reserve First Nation education.

MB: Why has NWAC not taken this to court? Why have they not demanded the use of Section 34?

TE: Going to court is always a risk.

MB: It isn't a risk. I think Section 34 is enormously powerful; it's a remedial power, and the Supreme Court has an enormous ability to use that remedial power to put educational funding for all Canadian citizens on the same level. That's the way they should be.

TE: Have you followed what's happened recently with the Canadian Human Rights Decision? It just came out last week. Basically, now they're saying Canadian Human Rights failed in their assessment—that they can't look at services such as education, because they erred in their judgment. Originally, the Assembly of First Nations and the First Nations Caring Society, along with CAIROS and the Quakers, brought the case to the Canadian Human Rights Commission, saying—

MB: That's the wrong route.

TE: Well, you have to try other venues. We could debate that all day. If you look at Jeanette Corbiere Lavell's case, she brought it to the Supreme Court of Canada, it was a clear-cut case of inequality against women, and what does the Supreme Court of Canada say? They said it's not racism against women because it's only against *Indian* women, and it's

not racism against Indians because it's only against Indian *women*. It was a nonsensical argument, but they made it just the same. It's extremely expensive to go to court.

MB: Nothing ventured, nothing gained. On occasion, with the right members and the right arguments, you will win.

TE: It's a huge risk.

MB: There will always be a risk. There was this movement of last resort and somebody had to give them a backbone. It took a long time—it took them twenty-five years. But eventually they won the mining and then they won another one, and then *boom*. Once you get the court going in a certain direction, you just keep pushing.

TE: When the Assembly of First Nations took that case to the Canadian Human Rights Commission — not even to court — immediately the government cut 30 percent of their funding for their education programs—within thirty days. NWAC is such a small organization. One of my hats—it's not even under my bailiwick, but I've been doing fund-raising and going to private funders and corporations and working with the largest law firm in Canada, BLG, to get charitable status, under NWAC, so that we can work with banks and large firms and corporations, to get away from government funding, because right now 80 percent of our funding comes from the federal government. I've been fund-raising for three years, going to firms and private corporations, to go to the UN to plead our case, because the government said they will no longer fund international travel for NWAC to complain about them, since the 2006 human rights complaints. But what we're doing is working strategically: I work with special rapporteurs. We do these back-door agreements and negotiations and feed them documents secretly (or not so secretly). For example, the UN Committee on the Elimination of Discrimination Against Women will be coming to Canada to investigate the situation of missing and murdered women. They usually have to be invited, but they asked Canada and Canada said "Thanks, but no thanks." But they're still working to come to investigate the situation as it currently is now, because although Canada's stating they've invested \$20 million in the budget, it goes back to 2005. They've repeated the same announcement over 300 pages about what they're doing to address violence against women, when in fact the budget's going to create a missing person's call center, which applies to anyone who's missing or murdered, and doesn't address the fact that Native women are being targeted, because police don't investigate [crimes against them], because of racialized discrimination: they say, "They're all prostitutes and alcoholics." That's not been the case in the statistical information we've gathered. I don't know if you're aware of it, but last week all Aboriginal organizations in Canada received funding cuts. NWAC had to lay off its entire health unit. They completely shut down the National Aboriginal Health Organization, they've shut down the First Nations Statistical Institute and the First Nations Governance Institute, which was the only organization to support Indigenous or Aboriginal leaders within Canada. So it's a real attack on Aboriginal people. The amount of money they've saved from what they've cut from our people, which has a heavy impact on our ability to strategize and rally and move forward and get information out to our community, could have been saved on the gas alone for the F35 fighter jet test runs, that whole scandal. We're ten years back as far as NWAC is concerned. With the

former government it was far from ideal, but there were five Aboriginal recognized organizations: ITK, AFN, NWAC, Congress of Aboriginal People, and the Métis National Council. This government has chosen primarily to work with AFN; it was a low-key announcement. They announced a joint working plan between AFN and the government — Stephen Harper, basically—excluding all other Aboriginal organizations. They’ve had meetings here and there to appease people, but. . . . When you talked about the agreement failing—when I worked at AFN, we traveled to 100 communities, and we tried to get through; we were doing land and trust services, which is 85 percent of the Indian Act. So we were looking at moving away from the Indian Act and doing community-based, community-paced taking over of power at the community level, by building tools and the capacity for the community to be able to do that, say over a ten-year period of time. What did the government do? We were having consultation and engagement sessions, and the government rushed everything and came out with the First Nations Governance Act, which our people totally rejected, and it failed. It wasted millions of dollars, and all that good work that had been done failed, because of the fact that they didn’t have consultation and community engagement from the bottom up. You *have* to have buy-in from the bottom up. If you don’t have women and youth and Elders, who make up more than 52 percent of the population in our communities, the community’s not going to embrace these agreements. Yes, it’s expensive, yes it’s time-consuming, but you’ve got to keep going back and checking: “Is this what you said? Are we on the right course?” regularly. It was the same thing with the Joint Task Force on Land Claims. That was ten years in the making; millions of dollars — I don’t even know, it may have been hundreds of millions of dollars — and it all failed, because of the fact that there was not proper engagement with the people.

MB: Are you going to get charitable status, or is that going to be cut also by Harper?

TE: Well, he’s restricted now how charitable companies can use it; but we’re smart—we’re going to have it in three areas: education, economic development, and women in leadership. We’ll get around it. We’re resilient. We’ve lasted this long, and we’ll last longer.

Nelson Graburn (NG): Out of total ignorance, I’m just wondering what these facts do to self-governance, membership, and so on. For instance, there are already more than 8,000 Inuit who live in the cities of Southern Canada, and I believe for many other groups this kind of thing has happened. How much of a role can they play in the ongoing political processes? Are they lost to the process? Are they losing *their* rights of self-determination? I’m not sure how this enormous, very significant group of people is still playing a part in it.

MG: Good question. I don’t know if I’m the right person to answer this question, but I do agree there is quite a large Inuit population now in Southern Canada, myself being one. But the majority of the people that are in the southern cities are working for Inuit organizations, like myself. I know that there are more and more people coming into the cities and living a less desirable lifestyle, and that concerns us very much, because the additions world is having an effect on many Native people, as we know. Coming from Nunavik I see that. Makivik Corporation, being the official organization that is the spokesperson for the Inuit, the beneficiaries of the James Bay and Northern Quebec Agreement, is doing

everything in its power to ensure that there are proper services being given to these people in that situation. And this goes even beyond Quebec Inuit. I'm not so much familiar with the western part of Canada, but in Eastern Canada we are trying with the Nunavut organizations to work hand in hand to address this problem of the pilgrimage of Inuit to the southern cities.

CC: In both the United States and Canada, we have what some people call this brain drain, where we're losing people outside of our communities who move out of these communities for various reasons—to get a job, for schooling for their children, for lack of housing in some cases in some of the communities. As we know, today with Harper we're seeing less and less money. Our NTC budget was slashed 30 percent, and we had to make a lot of cuts to education this year, which is really, really tough on our students. And some people are leaving for education; I was one of them. I was born and raised in my community, lived there, still have a house there, but we don't have a university in my area, or close to where I live, so I did move away. What we've been trying to do, as a Nation, is figure out how we can keep these people engaged, who for one reason or another have to move out of the communities. We do have a process for keeping people politically engaged; in fact what we're working on now is Skyping meetings, so we're using the new media as tools—social networking, Facebook—keeping ourselves connected to our communities, through these advances in the social network, but also trying to make sure that their voices are heard within the communities, even though they've had to make that move out. We do have absentee and proxy ballots. We do have an NTC election coming up in a couple of weeks, and I just got my ballot. It's helping us stay connected. Through these other social media tools, we've been able to really allow our voices to be heard within our communities. Hopefully we're going to see more of that. I know that's what we're doing; I'm not sure what other communities are doing. Because it is a concern: when you talk about Native people, 50 percent of in the U.S. and Canada live outside of their territories or their reserves or reservation boundaries. Some go back and forth, but a lot of them live outside.

NG: It's a kind of circular process, because the less the government is supporting education and health on the West coast, or in the villages, the more people have to move out to get them, and some of them are lost. Not that they don't want to vote; they're very difficult to find, and keep engaged. So the community therefore is losing them. In a sense, the government's assimilation process is helping those forces that direct people out. But if you had a very strong, wealthy core of people back in their land, people might go out for education, and want to get back. Like you!

CC: My next goal is to build a tribal college. *[Applause]*

MG: One of my battles is just what you were saying. As a beneficiary of the James Bay and Northern Quebec Agreement, I should be entitled to have my recognition wherever I am — whether I'm in China, or in my home town. But they've developed a rule now, and I'm battling it—I need a lawyer. I have gone and made a complaint to the James Bay and Northern Quebec Agreement Implementation Board, as a James Bay and Northern Quebec beneficiary and Inuk, working for Inuit of my region and living in Montreal with my children and my family, I have to be considered an out-of-the-territory Inuk. So after one

year of being absent from my region, I have to go to INAC and ask for my N number, because my N beneficiary number is no longer valid if I'm out of the territory, and I need an N number, to be identified to be able to get my medication and so on. So I've been battling that, and they're still discussing it. But I'm a contributing member to my society in my job: I'm a voice to my people. Just because I choose to live in Montreal doesn't mean I've stopped being who I am. All these little things. . . . By the way, for the referendum issues, when it relates to voting on a decision related to the James Bay and Northern Quebec Agreement, all beneficiaries are entitled to vote, and that's one thing we've managed to get around those rules and regulations that we had to fight: that a beneficiary no matter where they live is a beneficiary. That's the idea behind my argument: a beneficiary no matter where they live is a beneficiary, whether they've been gone twenty years or thirty years.

MB: It's called Section 7 Mobility Rights.

SESSION III: MODELS FOR THE FUTURE AND U.S. PERSPECTIVES

Michael Behiels provided a courteous introduction to **Chair/Discussant, Shari Huhndorf**, who in turn introduced speakers Michelle Hale, Roy Huhndorf, and Alexis Buntin.

Michelle Hale: "Diné Naachid: Modern Navajo Government and the Political Tradition of Local Control" [link to presentation](#)

Michelle Hale was greeted with applause at the announcement of her upcoming Ph.D. degree and professorial appointment to the American Indian Studies program at Arizona State University in Tempe. She thanked the people whose traditional homeland we currently occupied, as well as those from whom we were receiving present hospitality. She then discussed issues of governance in a region, the Navajo Nation, differing distinctly from the ones we had heard about previously, yet sharing a number of similar themes. The Navajo Nation is vast, encompassing 110 communities and 16 million acres with a population in the range of 298,000 spread across three states and eleven counties. Yet it maintains a centralized system of government, divided into chapters. The management of this territory involves a huge bureaucracy, one which has undergone criticism for its unwieldiness. Prior to 1900 the *Naachid* was the only form of collective representation; the name means "to speak with your hands" (which the Navajo tend to do).

The structure of modern Navajo government can be seen as one that was either introduced to, or forced upon, the Diné. It was clearly intended to mirror the traditional systems; but times have changed, and now the distinction between central and local governance is a major issue for the Navajo. In particular, the need for accountability of elected officials has occasioned concern. The corruption trials, and subsequent conviction, of former Navajo Chairman Peter MacDonald gave rise to the suspicion that the tribe was being exploited, rather than governed. This has confused a central issue of tribal governance: how to reintegrate traditional values with federal law.

The conflict between central and local government continues to escalate, due to doubts that local needs are being served by an increasingly overburdened (and perhaps over-staffed) bureaucracy. The other side of this coin is the increased responsibility borne by locally governed communities when central control is diminished. Dr. Hale repeatedly stressed the difficulty of resolving this dilemma. Many Navajo feel that their political system is a “white man’s government,” one not responsive to the actual needs and values of the Nation. This feeling found expression in the 1997 (revised in 1998) Local Governance Act (LGA), which emphasized the devolution of power from Window Rock, the capital of the Navajo Nation, to local authorities. Since its passage, two dozen Navajo chapters have been LGA-certified and now perform functions formerly the province of the capital. Their introduction to such activities as land-use planning, taxation, and intergovernmental affairs (an issue of some significance to a people occupying several states) has not been an unmixed blessing. Fortunately, Diné political ideology is a dynamic process, capable of absorbing and reflecting the Nation’s needs as they change.

Dr. Hale felt that a central issue at present was the discovery of a means of honoring Diné tradition while providing governance that effectively addresses the concerns of modern Navajo society.

Roy Huhndorf: “Alaska Native Politics Since the Alaska Native Claims Settlement Act”

Mr. Huhndorf revealed that the person providing his introduction was his daughter (the surname was something of a clue), and that he was glad of the double blessing of the trip to Berkeley and the opportunity to see his grandchildren. Huhndorf brought an Alaskan perspective to the conference, and described a lot of what happened there as “situational”—accidents of history. The first white men who came to Alaska were tsarist Russians in 1750, and they “pretty much enslaved” the Aleuts before giving up on the property and selling it to the United States for \$7.8 million to fund a continual succession of European wars. (Huhndorf expressed a fear that President Obama would sell it back to Russia to fund continual U.S. wars.)

The primary topic of Mr. Huhndorf’s talk was the 1971 Alaska Native Claims Settlement Act (ANCSA), the largest Indigenous land claims settlement in U.S. history. This landmark act addressed the renegeing on treaty assurances of the U.S. government, who had assured Indigenous people rights equal to those of non-Indigenes at Russia’s insistence. The settlement compensated Alaskan Indians for the title to their land with \$962.5 million and 44 million acres—about one ninth of the state, and nearly as much land as all Indian reservations in the United States. A major point of this legislation was its establishment of Alaskan Native non-profit corporations to administer resources (as opposed to the standard U.S. arrangement of Indian reservations held in trust by the government).

In 1967 oil was discovered in Prudhoe Bay and the Secretary of the Interior issued a permit for a pipeline, whose route would have gone over contested lands. The Tlingit won a \$7 million claim based on Aboriginal title, and permits involving Aboriginal land claims in Alaska stopped being issued—a development that stunned the nation and the oil industry,

who employed their powerful lobby in Washington D.C. to have the ANCSA passed (as Huhndorf put it, a classic case of doing the right thing for the wrong reason).

The congressional decision to create self-sufficient corporations, rather than an ongoing state of dependency, seems to have been effective. Initially it was regarded with some apprehension by Native Alaskans who felt they lacked the experience required to manage corporations, but in time the legislation became regarded as a “tool kit”—one that was put, and continues to be put, to considerable use. With economic power comes political power: recently twelve Native corporations became a Super PAC to raise money to defeat a senatorial candidate they regarded as unsympathetic to their aims.

Ultimately, in Huhndorf’s view, there has been “a lot of hit and miss,” and not everybody gets what they want. The system might not work for everybody, or in places other than Alaska, but it has worked fairly well there. While money is not the only issue, Huhndorf expects to see Native corporations going worldwide and their shareholders profiting; and they have created Native heritage centers to foster learning about traditional cultures.

Originally, Native people were treated “the same as Native people elsewhere: if you got run over, you were just another drunk.” Now they have representation.

Alexis Bunten: “Comparative Legal Frameworks for Self-Governance”

Dr. Bunten thanked Roy Huhndorf for giving her a tough act to follow, and said that she was glad her tribal affiliation (Yup’ik and Aleut) had been omitted from conference publicity, since she is “ambivalent about indigeneity.” Her work with the Intellectual Property Issues in Cultural Heritage (IPinCH) research project has been an international endeavor (recently involving Kyrgyz and Maori peoples), but a recent focus has involved a comparison of three Canadian case studies involving issues of governance.

One considers territorial authority over the land occupied by the Secwepemc of British Columbia. A second examines treaty relations in an intellectual-property context, and the third analyzes Yukon Territory heritage resources, and the influence of the language used in documents of negotiation between settler and indigene on the ultimate distribution of rights.

The 1973 *Calder v. Attorney General of British Columbia* decision was cited (as it had been throughout the day) with respect to its recognition of First Nation legal claims to their land, and the subsequent 1974 establishment of the Office of Native Claims to address those claims and others involving the legal and moral obligations of the Crown. Of particular interest to IPinCH is the extent to which Western legal documents are treated as synchronic and rational, whereas those of Native people are interpreted as being diachronic and relational; the flexibility implicit in the latter viewpoint has been used to the detriment of the First Nations.

Similarly, the IPinCH Treaty Relations research project seeks to establish how an oral compact (of which records exist) could be more valid than the written version. Distinctions of viewpoint and expression can result in significant misinterpretation and potential abuse. The three First Nations working with the IPinCH team (Champagne and Aishihik

First Nations, Carcross-Tagish First Nation Heritage, and Ta'an Kwäch-än Council) explore ways of increasing Yukon First Nation legal effectiveness.

In the first case study, regarding Secwepmc land claims, a government's obligation to consult its constituency is addressed. The tribe asserts that they never signed a treaty and therefore never ceded any land. Moreover, they were never legally consulted about mining operations that have had a tremendously negative impact on their land and lifeway.

Dr. Bunten returned to a central theme of her work—the manner in which treaties, essentially instruments of the Western authority system, are often drawn up in the midst of what might be termed an ontological collision, in which disparate world views can result in conflicting, even opposing, understandings of the document, and lead to subsequent injustice. The Native world view is a holistic one, embracing time, land, people, relationships, organisms, remains, and symbols, and fusing the tangible world with the supernatural one. (Dr. Bunten proposed the intriguing challenge of imagining what British Columbia would be like if the Crown thought this way.) This view is starkly incompatible with the Western legal system; yet it is the one employed by the First Nations peoples upon whose land the lawyers are standing.

PLENARY DISCUSSION

Audience Member: My name is Melissa Baird, and I know Alexis from IPinCH. My question for both of you is, thinking through this idea of Indigenous groups using other ways of getting through to get back land. For example, the Treelords Deal in New Zealand, where they received a 500 million settlement, the Iwi, and there's an anthropologist out there, Elizabeth Rata, who's been calling this neoliberal tribal elites. I think you've touched upon that on some level, and I was wondering if you could talk a little bit more about Indigenous peoples using some of these neoliberal logics — if that's going on or not.

Alexis Bunten (AB): He [Roy Huhndorf] is the expert; he knows how to do it. But in my little shout-out for myself in the article I just wrote, I would call it an Indigenous capitalism, that operates alongside of neoliberal logic, and takes part in it to a certain degree. But I don't see it as a product of neoclassical economic theory, or rational capitalism in and of itself at all. It's just kind of like those Venn diagrams: they run alongside each other and overlap in different places.

Audience Member: Is it a way to get beyond the asymmetry that exists in land claims?

AB: What asymmetry?

Audience Member: [Inaudible]

Roy Huhndorf (RH): My view is that at some point you really have to look at what is reality: if reality as you'd like to see it is so far out in the future that you might not ever get there, it's helpful to be pragmatic about what you want to do. As I said earlier, the Native Claims Settlement in Alaska had a model that was totally foreign to Native people. But now I guess in a way we're seeing a new kind of sovereignty: people are better off, in terms of

their own financial situation. One example, too, is to use the capitalist model to seed things with money capitalist entities would not, and that is what we did with some of our money. For example, we seeded some of the Health Corporation. Prior to that, Indian Health provided health care in Alaska, and everybody who has received Indian Health knows that they're about 50 percent underfunded. And they never want to do any better than that, and they just feel that that's good enough for Indians. So we contracted for the health care services in the Cook Inlet area, and we took the budget that Indian Health was using—and incidentally, prior to that, they had been billing some third parties, but they couldn't plow it back into health care because they had to remit it to the Treasury. We, however, could use those third-party monies, and today that 50 percent budget is now 100 percent funded, because about 52 percent of the budget comes from Medicare, Medicaid, and third-party reimbursements. And we plow that right back into the health program. We have preventive care; we have much better health care—same day, same *hour* health care. You don't have to wait. You don't have to go the emergency room: you go to the private practitioner to whom you were assigned. There is a panoply of nurse practitioners, PAs, and doctors are really more in a supervisory position. In fact, it's kind of a model for the nation. This last month, South Central Foundation won the coveted Malcolm Baldrige Award for Management Excellence, which is a national award—only four organizations won that nationally and they were one. So that's kind of a symbol of what you can if you work with what you have and do your best. I'm not saying that Alaska's the model for everybody: it's not. But the experience is worth taking a look at. It may have something to offer for your situation.

AB: All I did was take stuff like what Roy's been working on with CIRI [Cook Inlet Region, Inc.] and other corporations and turn it into anthropological jargon.

Audience Member: That was a great panel; thank you very much. I particularly enjoyed, Michelle, your piece; I didn't know about Navajo organization. I'm not sure if it's a question, but it's maybe something to think about long-term. I was struck by Roy's and Michelle's pieces together: it almost sounds like a model for new conservative thought, in the sense that the government is bad and capitalism is great and delivers the services more efficiently, whereas centralized government is corrupt. As an anthropologist, typically we come from a different background: we would say that bureaucracy tends to be more ethical, like Max Weber's idea that these are persons who are well trained, versus capitalism, which is more private and secluded and sequestered, and so ethical lapses are greater. You mentioned this longer history, in the 1920s, so I was wondering in what ways the story of neoconservative idealism that comes about when you look at these two might be complicated by other things — such as, for example, a longer history of bureaucracy, or in the case of Alaskan corporations, the participation non-Native experts in running corporations, or greater transparency in the case of Navajo, so that people can actually see quite a bit of what's going on. One last thought: this idea to recover some kind of ethical stance is going back to a concept of tradition, whereas, Roy, when you actually speak about ethics, you constantly invoke budgets, you constantly talk about numbers.

RH: Michelle is actually my relative; we're related. It happened some years ago that I was on the Indian Health Services Board, and the Indian Health was kind of innovative, and it

had a national board. There was a representative from the Navajo there, and a representative from Alaska; and lo and behold, the Athabascan representative from Alaska could communicate clearly with the Navajo person, except for a couple of words. So [to **Michelle Hale**] I don't know if you know that, but we're pretty closely related. Alaska had another thing that happened. With the influx of Westerners came disease, and Alaska Natives were not able to withstand the disease, and the population is said to have dropped from 300,000 when the Russians came to 25,000 by 1920: so many people died from the epidemics. During the height of the epidemics, in the late 1800s, the U.S. got together with the Christian missionaries and divided Alaska up into sectors. The missionaries, as you know (and I don't want to be irreligious or anything) are often the vanguard of the United States cavalry, or armies. And they come and they kind of soften up the population and get it ready for colonization. In this case, there were so many orphans, their parents were gone, and they [the missionaries] were told to come to Alaska to establish schools that would feed, and clothe, and house, and civilize these people, to educate them and make them be productive, and change people by the time they finished the mission. They were well-meaning people and they did very well—in a good sense. But one thing that happened is that Alaskan Native people lost a lot of our culture. It was a bad thing to speak the language; you were banned from practicing your culture. My grandmother was a product of the Catholic mission at Holy Cross. My mother was a product of the Catholic mission at Holy Cross. And neither of them could speak the language. And so in some ways, I envy people who can talk their language when making public presentations like this; I can't. (Maybe it's a part of my laziness that I can't.) A big part of it is that kids learn language from their parents, in pretty good part; I didn't have that luxury, and a lot of us didn't. So in Alaska, cultural things to many of us are a little bit more distant than for those who have lived the culture, like Charlotte and others here. But that's just Alaska. Again, there were no reservations there. We didn't have anything when it was all happening; we had everything to gain and really nothing to lose, because our status was very low, in the rolling steamroller that the federal government had set up to take all of Alaska. So, we didn't have this bulwark to help us in many ways.

Michelle Hale (MH): Your comments remind me of one of the strategies for local empowerment for tribes in Navajo. It's interesting, because it revolves around capitalism. Capitalism in the Navajo academic community is a bad word, but capitalism I think is very much alive and well, especially in the underground economy or the shadow economy on the reservation, in that there's a lot of very vibrant informal economic activity. You will get flea markets, roadside stands that sell everything from food and clothing to burned CDs. There's a lot of interest in means of making money; but there's also a very strong Nation commitment to entrepreneurialism, which I think is interesting when it comes to thinking about capitalism. One of the strategies that's been tried in a local community was to create a township, which is basically modeled after a municipal-type government, and it's set up to promote entrepreneurialism. What's interesting about this community is they have the opportunity for it because it's in the community of Kayenta, and it's right next to Monument Valley. Since 1900, people have been coming to see Monument Valley, buying arts and crafts, and staying at the hotel. So Kayenta set up to capitalize on that. But that's

also very traditional; the larger region is very traditional. So, if you remember the grid with the chapters, Kayenta chapter itself is behind this township idea, which is promoting entrepreneurialism, but their neighbors are more traditional in the sense that they don't want to create all kinds of programs or loans to promote small business; they don't want tourists coming through their back yard. It begins to illustrate the kind of diversity that we see in chapters, even though they share the same region. That's what makes local empowerment so tricky. Each individual community has different levels of tolerance for development, they want different things in terms of market opportunity, and they have different governmental priorities.

Michael Behiels (MB): I wanted to ask about asymmetries that develop with excessive devolution. It's like what's happening in Ottawa now, with the push for even more devolution to the provinces, on health care — with virtually everything. Wanting each of the ten provinces and three territories to “do it your way, not my way.” What does that do with the sense of community, this sense of a transfer of money and responsibilities to the chapters: are there any kind of standards that must be met in order to get this money? Is there any discussion about that, or is it just going to be going, as you said, in different directions, with some becoming very entrepreneurial and others remaining extremely traditional? Over fifty, sixty, seventy years, what will that do to the sense of community amongst the Navajo?

MH: There is a system in place, with the Navajo Local Governance Act, which is the legislation passed in 1998, that is the catalyst that's meant to devolve power and authority to the local level. It includes a certification process, and it's one that's overseen by the Navajo Auditor General. And if you ask people on the chapter level, they say it's a long, arduous journey — that it has too many checkpoints, that it's overly bureaucratic, because what it does is set standards, mainly in accounting and in land use planning. And the people who crafted the Local Governance Act say, “If we're going to transfer all this decision-making power, and we're transferring all these resources, especially money, if that's leaving Window Rock and going down to the local level, we need to be sure that somebody's accountable, that there's a process, that there's a record-keeping system.” Again, going back to the point about diversity in chapter government, you have some local centers of government that are able to handle that: they have stability in their institutions, they have a record-keeping process; they've been doing it well for a really, really long time. The community that I come from is not like that. It's hard to get people to run for chapter president; it's hard to keep people on staff in local government; it's hard for us to get quorum to make any decisions. Record-keeping is more about somebody writing notes on a piece of paper and then putting it in a file cabinet. And that's not even talking about any kind of financial record-keeping. Nobody wants the responsibility. So again there's this difference from chapter to chapter. My own chapter says, “Well, this is much better handled by Window Rock; we're happy with the old system, because we don't want the responsibility.” I think that's a really important lesson, for Navajo at least, because I think there's the sense that everybody's going to be jumping up happy about self-governance and the ability to be more sovereign, to have some greater autonomy on the local level. And that's not the case.

Audience Member: My name is Sibyl Diver; I'm a Ph.D. student at Berkeley in the College of Natural Resources. From the panel earlier this afternoon, I got to thinking about the time it takes to make these governance shifts legitimate for communities — Teresa called it “community-paced,” and I really liked that term. I was curious about how people on the panel, either in their own experience or in their research, have dealt with the time required for community process within the practical limitations of some of these fast-paced government shifts that have been forced through by oil, or even forced through by local government, or by choice. How are people dealing with the time requirements for engaging with communities in a practical manner?

RH: The short answer for Alaska is that the package arrived on our doorstep and we didn't have much time to think about it. We took the package, opened it, saw what it contained, and we made the best we could with the package we got. People were anxious to get into the intellectual exercise of seeing just how we wanted this to work. Alaska had an advantage, because we had been lobbying together as villages and regions for twenty years. So we knew each other, we knew the aspirations that each had, and we were able to meld them together pretty fast after the settlement happened, and do what we had to do. Going back to health care: we always do non-profits. Health care in Alaska is not for profit. Health care as a for-profit enterprise is not something we do. It doesn't belong there.

MH: At Navajo, in particular with the Local Governance Act which was passed in 1998, a lot of people I spoke to—one of the case studies for my dissertation is the Local Government Act—and I did a series of interviews in 2002. At the time, there were only two chapters out of 110 who had the certification, who had gone through the process to be able to enjoy devolved authority. A lot of people I spoke to at the time said it'll take two years, it'll take five years. Here it is 2012, and here we have nineteen who are certified. So it's far cry from 110, and a lot of people think that it's highly unlikely that all 110 chapters will do the Local Governance Act. A lot of it, as I said earlier, is that a lot of people on the local level feel like, “Be careful for you wish for,” because local governance is a lot of work. It's a lot of responsibility; it means being able to do the work of government and administration; it requires community buy-in. I liked that point that was made earlier, because it *is* all about power to the people, and if people aren't showing up to do community land-use planning, or they're not showing up to do any kind of strategic planning, it's very difficult — especially because we want to be consensus-based. So if you have twenty people from a 2,000-person community showing up to talk about the future, it's very difficult to do that kind of planning and feel that you have adequate buy-in from the people.

Alexis Bunten (AB): I don't have the length of vision that Roy has. Tell me if I got this wrong, because the way I read your question is that what you were implying was that this stuff doesn't move very fast; and from what I've observed internationally, it can be *very* fast. Just think about the context of California or the lower forty-eight: gaming has changed the face of tribal governing incredibly. I'm not an expert in this area by any means, but when did Foxwoods open up — in '89 or something? How long ago is that? How has that changed tribal governance and the power that tribes have, and municipal, state, and federal issues just in the lower forty-eight in the U.S.? I think these things can happen a lot faster than people would assume. Part of the reason I wrote this Indigenous

capitalism piece—I'm fleshing out the concept, the word "capitalism" might drop off at some point — is because there was this line that was said: "You've got entrepreneurial and traditional? That's bs." Traditional *is* entrepreneurial: there is no dividing line between the two. It's just finding the ways you always do business with new ways of doing business. Flexibility is traditional too, so we might want to deconstruct these terms.

Audience Member (Dr. Jessica Bissett Perea): I'm a postdoc in the Department of Music. As one who was born and raised in the CIRI Region, I benefited greatly from the non-profit things—everything from health care to being able to pay for my Ph.D. I work with communities in Anchorage, primarily musicians and educators, and I was struck by the example of Lisa Murkowski. This is a question to everybody on the board, in terms of local empowerment or looking for sustainability to the future. I'm thinking about how we can further indigenize — because I do believe in the power to indigenize Western frameworks. It shows up in the kind of musical performance instances that I research. However, I'm concerned about things like the University of Alaska Anchorage, or the University of Alaska system. I know, Mr. Huhndorf, you served on the Board of Regents. Do you believe in the power, or the potential, for Alaska Native corporations to take a bigger role in the education system of our youth? People are getting business degrees, but what is on the other end for them, or how can we help to facilitate a position for youth, in terms feeling empowered and enfranchised, when there are legalistic systems set up to disenfranchise us — specifically those of us born after ANCSA was enacted? Do you think it would be possible for the Alaskan Native corporations to do what they did with Murkowski, and find ways to not only bolster Alaskan studies within the universities, but how can we further help our youth along, in terms of taking up leadership positions?

RH: As you know, that university's pretty monolithic, pretty hard to move, pretty bureaucratic. But again, politics does help. We have lobbying expertise; we've had it for years, since the passage of the Settlement. We do quite a bit in Juneau; we have good relationships with the chancellors. And as you mentioned, we've got educational foundations, which our students use to pay universities their tuition. So they have reasons to listen to us, to some degree. We haven't really been able to make the impact we wanted to. One example, which was happenstance completely: this man from Idaho came to Alaska to work on the pipeline; he had an engineering degree; he was not a Native, but he wondered why there were so few Native engineers working on the pipeline. He went back, got his Master's and his doctorate, and came back and went to work for the University of Alaska. And he started a program called ANSEP, where he's figured out a way to recruit Native students from the villages for the engineering program. He starts by giving a group of students in a village computer parts to put together a very high-quality computer, and they can have the computer once it's finished. It generates this spark: "I want to be an engineer, and I want to go to school!" And he's got some remedial programs he's set up in the village, he's worked with the high-school teachers, and he has summer programs he brings them in for. And he has a whole cadre of students he's impressed into a sort of marine corps thing: "Failure is not an option here. We're going to help each other. You tutor Joe, because he's not as good in math as you are." He serves Native food, cooks it for them on Sundays or has someone do it, for the Native students in the dorms. So he's done

a great turn for the Native community by doing this. Where there was a handful of engineers, there are [now] probably more than 100 Native Alaskan engineers in well-paying jobs, making a hundred thousand or more a year; whereas there was no opportunity before. I think the program is in Washington, it's in Hawaii, it's in Idaho today. It's called ANSEP. I'm not sure it's here; but it probably doesn't have to be. But that is a success that we had nothing to do with. It's just happenstance. Herb Schroeder is the man I'm talking about. If you ever have a chance to meet him and talk to him, you might want to do that.

GENERAL DISCUSSION

Teresa Edwards (TE): I have a question about how the chapters are made up, and also would like to raise the issue about capacity and governance, because in all fairness for our people, they have been robbed of the opportunity to govern, and although our people say they want governance, and they want to participate in governance structures, they're missing that step of capacity-building. That's what we were trying to lobby for initially with the Lands and Trust Services Initiative for five years in Canada—that step of capacity-building and having governance schools; just as there's a Canadian Women's Campaign School, so if you want to run for municipal, provincial, territorial, or federal government, you go to campaign school. There could be members of our community that have a great education and they get elected because they're well known traditionally, and they're elected to Chief and Council of their community, and they're in charge of a \$10 million budget, and have to figure out how to manage [roles?], yet they don't possess the skills, and it's not through any ill will or fraudulent act of their own — it's because there's been no capacity. I've worked for the federal government, on loan from the federal government in Canada. Every employee is entitled to a work plan fund, you have a learning plan fund, you're allowed to attend conferences, you get training, you get free French-language training in Canada—I don't know if it's Spanish in the U.S. [laughter]; my point being that there are a lot of supports in place. I was always told when I worked at Policy, "Never go photocopy something," because with the salary I made, I should not be photocopying; there's an administrative assistant to do that — all these support systems that federal governments have in place. We need to devolve those structures to First Nation communities. Those structures aren't in place. You don't have researchers or law students to whom you can say, "Oh, get this for me," which you do in federal government. You have all those resources, admin support to put together your packages and photocopy and do all that. I always say, now that I've been at a non-government organization for almost two years, that any federal department dealing with Aboriginal issues should do a six-month stint at an NGO, to see what it's like for these organizations. It's the same with our Chief and Council: we did studies where Chief and Councils were doing something like sixty reports a month. So when people say they're not accountable, it's false. Within the federal government alone there are over forty departments, and there are no standardized forms for accountability. If a First Nation, on reserve, for example, receives funding for health, for status of women, for programs they're doing with women and children, for

veteran affairs, for seniors, for all these different programs, you have to routinely apply for this funding, and there are no standardized formats. Even your budget templates are different: the accounting might have to be done monthly, or every four months, or yearly; the way that you're allowed to cover office furniture. . . . I'm just trying to express how much administrative red tape there is for people in Canada in relation to Aboriginal funds. And when the federal government announces the budget, and how much is going to Aboriginal issues, they don't tell you. Just for an example, there are 640 Justice Department lawyers advocating *against* Aboriginal affairs, and their salaries are counted in the allocation of what is spent on Aboriginal issues in Canada. Do Canadians know that? No, they do not. These are all things that Canadians or people in the U.S. are unaware of. So you have two towers of Indian Affairs, now Aboriginal Affairs, in Ottawa—and less than half of the people who work there are Aboriginal people. They've got day care, gyms, cafeterias, and Canadians don't realize how much is going to staffing the administration of Aboriginal Affairs. So if it weren't for Indians, a lot of non-Aboriginal people would be out of work.

Audience Member: May I suggest that you write an article to a major Canadian paper describing that situation? I think it might be a venue for change.

TE: What we've been doing is feeding the political parties cheat sheets with that information, so they can [leaflet?] it out to try to raise awareness. Media really controls how things are presented, and there's not a lot of uptake. But we'll keep trying. I want to keep getting facts like the fighter jets fuel test runs [out] and making comparisons like that to really hit people. Because I believe—it's the optimist in me—that if Canadians knew the true facts, they would think differently. And people are not aware in the U.S. that the last election we had in Canada was a bit of a revolt, because people were really disgusted with the Liberals, or what you would consider Democrats, so they didn't come out to vote. There was a sponsorship scandal involving misspent funds—so people were disgusted with the current Liberal government, didn't come out to vote, and we had the lowest vote in over 100 years. And the Conservative government got a majority, but with the lowest vote in over 100 years. And the way our system is set up, the rest of the vote was split among the Liberals and the Left, the new Democrats. So if you look at the population, it [the government] is not representative of what Canadians think. And there was also a scandal in which people were called who normally voted Liberal and given the wrong time and polling station. So that was an issue. I just put in a proposal for the next two years to engage Aboriginal women and youth to vote in the next election, to influence change.

Roy Huhndorf (RH): Teresa, I wondered how close you get to your parliamentary representatives, and whether you befriend them, whether there's such a thing as campaign contributions, or any of that corruption we have in America. I just wondered how much of a priority it is for your people to get close to your representatives.

TE: We do meet, we have lobbyists, but only 6 percent of our funding is allowed to go to lobbying representatives. So we try to equally lobby both NDP and Liberal, who are considered the opposition. Because the Conservatives have made it fairly clear they're not supportive of our views. We had one Aboriginal candidate who was outwardly supportive of the Conservative government, and his non-government organization received an infu-

sion of \$1.6 million in funding, and he is now a Conservative senator. He's the only known Aboriginal representative in Canada!

(RH?): So you do have politics American style!

Robert Talbot: Another issue in Canada is that the maximum donation an individual can make is \$1,000, so there's not really as much opportunity to persuade politicians in Canada by that means. Also, party discipline in Canada is very rigid, in contrast to in the U.S. So it's sometimes hard to get individual representatives to take on a cause wherein they would end up voting against the party line. So it's partly the nature of the political system, too.

Michael Behiels (MB): We didn't hear a lot about the economy and culture in terms of Alaska. The Quiet Revolution in Quebec for the francophone community of Quebec, which was basically treated as a minority for the better part of 100 years, until they decided to behave and act like a majority, was a realization coming out of the Great Depression of the 1930s and then through the Second World War and the postwar prosperity, that [the major requirement] for their culture to thrive and develop and modernize, in other words transform, move ahead, remain dynamic, remain attractive to the younger generation, so they could move forward, was money. It was all about money. The Catholic Church had been really quite anti-capitalism for a very long time, had dissuaded young French Canadians from getting involved in business. The Church itself in a sense, ironically, was a business, collected lots of taxes, and operated as a business, a corporation. But its preaching to the faithful was that to get into business was somewhat immoral. That all changed with the Quiet Revolution. They came to understand, in fact, that culture and economics were intimately tied — that you really do have to have a strong economic base to allow your culture to thrive and evolve as society evolves. So I think we need more studies about how to make Indigenous populations more economically viable. That is really at the heart of a lot of the issues of self-governance. You don't have democracies throughout the world unless you have an economic base. That's the foundation for societies to become more open, more democratic, more sharing of power: the sense that power belongs to the people. We need more discussion on that.

Audience Member: I was in Russia, and there are a lot of global Russians returning, and the debate between global Russians and government is that they want the government to be more responsive, and the government says, "We want you to be more entrepreneurial." But then they compare what it takes to open up a business: It takes one day to open a business in the United States, and in Russia it takes something like sixty days. There's a heavy hand of government. And I think about it here, because in this conversation you just put out that we need people to be more economically viable. . . . I was struck by the discussions of the Canadian Aboriginal history: there is a very heavy hand of government, in the way that there's this constant emphasis on state legal . . . and even this idea of looking at the differences between what was said orally versus the treaties — it strikes me that in the Canadian system, based on what I've heard. . . . It seems a little bit schizophrenic, to suggest that people should be more economically based while at the same

time the Canadian government somehow seems to have a very strong role in defining the terms of engagement by which—

MB: It goes back to the whole notion of Crown lands. Crown lands in Canada were not in large measure [alienated?] to the private sector. The provinces in Canada were given Crown lands, and everything that flowed from that massive resource. This is the dichotomy in the constitution: Ottawa does not have control over Crown lands. The reserves in large measure were very small, but even in those areas the provinces contested the control over those reserves. The fight over resources has been immense. The transfer of Crown lands from Great Britain and the colonial governments to the provinces, in a sense, determined the political economy of the federation, and has had an enormous impact on the Aboriginal communities. It all starts there. Once the fur trade has ended, and once immigration comes in, a lot of the Aboriginal men are forced out of jobs; they're isolated; they're pushed out of employment. And their resources are very quickly in most provinces taken over by the province, because the province has control over all Crown lands; that includes control over the reserves. That's been their argument since Day 1, and that's still largely their argument. So the federal government says, "Well, what in the hell can we do?" That is the beginning really of where you can move in terms of raising the standard of your people: they have to have jobs; they have to be engaged in economic activity of some kind, in order to push the community ahead.

RH: One of the things that happened very early on in the negotiation for the settlement in Alaska was that the BIA played no role, and we were able to get that. So now the BIA has no say over trust lands, except for some minor pieces of land called allotments. Those are the only trust lands in Alaska today. The BIA has absolutely no say over what do, and the government doesn't have any say about what we do, other than the say that it has over everybody else — the laws of the land, the environmental laws. Even those we don't have to comport with as much as you might if you started a business. So this freedom from the heavy hand of the BIA in some part I think is why tribes have found their entrepreneurial spirit. And their land is owned in title fee simple. They can do what they want with it; they don't have to ask anybody; never had to, shouldn't have had to. Maybe that 's the spark that can ignite some things.

Alexis Bunten (AB): In a different vein, I don't know a lot of Canada, but I do want to say something nice about the government of Canada, beside the fact that they've helped, a little bit I guess, why we're all here today. [*Massive outcry, reflecting the fact that the Canadian government had in fact not helped at all.*] Oh. Well I'm still going to say something nice. From my lens, subjectively, depending on whether I'm looking down at or up to Canada, I have noticed that in Canada's public universities there are some Aboriginal business programs, and I know there's a journal devoted to Aboriginal business. I've read some articles in it; I've reviewed some articles. Sometimes articles get snuck in that you can tell were written by government henchmen in Development. But usually they're pretty good. That's something that as far as I know we don't have in the U.S. that I would like to see developed. Working in New Zealand, and working in issues of rural development and tourism and other things like that, I've been invited several times to do some courses and lessons for Maori businesses, Maori MBA programs, and I know Canada has something like

that, which is really cool. And I may be wrong, but I don't think we have anything like that in the U.S., and I wish we did.

Charlotte Côté (CC): I want to speak to some of these questions coming up about entrepreneurial economic development. Because born and raised in a Native community, this is something we've always had to look at, and something we have to question. But what I see, and what the majority of the people in my community sees, is that economic development really has to be culturally responsive: the economy has to respond to the culture, not the other way around. We have tried to develop economically, and there have been people in our communities who have that entrepreneurial spirit, but every time we've tried to move forward and do something, that's the main thing we look at internally: how can we do that and still have strength in our culture. It's *really* important. I was going through a model of how we have governed, and I just touched on it briefly, but the one thing that has made us strong and has kept us together is that we are still very strong culturally. This has been in some cases to the detriment to moving forward in some of these areas. And today we still haven't been able to figure out how to move forward. There are so many economic ventures that tribes here in the United States have gotten involved in: casinos, gaming, which has brought in a lot of money. And money is power. Money is power that you can use to uphold and strengthen your sovereignty. This has really been an issue. I'm not saying that the culture has held us back, but it's a question that we constantly consider when we think about how we're going to move forward economically. One thing that always has happened though is that when we've tried to move forward with business ventures or economic ventures, there's always been some kind of [restrictive] policy, and believe me, the Canadian government is *not* supportive. I would say after living in this country [the United States] for fourteen years, that the way the tribes were dealt with, although they were dealt with in a more harsh way, in a violent way in this country, in many respects that determination of sovereignty in that early period, and tribes exercising it in that early period, has worked to the advantage of tribes. We are still so dependent on the Department of Indian Affairs. We try to do things in our community, and we're constantly told we can't. "You can't build capital, because you don't own your land." Well, what do you do when you *do* own your land? People are looking at the Nisga'a Agreement, and a lot of Native people don't like it, including me. Yes, they *do* have their land in fee simple, but that also means it's fee simple in the concept non-Native see as private-owned land. We want our land the way we used to own it; we don't want fee simple land and then have the provincial and federal governments impose their own laws and their own taxes on our land. It's our land. And that's what's happening. That's why we removed ourselves from that treaty process — because we don't like the framework. When you have sitting at the table the people you have fought continuously all your life — forest companies, mining companies sitting at the table to negotiate?! That's absolutely ridiculous. When I go home and we have these kinds of conversations, it's really difficult. I really wish there were some easy solution. I focus on us moving forward economically, but making sure that it's culturally responsive.

MB: But if the forest company were an Aboriginal company, if the mining company was an Aboriginal mining company, if in a sense your people become entrepreneurs in the

sense that they develop businesses within the community, and develop the resources of the community, as a community corporation, that's what moves the community ahead. They in a sense can get into the dialogue, and not get into these issues of "You're the outsider: you have another agenda." People have to do that development.

CC: Yes, you do have to do that development, but we don't want to rape our land. We can develop, and the government has tried to get us to develop our forestry—

MB: You can do it in a sustainable way. They do it in the Scandinavian countries.

CC: Scandinavia is so different from us. That's always used as a model. It's a totally different reality.

MB: They have sustainable forestry.

CC: Yes, they do, but the way they've done it is so different.

MB: But you do it your own way. That's my point. You find a way to do it that suits your values and your culture. People around the world have been doing that for thousands of years.

CC: People with power, which we don't have.

MB: You *do* have the power: it's called exercising agency. If you have those resources, you find ways you can develop those resources on your own terms.

CC: If we went forward and did this our way, there would be so much pushback. You've said that throughout the day and I totally disagree. It's not that we don't try to do it. There's so much pushback. When you see economic development that moves forward, a lot of times it's because the provinces and the Canadian government have agreed with what those tribes or nations are doing, and so have supported them. If we went forward with an economic venture that they didn't like, believe me they'd push back. So it's not, "Go and do it your own way," because there's so much resistance from the federal and provincial levels. And it's not like we haven't tried. We get that pushback all the time.

Gordon Christie: Mike was talking about doing your own forestry: you can't do that if you don't have access to the land. And the reserves are tiny — there aren't a lot of trees to cut on the reserves. So you have to go outside the reserves to your territory, which you consider your territory, but it's not considered your territory under the Crown: the provinces control that land. There have been quite a few cases in the last ten years on the East Coast, where some Mi'kmaq were trying to cut some trees down, and within minutes there are conservation officers. Somehow, with only a few conservation officers in Canada, they know when trees fall in the forest the minute they hit the ground. So there's no way that this can happen until we get past this point where the provinces keep control over their territories and their resources. There's an absolute control in place right now that has to be broken in some way.

Cheryl Suzack: I want to pick up on the idea of what other legal scholars have said in this area. I want to make a strong plea, [citing] Sanderson's argument in the *University of Toronto Law Journal* that just came out, where he said the problem is that [when] we're talking about justice initiatives, we're talking about economic development, we're talking

about parties that are very unequally positioned at the table. He said that part of what the justice narrative has done is that it has gone forward without actually restoring Indigenous people to the positions they held prior to the gutting of Indigenous communities through residential school practices, through the erosion of the land base, the way in which culture was taken from them. He said a genuine justice program would restore Indigenous communities to the position they had prior to entering into the unequal terms of reciprocity and reconciliation which are now being pursued in Canada. I would say that in fact what he's done is that he's looked at the model that is before us, and he's said that we're talking about unequal partners, unequal relationships. The duty that is owed to Indigenous peoples under reconciliation, and under social justice, by non-Indigenous peoples, is to restore Indigenous communities to the position equal to the position they would have had had you not taken our children from us, had you not told women that they could only have citizenship rights outside the communities, had you not incarcerated Aboriginal men or left them to die, had you not turned a blind eye to your just responsibilities to us as Indigenous peoples. Had you not been so cold and indifferent, we could have been different kinds of partners. It's your job now to restore us to an adequate position of partnership. That's what you owe us. And then let's talk about economic development.

Nelson Graburn: We're getting so negative, looking at a black wall. I want to bring up an entirely different subject, and that is the cooperation between the cultural and the economic spheres that we have seen in the arts throughout much of North America, Canada, maybe a leader in it, but we've a lot of it in Alaska. It's kind of a short-circuit thing, because the production of arts, which may be traditional or may be free, are things that cross cultural barriers when other things don't. When the Canadian Inuit arts took off in the Eastern Arctic, and the government tried to put in schools and do this that and the other and said they couldn't run this, somebody said, "You know, this is better than rolling oil barrels all day," which is what they used to do as minimum-wage manual labor. I don't want to just say, "It's wonderful to have artistic expressions," but when we look where artistic have flourished — not of course in a perfect system — but we look at the birth of Ilagisak, which is the Federation of Cooperatives of what was then Nouveau-Québec, this became like a religious movement. Based on the arts, some of these people — Paulasi Sivuak and so on — would go and say, "Hey, we can run something! You don't have to depend on the monopoly of Hudson's Bay. Let's start something — the Ilagisak will help us start a co-op." So you have a sort of parochial government forming through this cooperative federation, which trained and inspired people, to then go into the Nunavik self-government movement, etc. It doesn't always work exactly how you want. Look at the demonstration effect of how somebody, whether it's Kananginak or Abraham Angik, can be known and admired all over the world, can make a hundred thousand a year. Look at someone like Ron Senengetuk, whose talents in Alaska were known through Rochester and eventually Scandinavia; [who] went back to Alaska and became a leader. He didn't just sell trinkets; he organized a new arts system for peoples of all the tribes of Alaska; he started the Alaska Native Arts Center at University of Alaska Fairbanks, which is a very prestigious university, and attracted some of the best people. They were not frozen in tradition; as you know, a lot of these people are very experimental. These people were

looked on not just as artists, but these people were administrators, leaders; they are people who could go to a convention, who could run a corporation. This is some of the grease which can help spark and speed up all sorts of other developments of people getting self-confidence, feeling they can go and take over parts of other people's institutions, like universities, like corporations, and so on. This is something that has been pretty positive. Of course there's some exploitation but it's probably the least bad sort of exploitation that has happened in the situation of First Nations or Native Americans and the commercial and educational and governmental institutions. I just want to say there's a kind of magic here that has been able to break through, and to get people to take notice, to get people to admire, to get people to support, that lots of other efforts don't do, or take much longer to do. I wanted to say something for an interest that a lot of us have been working on for the economic and the cultural ability to control one's own self-representations, not only in art, but now in terms of being a tour guide, running your own museums: it's part of the same thing.

