Culture

Consociation and the Resolution of Aboriginal Political Rights: *The Example of the Northwest Territories, Canada*

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Volume 10, Number 1, 1990

URI: https://id.erudit.org/iderudit/1080937ar
DOI: https://doi.org/10.7202/1080937ar

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Publisher(s)

Canadian Anthropology Society / Société Canadienne d'Anthropologie (CASCA), formerly/anciennement Canadian Ethnology Society / Société Canadienne d'Ethnologie

ISSN

0229-009X (print)
2563-710X (digital)

Explore this journal

Cite this article

Asch, M. (1990). Consociation and the Resolution of Aboriginal Political Rights: *The Example of the Northwest Territories, Canada*. *Culture*, *10*(1), 93–102. https://doi.org/10.7202/1080937ar

Article abstract

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Consociation and the Resolution of Aboriginal Political Rights: *The Example of the Northwest Territories, Canada*[1, 2]

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Canada is in a period of high constitutional attention. As the review of our constitution takes place, issues concerning the relationship between aboriginal nations and other Canadians comes to the fore. In this paper, I address one of these issues: the translation of accepting the notion of "foundingness" with respect to the political rights of aboriginal nations into political reality. The core of my contribution details the issues and processes by which such a reality can be addressed. In addressing this theme, I focus on developments in the western part of the Northwest Territories where work, including preliminary negotiations between Native and non-Native northerners, has been already undertaken on this issue.

Le Canada vit présentement une période de grands remous constitutionnels. Pendant qu'une révision de notre constitution prend place, diverses questions concernant les relations entre les nations autochtones et les autres Canadiens font surface. Dans cet article, j'adresserai l'une des questions: Comment accepter la notion de peuple fondateur tout en respectant les droits politiques des nations autochtones dans la réalité politique canadienne? L'essence de ma contribution décrira de quelle façon on peut faire face à une telle réalité. En adressant ce thème, je me concentrerai sur les développements qui ont eu lieu dans l'ouest des Territoires du Nord-Ouest où du travail, incluant des négociations préliminaires entre autochtones et non-autochtones résidant dans le nord, a déjà commencé sur le sujet dont traite le présent article.

1. *Introduction*

Canada is now going through a period of high constitutional tension. And, as we head towards the choice between constitutional reform or the departure of Quebec from Confederation, the concept of the nature of Canada's current political structure is under review. This examination inevitably leads to asking ultimate questions about our political ideology. One of these questions is, in fact, the basis for the claim of legitimacy of Canada as a nation-state.

As Elijah Harper's stance in the Manitoba legislature attests, as this type of question moves to the fore, the relationship between Canada and its indigenous population comes into focus within the national agenda. In fact, two kinds of questions, which emerged during the last hours of the Meech Lake debate, will emerge again. The first kind relate to the place of aboriginal peoples within symbolic ideology or, to be particularistic, the "foundingness" of the aboriginal populations within the uniquely Canadian concept of "founding nations." The second kind relate to the translation of accepting a notion of "foundingness" of aboriginal societies into a political reality.[3]

The core of my contribution concerns how the second kind of issue is being resolved in the North-

west Territories. However, I wish to spend a moment on the first issue. The underlying question about Canada's legitimate occupation of its territory is connected to how Canada defines occupancy of this land prior to European presence. That is, it relates to state ideology about the inherent nature of aboriginal peoples and their societies at the time of and since first contact with Europeans.

While there is very little open discussion of the issue, Canada has put forward points of view with respect to legitimacy. In general these arguments tend to be self-serving in that they rely on versions of the settlement thesis that tend to view legitimacy as based on such concepts as the inherent superiority of Europeans or that the land was "unoccupied" prior to European contact and hence "discovered" -an image that immediately conjures up the idea that the indigenous inhabitants were either sub-human or did not exist (Asch and Macklem 1991).

Such a self-serving vision was recently asserted by the Attorney-General of Canada. In a December 1989 appearance at a court case in British Columbia on aboriginal rights, Canada argued that "if the plaintiffs (an aboriginal nation) ever had sovereignty, it was extinguished completely by the assertion of sovereignty by Great Britain (Attorney General of Canada 1989)." In other words Canada asserted that, as I have stated elsewhere: "we doubt that your people were ever civilized enough to have a political system. But even if you did, our mere presence automatically cancelled it (Asch 1991)." It is a view that is echoed in the recent *Sparrow* decision in which the Supreme Court of Canada declared that (*R. v. Sparrow* 1990:404):

> It is worth recalling that while British policy toward the native population was based on their right to occupy their traditional lands, a proposition to which the Royal Proclamation of 1763 bears witness, there was from the outset never any doubt that sovereignty and legislative power, and indeed the underlying title, to such lands vested in the Crown.

While such a view of indigenous peoples makes it easy for the state to claim complete legitimacy, it does have the unfortunate consequence of aligning the Canadian thesis of legitimacy with those espoused by colonial regimes and specifically that held by the apartheid state of South Africa. It is a thesis that is unjust and is an embarrassment to both Canada and most Canadians. And, I am sure that this is one reason why it is so infrequently expressed.

The more appropriate answer to the question, in my view, is to accept that aboriginal peoples have a legitimate claim to self-determination and political rights that precedes the existence of Canada and that, following from United Nations' principles in the post-colonial world, continue to have such rights notwithstanding the creation of the Canadian state (Asch 1984:31-34): That, in short aboriginal nations possess an inherent right to self-determination and that includes political rights and self-government (Asch and Macklem ibid).[4] Given this case, the problem, then, is not to deny such rights but rather to untangle the implications of accepting them in a manner that is mutually agreeable and thus leads to peace and harmony rather than disagreement and mistrust.

In addressing such a question, Canada could provide assistance regarding a much larger issue. In reality there is not enough space on this planet to provide a sovereign land base to every people with legitimate rights to self-determination nor the ability by existing nation-states to completely suppress the desire of peoples, through peaceful or warlike means, from striving for such status (Connor 1973).

What, then, is Canada doing with respect to this question? How, in fact, is the Canadian state attempting to address the legitimate rights of ethnonational[5] minorities? And, within that context, what is Canada doing with regard to aboriginal rights especially in the North?

2. *Canada and Consociation*

I begin with a few definitions. Following the thinking of M. G. Smith (1969), I would argue that nation-states have developed three fundamental, constitutional methods by which to organize themselves with respect to their citizens. The first, which he calls "universalistic", argues that the state (through its constitutional ideology and practice) relates to individuals only. In this view, collectivities other than the state as a whole have no official recognition. This is the true "one person-one vote" orientation to democracy. In this form of governance, aboriginal peoples, like francophones, would have no collective rights and, as M. G. Smith suggests (ibid), the result is an inexorable tendency towards the assimilation of minority cultures. The clearest example of this is the United States.

The second form of the state and one which is inherently undemocratic, Smith calls the "apartheid state." Here the state recognizes the existence of

collectivities within it. However, it organizes itself in such a way that one of these segments gains control over the reins of power and dominates the others. Obviously, South Africa provides the primary example of this form.

The final type and the one that is most interesting from our perspective Smith calls "consociational." Here the state recognizes that it is composed of various ethnonational entities and organizes itself so that, in at least some spheres, these entities can express their political rights autonomously.

I have in my own work added a relevant refinement to Smith's definition. I have divided consociations into two types. The first I call *direct* consociation; the second, *indirect* consociation (Asch 1984:77-79). In the former, the state expressly acknowledges the existence of various ethnonational collectivities in its constitutional charter. An example would be Belgium (Senelle 1978). In the latter, the official state ideology follows a universalistic premise. However the state is organized in a way, such as through federalism, that promotes a *de facto* form of consociation. Switzerland provides one such example (Schmid 1981).

While many, especially in the non-French segment might consider Canada to be a universalistic state, in fact it is, at least with respect to the French fact, a consociation (McRae 1974) and, in particular, an indirect one (Asch ibid.). Thus, although Canada has never expressly acknowledged ethnonationality in its constitution, through, for example, the division of powers into federal and provincial sphere in the 1867 Constitution Act, it has created a *de facto* or indirect form of consociation with respect to Quebec. Indeed, I would argue that the "distinct society" clause of the Meech Lake agreement is creating such difficulties because it transforms an indirect consociation into a direct one.

Canadian state ideology, then, already contains consociational principles. However, because consociation is realized through an indirect form, this has meant that constitutional protection is created not by clear statements but rather as the seemingly "unintended" or at least unexpressed consequences of other things. In particular, these other things are: (1) the division of the landscape into provinces; (2) the creation of a federal system in which provinces are given recognized constitutional authority within certain spheres; and (3) the fact that the francophone population forms a clear majority within one province. Change any of these and the current Canadian system of accommodating minority ethnonational self-government is threatened.

Because of a number of factors, not the least of which are a small population that is surrounded by others and its scattered nature across the landscape, as well as the existence of provinces, the current Canadian form of consociation cannot simply be extended to aboriginal populations; at least in the south. Therefore, new principles will have to be developed to extend such autonomy in that part of Canada. These, I believe will be first developed in the Northwest Territories. Thus, it is useful to examine the situation there.

3. *Consociation in the N.W.T.*

The situation in the Northwest Territories is very different. First, when taken as a single unit, aboriginal people form a majority. As well, unlike in the south, the non-aboriginal population resides in concentrated population centres, while the aboriginal people utilize the vast majority of the landscape. Third, the Northwest Territories is not now truly self-governing. And, the Federal Government has accepted that, as the N.W.T. moves towards true self-government and province-like status, the political rights of the aboriginal peoples, as a significant population within the jurisdiction, must be taken into account. Finally, unlike the situation in the settlement of the south, a large number of non-aboriginals accept and support the notion of the special status of northern aboriginal peoples.

The fact that the aboriginal population of the N.W.T. forms a majority is important to note. However, it is the case that this population is internally divided into, depending on one's views, two, three or four ethnonational collectivities. In the east and high arctic, there are the Inuit who number about 17,000 or roughly 80% of the total population in their region (Asch 1984:93). In the west, there are the Dene nation, an Athapaskan speaking people as well as Metis (whom some would consider to be a part of the Dene) and, along the arctic coast and islands, the Inuvialuit (whom some would consider part of the Inuit). The Dene, Metis and Inuvialuit together comprise roughly 17,000 or about 45-50% of the population in that region (ibid).

Because of fundamental cultural, historical and other differences between the Inuit (as well perhaps as the Inuvialuit) on the one hand and the Dene and Metis on the other and because of the geographical

separation of the populations (the Inuvialuit excepted), there has been a call (especially among the Inuit) to divide the N.W.T. into two independent political jurisdictions. One of these, which is to be named Nunavut, will be established in the traditional homeland of the Inuit. The other, now called the Western region but perhaps ultimately to be called Denendeh, would be developed out of the homeland of the Dene, Metis and Inuvialuit.

The N.W.T. population has developed a number of proposals to advance the entrenchment of aboriginal ethnonational rights in this region. For brevity, I will limit detailed discussion here to two proposals that were recently developed through the Constitutional Alliance -a body created in the 1980s which is sanctioned by the Government of the N.W.T. and supported by the Federal Government- that has been charged with creating principles for constitutional self-government in the Northwest Territories. This body was composed of official delegates from the Dene, Metis, Inuvialuit, Inuit as well as members from the Legislative Assembly to represent both aboriginal and non-aboriginal interests.

Following the goal of dividing the N.W.T. into two jurisdictions, the Constitutional Alliance itself divided into two independent organs: the Nunavut Constitutional Forum and the Western Constitutional Forum. Each Forum came up with a specific set of principles which were ratified at Iqaluit in January of 1987. Entitled the "Boundary and Constitutional Agreement" (The Constitutional Alliance 1987), but commonly known as the "Iqaluit Agreement," this document expressed the fundamental charter agreements negotiated by various parties, both aboriginal and non-aboriginal in each region. Each acted to positively protect the ethnonational rights of its aboriginal population. I wish here to briefly outline the conclusions of each.

4. *Indirect Consociation: Nunavut Region*

The Nunavut Constitutional Forum proposal (Nunavut Constitutional Forum 1983) follows the reasoning of *indirect* consociation. That is, it bases protection of Inuit rights primarily upon the fact that, with 80% of the total, the Inuit form a majority population in their region. In fact, generally speaking, the Nunavut Constitutional Forum's model is to extend constitutional protections that now exists with respect to Quebec to Nunavut. Thus, for example, educational rights would be in the hands of the Inuit because, through the constitutional division of powers, education is a provincial responsibility and, because the Inuit are the majority population in Nunavut, they would control education. As well, private law, which in Quebec follows the Civil Code, would follow, because they are a majority, Inuit customary law. As a final example, Inuktitut would be constitutionally protected. However, the apparent rationale for this is that it is spoken by a majority of the Nunavut population.

That this is the rationale is clearly seen when, in the Iqaluit Agreement, the Nunavut Constitutional Forum states that: "Nunavut as the first native majority jurisdiction within the Canadian federation has a particular obligation to structure its institutions so as to reflect Inuit culture (Constitutional Alliance ibid.). It is, as they stated, the desire of the Nunavut Constitutional Forum to develop a constitution based on "accepted and familiar public conventions of Canadian constitutional practice (Constitutional Alliance ibid.).

One strength of this approach is, of course, the fact that it reflects what already exists. One inherent weakness, like that of any indirect consociational arrangement, is that the Inuit might eventually become a minority. This is a concern among francophones in a Quebec of over 6 million people. It might very soon become one in Nunavut for, although the Inuit have over 80% of the population now, their absolute numbers are exceedingly small. Indeed, with a total population of under 20,000 one might foresee a situation where, with the opening of one or two major centres, the non-Inuit population could quickly outnumber the Inuit. However, this matter is not dealt with explicitly in the proposal of the Nunavut Constitutional Forum.

5. *Direct Consociation: The Western Region*

The matter of protection for minority cultures within a framework of majority rule was dealt with by the Western Constitutional Forum. The west is much more complex ethnonationally and, indeed, it is now recognized that even when all aboriginal peoples are taken together they may not now constitute a majority. Furthermore, it is clear that, at least in the near future, most migration of non-aboriginals from the south will be to the more highly developed west than to the east. Under these conditions, more complex solutions were sought. The solution developed by the Western Constitutional Forum was therefore based, at least in large measure, on the principle of *direct* consociation.

The work of the Western Constitutional Forum was greatly facilitated by the fact that the Dene Nation as well as local and regional organizations had already developed a number of alternative models for self-government in their region. One of these, "Public Government for the People of the North" (Dene Nation and Metis Association of the Northwest Territories 1982) popularly known as "Denendeh," I have discussed at length elsewhere (Asch 1984:96-99). One of its key provisions ensured protection of aboriginal political power in a system of majority rule through the use of a 10 year residency requirement. Under the new constitution, it is assumed that this residency requirement would be considered unconstitutional.

Although not adopted specifically by the Western Constitutional Forum, the Denendeh political model did play a significant role in creating the basic principles within which any form of government would be bound. These principles include (Dene Nation and Metis Association of the Northwest Territories 1982):

1. Government must be "public" in the sense that all individuals must have the opportunity to participate regardless of ethnonational background.

2. Government would have to protect the individual rights of all citizens.

3. The collective rights of the Dene (and other aboriginal peoples) would have to be protected.

4. Government would have to respect Dene (and other aboriginal) governing traditions and especially those related to consensus decision-making.

The model developed by the Western Constitutional Forum is called the "partnership" model (Iveson 1985). It is the outgrowth of negotiations that took place among the Dene, Metis, and Northerners (the label of self-designation applied by non-aboriginals), with Inuvialuit as observers, at meetings of the Western Constitutional Forum.

Following the reasoning of direct consociation, the model calls for explicit constitutional recognition of cultural communities and of the enumeration of the rights of each. The cultural communities to be named are: the Dene, the Metis, the Inuvialuit (if they remain in the west) and the Northerners. As three of these communities are composed of aboriginal peoples, the model explicitly recognizes that, among the rights to be enumerated, are "aboriginal rights."

The parties explicitly acknowledge that aboriginal people will constitute a minority within the western jurisdiction. Following from this, all parties agree that the rights of the various cultural communities, including aboriginal rights, will be guaranteed regardless of the proportion of any particular cultural community to the total population of the western jurisdiction (for the actual wording of these sections of the Iqaluit Agreement, see Appendix 1).

As the foregoing discussion clearly illustrates, direct consociation can be very simple and straightforward with regard to principles. The difficulty, as the experience in the N.W.T. bears out, is in the realization of these principles in practice. In a sense, the problem really revolves around how to reconcile the founding democratic principle of majority rule with collective rights for minorities. As preliminary discussions in the N.W.T. indicate, there seem to be at least four fundamental matters that must be addressed in dealing with this issue.

The first is a clear indication of those matters that should be decided on the basis of majority rule alone without reference to ethnonationalties and those which by contrast should be protected from this form of decision-making. This, it is clear, is a matter for intense negotiations among the parties. It is also likely that, at the outset, the majority ethnonationality will argue that virtually all matters must be decided by majority rule whereas the minority collectivities will want as little as possible to be decided on that basis alone.

While serious, detailed negotiations have yet to take place in the N.W.T., the Iqaluit Agreement specifies that, among the matters to be protected from majority decision-making is the official status of aboriginal languages. As well, the Iqaluit Agreement concedes "exclusive aboriginal jurisdiction in limited areas of direct concern to aboriginal peoples," including "land and the political protections required to ensure its maintenance." Finally, because it will be a constitutional document, it is understood that all matters agreed to in the Dene/Metis Final Land Claim Agreement with the Federal Government will be considered protected from changes made through majority rule. This means that, for example, Dene/Metis participation in wildlife management

boards and concerning a number of other matters will be protected.

The second matter is how the protection to minority ethnonationalities will be secured. In the western N.W.T. two types of protection are now under consideration. One way is through the division of jurisdiction between those matters that are to be dealt with by all communities together and presumably through majority rule and those that are to be dealt with by each cultural community separately. This should be derived from negotiations regarding jurisdiction discussed above.

However, there is another concern. It is the need to protect minorities from changes imposed by the majority. For example, a future Denendeh government that includes a large non-aboriginal majority might wish to use a spending authority provision granted to the majority to refuse to fund services in a Dene language. One proposed solution to avoid such unilateral actions by a majority is the use of a veto through the use of principles of double majority. Such a provision might follow the referendum process used in Switzerland. This would mean that such a bill would have to be put to a referendum which would only carry if a majority of all electors that included a majority of Dene/Metis electors agreed. Alternatively, it might follow a process similar to that used in Belgium. This would require that, for such matters, the Legislative Assembly of Denendeh could be divided into ethnonational segments and that to succeed this law would have to be passed by a double majority that included a majority of Dene/Metis members. Another proposed solution, that might be used in situations where a double majority principle might seem inappropriate, is through negotiations that would ensue due to a provision that the executive (or cabinet) itself be composed of members of all four ethnonational communities.

The third matter concerns the territorial jurisdiction of the arrangement. It was envisioned, at first, that the partnership model would apply to the entire western part of the N.W.T. However, the Dene/Metis may advance a different position. The recent land claim confirmed Dene/Metis ownership of 66000 square miles of land. Current government policy encourages private or ethnonationally exclusive forms of government on "reserve" lands. Following from this, the Dene/Metis may well wish to argue for exclusive Dene/Metis government on their own lands and thus wish to limit the operation of the "partnership" with non-Dene/Metis to other lands.

The extent to which the acceptance of such a division would cause difficulties in governance will depend, in large part, on the "model" of Dene/Metis government adopted at the local level. Should the Dene/Metis use a "private" form of government on Dene/Metis lands, such as band councils, this could create additional difficulties for the practice of "partnership," but none that could not be resolved through various structural arrangements.[6] However, this situation may not arise. For example, the people of Fort Good Hope (Sahtu Tribal Council 1989) have advocated the adoption of a form of local government which includes representation from all cultural communities in Fort Good Hope regardless of their number and where decision-making would be based on consensus. Were the Dene/Metis to advance this form of local government for all of Denendeh communities, their arrangements would prove easily compatible with the principles of the overall philosophy and practice of "partnership." Indeed, in a fundamental way, it would mirror the principles and practice of government at the Denendeh-wide level.

The fourth matter is the most crucial. It concerns the method of election of representatives to a Denendeh government. The key conundrum is how to reconcile the principle of one person, one vote with the reality of minority and majority collectivities. Some work has been undertaken, by myself and Gurston Dacks for example, on how to resolve this issue in the western N.W.T. (Asch, M. and G. Dacks 1985) Here, I will outline a slightly modified alternative to it.

This alternative is based on the following principles:

1. It is essential, given Canadian political ideology, to provide a system of voting based on territorial factors, such as ridings.

2. It is essential for the exercise of vetoes by minorities, as well as for election to cultural community councils, that there are separate voters lists for each ethnonational community.

3. It is essential, in order to avoid an apartheid situation, that the ethnonational voters lists be based on achievable factors rather than on ascribed ones. This approach is intended to allow

an individual from each cultural segment to move from one list to another provided only that he or she meets the reasonable, objective and achievable criteria to be on such a list.[7]

The use of these principles could produce a unicameral legislature were the people of the western N.W.T. to decide on the use of a referendum process with respect to vetoes. Were they to decide, however, on the form of veto based on votes within the legislature, it is my view that this would be best accomplished through a bicameral legislature. One chamber of this legislature would be based purely on a territorial-riding formula as now exists in provincial legislatures. The second chamber would be elected on the basis of the ethnonational voters lists. One primary function of this chamber would be to exercise its right of veto on constitutional matters of concern to affected populations. A second function would be to act as a central body with respect to matters that are determined to be within the legislative jurisdiction of each community.

While the indirect approach contains dangers, the direct approach contains great difficulties in moving from principle to practice. There is clearly much work that needs to be done on these and other matters before the west will have a realistic proposal. Still, with land claims negotiations now in the ratification stage and the issue of "self-government" back on the front burner, attention will now be focussed on this work.

6. *Conclusions*

I have spent much time in this paper illustrating the course of constitution building in the N.W.T. I have done this in part because I feel it is interesting to those who have not kept current and also, in part, because I am an anthropologist engaged in this work.[8]

As an anthropologist, I have found the exercise of constitution building instructive of our discipline. Modern political democratic traditions were born at a time prior to the recognition of culture as a primary force in shaping society. In large measure, the constitutions that were products of that age, the United States' for example, do not contemplate the rights of persons within a nation-state clashing with the rights of peoples within that state. The impact of such constitutions, on the one hand, has been the inexorable tendency (to reiterate M.G. Smith 1969) toward the assimilation of minority cultures by majorities and, on the other, absolutism with respect to the definition of self-determination as the right of a majority people to a nation-state with a defined territory. Given, as I stated above, the lack of space on this planet to accommodate such requirements, this way seems, very frequently -as the Middle East attests- to lead to states of permanent warfare.

There must be a better way, one that acknowledges both horns of the dilemma: the right of majorities to self-determination and the right of minorities to self-determination.

When looked at in this light, Canada's 1867 Constitution, took a step towards enlightenment. It found a way, albeit through indirect means, to reconcile, at least in part, these two rights. Yet, when looked at from the perspective of today, it did not go far enough. Hence, Quebec and the distinct society clause; hence, the assertion of aboriginal peoples to founding nation status within Canada.

The better answer, then, seems to be direct consociation. Yet, what I have learned thus far is that direct consociations are only elegant and beautiful in one respect: the express acknowledgement of the existence and the rights of all peoples within it. In other respects, it is hard, contractual and uninventive (at least thus far). It feels, to use a Levi-Straussianism, more like the "restricted exchange" system than the "generalized" one (Levi-Strauss 1969).

The idea of direct consociation, then, only has one advantage, but it is key. It is the advantage to reveal, rather than deny, a fundamental truth about the composition of virtually all nation-states. My northern work indicates that ideas based on direct consociation can have applicability towards the incorporation of the rights of aboriginal nations in southern Canada that now find themselves a surrounded minority within a settler majority. It also seems clear that, as the recent Supreme Court decision regarding the rights of francophones in Alberta to French education attests (*Mahe v. The Queen* 1990), Canada is prepared to accept the validity of principles of direct consociation with respect to the rights of a minority cultural community. Whether these principles can be profitably extended beyond Canada's borders is as speculative as would be the assertion that the Northwest Territories has found the correct approach to the problem.

Nonetheless, the process of Canadian constitution building based on the recognition of the continued existence of aboriginal political rights must begin somewhere. Clearly Canada's Northwest Terri-

tories is that place. For that reason alone, theirs is an experiment worth examining.

NOTES

1. This paper was original given as part of the CASCA Plenary on Ethnonationalism in Canada and the Soviet Union in June 1990.

2. I wish to acknowledge and thank Gurston Dacks and the two anonymous readers for their helpful suggestions on an earlier version of this manuscript.

3. Originally, the first two paragraphs, which were written prior to the demise of Meech Lake, read as:

> Canada is now going through a period of high constitutional tension. And, as we head towards the Meech Lake deadline, the fundamental concept of the nature of Canada's political structure is moving to the forefront. This examination is inevitably leading to asking ultimate questions about our political ideology. One of these questions is, in fact, the basis for the claim of legitimacy of Canada as a nation-state.
>
> As this type of question moves to the fore, the relationship between Canada and its indigenous population comes into focus within the national agenda. In fact, two kinds of questions are emerging. The first kind relate to the place of aboriginal peoples within symbolic ideology or, to be particularistic, the "foundingness" of the aboriginal populations within the uniquely Canadian concept of "founding nations." The second kind relate to the translation of accepting a notion of "foundingness" of aboriginal societies into a political reality.

4. This point of view is echoed in a speech made by Premier Bob Rae of Ontario (1990:3,5):

> ...If we start from the premise, the basic understanding, that before European settlers came, before, if you like, the treaties were signed in 1763, before Confederation in 1867, and before the Constitution of 1982, societies existed north of the 49th parallel which had a system of law in place, which had a system of power and values in place, which negotiated with British and French governments as they arrived...
>
> Quite specifically I say to you this: We believe that there is an inherent right to self-government, that that inherent right stems from powers, and if you will, sovereignty, which existed prior to 1763, certainly existed prior to 1867 and certainly existed prior to 1982.

5. The use of the word "ethnonational" does not originate with me. I found it first in an article by Walker Connor (1973) entitled "The Politics of Ethnonationalism." I use the term first because it differentiates the kind of collectives I am talking about from "ethnic" groups and second because it specifies more clearly that the kind of "nation" I refer to is not necessarily co-extensive with the notion of "nation" in the term "nation-state."

6. One possibility would be to have a council that would coordinate the overlapping activities of Dene/Metis governments with local governments within the "partnership" area. This is a variation on an idea that was proposed by the Dene for governance in the N.W.T. in the mid-1970s and called "The Metro Model."

7. Generally speaking, then, the factors used will not be racial in character. As discussed to date, they are intended to be "cultural" in the sense that they will incorporate key cultural understandings of what it means to be a member of the group, but will be limited in their scope to those kinds of cultural features that can be achieved on the basis of some objective criteria. For the "Northerner" community the criteria for registration on the voters list would probably only include, as it does now, Canadian citizenship and residency in Denendeh for six months. This would mean that, for example, any Dene who wished to move from the Dene (or Dene/Metis) list to the Northerner list would need only demonstrate such citizenship and residency. At the same time, registration of Northerners for the Dene (or Dene/Metis) voters list might require knowledge of the language and culture of the local Dene community, intermarriage and/or long residence (for example 10 years) in Denendeh.

8. I have been engaged in work regarding constitutional development in the western part of the Northwest Territories since the mid-1970s. I acted as an advisor to the Western Constitutional Forum with respect to the "partnership" model in the mid-1980s. As of the date of this writing, I continue to work with the Dene Nation, various Dene regions and others on issues of self-government and constitutional development in the western Northwest Territories.

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APPENDIX 1

The principles are expressed in the Iqaluit Agreement as follows (The Constitutional Alliance 1987):

> Aboriginal people will likely constitute a minority of the population in the western territory after division. Consequently, the Dene, Metis and Inuvialuit are concerned that their political rights, their culture and their future as individuals and as aboriginal peoples be secured to their satisfaction in the new constitution for the western jurisdiction. Non-aboriginal residents of the north recognize and accept the need to address the concerns of the Dene, Metis and Inuvialuit within the context of a public government system based upon democratic principles. To this end all parties to the WCF agree that the following principles shall be addressed and procedure used in the constitutional proposal being developed by the WCF.

a) The overriding objective of a new constitution is to build a system of public government which

will protect the individual rights of all of its citizens and the collective rights of its aboriginal peoples and whose overarching principle is one of bringing peoples together.

b) To accomplish this objective a new constitution must balance two principles:

i) The protection of individuals in that each and every bona fide resident of the western jurisdiction should have the right to participate in and benefit from public institutions, programs and services according to basic democratic principles guaranteed in the constitution, and

ii) The protection of the Dene, Metis and Inuvialuit in that each aboriginal community in the western jurisdiction shall be explicitly recognized in the constitution, and mechanisms shall be entrenched to enable each community to flourish as a distinct cultural entity regardless of its proportion of the total population.