

POLICY STATEMENT ON INDIAN SELF-GOVERN-  
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# Information

**POLICY STATEMENT ON  
INDIAN SELF-GOVERNMENT IN CANADA**

**BY THE**

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## **I The Government's Commitment to Self-Government**

In 1983, the all-party Report of the Special House of Commons Committee on Indian Self-Government recommended that a new relationship between Indian First Nations and the federal government be established. The basic elements of that new relationship would be ones which would place native people themselves in charge of change affecting their lives. The objective of establishing a new relationship would be to break the dependency cycle which has continued to characterize the relationships between governments and Indian peoples.

In particular, the Special Committee endorsed constitutional entrenchment of a right to self-government as the surest way to achieve permanent and fundamental change in the relationship between Indian people and the federal government. In the on-going constitutional discussions, self-government has been the main issue. The federal government is committed to seek, in the multilateral forum, agreement among all parties for constitutional protections for aboriginal rights, including the right to self-government. The Prime Minister of Canada, Brian Mulroney, made the federal position clear in his statement at the First Ministers Conference on Aboriginal Constitutional Affairs in April 1985 when he stated "The key to change is self-government within the Canadian federation...Constitutional protection for the principle of self-government is an overriding objective

because it is the constitutional manifestation of a relationship, an unbreakable social contract between aboriginal peoples and their governments."

We all recognize that amending constitutions is normally a slow process. Negotiating constitutional amendments and seeking agreement among seventeen delegations is a challenging undertaking. As we move ahead in seeking agreement on constitutional amendment at the next First Ministers' Conference in 1987, there are many practical measures that I am embarked upon to help advance our understanding of self-government and assist in making it a practical reality. Self-government is a major theme and priority of my department. It is so, because that is what Indian leaders and communities across this country are telling me it should be.

## **II Community-Based Self-Government Initiatives**

One of the major difficulties, in trying to deal with the concept of self-government in aboriginal terms, has been the failure of governments, and Canadians generally, to understand its meaning in pragmatic terms. An important part of the practical reality is that self-government is a local event with different meanings to different communities. Since the federal government believes that local communities, not central governments, are best able to make the important decisions affecting people's daily lives, discussions and negotiations to advance self-government will be community-based; conducted at a practical level and at a measured pace; and, tailored to specific circumstances that exist today.



The pragmatic objectives of self-government and ones which derive from the Penner Report support the following principles:

- o that it must substantially increase local control and decision-making capability;
- o that it be flexible in order to recognize the diverse needs, traditions and culture of Indian people; and
- o that it lead to greater accountability by Indians to their own electors, rather than to the federal bureaucracy.

By embarking on a process of community-based self-government we will:

- o ensure consultation and involvement with Indian people at the grassroots level on changes that will affect them;
- o expedite practical measures to increase self-management and self-reliance in Indian communities;
- o encourage a collaborative approach to change, possibly including new statutory and other arrangements among both orders of governments and Indian peoples;
- o improve the effective use of current expenditures on Indian programs, and identify the potential costs of progressive implementation of self-government; and

- o provide background information and a practical context for development of a constitutional definition of aboriginal self-government.

But above all, our approach is to respond to community initiatives. We are not formulating the prescriptions for change. Rather, we are consulting with Indian peoples on our policies and we are assisting Indian communities to develop their own approaches on self-government. We are assisting Indian people to reposition themselves within Confederation.

### **1. Toward Self-Government - Within the Indian Act**

Self-government can be achieved in a number of ways; both the route toward self-government that is chosen by the community and the pace of progress, however, will be determined by the communities affected. Many would prefer, at least initially, to explore options for developing more autonomy and self-sufficiency under the Indian Act. We are responding to these initiatives by focussing efforts toward the enhancement of by-law making capacity, the development of alternative funding arrangements and the promotion of economic development. With enhanced by-law capacity an existing band would take on increased responsibility for the regulation of conditions within its own territory. A task force is currently working to define the full possibilities of enhanced by-law capacity. Beyond that, we are seeking to amend the Indian Act where that is desirable. In particular, we are working with the Kamloops Indian Band on developing amendments to the

Indian Act which will allow bands to levy local property taxes on their lands.

With alternative funding arrangements, an existing band government or, possibly, an existing tribal council, regional or provincial association would take on increased responsibility for the delivery of programs. It may do so either in one sector, such as child welfare services, medical services, policing or education, or for a number of sectors. Bands or associations would be responsible for providing an adequate standard of services and would be accountable for expenditures. But, subject to only very broad guidelines, they would be able to determine how they wished to deliver the services and how they would allocate funds to different services. It is expected that up to 50 communities may be willing and interested to enter into these arrangements during the first year of implementation.

Tripartite agreements are also a means whereby Indian communities can play a larger role in the development and delivery of social programs and economic development undertakings. We already have examples of federal-provincial-Indian child welfare agreements in Nova Scotia and New Brunswick. In the area of education, we are re-negotiating a Master Tuition Agreement in British Columbia.

A community may also increase its real measure of independence by promoting its own economic development. The department is developing a series of new programs and policies in consultation with

Indian peoples to help in this respect. For example, initiatives supporting small business development are being pursued actively with Indian communities. We are also encouraging proposals for funding Indian initiatives to the Native Economic Development Fund. Economic development does not, by itself, constitute a formal increase in the community's independence. But it is, in reality, one of the most important steps Indian communities can take to increase their control over their own affairs.

## **2. Toward Self-Government - Beyond the Indian Act**

A number of communities have indicated that they would like to pursue comprehensive self-government arrangements which would move them beyond the limits of the Indian Act. They have offered proposals relating to such things as the structures and institutions of self-government, membership, jurisdiction over land and resources and the environment, language, culture, and education; health and social services; child welfare; and economic development. We are now working with these communities to develop proposals to the point where we can begin more detailed and concrete negotiations.

To support our policy of self-government and community-level negotiations, a new Indian Self-Government Branch to be headed by an Assistant Deputy Minister has been created. This unit is not an add-on to the existing departmental structure; rather it is an integral part of a comprehensive reorganization of the Indian and Inuit Affairs



program and related units. In addition to the Self-Government Branch, there are Economic Development, Indian Services, and Lands, Revenues and Trusts Branches.

Self-government proposals which indicate a need to move beyond the Indian Act will be assessed by the Self-Government Branch, regional offices and the community for clarification and information.

Detailed assessments will be conducted with a view to establishing the quality of the proposal, the level of community support, consistency with the government's mandate for self-government negotiations, financial viability, the scope of powers within the parameters of the Canadian constitutional principles and governmental practices, its achievability, feasibility and cost requirements. The extent to which the proposal may offer the opportunity to obtain practical experience on a variety of different self-government policy issues will also be taken into account. Our goal is to answer some of the questions about the nature of self-government in concrete terms. We expect to be involved in the development of an array of governmental and financial arrangements to suit individual communities, but always within the broadly-defined parameters of Canadian constitutional and governmental practice.

The diversity in aspirations and historical and political circumstances of aboriginal peoples represents a real challenge to our abilities to find imaginative solutions to many different kinds of

issues. Indian communities find themselves in widely divergent situations - in every province and territory, in areas covered by pre-confederation peace and friendship and land cession treaties and post confederation numbered treaties, and in areas where no treaties have been signed. Several communities are located in more than one political jurisdiction - traversed by provincial and even international boundaries. Some communities are located in areas that are quite remote and others in areas that have been heavily settled and developed by non-natives. Some communities have a solid resource base and others enjoy limited opportunities for resource development.

We want to demonstrate that self-government can work everywhere, regardless of the particular circumstances of each community. These initiatives will provide valuable examples for provinces and territories, as well as for other communities who find themselves in similar situations. Consequently, we will be selecting for special attention examples which contain a number of different elements which can help illustrate the type of solutions that are possible across a broad range of circumstances.

1986 will be an active year for community-based Indian self-government. There are a number of global community-based proposals that are moving ahead. A key one is the Sechelt proposal which is set out in Bill C-93 and currently before the Standing Committee on Aboriginal Affairs and Northern Development. The enabling legislation provides, among other things,

for the transfer of fee simple title of Sechelt lands to the Sechelt Band in British Columbia and for the management of those lands according to a band constitution. The legislation sets out the broad parameters for the definition of the particular powers and law-making authority of the Band to be negotiated and set out in its constitution. The legislation also contains a provision for the negotiation of funding agreements in the form of grants or transfer payments which will be administered by the Band Council who will in turn be accountable to their own electors. The Sechelt proposal reflects that community's aspirations; it is not a model for others. Other proposals are being developed in communities across the country. The diversity of community needs and aspirations is reflected in the representative mix of cases that we are discussing currently with different communities. Some of these cases include:

**Pointe-Bleue in Quebec**

This community is taking a global approach in the changes which will lead to greater control and authority by the community across a range of sectors and issues ranging from land and land management to environmental matters.

**Nishnawbe-Aski Nation in Ontario**

This case involves a treaty grouping of some 42 communities. A tripartite Memorandum of Understanding was signed by the federal government

and the government of Ontario in February 1986. Negotiations will proceed on a sector by sector basis within designated timeframes.

#### Mohawk Tribal Council/Akwesasne in Ontario

The Mohawk Councils of Akwesasne, Kahnawake and Tyendinaga submitted a position paper on Mohawk Government to the Standing Committee in October 1985. Discussions are being held with the communities on practical measures which may be taken to help strengthen self-government in the community according to their timetables and needs.

#### Swampy Cree Tribal Council in Manitoba

A Political Accord was signed between the Tribal Council and the Minister of Indian Affairs and Northern Development. A joint bilateral process has been established between community and departmental officials. The objective of this process is to achieve the maximum degree of self-government within the present legal and administrative framework and to identify steps whereby legislative authority beyond the current situation could be obtained.

#### Saddle Lake in Alberta

Another example of a treaty community, Saddle Lake, has proposed far reaching changes in the area of legislation, administrative reform, economic development and tribal justice system. A joint process is underway to identify mutual goals,

underlying principles and parameters of a negotiating process.

I want to emphasize that those communities which do not feel ready to move towards greater self-government need not feel under pressure to do so. In the end, it will be up to each of Canada's Indian communities to decide whether or not it wishes to undertake the journey. We will help those which wish to move towards self-government, but we will continue to provide services, as we have in the past, for those which are not yet ready to change.

Community-based self-government negotiations will occupy a high priority in the Department of Indian Affairs and Northern Development. While we intend to focus considerable effort toward negotiations leading to community-based self-government, we intend to strive to complete the constitutional process. It is our belief that the community-based negotiations will make a valuable contribution to the constitutional process and help it to achieve success. In the meantime, we are convinced that there are immense gains to be made by undertaking negotiations which are community-based, tailored to specific circumstances and which move forward steadily at a measured pace.

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