

**ABORIGINAL SELF-GOVERNMENT IN CANADA:
A BIBLIOGRAPHY 1986**

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Intergovernmental Relations
Queen's University
Kingston, Ontario

Copyright 1986
ISBN 0-88911-423-4
ISBN 0-88911-446-3

Canadian Cataloguing in Publication Data

Peters, Evelyn J. (Evelyn Joy), 1951-
Aboriginal self-government in Canada : a
bibliography 1986

(Aboriginal peoples and constitutional reform)
ISBN 0-88911-423-4

1. Canada - Native races - Bibliography.
2. Indians of North America - Canada - Councils - Bibliography.
3. Indians of North America - Canada - Government relations - Bibliography. I. Queen's University (Kingston, Ont.). Institute of Intergovernmental Relations. II. Title. III. Series.

Z1209.2.C3P47 1986 016.3231'197'071 C87-093116-4

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PREFACE

Section 37 of the *Constitution Act, 1982* (as amended) requires the holding of a series of conferences by 1987 to deal with "constitutional matters that directly affect the aboriginal peoples of Canada." Discussion leading up to and during the First Ministers' Conferences on Aboriginal Constitutional Matters quickly focused on the task of making constitutional provisions for aboriginal self-government. Many involved in the process openly questioned the meaning of "aboriginal self-government".

In view of the importance of this subject, in May of 1984 the Institute of Intergovernmental Relations launched a research project on "Aboriginal Peoples and Constitutional Reform". Phase One of the project responded to concerns that emerged at the outset of the constitutional negotiating process. As indicated by its title, "Aboriginal Self-Government: What Does It Mean?", Phase One examined various models, forms and proposals for aboriginal self-government. This included an exploration of the citizenship rights of aboriginal peoples, the experience of aboriginal self-government in other nations, and a review of Canadian developments over the past few years. The results of these investigations were compared to the positions taken by parties to the constitutional negotiations, in an effort to identify areas of emerging conflict and consensus. These findings were elaborated in five Background Papers, a Discussion Paper and a Workshop, which was held two months prior to the 1985 First Ministers' Conference (FMC).

Developments in 1985, subsequent to the First Ministers' Conference, may have a dramatic impact on the constitutional negotiation process. At a meeting of government ministers and aboriginal leaders held in June, 1985, several governments indicated their intention to pursue the negotiation of individual self-government agreements, and then to consider their entrenchment in the constitution (the "bottom-up" approach). This contrasts with the proposal, which has thus far dominated discussions, to entrench the right to aboriginal self-government in the constitution, and then to negotiate individual agreements (the "principles first" approach). The result is that, in addition to multilateral negotiations at the national level, negotiations will

now proceed on a bilateral or trilateral basis, at the local, regional and provincial/territorial levels.

Phase Two of the project is entitled "Aboriginal Self-Government: Can It Be Implemented?", and responds to concerns now emerging in the negotiations. This phase of the Institute's project therefore will focus initially on arrangements for the design and administration of public services by and to aboriginal peoples. The research will examine the practical problems in designing mechanisms and making arrangements for implementing self-government agreements. Clearly, the "bottom-up" approach could have a major effect on the process of constitutional reform as it relates to aboriginal peoples in Canada.

As the 1987 FMC approaches, attention will become more concentrated on the multilateral constitutional forum (the FMC). The 1987 FMC may consider the constitutional entrenchment of individual agreements previously negotiated, or it may attempt to reach agreement on a "principles first" approach for defining and entrenching aboriginal rights in the constitution, especially those relating to aboriginal self-government. The research agenda in the second year of Phase Two anticipates this shift in preoccupation, with the focus turning to the search for a constitutional accommodation in 1987. If this search is to be successful, it will be necessary first to inquire into, and then to resolve or assuage a number of genuine concerns about aboriginal self-government and its implications for federal, provincial and territorial governments. Research in this part of the project will explore these concerns.

The Institute wishes to acknowledge the financial support it received for Phase Two of the project from the Donner Canadian Foundation, the Canadian Studies program (Secretary of State) of the Government of Canada, the Government of Ontario, the Government of Quebec, the Government of Alberta, the Government of Manitoba, the Government of Saskatchewan, the Government of New Brunswick, the Government of the Northwest Territories, the Government of Yukon, the Assembly of First Nations, the Inuit Committee on National Issues, the Metis National Council and the Native Council of Canada.

This bibliography on aboriginal self-government in Canada is an integral part of the overall project. With almost 700 references, each individually verified, it represents the most comprehensive and authoritative effort in this field to date.

Evelyn Peters is a Research Associate at the Institute of Intergovernmental Relations, who is working exclusively on Phase Two of the "Aboriginal Peoples and Constitutional Reform" project. She is completing her doctoral dissertation in urban geography at Queen's University.

David C. Hawkes
Associate Director
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December, 1986

ACKNOWLEDGEMENTS

This bibliography could not have been completed without the assistance of the librarians at the various collections where we did our bibliographic research. Stella Etherington at the Assembly of First Nations Library took a considerable amount of her time to explain their library classification system, locate materials out on loan, and advise us about other sources we should explore. At the Department of Indian Affairs Library, Jean McNiven and her staff answered numerous questions and re-shelved many stacks of books. Claire MacDonald at the National Library (Canadian Indian Rights Collection), and Randy Martin at the Native Council of Canada guided me through their respective collections and provided welcome conversation breaks. Joanne MacDonald, in Community Negotiations at the Department of Indian Affairs, and Katherine Dunkley, Research Branch, Library of Parliament, supplied details about a number of publications that we were unable to examine. The staff at the Treaties and Historical Research Centre, Department of Indian Affairs and Northern Development, were also helpful.

The bibliography drew on several sections of an earlier bibliography compiled by Linda Locke in 1984. Elspeth Gullen, who worked on the project during the summer of 1986, spent many hours verifying references, typing entries, searching libraries for materials and proof-reading. Valerie Jarus applied her considerable expertise to format the manuscript and to prepare it for printing.

To all of these people I owe my thanks.

Evelyn J. Peters

INTRODUCTION

This bibliography is part of a larger research project undertaken by the Institute of Intergovernmental Relations on the topic of aboriginal peoples and constitutional reform in Canada. The overall objectives of the project are to conduct research to clarify concepts and issues of aboriginal self-government, to communicate to the public the results of this research, and to provide a forum for informed debate on the subject of aboriginal peoples and constitutional reform. Workshops and background papers¹ for the project have focussed on three major themes:

1. Aboriginal Self-Government: What Does It Mean?;
2. Implementing Aboriginal Self-Government: Problems and Prospects; and
3. Issues in Entrenching Aboriginal Self-Government.

Following the emphasis of the research project, the bibliography concentrates on aboriginal self-government as it has been approached from various perspectives in Canada. Materials in the bibliography reflect the two strata of the emerging discussion. One strata is an exploration of what aboriginal self-government involves at the local level. It includes questions about institutions and powers, financing, administration, and processes of negotiation and implementation. Some of the work in this area is informed by the experiences of aboriginal peoples with existing self-governing institutions.² A second strata focusses on the entrenchment of the right to aboriginal self-government at the constitutional level, emphasizing issues like the nature of aboriginal rights, implications of different agreements between the 17 parties to the section 37 constitutional negotiations, and the dynamics of the political process as it operates among first Ministers and the national aboriginal peoples' organizations.

Most of the work referenced here is contemporary, concentrating on the discussion as it has taken place in the 1970s and 1980s. While the importance of topics such as the nature of traditional aboriginal governments, the *Indian Act*, or the history of the Métis is recognized, it was felt that these materials had been referenced elsewhere. In terms of background materials, only work which documents the emergence and

definition of self-government issues among aboriginal peoples generally, and at the 1983 and subsequent First Ministers' Conferences on Aboriginal Constitutional Matters are included. Researchers requiring more general references should consult the list of bibliographies on aboriginal peoples in Canada which follows this introduction.

The subject of aboriginal self-government is part of a larger concern for self-determination among indigenous peoples world-wide. Works on self-determination, however, are included in the bibliography only where self-determination is linked to self-government. Researchers looking for general references to self-determination for aboriginal peoples could consult:

David Knight and Maureen Davies, "Post-Colonial Self-Determination: Parts I and II", *Canadian Review of Studies in Nationalism: Bibliography*, Vol. 11, 1984:1-29 and Vol. 12, 1985:1-55.³

There is also a substantial body of comparative international research on the treatment of indigenous peoples in common law countries, as well as on models of self-governing institutions in different countries of the world. Canada was the focus of this bibliography, however. A bibliography which surveyed materials from other countries as well as from Canada could not do justice to the variety of proposed and existing forms of self-government in this country, or to the complexity of issues involved in unravelling the situations of different aboriginal peoples. The large body of materials available in itself warranted a focus on aboriginal self-government within Canada.

Researchers who wish to examine comparative references could begin with four studies commissioned by the Department of Indian Affairs and Northern Development in the late 1970s. These studies are:

Natufe, O.I., *The Concept of Native Self-Government in the Soviet North*;
McBeath, G.A. and Norehouse, T.A., *Alaska Native Self-Government*;
Oleson, O., *Home Rule for Greenland*;
Ruong, I., *The Lapps: An Indigenous People in Fennoscandia*.

References in Noel Dyck's (p. 13) and Bradford Morse's (p. 24) volumes in this bibliography could also be consulted as well as Douglas Sanders' publication for the Institute of Intergovernmental Relations.⁴

The close to 700 references in this bibliography in no way constitute a complete listing of work available on aboriginal self-government in

Canada. Librarians at both the Assembly of First Nations and at the National Library of Canada, (Canadian Indian Rights Collection), are in the process of referencing contemporary materials in the area, and researchers should be able to find additional references which were not available at the time of printing of this bibliography. Other materials were not cited because this study concentrated on references available through academic publications, and in Ottawa-based collections at the Department of Indian Affairs Library and Historical Treaties and Research Centre, the Library of Parliament, the National Library of Canada, the Native Council of Canada, and the Assembly of First Nations Library. Work by local aboriginal groups and organizations only appears in the following pages if copies have been placed in these collections. A similar situation exists for various documents prepared by government departments, both federal and provincial, concerned with the structure and implications of aboriginal self-government.

Newspaper articles and articles in local magazines and newsletters were not referenced. The Department of Indian Affairs Library has an extensive collection of newspaper clippings and local publications by aboriginal peoples available to researchers who wish to follow this route. The sheer number of references involved made any attempt to survey these sources impractical for this bibliography.

To make materials accessible to researchers, the location of references not in academic publications or at the Department of Indian Affairs Library are included in the citations. In most cases copies can be obtained from the collections cited for a nominal reproduction fee. Citations are organized alphabetically by author under the headings outlined in a table of contents. An author index is provided at the end of the volume. It is hoped that the information in this bibliography facilitates research and understanding concerning aboriginal self-government in Canada.

Notes

1. Other publications from the project are listed in Appendix A.
2. There is a substantial literature about self-determining institutions in individual policy areas. The National Indian Brotherhood's *Indian Control of Indian Education* (Winnipeg: National Indian Brotherhood; 1985) in an example in education: the tripartite Manitoba Child Welfare Agreement is an example in the area of child welfare. Constraints of time and space, however, meant that this aspect of self-government was not explored.
3. Expanded and annotated version forthcoming, 1987, Garland Press, New York.
4. Sanders, Douglas E. *Aboriginal Self-Government in the United States*. Background Paper No. 5. Kingston, Ontario: Queen's University, Institute of Intergovernmental Relations; 1985.

SOMMAIRE

Cette bibliographie fait partie d'un travail de recherches plus approfondi, entrepris par l'Institut des Relations Intergouvernementales, au sujet des peuples autochtones et des réformes constitutionnelles au Canada. Les ateliers et les recherches autour de ce sujet sont centrés sur ce que signifie l'autonomie politique des autochtones, les questions concernant la mise en oeuvre de l'autonomie politique et l'apposition de l'autonomie politique à l'intérieure de la constitution. Dans le but de refléter les préoccupations principales des travaux de recherche, la bibliographie est centrée sur l'autonomie politique des autochtones telle qu'abordée selon diverses perspectives canadiennes.

Le travail repéré ici est en majeure partie récent et est centré sur la discussion telle qu'elle eut lieu dans les années 70 et 80. En ce qui concerne la matière pour le travail initial, seuls les travaux se rapportant à l'émergence et à la définition des questions d'autonomie politique parmi les peuples autochtones en général et aux Conférences des Premiers Ministres qui ont eu lieu depuis 1983 concernant les affaires constitutionnelles des autochtones sont documentés.

Faisant suite à cette introduction, de plus amples références seront obtenues dans la liste des bibliographies au sujet des peuples autochtones canadiens.

Le sujet de l'autonomie politique des autochtones fait partie d'un souci plus répandu pour l'auto-détermination parmi les peuples autochtones du monde entier. Cependant les travaux au sujet de l'auto-détermination ont été inclus dans la bibliographie seulement là où l'auto-détermination est liée à l'autonomie politique.

Quoiqu'il existe un corps important de recherches comparatives internationales, cette bibliographie reflète surtout les recherches effectuées au Canada. Une bibliographie qui ferait l'étude d'une matière internationale aussi bien que canadienne ne pourrait rendre justice à la diversité des formes d'autonomie politique proposées et existant déjà au Canada, ni à la complexité des questions suscitées par les efforts de démêlage des situations de peuples autochtones différents. L'immensité des ressources disponibles justifiait un approfondissement de la question d'autonomie politique des autochtones au Canada.

Bien que près de 700 références soient données ici, cette liste ne prétend pas constituer une énumération complète de tous les travaux disponibles au sujet de l'autonomie politique au Canada. Les bibliothécaires à l'Assemblée des Premières Nations ainsi qu'à la Bibliothèque Nationale du Canada (Canadian Indian Rights Collection) s'occupent présentement de rassembler les travaux actuels dans ce domaine. D'autre part, certains travaux n'ont pas été cités car cette étude est centrée autour des références

disponibles à travers les ouvrages académiques publiés et à Ottawa notamment dans les collections de la Bibliothèque du Département des Affaires Indiennes, de la Bibliothèque du Parlement, de la Bibliothèque Nationale du Canada, du Conseil Canadien des Autochtones, et de la Bibliothèque de l'Assemblée des Premières Nations. Les travaux rédigés par les groupes autochtones de la région paraissent dans les pages suivantes lorsque les collections ci-haut mentionnées en possèdent des copies. Il en est de même pour certains documents préparés par des département du gouvernement.

Afin de rendre les travaux accessibles aux chercheurs, l'endroit où se trouvent les références non tirées de publications universitaires ni de la Bibliothèque du Département des Affaires Indiennes est inclus dans les citations. Les citations sont en ordre alphabétique, par auteur, sous les en-têtes donnés dans le contenu d'une table des matières.

Un index des auteurs est donné à la fin du livre. Il est à espérer que les renseignements de cette bibliographie faciliteront les recherches et la compréhension en ce qui a trait à l'autonomie politique des autochtones du Canada.

General Bibliographies on Aboriginal Peoples in Canada

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Note: Includes Case Law Digest prepared by Sanders, Douglas E. and Taylor, Robert C.

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Part I

General Papers

A. General Background: History and Concepts

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- ii) Plain, Fred. "A Treatise on the Rights of the Aboriginal Peoples of the Continent of North America." pp. 31-40;
- iii) Ittinuar, Peter. "The Inuit Perspective on Aboriginal Rights." pp. 47-53;
- iv) Romanow, Roy. "Aboriginal Rights in the Constitutional Process." pp. 73-82;
- v) Dalon, Richard. "An Alberta Perspective on Aboriginal Peoples and the Constitution." pp.83-113;
- vi) The Right Honourable Pierre Elliot Trudeau. "Statement by the Prime Minister of Canada to the Conference of First Ministers on Aboriginal Constitutional Matters." pp. 148-156;
- vii) The Right Honourable Brian Mulroney. "Notes for an Opening Statement to the Conference of First Ministers on the Rights of Aboriginal Peoples." pp. 157-164;
- viii) Tennant, Paul. "Aboriginal Rights and the Penner Report on Indian Self-Government." pp. 321-333.

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Note: Includes:

- i) Dyck, N. "Aboriginal Peoples and Nation - States: An Introduction to the Analytical Issues." pp. 1-26;
- ii) Dyck, N. "Representation and the 'Fourth World': A Concluding Statement." pp. 236-241;
- iii) Feit, H.A. "Legitimation and Autonomy in James Bay Cree Responses to Hydro - Electric Development." pp. 27-66.
- iv) Weaver, Sally M. "Political Representivity and Indigenous Minorities in Canada and Australia." pp. 113-150.

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 - ii) Peter H. Russell. "An Analysis of Prime Minister Trudeau's Paper on Political Development in the Northwest Territories." pp. 294-298;
 - iii) Richard Laing, Peter Puxley, C. Gerald Sutton, Wilf Bean. "Political Development in the Northwest Territories: Opinion Paper." pp. 314-321;
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Part II

**The First Ministers' Conferences on
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- v) Metis National Council. "Proposed Wording for Amendments to be Adopted by the 1985 FMC". Document No. 830-173/011, 2 p.;
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**Existing Self-Government Agreements
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**Aboriginal Peoples' Approaches
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