THE EMERGENCE OF CO-MANAGEMENT WITHIN EDUCATION POLICY IN YUKON

by

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TABLE OF CONTENTS

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Introduction

The Yukon Territory (Yukon) has always held a special and unique place in the Canadian federation. From its inception during the Klondike Gold Rush to its current quasi-provincial status, Yukon has made a significant contribution to the development of Canadian federalism. Currently the Yukon Government controls a great variety of "province-like" powers, programs and responsibilities. Unlike the other territories in the Canadian federation, the Yukon Government controls the management of its lands and natural resources, including the ability to regulate and collect royalties. Indeed for all intents and purposes Yukon functions very much as a province. Like its northern neighbours, however, Yukon does not enjoy the same constitutional status as the southern provinces. Its existence as a distinct territory is derived from a piece of federal legislation, and like any other federal act, can be changed during any sitting of Parliament at the whim of the federal government. The constitutional status of Yukon, therefore, can be regarded as tenuous and contested.

While the constitutional distinctions of a territory make it unique, the most remarkable feature of Yukon's political landscape is the existence of a third order of First Nation government. Any discussion of politics in Yukon would be remiss without mention of the variety and scope of First Nations governments that exist there. But the stratum of First Nation government in Yukon is more than simply another characteristic upon an already dynamic landscape. It represents an experiment in self-government that has and will continue to influence the progression of the concept of Aboriginal self-government in Canada. It represents an important attempt to reconcile the disparaged relations between First Nations peoples and the Canadian state by reconfiguring the political institutions that have caused significant disaffection

1

between the two. Finally, and probably most importantly, it represents an important part of the political structure under which all Yukoners, Aboriginal and non-Aboriginal, will live together.

Despite these lofty goals and aspirations, First Nation self-government in Yukon is still very much an experiment. Except for a very few other examples in Canada that are only somewhat comparable, the self-governments in Yukon are embryonic institutions forged on relatively nascent principles. For all their originality and innovativeness they are equally as untested and unproven. Like any experiment they need rigorous examination and study to be better understood. This characterization is certainly not meant to trivialize or underestimate self-governments, but is rather an acknowledgement of their importance and the need to improve the understanding of how they work. The hopeful intent is that closer examination and better understanding will precipitate enhanced function and superior performance.

As a starting point, there is a clear gap between the system of First Nation governance envisioned in the Final Land Claims and Self-Government Agreements and the system as it currently exists. The agreements have yet to be implemented fully, or even close to fully. This means that there are a variety of policy fields which First Nation governments have the power to control, but have not yet assumed this power. For some, this implementation gap is one that will eventually be overcome if the necessary resources are invested. This paper, however, questions whether the current trajectory of implementation is in fact leading towards the system envisioned in the agreements. Using education policy in Yukon as a case study, this paper suggests that there appears to be a different relationship emerging between the Yukon Government and First Nation governments. It argues that in the policy field of education the Yukon Government and First Nation governments are moving towards a system of co-management, based on increased partnership and collaboration.

To make this assertion this paper will compare the current trajectory of the relationship between Yukon and First Nation governments through a co-management framework. This framework is based on the body of literature that discusses regimes of co-management by Aboriginal and non-Aboriginal governments over natural resources. It is comprised of four parts: the underlying rationale or origin for the regime; the structure of the regimes various bodies; how power and decision-making occurs; and how Aboriginal voice, or traditional methods and practices are incorporated.

To assess education policy in Yukon I will examine government documents that have recently been developed, focusing particularly on the Education Reform Project conducted by the Yukon government in conjunction with the Council of Yukon First Nations. As well, I conducted interviews with senior government officials in Whitehorse in November, 2010. While the interviews were with Yukon government officials specifically, it should be noted that one of the interviewees had considerable experience working on behalf of individual First Nations and the Council of Yukon First Nations.

This paper is divided into five chapters. The first, chapter provides some necessary background information and suggests that there is indeed a gap between the model of self-government envisioned in the Final Land Claim and Self-Government Agreements in Yukon, and what is currently being practiced. The second chapter consists of a review of the literature regarding self-government in Canada. It outlines the significant theoretical debates regarding Aboriginal self-government in Canada, describes various models and frameworks that currently exist for explaining the relationship between Aboriginal and non-Aboriginal governments, examines the discussions specific to the situation in Yukon, and finally provides an overview of

co-management literature and creates a framework of what co-management regimes in other policy fields look like.

Ultimately it argues that there are no frameworks or models in the current suite of literature which accurately reflect the relationship between the Yukon and First Nations governments in Yukon, and suggests the co-management framework as a possible alternative. The third chapter reviews the current system of education in Yukon. It determines that while much of what is currently proposed remains unimplemented, there are some telling observations that can be made about the trajectory of education policy that suggest that a co-management regime is emerging in this policy field. The fourth chapter assesses those policies and their direction, through the framework of co-management. Finally the fifth chapter concludes that co-management may be a helpful framework for characterizing the relationship between Yukon and First Nations governments within education, and suggests what this characterization means in terms of the gap between the current and potential models of self-government in Yukon.

Self-Government in Yukon

In order to understand the broader context in which this issue is situated, it is necessary to recount how it is that modern First Nations governments in Yukon came to fruition and provide some necessary background on their development to date. To do this we must recall the development of Aboriginal political organization in Yukon, the resulting comprehensive land claims process, and the signing of final land claims and self-government agreements.

For the better part of the twentieth century, Aboriginal political organization in Canada was quite limited. Aboriginal peoples were defined as Indians under the federal *Indian Act*. As such, they were considered as wards of the state and their affairs were administered by the

Department of Indian and Northern Affairs. In most cases, including that of Yukon, Indians lacked the cohesiveness and organizational capacity to collectively press against a colonial regime that was at best paternalistic and at worst racist. When the Trudeau government however, proposed eliminating the special status for Indians and suggested a process of assimilating Indians into the rest of Canadian society with the 1969 White Paper, they were met with surprising resistance. In Yukon, and across Canada, resistance and outrage with the proposed White Paper provided the catalyst for the mobilization of regional Aboriginal political organization. Groups, like the Yukon Native Brotherhood, began to form with the express intent of pressuring the Canadian government to recognize Aboriginal rights, and title to lands and resources. Any initial hesitancy the federal government might have had in regards to recognizing those rights and titles seemed to be put aside following the ruling by the Supreme Court of Canada in the 1973 case of *Calder vs. the Attorney General of British Columbia*. In *Calder*, the Supreme Court, in a split decision, recognized the Aboriginal rights of the Nisga'a First Nation in British Columbia's Nass River valley. So it was in this context of the failed 1969 White Paper, and the decision made in the *Calder* case of 1973 that the comprehensive land claims process began in Yukon.

Yukon's process of negotiating comprehensive land claims agreements with First Nations began, at least symbolically, with the issuance of the document entitled *Together Today for Our Children Tomorrow*, (YNB, 1973) to the Prime Minister by a group of chiefs lead by Chief Elijah Smith in 1973. The document outlined the social and economic ills faced by Yukon Indians and called for land, rights and political powers to be transferred to the Indian groups (Coates and Morrison, 2005: 289-92). While the federal government responded positively to the request, and did enter into negotiations, it would be several decades before any result would be

seen. The commensurate negotiations were bilateral, between the federal government and the

Council of Yukon Indians (CYI). It was determined that success was more likely to be achieved

if the individual First Nations (designated as Indian Bands at the time) negotiated together

through one representative body: the CYI. However, as the public Yukon territorial government

began to agitate for greater control of their own affairs, Yukon First Nations began to express a

desire for representation in the negotiations. While the shift to trilateral negotiations made sense,

it certainly complicated the already intricate negotiations. The three parties were able to

negotiate tentative agreements twice in the following 20 years, but in both cases those

agreements fell through (Cameron and White, 1995: 26-33). Needless to say, the tripartite

negotiations were long, arduous, and very expensive.

Breakthrough was made in the late 1980s and early 1990s when a 1989 Agreement in

Principle became the Umbrella Final Agreement in 1991, and was finally signed by all parties in

1993. The Umbrella Final Agreement (UFA) was a general framework agreement through which

each individual First Nation would negotiate its own specific agreement with the federal and

territorial governments. It stipulated a fixed quantum of land and compensation money from

which each First Nation could make claim. As well, the UFA established a co-management

regime in the territory, creating a variety of boards, committees, and councils with guaranteed

membership for First Nations people that would guide decision-making on both First Nation and

crown land (Cameron and White, 1995: 29-30). Issues such as hunting and fishing,

environmental regulations, and natural resource use all fell under the purview of these co-

management bodies. In addition to the co-management regime it created, the UFA called for the

negotiation of self-government for First Nations. While each First Nation would negotiate its

own final land claims agreement based on the UFA model, it was also to negotiate a self-

government agreement. These self-government agreements were to be seen as companion agreements to the land claims agreements and would be negotiated concurrently based on a model agreement for First Nation self-government which provided a framework in much the same way as the UFA did for land claims agreements. An important distinction between the two companion agreements was that the final land claims agreements were to be protected as treaty rights under the auspices of section 35 of the Constitution, while the self-government agreements would not.

With the UFA in place as a model for the negotiation of final land claims agreements, and the model agreement as a framework for self-government negotiations, First Nations in Yukon began to negotiate, sign and attempt to implement these modern and very unique agreements and structures. The first four First Nations to sign agreements saw them come into force in 1995. Since then 11 of Yukon's 14 First Nations have signed agreements and begun to implement their respective self-governments. The complexity and breadth of the self-government agreements offers a sense of the scope of the task.

While each government is unique, we can turn to one of the first four, the Champagne and Aishihik First Nation (CAFN) Self-Government Agreement, for an example of some of the key aspects. First of all, in the preamble and principles section, it states that the CAFN has "traditional decision-making structures" and will incorporate them with "contemporary forms of government" (section 2.2) which will be defined by a CAFN Constitution (10.1). It also, importantly, makes clear that CAFN citizens will no longer be considered "Indians" as defined by the *Indian Act* (3.5) and that the CAFN Band will cease to exist (9.1). The agreement makes clear that the CAFN government has the power to enact primary legislation on a broad variety of matters. While it is not necessary to reprint the entire list here, a selective list of the areas over

which the CAFN government can legislate includes: cultural beliefs and practices, language, health services, social welfare, child care, education, and justice (13.2). As well, the CAFN government has full control of the management and ownership of all natural resources, both renewable and non-renewable, on their settlement land. It is also worth noting that if the CAFN enacts legislation that overlaps with Yukon legislation, the First Nation legislation is paramount.

Since the majority of programs and services contemplated by the self-government agreements are currently provided by the Yukon government, the agreements suggest a process to allow the First Nation government and the Yukon government to negotiate their transfer. These Program and Service Transfer Agreements (PSTAs), factor in the funding arrangements vis-à-vis the federal government as well. So if the Yukon government receives federal funding for a program over which the First Nation government wishes to assume control, the funding is redirected from the Yukon government to the First Nation. It is not hard to imagine that these funding aspects of the PSTAs might factor importantly into the transfer negotiations.

The Current and Potential Models

There is little doubt that the self-government agreements reached in the Yukon Territory are significant achievements. As mentioned above, they represent an important reconfiguration of the relationship between First Nations people and Canadian political institutions. In theory they provide Yukon First Nations with a type of self-determination that is almost unrivalled in Canada. If one considers the extent of powers available to them in their self-government agreements, First Nations have the ability to exercise powers that are very similar to that of a province. These extensive powers cannot be overstated. They create the potential for 15 different governments (14 First Nation and one public) within the Territory. This could mean 15 different

suites of programs and services within the same policy field. While this may seem unimaginable for a Territory of only approximately 33,000 people, it is certainly a possibility. But it is important to remember that most of these powers that are available to First Nation governments have not yet been implemented. The programs and services that have been taken on by the First Nations do not yet match up with the ambitious model that is envisioned in the treaties. Explaining why such comprehensive powers have not been implemented is tantamount to understanding the very nature of First Nation self-governance in Yukon.

To better explain this situation, a helpful analytical distinction can be made between what is outlined in the agreements and what is being practiced on the ground. On one hand, the agreements offer a model of governance that is available to the First Nation governments. This model can be described as the "potential" model, in which the First Nation exercises the maximum allowable powers and provides the maximum in terms of programs and services that are permitted by their self-government agreements. In every policy field contemplated by the self-government agreements, the First Nation assumes control from either the Yukon or federal government. On the other hand, the "current" model reflects the situation in practice. In this, the "current" model, the First Nation provides a few select programs and services that it has negotiated from the Yukon or federal government. Those few programs and services are designed to supplement rather than completely replace those provided by the Yukon government. As will be demonstrated in the field of education, the current model is based on important collaboration with the Yukon government. In order to better understand this gap between the current and potential models, a better explanation of this collaborative relationship between governments is necessary.

Literature Review: Seeking the Right Tools

Introduction

The first step in assessing the relationship between governments in Yukon is to review the literature that already exists on the subject. While it is important to note what others have argued and discussed, it is equally important to note what has not been discussed and where there are gaps in the literature. This section will proceed by reviewing and categorizing existing literature about self-government in Canada.

It will begin with the broadest category, in which there are discussions and arguments about the theoretical debates, normative concepts, legal fundamentals, and philosophical foundations of self-government. In this group, we find concerns about the source of authority of First Nation governments and the nature of their relationship with the Canadian state.

Following this is a body of literature that shares its overarching subject, but differs in approach. This group continues to deal with the nature of self-government, but tends to focus more on how self-governments are structured, how they operate on the ground, and how they fit into intergovernmental structures like that of the Canadian federation. In this sense they deal with more practical and empirical questions of how newly self-governing First Nations will fit into Canadian federalism. While these tend to focus on writ-large Canadian issues, there are unique issues that exist in the Yukon. The third category contains the Yukon-specific literature and examines these unique issues that exist at a territorial level. Finally, a category of self-government literature that has emerged as its own niche is the literature dealing with regimes of co-management over natural resources between First Nation and Canadian governments. Although the co-management framework has only been applied to natural resource use, this

framework and the issues outlined in the literature on co-management provide a useful framework to analyze the co-management of education policy in Yukon.

Theoretical Debates on Aboriginal Self-Government in Canada

The debates and discussions surrounding Aboriginal self-government in Canada have changed and evolved significantly over the decades. Often, these debates and discussions develop in response to changes in government policy (or lack thereof), and involve either affirming or rejecting those policies. As discussed above, it started in many ways with the mobilization of Aboriginal political organizations in the late 1960s. In Canada the rejection of the White Paper of 1969 is usually pointed to as a catalyst for this organization, but some argue that it was very much a global phenomenon of Indigenous nationalism and agitation against the colonial structures imposed on them by expanding European empires (Coates, 2005).

Aboriginal nationalism was more than simply a strategic tool for the development of Aboriginal political organization. Michael Murphy argues that Aboriginal nationalism is in fact "deeply principled," and is an expression of the desire of Aboriginal peoples to determine their own political destiny and negotiate new relationships with other governments on the principles of co-equality and mutual consent (Murphy, 2005: 9). In this sense, the right to Aboriginal self-government rests on a series of normative principles. Patrick Macklem offers a helpful enumeration of these philosophical arguments upon which the right to self-government rests (Macklem, 1995). He argues that there are in fact five specific normative dimensions to this right: prior occupancy, prior sovereignty, treaties, self-determination, and the preservation of minority culture. Although Macklem presents the strengths and weaknesses of each of these arguments, he does not suggest that any of them are sufficient justifications for the demands of

11

self-government on their own. Instead he points out that they are "intersecting justifications," and that the right of self-government is best defended by them in combination and synthesis (Ibid: 40-41).

On the part of the Canadian government, court decisions like *Calder* reinforced the need to deal with Aboriginal claims of rights and title (Coates & Powell, 1989: 110). While the dual forces of Aboriginal nationalism conveyed through Aboriginal political organizations, and the reality of court-recognized Aboriginal title led to the beginning of the land claims process in the Yukon, Aboriginal policy in the rest of Canada did not develop in stride. Instead, self-government remained an area of cautious study for the government. One particular turning point came in 1983 though, when a House of Commons special committee chaired by MP Keith Penner issued a report that recommended the establishment and recognition of Aboriginal self-government. In their account of the development of the idea of self-government, Yale Belanger and David Newhouse suggest that the Penner Report marked a transition in thought about self-government (Belanger and Newhouse, 2008). They claim that the report represented a shift in the debate from one of principles and rationale for self-government, to one about how to make it fit within the Canadian federation (Ibid: 2). Despite the assertion of this shift, they suggest that the drive for constitutionally based Aboriginal self-government precipitated two key questions "that still steer the self-government debate: (1) should Aboriginal self-government be considered a third level of government?; and, (2) what is the source of power for Aboriginal self-governments, and is the source of power more of a barrier to agreement than the range of such powers?" (Ibid: 12).

With those questions surely in mind, the Mulroney government established the Royal Commission on Aboriginal Peoples (RCAP) in 1991 to gather information, deliberate and

provide recommendations on the future of Aboriginal self-government in Canada. The RCAP report produced in 1996 contained volumes of information, testimonies and facts, as well as hundreds of recommendations for the federal government. While it is not possible to review them all here, some of the fundamental issues regarding self-government should be noted. The RCAP posited a nation-to-nation approach to Aboriginal-state relations in Canada and suggested a new relationship based on modern treaties with First Nations. It suggested that self-government was an Aboriginal right that should be recognized and protected. However, any momentum that Aboriginal groups may have perceived from the RCAP quickly dissipated, as the report was basically shelved by the federal government upon receiving it.

Since the mid-1990s, the federal government has shied away from "big-picture" Aboriginal policy. However the academic and political debates that developed in response to both the Penner report and the RCAP report continue to feature in the landscape of self-government literature. Much of the literature that can be considered in the "theory" group comes in response to the two questions posed by Newhouse and Belanger above. These refer to the nature of the third order of government, and the source of power or authority of Aboriginal self-governments. For some, self-government in the sense envisioned as a third order of government within the Canadian federation is unacceptable. These forms of governance are inherently un-Aboriginal and therefore are simply another form of colonialism imposed on Aboriginal people by the Canadian state (Alfred, 2005). For other Aboriginal scholars, the source of the right to self-government is the point of contention. Often, they do not envision Aboriginal people as existing within the Canadian federation or within Canadian political institutions. In this sense, they are sovereign nations with a nation-to-nation relationship with the crown established by the original treaties between their ancestors and the British colonizers (Ladner, 2003; Henderson,

1994; 2008). Often this group of authors refers to the relationship as being represented by the Two-Row-Wampum belt, which shows Aboriginal peoples and Canadians travelling down the same river together, but in their own respective boats. The two exist cooperatively in the same space, but are autonomous and do not interfere with each other (Tully, 1995). This type of treaty federalism (Ladner, 2003; Henderson 1994) or treaty constitutionalism (Tully, 1995) is, according to proponents, the only legitimate relationship in terms of legal norms and history.

On the opposite side of these discussions, are those who criticize the viability of Aboriginal self-government and use of the term 'nation' by Aboriginal peoples (Cairns, 2000; Flanagan, 2000). For Tom Flanagan the term nation is inappropriate for Aboriginal groups. He argues this based on the size of each First Nation group, the composition of the groups, and his sense of their historical development (Flanagan, 2000). He argues that it is infeasible for powers of self-government to be vested in these groups; rather they should undergo some sort of benign assimilation into the mainstream Canadian society (Ibid.). Alan Cairns undertakes a similar criticism, but for different reasons and with a very different conclusion (Cairns, 2000). Cairns criticism stems from the effect self-government will have on the Canadian nation and Canada's collective citizenship (Ibid.). He explains that as a result of the Canadian government's historical goal of assimilation, "many members of First Nations accord limited legitimacy to the major institutions of the Canadian constitutional order" (Cairns, 2005: 22). They view Parliament with "suspicion and wariness," are alienated by the constitution, ambivalent towards the charter, and have an "uncertain citizenship" (Cairns, 2005: 23-32). In Cairns view, it seems that this problem should not be underestimated as a significant barrier to improving Aboriginal-state relations in Canada. Despite this, he is hesitant to endorse self-government as a remedy. He argues that self-

government will create parallelism within Canadian citizenship or a further sense of differentness that will only exacerbate the citizenship problem, not solve it (Cairns, 2000: 190).

Alan Cairns criticism of nation-based self-government is well respected, but not without critics of its own. Some argue that his fear of parallelism in Canadian citizenship is overly exaggerated because of his conception of citizenship as "shared identity". Melissa Williams argues that rather than a citizenship regime based on the concept of a single shared identity, Canadian citizenship should be based on a sense of shared fate (Williams, 2004). This focus leans on the idea that citizens recognize that their actions directly affect others and that their lives are very much interdependent (Ibid.). Grounded in this idea of citizenship, Marc Hanvelt and Martin Papillon argue against Cairns idea that self-government will foster differentness, and counter that self-government offers Aboriginal peoples a way to "break in" to Canada on their own terms (Hanvelt and Papillon, 2005: 253). In other words: "From this point of view, self-government does not preclude the ties that bind, it simply constructs them on a different basis: not on a shared identity but on mutual recognition" (Ibid.: 252). Self-government then, will allow Aboriginal peoples to negotiate their relationship with the Canadian state, and thus make an important step towards legitimizing Canadian institutions. Self-government, in this sense, can be considered the vehicle for achieving a more cohesive Canadian citizenship that includes Aboriginal people.

In sum, these arguments are important in terms of understanding the broader theoretical and conceptual debates surrounding Aboriginal self-government in Canada. Collectively, they provide an understanding of the normative dimensions, legal issues, and philosophical underpinnings of self-government in Canada. They elucidate debate about issues, like citizenship, which are fundamental to the more abstract questions about how we as peoples are to

15

live together and about what types of relationships are appropriate. What they do not do however, is offer concrete solutions to the problems they present. More specifically they offer little help or guidance for First Nations that do already have forms of self-government. In situations where First Nations have negotiated modern, comprehensive land-claim and self-government agreements, like in Yukon, the broad theoretical debates outlined above offer little material that is of practical use to either First Nation or non-First Nation governments. This is because, rightly or wrongly, the questions raised in these debates have largely been answered. The majority of First Nations in Yukon have entered into agreements which give shape and definition to the relationship between their governments and other Canadian governments. These "Final" agreements are protected under the Canadian constitution. So in the case of First Nation self-government in Yukon, the debates outlined above represent the arguments of yesterday. As they move forward with implementing the land claim and self-government agreements, the First Nation and Yukon governments face a new series of challenges and debates that remain largely unaddressed.

Structuring Relationships

Within the body of literature on Aboriginal self-government in Canada, there are those who have attempted to bring structure to the debates about the relationship between self-governing First Nations and the mainstream Canadian political structures. Often these come in the form of frameworks that can be used to characterize those relationships. Most commonly these are framed through the lens of various models of federalism (Abele and Prince, 2003; Baier, Bakvis and Brown, 2009; Wilson, 2008). Others propose certain articulations of these relationships, but fail to provide the necessary structure to make them useful. Alan Cairns for instance proposes a relationship based on the metaphor of "citizens-plus" where Aboriginal

16

peoples share a common Canadian citizenship but continue to enjoy supplementary rights and duties vis-à-vis the Canadian government (Cairns, 2000). While the intent is to "enhance the compatibility between Aboriginal nationhood and Canadian citizenship," (Ibid.: 213) and downplay the parallelism of self-government, the proposal, which is absent of structure, is of little practical use.

Despite claims to the contrary, critics of Cairns offer little practical or substantive structure in response. Hanvelt and Papillon argue (2005: 251) that "in practical terms, the idea of nation-based self-government suggests a complex relationship in which Aboriginal nations are embedded in a broader Canadian context." While this sounds promising, this argument that Aboriginal nations are somehow embedded in the Canadian political structure also lacks structure. This lack of structure makes analyzing the proposal impossible.

There have been however, proposals that provide clarity and structure about the relationship between Aboriginal and non-Aboriginal political structures. In two distinct yet very much interrelated articles, Francis Abele and Michael Prince establish frameworks for explaining these relationships. In the first they provide a three-level framework as an analytical approach for understanding and explaining the linkages which comprise the relationships (Abele & Prince, 2002). First of all, there is the "high politics" of Aboriginal-state relations which comes in the form of constitutional reforms, judicial rulings, and land claims (Ibid.: 228). This level tends to draw most academic attention. The second level is the "mid-range politics" which is represented by the broad policy strategies employed by the governments, like financial arrangements and political accords (Ibid.: 230). The final level is the "on-the-ground-politics" of actual policy making, and the provision and management of programs and services (Ibid). While this level seems to be the least studied and understood, it is probably the most important to the average

First Nation citizen. They do note though, that despite there being three distinct levels, they are inter-connected in many ways (Ibid.: 231). For example, often what happens on the ground drives the positions of leaders at the level of high politics and the structure of the mid-range politics defines how policies will play out on the ground.

Based on these three levels of linkages between First Nations and other governments, Abele and Prince provide a framework for describing how First Nation governments fit within the Canadian federation. They conclude that there are in fact four distinct pathways, or models, to self-government in Canada which explain the various conceptions about the roles of self-government and their relationships with other Canadian political institutions (Abele & Prince, 2006). To delineate between the four models they establish a set of criteria for each.

The first of these models characterizes self-governments as "mini-municipalities" (Ibid: 572). As such the self-government would provide a "range of programs and services to their relatively small populations, use a representative electoral system, possess a modest power of taxation, and own-source revenue" (572). They would be seen as junior governments with the federal government playing a supervisory role, reviewing and possibly rejecting bylaws. The relationship would then be modeled on that between the provinces and municipalities; authority would thus be delegated by the federal government.

The second model conceives of adapting the current forms of federalism to fit Aboriginal governmental aspirations. In this model, a new form of public government would be formed as a consequence of the renegotiation of an Aboriginal collectivity's relationship with the federation (574). So while it would represent a new relationship, it would represent a specifically Aboriginal level of governance. The Aboriginal aspect of this government would result from the

demographic realities of the respective region. The creation of the territory of Nunavut provides an example of this model.

The third model envisions the creation of a distinct third order of government in the Canadian federation. This third order government would have the ability to make and enforce laws, deliver programming and policy, and adjudicate disputes (576). There would be certain areas where the self-government would have exclusive jurisdiction, while other areas would be shared, or overlapping with other governments. It is important to note though, that these governments would exist within the Canadian federation and the source of the authority for legislative power would sit with Canada and transferred to the Aboriginal government (578).

The final model is based in part on the treaty federalism notion mentioned above. It suggests that the relationship between Aboriginal self-governments and the Canadian state is one of two sovereigns engaged in a treaty-based relationship (579). In this model, the powers and authority of the Aboriginal government exist outside of the Canadian structure, and do not require the legitimization from the Canadian state. The two governments then, are autonomous and should not interfere with each other more than necessary.

Each of these models posits a very different conception of the link between First Nation and mainstream Canadian governments. In each model several features are considered. These include normative issues, like the source of Aboriginal sovereignty, and the status of citizenship, as well as more practical issues, like the powers Aboriginal governments exercise, the policy fields they control and the programs and services they provide to their citizens. So to use this framework, it is necessary to examine a First Nation government by looking at those criteria and judging which model most accurately reflects the situation.

Following in this pattern of providing structural explanations of the placement of an Aboriginal government within the Canadian federation, Gary Wilson proposes another possible framework. Wilson argues that the development of an autonomous Inuit region, Nunavik, within the province of Quebec constitutes a new phase in the development of Canadian federalism (Wilson, 2008). Using the Russian model of nested federalism, Wilson explains that the autonomous form of public government used in Nunavik can be characterized as being "nested" within the Province of Quebec. He notes that some of the linking mechanisms between the regional and provincial governments are yet unresolved, but suggests that the model could serve as a template for other regional (Aboriginal and non-Aboriginal) governments in Canada. The public government in Nunavik is not explicitly a form of Aboriginal self-government, but its demographic reality certainly makes it so in a *de facto* sense. So while the model is not necessarily intended to be limited to the context of Aboriginal self-government, the absence of other examples certainly suggests it can be considered in this context.

The relationships between First Nation and mainstream Canadian governments explained in this section provide some clarity and structure. While some are more explicit than others, they all provide various conceptions of how, once created, Aboriginal governments could fit into the Canadian political structure. It should also be noted that the models tend to reflect the underlying normative assumptions about the nature of Aboriginal government of their authors. The models are either intended to apply broadly to all First Nations in Canada, while others are specific models for specific cases. However in either case, their applicability to the situation in the Yukon is questionable.

Often, as is the case with Abele and Prince's four models, they explain the suite of powers exercised by an Aboriginal self-government, the policy fields they control, and the

programs and services they provide, and thus categorize them appropriately. The problem with these frameworks then, is that they tend to overlook the reality of cases where Aboriginal and other mainstream Canadian governments share power or jurisdiction, occupy the same policy field, or work together to provide programs and services. These cases come about either by legal agreement, necessity, or simply due to the fact that limited implementation of the agreements creating Aboriginal self-governments has not occurred. All three of these cases seem to be in effect in the Yukon. First Nation governments in Yukon have yet to implement many of the powers available to them under their self-government agreements, so they work together with the Yukon government to exercise certain powers. The result of this is that First Nations governments have become complexly intertwined with the Yukon government. This complexity leads Yukon First Nations governments to defy these models of Aboriginal self-government. It is very difficult to accurately assess which of Abele and Prince's four models apply, whether they are parallel to or are embedded within the Canadian political structure, or whether or not they are "nested" within the Yukon. Indeed it would seem that a framework which accounts for Aboriginal and other governments sharing policy fields, jurisdictions or powers might be needed to better explain and understand the relationship between Yukon First Nation governments and the territorial government in Yukon.

First Nation Self-Government in Yukon

To better understand the dynamics of implementing self-government in Yukon, we can turn to the literature that focuses on the Yukon specifically. This is a limited body, but one from which some important observations can be made. These relate both to the conclusions that authors have drawn about implementing self-government in Yukon, as well as the normative assumptions about self-government upon which they are based.

21

Prior to the completion of the Umbrella Final Agreement in 1993 and the first Final Land Claims Agreements in 1995, the discourse in Yukon was focused on the colonial nature of the relationship between the federal government and Aboriginal peoples. While the relationship between the Canadian state and Aboriginal peoples is quite commonly referred to as colonial, it is worth nothing that some observers have characterized Canada's relationship with its northern territories as colonial, or that Yukon (and the Northwest Territories) have historically been treated as an internal colony of Canada (Coates 1985; Dacks 1981; Smyth 1992; 1996). So for some, the development of First Nation self-government was simply one part of the overall constitutional development of Yukon (Smyth, 1992). Steve Smyth argued that in order for the Yukon Territory to continue to develop constitutionally (i.e. towards provincial status), it must deal with the outstanding Aboriginal claims for self-government (Smyth, 1992). The rejection of colonialism can be seen as something faced by both Aboriginal and non-Aboriginal people in the Yukon. In this sense, the driving force behind the process of land-claims and the establishment of self-government was not limited to Aboriginal groups.

While most argue that land claims and self-government represent the reconfiguration of Aboriginal-state relations, and displace the colonial regime imposed on First Nations, there are some who disagree. Paul Nadasdy for instance, argues that the land claims process and the resulting political structures it created (co-management and self-government) are simply a form of neo-colonialism (Nadasdy, 2003). In his view the underlying assumptions and practices of these new regimes are inconsistent with First Nation beliefs and practices and in fact undermine the very way of life that they seek to preserve (Ibid.). Despite this very critical assessment, Nadasdy is unable to suggest any changes or reforms to the structures. He argues that any sort of solutions to these problems require a radical restructuring of Aboriginal-state relations in the

Yukon. This type of criticism is important to acknowledge, but offers little useful material for explaining the relationship between self-governing First Nations and the Yukon government.

Proponents of the system of First Nation self-government naturally offer a different view that provides some insightful observations. They explain the use of the Yukon model as a guide, either as a way of demonstrating how self-government could be created in the current constitutional framework (Hogg and Turpel, 1995), or how modern treaties could be negotiated (Penikett, 2006). Those who have taken a closer look at how the implementation of the self-government agreements has progressed have noticed some problems that can help to explain the current situation. According to Gurston Dacks the primary constraint for the fuller implementation of the powers outlined in the self-government agreements relates to the financial terms of First Nation governments assuming programs and services from the Yukon or Canada (Dacks, 2004). He argues that the practical problem of implementation is not "the legal and conceptual basis on which different governmental forms rest, but rather their dependence on funding transfers from another government" (Ibid.: 690). In other words the reliance of First Nation governments on other governments to pay for them to provide programs and services is what has constrained them. So there is a direct link, according to Dacks, between a First Nation's financial capacity and their ability to exercise the powers of self-government. Financial capacity can be seen as a significant factor in the gap between the current model of self-government and the model envisioned in the Self-Government Agreements.

Ken Coates and William Morrison offer a similar examination of the implementation of self-government in Yukon. They examine how self-governments have been implemented and seem to extend a plea for lower expectations of what self-government may accomplish (Coates and Morrison, 2008). They argue, that self-government should not be viewed a panacea for the

23

socio-economic problems of Aboriginal people and suggest a number of factors that inhibit First Nation governments from providing the kinds of programs and services contemplated in the Self-Government Agreements. One of these relates to capacity, or more specifically "the personnel and local resources necessary to administer their affairs..." (116). Thus, First Nation governments are limited by the capacity of their members to exercise some of the broad powers contemplated in their self-government agreements. They also note the factor of time as a constraining force. The self-government agreements are not solutions that will necessarily bear fruit immediately, but are intended to change long-term trajectories of socio-economic problems. Put simply "deeply imbedded problems and crises will not be overturned in a year or even a decade" (120).

To review, there are a few important conclusions that can be made about this literature. First of all, there seems to be a clear link between the constitutional development of the Yukon Territory and the development of First Nation self-government. Their respective development is both mutually dependent and mutually reinforcing. Also, this literature suggests several factors that can be attributed to limiting the implementation of self-government in Yukon. Of these, financial constraints, human capacity, and time seem to be the most evident. These three factors are telling, first of all about the implementation of self-government in Yukon, but also about the underlying assumptions of the authors that present them. Both Dacks (2004), and Coates and Morrison (2008) present the factors above as inhibiting First Nations governments from exercising a much greater degree of power, and providing a more fulsome suite of programs and services to their citizens, as contemplated in the Self-Government Agreements. This assumes first of all that the "potential" model as envisioned in the agreements is indeed tenable, achievable, and desirable for First Nations, and that if those factors were addressed somehow,

First Nations could actualize that vision. In a sense, this assumption suggests the Self-Government Agreements represent a schematic of what Yukon First Nation governments will ultimately look like once fully implemented, and thus what powers, programs, and services will be exercised by the First Nation governments and what will be exercised by the Yukon government. This general assumption is important, and will be returned to later.

The final observation that can be made about this Yukon-specific literature is that it lacks any analysis of specific policies or policy jurisdiction. This is not surprising given the observation by some that there is indeed limited scholarship relating to the actual practice of self-government (Murphy, 2005: 8). An examination of a particular policy field would be helpful in confirming the assumption noted above, that First Nations are proceeding towards the model envisioned by the Self-Government Agreements. More generally it would also elucidate a better understanding of the overarching relationship between First Nation governments and the Territorial Government in the Yukon.

Co-Management Regimes

In various parts of Canada, particularly the northern regions, non-Aboriginal government agencies work with Aboriginal peoples cooperatively to manage various natural resources. Typically these arrangements have found their genesis in comprehensive land claim agreements, like that of Nunavut, or those in Yukon. The resulting co-management regimes are intended to give greater control over the management of natural resources to Aboriginal peoples and can be seen as a component of Aboriginal self-government. A relatively well-developed body of literature examining these co-management regimes has come to form a distinct sub-section of the literature on Aboriginal self-government in Canada. This literature is helpful for two reasons: it

provides policy-specific study of the relationship between Aboriginal and non-Aboriginal governments, and is an example of a policy jurisdiction that is shared by those governments.

As mentioned, these regimes exist in the territorial north as a result of comprehensive land claims processes, but examples can also be found in British Columbia and northern Quebec. Typically they remain strict in their coverage to a narrow set of natural resources, but those natural resources can vary greatly, from Dall sheep in the mountains of south-west Yukon (Nadasdy, 2003; 2005) to beluga whales off the northern coast of Quebec (Tyrell, 2008). Regardless of the exact resource they govern, co-management regimes are seen as a form of, or at least an element of, self-government. Graham White goes as far as to argue that co-management boards are "a new genus of institution within Canada's federal system, existing at the intersection of the three orders of government" and inasmuch, the realization of treaty federalism (White, 2002: 94). Others see the type of jurisdictional sharing exhibited in co-management regimes as an alternative to, or an interim measure in lieu of more fulsome self-government (Penikett, 2006: 217). Either way, the literature relating to co-management represents a departure from other contemporary self-government literature by delving into the realm of cooperative sharing of jurisdiction, rather than creating frameworks for how stand-alone Aboriginal self-government units will fit into the Canadian political structure. So it appears that the corpus of literature relating to co-management may provide some helpful lessons for better explaining and understanding the development and function of Aboriginal self-government proper, especially in the Yukon, where the model of self-government has defied other frameworks.

The typical pattern that academics pursue in analyzing co-management regimes is to examine a case study and make general observations about the process and regime as a whole.

While the case studies may vary considerably in the nature of the respective resources, as stated above, the authors tend to draw conclusions that can be applied broadly to co-management regimes as a whole. So despite the seemingly different subject matter, the general body of literature relating to co-management is quite uniform in terms of structure.

In general, this literature can be grouped into two distinct categories. On one hand, there are those who argue that despite the intent, co-management regimes actually have the effect of furthering cultural assimilation of First Nations (Stevenson, 2004: 68) rather than empowering them. This is because co-management regimes require First Nations to adopt western ideas and bureaucratic structures, which are inherently incompatible with First Nation culture, in order to participate (Nadasdy, 2003; 2005). According to Paul Nadasdy, this bureaucratization of First Nations actually extends state power rather than empowering First Nations as is the intent of co-management (Ibid.). On the other hand, there are those authors who concede several problems with co-management regimes (specific to their respective cases, and in general) but conclude that they have been relatively successful in allowing First Nations a participatory role and a voice in decision-making that was previously absent (Netro and Simmons, 1995; Tyrrell, 2008; Usher, 2003; White, 2001; 2002; 2008). These authors outline various problems with co-management regimes but all tend to arrive at the conclusion that the arrangements put their First Nation participants in a better position than they had previously occupied. Despite the obvious disagreement between these two groups they do, together, provide an adequate anatomy of co-management regimes. From both groups a set of common features can be gleaned which will form the basis of a framework for examining co-management in the field of education.

While they often disagree about the ultimate value, role, and effect of co-management, all of the literature on the subject remains relatively consistent on what particular elements are

necessarily important. In each respective review of co-management regimes, there are four elements which tend to be discussed as fundamental. Put simply the four aspects are: origin, structure, power, and voice.

Origin

The first element relates to the origin of the co-management regimes. In other words, why did the parties seek such arrangements and why did they structure them the way they did? At the most basic level there is a sense, as there is with other Aboriginal self-government discourse, that the creation of co-management is "embedded within a broader narrative of Canadian colonialism" (Tyrrell, 2008: 327). In other words, allowing First Nations a participatory role in the management of natural resources represents a type of redress for the unjust, paternalistic government policies of the past. Both in terms of the general overall relationship, and case-specific policies, co-management is often tied to a response to historic wrongs perpetrated by the government on Aboriginal peoples (Ibid.: 328). While this explains the ideational impetus for creating co-management regimes, their specific structures have a more practical source. White argues that co-management "boards' common origin lies in political compromise" (White, 2002: 97). Both the Aboriginal groups and the (federal) government had to make some concessions. The government was reluctant to relinquish its jurisdiction (Cameron and White, 1996: 30) and argued that public lands should remain under public control. Aboriginal groups wanted to maximize "control over as many facets of land use, environmental protection, and wildlife management as possible" (White, 2002: 97) but were also hesitant about "the prospects of finalizing a land claim" (Ibid.: 98).

28

Although in the case of the Yukon, the co-management regime came about as a result of a general land claim (the Umbrella Final Agreement), each First Nation had to negotiate its owns specific final agreement, so it is likely that the hesitancy of the Inuit that White noted could have also applied to Yukon First Nations as well. Put more simply, Aboriginal peoples were keen to test the waters with co-management before leaping into a more comprehensive land claim or self-government agreement. The need to find common ground between the status quo of continued unilateral federal management and the desire of Aboriginal peoples to manage the resources themselves meant both groups had to compromise. Ultimately the manifestation of this political compromise lay in the structure that co-management boards would assume.

Structure

While the structure and composition of co-management boards and committees varies considerably, there are some notable commonalities that are discussed throughout the literature. In most cases they are tripartite boards with members nominated by the Aboriginal group, and the territorial and federal governments. They are structured to provide guaranteed Aboriginal participation which usually includes half the seats designated for representatives from the respective Aboriginal organization. While each member is appointed by a specific party, a fundamentally important feature of co-management boards is that they are independent from any other government body. This means "members are to act 'in the public interest' and not take direction from the parties that nominated them" (White, 2008: 73). The boards are often staffed with their own secretariat and can commission their own research to ensure independence from government. The federal government often provides the funding for these boards, which has led some authors to question whether or not this impinges on the boards' independence (White,
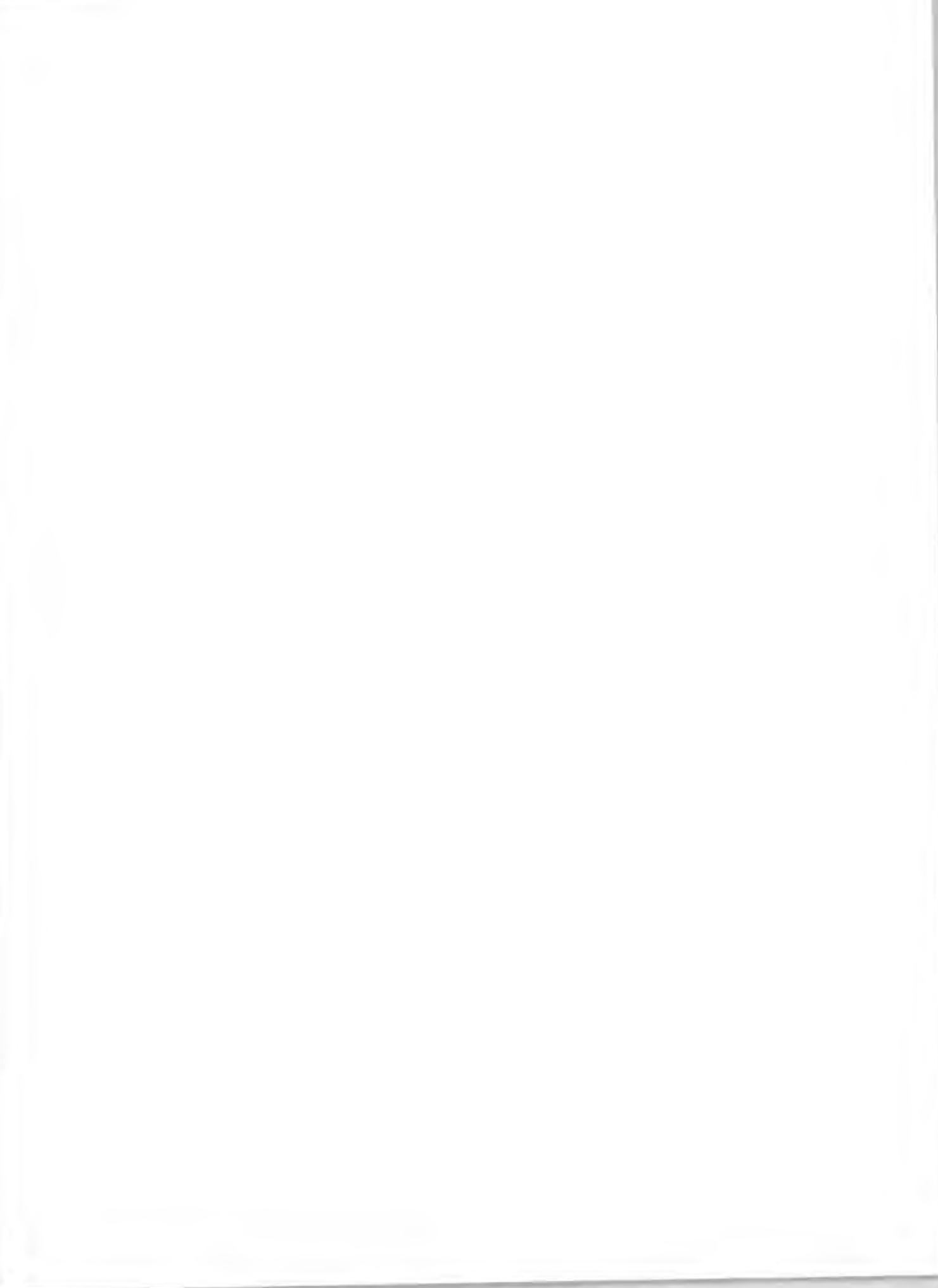
2008). Whether or not this is true, the theoretical intent is to allow them to maintain their independence.

Those who are critical of co-management regimes point out problems with the boards' structure. Nadasdy argues that the structure of co-management boards extends the power of the state over First Nations, rather than empowering them (Nadasdy, 2003; 2005). Regardless of this disagreement over the end effect of co-management, most authors focus on the structure of the boards as a key element of co-management regimes.

Power

One of the most contentious aspects of the co-management literature is the issue of power. In other words, does co-management give Aboriginal peoples real decision-making power over the management of a given resource? The debate usually centers on the distinction between co-management boards' role making recommendations or providing advice, rather than making decisions. This usually means that the ultimate decision-making authority rests with the Minister. Paul Nadasdy offers a scathing appraisal of this power structure:

> they make recommendations, not decisions, and those recommendations must be implemented (or not) by politicians and bureaucrats whose actions are judged by standards that have nothing to do with First Nation peoples' knowledge and values and everything to do with the exigencies of the wider political and economic situation (Nadasdy, 2005: 225).

There are some who do not share this sentiment though, and view the advisory role in a more important light. For Peter Usher, government's relinquishment of exclusive authority over management and regulation suggests the relationship can be characterized by cooperation (Usher, 2003: 379). Netro and Simmons argue that while some co-management bodies are "technically an advisory body," they actually wield "real authority" (Netro and Simmons, 1995:

170-72). In this sense the Aboriginal groups exercise a "negative option"; that is their

recommendations are accepted completely unless the Minister expressly overturns them. To do

this the Minister must act within a limited time frame and must explicitly state in writing the

reasons for overturning the recommendations. Such a move would be expensive in terms of

political capital and puts the onus on the Minister to explain the decision. So, while many boards

can only provide advice to the Ministers of the Crown, "it is advice with a difference" (Ibid.:

171).

Voice

The final component of the literature relates to whether or not Aboriginal people are able

to exercise their "voice" on co-management boards. This relates more to the process of reaching

a decision rather than the decision itself. The question can be reworded as: Are Aboriginal ways

and methods of expressing and sharing knowledge and information properly incorporated into

the co-management structure? As above, the answer to this question varies considerably

throughout the literature.

The western/bureaucratic structure of the boards serves to undermine Aboriginal voice

according to Nadasdy. It forces Aboriginal people to "think, talk, and act in ways that are

incompatible with (and even serve to undermine) the very beliefs and practices" that it is

supposed to be safeguarding (Nadasdy, 2003: 3). Tyrrell adds that in some cases Aboriginal

contribution to the management process is not taken seriously and that some groups feel they are

a part of co-management in name only (Tyrrell, 2008: 328). She notes that, "the language of the

hunter and of the village is excluded from the co-management table while the language of

management, policy, and science are privileged," (Ibid.: 330). Tyrrell's criticisms, however, are

31

specific to the case she is studying, and she freely admits that there are other examples of co-management regimes in Canada which "have provided a voice to (Aboriginal people) and have opened a space where (Aboriginal people) and scientists/policymakers can work together to understand each other's viewpoints" (Ibid: 332). In his examination of co-management boards in various parts of the Canadian North, White agrees that Aboriginal voice is being heard, and that Aboriginal traditional knowledge is "taken seriously by land-claims boards and significantly influences their decisions and recommendations" (White, 2008: 80).

Conclusion

While specific observations and conclusions are drawn throughout this review of literature, some are worth repeating. First of all, while there is a breadth of debate about the philosophical, normative, and legal aspects of Aboriginal self-government there are very few that link these to practical examples of existing systems. In the case of the Yukon many of these debates are dated, and offer little to improve our understanding of both how First Nation self-governments are currently operating or the nature of their relationship with the Yukon government.

Secondly, of the various frameworks that attempt to explain and structure the relationship between Aboriginal self-government and mainstream Canadian governments, none seem to accurately characterize the situation in Yukon. The complexly intertwined nature of the relationship between Yukon First Nation governments and the Yukon government defy explanation by these frameworks. This is at least partly because they do not adequately address the notion of policy jurisdictions being shared or cooperatively managed. While some scholars have studied the Yukon specifically, they have remained quite general in their scope and have

not examined specific policy fields to inform their work. Their conclusions tend to suggest that the Self-Government Agreements in Yukon represent an end goal to which First Nations should strive. This is based on the assumption that that goal is indeed achievable, tenable, and desirable.

Finally, a general framework can be created based on the body of literature that examines how Aboriginal and non-Aboriginal governments co-manage various natural resources. This is a framework that is based on actual existing systems, where Aboriginal and non-Aboriginal governments cooperatively manage a specific policy field. It would seem that this framework may be useful for examining other policy fields where collaboration between Aboriginal and non-Aboriginal governments occurs. We can now turn to one such policy field: education.

Education in the Yukon: From Paternalism to Parallelism to Partnership

Introduction

In order to assess the usefulness of the co-management framework outside the field of natural resources, it is necessary to apply it to an actual policy field. One such field is education. Over the past decade, there has been increasing collaboration between the Yukon Government and First Nations governments in this policy area. This chapter will begin by outlining the reasons why a co-management framework can be applied to education policy. It will then assess the current situation relating to education policy in Yukon by examining particular government documents, as well as information and opinions garnered through interviews with senior government officials in the Yukon. Two interviews were conducted with Yukon Government officials responsible for managing the relationship between the Yukon Government and First Nations governments. Collectively the government documents and interviews with officials will provide an understanding of the current management of education in Yukon and its future trajectory.

Why Education?

If a particular policy must be selected as a case study from which to draw conclusions about the overarching relationship between Aboriginal and non-Aboriginal governments in Yukon, there are none better suited than the policy field of education. There are two central justifications for this claim: the role that the legacy of education policy has played in the relationship between Aboriginal peoples and the Canadian state; and the importance of educational policy to Aboriginal peoples and its centrality in the drive for self-government. Both of these arguments are particularly striking in the Yukon.

The historical legacy of federal Aboriginal educational policy on the continuing

relationship between the Canadian state and Aboriginal peoples has been particularly destructive.

It has been widely acknowledged that the federal system of residential schools had a disastrous

effect on Canadian Aboriginal people (Battiste, 1995; Milloy, 1999), in particular on their

languages, culture, and sense of identity. Federal recognition and acceptance of these claims

were made at the highest level, when Prime Minister Stephen Harper provided an official

apology for the damaging effects of the residential school system to Aboriginal culture, heritage,

and language (Prime Minister's Office, 2008). Furthermore, the federal government has created a

Truth and Reconciliation Commission specifically to document and better understand those

effects (Truth and Reconciliation Commission, 2011). The negative effect of this legacy on the

relationship between the Canadian state and Aboriginal peoples cannot be understated. In the

most negative sense, this relationship has often been characterized as "colonial' (Cairns, 2000:

19-23) and indeed the residential schools policy has been "the most damaging of the many

elements of Canada's colonization of this land's original peoples" (Milloy, 1999: xiv). This is

particularly evident in the Yukon.

Even before the residential school system began, what little education policy that existed

was outright negligent. As Coates puts it, Yukon Aboriginal peoples were deemed by the

government to be "marginal people living in a marginal part of the country," and did not "receive

a workable education system" (Coates, 1986: 147). Once the residential school system began in

the 1950's (Ibid: 133), the situation changed but did not improve. Yukon Aboriginal children

became forced participants in the program of residential schools. The resulting cultural and

spiritual dislocation of residential schools has been suggested as a cause for a number of social

problems, as well as educational shortfalls that have plagued Yukon's Aboriginal peoples (Rosalyn-Ing, 1990).

Secondly, education policy is of particular importance to Aboriginal peoples and can be linked to the struggle for self-government. While the effects on individual survivors of the federal residential schools policy are troubling in and of themselves, they also created a more endemic challenge for Aboriginal peoples. The damage done to generations affected by residential schools and their descendants represents an existential problem for Aboriginal identity. So it is unsurprising that they have "placed such a high priority on regaining control over the education of their children" (Barman, Hebert, McCaskill, 1986: 1). Likewise, it explains that Aboriginal peoples "have made control over education a central component of a more general campaign for political self-determination" (Ibid.). This sentiment is echoed by the Assembly of First Nation's National Chief Shawn Atleo, who has identified education as central to their agenda, and "directly related to social and economic health and… other priorities like stronger governing capacity and economic development" (AFN, 2010). While these provide some strong practical reasons for Aboriginal interest in education, and the link to self-government, there are more abstract reasons as well.

The history of federal education policy for Aboriginal peoples is sown with seeds of colonialism and paternalism and is understandably a cause of the mistrust many Aboriginal people have towards the Canadian state. This mistrust has been translated into a "profound alienation of most Aboriginal peoples from Canadian political institutions and Canadian citizenship" (Hanvelt and Papillon, 2005: 243) and has thus become part of the impetus for self-government. Once again, this is particularly evident in the Yukon. The failure of the education system in the Yukon to serve the needs of the Aboriginal population played a strong role in the

36

development of Aboriginal political mobilization. When the Yukon Native Brotherhood (later to become the Council of Yukon First Nations) issued their seminal document *Together Today for Our Children Tomorrow* in 1973, demands for reform of the education system were at its core. Within the main body a section devoted to education suggested that if real reforms were not made, Aboriginal students would continue to suffer (YNB, 1973: 20-21). In an attached appendix, the YNB outlined a proposal for a series of recommendations that they wished to see implemented within the Yukon education system. The intent of this proposal was to create a "more workable system and render the development of a Separate Indian School System unnecessary" (YNB, 1973: 50).

While education was obviously an important component of the document, it is probably best known for beginning the process of comprehensive land claims in Yukon. It spurred the federal and Yukon governments to begin negotiating final land claim agreements with Yukon's First Nations, which would ultimately include the development of self-government. So there is a clear link between the development of self-government in Yukon, and the dissatisfaction of Yukon Aboriginal peoples with federal and territorial education policy.

Education Policy in Yukon

In the absence of any academic literature about the current relationship between First Nation and Yukon governments related to education, it is necessary to turn to government documents to assess the situation. Supplemented by interviews with government officials, these documents provide a helpful approximation of the direction that the management of education in Yukon is moving.

Education policy in Yukon faces many of the same challenges that exist in other parts of Canada. There are challenges associated with rural/urban divides, the integration of French language and culture, and the integration of religious content. Additionally, Yukon faces the challenges associated with the existence of self-governing First Nation governments that have the legally-entrenched ability to assume the responsibility for the design, delivery, and administration of education. To review briefly, the Umbrella Final Agreement, which provided a template for each of Yukon's 14 First Nations to follow in the creation of their own Final Land Claims and Self-Government Agreements, outlined the role of First Nations governments in education. The UFA contemplates the devolution of programs and services dealing with "Yukon First Nation authority for the design, delivery and management of Indian language and cultural curriculum;" (Section 24.3.2.1) and "the division and sharing of Yukon First Nation and Government responsibility for the design, delivery and administration of programs relating to:

    a. Indian student counseling
    b. Cross cultural teacher/administrator orientation
    c. Composition of teaching staff
    d. Early childhood, special, and adult education curriculum
    e. Kindergarten through grade 12 curriculum
    f. The evaluation of teachers, administrators, and other employees." (24.3.2.3)

Despite the considerable power this seems to afford First Nations over education, the Yukon government continues to fully exercise this authority, and no First Nation has entered into negotiations to assume these powers.

Throughout the past decade, the Department of Education of the Yukon government has undertaken several exercises to investigate how to better involve First Nations in education. The most comprehensive of these was the Education Reform Project (ERP), which produced its Final Report in 2008. The ERP consisted of an extensive review of past educational studies,

recommendations and consultations with First Nations, as well as further consultations with First Nations and other targeted partners, groups and individuals (ERP, 2008: vii). Its Executive Committee which guided its progress was comprised of the Chair of the Yukon Chiefs Council on Education, Joe Linklater, the Chief of the Liard First Nation, Laird McMillan, and the Yukon Minister of Education, Patrick Rouble. The commensurate Final Report of the ERP consists of background information about First Nation self-government and education, and a series of recommendations about how the system should be reformed. While the parts of the report that deal with First Nation-specific issues are the focus of the report, it does naturally contain much more than just material specific to First Nations such as various community issues, support for teachers, administrators, and students. These are obviously important issues for the education system, but for the purposes of this paper, attention will be limited to those recommendations pertaining to the First Nation government-Yukon government relationship, proposed governance structures, and the general role of First Nations in education. Put simply, the Final Report discusses the history, current status, and vision for the future of education policy in the Yukon from the perspectives of both First Nations and the Yukon Governments.

The Final Report starts with a discussion of the history of First Nations education in Yukon, and suggests that due to the negative historic relationship between First Nations and the education system, First Nations children face unique challenges in the current school system. This includes the lack of recognition of "cultural knowledge" and "traditional teachings" (Ibid.: B.3) which makes the system seem to First Nations to be "unresponsive and non-inclusive" (Ibid: vii). In interviews, some government officials also noted the indirect effects of the legacy of residential schools on Aboriginal children. That is, the mistrust felt by their parents and grandparents towards the school system is reflected in their children. As a result of these issues

the report argues that the system must be "structured in a way that allows for participation and input by First Nations people" (Ibid.: B.3).

According to the report the fundamental step forward for education policy stems from the creation of an "effective partnership between the Government of Yukon and First Nations, based on a mutually respectful approach" (Ibid.: 1.1). The basis for this relationship seems to be that the two levels of government both have authority over education, even though the Yukon government currently exercises this authority (Ibid.: B.6). In other words, as a result of the land-claims and self-government agreements First Nations now share responsibility for education, but none have begun negotiations towards assuming control of this policy field and the Yukon government continues to actually provide all of the programs and services related for education. Government officials interviewed also agreed that the creation of a "meaningful partnership," was indeed the desired relationship between Yukon and First Nations governments (Interview 1, 2010). One official suggested that there was an ongoing debate amongst First Nations people between those who wanted "their own schools" and those that wanted to see a single public system based on a "meaningful partnership" between Yukon and First Nation governments (Interview 2, 2010).

So, based on this new "partnership" over the jurisdictional field shared by the two levels of governments, the ERP final report proposes a new governance structure which is intended to be a "bottom-up, participatory model" (ERP, 2008: 1.7). It is expected to have the following characteristics:

- facilitating a broad community input in education;
- providing First Nation representation;
- shifting many decisions away from the Department of Education;
- senior administrative support; and

-   facilitating educational decisions based on instructional, not political, needs. (Ibid: 1.11)

The report suggests that the proposed structure be general in scope and subject to change, so details on the roles of various bodies remain unclear. Although lacking detail, the proposed structure does offer some telling information about the report's intended vision. It argues that four particular groups are specifically important: an Education Executive Committee; a Yukon First Nations Education Committee; an Education Consortium; and enhanced school councils. The details of the composition of each group do not need to be reiterated in detail, but in general each of the three latter groups would report and provide recommendations to the Education Executive Committee. This committee would be comprised of the Minister of Education, the Chair of the Yukon Chiefs Committee on Education, and the Chair of the Education Consortium. The First Nations Education Committee would be comprised of representatives from each of the eight First Nations language groups in the Yukon. The Education Consortium would be a large group with representatives from each of Yukon's First Nations, as well as other groups such as teachers, and federal and territorial officials. The school councils, which would be responsible for creating the policies related to the day-to-day operations of the school, would be elected locally. Based on the recommendations provided by the three other groups, the Education Executive Committee would then, in turn, make recommendations to the Yukon government. That is, these could be considered to be advisory bodies.

The next important step proposed by the report is the inclusion of First Nations content in the curriculum, a policy aimed at improving the academic achievement of First Nations students and reversing the decline in First Nations languages (Ibid.: 1.17). In discussing a new approach to the development of curricula, the report concludes that in order to be successful it is necessary

to include First Nations values and beliefs. To do this it recommends involving First Nation teachers, elders, and leaders in curriculum development.

When the Education Reform Project Final Report was released in 2008, it was met with broad support from its participants. Vuntut Gwitchin Chief Joe Linklater for instance, suggested the ERP was a big step and said that "working in partnership, the Yukon government and Council of Yukon First Nations will be able... to make meaningful and sustainable changes" to the education system (YTG/CYFN Press Release, February, 2008). Yukon Education Minister Patrick Rouble also reiterated the Yukon governments commitment to the outcomes identified in the ERP Final Report (Ibid.). Subsequently, the territorial Department of Education developed their Strategic Plan for 2011-15 titled "Our Commitment to New Horizons" (YTG, 2010).

In this report, the Yukon government reiterated its commitment to the proposals of the ERP and provided information about the implementation of those proposed recommendations. Throughout this document, particular emphasis is given to "partnerships" and "collaboration" between Yukon and First Nation governments. It points to initiatives like an "MOU and Action Plan" between the governments, and the creation of the "Yukon First Nation Advisory Committee" (YTG, 2010) which are being undertaken currently, as evidence of progress. Unfortunately, many of these initiatives have not been completed or implemented at the time of writing, so it is difficult to assess their structure, operation, or success. During interviews, government officials pointed to two particular pilot programs as evidence of the willingness of First Nations and Yukon government to work together "collaboratively" or in "partnership" (Interview 1, 2010). One of these programs was a bi-cultural language program within the public school in Haines Junction, and the other was a land-based experiential program in Old Crow designed to get students out on the land. Both of these bilateral programs were coordinated

through the Yukon Government's newly created First Nations Programs and Partnerships Unit (FNPPU) within the Department of Education. In both cases the Yukon government and respective First Nation share the program costs, and the programming is developed by a "curriculum working group," made up of elders and cultural leaders from the First Nation in question (Interview 2, 2010).

While these pilot programs are important to note, there is no information about them in print, and officials were hesitant to comment on their success there were so new (Interview 1, 2010; Interview 2, 2010). Nevertheless, the existence of these types of programs can be interpreted as the beginning of a trend towards the type of greater involvement of First Nations in the design, development, and delivery of education programs that was contemplated in the Education Reform Project.

Conclusion

Based on the review conducted here, it is difficult to accurately assess what is happening "on the ground," in terms of education in the Yukon. But what can certainly be gleaned from this is a general sense of the emerging relationship between the Yukon and First Nation governments, and the current trajectory of education programming in Yukon. The most prevalent theme that comes out of government documents and interviews with officials is the notion of a "meaningful partnership" between Yukon and First Nation governments over the management of education in the Yukon. The rationale behind this partnership seems to be twofold: educational and political. On one hand, it is widely accepted that there is gap between the educational outcomes of Aboriginal and non-Aboriginal students. It is suggested then that by adding Aboriginal content to curriculum, it will become more relevant to Aboriginal students and thus improve their

educational experience and outcomes. On the political side, First Nation governments can apply pressure to the Yukon government by openly contemplating drawing down education. As officials note, the Yukon government hope to maintain a single public education system so they would prefer to give First Nations greater involvement in education policy rather than risk that First Nations will attempt to create a parallel system. In this sense, First Nations can leverage a stronger role in the provision of education without having to fully assume complete responsibility of policy field. Meanwhile the Yukon government is able to maintain a singular, public system where they have ultimate decision-making power. Whatever the reasoning, the current situation remains. Both levels of government seem genuinely committed to reforming their relationship in terms of education, to allow for greater partnership and collaboration.

Applying the Co-Management Framework

Introduction

In the earlier section of this paper that focused on the literature on co-management regimes in Canada, it was determined that a framework of the characteristics of co-management regimes could be identified. This chapter will attempt to determine if the current situation in Yukon relating to education can be characterized as co-management using this framework. To reiterate, the four criteria of the co-management framework are: the principles underlying the origin of the relationship; the composition and structure of the bodies; the power, or authority actually practiced by the Aboriginal peoples; and the way Aboriginal voice, or ways of expressing and sharing knowledge are incorporated into the structure.

Origin

This aspect of the co-management framework determines the rationale behind the arrangement and its structure. At a more abstract level, it suggests that co-management regimes are a part of a response to historic wrongs perpetrated by the government on Aboriginal peoples, and to mending old regimes that are linked broadly to the colonial relationship. The current education policy in Yukon surely meets the criterion of the co-management model. The current relationship between the Yukon and First Nations governments related to education is clearly linked to the historic failures and prejudices of the residential school system. Indeed, the paternalism and colonialism that permeated previous education policies can certainly be characterized as an 'historic wrong.'

However the framework contains a more practical aspect of this component as well. It suggests that co-management regimes have a very practical common origin which can be

45

described as a "political compromise." That is, in such regimes there is a desire to find a middle ground between continued unilateral state control, and absolute Aboriginal control. It seems that this aspect also rings true in the case of Yukon education policy. While self-governing First Nations have the ability to draw down control of education, there appears to be a real desire for most to keep their children within the current system. While it was noted in interviews that at least some First Nations were interested in the idea of drawing down education, none have even begun negotiating these arrangements. This is possibly because of the increased role in curriculum design, development and delivery. Nonetheless, in the case of education policy in Yukon, there is most certainly a political compromise between unilateral control by the Department of Education, and the assumption of complete control by First Nations. So it appears that both the abstract and the practical aspects of this component are met.

Structure

The important features relating to the structure of co-management boards noted in the framework are two-fold. On one hand, they all provide some form of guaranteed Aboriginal representation, usually in the form of reserved seats on a board for Aboriginal-appointed members. On the other hand, the boards are intended to be independent of any government (Aboriginal or non-Aboriginal), and are supposed to act in the public interest. This is difficult to assess in the case of education policy in Yukon, because most of the proposed boards and advisory bodies have yet to be created. However, of those proposed, there is evidence of guaranteed First Nation participation. All four of the bodies proposed have some amount of reserved seats for First Nation-appointed members. In fact, the First Nations Education Committee is a specifically First Nation group, and the others all contain strong First Nation influence. While their independence from government does not exactly match the framework's

conception, the fact that they are all making decisions and recommendations about public schools, and issues that affect all children, regardless of their background, suggests that there is a very real public aspect to the proposed committees. While it remains to be seen what boards are actually implemented and which are not, the desire to allow increased First Nation participation in decision-making while simultaneously keeping them in the public system, seems to meet the structural criterion of the framework.

Power

The component of power is described as the ability of Aboriginal groups to exercise real decision-making power over the management of a given resource. The framework describes the distinction between making decisions and providing advice, and the corresponding differences of opinion as to whether providing advice to a federal or territorial government represents "real" power. In the case of education policy in Yukon, it is clear that ultimate power for decision-making rests with the Yukon Government. Aside from the local school councils, which set the day-to-day types of policies, all of the other proposed bodies provide advice and recommendations to the Yukon government, which maintains final authority over public schools. However, it has been conceded in most documents as well as the interviews conducted, that the Yukon and First Nations governments "both have authority over education" (ERP, 2008: B.6). This notion of the relinquishment of exclusive authority does appear within the framework.

An important argument within the power component of the framework is the idea that co-management bodies wield "actual power." While the proposed bodies only give advice, "it is advice with a difference" (Netro and Simmons, 1995: 171). This is based partly on what is explained as a "negative option," that can be exercised by the Crown Minister which refers to the

fixed window of time in which the Minister can overturn a decision made by a co-management body, and the political capital she expends by doing so.

In the case of education, First Nations can only provide advice to the Yukon government on how to run its public education system. However, because First Nations ultimately have the option to draw down education, and that it has been noted that this is a factor which the First Nation can use to apply pressure to the Yukon government, it certainly seems like this is "advice with a difference." However because the ultimate decision-making in education rests with the Minister, there does not appear to be the "negative option" onus, as there is in the co-management framework.

So it is difficult to assert that this criterion is met entirely. There is however an interesting observation that can be made. What seems likely is that the co-management debates about the nature of advice-versus-decision-making would transfer over to education almost identically. On one side, it could be argued, as Nadasdy does of co-management, that this arrangement simply extends the power of the state over First Nations, and that First Nations would become bureaucratized in order to participate, which would actually have a negative effect on traditional First Nation culture and way of life (Nadasdy, 2003; 2005). On the other hand, proponents of co-management would probably agree that First Nations input into education policy is indeed "advice with a difference." The transferability of the arguments about co-management to the field of education, suggests that this aspect of the criteria can probably be checked off.

Voice

The final component of "voice" refers to the incorporation into the co-management regime of Aboriginal ways and methods of expressing and sharing knowledge. In the case of
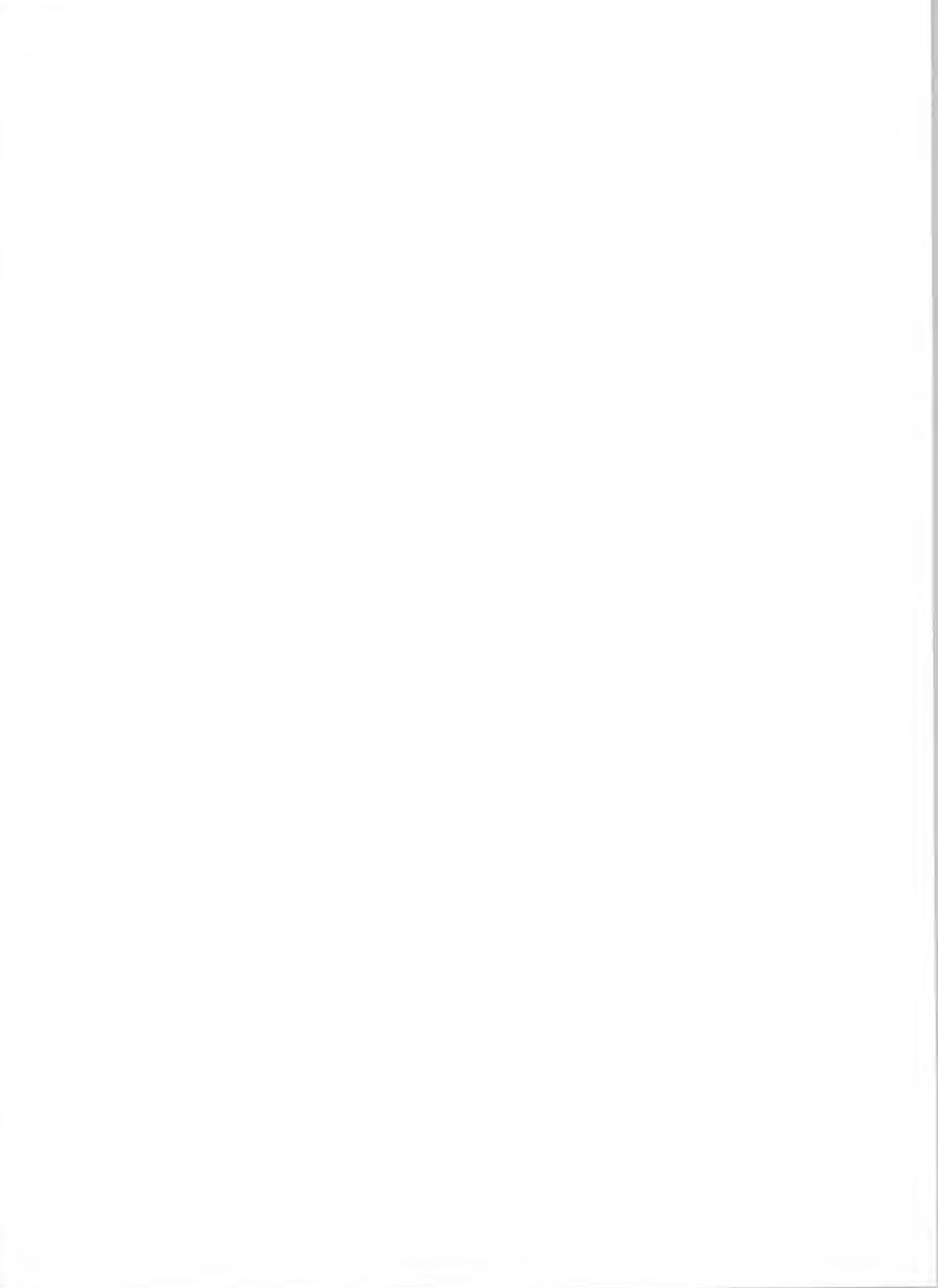
education, the most comparable aspect would likely be the incorporation of traditional knowledge and practice into the curriculum and teaching methods. There is some evidence that First Nation culture, pedagogical methods, and traditions are increasingly being implemented in the mainstream education policy. The ERP makes some recommendations in this regard. It concedes that while specific Aboriginal curriculum could be "successfully delivered within the mainstream curriculum," it would "require different instruction and evaluation methods" (ERP, 2008, 1.18). Further, it argues that more educators with training in traditional practices and values are needed, and that new policies "will need to be developed in regard to the establishment, monitoring, administration, and evaluation of First Nations curriculum" (1.19).

The pilot programs in Haines Junction and Old Crow seem to suggest a movement in this direction. The success of these programs and the degree to which the Yukon government can incorporate traditional knowledge, beliefs, and practices into the mainstream public education system will likely be debatable. In a similar manner to the section above on power, it is likely that the debates within the co-management literature about "voice," will probably be reflected in education policy. Thus it is fair to say that the component of "voice" that appears in the co-management framework is definitely reflected in Yukon's education policy.

Conclusion

The co-management framework helps to explain and understand the ongoing development of education policy in Yukon, and the level and type of control that First Nations governments have. Education policy shares a common origin with co-management regimes in the sense that it is based on a response to the negative legacy of the previous education system, and that it is a result of political compromise between self-governing First Nations and the Yukon government. While it is difficult to compare the structure of co-management boards

49

directly to the boards that exist in Yukon's education system, they are similar in concept. At this

point in time, they are designed to incorporate Aboriginal participation while maintaining a

specifically public system. Fundamental to this public system is the fact that the public

government (Minister) has the final say in decision-making. Similar to co-management bodies,

First Nations role can be considered advisory rather than absolute veto power. Finally, within the

education policy field in Yukon, there is an attempt to incorporate First Nation methods,

practices, and traditions of expressing knowledge; there is an attempt to bring First Nation

"voice" to education.

Conclusions

There are a number of conclusions that can be drawn from the current trajectory of education policy in Yukon. While the previous chapter concluded that the comparison seems to be quite accurate, some concessions must be made. First of all it is important to note that the evidence presented in chapter three is intended to represent the direction or trajectory of education policy in Yukon. It does not accurately represent what is actually happening "on the ground." This is because the majority of proposals have yet to be implemented. This means the conclusion is not as simple as characterizing education policy in Yukon currently as a co-management system. However this does not mean the analysis in the previous chapter is without use. It can be argued that if the direction of education policy is accurately represented by the evidence presented here, then it would seem that the current direction is leading towards a co-management system.

This conclusion has certain important implications. First of all it offers both levels of governments, as well as observers, some hint as to how the academic discourse about the education system might develop. If indeed the debates about co-management can be transferred to education, we can get a sense of what to expect. In co-management there is basically a dichotomous division within the literature between proponents and critics of co-management regimes and the roles they afford First Nations. A similar dichotomy can be expected about Yukon's education policy. On one hand, drawing on the arguments of Paul Nadasdy (2005), some academics or observers may find that the attempts to incorporate First Nation content into the public school system may in fact undermine that knowledge and further the cultural assimilation of First Nations. The necessity of working these practices into the western system may in fact bureaucratize First Nations and force them to adopt structures that are inherently

incompatible with First Nation culture, in order to participate (Nadasdy, 2003). On the other hand, some may find that the system is generally successful in allowing First Nations a participatory role and voice in the development, design, and delivery of education programs that was previously absent. Either way, in absence of academic attention, the conclusion of the similarity between Yukon's education system and co-management regimes in the area of natural resource management suggest the literature about the latter may be applied to the former.

What is also clear is the need for further research on the current, proposed, and future structure of the education system in Yukon. Yukon's eleven self-governing First Nations will all likely have different relationships with the Yukon government, and different programs and services related to education. This paper maintained a broad approach to the overarching trends of the relationship between the Yukon government and the First Nation governments, but stopped quite short of investigating each respective First Nation. While a general direction was concluded in this paper, it is likely that there are as many different directions as there are First Nation governments in Yukon. It is entirely possible that any number of individual First Nation governments may depart from the trajectory leading towards co-management. This could lead to a more unilateral approach by the Yukon government, or to First Nations developing, designing, and delivering education programs more autonomously and even completely drawing down education. In fact, as the ERP Final Report suggests in its "elements of partnership" section, "partnerships should be transitional in nature" and "could potentially assist those First Nations who choose to exercise authority over their educational systems" (ERP: 1.1-1.5). In any event, there is much that remains to be seen regarding education policy in Yukon.

Finally, this conclusion does offer some insight into what was described earlier as a gap between the potential model of self-government and the current model being practiced in Yukon.

52

Co-management is conceived at least partly, as a political compromise between Aboriginal and non-Aboriginal governments. In education policy in Yukon, there is certainly a political compromise between continued unilateral control of education programming by the Yukon government, and complete assumption of control by First Nation governments. This political compromise represents a new direction available to First Nations that is different than simply striving for the complete potential outlined in the Final and Self-Government Agreements. In other words, the political compromise noted in education could be extrapolated to other parts or aspects of self-government. This is important because it means that both First Nation and Yukon governments and citizens do not have to continue to conceive of the agreements as representing the inevitable future. In the case of education, the gap between the potential model and the current model is being filled by co-management style political compromise. It is entirely possible this could happen in other policy jurisdictions as well.

Furthermore, even if these political compromises are seen as "transitional," and simply a means to the "potential" model of self-government, we must remember the factors that inhibit First Nations from more fulsome implementation of self-government. It has been argued previously that the most prominent factors which inhibit First Nations from fully implementing their agreements are adequate capacity, adequate finance, and adequate time. The amount of each of these has not been calculated, but if the size of the First Nations, their current funding, and the extent of the power they have available to them are considered, those amounts must surely be considerable. So even if some sort of political compromise is seen as a transitional phase it is not difficult to conceive of that phase lasting a very long time.

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