

**ROYAL COMMISSION ON ABORIGINAL PEOPLES  
CANADIAN GOVERNMENT AND ABORIGINAL PEOPLES PROJECT  
THE CASE OF SASKATCHEWAN-ABORIGINAL RELATIONS**

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### **Executive Summary**

Saskatchewan has a reputation as a progressive province. Yet while the province has some unique protocol arrangements with Aboriginal organizations, it is not significantly ahead of either Manitoba or Alberta in its treatment of First Nations and Metis. First Nations self-government is of course something that is primarily a negotiation between the federal government and the First Nations with the province on the sidelines. With the Metis however, the province has an opportunity to take a greater leadership role in helping them achieve self-governing arrangements. However, the history of the provincial government's relationship with the Metis Nation has not always been cordial and it is hoped that recent developments in terms of protocol arrangements and other recognition will eliminate the previous conflicts and allow the two parties to negotiate as equals.

The government of Saskatchewan has recently entered into a new, cooperative phase in its policy response to First Nations and Metis in the province. While the policy used to swing from a program/policy focus when the CCF/NDP were in power to a market-based/job creation focus with the Liberals and Progressive Conservatives, the emphasis is now on developing partnerships to promote self-determination, including self-government. The current government of Saskatchewan has attempted to foster a "new cooperative federalism" which emphasizes a formalized, co-operative and open process that will facilitate discussion amongst equals and, most importantly from the provincial point of view, avoid unilateral action by any of the parties, despite jurisdictional supremacy.

The province has come to a point where it recognizes the inherent right of Aboriginal people to govern themselves. This has become the principle that drives their considerations and policies. However, the sense in First Nations and Metis communities is that little real progress beyond the rhetorical has been made, and there is a feeling that the provincial government's interest in Aboriginal issues centres on ensuring that the federal government not attempt to off-load financial responsibility on to the province.

There is clearly frustration felt by First Nations and Metis in the province even though the government has taken some steps that other provinces have not even contemplated. Yet of course other provinces do not have the same concentrations of Aboriginal peoples and consequently do not have the same pressures, responsibilities and obligations to act. The difficulty for Aboriginal people in Saskatchewan is that while the government accepts that they have an inherent right to self-government, as a provincial government it must balance this with the needs of the whole province. Their goal then is not self-government itself, but positive results in terms of the social and economic well-being of Aboriginal people. As a result the government feels that self-government must be guided by the idea of maximizing self-reliance and self-determination. For many in the Aboriginal community such language is merely a tactic to delay the coming of self-governing institutions. If past practice is any indication they are probably correct.

### **Recommendations and Conclusions**

1. The province of Saskatchewan has successfully negotiated protocol arrangements with both the First Nations and the Metis Nation. These arrangements are necessary to ensure the provincial government maintain strong ties with Aboriginal organizations who face the challenges associated with federalism and its

division of powers which may overwhelm Aboriginal groups and seriously delay the path towards Aboriginal self-government in the province of Saskatchewan. The importance of protocol arrangements is to have all actors operating as equals in the process and these arrangements must be respected.

2. The Province of Saskatchewan must accept and respect the treaty relationship that exists between the First Nations and the federal government and the sovereignty that this gives to First Nations in the province. In its actions, the province needs to regard this as another form of intergovernmental negotiation. It must also respect the desire of First Nations to conduct self-government negotiations with the federal government without any provincial involvement.

3. The provincial government should create a made-in-Saskatchewan Metis Act which recognizes the Metis as a Nation. This will help the Metis in establishing their claim to nationhood. This Act should also provide a mechanism for a Metis controlled population registry. This might also help the Metis achieve recognition under section 92/24 of the Constitution.

4. The Province should work with the Metis Nation to establish a Land Claims Process. They will need to be an active partner in the process of land claims as they were with the First Nations due to their ownership of Crown lands. To date, the Metis have no process other than the courts for resolving their land claims and this situation is increasingly creating strains in northern Saskatchewan between the provincial government and the Metis dominated communities.

5. The province must establish a framework for the transfer of jurisdiction to First Nations and Metis in the important areas of taxation, revenue sharing, health, justice, policing, gaming and resource management. While these are bound to be controversial actions some quick progress in terms of process needs to be made as an act of good faith.

6. A serious problem has been the habit of both federal and provincial governments treating Aboriginal peoples as one homogeneous group. The government of Saskatchewan must recognize that there are at least three major groups of Aboriginal peoples in Saskatchewan - First Nations, Metis, and Non-Status Indians - and all must be treated decently and with respect. This involves an acceptance and respect of the organizational choices made by the various groups.

7. One of the key factors in the transition to self-governing arrangements is the existence of effective organizational structures. The provincial government should ensure that funding for Metis organizations is adequate to the task of providing representation as well as service delivery and refrain from funding freezes and other interference with the internal politics of the Metis people.

8. Both First Nations and Metis women have expressed concern about a lack of representation in the mainstream organizations and the need for adequate levels of funding for their service delivery functions. The government should ensure that Aboriginal women's organizations that have a service delivery functions are funded so that these services can be provided at an adequate level. Sensitivity will be required so as to ensure that this is not perceived as interference with the internal politics of Aboriginal organizations, but the obvious sense of frustration experienced by Aboriginal women in Saskatchewan cannot be ignored.

9. The province of Saskatchewan and the federal government must encourage the development of the basic infrastructure arrangements for self-government by developing the institutional capacity and autonomy of Aboriginal political structures and service delivery organizations.

### **Acknowledgement**

This document was prepared under extremely tight time restrictions and would not have been completed without the assistance and cooperation of a number of individuals. I have received excellent help from two skilled research assistants, Lisa Brown and Gordon Lawson. Gordon was particularly helpful in compiling the economic statistics in Appendix 2. I have also benefited from many conversations with individuals at the University of Regina and the Saskatchewan Federated Indian College, particularly Jim Pitsula, David Miller as well as John Hylton. The report also greatly benefited from the proof reading of Suzanne Posyniak. Finally, numerous individuals in the Metis and First Nations community as well as provincial public servants have generously consented to long interviews and have been invaluable in directing me through the intricacies of the relationship between the government and the Aboriginal communities in Saskatchewan. I promised all interview subjects anonymity, and any direct quotes will not be attributed. Of course, as always, any errors or omissions in this report are my responsibility alone.

## I Introduction

The aim of this chapter is to bring some clarity to the complex set of relationships that exist between First Nations and the government of Saskatchewan and Metis and the government of Saskatchewan. It is important to keep in mind the simple fact that the relationship between First Nations, Metis and the province exhibit considerable variation, and throughout this chapter the differences in the legal and constitutional positions of the two prominent Aboriginal groups will be emphasized. While the best possible way to approach this topic would have been to have individual chapters on First Nations and the Metis, this was not possible given the restrictions of the mandate. However, at all times an effort will be made to present the distinct positions of First Nations and Metis regarding the issues of self-government, land entitlements, control of social services, etc. These differences must be kept in mind in any policy analysis because of the strong and highly developed sense of nationalism that exists in both First Nations and Metis communities in the province. Neither group wants to be dealt with in a pan-Aboriginal manner by government and every attempt will be made to respect this desire in the discussion to follow.<sup>i</sup>

One generalization that can be made however, is that successive provincial governments have offered little help to either First Nations or Metis in Saskatchewan in their struggles to gain greater control of their lives. For generations governments in Saskatchewan ignored the plight of First Nations, eroded their jurisdiction, denied their claims and then suggested that whatever difficulties they faced in Saskatchewan were a federal concern. The Metis fared no better in the face of largely indifferent provincial governments who have been incapable of understanding their claims, ignored the burdens of racism and discrimination that they faced, and denied their claims to Aboriginal status. But while facing similar racist attitudes and discriminatory provincial policies, both First Nations and Metis have consistently pursued different aims and ambitions.

The current government of Saskatchewan has attempted to alter this situation and has begun to foster a "new cooperative federalism" which emphasizes a formalized, co-operative and open process that

would facilitate discussion amongst equals, and, most importantly from the provincial point of view, would avoid unilateral action by any of the parties, despite jurisdictional supremacy. Yet it would be wrong to assume that the current government in Saskatchewan is much more progressive than other provinces with regards to the issues facing First Nations and Metis people. It is true that the NDP government went through the Charlottetown Accord process and has come to a point where, in the words of Attorney General Robert Mitchell, "....The Government of Saskatchewan recognizes the inherent right of Aboriginal people to govern themselves. This is the fundamental principle that drives all of our considerations and all our policies in this area and it will continue to do so." However, the sense in First Nations and Metis communities is that little real progress beyond the rhetorical has been made, and there is a feeling that the provincial government's interest in Aboriginal issues centres on ensuring that the federal government not attempt to off-load financial responsibility on to the province.

The issue of federal fiduciary responsibility is an issue on which all three parties in the province agree. While all have different reasons for wishing to ensure federal financial and jurisdictional integrity they agree that it must take place. The government of Saskatchewan's insistence comes from an understanding of the changing demographic picture of First Nations and Metis in Saskatchewan. The provincial government invariably begins its discussions of Aboriginal issue with an acknowledgement of the large numbers of Aboriginal people in the province as well as the population projections for the future. The main feature in this is the fact that Saskatchewan has amongst the highest percentages of both First Nations and Metis people of any province in Canada. There are some 69,385 First Nations and 32,840 Metis people in Saskatchewan.<sup>ii</sup> The figure with regards to the Metis are, however, not considered accurate by the Metis Nation who believe that the "data is profoundly flawed and clearly demonstrates the necessity for a thoughtful, Metis driven census process."<sup>iii</sup>

One of the most important statistics for the provincial government is the fact that 15 percent of all treaty Indians live in Saskatchewan as opposed to only 4 percent of total Canadian population. Thus the financial implications of any cost-shared arrangements are a concern for the province. The other feature that

is of interest comes in the fact that over 50 percent of the Aboriginal population is under 19, compared to the rest of the population in which this figure is only 30 percent. At current projections between the years 2005-10, 25 percent of the province could be of Aboriginal origin. A final factor is the internal migration patterns which have resulted in increasing numbers of Aboriginal peoples leaving crowded reserves and isolated rural communities for opportunities in the cities. It is estimated that at least 50 percent of the First Nations population lives off-reserve and 61 percent of Metis live in Urban areas.<sup>iv</sup>

The real concern that the province has expressed is that the federal government's long-term commitment to providing funding for self-government is less than total. Thus the province faces a very bad scenario in which the federal government might refuse to fund services for an ever increasing off-reserve population while at the time encouraging the province to contribute or reallocate resources to on-reserve initiatives from which the federal government itself may not remain financially committed. Thus the province is very cautious when the federal government encourages it to negotiate with First Nations. Indeed it would like to see long-term core funding established as a federal responsibility, with the province making much less modest contributions.

While the provincial government recognizes that the issue of First Nations self-government is a matter between the federal government and First Nations, they feel that it invariably raises issues of coordination with the province in certain areas such as in the administration of justice, the settlement of treaty land entitlement, the establishment of urban reserves, child welfare, social services and health. First Nations disagree quite strongly and do not wish to have the province involved in discussions about self-government. Even though the federal government wants the provinces involved, the province most often is reacting to an agenda established by First Nations and the federal government. While the Metis are not as adamant about keeping the province out of these negotiations, they do have clearly articulated ideas about the parameters of self-government and are clear and precise about what they want from the governments involved.

The fact that self-government and other Aboriginal issues remain near the top of the political agenda in Saskatchewan has been due to the persistent efforts of the First Nations and Metis of Saskatchewan.



While some Saskatchewan governments have been more sympathetic to these aspirations than others, and have even offered some limited financial support to First Nations and Metis in their struggles with the federal government, no government in Saskatchewan can take much credit for the progress that has been made. First Nations and the Metis Nation have created a momentum which observers from all sides suggest cannot be stopped. The major issue to be resolved now is over the parameters of the inherent right to self-government for First Nations and Metis. For First Nations these parameters have long been acknowledged to include such issues as the selection of forms of government, the power to determine membership, the regulation of domestic relations, and all judicial functions to name just some of the obvious powers. Provincial and federal governments have been less willing to concede on these points, and as recently as April 1995, the FSIN angrily denounced the leaked federal policy on self government, which included provincial participation in self-government definition and the negotiation process.

This study will attempt to examine the dynamic that is shaping the steps that are being taken in the province towards increasing First Nations and Metis self-government. The aim of this report is to provide some basis for understanding the limits and opportunities that are available in Saskatchewan's approach to furthering the issue of First Nations and Metis self-government. While for obvious reasons the province is less extensively involved with First Nations, a positive government-to-government relationship with First Nations is of benefit to both parties. The Metis, who, without treaty rights or a land-base face a much different and arguably, tougher battle much of which will be fought in a strictly provincial forum. And while the Metis leadership remains confident about the prospects of achieving both a land base and self-government, officials in the provincial government tended to be less optimistic and see the realization of Metis aspirations to be a very long term prospect.

The key feature in understanding Aboriginal-government relations in Saskatchewan is to accept the desire of First Nations and Metis to be considered separately. This is something that has not always been fully appreciated by both federal and provincial government, who have offered programs and policies aimed at "Aboriginal peoples" in Saskatchewan. Both Aboriginal groups, however, insist that their differences and

distinctive process be respected, and any policy which tries to create "pan-Aboriginal" solutions is bound to fail. The concern for the distinctions comes from the obvious fact that the two groups have substantially different histories, cultures, institutions and, ultimately, different aims and ambitions which must be understood and respected if progress on important issues relating to self-government are to progress.

**II****Historical Background in Saskatchewan**

Any discussion of current relations between the government of Saskatchewan, First Nations, and Metis must begin with some remarks about the historical path that brought these groups to their current positions. While the general outlines of this history are reasonably well-known, there are a few facts which impact upon the current state of relations and the negotiations that are currently under way towards greater levels of self-determination for First Nations and Metis.

There are of course two parallel histories in the province, one concerning First Nations and another concerning Metis. For First Nations the central historical fact in their relationship with the province stems from the treaties that they signed with the Crown guaranteeing them land and the right to self-determination. (See Illustration 1) Thus for most of their post-conquest history, they have dealt with the federal government as the sole representative of the Crown and have been trying to have the federal government live up to its treaty obligations from the day they were signed. Complicating this issue is the fact that while treaties were signed with the Crown, the Crown was eventually divided and the Saskatchewan government entered the picture. Yet for First Nations, Saskatchewan is a post-treaty institutions which is always secondary to the treaties signed with the federal Crown. Because the Metis had no treaties, they have had a much closer relationship with the provincial government which was often the only level of government that would deal with their concerns.

Illustration 1

(The Numbered Treaties)

About Here

The one common feature of both histories is that relations between Euro-Canadians and themselves passed through the various phases of cooperation to the age of "irrelevance" in a much shorter space of time

than was the case with their counterparts in the East.<sup>v</sup> A major part of what Euro-Canadian society has come to regard as the culture of both the Indians and the Metis of the West took shape only in the early eighteenth century, when firearms combined with the horse to alter forever the existing culture of the Plains Indian and created that of the Metis.

Commerce, of course, developed in Western Canada around 1670 with the formation of the Hudson's Bay Company. During the period between the establishment of British hegemony in the 1760s, and the Northwest Rebellion in 1885, one scholar has even gone so far as to suggest that both First Nations and the

Metis experienced a golden age of prosperity:

The horse facilitated the exploitation of the buffalo herds and the extension of overland routes; the fur trade made available a new range of goods and more importantly, provided new markets for products of the hunt. This meant that as long as the herds lasted, Plains Amerindians were able to hold their own and indeed to reach new heights of cultural expression as their societies became increasingly complex. They were even able to overcome to a large extent the demographic disasters precipitated by introduced diseases. But they did not have time to make their own accommodations to the disappearance of the herds upon which all this was based. The dramatic suddenness of the disappearance of the buffalo catapulted events beyond their control."<sup>vi</sup>

With the extermination of the Buffalo around 1879, resulting from a combination of Hudson Bay Company and Metis activity, the Plains Indian economy was permanently disrupted. This fact also led to the signing of the so-called numbered treaties during the 1870s through which First Nations attempted to preserve what they could of their way of life and independence in the face of the arrival of Euro-Canadians. For the Indians the signing of treaties amounted to a pact of friendship, peace and mutual support; they did not constitute the abandonment of their rights and interests.<sup>vii</sup> The Dominion government had a different motivation and interpretation of the treaties which were primarily based on a desire to void the American experience of an expensive and time consuming "Indian war."<sup>viii</sup> Despite the record of ignoring treaties, the Canadian government continued to make treaties with Saskatchewan First Nations up until the early part of 20th century as part of its overall scheme to develop the agricultural potential of the West, to open land for railway construction and ensure that the prairies would become part of Canada through a series of economic and commercial ties. For Ottawa the policy from this point on was to eliminate the Indians, not through

violence but through assimilation. The preferred means was to have the Indians adopt an agricultural way-of-life and accept the healing balm of Christianity.<sup>ix</sup>

Despite the fact that even as early as 1880 Indians had ample reason to be dissatisfied with their treatment by the federal government, First Nations respected the peace treaties that they had entered into with the government and avoided confrontation. They saw the basis of their economy shattered in the 1870s, and they watched in the 1880s as their new relationship with the Dominion of Canada failed to provide them with the development assistance on which they had counted.<sup>x</sup> Despite this treatment First Nations never engaged in much openly hostile action against the government of Canada, although some did eventually occur. Ultimately, they preferred to pursue peaceful means to resolve their disputes with a federal government unwilling to live up to its obligations.<sup>xi</sup>

The Metis have a much more recent history on the prairies, but developed a strong sense of nationalism by the middle of the 19th century based on their lifestyle, language, kinship patterns, customs and economy. What added to the idea of Metis nationhood were the conflicts and discrimination they endured, first in dealing with the Hudson's Bay Company, and latter with the Canadian and Saskatchewan governments over who owned the land that the Metis lived on made a living off of.<sup>xii</sup> These long simmering grievances about land ownership resulted in both the Red River Rebellion of 1869 and the North-West Resistance of 1885. For the Metis, both actions stood then, as they do now, for their right to self-government and self-determination as a nation. The Rebellion of 1885 was the last stand of the Metis before the onslaught of mass immigration at the turn of the century.<sup>xiii</sup> With defeat it appeared that the Metis might simply disappear as a distinct people. Against great odds they remained a distinct and independent culture, with strong claims to nationhood.

The political consequences that followed the events of the 1880s have been well documented. "Both the western Indians and Metis were adversely affected by the heavy agricultural settlement after 1895, becoming steadily more impoverished and marginalized.... Both Metis and prairie Indians would be a long time in recovering sufficiently from the traumas of the late nineteenth century to mount an effective political

challenge."<sup>xiv</sup> After 1885 both the Metis and Indians suffered different fates, but both shared the same decline in living conditions. They no longer played a critical role in commerce save in the North, they were not considered vital as military allies and they were even less useful for purposes of exploration and mapping than previously had been the case.<sup>xv</sup>

It is important to note that while the way of life of the Plains Indians were effectively altered with the end of the Buffalo hunt and the coming of mass immigration, the Northern Indians were insulated from these events until the 1930s. The North had been settled for centuries, but with the advent of the fur trade greater numbers moved North, first the Cree from Ontario and Manitoba, followed by the Dene who first moved south from the southern tundra towards Fort Churchill and then into the western parts of Northern Saskatchewan, near the present settlements of Patuanak and La Loche. Two groups of Cree, the Woodland and Swampy Cree, came to dominate the Churchill River and Saskatchewan river fur trade. At the same time, Metis moved westward and northward from Winnipeg to Fort a la Corne, to Green Lank and then on to Ile a la Crosse. These groups remained relatively static during the 18th and 19th centuries with little movement outside of their established territories.

During the forty year period between the granting of provincial status in 1905 until the election of the CCF government in 1944, provincial governments in Saskatchewan were almost exclusively concerned with the problems of settlers and paid little attention to the plight of either Indians, who were a federal responsibility, or the Metis who were now citizens of the province of Saskatchewan and a provincial responsibility.<sup>xvi</sup> The province engaged in little activity, and whatever minimal contacts did occur with the Metis were generally with the provincial Department of Education.<sup>xvii</sup> This was due to the fact that in 1910 Metis were explicitly excluded from federally funded schools and the provincial government was under increasing pressure to provide some form of education in Metis communities or provide space for them in existing Euro-Canadian schools. However, it was not until 1941 that the province actually began schooling Metis children.

In 1930 Ottawa transferred ownership and jurisdiction of Crown lands over to the three prairies

provinces, which served as catalysts in bringing these provinces into closer contact with First Nations. Crown lands were the one area where the greatest contacts occurred between Indians and provincial governments due to the fact that it was on these lands that Indians particularly in the North, still made their living. "The transfer agreements included an important statement that reaffirmed treaty rights to hunting and fishing, albeit it (sic) in a more restricted way. The act promised that the said Indians shall have the right, which the province hereby assures them, of hunting, trapping, and fishing game and fish for food at all season of the year on all unoccupied Crown lands and on any other lands to which the said Indians may have a right of access."<sup>xviii</sup> Yet this did not stop the three provinces from seeking a myriad of ways of subjecting prairie Indians to the restrictions of their same fishing and game laws. The Indians of Saskatchewan consistently rebuffed their attempts and the result was that there were thousands of prosecutions of Indian for violation of hunting an fishing laws.<sup>xix</sup>

The other event which disrupted the lives of both First Nations and Metis in the North was the large scale arrival of Euro-Canadians in the 1930s who moved north with the hopes of earning an income during the Depression years.<sup>xx</sup> Commercial fishing, mining and logging began to take place in the North with the encouragement of the provincial government. In addition, the province began to move Metis into the North and on to agricultural colonies with the aim of turning them into agricultural workers. Prior to the movement of the Euro-Canadian population into the North there were virtually no government services available there. The only institutions that existed prior to the 1930s were the church and the Hudson's Bay Company. But beginning in the 1930s the economy of the North changed from traditional activities of hunting and trapping to more logging, mining and commercial fishing, and thus the presence of the government became more intrusive.

In the southern part of the province, the 1930s marked the beginning of a period in which the government of Saskatchewan could no longer ignore the plight of the Metis population and would have to take some type of action. This was particularly true with regards to Metis in two particular areas: municipal services and schools. Because of their extreme poverty, the Metis did not contribute to the tax base of local

governments, but also because of their poverty they had the potential to overburden the social assistance programs administered by the municipalities.<sup>xxi</sup> While the problems of the Metis had been successfully ignored for decades, the steady growth in the Metis population, coupled with financial constraint imposed on municipalities by the Depression made Metis poverty an irrepressible provincial concern.<sup>xxii</sup> It was this pressure from municipalities, both rural and urban, that finally brought the provincial government into its first sustained relations with the Metis in the South.

### **The Modern Era**

The "modern" era of provincial/Aboriginal relations was inaugurated with the arrival of the CCF government of Tommy Douglas. Two things were to characterize this 50 year period. The first was an attempt to treat Indian and Metis people as an interest group, one which could become a valuable ally to the party in power in key constituencies, particularly in the North where they formed a majority. The attempt to draw treaty Indians into partisan political positions began in earnest when they were given the vote in 1960. The other characteristic feature of modern relations between Aboriginal peoples and the province of Saskatchewan has been the pendular movement of provincial policy which swings towards social policy and program delivery under the CCF/NDP, and then towards economic development and market-based reform under the Liberals and Conservative regimes. Within the CCF/NDP, there is a belief in the power of government and social policy to deal with the problems of Aboriginal peoples; with the Liberals and Conservatives there was a feeling that Aboriginal peoples needed to understand the operations of the market which would provide them with the solutions to their problems. Thus for the past fifty years Aboriginal peoples have been caught in a pendulum of changing government priorities, in which the party in power looks for Aboriginal leaders who identify with their favoured approach.

Tommy Douglas, like a number of other Saskatchewan premiers in the post World War II period, had a strong personal interest in improving the condition of Aboriginal people. Yet like all other premiers he was motivated both by personal concerns about social justice and partisan concerns about developing the North



for the benefit of the South (and the CCF party). To be fair, the CCF, with their egalitarian ideological orientation, did have a strong desire to try and bring about improvements in the position of Aboriginal peoples in the province. Yet it was clear that however well intentioned, provincial efforts had all the defects that would appear in the Federal White Paper in 1969. That is, the provincial government wanted to see Indians and Metis fully accept provincial citizenship and become members of the mainstream culture. They did not want to take over treaty obligations, rather they wanted treaty Indians to abandon those rights in exchange for provincial social services and assimilation into the dominant culture. "The conceptualization of the Indian Dilemma and the prescriptions of remedies were virtually identical to what the federal government would offer in 1969."<sup>xxiii</sup> Essentially, the CCF wished to treat Indians in a manner that was similar to the way that other residents of the province of Saskatchewan were treated. A recent, thorough examination of the relationship between the CCF government and treaty Indians concludes that, "The notion that Indians should constitute a distinct, self-governing entity, separate from the rest of the population was completely alien to the Saskatchewan CCF."<sup>xxiv</sup>

The CCF's integrationist perspective lead the Douglas/Lloyd governments in the direction of three major policy initiatives: the granting of the provincial franchise to Indians; the extension of equal liquor rights; and the effort to have responsibility for Indian affairs transferred from federal to provincial jurisdiction. While the first two were successfully implemented, the third was doomed from the start and eventually abandoned in the early 1960s. Yet all three major initiatives of the CCF shared a view that treaty Indians were citizens of the province and should be treated as such, with no special programs - federal or provincial - that would permanently "segregate" this group from the majority population. All the policies of the CCF were based on the notion that Aboriginal peoples were citizens in a democracy and should be treated equally and should relate to government institutions in a similar manner. The distance that the province of Saskatchewan has moved on this issue can be seen in the strength and vociferousness with which the current NDP government has joined with the FSIN in ensuring that the federal government continues to maintain its treaty responsibility for Indians in the province, both on and off reserves.

The CCF government believed that the services that it was delivering to its citizens in the areas of education, health and social welfare were much better than those offered by the federal government. They were no doubt correct in this assessment. For the province the strategy was to sell jurisdictional transfer as an opportunity for treaty Indians to receive better services rather than as a takeover of the Indian Affairs branch and an end of treaty rights. The province was also willing to offer more control under this system, for example hunting and the administration of welfare programs could be controlled at the local level. Aboriginal people could also get representation on school boards and rural municipality councils, a proposal that implied the disappearance of reserves as separate units of administration and the integration of their residents with the surrounding Indian community.<sup>xxv</sup> First Nations always opposed these initiatives, and the provincial government did abandon its efforts in this area.

Saskatchewan, along with other provinces, was, however, successful in having Indians accept the franchise. Many treaty Indians adamantly opposed this because they thought it too might be part of a process that would see them exchange treaty rights for Canadian citizenship. Yet in 1946, the government enfranchised all Indians who had served in either World War, and this was extended in 1951 to include the spouses of Indians and those Indians who were not resident on a reserve and were not drawing any treaty money. By 1960 the vote was extended to all treaty Indians who met normal voter requirements.<sup>xxvi</sup> It should be pointed out that relatively few Indians voted, most refusing under the assumption that they had a relationship to the Crown that was not influenced by changing governments.

Keeping with its notions of egalitarianism, the CCF passed a Human Rights Act, the first of any province, which included equal opportunity for Aboriginal peoples. This was in addition to employment and fair accommodation legislation, but always the appeal was to universal rights and equality of citizenship, not cultural distinctiveness.<sup>xxvii</sup> Yet perhaps the most important development for the long term goals of Aboriginal peoples was the provincial government's encouragement of their own political organizations and their willingness to offer some limited funding to get these organizations going.<sup>xxviii</sup> "The government tried to stimulate and encourage Indian organizations, and to control Indian politics and bring Indians into the

CCF.<sup>xxix</sup> In March of 1946 and June of 1946 the government held two conferences in which it tried to persuade the Indians and Metis to create organizations. Out of this the Union of Saskatchewan Indians emerged, which was the precursor of the Federation of Saskatchewan Indians which developed in 1957 which in turn became the Federation of Saskatchewan Indian Nations in 1968.

The CCF began to offer some policies and programs aimed at the Metis such as health clinics, schools and housing. It was also interested in providing some economic security to all Aboriginal communities, and used its philosophy of public enterprise to create a number of Crown corporations such as a Fur Marketing Board, Fish Marketing Board, and the Timber Board which would help Indians and Metis earn a better income by selling resources to the South. But as with many government policies, the good intentions were coupled with an interest in using northern resources - timber, metals and uranium, to diversify the provincial economy, often at the expense of both Northern Aboriginal communities.<sup>xxx</sup>

The government's plans for development in the North also produced some unforeseen problems. An example occurred in the mid-1940s when the CCF began to develop services, with health service being one of the first activities. Prior to the coming of the CCF, the northern third of the province was serviced by only one mission hospital at Ile a la Crosse, which the CCF replaced with a number of outpost health centres and an air ambulance service which brought city hospitals within the reach of every northern resident. In addition, roads were built, schools were developed, fur-conservation programs and fishing cooperatives were started. It was a program which one scholar has suggested was well beyond what adjacent provinces were doing or the Department of Indian Affairs.<sup>xxxi</sup> Yet the combination of improved health and economic development failed to deliver the promised prosperity.

The reasons essentially boiled down to the fact that improved health conditions combined with a naturally higher birth rate meant that while incomes may have been rising, the number of people also kept increasing. In addition, traditional economic programs such as fishing and fur trapping, were only able to generate limited incomes no matter what improvements were made in practice and marketing of these products. The government really failed to look beyond traditional economic activities in the North, with the

result that education came to seem like a superfluous activity for most Metis peoples which produced all the disastrous consequences that flow from a lack of hope. There was simply an upper limit to the type of economic return that could be generated from traditional economic activities, which was either not recognized or ignored by government planners. In the end, the CCF failed to "see the people as having potential like anybody else, it failed to open opportunities for their advancement, which had the further result that their children saw no point in school. In this way the problem of people ill equipped to support themselves has been passed from generation to generation."<sup>xxxii</sup>

The problems in the North were particularly difficult for the Metis who had none of the treaty rights of the First Nations. The Metis were even more subject to the economic demands of the South. "The objectives of the government's resource agencies in the north, and the subsequent political power they exercised, spelled economic and social disaster for the native people. While the government policies were directed at centralizing the Metis and modernizing their social life, economic policies made no effort to establish a sound economic base for the population."<sup>xxxiii</sup> It was this pattern which turned the Metis against the CCF. "In the end it was the CCF's boundless self-righteousness, its paternal refusal to listen to the people or believe them capable of progress which contributed, as much as anything, to popular contempt for the CCF."<sup>xxxiv</sup>

With the defeat of the CCF and the election of Ross Thatcher's Liberal party in 1964, the history of Aboriginal/government relations entered a new, and some would say, more ambitious era, but without a new philosophic orientation. If anything Thatcher had a stronger personal commitment to what he called the "Indian and Metis problem" particularly poverty and chronic unemployment. It has been noted that from his earliest days he was on a personal crusade to end the problem. After a few trips to the North, Thatcher was convinced that no other social issue was more pressing or worthy of his government's attention.<sup>xxxv</sup> There was also a growing popular awareness of the problem as a result of the general urbanization that was taking place on the prairies, amongst both Euro-Canadians and Aboriginal people. An improvement in the general level of health and a slowly growing resistance to tuberculosis meant a rapidly increasing Aboriginal

population, which made it increasingly difficult to survive in crowded reserves and impoverished Metis communities.

While Thatcher also shared a basic fiscal conservatism with the CCF, there was one exception to this general policy. "Programs and initiatives designed to create work and decent living conditions for native people were not to be bound by the financial limitations imposed on other sectors of government."<sup>xxxvi</sup> Whatever money was available would be used to find an economic solution to the problem, because for Thatcher the solution to the problems of poverty within the native community obviously required an economic solution. If the government could find jobs for native people, Thatcher thought the poverty cycle would be broken and Indians and Metis could gradually be integrated into white society. "He was not interested in sociological studies that probed and analyzed cultural differences between native and white society. He wanted immediate action to find jobs for natives who he thought would then acquire self-esteem and become productive members of society."<sup>xxxvii</sup>

His first major step was to establish an Indian and Metis Affairs Branch in the Department of Natural Resources in 1965. The Branch was to co-ordinate policies for training or placement of Aboriginal people in jobs. It was given a budget of \$475,000 initially and was to have ten positions. Because of his personal belief that jobs were the answer to Aboriginal problems, Thatcher's government began to offer subsidies to private corporations that would provide on-the-job training. The next step occurred with the creation of the provincial Department of Indian and Metis Affairs in 1969 which also saw the creation of the first affirmative action hiring program aimed directly at Aboriginal peoples in Canada.

Yet despite his good intentions, his ideas were infused with paternalism about Indians, and the jobs offered had all the defects that such schemes continue to have: low skill levels, little training, temporary employment and low pay. Aboriginal issues also continued to be caught within the partisan web of Saskatchewan politics. Indeed the Liberal government relations with the Metis deteriorated when it refused to give the Metis Society control over provincial funding of their organization. This produced a serious feeling of mistrust between the government and Metis leaders. This fundamental and mutual distrust between

Thatcher and many Metis leaders hampered a productive harnessing of the Premier's good will when it came to assisting the poorest members of Saskatchewan society. At the same time it motivated paranoia in the Premier so that he distrusted those who spoke for the Metis people because he believed their real intentions were to sow the seeds of discontent that would lead to the defeat of his government and election of the NDP.<sup>xxxviii</sup>

During the 1960s, a reawakened Metis consciousness was developing under the tutelage of Jim Brady and Malcom Norris, and later, Howard Adams.<sup>xxxix</sup> Metis nationalism, particularly the brand advocated by Brady and Adams, was radical and filled with the language of Fannon on colonialism and Marcuse on the repressive society. Indeed, Adams is credited with the creation of a style of a Metis leadership style that "included extensive use of media, the threat of violence and the use of protests to capture public attention."<sup>xl</sup> Thus there was unlikely any possibility of a productive relationship between Thatcher and the Metis, which failed to improve with a new generation of Metis leaders, in the 1970s and 1980s. To this day the relationship would have to be described as strained, particularly over one issue - Metis control of the money that the government provides for the operation of its organization and the provision of services.

In 1971, with the election of the NDP, the pendulum once again swung back to the use of government social programs as a means to improve the position of Aboriginal peoples in the province. Allen Blakeney proposed a new way of dealing with Aboriginal issues during the election. The promise was to get rid of Thatcher's Indian and Metis Department, to provide more money to native political organizations, and to consult with Indians more fully in the creation of new programs.<sup>xli</sup> However, the major election promise was to create a department to deal strictly with the North. This was something that the NDP (and the CCF before them) had been talking about for a considerable amount of time, but fears of the cost and the political empires of the ministers had always stood in the way of its realization. <sup>xlii</sup>

The idea was to have a single department in the North which would provide all the services that were provided by a number of departments in the South with the objective of improving services to the northern residents. There would also be a measure of community development to prepare local people to take over

their own local government, school and library boards, fire departments, town councils and so on. "Once new local governments had been nurtured, the special department would wither and dissolve. It was really a southern municipal model that Blakeney had in mind; **he had no intention of turning over traditional provincial power of government to anyone in the north.**" (Emphasis added).<sup>xliii</sup>

This notion was to be a major stumbling block in relations between the Blakeney government and the Aboriginal people of the North, who were coming to articulate a different view of the constitutional and legal relationship between themselves and the provincial government. The NDP government of Allan Blakeney, was concerned with legality, due process, and most of all, new programs, but could not imagine the idea of an inherent right to self-government in the terms that politicians now discuss it. Blakeney was willing to offer programs and money to Metis and First Nations, but he was not interested in giving new powers and rights.

The creation of a new "super department" brought forth a host of administrative problems, such as problems of coordination. There was definitely a clash of cultures between the young planners who came up north to design programs and strategies, and the old line bureaucrats who found themselves displaced. There were even strong objections from the left of the party which saw the government acting like an old time colonial government. But many of the problems that the DNS experienced can be blamed on the usual bureaucratic turf wars, particularly between DNS and the Department of Natural Resources which was losing its near monopoly of power in the North and neither the minister nor the bureaucrats were pleased about this state of affairs.

All this activity by the government failed to impress the Metis, who were increasingly pressing for some recognition of their Aboriginal rights. The Metis believed that they, like the First Nations, had Aboriginal rights, but they could never convince Allan Blakeney and the NDP. He readily recognized they had problems, but he said they had no claim to Aboriginal rights. Nor did Blakeney accept the MSS as the only voices of their people. The MSS were merely another interest group in an evolving galaxy of interest groups.

However, this did not preclude the beginning of some recognition of Aboriginal rights with regards to First Nations. For instance, First Nations were successful in getting the Department of Northern

Saskatchewan to stay away from reserves unless they were invited, which after some indecision, the DNS agreed to. In addition, there was some movement on the issue of treaty land entitlement. While not settled until 1992, the NDP began this process by promising to help the Indians research their treaty land entitlements claims. The fundamental reason for provincial involvement is that responsibility for settling the entitlements issue was divided between the federal government which had jurisdiction over the bands, and Saskatchewan which owned the lands that would be used in the settlement of the claims.

By the summer of 1977 the provincial government had agreed to supply, whenever possible, Crown lands to the bands to fulfil their entitlement plans under what was to come to be known as the "Saskatchewan Formula." This meant that every band member should get the equivalent of 128 acres. In the southern part of the province in the agricultural areas, the federal government agreed to pay the price of lands whenever this was needed to fulfil the entitlements. Unfortunately as with so many of these initiatives, it got quickly bogged down. The federal government essentially got cold feet about the idea of dislocating white farmers from their farmland, even if it was mostly community pasture that would be transferred to the bands.

The other problem, which constantly plagued the Saskatchewan government when it tried to deal with Treaty Land Entitlement issue, centered on municipalities and interest groups such as the Saskatchewan Stock Growers Association, the Saskatchewan Association of Rural Municipalities and the Saskatchewan Wildlife Federation, who were opposed to these transfers taking place because they would be losing tax revenue as well as subsidized pasture and hunting privileges. Because First Nations organizations were viewed simply as interest groups with no special claim on the provincial government, when clashes occurred the predominantly Euro-Canadian organizations the later would inevitably win the battle given their greater political clout with the provincial government.

With the defeat of the Blakeney government and the election of the Progressive Conservative party, there was a quick and noticeable shift in the direction of Aboriginal affairs for two reasons. First, the Devine government was committed to market solutions to social problems and was not happy about what it saw as



the excessive provincial involvement in what was basically a federal treaty responsibility. The other major reason was the arrival of the Constitution Act, 1982 which was to produce a decade of constitutional negotiations designed in part to give some meaning to the language of Section 35 concerning existing Aboriginal and treaty rights. Ideologically the government wanted to reduce the role the state played, and in practise their attention was forced towards the constitutional settlement and the issue of Aboriginal rights, particularly to self-government. The conferences also created the opportunity for the government to move away from state activity because it preferred to wait for negotiations to end before getting involved in programs that it might have some constitutional obligation to fund.

One example of the government's first priority was to disband the DNS, and return the functions to the old line departments. The government's reasons for doing this were simple. The department had been the NDP's linchpin Aboriginal program and that was reason enough to disband it given the highly partisan nature of Saskatchewan politics. More substantively the government argued that DNS, by its very nature, only benefited Aboriginal peoples in the North, and the southern Aboriginal population was being neglected. Also the new government felt that the DNS had the same paternalistic flavour of DIAND, which was widely criticised by First Nations. Finally, the catchall criticism was that there was widespread waste and mismanagement in DNS which the new government wanted to eliminate.

After the dismantling of the DNS, the new government did grant municipal status to Northern Communities, which it felt to be a more realistic policy than that of the NDP. The government of Saskatchewan was beginning to respond to the issue of increased control, particularly in the North where most of the communities were already predominantly Aboriginal. The Northern Municipalities Act, created some sense of self-determination in these communities which were dominated by Metis, but also resulted in some tensions between Metis communities in the North and the MNS, and the Northern Municipalities Act is regarded by the MNS as a policy that is designed to divide and conquer rather than unit Saskatchewan Metis.

It was the Constitutional agenda, however, which dominated relations between the Conservative government and both Aboriginal groups in the province. The Saskatchewan position was always to offer

support for the principle of greater political autonomy for Aboriginal people, but that self-government provisions should not be put into the Constitution until all the implications were fully understood. Saskatchewan consistently balked at the federal notion of entrenching the principle in the constitution before a firm definition of self government and the fiscal and economic implication of such a move were agreed upon. The government never adopted a very clear position, but instead, like most other provinces in the West, opposed plans to accept self-government without some strongly worded definition, or, as during the 1985 conference, only with a unanimous agreement between the federal and provincial governments as to what the right to self government actually meant.

During the 1984 conference Devine bluntly suggested that "I'm not a lawyer, but my constitutional people advise me if the principle of self-government is in the constitution, it will have broad consequences for the courts. And if it means sovereignty or a third order of government, I'm not for that."<sup>xliv</sup> Throughout the 1980s, the provincial government would continue to hold to this line, maintaining a go-slow approach to the issue. All they were really willing to commit themselves to, in the words of Justice Minister Gary Lane, were "mechanisms for promoting greater participation of natives in the political system." To this end the Minister of Justice endorsed the idea of having reserved seats in the provincial legislature such as the Maories in New Zealand. The two sides were still worlds apart.

The government opposed an "amendment-now-details-later" approach, preferring instead to have the federal and provincial governments "discuss with aboriginal peoples, measures which might be undertaken to enhance participation of aboriginal peoples in the economic and decision-making which affects them, including where appropriate, the establishment or recognition of various institutions of self-government"<sup>xlv</sup> Yet the government was in no sense interested in the idea of entrenchment.

The issue of treaty land entitlement also took on a new urgency during the 1980s as a result of the Constitutional settlement, but the Devine Government preferred a band-by-band approach rather than the framework process established by the Blakeney government. The government also wanted to abandon the Saskatchewan formula agreed to by the former government in 1976. The Devine government wanted to

make settlement based on the notion of economic self-sufficiency for the individual bands, as opposed to the previous "Saskatchewan formula."

The Tories were interested in business development and looked to successful Aboriginal business leaders for advice on how to proceed. It was clear that a lack of access to credit was seen as one of the biggest problems facing Aboriginal business people and this became a priority for the government. Similarly housing was a problem and the government felt that there should be more emphasis on working with private native contractors, rather than with the cooperative and non-profit groups, to construct the needed housing.

The late 1980s was a period of little progress for First Nations and Metis in the province of Saskatchewan. For the Metis, the late 1980s and early 1990s was a period of tremendous internal turmoil. The most crucial difficulty was that the Association of Metis and Non-Status Indians of Saskatchewan (AMNSIS), which had been instrumental in getting Metis recognized in the Constitution Act, 1982, experienced a major tension between its non-status Indian membership and its Metis membership. This eventually resulted in a very hostile split between the two which was precipitated by Bill C-31, which restored status to a number of non-status Indians, but left others without effective representation in the province, a condition which prevails to this day which finds non-status Indians unwelcome in Metis organizations. For the Metis the issue is simply a desire not to be lumped into a category in which is not reflective of their distinct status as a Aboriginal group.

First Nations and Metis women also developed associations in the 1980s, particularly as a consequence of the Constitution Act, 1982, and the uncertainty about how the concept of self-government might effect their equality rights, but also as a result of Bill c-31. The Saskatchewan Native Women's Association took a very active role in ensuring that all non-status women eligible for status were given it. Both First Nations and Metis women were becoming very concerned about getting access to positions of authority within the FSIN and the MSS, and kept trying to push issues of family violence, alcoholism and family services to a position of prominence on the Aboriginal agenda.<sup>xlvi</sup> Indeed, many of the individuals noted that despite the differences between status, non-status and Metis women, women's organizations seem

most interested in working with one and other in a "pan-Aboriginal" manner.

### **The Present Context**

The NDP government, elected in October of 1991, came to office armed with a realization that the former social policy/program approach that characterized their previous Aboriginal policy was no longer appropriate. They also came to accept that there was an inherent right to self-government that need to be respected. Yet despite some early progress in the relationship familiar problems began to flair up. One example was a jurisdictional dispute over gaming, which culminated in an RCMP raid of the casino on White Bear Reserve. First Nations saw this as a blatant violation of their sovereignty and took the province to court and won. However, the judge had not ruled on the sovereignty issue, but only on whether there had been any criminal intent. The issue died down after the government reached a settlement with the FSIN over gambling, in which the FSIN and the government agreed to share the revenue and employment derived from casino gambling in the province, but the issue of First Nations sovereign power over gaming is far from settled.

The provincial government and First Nations do agree however on the fact that the federal government should not off-load what both parties regard as treaty responsibilities. For example, the federal government's decision to stop paying social assistance costs for off-reserve Indians resulted in the province joining forces with native groups such as the FSIN, the Prince Albert Tribal Council, and the Confederation of Tribal Nations to begin a legal case. For the province off-loading meant an additional \$42 million in additional annual expenditures; for First Nations it was an important assault on sacred treaty rights. In what appeared

In what appeared to be an endless replay of history the Metis Nation found itself at odds with the provincial government over the control of core funding. In February 1994 the provincial government froze the funds for the MNS because it feared the organization would use the money to pay off its debt, which an independent audit had calculated was in the neighbourhood of no less than \$600,000 and possibly as much

as \$1 million.<sup>xlvii</sup> The province, through the Saskatchewan Indian and Metis Secretariat, refused to advance an additional \$50,000 dollars payment because of the uncertainty surrounding the finance of the organization, which receives around \$1.8 million a year from various governments. Both the Justice Department and the RCMP conducted investigations.

The provincial government assumed a very paternalistic stance and wanted the MNS to adopt a eight-point plan before funding was resumed. Most importantly they wanted the MNS to hire a qualified financial manager and establish adequate accounting records, develop a debt recovery plan and provisions to ensure full accountability to funding agencies. Naturally the Metis leadership were offended and defiant. As then MNS leader Gerald Morin noted, "We've come too far on self-government to have a trustee appointed. Our people would not accept it."<sup>xlviii</sup> The provincial government was equally adamant that not one dime more of government money would flow to the Metis nation. The issue eventually resolved itself when the MNS agreed to accept the appointment of a financial trustee. While their were critics of the deal from within the Metis community, Gerald Morin maintained that "In every respect, we have an equal role and it makes it very clear we retain our independence and control over all matters, including our finances."<sup>xlix</sup> The trustee only stayed around for one month, but the incident indicated the precarious state of the MNS which as an organization remains reliant on insecure provincial funding.

While some progress is being made in Saskatchewan, both Aboriginal groups are frustrated at the slow pace of change. Many of the First Nations and Metis leaders involved in the struggle for self-government have been active since the 1970s, and have experienced much personal frustration. Yet only rarely has this frustration lead to public protests or blockades, although this is often a result of strong intervention by leaders capable of exercising control over the members. Generally the approach in Saskatchewan has been to maintain contacts with the provincial government, but not to regard them as a full partner in self-government negotiations. First Nations are always leery of provincial involvement because of the fear that the federal government will argue that provincial involvement indicates and abandonment of treaty obligations.

Paramount in the FSIN's drive for self-government is belief that the process should not involve the

province because this would not be consistent with the nation-to-nation alliance forged at the time treaties were signed. The FSIN wants any self-governing arrangements to be worked out in a bi-lateral and co-equal basis with the federal government. The federal government, as recently as April 1995, has suggested that provincial involvement in self-government is necessary, but this is inconsistent with the position of the FSIN, who believe any involvement by provinces is part of a federal plan to dilute treaty obligations. They also object to the creation of a process that will deal with self-government for all Aboriginal peoples, and attempts to down play the role of treaties which requires them to be treated in a distinct manner.

The current situation is very fluid and while relations are formalized in a number of protocol agreements between both FSIN and MNS, there is obvious difficulty making sustained progress on issues such as resource management, social service delivery and so on. While there is progress, the progress is incremental and lacks the comprehensive solutions that have been sought by the FSIN and the MNS. And while incrementalism may be leading in some positive direction, it is just as likely to be moving in a circle. Indeed, the feeling that incrementalism has been leading First Nations and Metis no where is one of the key reasons that Aboriginal organizations in Saskatchewan are so interested in a comprehensive solution to end provincial involvement in their affairs.

### III

#### **Aboriginal Organizations**

There are a large number of Aboriginal organizations in the province of Saskatchewan. The Indian and Native Organization Directory for Saskatchewan, published by the provincial government, extends to 59 pages listing scores of organizations and programs dealing directly with Aboriginal peoples. These organizations vary tremendously in their size, function, funding, and influence. Most tend to be either exclusively First Nations or Metis, but there are some which attempt to bridge the gap, particularly those organizations that deal with women, youths and the network of friendship centres scattered around the province. Indeed, the greatest effort to deal with issues in a pan-aboriginal manner can be found in organizations that are predominantly women, although of course treaty women must ultimately direct their concerns in a different direction because of their strong treaty rights.

#### **The Structure of First Nations Organizations in Saskatchewan**

The most sophisticated organizations are unquestionably those operated by the province's First Nations. While each First Nation is by definition sovereign, they are organized in a hierarchial structure. At the peak of this structure is the FSIN. It has recently been noted that, "Over the years, Saskatchewan Indians have led the way with a well-run provincial organization and professional leadership."<sup>1</sup> This assessment is based on the history of the FSIN and its predecessor organizations, which have developed from a membership organization, to a political organization to a new form of Indian self-government. The current FSIN was developed out of a convention of band chiefs which took place in 1982. Prior to that date the peak association was the Federation of Saskatchewan Indians, which was created in 1959, when the Cree, Saultaux, Assiniboine, Dakota and Dene Nations formed an "iron nation." This organization developed rapidly during the 1970s due to the pressing preoccupation with the goal of attaining "Indian control of Indian education," and assorted struggles with the federal government over recognition of treaty obligations. However, developments in the 1970s also made clear some weakness in the organization of the FSI. The

major flaw was that it gave too much power to the executive council and undermined the legitimate power of the First Nations. The old structure centralized programs and services at the provincial level, not at the band or district council level, to the exasperation of many chiefs. Another problem was that the FSI was incorporated under the Provincial Societies Act as a non-profit charitable organization, which did not fit with the growing desire of First-Nations to be self-governing and establish nation-to-nation relations with the federal and provincial governments. The reorganisation in 1982 was the fifth since 1944, but each reorganization, according to former FSI President Sol Sanderson, has "had as its purpose to improve our capacity to accommodate new policy developments, to strengthen our collective political alliances, to enhance our economic alliances, and to advance our cultural objectives."<sup>ii</sup>

The FSIN is now a creature of the First Nations who form themselves into a Legislative Assembly called the Chief's Council and give direction to the executive, through a number of legislative sessions, usually three a year. The Legislative Assembly passes acts, which give direction to the executive branch. The executive branch is called the Executive Council which consists of the Chief and four Vice-Chiefs, plus District Chief's representatives. Each member of the executive has portfolio and departmental responsibilities. There is also a judicial branch called the Indian Judicial Commission, a Senate, as well as an Elders Assembly.

During the 1980s, there was a clear move on the part of the FSIN to avoid any provincial partisanship which might make the nation-to-nation negotiations envisioned as part of First Nations self-government more difficult. The FSIN became a strictly non-partisan organization in the 1980s and members of the organization who ran for elected office or even sought nomination would be disciplined and even dismissed.<sup>lii</sup>

While the administration of many programs now takes place at the First Nation and tribal council level, the FSIN still controls a number of allied institutions of provincial importance. Some of the more prominent of these institutions would include the Saskatchewan Indian Federated College, Saskatchewan Indian Institute of Technologies, Saskatchewan Indian Cultural Centre, Saskatchewan Indian Agricultural Program and the Saskatchewan Indian Equity Foundation. However most of the administration of programs



occurs at the First Nations and the tribal council level. The province's 72 bands have formed themselves into 7 tribal councils, and the tribal councils often have the responsibility for providing services for the allied bands, particularly in the areas of family services, education, and health care. There are some organizations that involve treaty groups as well as those that represent only particular tribal groups such as the Cree, but these have not emerged as significant actors in terms of program and service delivery.

The Saskatchewan government has a very formal relationship with the FSIN, which while not an anomaly in Canada, is clearly a very positive feature. There exist a number of protocol agreements between the two parties, the most important of which have formalized a tier one and tier two process whereby the Chief meets with the Premier and the ministers meet with the senior vice-chiefs. Bureaucrats meet with bureaucrats on a regular formalized basis. This situation is different than that which exists in some other provinces where First Nations, fearing a diminution of treaty obligations, choose not to deal with the provincial government and instead only want to deal with the federal Crown. Yet given its jurisdiction of crown lands, social services, education, the administration of justice and so on, provinces feel that they should be involved in discussions leading to self-government. First Nations see this as, at best a secondary issues, and have opposed the inclusion of provincial participation in these negotiations.

One of the greatest weaknesses with regards to First Nations organization has to do with the lack of overall representation of those people living in urban areas. This is a long standing problem, which is a direct consequence of the Indian Act and federal funding policies, but at present no effective solution has been forthcoming from the federal government. The problem is that there are so many different band and treaty groups in urban areas making it difficult for a both political organization and the delivery of services. The consequence is that there is simply a lack of financial resources and support for urban First Nations who are often caught in a tangled web of bureaucratic agencies each one only too eager to pass responsibility along to someone else. On top of this is the general difficulty of the FSIN leadership in reaching the First Nations "masses" in urban areas.

## **The Structure of Metis Organizations in Saskatchewan**

The Metis Nation of Saskatchewan (MNS) is the major association representing Metis people in the province and has existed in one form or another since as early as 1937. The difficulty that this early organization faced, and which still represents something of an organizational problem for the Metis, is the different aspirations of the northern and southern Metis. While all Metis are united by a desire to be a Nation, a desire to have land, and a desire to run their own institutions, there is a feeling that the province has engaged in a strategy of divide-and-conquer. In particular, they point to the fact that Metis communities in the North acquired municipal status giving them control of municipal services and school boards, something that does not exist in the south where the Metis are a minority in the communities that they live in. This has refocused the Metis leadership in the North whose concerns have become entrenched in the institutions that they run.

The precursor to the MNS, the Saskatchewan Metis Society was relatively inactive from the mid-1940s to the mid-1960s, and was for all intents and purposes moribund. But in 1965 southern Metis formed the Metis Society of Saskatchewan which in 1967 joined together with the Metis Association of Saskatchewan representing the northern Metis in a combined organization called the Metis Society of Saskatchewan. In 1970 the MSS began to receive money from the federal government in the form of research grants for housing and a grant for community development work. By 1972, the provincial government began its first sustained funding of the MSS. Then, in 1975 the MSS once again changed its name, this time to the "Association of Metis and Non-Status Indians of Saskatchewan," (AMNSIS), and began to represent those Indians who had lost their treaty rights through some form of disenfranchisement or marriage. The final change took place in 1987 after the amendments to the Indian Act were passed allowing for the regaining of status, after a three year protracted battle the organization again became the Metis Society of Saskatchewan, leaving non-status Indians in the province without effective political representation. In 1994 the name of the organization was changed to the Metis Nation of Saskatchewan.

As it is currently constituted, the Metis Nation, through its institutions, infrastructure and democratic process, believes that it has embarked on the road to self-government. While the MNS is not as institutionally strong as the FSIN, it does have a political structure and process and an emerging administrative capacity. There is a 15 person Metis Council which consists of twelve regional Directors from each of the twelve regions that the society has divided the province into, plus a three person executive elected at large. Within each of the twelve districts there are a varying number of locals, most of which are community based. Politically, the Metis Nation elects its leaders by a one-person, one-vote system which allows any Metis over sixteen years of age a vote. Funding of the Metis is about 50/50 split between the federal and provincial governments.

The Metis Nation controls a number of institutions, the most prominent being the Gabriel Dumont Institute (GDI) which is the most important Metis cultural and educational institution in the province. It also controls the Metis Addictions Council of Saskatchewan which receives money from Saskatchewan Health to deliver its programs. The federally funded Metis Pathways is another prominent organization which is designed to give Metis people better access to post secondary education, to give Metis people decision making power over some federal education funding, to encourage Metis youth to stay in school, to meet the labour market needs, and to encourage education and employment equity, although most of the money does come from the federal government. The Metis Pathways secretariat has taken away some of the programming of the Gabriel Dumont Centre. The MNS also controls the Sasknative Economic Development Corporation, which provides both management assistance and funding for Metis business ventures. The two most prominent areas of provincial government contact with the Metis community are social service and justice, which are also the areas in which Metis institution building is making its greatest strides. The Metis Nation of Saskatchewan formed the Metis Family and Community Justice Services of Saskatchewan Inc. (MFCJS, Inc), which created a five-year plan as part of their self-government initiative. There is a consultation phase that is currently being undertaken which will inform and involve the Metis communities of Saskatchewan with the projects planning and policy development discussions. A second phase will involve

the establishment of a governance structure, beginning with the creation of an eleven person Metis Justice and Social Council, which will include members from the community level, and also representation from each level of government. The Council will supervise the affairs of the MFCJS, Inc, including the appointment of an executive director. Such a structure would go a long way towards institution building in the Metis Nation. The immediate priorities for the Metis are developing the capacity and acquiring the "jurisdiction" in the areas of child and youth welfare services and court related issues.

### **Womens Organizations in Saskatchewan**

Aboriginal women's organizations tend to be the least well developed institutionally, have some of the most insecure funding, often rely on volunteer labour, and must continually struggle to have their concerns addressed by the predominantly male mainstream organizations. The Aboriginal Women's Council of Saskatchewan is an organization that tries to represent all the Aboriginal women in the province, but there of course organizations that represent the issues of treaty and Metis women exclusively. This umbrella organization conducts workshops and promotes equal opportunities of all Aboriginal women and children. The Metis Women of Saskatchewan Inc, promotes and assists the development of Metis women in social, economic and cultural areas through out Saskatchewan. The most prominent First Nations organization is the Saskatchewan Treaty Indian Women's Council which is run out of the FSIN. This organization sponsors women's shelters in a number of areas, and is keenly interested in the issue of family violence. There are also numerous regional groups associated with these organizations, but all are chronically underfunded.

There is a certain amount of apprehension among both Metis and First Nations women's organizations regarding their treatment by the mainstream organizations. Bernice Hammersmith, the provincial secretary of the MNS, speaking on behalf of all Aboriginal Women in the province, believes that Aboriginal politicians and bureaucrats are now taking the role of governments, telling women that there just is not enough money to deal with their issues. She notes that "The vast majority of aboriginal women are not

yet paid by the system; they have no connection to it. As a result, when the women speak out about things that aren't working, they jeopardize the harmony between the chief and the funder, or the band council and the funder. Women become a threat to the system."<sup>liii</sup> There is clearly a level of fear of existing organizations which many women feel are simply not responsive to the concerns of women and children. Not untypically, out of 72 bands only one has a women chief in Saskatchewan.

One of the main concerns centres around the nature of self-government. In a presentation to the Royal Commission on Aboriginal Peoples, the Aboriginal Women's Council of Saskatchewan (AWACS) presented the results of a survey of Aboriginal women in the province which discovered that "Many women knew little about self-government, indicating a lack of communication and information distribution on the parts of the federal government and band councils." One women noted that "I'm not sure if I agree with self-government. What is self-government? There is virtually no information on it. How can I agree or disagree with something I know nothing about? If self-government means empowering the Indian people then that is what I agree with."<sup>liv</sup> Generally, it is safe to say that most women's organizations in Saskatchewan endorse the notion that the Charter of Rights and Freedoms should apply to self-government structures.<sup>lv</sup>

Women are also concerned about their lack of a place in the leadership of First Nations which is currently dominated by males and do not effectively deal with issues of poverty and family violence. There is a clear sense that many Aboriginal women do not trust the leadership, indicating that "people like the idea of self-government but do not trust those who would run the government, or dislike the present provision on self-government as set out by the federal government."<sup>lvi</sup>

Metis women have an even more difficult time organizing than do First Nations women. In the words of Bernice Hammersmith, provincial secretary of the Metis Society,

In some of our communities women have to deal with a variety of poverty-rooted problems on a day-to-day basis: no money, no food, no shelter. These women are so busy trying to survive that they don't have a chance to talk about their problems, other than to say they are being treated badly. When you are among the troops on the front line, you don't have the luxury of being able to run to the back room to strategize. You can't see which way the battle is going.

These concerns are echoed by Lillian Sanderson of the Aboriginal women's council who noted that "We certainly don't oppose self-government. We certainly support it, but it has to be a collective development of all the people and not just a handful of men who think they have all the answers."<sup>lvii</sup> It is in dealing with this legitimate concern of women that improvements can be made, and it is an area in which the provincial government can play an important role particularly in the provision of financial support and institution building. The provincial role should ensure that the voice of women is not crushed in the scramble towards self-government.

Developing organizations was one of the first actions of the provincial government with regards to both Metis and First Nations in the province and this has continued with varying degrees of enthusiasm. But it is important for them to continue to evolve and strengthen as they are key in having a meaningful dialogue with the provincial government. This is particularly so with government funding for women's organizations which are shamefully underfunded. The importance of having a strong and coherent organizations can not be underestimated, because without these provincial governments, to the extent their jurisdiction allows, are in a position to hamper First Nations claims on the grounds that they are conflicting, inconsistent and do not represent the demands of any clear constituency.<sup>lviii</sup> Equally important are the existence of Aboriginal administrative organizations which can develop the capacity, readiness, and expertise in the numerous areas of Aboriginal jurisdiction. As one study of Aboriginal community development noted recently, "Aboriginal people who are close to concluding land claims agreements with the federal and territorial governments are now acutely aware of the need for expertise in both orthodox management skills and local cultures."<sup>lix</sup> Having strong organizations is no guarantee of success, but not having them is almost a sure guarantee of failure.

## IV

### Overview of Government Activity

A quick survey of the current policies and programs directed at First Nations and Metis people by the government of Saskatchewan indicates a high level of activity. (Appendix 2) The reasons stem directly from the historical, demographic and political factors recounted earlier. In addition, over the past 30 years, Saskatchewan, as with other provinces, has increased its spending with regards to both Aboriginal and non-Aboriginal citizens for numerous well documented social and economic reasons.<sup>ix</sup> Programs have been created and dropped, new ones developed and others improved upon in a bewildering, and seemingly endless, parade of social fashion. Yet all this activity has proceeded without any systematic approach or overall plan; to call the system of Aboriginal programs in Saskatchewan a patchwork might give the impression of some order. Indeed, the very obvious failure of the system of programs in Saskatchewan is one of the reasons that all Aboriginal people in the province are so adamant about having greater control of these programs.

Recently, however, the government has begun to rethink its approach and developed a more comprehensive Aboriginal policy framework called Toward a Shared Destiny, which was quietly released at the end of 1994.<sup>xi</sup> This document sets forth the policies, guidelines and procedures of the government of Saskatchewan and is to facilitate its working relationship with Indian and Metis peoples and organizations. It is also to be used as a point of reference for municipal governments, school, and health boards in developing relationships with First Nations and Metis. While vague on specifics, the document does commit the province to "work carefully with the federal government and Indian and Metis communities through various inter-governmental, bilateral and tripartite processes and forums to address the complex questions related to the implementation of self-government."

To this end, the government has pledged itself to a strategy that will "focus upon practical results and positive action through federal jurisdictional integrity, new partnerships between Aboriginal peoples and governments, and through the maximization of Aboriginal self-reliance, self-sufficiency and

self-determination." The government is especially keen on working "with Indian and Metis people toward self-management of services in education, social development, justice and employment."<sup>ixii</sup> Aboriginal organizations applaud these moves, but see little value in any new government initiatives that are not directed and controlled by Aboriginal people themselves.

The Saskatchewan government is, despite the justifiable skepticism of Aboriginal organizations, trying to articulate a new vision of its relationship with Aboriginal people. The current "vision statement" for the government suggests that: "In the 21st century Saskatchewan will be a community in which all cultural groups achieve social equity and live together in harmony; and in which Indian and Metis peoples are able to experience and develop their own distinctive cultures, and participate as full partners in the process and benefits of social and economic development." This vision has lead the government to a number of assumptions, the most important of which is that,

We regard Indian and Metis development as being on a continuum ranging from improved, more sensitive government programming at the one end, to Aboriginal management and self-government as the other end of the scale. On this continuum, Aboriginal development is a process of ever-increasing participation in, or control by, Aboriginal people over programs, the pace of community change and the priorities for community social or economic development. It is important to understand that the federal and provincial governments cannot be prescriptive: we cannot dictate either the content or the processes since the interests of all stakeholders will have to be accommodated, be they Indian and Metis people, municipal governments or existing authorities and power structures.<sup>ixiii</sup>

From this assumption of a continuum come a series of basic principles which underpin the policy of the province of Saskatchewan.

*Equity:* The government is committed to fairness and inclusiveness in our society. All members of the community should be secure in their access to the basic economic, health and social necessities.

*Co-operation:* The government will work cooperatively with Aboriginal people to facilitate their goals and aspirations for social, economic and cultural development.

*Community:* The government recognizes and respects the unique cultures of Indian and Metis people and their communities with the social and economic fabric of the larger Saskatchewan community.

*Accountability:* The government will communicated openly with Aboriginal communities on important decisions affecting social and economic development. all of the partners involved in joint actions will be accountable



for the results achieved and the public resources used.

*Affordability:* The government is committed to living within its means, and will employ efficient approaches to achieve the effective delivery of programs and services.

*Self-determination:* The government of Saskatchewan will act to maximize the self-reliance and self-determination of Aboriginal peoples in balance with its responsibilities for the whole community of Saskatchewan.

The government has given these principles to each department and crown corporation which have been instructed to develop an action plan that incorporates them. These plans will then be taken by the government and processed into a strategic plan, due some time in 1995. The government wants to proceed this way because it acknowledges that Aboriginal issues are, and will remain, an important part of every departmental planning process. An example of the kinds of policies that will emerge from this process can be seen in the recently released SaskEnergy policy on Aboriginal Peoples which states in part that, "SaskEnergy's Aboriginal Policy will help to facilitate Indian and Metis self-determination. The Policy includes elements that will promote Aboriginal community development and renewal. SaskEnergy's Aboriginal Policy will serve as a basis for an entirely new way of doing business with Saskatchewan's Indian and Metis communities." While this is suitably vague, it does provide some recognition that Aboriginal issues are an ongoing concern and will not disappear even when some form of Aboriginal self-government is achieved.

The government acknowledges that much remains to be done, and notes that a number of specific challenges must be addressed. In particular its goals are to bring greater child welfare and social development under Indian and Metis control; encourage economic development and job creation targeted at Aboriginal self-sufficiency; include greater Aboriginal management and control in the education system; develop health care based on prevention, wellness and Aboriginal values and standards; pursue justice reform; and promote cross-cultural understanding through removing barriers based on race and culture. The government goes on to note that, "It is recognized that Aboriginal communities must have the organizational and financial capacities as well as community decision-making processes to address the above challenges." However, it does not offer more money to help address these problems, and is willing to acknowledge that if

anything money is going to be an even bigger issue in the future than it has been in the past.

Even though First Nations and Metis have a much different relationship with the provincial government there is some recognition that there are always going to be jurisdictional issues that bring the government of Saskatchewan into contact with First Nations and Metis. There may be a sharing of services, agreements over taxation and revenue, co-management of resources and so on. Because of the need for these ongoing and continuous negotiations, it is important that the First Nations and Metis achieve strong government-to-government relationships with the government of Saskatchewan and improve their institutional capacity to deliver the numerous services that they will so be delivering to their members.

### **Policy Development in Saskatchewan**

Saskatchewan has always been slightly ahead of other provinces in the strength of its bureaucratic response to Aboriginal issues. The development of a permanent bureaucratic response to Aboriginal issues in Saskatchewan began with the creation of an Indian and Metis Affairs Branch within the Department of Natural Resources in 1965. Prior to this point, Aboriginal peoples had cabinet level representation through the Cabinet Committee on Indian Affairs chaired by a minister without portfolio. Tommy Douglas himself took over the committee in 1960 and renamed it the Provincial Committee on Minority Groups, and he hired the first provincial bureaucrat to deal full-time with Aboriginal issues.<sup>lxiv</sup>

However, with the creation of the Indian and Metis Affairs Branch in 1965 Aboriginal affairs took on a new stature. It was funded to the tune of \$475,000 and was given 10 new staff positions, most of whom were Aboriginal. The objective of the branch was to co-ordinate policies for the training and placement of Aboriginal people in jobs. It also spearheaded a push to bring electrical and telephone service to reserves and Aboriginal communities, which were woefully serviced at this time. As late as 1965 only two out of 68 reserves in the province had telephone services. This office quickly began to engage in the type of trilateral negotiations that would come to characterize Aboriginal issues across the country. For example, the Indian and Metis Affairs Branch managed to reach an agreement with the federal government on a \$450,000

housing initiative for off-reserve Indians in the province, making Saskatchewan the first province to sign this type of cost-shared agreement with the federal government.

This branch was disbanded in 1969 when the government created a full Department of Indian and Metis Affairs. "In 1968 it was decided that a new department of government was required to co-ordinate government programs, to carry out new or expanded programs, and to further emphasize the recognition by the province of the serious nature of the problems to be faced."<sup>lxv</sup> When the department became effective on April 1, 1969 Saskatchewan became the first province to have a single department concerned with the problems of Aboriginal peoples.

This department was created during a period of heightened sensitivity to Aboriginal concerns due to both the federal review that was leading to the ill-fated White Paper of 1969, and a Saskatchewan Task Force on Indian Opportunity established in 1968. This task force was designed to assist the government in defining the basic problems, to advise the government on special program needs, and to involve business, industry, labour, educators and other organizations and groups in helping Aboriginal peoples. Yet, despite all this activity, there continued to be a certain type of paternalism that was coming to irritate the First Nations and Metis leadership.

Not surprisingly given the preferences of Ross Thatcher about the importance of jobs and employment, almost half of the budget of the new Department went to economic development (\$322,630). Most activity was aimed at job placement and educational upgrading, including both financial assistance to attend training programs and the ability to have the department of education offer courses in various locations in the provinces. Relocation allowances, housing allowances, even driver education programs were also funded. The department also wished to promote employment of Aboriginal people by assisting the development of Aboriginal-owned businesses. They would provide a variety of forms of assistance including capital, training, accounting, management and legal, project analysis and personnel selection. The department also provided major grants to the MSS and FSI, although this was not without some difficulties discussed earlier.

This department had a very short lived existence, lasting only until 1972, when the incoming Blakeney government created a "super department", called the Department of Northern Saskatchewan (DNS) which was to operate like a small Department of Indian Affairs, although it had responsibility for providing programs to all northern residents. With the creation of this new department, the government once again promised, that this would be a new approach to the provision of government services to Aboriginal peoples in the North. The reason for the concentration on the North was that this was where the government had its greatest responsibilities because of the large numbers of Metis and non-status Indians lived. Also, in the southern Aboriginal peoples could access services from the regular line departments. The DNS took over the responsibilities of eight departments which offered services in the North: natural resources, mineral resources, education, social services, co-operatives, public health, agriculture, and government services.

After a decade of mixed success, and with a new government in office in Regina, the DNS was down-graded to a secretariat and its services were transferred back to the individual departments. This new secretariat came into being on April 1, 1984, with the passage of the Northern Secretariat Act, which had a mandate to provide advice and administer a few small programs in the North.<sup>lxvi</sup> In the place of DNS, the Devine government created the Saskatchewan Indian and Metis Secretariat to deal with issues affecting all Aboriginal peoples in the province, but in particular to focus the government's constitutional strategy for the upcoming federal/provincial negotiations that would dominate the Aboriginal agenda for the next decade. SIMAS was established on April 1, 1983. The Secretariat remains responsible for Aboriginal affairs and acts as a window into government for Indian and Metis people. Yet it is clearly a classic central agency which reviews policy recommendations and coordinates the government's response on matters affecting Aboriginal people, but has few line responsibilities.

While SIMAS is mostly concerned with policy, it does administer employment and business development programs that complement federal initiatives in these areas. It also helps facilitate Aboriginal community development and the development of Aboriginal service delivery systems and institutions. The aim of this activity is to provide for culturally appropriate, rationalized and accountable services, controlled and

managed by Aboriginal people for the benefit of Aboriginal peoples.

The budget of the Indian and Metis Secretariat in the 1992-93 fiscal year was \$17.5 million, but the biggest amount went to pay for the province's share of Treaty Land Entitlement which amounted to \$13.3 million in the first year of the agreement. A further \$1.35 million went to grants for both the Metis and Indian Business Development Program. Half a million of this budget was given to Indian and Metis organizations, with the largest part, \$305,000, going to the Metis Society of Saskatchewan.<sup>lxvii</sup>

The budget and expenditure of SIMAS represents only a small fraction of the millions that are spent on Aboriginal peoples in the province of Saskatchewan. Most of Saskatchewan's expenditures on Aboriginal people comes through regular government departments, which do not list expenditures on the basis of race or ethnicity. For most of the province's history Metis and Non-Status Indians in Saskatchewan were, theoretically, eligible for regular government assistance depending on their status. For status Indians the province had negotiated arrangements with the federal government over the issue of provincial schools, road construction or reserves, etc. After 1945, the province provided services available to any citizen of the province. The practical problem was that most Aboriginal peoples lived in either isolated rural communities, or in the North where there was little access to services such as education, health care, social assistance. Most of the northern Aboriginal peoples were Metis, and as such had no treaty rights, and lived in such isolated communities that there were few services provided before the 1945. Even after this time service delivery has often been haphazard, and remains a concern to both First Nations and Metis.

The issue of program delivery is an area in which there is a good deal of disagreement. For the government there is, as noted above, a continuum ranging from improved, more sensitive government programming at one end, to Aboriginal management and self-government at the other end. For both First Nations and Metis, the issue is not seen in terms of a continuum, but of their inherent rights to self-determination. For Aboriginal people there is a world of difference between devolution and self-government; the government of Saskatchewan, for reasons of its own, sees less of a distinction between the two concepts.

Part of the difficulty is that the provincial state in Saskatchewan is fragmented and uncoordinated. It shares these characteristics with the federal state and the other provinces.<sup>lxviii</sup> This has resulted in a series of Aboriginal programs emanating from departments with little overall sense of direction. Even at the political centre, there are a variety of agencies involved in the coordination of Aboriginal policy including Finance, SIMAS, the Provincial Secretary, Executive Council, and Saskatchewan Justice. While not surprising, the consequences of this fragmentation and lack of direction has produced tragic human costs for Aboriginal people. When the agendas of these coordinating bodies are coupled with agendas from the line departments, the result has most often been a series of policy outputs best described as cautious incrementalism. This is particularly the case, as we will see below, in the key areas of justice, education, economic development and social services.

## **Education**

The one area which has historically brought First Nations and Metis into contact with the provincial government has been education. First Nations achieved their earliest and most substantial levels of control in the area of education due to their strong treaty rights in this area. In 1971 the FSI stated that it wanted "Indian control of Indian education" and has to a considerable degree achieved this objective. This means that for First Nations it is possible to send children from kindergarten all the way to a four year Bachelor's degree in First Nation's institutions. However, this has not brought an end to disputes over money and control between First Nations and both the federal and provincial government - far from it. For the Metis, they have had much more limited success in gaining control of education, and what control they have managed to achieve has been less extensive than that of First Nations and is mostly over selected post-secondary opportunities, or in northern municipalities which have control of the local school board. Control of education is one of the key areas that the MNS see as being essential for their long term survival as a nation.

The province's main educational responsibilities for Aboriginal people has traditionally been in the North, but education in any systematic fashion did not arrive there until the coming of the Euro-Canadians in

the 1930s. For the provincial government the biggest obstacle in providing education in the North, as identified in the Reid report of 1939, was the lack of a tax base to finance the schools. Five years later another report in 1944 made a number of recommendations on how to improve conditions in the North. It recommended that the province assume full responsibility for northern education, that the system be funded by the province and that schools be built or upgraded as need be. The CCF government quickly acted on these recommendations and schools were built and teachers were hired. School population doubled in the North by 1950. Yet during the 1940s and 1950s there existed two distinct school systems in the North - federal and provincial.

As with many other issues, education has been, and remains, a contested area between Aboriginal peoples and the federal and provincial governments. The battle actually began in 1910 when the federal government excluded Metis and non-status Indian children from federally funded schools. They were also excluded from most provincial school districts because of underlying racist attitudes which held that Metis children should not be welcomed in local schools because they were considered disease ridden and represented a health threat to the Euro-Canadian children. Even when this was disproved with health certificates they were still excluded on the grounds of class-based presumptions about their unacceptable living standards.<sup>lxix</sup> The exclusion of Metis children from educational opportunities was clearly a social disgrace, and by 1938 there were some 3500 Indian and Metis children in Saskatchewan not going to school - in part because provincial officials believed that the schooling of Indian and Metis children was a federal responsibility.

By 1941 the provincial government had come to accept that it had some responsibility for the education of Metis children and began to provide grants so that they could be accommodated within the provincial public schools system. In 1942 a survey of Metis children was established and grants to schools for Metis children were offered at \$2.00 per child per month. This however did not stop the government from offering them only a vocational, rather than the regular academic education, nor did it appease the vocal opposition from parents and school boards who objected to the presence of Metis children because of racist

attitudes concerning the health of Metis children.

By the early 1950s, the provincial government finally took responsibility for organizing, financing, maintaining and staffing northern schools. The motivation was that the condition of the Metis would be made more useful and happier if they were integrated into mainstream society, beginning with the educational system. Simply put, Euro-Canadian teachers would raise the morals and "civilize" the Metis. By 1954 the policies had proven to be "successful" in that virtually all Metis and Indian children were attending school and numerous schools were built.

Yet the success brought new questions about inequalities in the school services available, particular between the North and South. Questions also emerged about the purpose of education when so few opportunities for employment existed in the North. There were also troubling differences noticed between Aboriginal and non-Aboriginal communities, such as higher pupil/teacher ratios and higher drop out rates, loss of traditional skills and languages, and not enough skills to get non-traditional jobs. There were also no high schools in the North in the mid-1950s.

These criticisms culminated in a provincial report entitled "Schooling For Failure" in 1960, filled with terrifying statistics about failure rates, school leaving, low academic credentials of the teachers, and schools which were southern oriented with little sensitivity to northern issues. By 1961 this issue was being addressed by the province, the federal government, and the University of Saskatchewan, which were working together to try and provide teachers with greater insights into the cultural background of their students. The policy thrust was at this time to become increasingly sensitive to Aboriginal issues, but not to turn any control over to Aboriginal groups.

While the sixties saw an increased awareness in and sensitivity towards Aboriginal educational issues, the 1970s saw the increase in the amount of actual control Aboriginal peoples were beginning to assert over the education of their children. In 1972, the FSI prepared a document called Local Control of Indian Education, which clearly expressed the desires of treaty Indians to control their own educational establishment. As a result of this beginning, and after many battles with the federal government, all the



schools on reserves in northern Saskatchewan are now operated by Indian bands. The first step in ensuring that this program was successful was to ensure that there would be an adequate supply of Aboriginal teachers. To this end the provincial government helped by creating the Indian Teacher Education Program (ITEP) in 1973 which was the first teacher training program in Saskatchewan for Indian and Metis People and an essential component of educational self-control. This was followed by two other teacher education programs, the Saskatchewan Urban Native Teacher Education Program (SUNTEP) and the Northern Teacher Education Program (NORTEP).

There have also been two interesting rulings by the Saskatchewan Human Rights Commission regarding Aboriginal education in the province. The first occurred in 1974 which stated that Aboriginal people were treated unfavourably in Saskatchewan social studies textbooks and were characterized as savage, hostile and warlike. Changes were ordered in both material and curriculum which has led to a number of programs dealing with how to teach aboriginal issues in the regular school curriculum. The second Human Rights Commission ruling occurred in the mid-1980s when they published a report entitled Educating Equity: A Report on Indian Native Education, which required 19 school divisions to undertake education equity plans to increase the percentage of Aboriginal teachers.

For Metis in the province, direct funding is now provided to the Gabriel Dumont Institute of Native Studies and Applied Research (GDI) directed specifically at Metis and Non-Status Students, which receives close to a \$1 million from the provincial government. The Gabriel Dumont Institute is the only Metis-controlled post secondary institution in Canada was incorporated in 1980. It offers services to the Metis community ranging from contemporary and historical research, curriculum development, Metis studies, and cross-cultural training. The GDI was quick to get involved in teacher training and currently offers the Saskatchewan Urban Native Teacher Education Program (SUNTEP). Other examples of Metis control of education involved the Joe Duquette High School which was started by the Saskatoon Separate School Board and placed a heavy emphasis on Indian and Metis culture and values in the curriculum and the Dumont Technical Institute in Saskatoon.

The ultimate goal for the Metis is to have complete control over education from kindergarten through to the post-secondary levels, which is seen as the key means of attaining economic self-sufficiency.<sup>lxx</sup> Ideally this would be governed by a Metis Education Act which would give control of Metis education to the Metis government. The theme that unites all Metis educational goals is the need to develop the capacity to be self-governing. All the Metis Educational institutions currently existing and those planned for the future are seen as instruments for the achievement and implementation of self-government.

Despite Metis desires to gain more control of education, the province appears more committed to integrating First Nations and Metis subjects with the general curriculum so as to increase the sensitivity and remove biases in the non-Aboriginal population. Native Studies course are being developed that would fulfil the secondary (Grade 10, 11, and 12) Social Science and Canadian Studies requirements. Science and math curriculum was being redesigned to integrate Indian and Metis perspectives about the earth and its peoples, arts education would include some focus on Indian and Metis artists from Saskatchewan. There has also been an increase in Indian Languages in school, which saw a total of 3,407 student takes courses in Cree, Saultaux and Dene, during 1991-92 from K-12. There was also a great deal of information available for course and document development.

While the desire to increase the sensitivity of the educational system is laudable, the bulk of successful practice has been directed at the creation of separate educational institutions. There has been some controversy surrounding the idea of separate schools for Aboriginal "minorities" in Saskatchewan, and it has taken a great deal of effort to achieve even the limited control that the Metis now have. However, within the First Nations and Metis communities itself control of education is seen as one of the essential prerequisites of the successful transition to self-government.

Perhaps the most successful and important educational institution in the province, is the Saskatchewan Federated Indian College, which, while federally funded (88%), is affiliated with the University of Regina and receives additional support from the government through transfers to the University of Regina. The SIFC has been extremely successful in getting trained professionals with the managerial and

administrative skills necessary for the successful management of First Nations and Metis institutions. As more programs are transferred to Aboriginal groups, there becomes a strain on the capacity of bands and tribal councils to effectively deliver these programs. Indeed, this is perhaps the most effective support to Aboriginal self-government that any government can provide.

Unfortunately the federal and provincial governments remain locked in a dispute over funding which harkens back to 1910. The federal government has frozen funding for the SFIC since 1986 at \$4.7 million dollars, arguing that it supports Indian post-secondary education indirectly through EPF transfer payments to the provinces, and thus will not increase its grant to the SIFC until the province does. The province has been consistent in its policy, which has the support of both the FSIN and SIFC, that argues that education is a treaty obligation and therefor a federal financial obligation. The province also has pointed out that it is providing additional support for the education of Indian students through the capita and operating grants it provides to the University of Regina.

## **Justice**

Like education, justice is an area of government activity that involves considerable expenditure and also has the potential for increased Aboriginal control. Provincial government involvement in justices issues has over the past five years in particular has been extensive, ongoing and multi-layered. It also involves significant jurisdictional overlap between First Nations, the federal government which writes criminal law and the provincial government which administers justice in the province. Issues and conflicts within the realm of justice have multiplied in recent years and while increased control may be on the horizon, it is expected that the issues to be resolved will take more time than in the area of education with once again Metis having a much more difficult time than First Nations.

The current provincial position with regard to justice is that, "Saskatchewan supports the inherent right of Aboriginal people to self-government and recognizes that Aboriginal justice reform must build upon and develop within the framework of the self-government potential."<sup>ixxi</sup> Yet the debate in Saskatchewan, as

elsewhere, fluctuates between the idea of a totally separate Aboriginal system of justice, and the idea of a reformed but inclusive system. The preferred approach of the Saskatchewan government is clearly for the latter which would see much needed reforms take place within the current justice system, while giving Aboriginal communities the space to control and develop some of the separate institutions that they want.

One example of the governments commitment to this approach was the decision to reinstate the Native court-worker program which had been eliminated by the Progressive Conservative government in 1987. With the reelection of the NDP, the program was back on the agenda pending matching federal funding. The program is relatively inexpensive and provided a counterweight to cultural difficulties encountered by Aboriginal people when going through the Euro-Canadian court system. Often Aboriginal people don't speak either official language and end up pleading guilty without their knowledge.

For the province, a difficulty is dealing with a federal government which is reluctant to accept that it has responsibility for off-reserves Indians, and Metis. From the point of view of the provinces justice issues need to be addressed from a variety of geographic and social contexts including, rural, urban, north, south, on-reserve and off. Federal reluctance to accept responsibility for Metis or for off-reserve Indians has resulted in a tendency on the part of the federal government to focus on justice issues in a strictly on-reserve context, leaving the province to deal with all other justice issues.

The province's concern with regard to money comes from the fact that it has a high relative percentage of Aboriginal people in the province which means that "any policy which calls on Saskatchewan to equally share in the costs of Aboriginal self-government and self-determination on justice initiatives, on or off-reserve, places a disproportionate share of this national obligation on the people of Saskatchewan."<sup>lxxii</sup>

Expenditure by the federal, provincial and municipal criminal justice systems exceed \$310 million in the 1990-91 fiscal year within the province. Of this sum, an estimated 59 percent was spent on policing, 30 percent on corrections, 7 percent on courts and 2 percent on legal aid and prosecutions respectively. Saskatchewan Justice has estimated that it spent about \$81 million of its \$117 million in 1992-93 on its criminal justice budget (policing, prosecutions, court and correctional services) in relations to Aboriginal

peoples. Of this total, roughly \$59 million was spent in relating to Indians, and \$22 million in relations to Metis.<sup>lxxiii</sup> Although of course, such expenditures serve many clients, such as the accused, victims and communities.

While the constitutional and jurisdictional framework does limit the Saskatchewan government, it has tried to bring some measure of devolution and self-determination. The government has provided funding support, often with Justice Canada, for community-based justice initiatives such as those developed by the Regina Aboriginal Human Service Cooperative, the Poundmaker and Onion Lake Cree Nations, the Meadow Lake Tribal Council, the Aboriginal Women's Council of Saskatchewan, support for and participation in the negotiation of First Nations Policing Agreements with reserve communities across the province. But perhaps the biggest step so far in the issue of Aboriginal justice in Saskatchewan has been the establishment of sentencing circles for both Metis and Indian peoples. While generally they took place in rural areas, there was some interest in having them deal with crime in urban areas. The first sentence delivered by a sentencing circle for an urban Metis took place in 1994, and was appealed by the Crown, which felt that the sentence had not been strong enough. It has also been ruled in the Cheekinew case that sentencing circles are not available for serious crimes.<sup>lxxiv</sup>

The FSIN has advocated a separate justice system from as early as 1984.<sup>lxxv</sup> There are a variety of arguments that are relied on, but most centre around the fact that Aboriginal peoples "do not believe in a confrontational guilt determination process, but in a holistic approach where emphasis is placed on repairing the damage caused by anti-social behaviour. To them it is not only the justice system that is alien, it is also the law that the system is applying."<sup>lxxvi</sup> In addition, Blane Favel, Chief of the Poundmaker Cree Nation and recently elected Chief of the FSIN, noted that "the denial of our inherent right of self-government and the denial of our treaty rights to control dispute-resolution within our territories is unjust, and this injustice will not be ameliorated by minor tinkering. It will not be ameliorated by placing more brown faces in the courtroom. The damage will only cease and healing can only occur when you allow us our position because we believe it is just and that your position, based on denial and dominance, is unjust."<sup>lxxvii</sup>

Essentially, like many other jurisdictional issues, the FSIN is pursuing a two-track strategy with regards to justice by looking at "immediate impact issues such as improvements to the corrections system, policing, existing court systems and existing support systems; but also the long-term goal of developing a First Nations-controlled justice system that will include tribal law, tribal police services, tribal courts, and tribally sanctioned systems of punishment and rehabilitation."<sup>lxviii</sup> The first is a program-oriented track that fits within the current justice system so that it can help First Nations people in conflict with the law whether on the reserves or in urban areas. This includes things like the Native court-worker program, increased accountability of RCMP to First Nations, sentencing circles and alternative sentencing programs. The other is a separate system of laws that would apply to their territories and would be recognized by the federal and provincial governments.

Metis are also keenly aware of the need for increased control of the justice agenda, but, as with First Nations, this had to be within the context of their rights as a distinct Aboriginal society which includes their right to govern the administration of justice. In a recent statement on justice issues the MNS noted that "The goal of the Metis people of Saskatchewan as represented by the Metis Society of Saskatchewan is that ultimately they must have their own justice system based on their own law administered by their own people."<sup>lxix</sup> As a first step towards this goal the Metis Society proposed the establishment of a Metis Justice Institute, which would pursue two major initiatives. The first would be to have a core administration conduct research and administer ongoing consultations within the Metis communities. The second would be the establishment of field services for the Institute through the deployment of community justice workers. Ultimately, the MSS would like to see a number of programs such a Metis-controlled court-worker program, mediation programs, advisory committees, and young offender facilities.

As with First Nations, the Metis believed their aspirations in the area of justice are part of their bigger concerns about self-government. "The Metis people claim that an essential component of their inherent Aboriginal rights is their inherent right to self-government, and that contained within their inherent right to self-government, is of course, their right to administer control over the maintenance of peace, order and civil

behaviour within their communities: in other words, the administration of justice for their own people."<sup>lxxx</sup>

One of the stumbling blocks that the Metis in Saskatchewan face is the fact that the federal Justice Department is generally reluctant to provide support for initiatives which are off-reserve or devoted to the needs of the Metis or non-status Indians. When funding is provided it is often modest, for limited short-term pilot projects, and thus fails to provide the kind of sustained long-term funding required to effect needed structural reforms.

Saskatchewan recently conducted a Aboriginal justice inquiry which reported in January of 1992. While much more limited in scope than either the Manitoba or Alberta reports, it made a number of recommendations most of which were aimed at increasing the sensitivity of the justice system to the needs of Aboriginal peoples. This inquiry built upon an earlier 1985 study entitled Reflecting Indian Concerns and Values in the Justice System, prepared by the government of Saskatchewan, the government of Canada, and the FSIN. This first inquiry made recommendations on law enforcement, corrections, justices of the peace, peacemakers, and customary law, which achieved varying degrees of implementation at the time of this inquiry, although it is conceded by the former Deputy-Minister that this was not a very successful endeavour.<sup>lxxxi</sup>

The more recent inquiry was structured into two parallel inquiries, one directed at Indian concerns and another aimed at Metis issues, both of which were chaired by Judge Patricia Linn, but with different committee memberships. The government of Saskatchewan accepted most of the recommendations of both reports unequivocally.<sup>lxxxii</sup> Aboriginal groups were also happy with the results and were cautiously optimistic. As FSIN Vice-Chief Dan Bellegard noted "We came to this review process not as supplicants, but as full partners. We see it as a very positive step toward not only dealing with people in conflict with the law, but also in the ongoing process of dialogue between governments."

The one general observation that can be made regarding Aboriginal justices issues is that both Aboriginal groups have a higher level of conflict with the law than non-Aboriginal. This is merely a reflection of more important systemic inequalities of an economic, social, and political nature. These need solutions

that extend well beyond the criminal justice system. One constant however has been the need to bring about some increased control of social services which might help reduce the high level of Aboriginal confrontation with the law. Better social services could help prevent the poverty, family breakdown, alcoholism and substance abuse, family violence and sexual assault that produce high rates of contact with the law among Aboriginal people.

### **Social Programs**

A third major policy area in which Aboriginal people in Saskatchewan want increased control and jurisdictional autonomy is social services. The government generally concedes that it has not done a very effective job in running these programs and is looking for ways in which control can be handed over to Aboriginal organizations. As SIMAS minister Bob Mitchell noted "The Justice system will work better, the social services system will work better.... A lot of these programs ought to move over to Aboriginal control, because it is their program, it is their people. In our efforts to run these programs.... in many cases it is arguable that we have done more harm than good."<sup>lxxxiii</sup>

First Nations and Metis are particularly interested in getting control of their own family and child welfare programs, and some bands and tribal councils are already operating these services, although they must follow the regulations and structure established by the provincial or federal government. As early as 1984, the FSIN began to press for their own child protection laws which would be distinct from those applying to other Saskatchewan residents. Advocacy of this position came about when in 1984 the Social Services Minister's Advisory Council on Child Protection rejected the idea of a separate Aboriginal law and suggested that there should be one law for all children in the province. The argument of a single law was that there were not enough Aboriginal people with the skills to analyze a child protection situation and to make informed decisions on behalf of the child.<sup>lxxxiv</sup> The FSIN argued just the reverse, suggesting that the white social workers did not have the skill and expertise to work in Indian communities. "They have failed to recognize the expert and professional in our reserves...The professionals are our elders." The FSIN rejected the notion



that the current system could be improved because "you cannot pass laws doing away with negative attitudes and ignorance of social workers, administrators and judges." This has remained a consistent position, not only with the FSIN, but with the entire Aboriginal community in Saskatchewan.

The movement now is in the direction of increased control of these social service by Aboriginal organizations, but the pace of change is tragically slow and haphazard. For instance, financial assistance was provided to the Aboriginal Women's Council of Saskatchewan to conduct development planning for integrated service delivery in Prince Albert. Financial assistance was provided to urban based organizations to explore alternative approaches to Aboriginal service delivery. These are the kinds of explorations, which are increasingly popular, but need to take that next step towards full implementation which has been slow in coming.

Of concern is to the provinces and Aboriginal people in the provinces is the lack of housing for Indians and Metis moving from smaller communities or reserves into the cities. This difficulty, due to racism or a lack of full-time employment, is especially acute for single mothers. The government has offered some programs such as the \$2.8 million Urban Native Housing Program, which provides financial assistance to Native non-profit housing corporations for the operation of subsidized rental housing projects. Mortgages on the projects are subsidized by the federal government at the rate of 2% and the province provides additional operating subsidies to ensure that rents do not exceed 25% of the household income. Yet unfortunately most of the provincial government's activity remains directed towards the North.

The major provincial funding for Metis directed social programs is directed at the Metis Addictions Council of Saskatchewan Inc. (MACSI), which while primarily focused on addictions, must deal with a host of health related issues. Indeed this organization is the one that is most closely associated with Metis health issues and has been doing this work for over 25 years. The organization attempts to offer a holistic approach to a particular problem, healing not only the symptoms of addiction, but the whole person. Yet Metis health care issues are also caught in the trap of jurisdictional disputes. "While the issues in dispute are frequently linked to broader legal and jurisdictional questions, the bottom line often centres on one point --- who will fund

Metis Health and Social Service Programs? Many of the program gaps and inequalities long experienced by the Metis occur because of these ongoing disputes." lxxxv

Recently the problems of the elderly have become the focus of more concern, even though only about 3 percent of the Aboriginal population in Saskatchewan are older than 65. In a 1988 study of unmet needs of off-reserve Indians and Metis elderly it was noted that while the elderly share the generally problems of Aboriginal peoples, these are augmented by the special concerns of aging, loss of employment, and loss of a role in the community. In short they faced a double jeopardy of ethnicity and age. This is compounded by the fact that many adult children of the elderly leave economically depressed areas in search of employment and education removing a support structure.<sup>lxxxvi</sup>

The other group whose needs are unmet are women, especially elderly women and young single mothers. There are very few programs which will sustain them in their struggles and the government has not been particularly forthcoming according to representatives of government. One of the major concerns is the issue of family violence in both the Metis and First Nations communities, which is tangled up in jurisdictional disputes and funding crises.<sup>lxxxvii</sup> This issue has not achieved the level of awareness and prominence on the Aboriginal agenda that many believe is required.

The government's overall concern in the area of social service is, as mentioned previously, the issue of federal off-loading of social services program. In this regard, the government has encouraged three native organization to challenge the federal government's right to transfer responsibility for welfare benefits to the province. The FSIN, the Prince Albert Tribal Council and the Confederacy of Tribal Nations mounted a provincially funded defense to prevent Ottawa from off-loading fiduciary responsibility for social assistance to status Indians living off reserve. Ottawa unilaterally transferred these responsibilities to the province without consulting the First Nations or the province.<sup>lxxxviii</sup>

The government provides numerous programs, but it appears that the most valuable support involves building up the skill levels and infrastructure that will support increased Aboriginal control of social services. An example of this comes in the establishment in 1992-93 of the Public Authorities Program which is run out

of SIMAS. The program was designed to promote Aboriginal community development and enable Indian and Metis people to develop their own service delivery system. In its first year of operations it funded three projects at a total cost of \$124,650. Essentially the program provides financial assistance to facilitate the development of Aboriginal service delivery institutions at the community level which provide culturally appropriate, rationalized and accountable service in the context of community based, integrated program delivery.<sup>lxxxix</sup> Projects funded included things such as financial assistance to the Metis Society of Saskatchewan for planning of a Metis service delivery system which has led to the establishment of the Family and Community Justice Services of Saskatchewan Inc.

### **Employment Training and Economic Development**

The statistics on Aboriginal unemployment are of great concern to all the participants in the debate about Aboriginal self-government and there are fears that the unemployment rate amongst all Aboriginal groups are rising, not declining. It is clear that Aboriginal people suffer from a great deal of racism in relations to employment and none of the groups in the province are satisfied with the efforts made by the provincial government in this regard. Most clearly concerned are Aboriginal women's groups who suffer from both sexism and racism in their struggle for decent employment, and who face a whole host of systemic barriers that do not exist for other members of society. Yet despite numerous government programs and employment equity legislation in the province, there has been little actual improvement in the statistics which find Aboriginal people grossly underrepresented in almost every job category.

Saskatchewan was relatively early off the mark in offering job training aimed at Aboriginal people. In 1969 a program was designed to give Metis and Non-Status Indians access to training and academic classes. This program did not offer classes directly, but purchased places in a wide variety of programs at a variety of institutions throughout the province. Financial assistance was given to some students to facilitate further study. This would prove to be a popular approach, but the training was often inappropriate, the funding was

inadequate, especially for single parents, and the results less than satisfactory for both parties. The emphasis in Saskatchewan has been in the area of job creation, particularly public service employment. There are numerous examples of "affirmative action" plans beginning with the Thatcher government's attempts to hire Indians and Metis through government hiring quotes aimed at ensuring that 7 percent of all public service positions be occupied by Aboriginal people. These types of programs were continued by the Blakeney government which started the Native Employment in Government Program and the Native Job Training and Employment Program. However, all of these programs faced constraints such as the low-turnover rates in government, the continued decline in the total level of employment within the public service, continued financial constraints, and union resistance to large scale circumvention of seniority privileges and the imposition of other perceived inequities in the promotion process. By 1980 the NDP government decided to strengthen the mandate of the Human Rights Commission, providing it with new regulations and enabling legislation which gave the Commission sweeping powers to encourage, and if necessary, to force employers to hire Native people until their proportion of employees was roughly equivalent to their proportion of the local available work-force.<sup>xc</sup> Yet despite a strong history of such programs unemployment statistics among both Metis and Aboriginal people remains extremely high.

Because of these obvious difficulties with employment programs a greater amount of interest has begun to be devoted towards economic development issues, which is premised on education, and more recently, on access to financing. This is an area that has seen a great deal of activity and interest on the part of provincial governments since the 1980s and is considered an important part of the move to self-government by many Aboriginal leaders, because without self-generated revenues self-government can become little more than self-administration. Yet success has been slow to come in the area of economic development. For many northern communities, economic development is especially difficult because they have virtually no economic advantages which would permit them to compete effectively within the market system. Isolated, far from markets, and mired with low levels of educational attainment means the likelihood of outside investment is remote. The best opportunities are to be found in the area of control over resource

development. Indeed, the real opportunities for Aboriginal communities in the north, both First Nations and Metis are in the extractive industries, such as mining, timber and pulp and paper. However, the province, keen on developing these for their significant revenue potential, has been unwilling to share revenues and only half-heartedly attempts to involve Aboriginal communities in the development process.

There have been attempts by the local population to control the pace and increase the benefits associated with the extractive industries. For example, in 1984, the Swampy Cree Indians in North Eastern Saskatchewan became the first Indian band to set up a publicly traded resource company, Red Earth Energy Ltd.<sup>xc1</sup> Of course resource issues are not without controversy as can be seen in the controversy that arose when one northern Band tried to buy part of a uranium mine, and another tried to suggest that it would like to become a nuclear waste disposal site.<sup>xcii</sup>

Currently, the most sustained government initiatives in the area of economic development are two programs that were developed by SIMAS, but operate out of the Department of Economic Development. The first of these was the Indian Economic Development Program established in 1983 to help First Nations to become more economically self-sufficient. In 1992-83 it funded 70 projects which created 180 jobs and over \$800,000 in grants was distributed. The second program was the Metis Business Development Program begun in 1988-89 to assist Metis along similar lines to provide initial investments to develop or expand businesses. A third program is the Aboriginal Employment Development Program which was established in the fiscal year 1992-93, to facilitate greater employment opportunities for Aboriginal peoples across the public and private sectors. This program "provides assistance to Aboriginal education institutions and employers to strategically link potential employers with suitable Aboriginal candidates through development of an Aboriginal inventory, support services, "cross\_cultural" awareness and employment development projects."<sup>xciii</sup>

An issue that has always been a source of concern for First Nations, was the lack of access to capital to start businesses. Recently a number of developments are changing the situation. The Indian Act has traditionally prevented banks from using on-reserve assets for credit meaning that many bands could not get financing for on-reserve business activities. The Bank of Montreal and Industry Canada worked out a deal in

which bands would be permitted to borrow money from the Small Business Loans Act, allowing bands to borrow from the SBLA for the first time since it was introduced in 1961.<sup>xciv</sup> There was also the development of First Nations Trust companies on reserves and in urban areas including the Peace Hills Trust which opened two branches in Saskatchewan. There was the development of other financial services as well for First Nations, such as the IMI Brokerage in Duck Lake, which both meet the Insurance needs of Indians and provided a vehicle for economic development through the investment of the pension funds of various Indian Bands, estimated to be between 50-55 million in 1994.<sup>xcv</sup> There is also a plan to create an Aboriginal banking system in joint partnership with the Toronto Dominion Bank.<sup>xcvi</sup>

As development on reserves increases, one pressing issues that will face the province and first nations concerns labour legislation. Chiefs in the province have often discouraged unions because they fall under provincial jurisdiction. There has also been some pressure by band to hire only people from their band. Bands see this as a positive way to improve the life of the on-reserve population, but unions see it as effecting seniority rights and successor rights. In fact then FSIN president Roland Crowe sent a letter to Labour Minister Ned Shillington which got to the heart of the matter: "We have come to realise over the past few months that the trade union movement supports a variety of policies that in fact result in systematic discrimination against Indian people. For example, we know from experience that social and cultural differences cause aboriginal people to tend to remain at the bottom of union seniority lists. To increase the trade union power at this time will further disadvantage our people. The labour movement is already a relatively well off, influential 'brotherhood' with substantial priviledges, benefits and employment levels that Indians can only now dream about."<sup>xcvii</sup>

For the Metis, the main agency for economic development could conceivably be the Saskatchewan Native Economic Development Corporation, a Metis owned and operated financial and investment corporation, which began operations in 1986. The province was reluctant to get involved in this project because it felt that it would not get assistance to the grass roots and would become a big bureaucracy and at one point the government even pulled its funding, however the federal government came to the rescue with

\$5 million.<sup>xcviii</sup> This organization, like its non-Aboriginal counterpart, SEDCO has a broad mandate for economic development and often becomes the lender of last resort and thus will not have the same record of achievement as a commercial lender. Yet SNEDCO continues to play an important role in meeting the Metis economic aspirations and it will be a key in the future. Long term Metis economic goals include such things as the improvement of accessibility to equity capital funds, Metis lead and directed economic initiatives, the acquisition of a land and resource base to ensure long-term self-sufficiency, the establishment of a managerial and trained labour force infrastructure, and the active partnership of Metis people in the mainstream economy.<sup>xcix</sup>

Farming is of course a natural activity that should attract its fair share of Aboriginal peoples in Saskatchewan. Unfortunately previous government policies actually discouraged Aboriginal farming and in 1976 there were only about 40 First Nations farmers in the province. But by 1986 that figure had risen to 460, thanks in large part to the Saskatchewan Indian Agricultural Program (SIAP). This was a jointly funded program, although most of the money comes from the federal government, the province did provide space and agricultural extension officers to the program. This program is currently operated through the SFIN, which has a special branch that oversees the program. The program was begun in 1977, with the aim of helping First Nations to effectively farm the million acres of crop land that they owned. The amount of farm land available to First Nations farmers is bound to substantially increase with the treaty land claims money, which has seen some bands, such as the Piapot band acquired 20,000 acres of new farm land already. The major difficulty faced by First Nations with regards to farming was that Indians could never get credit, because banks refused to use reserve land as security. With the increase in mechanical farming, Indians were left behind due to a lack of capital. SIAP was designed to help finance increased farming operations and to provide farmers with the expertise to successfully compete. Funding for this program is due to expire in 1996, but the FSIN and the province are negotiating to create a successor if the federal government chooses not to continue to participate.

Arguably, the most important economic development issue for First Nations in Saskatchewan

involves gaming. Access to self-generated capital from casinos was recently a preoccupation of many Saskatchewan First Nations. The issue of control boiled over in March of 1993 when the RCMP raided and closed a casino on the White Bear Reserve. Out of the controversy surrounding this action and through nearly a year of negotiations the government in conjunction with the FSIN, established a policy which made it illegal for bands to operate their own casinos. In return, the FSIN will get as much as a third of the profits, as well as a third of all jobs in the casinos, which will be distributed among the 72 bands in the province.

Unfortunately not all bands were happy with the arrangement. Four bands joined together to form the First Nations Gaming Alliance and planned to open casinos on their reserve lands in 1994.<sup>c</sup> They delayed the opening pending a court case which would rule on the legality of gambling on reserve land. The case was heard during the summer of 1994, and a ruling in favour of the bands was handed down by a provincial judge in the fall of 1994. The government decided to appeal this decision because of the inconclusive nature of the judgement. In the mean time citizens groups in Regina and Saskatoon mobilized to oppose gambling, and certain Aboriginal groups like the Aboriginal Women's Council, began to oppose gambling on reserves.

Unquestionably economic development on reserves is one of the most pressing issues facing First Nations. The current reality is that "reserve based enterprises play a minor or insignificant role as a source of personal incomes and general revenue for all but a handful of bands\tribes. Preponderantly, the economic base on most Indian reserves consists of social welfare and various types of government grants."<sup>ci</sup> Unless this dependence on social assistance is reduced considerably, self-government may very well have less of an impact on First Nations communities in the province of Saskatchewan than has been predicted by the leadership.



## V

### The Path Towards Self-Government

At the top of the issue agenda of the FSIN and the MNS is the question of self-government. It is self-government that brings the various policies on education, justice social and economic development into focus. The government of Saskatchewan has participated in the debate surrounding self-government beginning with the negotiations flowing out of the 1982 Constitutional settlement. Yet it would be unfair to characterize the progress made in Saskatchewan to be radically ahead of that of any other province, even though the current position of the government of Saskatchewan has evolved tremendously from the uncooperative and counter-productive position of ten years ago. The same thing cannot be said of all provinces.

The differences between First Nations and Metis in the province become very clear when the issue of self-government is discussed. The fact is that while there are some very serious discussions are taking place between First Nations, the province and the federal government, negotiations involving the Metis are still very tentative. The Metis have so far failed to develop a positive relationship with the federal government, have no land claim process, and have been unable to convince the province to create a made in Saskatchewan Metis Act. Certain provincial officials belief that the Metis population is still at ground zero when it asserts its rights and the definition around those rights. By-an-large the feeling seems to be that the courts were becoming sympathetic to the Metis and may possibly represent the best chance of making gains in terms of self-determination for Metis people.<sup>cii</sup> Yet it is not at all clear that a court decision will ever give the Metis the type of land base or self-governing institutions that they desire.

### First Nations Self-Government

The Saskatchewan government's relationship with the FSIN and tribal councils is much stronger than that which exists with the Metis for a variety of reasons, not the least of which is the joint desire to avoid any attempt by the federal government to off-load responsibility for off reserve Indians. The government and

First Nations find that although still some distance apart, they are beginning to talk from the same page with regards to self- government. Most First Nations are reluctant to give a concrete legal definition of self-government, but instead will describe a process which will lead to self-government. This indeed was the main stumbling block during the conferences during the 1980s, which failed to achieve any consensus on the meaning of self-government. Presently the government of Saskatchewan is no longer concerned with an explicit definition of self-government and instead is committed to a process, beginning with administrative delegation, that it feels will lead to self-government.

There is agreement that self-government is something that should bring about greater control of decision-making by First Nations. In Saskatchewan is not static process, but is regarded by all parties as an "organic process". All those involved in the debate in Saskatchewan accept that self-government will not be a generic form of government, but rather that it will vary in each community. The federal government might set the broad parameters in a Self-Government Act which will replace the Indian Act, but individual communities will define self-government for themselves. However the FSIN remains adamant that First Nations not be lumped into generic multi-lateral negotiations. They must be treated separately because of the treaty relationship between First Nations and the Crown. They also suggest that the federal government must establish fiscal arrangements based on the full scope and nature of the Crown-First Nations relationships based on resources and tax revenue sharing which will support the political, executive, legislative, judicial, program and service requirements of the First Nations.<sup>ciii</sup>

After the failure of the Charlottetown agreement, with its explicit recognition of the inherent right to self-government, First Nations began to frequently assert their inherent right to self-determination. In fact, while there was some disappointment with the failure of Charlottetown the feeling is that it in no way hampers the movement in the direction of self-government. If the federal government would repeal the Indian Act and dismantle the federal bureaucracy a major step in the direction of self-government would be taken. Numerous bands in Saskatchewan are not even waiting for this having already developed their own political systems, voting procedures and membership codes and have enacting their own laws. Some bands, such

as the Star Blanket Band by Fort Qu'Appelle have developed alternative funding arrangements with Ottawa, which allows the band to set priorities in the allotment of monies. The attitude of the FSIN according to Vice-Chief Dan Bellegarde is that "the inherent right to self-government transcends the Constitution. All we need is the capacity and the political will to exercise that right."<sup>civ</sup>

The urban issue does represent a difficult issue in Saskatchewan, because of the lack of any clear understanding of what is meant by self-government in Regina as opposed to Fond du Lac. Self-government in cities might be mostly focused on program and service delivery funded through individual bands. The issue of how to provide self-government to over 20 different bands that may co-exist in an urban area is far from settled.<sup>cv</sup> Obviously this issue will continue to grow in stature given the fact that market and demographic pressures continue to drive more and more Aboriginal people into the cities.

The provincial role with regards to self-government is at the level of the practical implementation, which has the continual potential of becoming an explosive issue. While things are making some progress at the broader level of discussion in the province, when you get to the practical matters it becomes more tense. Issues like gaming, taxation, fiscal transfers, hospitals, justice, etc, begin to cloud the picture and old animosities begin to surface. Many of these issues will involve a considerable amount of discussion and negotiation between the provincial government and the FSIN in a strong government-to-government relationship. The protocol arrangements that exist will be an important factor in ensuring that mutual respect for the sovereign jurisdiction of the other party is respected.

### **Metis Self-Government**

The Metis right to self-government comes from their belief that they are a nation of Aboriginal people whose claim to Aboriginal rights is no less valid than the Inuit or the Indian peoples. It also comes from their claims to being a "people" under international law. They never gave up their inherent right to self-government and are currently interested in pursuing this through non-constitutional means. The MNS feel that their inherent rights were affirmed by Parliament in 1982, when it amended the Constitution Act

1982, to explicitly recognize the existing Aboriginal and treaty rights, and included Metis as "aboriginal peoples". In addition, the MNS believes that the Metis self-government infrastructure already exists within the MNS's political and administrative branches.

Like other Aboriginal peoples, the Metis believe that self-government is the foundation upon which all other issues rest. Of courses, the issue of self-government is one that may take some time to resolve. As Clem Chartier, one of the founders of the Metis National Council and a prominent Metis spokesman notes, "The federal government's position is that it has the jurisdiction and responsibility under the Constitution to deal with Indian and Inuit people by not with the Metis. Its view is that the Metis are under provincial jurisdiction. Of course the provinces (and we agree) say no, the federal government has the necessary jurisdiction and responsibility to deal with the Metis. So we're in a jurisdictional limbo that we have not been able to resolve. We almost solved it with the Charlottetown Accord, but that opportunity slipped by and the problems remains".<sup>cvi</sup>

The reasons that the Metis want self-government are clearly related to the inequalities, poverty, and racism that have long been the condition of existence for many Metis in Saskatchewan and which no provincial government has been able to deal with. As noted in a recent discussion of Metis governance, These inequities, when taken together form an important context for understanding our movement towards self-government. Metis people seek nothing less than the amelioration and eventual elimination of these unacceptable economic and social difficulties. No one expects that there are simple or easy solutions to these complex problems, many of which have become systematic and institutionalized over time. It will take years, perhaps in some cases a good number of years, to bring about the desired results. But there is a firm conviction among many Metis that real progress cannot be achieved unless we possess political control over everyday life, the kind of control represented in Metis self-government. Through this empowerment, other benefits will follow in the economic and social areas affecting us.<sup>cvi</sup>

Currently the Metis have both political and administrative structures which they feel are capable of becoming the foundation of Metis self-government. The political branch of government is designed to maximize the participation of Metis members at the local level while also ensuring that regional and provincial interests are served effectively. Administratively there are structures

which attempt to implement the decisions arrived at through the political process.

An important issue for the Metis (as for First Nations) is the determination of how land-based self-government might differ from "off land" situations. As the MNS notes, "Through the years, our people have discussed at length the shape of land-based governments. At a minimum, we should possess the same rights and powers now exercised by non-Aboriginal local (or municipal) governments. In addition, we intend to define the membership of our communities in order to protect the benefits of our land and resources for our people. We would also expect to have authority for taxing these lands and resources or entering into co-management agreements with the provincial government."<sup>cviii</sup> This form of land-based self-government may be realized in the North, in communities in which the Metis are the majority. However in the South, the Metis are not the majority in the communities in which they reside and the issue becomes more complex. The expectation is that certain rights, programs and services, especially regarding fundamental Metis economic, social and cultural interests would apply to all Metis throughout the province. But those not living on a Metis land-base would likely have a narrower scope of control as compared to their "on land" counterparts.

While the Metis lost a great deal as a result of the failure of the Charlottetown Accord, the MNS continues to negotiate agreements that it hopes will lead it to self-government. These include a Tripartite Process Framework Agreement signed in February of 1993 by the MSS, the Government of Canada and the Government of Saskatchewan. This is a five year agreement which will structure the process of transferring control of relevant provincial and federal government institutions, programs and services and commits the parties to ensuring that enough financial and human resources are made available to strengthen existing Metis administrative structures. The major concern is that, "Until we as a Metis Nation have the legal and practical capacity of generating our own revenues through taxation or other means, these expenditures will have to be covered by the federal and provincial governments. It remains to be seen whether these support payments will be forthcoming, but the recent difficulty with securing funding for the Tripartite Process is not a positive sign of what the future may hold."<sup>cix</sup>

The other agreement recently signed was the Bilateral Process Agreement between the MNS and the Government of Saskatchewan in June of 1993, which was designed to enable the two parties to address a wide range of policy and planning issues. This is intended to complement the Tripartite agenda. It contains a leaders forum with the MNS President and the provincial Premier who will meet regularly, as well as some regular protocol arrangements between deputy ministers and senior officials from the MNS. The success cannot be judged at this time, but unless it results in some Metis goals being achieved it will almost certainly be judged as a failure by the MNS.

Because the constitutional process is temporarily closed, the Metis are trying to approach self-government through the established a number of semi-autonomous "departments" which provide programs and services. These "departments" often have their own boards and governing structures, but are all owned by the Metis Society. This is part of the development of an institutional infrastructure which will move the Metis Nation from a lobby organization to a self-governing institution.

Presently the MNS is engaged in an examination of how best to implement self-government in Saskatchewan. The Provincial Metis Council has established a Self-Government and Restructuring Committee, which will consult with the Metis of the provinces about the best way to implement self-government. This restructuring process is planned to take place over a five-year period and will coincide with the tripartite agreement which is also a five-year process, which includes Metis self-management structures as an agenda item. <sup>cx</sup>

## VI

### Treaty Land Entitlement in Saskatchewan

Of the issues connected to self-government, the one which has seen the most progress has been the settlement of outstanding land entitlements for Saskatchewan First Nations. Saskatchewan has proceeded as far as any province in this regard, and has essentially settled all outstanding treaty land entitlements with those bands which had outstanding entitlements. Of the 72 bands in Saskatchewan, 27 had claims all of which are now in the process of being settled through the Treaty Land Entitlement Framework Agreement, which is expected to double the land base of First Nations in Saskatchewan. (See Table # ) It is seen as a crucial part of the process of achieving self-government, because the money available to buy land does not necessarily have to be used to purchase land, nor does any land purchased have to be in rural areas. As of this writing, settlement of land claims has been strictly a matter relating to First Nations; the Metis have nothing approaching a land-base from which to establish self-government and they are pursuing strategies of self-determination off a land-base.

For First Nations in Saskatchewan, land entitlement was an issue of a debt that was owed to them for promises made in treaties which were never fulfilled. Saskatchewan contains parts of six different treaty areas, specifically 2,4,5,6,8 and 10, part of a series of eleven treaties, refereed to as the numbered treaties, all of which were signed between 1871 and 1923. The land entitlement provisions of the numbered treaties signed by Saskatchewan First Nations during the 1870s was to take place "after conference with each band of the Indians and was to be of sufficient area to allow one square mile for each family of five, or in that proportion for larger or smaller families" One square mile for each family of five works out to 128 acres per person. While some lands were set apart during this early period it was clearly not enough to fulfil treaty obligations. Indeed, during much of this period the Dominion government was busy granting the arable land to settlers.

Crown lands were passed to provincial jurisdiction in 1930 in the Natural Resources Transfer Agreement, but treaty land entitlements were clearly protected in the legislation. The federal government believed that it had few entitlement obligations in southern Saskatchewan, but knew it had some in the

northern part of the province. However, there was no action on any outstanding treaty complaints until 1968 when some progress began to be made. Between 1968 and 1973 approximately 185,00 acres of northern Saskatchewan were set apart in complete satisfaction of the entitlement claims of the Lac La Ronge, Lac La Hache and La Loche Bands.

With the settlement of the Calder case, the federal government began to move on fulfilling obligations to First Nations, however because Saskatchewan had jurisdiction over the lands that were to be transferred they too had to be part of the negotiations. A number of developments occurred since the signing of the treaties that would make settlement complex: population increases on reserves as health and social services improved; most of the province had become settled; ascertaining the amount of land owed; identifying funds to purchase land in the south; dealing with the occupants of claimed crown land and determining whether all lands were to be equally valued whether rich in minerals or not. <sup>cxi</sup>

The provincial government has never been too keen about the settlement of land claims because of the fears that, along with municipalities and school boards will lose tax revenues. In addition, third parties were a considerable factor in the whole process and consistently opposed the transfer of lands. Groups such as the Saskatchewan Association of Rural Municipalities, the Saskatchewan Stock Growers' Association and the Saskatchewan Wildlife Federation expressed at best mixed support of the settlement of land entitlements, but were understandably anxious about the lack of response from the federal government. These groups did not want to see the replay of an old scenario in which the occupants are pushed off the land without compensation, this time with the roles reversed. They also enjoyed numerous benefits from this land which they did not wish to give up, without some form of compensation.

Discussions began to take place in earnest in 1975 between the federal government, the FSIN, and the province. While the federal government thought there were only a few small claims in southern Saskatchewan, the FSIN had identified 23 bands with outstanding entitlement claims based on the current population statistics. However a much more contentious issue would prove to be what population figures would be used in settling the claims. There were various proposals: population at the date of the treaty



signing, population at the date of the first survey, or the current population.

For the province a decision was made in 1976 to use the population as of December 31, 1976 as the point to negotiate these settlements. The area owed would be calculated by multiplying the band's population by 128 acres and then subtracting land already set apart. This offer was made on the assumption that federal and provincial, unoccupied and occupied crown land would be made available for these settlements. The province emphasized that if private land was claimed, the funds would have to be provided by the federal government. This offer was accepted by the FSIN.<sup>cxii</sup>

The provincial government had a strong commitment to the Saskatchewan formula, but the federal government was not nearly as keen. For their part, the federal government held firm that the population at the time of first survey should be the basis for the land claims. The Saskatchewan formula was, in the federal government's view, a generous offer by the provincial government to provide land which was in excess of treaty obligations. As John Munro noted in a letter to Gary Lane, the provincial minister responsible for treaty land entitlement, "Canada had interpreted its lawful obligation to be the shortfall between what the band should have received at its first survey and land it has actually received over the years."<sup>cxiii</sup> It appeared that while publicly sympathetic to the Saskatchewan formula, the federal government was trying to back out of what could be an expensive policy. This put the federal government on a collision course with the province and the FSIN. The FSIN threatened the federal government with legal action if they did not accept the whole notion of the 1976 formula for the settlement of land claims.

Despite many efforts of the provincial, federal government and Indians nations, the Saskatchewan formula ended in failure 13 years after it had been created and it appeared as if the whole issue was going to go to courts in 1989. However, in one last attempt to come to some resolution the parties created the Office of Treaty Commissioner. In September of 1989 former Saskatoon mayor Cliff Wright was appointed Treaty Commissioner for Saskatchewan, and he proposed what came to be known as the "equity formula" which resulted in a recommendation that ended up being 425,000 acres less than what was offered under the "Saskatchewan formula." Eventually a settlement was reached in which they would cost an acre of treaty

land as the equivalent to unimproved agricultural land. This concept would allow for the transfer of money to entitlement bands trust accounts for purchasing land, once a settlement has been reached. In 1991 the Treaty Commissioner was estimating that approximately 800,000 acres of agricultural land would go to 27 bands. This was also seen as valuable for the rural economy in Saskatchewan which would allow those farmers who wished to retire sell their land, providing an injection of between \$175-\$200 million the rural economy over a 10 year period.<sup>cxiv</sup>

The final deal would allow 27 entitlement Bands to receive \$431 million over a 15 year period (later reduced to 10) to purchase land they never received under the treaties. Ottawa was to pay out 70 percent of the cost with the province picking up the rest. The 27 band had a population of 30,000 and would have the option of purchasing Crown land or buying land directly from private owners. A very important part of the package was the fact that an extra \$50 million was made available to rural municipalities and school divisions as compensation for lost tax revenues. Land would be purchased either from private individuals, or more likely from the Farm Credit Corporation, or the Saskatchewan Land Bank.

Yet with every step forward other unresolved issues become an urgent concern. With the passage of the Treaty Land Claims Agreement, the issue of the off-reserve population's role in determining how the money is spent became an issue. One band, the Carry-the-Kettle band located about 70 kilometres east of Regina, had more members living in Regina than on the Reserve. This band received \$20 million in the land entitlement settlement, but only those on the reserve could vote on who would be on the executive committee to determine how the money was to be spent. This resulted in an association of off-reserve Indians trying to have changes made in the way the band conducts their elections, something which has been permitted since Bill C-31 was passed in 1987. Some bands have changed their practices and allowed off-reserve band members to vote, but not to run for office themselves, some bands permitted both, and others neither.<sup>cxv</sup> However, the idea of electing band leaders from a city was seen by some as sending a positive message "to the federal government that we now want to provide and deliver services to all our members, regardless of where they reside."<sup>cxvi</sup> Another dispute centers around provincial social assistance payments which have

been cut back to individuals who accept TLE money, which the provincial government considers to be income. There was also some apprehension on the part some band members who felt that First Nations were jeopardising their treaty rights by signing this agreement. A groups of dissident member of the Peter Ballantyne Cree Nation, took the band to federal court.<sup>cxvii</sup>

Perhaps the most exciting development emerging from the TLE process is the fact that First Nations throughout the province now have the opportunity to obtain lands within urban and rural municipalities. It is expected that some of the urban lands will be converted to reserve status, which are to be euphemistically called "Urban Development Centres." The difficulty is that when lands within urban municipalities are converted to reserves status they become exempt from paying municipal tax and school levies. But as a condition of granting reserve status, Article 9 of the Framework Agreement requires First Nations and Urban Municipalities to negotiate an agreement which will address a number of issue concerning compensation, which means an annual grant to the local governments in return of certain services.

The issue of urban development centres is perhaps an issue that has progressed the furthest in Saskatchewan.<sup>cxviii</sup> This it a good sign given the fact that the urban population in Saskatchewan may dramatically increase over the next few years. The big issues for the province will naturally be the taxation status of urban reserves. Presently, First Nations are exempt from paying GST if goods or services are purchased on a reserve and are exempt from the provincial retail sales tax. This has the potential to be controversial in an urban setting, as it did in the 1995 provincial election when the Conservative leader Bill Boyd argued that the current exemption that First Nations enjoyed from the provincial sales tax should be lifted.

An urban development centre can be an industrial park, an office building, a neighbourhood shopping centre, or a downtown hotel. It can be on undeveloped or developed land, it can be owned by a treaty land entitlement band from anywhere in Saskatchewan, and a city can have several urban development centres, each owned by a different TLE band. Urban development centres are limited, land-based forms of First Nations urban self-government based on the existing provisions of the Indian Act. Urban municipalities are

most concerned about the issue of revenue, and insist that they must be compensated 100% for the loss of any tax revenues. To this date, the only urban development centre is located in Saskatoon and is owned by the Muskeg Lake Band but more are planned in both cities and towns across the province.

Related to the movement on land claims was the entire issue of the co-management of natural resources, which is of paramount concern to both First Nations and Metis. Saskatchewan signed its first co-management agreement in January 1994, but only after a year-and-a-half long protest by some Canoe Lake residents who formed a group called the Protectors of Mother Earth Society and began blockading roads.<sup>cxix</sup> The deal signed between the government and NorSask Products allowed a number of Aboriginal groups in the North to establish limits to NorSask's logging operations. It would also allow for co-determination on such things as where harvesting is done, where roads are built, the method of harvesting and the reforestation requirements. The elders mostly objected to clear cutting and the use of mechanical harvesters. They wanted control over their local resources, compensation for their people, as well as financial and technical compensation for local people who want to start their own forestry related businesses. They were concerned about the fate of trapping lines as well.<sup>cxx</sup>

## VII

### A Metis Land-Base in Saskatchewan

The Metis of Saskatchewan have not fared well in their attempts to establish a land-base. At no time has any Saskatchewan government contemplated the protection and security of a Metis "homeland." All power of management and supervision of the land and its use have been reserved by the province. While some agreements have been reached to transfers some land to Metis economic corporations the land is so small as not to constitute anything like a land-base.<sup>cxxi</sup> With their victory in getting included in the 1982 constitutional settlement still fresh the Metis began to seriously begin the push for a land-base, and have often use the threat of making a land claim as a means to acquiring a municipal status for their communities.<sup>cxxii</sup> The concern for a land base is strongest in the North, where many communities are dominated by Metis, but it is a central feature of Metis aspirations in Saskatchewan. Although the provincial government was sympathetic to some increase in individual ownership, they were not keen on the idea of community ownership which would give the Metis the land in perpetuity.

Despite a lack of provincial support, the Metis have laid claim to some three million acres of Northern Saskatchewan, and continue to regard a land-base as being essential to the creation self-government. In the words of the Metis Nation,

For our people to continue our existence and survival as an Aboriginal people and nation, land is a prerequisite. Land is essential because we are inextricably tied to the land: it sustains our spirits and bodies; it determines how our societies develop and operate based on available environmental and natural resources; and our socialization and governance flow from this intimate relationship. In essence, land is a natural right, inalienable in nature, which is essential for the continued vitality of the physical, spiritual, socioeconomic and political life and survival of our people for generations to come."<sup>cxxiii</sup>

While those Metis who choose to remain in non-Metis rural and urban communities would have a different form of self-government, this does not imply that because self-government off a land base is a possibility, that there is no need to return land to the Metis people.<sup>cxxiv</sup>

The greatest frustration for the Metis in Saskatchewan is that they do not have any process for

acquiring a land base, and thus they must resort to the courts, which is an expensive and risky process. First Nations have a comprehensive land claims process, a specific land claims process and they have an Indian land Commission, whereas the Metis have nothing except the courts, and most often the Metis do not have the funds to use even this process. The Metis would like a Metis Land Claim process, and would prefer this to any recourse to the courts.

What the Metis wants however are not reserve type lands, rather they want four different types of lands. First they want the land around Batoche to be turned over to the Metis which must be left in the hands Metis forever. Second, they want agricultural land which will be 1.2 million acres, which is based on the formula contained in the Alberta Metis Settlement Act using the current Metis population in Saskatchewan. This will be for southern Metis who wish to pursue farming. Third, is the desire for economically viable land, such as timber blocks and mining that would help take care of the Metis in the North and make them economically self sufficient. Fourth are tourist lands that will help in the North becoming self-sufficient.

## VIII

### Assessment of the Current Relationship

At a recent conference on Aboriginal peoples and justice held in Saskatoon, the continuing frustration of the Metis people with both levels of government was made clear by the leader of the MNS at that time, Gerald Morin.

When we talk about systematic discrimination and systematic racism, our people are probably one of the most severely affected people in the country because of the jurisdictional limbo in which we find ourselves. We can't even begin negotiations on the land claims process unless we go through the court process. We can't negotiate self-government agreements with the federal government and with provincial governments because we don't have access to the process. Our people have never been properly enumerated, yet governments come to us and ask who the Metis are and how many there are. Then, when there is no concrete answer, they use this as an excuse not to deal seriously with the Metis people. As long as we are in this jurisdictional limbo, and as long as we lack access to any kind of a negotiation process, we can't possibly move ahead.<sup>cxxxv</sup>

It is the impression of the Metis leadership that the provincial government has not been very helpful, and continues to treat the Metis Nation as, at best, a special interest group. The one action that the Metis want most of all from the provincial government is for them to create a Metis Act. They feel that because they are an Aboriginal peoples listed in the Canadian Constitution, they should be treated like a self-governing people. Unfortunately for most of their political existence, they were organized under the Societies Act which gave them the status of a special interest group. The provincial government must introduce a Metis Act which would help clarify their status, which will eventually result in recognition under section 91/24 of the Constitution and settling once and for all the jurisdictional issues. This is in accord with the desires of the province itself. Jurisdiction is paramount, thus a Saskatchewan based Metis Act that recognized the Metis as a Nation, would put pressure on the federal government to deal with the issue of jurisdiction. A Metis Act has been promised by the current government and there is a feeling that the government will introduce such an Act during its current mandate.

The Metis are still a considerable distance from achieving self-government, and the most charitable interpretation of the government's intentions is that it is trying to increase the sensitivity of its own bureaucracy

in dealing with Metis issues, as well as devolving some carefully prescribed administrative powers. This is far from the level of self-control that is desired by the Metis themselves. Whether in the area of education, justice, or family services, the government appears to have little enthusiasm for anything akin to self-governing institutions. Having said this, it is also true that in the North, with the passage of the Northern Municipalities Act, many Metis communities have gained some measure of control over their lives through the control of local government institutions. This is welcomed by northern communities, but it has also aggravated some long standing divisions between the northern and southern Metis populations. This division is based on the fact that the Metis of the south were more assimilated than those of the north and that the problems faced were quite different. The Metis of the north were closer to the Indian in their ways; the Metis of the south closer to the Euro-Canadians.<sup>cxxvi</sup> Thus there appears to be some conflict over the nature and structure of self-government which, unfortunately, as Gerald Morin noted above, gives the government a reason to avoid dealing with the substantive issues. Provincial bureaucrats are also quite concerned and pessimistic about the prospects of significant Metis gains, and consistently point out that the Metis are riven with factional and kin-based cleavages, and have an overall feeling that their institutions are unstable.

The provincial government in Saskatchewan has not played a significantly more helpful role with regards to First Nations and only belatedly got involved in the issue of self-government in a defensive manner to avoid federal off-loading. Until the 1960s, First Nations received most of their services from the federal government with the provincial government sometimes delivering federally funded services such as health care and road construction. Whatever services the provincial government did provide were generally paid for through arrangements with the federal government. During the 1960s, however, the federal government wanted to get all provinces involved in sharing the fiscal responsibilities for First Nations programs, and has since then consistently exploited every opportunity that presents itself to transfer Indian services to the provinces. However as a study in the early 1980s noted, "The consistent feature that has marked the whole history of federal efforts to establish a significant role for provinces in the provision of services to Indians is the lack of consultation with the people who would be most affected by the changes the federal government was



proposing."<sup>cxvii</sup> Little would appear to have changed in the intervening decade, with a lack of consultation being a major problem between First Nations and the federal government. This lack of consultation has often forced the provinces to fill a gap created by the unilateral retreat of the federal government.

It appears that First Nations have a much better chance of achieving self-governing arrangements than the Metis. Many First Nations in Saskatchewan already exercise varying forms of self-governing arrangements. Should a comprehensive agreement ever come about, it will in all likelihood be established within the confines of a framework agreement worked out between the federal and provincial governments and the FSIN, just as in the Treaty Land Entitlement Agreement. In the meantime, First Nations will continue to assume sovereignty over their land, and will act on this understanding regardless of the position of the province. This can be seen in their actions on gaming. .

First Nations are nonetheless just as frustrated as the Metis in their dealings with federal and provincial government. As outgoing FSIN president Roland Crowe noted recently, We believe it is time for real change. We are frustrated, we're tired and we're not happy about being an industry for another segment of society. I'm not here to tell you what you want to hear or necessarily what you'd like to hear, but I am here to tell you how we feel in the Indian communities and how drastic a change we need and how quickly we need it. I ask both levels of government to understand us, work with us and co-operate with us as we've co-operated with non-Indian settlement in this country.<sup>cxviii</sup>

Yet potentially there remains a serious cloud hovering over the issue of self-government: financial viability. Sovereignty appears limited when someone else is capable of cutting funding. Without some form of economic development many First Nation's have the potential to become merely glorified administrative units. Indeed, some Saskatchewan Indian opinion-leaders, such as former SIFC president Dr. Oliver Brass, argue that self-government involves taking over responsibility for the control of their own finances, education administration and the planning and delivery of programs. According to Brass, "There are some people, such as the Mohawks, for whom self-government means sovereignty or semi-sovereignty. If you have a lot of your own money, that might have a chance of working. But if you depend on the federal government, they can cut the rug out from under you pretty fast."<sup>cxix</sup> Thus self-government requires some form of tax base, economic

development and revenue sharing arrangements, for it to meet the expectations of First Nations.<sup>cxxx</sup>

The frustration felt by Aboriginal people in the province is understandable and while the provincial government has gone further than other provinces, other provinces do not have the same concentrations of Aboriginal peoples and consequently do not have the same pressures and responsibilities to act. The difficulty for Aboriginal people in Saskatchewan is that while the government accepts that they have an inherent right to self-government, it will go on to suggest that, "as a provincial government we must balance the needs of the whole province. Our goal is not self-government itself, but positive results in the social and economic well-being of Aboriginal people. As a result of this acknowledgement we believe that we are bound by the existence of an additional principle to guide our decision-making in relation to Aboriginal issues; the principle of what we have come to call "maximizing self-reliance and self-determination."<sup>cxxxi</sup> For many in the Aboriginal community such language is merely a tactic to delay the coming of self-governing institutions. If past practice is any indication they are probably correct.

## IX

### Recommendations and Conclusions

1. The province of Saskatchewan has successfully negotiated protocol arrangements with both the First Nations and the Metis Nation. These arrangements are necessary to ensure the provincial government maintain strong ties with Aboriginal organizations who face the challenges associated with federalism and its division of powers which may overwhelm Aboriginal groups and seriously delay the path towards Aboriginal self-government in the province of Saskatchewan. The importance of protocol arrangements is to have all actors operating as equals in the process and these arrangements must be respected.
2. The Province of Saskatchewan must accept and respect the treaty relationship that exists between the First Nations and the federal government and the sovereignty that this gives to First Nations in the province. In its actions, the province needs to regard this as another form of intergovernmental negotiation. It must also respect the desire of First Nations to conduct self-government negotiations with the federal government without any provincial involvement.
3. The provincial government should create a made-in-Saskatchewan Metis Act which recognizes the Metis as a Nation. This will help the Metis in establishing their claim to nationhood. This Act should also provide a mechanism for a Metis controlled population registry. This might also help the Metis achieve recognition under section 92/24 of the Constitution.
4. The Province should work with the Metis Nation to establish a Land Claims Process. They will need to be an active partner in the process of land claims as they were with the First Nations due to their ownership of Crown lands. To date, the Metis have no process other than the courts for resolving their land claims and this situation is increasingly creating strains in northern Saskatchewan between the provincial government

and the Metis dominated communities.

5. The province must establish a framework for the transfer of jurisdiction to First Nations and Metis in the important areas of taxation, revenue sharing, health, justice, policing, gaming and resource management. While these are bound to be controversial actions some quick progress in terms of process needs to be made as an act of good faith.

6. A serious problem has been the habit of both federal and provincial governments treating Aboriginal peoples as one homogeneous group. The government of Saskatchewan must recognize that there are at least three major groups of Aboriginal peoples in Saskatchewan - First Nations, Metis, and Non-Status Indians - and all must be treated decently and with respect. This involves an acceptance and respect of the organizational choices made by the various groups.

7. One of the key factors in the transition to self-governing arrangements is the existence of effective organizational structures. The provincial government should ensure that funding for Metis organizations is adequate to the task of providing representation as well as service delivery and refrain from funding freezes and other interference with the internal politics of the Metis people.

8. Both First Nations and Metis women have expressed concern about a lack of representation in the mainstream organizations and the need for adequate levels of funding for their service delivery functions. The government should ensure that Aboriginal women's organizations that have a service delivery function are funded so that these services can be provided at an adequate level. Sensitivity will be required so as to ensure that this is not perceived as interference with the internal politics of Aboriginal organizations, but the obvious sense of frustration experienced by Aboriginal women in Saskatchewan cannot be ignored.

9. The province of Saskatchewan and the federal government must encourage the development of the basic infrastructure arrangements for self-government by developing the institutional capacity and autonomy of Aboriginal political structures and service delivery organizations.

## APPENDIX A

**Chronology of Events in Saskatchewan Relating to Aboriginal Peoples**

1670 - Hudson's Bay Company formed

1763 - Royal Proclamation

1821 - Hudson's Bay Company and North-West Company merge

1837 - Small pox epidemic

1870 - Battle of Billy River

- Metis settlers come to Saskatchewan from Red River

1871 - Treaties 1 and 2 signed

1872 - Cypress Hill Massacre - American wolf hunters kill scores of Indian men.

1873 - North-West Mounted Police created

1874 - Treaty 4 - Qu'Appelle Treaty signed

1875 - Treaty 5 - Lake Winnipeg Treaty signed

1876 - First Indian Act

1876 - Treaty 6 - Fort Carlton and Fort Pitt Treaties signed

1877 - Sitting Bull flees to southwestern Saskatchewan after the Little Big Horn resistance.

1885 - North-West Rebellion

- Louis Reil hanged in Regina

1887 - Death of Sweetgrass, Big Bear become principal leader of the Northern Plains Cree

1888 - Buffalo virtually extinct

1895 - Beginning of mass migration to Saskatchewan

1905 - Saskatchewan becomes a province

1906 - Treaty 10 signed

1910 - Metis and Non-Status Indian children excluded from federally funded schools.

1930 - Natural Resources Transfer Agreement

1937 - First Metis political organization in Saskatchewan formed

1941 - Provincial grants to school district for schooling Metis children

1944 - Election of CCF who were committed to equality for all citizens.

1951 - Amendments to Indian Act giving provinces more jurisdiction over First Nations.

1961 - Creation of a summer program to help make teachers more sensitive to the culture of their students.

1968 - Task Force on Indian Opportunities

1969 - Provincial Department of Indian and Metis Affairs

1972 - Department of Northern Saskatchewan created

1982 - Constitution is amended to recognize existing aboriginal rights

1983 - Saskatchewan Indian and Metis Secretariat created

1988 - Metis Society of Saskatchewan becomes exclusive organization for the Metis of the province.

1992 - Charlottetown Accord rejected

- Treaty Land Claims Framework Agreement signed

1993 - Saskatchewan recognizes the inherent right to self- government

- Metis Nation of Saskatchewan replaces the Metis Society of Saskatchewan

1994 - Gaming agreement signed between FSIN and provincial Government

### **Appendix 3 Expenditures and Programs**

The exact amount of provincial money annually directed at Aboriginal people within Saskatchewan is difficult to discern. The Indian and Metis Affairs Secretariat provides only an estimate based on annual provincial budgets directed to the Aboriginal population at the time - which stands at about 10 percent. Secretariat officials cited the difficulty in breaking down larger, all inclusive departmental budgets as responsible for the lack of more exact figures.

Despite the difficulty of getting accurate records, expenditures on specific Aboriginal programs and organizations are recorded by government departments in the Public Accounts of the Province of Saskatchewan. The figures that are derived from this exercise do not represent total government or Department expenditures on Aboriginal expenditures, as total spending significantly exceeds "Aboriginal Specific programs and organizations. For example, the majority of Aboriginal people receive medical treatment in the public health care system. In addition, government departments do not always identify the ethnicity of the organizations provided with funding, for the principle users of the programs receive financial support. Nonetheless these figures allow for some general observations.

First, despite the changes in government departments and programs and the lack of data in some spending areas, meaningful comparisons of government expenditures on Aboriginal peoples over the past fifteen years can be drawn.

In the area of economic development, falling under the purview of the Department of Economic Development in 1993/4 and the Indian and Metis Affairs Secretariat in 1992/3, 1991/2, 1990/1 and 1983/4, expenditures steadily increased from 1,55,585.8 in 1983/4 to 2,301,119 in 1991/2 after which they fell to 980,231 in 1993/4.

In education, the alternative totals suggest that education expenditures have stayed relatively constant. While total spending dropped from 5,716,236.6 in 1983/4 to 4,475,371 in 1990/91, expenditures climbed back up to 4,940,077 in 1993/4. Education, along with health care-delivery, is clearly a priority of the provincial government.

Most significant is the drastic cut in the 1993/4 budget of the Indian and Metis Affairs Secretariat. Even when the transfer of business and economic initiative in 1993/4 to the Department of Economic Development is taken into account, this reduction is over \$800,000. In addition there have been shifts in priorities with the various departments.

In conclusion the annual accumulative totals for all government department spending on Aboriginal peoples suggest that expenditures increased only marginally over the past fifteen years.



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