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There is a better way: As more and more native Canadians enter the nation's wider society, author Tom Flanagan questions the need to maintain Canada's anomalous and dysfunctional reserve system: [National Edition]

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Abstract (summary)

Retaining skilled personnel in aboriginal communities may be particularly difficult. The numbers of highly educated aboriginals are steadily increasing; sociologist Rick Ponting concludes that the "First Nations" post-secondary enrolment rate of 6.5% of persons aged 17-34 is closing in on the rate of 10.4% for all of Canadian society. But even if the flow is increasing, the stock of highly educated aboriginals will take decades to reach Canadian norms; and as long as that discrepancy exists, aboriginals with advanced education will be in demand, with attractive opportunities off reserve. Many may prefer to work in Vancouver, Calgary, Toronto, and Ottawa rather than use their skills in the communities where they grew up, even though they continue to retain band membership.

Aboriginal people are gradually being integrated into Canadian society. Integration does not mean that they give up all aspects of their native culture and identity, only that they live and work in the larger society, not in aboriginal communities. Forty-two per cent of registered Indians live off reserve; this proportion has been increasing for decades and will soon exceed 50%. And that is just registered Indians. There are additional hundreds of thousands of people (no one is sure how many) of partly Indian ancestry who call themselves Metis, non-status Indians, or just Canadians. Registered Indians living on reserves are a steadily decreasing minority of the entire aboriginal population.

As more and more aboriginal people move into the wider society, one must question whether there is any way of winding down the anomalous and dysfunctional reserve system. Frankly, I doubt it. Various schemes of allotting reserve land and enfranchising individual Indians have been tried before in both the United States and Canada, with little success. There is no sign that contemporary residents want their reserves to be dissolved; and Canada, through the treaty and reserve system, has encouraged the survival of aboriginal communities as collective entities for more than a century. The movement towards self-government will continue because it has been accepted by most of the Canadian political elite and represents the unanimous demand of the aboriginal political class.

Full Text

This is an excerpt from University of Calgary professor Tom Flanagan's forthcoming book, First Nations? Second Thoughts, published by McGill-Queen's University Press.

"White people have organized crime; we've got chief and council." -- Dan Burnstick, Cree comedian, in The Difference between White People and Us Guys

There has been a veritable flood of writing on aboriginal self-government in the last two decades, culminating in the Royal Commission on Aboriginal Peoples Report. Although some cautionary notes have been sounded, almost all of this literature is laudatory. The scholar Helen Buckley, in an otherwise excellent book full of penetrating insights about the failure of past policies, writes of "the magic of self-government," which means "more people will be working; aspirations and self-confidence will rise; the costs of welfare, social services and the rest will go down." The skeptic is reminded of Lucien Bouchard's famous statement in the 1995 referendum campaign: "A Yes has magical meaning because with a wave of a wand it will change the whole situation. The day after sovereignty there will be no more federalists, no more sovereignists. There will only be Quebecers." Aboriginal self-government may indeed bring some benefits; yet it is beset with serious and inherent problems whose effects are becoming increasingly visible as more money and power are devolved upon the chiefs and councils who govern Indian reserves.

The problem is not that Indian leaders are especially venal, although many are. Politicians of all races manifest venality when they get the chance to pursue their private interests without constraint. The problem is that aboriginal governments in Canada are beset with structural features that encourage rather than constrain venality, and that these structural features are so deeply engrained as to be inherent.

INSTITUTIONS

According to Menno Boldt, "Indian leaders tend to view self-government in terms of taking over the [Department of Indian Affairs] authority and structures on their reserves." He is critical of this approach, pointing out that institutional structures have their own logic and that a mere change of personnel "is no guarantee that the entrenched norms of paternalism, authoritarianism, self-interest and self-aggrandizement by office-holders will be eliminated." In Boldt's view, if self-government is to be worth having, Indians will have to revive the communal patterns of their past and jettison the formal, bureaucratic institutions imposed by the Indian Act.

The diagnosis is acute. Up to the 1960s, Indian agents, subject to administrative control by the Department of Indian Affairs, exercised a remarkable fusion of legislative, executive, and judicial powers over the residents of reserves. Those powers have now been largely transferred to chiefs and band councils, even as the department has withdrawn much of its administrative supervision. Unfortunately, however, Boldt's solution is utopian. Pre-contact Indian forms of governance did not possess the formal institutions characterizing modern states -- written laws, bureaucracies, competitive elections, courts and police and so on; and it is unrealistic to imagine that the informal approach to governance could be revived in contemporary Canada ...

Their [aboriginal communities'] own cultures, now closely integrated with the general Canadian culture, require formal government. Members of aboriginal communities have to protect their own property rights and guarantee the market transactions in which they engage. Moreover, dealing with the all-encompassing Canadian society requires formal government. Aboriginal communities have to account for transfer payments from Ottawa; even when they develop internal institutions of criminal justice, they have to provide information about offenders to the Canadian justice system to prevent double jeopardy; and so on ...

SIZE

[A]boriginal communities are very small. In the literature, the problems that small size poses for self-government are usually noted under two headings: (1) shortage of financial resources and (2) shortage of skilled personnel. Indeed, these are serious difficulties. How is a community of a few hundred people, located far from major centres of population, supposed to provide residents with the amenities of modern life?

One obvious solution is for communities to work together to offer services otherwise beyond their means. Bands can pool their efforts in tribal governments to provide expensive services. Another commonly used approach is for an aboriginal government to contract with a nearby city or rural municipality, or with the provincial government, for services such as water and sewage, fire protection, policing and education. Although effective up to a point, these strategies of pooling and co-operation are not a panacea. Several bands might work together as a tribe, but most tribal groupings in Canada are still extremely small and thus limited in their ability to provide services to their members ...

Retaining skilled personnel in aboriginal communities may be particularly difficult. The numbers of highly educated aboriginals are steadily increasing; sociologist Rick Ponting concludes that the "First Nations" post-secondary enrolment rate of 6.5% of persons aged 17-34 is closing in on the rate of 10.4% for all of Canadian society. But even if the flow is increasing, the stock of highly educated aboriginals will take decades to reach Canadian norms; and as long as that discrepancy exists, aboriginals with advanced education will be in demand, with attractive opportunities off reserve. Many may prefer to work in Vancouver, Calgary, Toronto, and Ottawa rather than use their skills in the communities where they grew up, even though they continue to retain band membership.

Is aboriginal government really self-government when, even though the elected officials are band members, the technostucture of administrators, accountants, and other professionals consists largely of non-aboriginals? That's a rhetorical question with no simple answer, but it illustrates a problem unlikely to go away in the lifetime of those now living.

Another problem of size, much less well discussed in the literature, is that of factionalism. Political scientist Roger Gibbins, inspired by James Madison [Federalist paper No. 10], points out that "individual rights and freedoms are best protected within larger, more heterogeneous communities where it is more difficult to articulate a majority will and where a multitude of conflicting and competing interests fragment and immobilize the majority." In the older but still powerful language of Madison: "Extend the sphere, and you take in a greater variety of parties and interests: you make it less probable that a majority of the whole have a common motive to invade the rights of other citizens."

The empirical literature on aboriginal politics suggests that kinship, if not the only factor, is a key one. The Hawthorn Commission, in studying the politics of 34 bands of different sizes in the 1960s, found that the influence of kinship was hard to pin down on small reserves because almost everyone was related to everyone else. In such small settings, personal ties and friendship were extremely important. But members of larger bands openly recognized kinship as the main principle of politics, particularly in cases, such as the Blood reserve in Alberta, where the legal band is really a tribe composed of multiple lineages ...

Strater Crowfoot, who was chief of the Siksika (Blackfoot) Nation for eight years, confirms that the family is "a pivotal unit in reserve politics." He calls nepotism the "sustaining discourse" of politics on the reserve. Relatives routinely approach those in power for financial assistance. Opposing factions interpret decisions in nepotistic terms and plan to decide the same way when they come to power. "After the election where I was defeated," writes Crowfoot, "one voter said: 'The Crowfoots are no longer in charge; it's my family's turn.'" ...

FUNDING

Fiscal transfers, land-claims settlements and natural-resource rents all have a common characteristic -- they are not earned in the usual sense of the term. Fiscal transfers and land-claims settlements can be enhanced politically through strategic litigation and negotiation, but that is quite different from generating income by working for an employer or investing one's own resources. Natural-resource rents arise largely from the good luck of being situated on top of a hydrocarbon reservoir. In the past, the energy companies negotiated a deal through Indian Oil and Gas Canada, explored the reserve, built pipeline connectors, pumped out the oil and gas and paid royalties. For most people in the community, the net effect was the same as an increase in the fiscal transfer from Ottawa because the money came without the need to work for it, although some residents might subsequently have found employment in enterprises generated by the royalty cash flow. There is now a tendency for companies to become partners with the band government and to include some jobs and industrial training as part of any deal; time will tell how much difference this makes in the impact of resource revenues upon reserve communities.

This predominance of external, unearned funding reinforces the factional character of aboriginal politics. A useful perspective on this linkage comes from the research on so-called neopatrimonial, or rentier, states in the Third World, particularly the Middle East ... The rentier state exhibits a specific pattern of political economy. The government, as the principal recipient of external rents, redistributes them throughout the society by means of outright grants to citizens, contracts with privileged businesses and state employment. "The whole economy," say the leading authorities on this subject, "is arranged as a hierarchy of layers of renters with the state or the government at the top of the pyramid, acting as the ultimate support of all other renters in the economy." The result is an allocation state, "an état providence, distributing favours and benefits to its population." The Pharaohs of ancient Egypt or the tsars of 17th-century Russia would feel at home.

Neopatrimonial politics tends to be secretive, factional, and familial. The purpose of political action is to get more favours from those in power. Concepts like democracy and the rule of law can hardly establish a foothold because subjects, not having to pay for the activities of government, do not see it as an emanation of themselves. Because there is no private property in the Western sense, there is no limit to the public sphere. The population tends to develop a rentier mentality: "Reward -- income or wealth -- is not related to work and risk bearing, rather to chance or situation. For a rentier, reward becomes a windfall gain, an isolated fact, situational or accidental as against the conventional outlook where reward is integrated in a process as the end result of a long, systematic and organized production circuit. The contradiction between production and rentier ethics is, thus, glaring." It does not take much imagination to perceive similarities between neopatrimonial economies and the political economy of Canadian aboriginal communities ...

IMPLICATIONS

None of the problems described above is likely to change in the foreseeable future. There is no shortage of visionary reform proposals, but there is a countervailing abundance of fiscal constraints and political veto points. Aboriginal communities will continue to be small, impoverished, supported by fiscal transfers and mostly governed by elected chiefs and councils trying to carry out an extraordinarily wide range of functions. The contest for advantage of extended kin groups will continue to be the motor of internal politics.

In this tableau, we must think realistically about what constitutes responsible public policy. Politicians would do well to adopt the medical maxim primum non nocere, "first of all, do no harm." Simply transferring more money and power to local aboriginal governments is likely to increase the abuses of familial factionalism. More accountability in the management of public funds is urgently needed. Many small reforms might help move the system in this direction: more publication of information, better auditing, more open meetings, more systematic media coverage, and development of a professional and politically neutral aboriginal public service ...

Perhaps the single most constructive reform that could be made at this time would be for the members of aboriginal communities to begin taxing themselves in support of their own governments. No negotiations, no constitutional amendment, no legislation would be required to take this step; the power is already present in Section 83.(1) of the Indian Act. In most cases, the amount of money raised would be small, but the effect would be important. Aboriginal voters would have a greater stake in the doings of their own governments if these governments were spending their own voters' money. Out of this might grow greater political accountability at the local level.

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Indeed, it serves the interests of the latter group very well because they administer the reserves, run the business enterprises, litigate and negotiate with government, and fill positions in the Department of Indian Affairs and other agencies that deal with aboriginal communities. They

are directly rewarded with increasing transfers of public money with no strings attached.

Meanwhile, living conditions in most First Nations reserves will continue to stagnate or even deteriorate for those outside the power structure. Population growth will intensify the shortage of jobs, housing, and other amenities, so that more and more aboriginal people will seek new lives in Canadian cities. In spite of the rhetoric of self-government, the reserves will grow less and less relevant to a majority of aboriginal people in Canada. Indians will become, in effect, a new immigrant ethnic group in our already pluralistic society. Their places of origin will be geographically closer than Hong Kong or the Punjab, but their social distance from the world of the reserves may be even greater.

Under the circumstances, the course of wisdom may be to leave reserves much as they are while these long-term processes take effect. Government should help the reserves to run as honestly and efficiently as possible, but should not flood them with even more money, which would encourage further unsustainable growth in the numbers of residents. I leave the last word to Stoney Nation councillor Tina Fox, commenting on cuts to social services required to balance the tribal budget: "We may have to encourage our young to work off the reserve."

Would that be such a bad thing? The Stoney reserve sits in the middle of one of the most dynamic areas of the Canadian economy. Seventy kilometres to the east lies the perpetual boomtown of Calgary. Thirty years ago 330,000 people lived in Calgary; now there are over 800,000, at least one-sixth of whom belong to visible minorities. The unemployment rate is less than 6%. Fifty kilometres to the west lies Banff, with its chronic labour shortage. Young people come from all over the world and find jobs there immediately.

Canadian Indians now call themselves the "First Nations" to embody their claim to an aboriginal right of self-government. Yet they were also the first immigrants because their ancestors, like the ancestors of everyone else in North America, moved here from the Old World. Now they are en route to becoming the last immigrants, the latest group to take advantage of the opportunities that Canadian society offers.

This process of adjustment takes place at the level of individuals and families, not nations. Government is often the biggest obstacle, whether it is the paternalistic regime of the Department of Indian Affairs or the "self-government" of chiefs and band council. John Stuart Mill had in mind the advent of democracy when he wrote "the 'people' who exercise the power are not always the same people [as] those over whom it is exercised; and the 'self-government' spoken of is not the government of each by himself, but of each by all the rest." Nonetheless, his words apply just as well to the contemporary phenomenon of aboriginal self-government. The true progress of aboriginal people will depend upon emancipation from political control, whether exercised by federal bureaucrats or their own politicians.

Illustration

Black & White Photo: Zoran Bozicevic, Calgary Herald / A photo of two ladies standing in the laundryroom. ;

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