

The Politics of Righting Canadian Native Indian Wrongs

Augie Fleras, Sociology Department, University of Waterloo, 1987

"The essence of Canada . . . has been the coexistence, the sharing that our ancestors had with settlers . . . and from that arose the concepts of racial tolerance (extended to) the immigrants who came from other parts of the world.

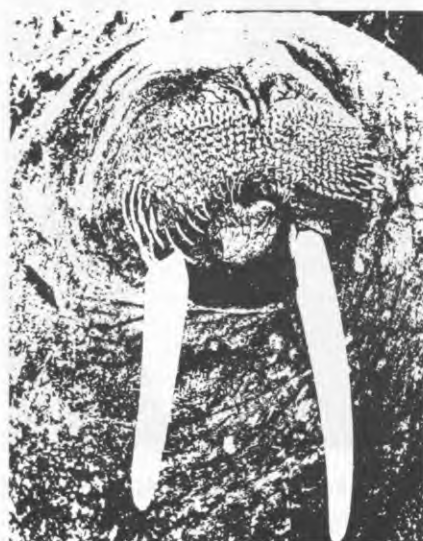
There have been times when maybe that's been bruised a little, but that concept of Canada has maintained itself . . . there is no other country in the world where indigenous peoples, nations, have come together to work out an agreement with the colonizing governments — the provincial and federal governments."

Chief Gary Potts, Constitutional Negotiator for the Assembly of First Nations, 1987.

Canada once again has forfeited a rare opportunity to serve as a beacon for the rest of the world in redefining government-aboriginal relations. Consistent with previous outcomes which also ended inconclusively, both the federal and provincial governments as well as Native Indian leaders failed to reach a workable formula for extending the right to aboriginal self-government within the constitutional framework of Canadian federalism. Neither preliminary sessions nor two days of formal negotiations cleared the way for a compromise draft of a text entrenching aboriginal self-rule rights. Even a watered-down version proposed by Prime Minister Mulroney collapsed under the collective weight of diverse interests and competing delegate positions. The implications of this fourth and last conference which ended in disarray amid accusations of racism and hypocrisy were immediate. Not only did Canada lose out in an effort to become the first country in the world to enshrine the constitutional and aboriginal rights of its indigenous population, it also relinquished an opportunity to create a unique level of government for aboriginal peoples to serve as a model for constitutionally similar countries such as Australia and New Zealand.

Canadian Native Peoples occupy the margins of society, and as a group tend to be under-represented in those socioeconomic domains where it counts. But the winds of change are now evident. After a century and a quarter of federal domination and bureaucratic control, Native leaders are proposing to decolonize the once paternalistic agenda underlying government-aboriginal relations in lieu of one consistent with the principles of aboriginality. Proclaiming a right to self-determination through the establishment of self-government, they are determined to proceed along these as yet uncharted grounds on the assumption that native solutions to the 'Indian problem' cannot be any worse than what has preceded them.

A slightly revised version of this article appeared in the Kitchener-Waterloo Record on the 10th April, 1987, entitled, "Self-rule Impasse".



How and why this breakdown occurred will remain the subject of numerous second-guessing in the months to come, but already the pieces are falling into place. I will attempt to cast light on the logic underlying the First Minister conference by looking at the participants, the issues, the results, and the implications in terms of revising aboriginal-government relations.

The participants to this First Ministers conference convened in an effort to specify the nature and extent of those aboriginal rights pertaining to Native Indians as stipulated in the Constitution Act of 1982. Included were the Prime Minister representing the federal government, the premiers of the nine

provinces (Quebec did not attend in a formal capacity since it never agreed to the Constitution), and native and territorial leaders. Any constitutional amendment required the agreement of the federal government and seven of the provinces with at least 50% of the population. Native organizations consisted of the Assembly of First Nations representing status Indians (those under the jurisdiction of the Indian Act), the Inuit Committee on National Issues representing the Inuit, Native Council of Canada representing non-status Indians and Metis, and Metis National Council representing the majority of Metis. Two top ranked officials from the United Nations also attended the proceedings as observers invited by native groups. The very breadth of representation provided some idea of the potential conflict of interests, and the complexity of the negotiations in forging a suitable compromise.

The issues at the core of the debate were relatively straightforward. What was more complex consisted of sorting out the underlying logic and rational that not only defined the often competing positions of the participants, but also influenced the course and direction of the proceedings. On the surface was a concern with spelling out the implications of section 35 (1) of the Constitution Act of 1982 which already had recognized and reaffirmed 'existing aboriginal and treaty rights'. But section 35(1) did not specify exactly what