

**FIRST NATIONS SELF GOVERNANCE AND THE MANITOBA FRAMEWORK
AGREEMENT INITIATIVE**

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EXECUTIVE SUMMARY

The purpose of this project is to examine the key elements of the Manitoba *Framework Agreement Initiative* (FAI), as well as address how historical conceptions of treaty are brought into the FAI process. A significant portion of this research entails a critical appraisal of the effectiveness and efficiency of the FAI to implement the inherent right to self-governance. By highlighting the definitions of self-determination and self-governance, the implications, importance and criticisms of the Framework Agreement will be addressed. By providing a critique of the FAI model, this research will offer insight into why this template for self-governance may or may not be an appropriate model.

Why is FAI seen as the path for self-governance when it is the innate character of treaty that embodies nationhood? Treaty neither gives nor designates the five Indigenous nations in Manitoba their self-governance, rather treaty implies nationhood. The treaties demonstrate the nation-to-nation relationship. Through this recognition of nationhood, would it not be appropriate to seek the realization of self-governance through the opening or re-interpretation of treaties? Why is FAI isolated as *the* process to address self-governance? The legitimacy of the current self-governance process may come to light, through a questioning of the meaning and history of treaty

The primary objectives of this project report are to:

- 1) Provide an explanation and definition of the basic concepts of self-determination and self-governance in terms of FAI and treaty;
- 2) Analyze the concept of treaty with specific regard to the FAI; and,

- 3) Explore how FAI will work as a vehicle for self-governance or self-determination, dependent on the first and second objectives.

This project report covers many issues and topics including self-governance, self determination, treaty and FAI. In accordance with my proposal, this report evaluates the process of self-governance in Manitoba as well as providing recommendations for further enhancements to this process.

This project report covers a number of issues over four sections. The first section of the report deals with the historical context of Manitoba's First Nations, as well as providing an overview of the meaning of self-determination and self-governance outside of the treaty and FAI context. The second section explores the idea of treaty and the treaty relationship. The problem of interpretation is dealt with in this section, as well as what that means for the relationship between Canada and First Nations. The third section examines FAI; what it is, what it consists of and the capability of this process to implement self-governance and/or self-determination. The concept of treaty, the treaty relationship and the colonial framework of relations are analyzed in this section. The final section provides recommendations to further enhance this self-governance process and provides conclusions that briefly summarize the findings and insights.

Utilizing a qualitative design, this project report provides information on the meaning and intent of self-governance and self-determination, as well as providing information on treaty and FAI. With an analysis of this information, my research methods will bring light to the question of why self-determination and self-governance are central issues for negotiation in Manitoba.

Information was gathered by utilizing various sources in and around Winnipeg, namely the resources within the Assembly of Manitoba Chiefs office, the University of Manitoba Library, the Internet and the First Nations Library. Through informal discussions with people involved in the FAI process, insights were gained on the perspectives of treaty, FAI, self-governance and self-determination. Other informational sources that were used included Assembly of Manitoba Chiefs Governance Options Papers (GOP), internal documents, oral history, elder testimonies, community consultations, the 1999 review by Don McCaskill as well as the 1999 review by Brad Morse.

This information was interpreted by exploring what self-governance and self-determination entail in two contexts, treaty and FAI. Such familiarization with the FAI perspective on self-governance and self-determination helped to develop the conclusions and recommendations. Looking at self-governance and self-determination in regards to treaty making also assisted in developing this method of analysis. The literature also provided an overall assessment of perspectives regarding self-governance, self-determination, treaty and FAI. The informal discussions/interviews with various participants in the FAI process also provided an invaluable aspect to this report.

During discussions with Assembly of Manitoba Chiefs employees, many issues and concerns came to the forefront especially in terms of how massive and complex the FAI or any self-governance process is likely to be. Ultimately, it was found that FAI attempts to be a treaty implementation or re-interpretation process through a number of its principles, however fails in its task to re-invigorate the treaty relationship. By allowing Canada to have full control and authority over the treaty discussion and with the

acceptance of this by FAI, this self-governance process is undermined before any real movement or progress can be made. With many new initiatives and recent legislative endeavours taken by Canada and First Nations, it is important to stress how significant it is for First Nations to control the process of what and how self-governance will look like for them. It is strongly recommended that any approach to self-governance take into account the communities and people that will be directly affected. Overall, any self-governance initiative, especially in treaty areas, should integrate an understanding that it took over a century for the Canadian state to fragment First Nations and that the reconstitution and process of rebuilding self-governance and exercising self-determination will not be achieved through a single act or process.

INTRODUCTION

When self-government negotiations take place in treaty areas, an additional layer of complexity arises. Self-government is not simply administrative or bureaucratic functions; rather these self-government arrangements can be viewed as part of the larger picture of the treaty relationship. The treaty relationship is based on a number of principles as explored in treaty negotiations that occurred during and shortly after the turn of 19th century. The Ojibway, Oji-Cree, Cree, Dakota and Dene along with the political organization the Assembly of Manitoba Chiefs wanted to focus on this relationship and work towards the recognition and implementation of the treaty principles. Nation-to-nation relations are central to the idea of treaty and, consequently, First Nations in Manitoba assert that as nations they have the capacity to be self-governing. History has shown a long journey for the Indigenous peoples in Manitoba to see self-government as a reality, whether or not Canada recognizes their nationhood. With the creation of Assembly of Manitoba Chiefs in 1988 and the signing of the Framework Agreement Initiative in 1994, self-governance for the Indigenous peoples in Manitoba was advanced. A central question to be explored in this project report is how will this agreement work as a vehicle of self-governance for the Indigenous peoples in Manitoba? Why is this path taken to negotiate self-governance rather than re-opening or re-invigorating the treaties? Treaties ensure and express Indigenous sovereignty; treaties are often perceived as sacred, alive, enduring and embodying Indigenous nationhood. Expressed in this manner, treaties are meaningful to First Nations and have special status under international law. Given the importance of treaty-making, can First Nations negotiate self-governance through FAI when it already exists in prior treaties?

The context of history, the definition of self-determination, self-governance and the idea of treaty are all related to self-governance in Manitoba. The Framework Agreement Initiative is a vision for Manitoba First Nations. It is a vision of self-determination with inherent self-governing powers associated with nationhood. It is unlike any self-government agreement in Canada. It is outside Canada's self-government policy, *Inherent Rights Policy*, and addresses the treaty relationship, which allows the embodiment of treaty principles. FAI has the potential to become historically significant, however, the process has just begun.

Across Canada we are witnessing self-government agreements being negotiated, such as the Dogrib Self-government Agreement, the Sioux Valley Dakota Nation Comprehensive Agreement, and the British Columbia Treaty negotiations among others. For some, this is an essential step towards the recognition of First Nations within the Canadian mosaic, yet for others this step may be leading First Nations in the wrong direction. With FAI becoming overrun by a number of problems, the question of the appropriateness of the FAI model of self-governance in terms of treaty relations needs to be addressed with sincere effort. FAI has the potential to forge a new path of self-governance for the First Nations in Manitoba. Depending on the answers that will be sought through the questions posed above, the FAI model of self-governance may not an appropriate model for enhancing self-governance among Manitoba First Nations and this report will evaluate the FAI framework with these goals in mind.

HISTORICAL CONTEXT

Indigenous nations in Canada have from time immemorial occupied this land and were effectively self-governing. The Indigenous nations of the Cree, Ojibway, Oji-Cree, Dakota and Dene have strived to continue exercising this right to self-governance and self-determination. The five nations in Manitoba have distinct territories, the Cree in the north, the Ojibway in the south, the Dakota primarily in the southwest, the Dene in the northwest and the Oji-Cree in the northeast section of the province. These nations governed themselves effectively and pursued their ways of living independent from other nations.

With contact, relations with the newcomers have at times been turbulent and violent and at other times, peaceful and friendly. Early relationships were often built upon mutual trust, need and sharing. In recognition of this relationship, the Crown and First Nations entered into treaty negotiations. Consequently, treaties in Manitoba were signed:

Treaty #1 August 3, 1871
Treaty #2 August 21, 1871
Treaty #3 August 4, 1873
Treaty #4 September 15, 1874
Treaty #5 September 20, 1875
Treaty #6 August 10, 1876
Treaty #10 August 28, 1906¹

The early relationship between First Nations and the Crown was significant because it clearly established that both nations were self-governing entities that entered into military, economic or social alliances based on equality. The treaty negotiations were a formalization of this process. The treaty relationship between the Crown and the

¹ Website, www.manitobachiefs.com

Indigenous nations in Manitoba was based on a nation-to-nation relationship, however with time the Crown took steps which displaced and interrupted the traditional ways of living and governing, essentially disregarding the treaty relationship.

With the onslaught of colonization, history has unfortunately shown that rights of self-governance and self-determination as Indigenous peoples have been effectively diminished under colonial rule. In the course of this history, the domestication of Indigenous nations resulted in the loss of traditional territory, self-governance and any recognition of sovereignty. History has proven that western domination and colonialism has bred an adversarial and dependent relationship between the Indigenous peoples and the Canadian state. The colonial relationship is central to the FAI process, as this self-governance process has the Canadian state and First Nations relating to each other in this way. 'Colonial,' within the broad understanding of colonialism refers to the settlement of areas or an occupation of lands. However, this idea goes beyond the simple process of creating colonies. It is the framework of relations, it is the hegemony over Indigenous peoples, where relations with the colonizers is a political struggle to gain that which was lost or rather taken away through dispossession and displacement. Colonialism is the exploitation and imposition of western culture and worldview on Indigenous peoples. Colonialism is pervasive, through Indigenous relations to language, culture and the mind. This is the colonial framework of relations. This colonial relationship became heightened with the introduction of the *Indian Act*. The *Indian Act* and other colonial acts of power affected many aspects of Indigenous society. This act determined and imposed a different system of governance on First Nations and today; band governance is a factor in the associated colonialism. The character of this relationship with the current system of

imposed governance systems plays a significant role in the context and understanding of FAI.

In the midst of colonization came political movement. The Assembly of Manitoba Chiefs (AMC) was formally created in 1988 and the political predecessor to AMC was the Manitoba Indian Brotherhood. As a political organization AMC's purpose is threefold, bringing Manitoba First Nations issues to the forefront, a coordinating organization for political involvement and a policy advocacy organization. The Assembly acts to promote and protect treaty rights of its member nations. AMC is under the authority of the Chiefs-In-Assembly who are sixty-three First Nation Chiefs elected by their communities. An important issue for AMC is treaty implementation. Through the FAI process, it is hoped that treaty interpretation can occur. Addressing self-governance for five Indigenous nations is difficult for FAI, as this adds complexity to the process. The logic of having AMC/FAI addressing self-governance in this comprehensive manner is shown through the organization's structure. AMC is a provincial organization and the representation is found within these boundaries. This organization is limited by the colonial structure of boundaries and relations, resulting in a self-governance process that reflects these boundaries. It has also been stated that unity is another component to the rationale of this comprehensive strategy for self-governance. Unity is a strengthening factor when self-governance is being negotiated. It is hoped that a union of nations will convey a stronger position before the Canadian state.²

The history of First Nations in Manitoba and Canadian government reveals an ongoing struggle with the implementation of the treaty vision of co-existence. More importantly, the FAI process has revealed that there are a variety of understandings of

what self-governance is, what the treaty implies about self-governance and how it can be implemented.³ The interpretations of treaty principles, specifically regarding self-governance and self-determination, have characterized this relationship. The problems of treaty interpretation and the definitions of self-governance and self-determination underlie the current FAI negotiations and affect this path of self-governance. Self-governance and self-determination have different meanings, which affect the treaty relationship and the FAI process depending on their usage. Therefore, the concepts of self-governance and self-determination will be briefly explored independently before applying these ideas in the context of FAI or treaty.

² Informal discussions with FAI legal counsel and negotiators.

³ Informal discussions with FAI legal counsel and negotiators.

SELF-GOVERNANCE

Governance is an institute that is a natural expression of social norms, customs and practices. Every society has a worldview in which the people of that society come to understand the world around them. With each society that worldview and understanding determines how they govern and how they interact with their environment. As a result, governance is an institute that is developed inside a social collective not an entity isolated from it.

“A particular government will of necessity be based on a combination of factors: the societal philosophy and worldview, ecological and environmental factors and normative values and customs. Consequently, how a government is structured and how it operates cannot be disassociated from paradigms that arise from philosophy, norms and the environment.”⁴

This being the case, governance can come in a variety of forms and may be practiced differently depending on the nation or peoples. First Nations self-governance is associated with self-determination, however these terms can have different implications.

“Sovereignty is an inherent human attribute that cannot be surrendered or taken away. Sovereignty finds its natural expression in the principle of self-determination. Self-determination is the power of choice in action. Self-government flows from the principle of self-determination. In its most basic sense, it is the ability to assess and satisfy needs without outside influence.”⁵

Self-government is different from self-determination, although these terms are intricately linked. Self-determination is the ability of nations to determine the direction and future of their nations. Self-government can be perceived as the structure, which is the chosen vehicle for self-determination. Self-government can be exercised in a number of ways from establishing joint-governmental initiatives with the federal or provincial governments, to jurisdictions with defined territories, to public government avenues, to

⁴ LittleBear, Leroy, *Aboriginal Self-Government and Treaties: A Discussion*. Discussion Paper, AMC, p.2

modern treaty negotiations. Regardless of how self-government is exercised, the act of self-government vests in nations or peoples.

Self-government according to the Royal Commission on Aboriginal Peoples (RCAP) is related to two pursuits, greater authority over a territory and its inhabitants and greater authority over matters that directly impact the particular nation spanning from identity, culture and collective well being. From differing views of what self-governance may look like, it is generally agreed among Indigenous peoples that self-governance is not merely an exercise of power but rather a determination of the future of the nation. Unlike self-governance, self-determination cannot be found in various forms; instead self-determination is more elaborate and encompassing.

⁵ *The Royal Commission on Aboriginal Peoples; Volume Two, Part One, Restructuring the Relationship*, p.108-109

SELF-DETERMINATION

Self-determination is a modern concept derived from international norms and/or law. The idea of self-determination emerged with the concept of *peoples* after World War I. On the international stage self-determination is presented as a right held by a group of people or *peoples*. However, the precise definition of peoples or what constitutes peoples remains unclear. Generally, peoples can refer to people of the same ethnicity or nationality with a similar language or inhabitants of a territory. There is uncertainty with this term namely because of the potential risk to states because of the possibility that, if Indigenous peoples are determined to be peoples with the inalienable right to be self-determining, this term can present a risk of instability regarding territorial integrity, national unity and international security.⁶ Thus, the term peoples remains undefined and disputed.

As with the uncertainty of the term peoples, the issue of self-determination for Indigenous peoples is highly controversial. Efforts have been made to reinterpret this concept to defuse its potentially explosive nature by promoting the idea of "internal self-determination" for Indigenous peoples. The term self-determination has been manipulated to include internal and external exercise of self-determination. At an international level Indigenous peoples have declared that as peoples they are possessors of this right in an external fashion. While the states have generally maintained that Indigenous peoples have this right in a limited, internal fashion. Because of the ambiguous nature of the term peoples and differing ideas on self-determination,

⁶ Alfredsson, *The Living Law of Nations: Essays on refugees, minorities, indigenous peoples and the human rights of other vulnerable groups* p.48-49

Indigenous peoples have been effectively excluded from international discourse regarding these two intertwined terms.

Inevitably, self-determination has nevertheless become a central issue in Indigenous politics. Regardless of what this term may mean for Indigenous peoples, this term reflects their position, that as nations, they have a right to freely determine their political status and pursue their own unique economic, social and cultural avenues. For many Indigenous peoples the right to determine their governance structure and the way they lead their lives is extremely important especially when one examines the presence of colonial control over them.

In Manitoba, the five nations consider themselves self-determining and self-governing in line with this idea. Their territorial boundaries may extend beyond Provincial boundaries and their governing boundaries may also extend beyond the minds of governmental bureaucrats, these nations, the Cree, Oji-Cree, Ojibway, Dene and Dakota do exist in this manner and as nations are self-determining. Treaties are significant to this discussion of self-determination, because as perceived by the Indigenous nations in Manitoba, the treaties reflect this principle of nationhood, peoplehood and self-determination. Self-governance and self-determination are shown in these compacts and consequently the Indigenous peoples in Manitoba continue to assert their rights as peoples and as nations.

TREATIES

Treaties have always had a place in Indigenous politics, as treaty making was important to maintain territories and alliances that were significant to First Nations. Co-existence, friendship, sharing and alliances were upheld through treaty making.

According to Dr. Alfonso Martinez in the United Nations Report on *Treaties, agreements and other constructive arrangements between states and Indigenous Populations* treaties are arrangements between sovereign nations to formalize the relationship in a number of ways. Treaties encompassed several issues from the sharing of land and resources to issues of education, health, to peace and friendship. With the newcomers, treaty making was an obvious extension of the relationship that was already in place. Above all, the treaties signed between the Crown and Indigenous peoples recognized a nation-to-nation relationship. Treaties were the formal compacts, which determined and guided the relationship of co-existence, reciprocity and friendship between the Indigenous peoples and the Crown. The purpose of treaty making was to create and build a relationship between nations based on mutual respect, understanding, peace and friendship.

As stated, treaties are important in the understanding of the foundation of Canada. Flowing from this idea, the RCAP emphasizes that treaties are the most pertinent vehicles for renewing the relationship. The historical context of colonization and the detrimental effect it had on the understanding of treaty implies that there is a need to reinterpret and reinvigorate the meaning, spirit and intent of the treaties in a contemporary context. The problem with the re-interpretation or the renewal of treaties in a contemporary context is the difference in perspective and understanding of the treaty relationship. Time and history has had an impact on interpretation, at negotiations the

two different perspectives provide a window of truth because somewhere between these two views, is the meaning and scope of the treaty relationship. Two different interpretations may have occurred due to a number of reasons such as, differing worldviews, different emphasis on what was important (i.e. oral versus written), or language. However, with colonization and the imposition of western forms of power, which displaced First Nations, treaties are now perceived in such a way that their meaning, intent and full scope is blemished and diminished by the Canadian government.

The Canadian government initially understood the full meaning of the treaties. It was a nation-to-nation relationship with all international legal implications. Lieutenant Governor Alexander Morris, a negotiator for Canada for the Northwest or Manitoba Treaties stressed to the Canadian state to remain honourable to this understanding of the treaty relationship.⁷ However, over time this interpretation has narrowed due to western domination, domestication and colonization of the Indigenous peoples. This interpretation strictly adheres to the written document and as a result treaties began to be viewed solely as arrangements of land surrender and an extinguishment of rights. Within this perspective, treaty making was intended to secure the relations of First Nations but more importantly treaties were used to open the land for settlement. As with other treaties between the Crown and Indigenous peoples the numbered treaties in and around Manitoba are perceived to be land surrenders and an extinguishment of rights by Canada.

“Simply put, from a government perspective the major objective for treaty-making was most often to obtain a cession of the Indian interest in land, or at a minimum a promise of non-interference, in order to permit development and progress. In return monies and benefits were exchanged. For government the desired result appears to have

⁷ See Alexander Morris, *The Treaties of Canada with the Indians of Manitoba and Northwest Territories*. For the actual treaties see 299-375

been a contractual-like arrangement with static, finite promises capable of definition and conclusion.⁸

Canadian courts have come to interpret treaties from a domestic viewpoint, stating Indigenous-Crown treaties are *sui generis*. It is not due to the lack of understanding in their meaning that creates this interpretation, rather it is from the continual denial of the international standing of treaties and First Nations.

For First Nations, the treaty relationship confers a broader scope of international relations and expresses the self-determination of the nations. First Nations interpretation and understanding of treaties is broad and revolves around the oral agreements made during negotiations. First Nations understanding of treaty extends to the oral tradition of what was negotiated and agreed upon. As mentioned previously, language was a problem and certain changes were made to the treaties when the non-Indigenous language was used as the sole basis to put the treaty into written form. The oral tradition peoples' expressions were not taken into consideration or may have been purposefully ignored, as there was no consultation with the First Nations to seek accuracy in the translation process as to meanings and interpretations of what was agreed to from each of the treaty signatories' perspective. One Elder noted, "What we see now in the treaty (as written) provisions are not what we agreed to, our language was vastly different."⁹ Negotiations may not have been around the issues in the written treaty, but encompassed a fuller dialogue of what the relationship would provide for between the newcomers and the Indigenous peoples. First Nations did not sign away their rights to their traditional territories, nor did they sign away other aboriginal rights, rather their rights existed and continue to exist due to the very nature of their existence as a nation. Elders have stated

⁸ DIAND, *Treaty Overview Paper*. Treaty Policy and Review Directorate, 1997, p.9

that the central principles of the treaty relationship are co-existence and sharing.¹⁰ Many First Nations peoples contend that the numbered treaties in Manitoba had nothing to do with land or rights cession rather it was about peace and friendship and a joint working relationship to ensure successful co-habitation of the same land. Unfortunately, there is limited information on the oral content of the negotiations/treaties in Manitoba. The perspective that the treaties are sacred, enduring and alive is a predominant view among First Nations in Manitoba. Solemn promises were made by both parties, which need to be upheld. Treaties were an extension of the relationship that was already present and for the First Nations in Manitoba, this was a predominant view as expressed through a number of Elder conferences and consultations.

In Manitoba seven treaties were signed between 1871 and 1906 with fifty-eight of the sixty-three First Nations being signatories. The treaty affiliations of Manitoba First Nations appear to cut across linguistic/national (Cree, Oji-Cree, Ojibway, Dene, Dakota) lines. In other words, different nations can be found within a single treaty area. The treaties in Manitoba generally do not “fit” into the boundaries of Manitoba and this is also true for the national boundaries of the Indigenous peoples. The treaties are historical in nature and at the time of negotiations, those who wished to enter into treaty did so. However, from the Indigenous perspective it was the relationship that was central to treaty, not which nations were signatories of the written document. First Nations in Manitoba regard the treaties as bilateral, nation-to-nation instruments, which provided confirmation of the inherent right to self-determination and self-governance.

“It is the position of the First Nations of the Assembly of Manitoba Chiefs that their forefathers, when they signed the treaties believed that this recognition of their

⁹ Assembly of Manitoba Chiefs, *Treaty Workshop Report*, March 2002

¹⁰ Elders Meeting/Session on FAI, Feb. 20th & 21st, 2003

inherent rights would provide and guarantee the land and resource bases and attendant freedom of movement and exercise of self-government, sufficient to provide sustenance and ensure non-interference from others, as they had always done for eternity.”¹¹

Self-determination and self-governance is important to treaty nations. The treaties were entered on a nation-to-nation basis, “the Crown recognized the Indigenous nations as self-governing entities with their own systems of law and governance and agreed to respect them as such.”¹² Treaties accorded Indigenous nations and the Crown specific obligations to each other, however treaty nations stress that the treaties were not about extinguishment or cession, rather treaties were an exercise of sovereignty by the nations involved. In terms of self-governance the treaties,

“reflect the Crown’s recognition that we were and would remain self governing, but they did not create our nationhood...in this light, the treaties should be effective vehicles for the implementation of our constitutionally protected right to exercise jurisdiction and authority as governments.”¹³

The treaty process or the treaty relationship is the most appropriate and most effective vehicle for embodying a new or revitalized relationship between the Indigenous peoples and the Crown. Although, treaties are not the source of the right to self-governance, treaties do reflect and recognize this right. The right to self-governance is inherent; it is an aspect of being a nation and that nationhood being recognized when the treaties were signed.

In terms of self-determination, the treaty relationship as expressed in both written and oral evidence suggests that as nations, the Indigenous peoples are peoples with the right to self-determination. Treaties are manifestations or expressions of the fact that Indigenous peoples have the right of self-determination; treaties do not confer inherent

¹¹ Assembly of Manitoba Chiefs, *Statement on Treaties*. Nov.1995

¹² Ibid. Nov.1995, p.2

rights. This actualization of nationhood is protected with the treaties but does not solely reside or flow from the treaties. This right cannot be given or taken away.

Self-determination as well as the concept of nationhood and peoplehood is largely regarded as a challenge to state sovereignty and jurisdiction. As a result, any understanding of the treaties in this context creates instability for the state. As stated previously it is in the interest of the state to maintain supremacy and power in the name of national unity, territorial integrity and international security. Therefore, internal self-determination is used as a possibility for Indigenous nations, which essentially is a limited or delegated self-governance but true self-governance in its broadest form may not be possible.

Treaty is an appropriate framework for a renewed relationship with Canada as stated by RCAP, but more importantly as emphasized by the Assembly of Manitoba Chiefs and the First Nations in Manitoba. Through the act of treaty-making Indigenous peoples were acting upon rights through their capacities as nations. Treaties are not static historical pieces of paper; the treaty relationship is a nation-to-nation relationship and as nations Indigenous peoples have rights to self-determination and self-governance. There is an attempt to interpret treaty in this manner and FAI is a possible vehicle for treaty renewal with movement towards self-governance. The FAI is significant to Manitoba First Nations and currently is the chosen path for self-governance.

¹³ RCAP, Vol.2, Ch.3, p.110

FRAMEWORK AGREEMENT INITIATIVE

The pursuit of self-governance has been an enduring one for many Indigenous nations in Canada and it has only been within the last thirty years that the Canadian government has been willing to acknowledge this pursuit and enter into negotiations with First Nations. In Manitoba, this pursuit of self-governance began with the signing of the Manitoba Framework Agreement Initiative in 1994 between sixty-First Nations of Manitoba, the Assembly of Manitoba Chiefs (AMC) and the Minister of the Department of Indian Affairs.

This agreement grew out of an AMC resolution in 1993 for the establishment of a joint-working group to examine the dismantling of the Manitoba regional office of Department of Indian and Northern Affairs Development (DIAND). It was believed that this agreement would help eradicate many of the problems found on local Manitoba reserves, but more importantly that the FAI would move governance into the hands of the people themselves. The negotiations began when then Minister Ron Irwin met with AMC leadership in December of 1993 to discuss the agreement. In 1994, a proposal was made regarding the recognition of Manitoba First Nation's governments and this proposal was developed into the Framework Agreement, which was later presented by Minister Irwin to the House of Commons. FAI constitutes four key elements, negotiations/evolution of agreement, objectives and principles, jurisdiction and fiscal arrangements and, finally, the overall theme of governance. Included within these elements are the objectives the agreement, the historical background, the importance of consultation, the process leading up to this agreement, the principles and mutual commitments of the agreement as well as the structures, approach, funding and duration

of the project. In late 1994, at a Special Assembly held at Dakota Tipi First Nation the Chiefs agreed to precede with the Framework Agreement, and in December the representatives of Assembly of Manitoba Chiefs and the Government of Canada signed the Manitoba Framework Agreement Initiative.

FAI stipulates three main objectives;

- 1) Dismantle existing departmental structures of DIAND as they affect First Nations in Manitoba;
- 2) Develop and recognize First Nations governments in Manitoba as legally empowered to exercise authorities required to meet the needs of the First Nations people; and
- 3) Restore to First Nations governments the jurisdictions consistent with the inherent right of self-governance.¹⁴

FAI is an ambitious and complex self-government and dismantling initiative. The process of negotiations began with a large undertaking of information collecting. This ranged from community consultations, elder conferences, theoretical and discussion papers on governance structures, treaty rights, jurisdictional matters, legal status and traditional governing principles. With the preliminary years spent researching and conducting technical working groups on programs and policies that affect Manitoba First Nations, the negotiations for a Master Agreement had at times become strained. For example, in 1999 there was a change in Minister of Indian and Northern Affairs and as a result the FAI process received its first major overhaul. With two outside reviews conducted, as well as halted negotiations, funding and community consultations were discontinued. After that turning point, FAI continues to struggle with reduced funding and continual stress on the negotiation relationship. After the outside reviews were

conducted on the FAI in 1999, the Agreement-in-Principle (AIP) negotiation process was initiated in hopes of building incrementally to a Master Agreement, which would fulfill the mandate and principles of FAI. The draft AIP is guided by a number of principles, which include:

- 1) Treaty and inherent rights will be recognized and will form the basis of any agreement;
- 2) First Nation pace will be respected. First Nations will determine how and when they will enter into a new relationship with Canada;
- 3) Flexibility will be built into the agreement to allow governments to adapt to changes that may occur;
- 4) Framework Agreement/Blue Book obligations will be fulfilled;
- 5) A new fiscal relationship will be established to allow First Nations to govern as they need;
- 6) Stable relationships will be established between First Nations and Canada, and,
- 7) Intergovernmental relationships will be established between First Nation and Canadian governments.¹⁵

The ongoing negotiations for an AIP to uphold and implement the Framework Agreement is being undertaken with the hopes of arranging structures and authority regarding jurisdiction, governance, fiscal arrangement and other matters. Parallel with these objectives is the goal of identifying and creating a governance model that is appropriate at the nationhood level (Oji-Cree, Ojibway, Cree, Dene and Dakota). This development of a governance model must also be appropriate for local communities or bands. The draft AIP addresses issues including jurisdiction, lands, citizenship, fiscal

¹⁴ Department of Indian Affairs and Northern Development. *The Dismantling of the Department of Indian Affairs and Northern Development. The Restoration of Jurisdictions to First Nations in Manitoba and Recognition of First Nations Governments in Manitoba.* P.2

¹⁵ AMC, 14th Annual Assembly, 2002 Annual Report, September 2002, p.42

relations, intergovernmental and international relations, dispute resolution as well as other principles and purposes.

Currently, negotiations on hard issues such as treaty rights, inherent rights and sovereignty have been deferred to Master Agreement phase and the FAI process is hitting a wall. With no movement on substantial issues, FAI has yet to make any real progress. As well, guiding principles of the draft AIP and the establishment of this process are contradictory to treaty relations, which inherently address rights to self-determination and self-governance for Manitoba First Nations.

SELF-GOVERNANCE AND FAI

The vision of self-governance for FAI is comprehensive in nature, attempting to address the inherent right of self-governance with the recognition and implementation of powers and responsibilities of governments, as well trying to maintain the treaty relationship. First Nations in Manitoba have selected negotiations as the primary method to achieve self-government as opposed to litigation or other avenues for addressing self-governance. A government as defined by FAI research possesses a number of characteristics that include,

- a) power to govern a defined population;
- b) power to govern a defined territory;
- c) fundamental laws or constitutional rules;
- d) government institutions with rules how they operate (executive/political, law-making, judicial and administrative),
- e) human and financial resources; and,
- f) legal status and capacity of government.

The FAI process hopes to have First Nations governments achieving a number of objectives, including respect for the special legal status of First Nations citizens, respect for First Nations lands, jurisdiction to pass laws for First Nations needs, financial accountability and flexibility, the power and capacity to govern and the protection and implementation of spirituality, culture, language and traditions. Governance as outlined in the Governance Options Papers (GOP) developed by AMC/FAI situate governance with eight inter-related elements:

- *Government*: the essential characteristics of “government”
- *First Nations Government*: the characteristics of “First Nations government”
- *Powers*: the powers and related capacities that First Nation governments might possess and the results of the exercise of those powers (e.g. laws, programs & services)

- *Levels*: the levels of First Nations Government at which powers might be vested and/or exercised
- *Application of Laws*: the rules governing the application of First Nation, federal and provincial laws and programs
- *Fiscal Relations*: the characteristics of a new fiscal relationship that would support First Nations Government
- *Implementation and Ongoing Support*: provisions for implementation of a Final Agreement and ongoing support to the new government-to-government relationship
- *Relationship with Manitoba*: the nature and extent of Manitoba's involvement in future Manitoba First Nations Government arrangements¹⁶

Government in this form is specifically about structure, power, operation, process and procedures, by which 'governance' is achieved. The GOP outline a number of primary conditions that are needed in order for governance to be achieved:

1) Powers

A government must have jurisdiction and authority to act in the capacity as a government and these powers must be exercisable over a defined population and territory.

2) Structures and Procedures

A government must have infrastructure to govern. Infrastructure means institutions, which run the governments (structures), and the rules by which those structures operate within a government (procedures). Examples of structures include legislative, executive, judicial and administrative structures. Procedures include how powers will be exercised, accountability procedures, how financial matters will be administered, and selection of leadership.

3) Resources

A government must have the necessary resources (human, financial, natural) in order to operate.

4) Legal Capacity

A government must have legal qualifications to perform important functions, for example, enter into contracts, sue and be sued, etc.

¹⁶ AMC, FAI *Governance Option Papers Summary*, March 1998, p.56

5) A Constitution

A government must have a constitution, which sets out the basic rules and understandings between the people and the government with respect to how the government will operate. A duly constituted government will have legitimacy in the eyes of its people and therefore the mandate to govern.¹⁷

Self-government in Manitoba as explored in the GOP states that governance is not merely band governance under the *Indian Act*, which is dictated by and through the federal government. Rather self-governance involves a greater freedom from the *Indian Act* and may take a number of different forms including a comprehensive umbrella type of an arrangement based on the inherent right to self-determination, sector-specific self-government agreements, or public government models as well as others. Presently, FAI is leaning toward the choice of an umbrella agreement and centralized government based on the inherent right of self-determination.

With a number of explorations of what self-governance may be for Manitoba First Nations, it is clear that AMC, FAI and the First Nations in Manitoba are struggling with the question of what exactly self-governance means for them. Self-governance is developed within the context of a community guided by its worldviews, environment and societal values and norms. Unfortunately, the historical reality of colonization is that there is massive uncertainty and confusion among First Nations citizens and leadership as to what governance means to them. This is often translated into the FAI process. This uncertainty, and the uncertainty among the negotiators on what to negotiate in order to achieve self-governance is creating substantial stress on the FAI process. The government structure that is being developed by FAI is unclear and is constantly being revised. Will self-governance simply be administrative control over programs and

policies or a broader form of self-governance, such as sovereign jurisdiction or self-determination? Self-government can be modelled in many different ways, as there are many nations with many different ideas of what constitutes a government and because of this diversity self-government for Manitoba First Nations will be complex and multi-layered.

“The actual implementation of Aboriginal self-government is a very complex task. Many issues come into play: jurisdiction; outworking of relationships between Aboriginal governments and federal, provincial, and other Aboriginal governments; economic situation, territorial size and existing land base, population size and density, cultural characteristics, historical treaty and other relations.”¹⁸

In a simpler form, governance can be bureaucratic with administrative and jurisdictional functions, however governance is not simply an isolated institution separate from the nation and/or society, rather governance is part of that nation. As a result, FAI is attempting to take a more complete form of governance. Governance in negotiations has core principles in which the negotiators strive for, however the structure in which First Nations governments will implement is a separate process outside of the negotiations, although there has been pressure from Canada to introduce this into the negotiations. In negotiations, Canada’s position is to restrict First Nations independent capacity to govern by limiting jurisdiction and other issues or processes that relate to governance.

In negotiations as well as internal meetings, there is no direct approach from the smaller or specific issues to the bigger picture of what true self-governance is. The question should not be what is true self-governance, rather the question should be what is self-governance for the First Nations in Manitoba and what will it take for First Nations

¹⁷ Ibid

¹⁸ RCAP, Vol.2, p.246

to get there? There seems to be a general consensus that self-governance should flow from the treaty relationship bearing that it is understood the treaties do not confer the right of self-governance. There is also an awareness that self-governance should take on its broader form, however the struggle to attain self-governance for five nations is exceedingly difficult due to the system as it currently stands. Co-opted band councils, the extensive number of First Nations/communities, federal funding, lack of resources and Canada's roadblocks in negotiations have created difficulties for FAI to make inroads on issues such as self-determination, citizenship, lands, treaties, aggregate government and sovereignty. The problems of authority and power, which are intrinsic to this process, are found in the FAI and its approaches to governance

An added complexity involves the uncertainty of how many communities support the process, in light of the fact that the community consultations were discontinued in 1999. Other complexities involve the difference of five unique nations, seven treaties, three political organizations and five Dakota communities, which were not party to the treaty making process in Manitoba. Of these five Dakota communities, four are part of the FAI process. This diversity presents a problem when AMC is designed for policy initiatives and basically is a loose federation of First Nations. With the substantial number of communities and the diversity of their needs as well as different tribal organizations representing their needs, FAI has come against the huge task of creating a governance structure reflective of this. When a self-governance process becomes this complex an incremental approach is often taken, resulting in a process that doesn't address central issues such as treaty or sovereignty. FAI's inability to define and address

the big picture and FAI's inability to grasp what type of self-governance it is striving for, the limitations of this process are immediately visible.

Examining only the Framework Agreement and the draft AIP, both stipulate a transfer of administration and jurisdiction. It can be argued that governance in this form will be a form of self-administered colonial oppression. Self-governance implies an autonomous state with true self-determining rights; it is not bureaucratic structures and mechanisms, as this agreement would assert. Essentially, this agreement limits itself to the dismantling of DIAND and the transfer of jurisdiction and administration, thus real self-governance is not in the picture. The problem of jurisdiction is significant because jurisdiction will often be inclusive of all three levels of government and will not be placed exclusively in First Nations control because of the reality of overlapping jurisdiction. This could present a problem for the vision of self-governance, resulting in a narrow idea of First Nations self-governance. What constitutes self-governance in FAI is a dismantling of DIAND and transferring of those structures and processes into the hands of band councils or a centralized authority. This is shown throughout the FAI Workplan, where self-governance is focused on the activities and structures of DIAND. Functions of the project include decision-making, consultation, communications, project management and legal services with the activities that include research on existing DIAND programs, governmental powers, detailed governmental structures and implementation planning. As the agreement stands, there is little room for change in the current structure of governance. However, the draft AIP negotiations are trying to gain a broader scope of self-governance than mere self-administration, as a simple transfer of

authority from DIAND to band councils would have already occurred if this were negotiated.

Some have reconciled the idea that traditional forms of governance will be modified to existing forms of governance because First Nations have adapted to contemporary forms of power and governance and to revert to a traditional stage would be impossible, yet to reconcile the two structures is a far more realistic approach to self-governance.¹⁹ But this form of governance is inherently limited in its vision of Indigenous self-governance. It is governance in a municipal, limited, internal, bureaucratic style of governance. FAI does not provide self-determination or sovereignty in its fullest form. FAI accepts the current structure and framework of governance and, by this acceptance, FAI is simply a transfer of control from DIAND to First Nations hands. Transfer of DIAND programs, services, jurisdiction, administration will inevitably lead to municipal-like governance, which is neither analogous nor similar to the right of self-determination that is embodied by nationhood and the treaty relationship. Currently, because of the complexity and uncertainty, FAI is proceeding on the basis that governance is bound by band councils, the sixty-First Nations/communities in Manitoba. “The reserve is not a good Indian idea. Any plan or model that accepts without question the reserve as a basis for government powers entrenches colonialism. This realization acknowledges that reserves are non-Aboriginal creations and are, in fact, colonial institutions.”²⁰ The Framework Agreement is the embodiment of jurisdictional/administrative self-governance action; it is simply a transfer, which allows bands to have more control while creating a centralized body with limited authority.

¹⁹ Informal discussions with FAI legal counsel and negotiators

²⁰ Monture-Angus, Patricia. *Journeying Forward: Dreaming First Nations Independence* p.30

With this form of governance, First Nations government will not be true to their nationhood, the treaty relationship or their rights to self-governance.

This structure of governance is narrow and does not reflect or address nationhood or self-determination. The negotiators understand this and they are fighting within a framework that is incompatible with the bigger picture of self-governing nations. With colonization and the denial of Indigenous nationhood, there is serious questioning among FAI promoters of the viability of working within the colonial system of band run self-government initiatives. The current framework of the relationship insists on negotiated self-governance, whereas the idea of nationhood, peoplehood, treaty and self-determination is not discussed or simply deferred. It is governance that relies upon another government's recognition. Allowing a negotiated or delegated self-governance by a foreign system is acting from and within this colonial framework. Two choices of self-governance are pulling FAI:

- 1) First Nations self-governance in a limited municipal-style format, or
- 2) A broad self-governance or self-determination framework with many powers and authorities associated with that style of governance.

It remains to be seen what path this process will take. Central principles of self-determination insist that First Nations governments exist and were never extinguished. And as nations, the Indigenous peoples in Manitoba will develop and determine their own form of government. Consequently, governance is inherent due to the idea of self-determination and the act of being nations, thus self-governance is non-negotiable. FAI is proceeding backwards in terms of gaining self-governing authorities. The FAI outlines a dismantling or a delegated fashion of governance, consequently this is a betrayal of the inherent right as Indigenous peoples of this land to govern in a full self-determining

fashion. If they are truly acting as nations, FAI and Manitoba First Nations do not require permission to act as such from another nation.

SELF-DETERMINATION AND FAI

The purpose of FAI is to advance self-determination for First Nations in Manitoba, through a self-governance arrangement. A number of early research and concept papers on FAI identify self-determination as a major theme. “The main objective of the process is to implement self-determination and one of the main principles is to protect the treaties by implementing them according to their original spirit and intent.”²¹ Self-determination in the agreement is not directly referenced, although a central principle accords that the inherent right of self-governance, treaty rights and aboriginal rights will form the basis for the relationship developed out of this process. Alluding to the treaty relationship, FAI addresses nationhood status, which would therefore include rights to self-determination. The draft AIP reflects and furthers self-determination for Manitoba First Nations by giving recognition to the existence of aboriginal title, aboriginal rights, international rights, treaty rights and the inherent right of self-determination.²² As previously stated self-governance and self-determination are vested within nations, yet in contradiction to this FAI may be reducing self-determination to small communities rather than nations in its fullest possible definition.

“The Commission considers the right of self-determination to be vested in Aboriginal nations rather than small local communities. By Aboriginal nation, we mean a sizeable body of Aboriginal People with a shared sense of national identity that constitutes the predomination population in a certain territory or group of territories.”²³

FAI is reducing the self-determination principle to the realm of local administration and making it entirely dependable upon the goodwill of the states. A governance structure that is required to work within the current parameters of the

²¹ Framework Agreement Initiative Office, *Consultation Paper on Self-determination for Manitoba First Nations*. 1996. Used by community coordinators during preliminary years of community consultations.

²² *Comprehensive draft AIP*, Principle 4.1.

Canadian colonial system contradicts the concept of self-determination. Thus, FAI is not a process of self-determination; rather it is a process of practical arrangements on self-governance between Canada and AMC on behalf of Manitoba First Nations. Practical arrangements refer to the approach taken by Canada. An incremental approach, these arrangements are to deal with practical matters.

“Throughout the Framework Agreement Initiative negotiation process Canada has taken an incremental approach, which is often characterized by the negotiators as achieving ‘practical’ arrangements. They want to deal with practical matters and modest results. The ‘incremental, ‘practical,’ and ‘modest’ approach is mere devolution. This is not what Canada agreed to and does not reflect the Framework Agreement Initiative principles for fundamental change.”²⁴

Acceptance by FAI to have self-governance within the domestic sphere is shown through a number of documents illustrating the need to work within the domestic legal framework for First Nations self-governance.

“Options available to First Nations to implement their inherent right of self-government via:

1. Constitutional amendment
2. Canada’s constitution by:
 - a) self-government legislation, and,
 - b) self-government agreements protected by section 35 *Constitution Act.*”²⁵

The emphasis of governance is situated firmly within domestic means, whether government is intended to invoke municipal style or domestic dependent nations.²⁶

Negotiations on governance within the FAI process have been placed firmly in the hands of what the Canadian government sees and prescribes as First Nations governments.

Although the proposed governance model is structured in a way to centralize authority,

²³ RCAP, Vol.2, Ch.3, p.166

²⁴ AMC/FAI, Internal Document, FAI Education Process

²⁵ AMC, FAI on Self-government, *First Nation Government Implementation, Rolling Draft 1, Legal Reference*, March 2002, p.3

there is an uneasiness of displacing band authority to a centralized body representing the five nations in Manitoba. The governance structure inevitably may not have a complete transfer of authority; therefore, the act of self-determination is limited by the current structure of band governance. In order for FAI to proceed, there needs to be ratification at the community level and this ratification will not occur due to fear of change, dependency on the Canadian government and the unwillingness of community leadership to give up power and authority.

Self-determination as prescribed internationally confirms that self-determination is an act by peoples. For FAI, self-determination is relegated to limited internal self-determination relying upon delegated authority and powers from the Canadian state. Therefore, the act of negotiating self-governance by explicitly stating the right of self-determination in the draft AIP, the Indigenous nations are not acting unilaterally as the right to self-determination would suggest. FAI is limited governance and unfortunately is not self-determination. With the political geography of local bands in power and by maintaining this system, the movement towards a centralized system of government will be difficult.

Realistically, if true self-governance is possible, it is not what Canada negotiates as “practical arrangements,” that is being promoted at FAI negotiations. A key obstacle for the FAI process is that First Nations must *prove* their traditional governments did exist and flowing from that, they as nations can be self-governing. Given the historical indifference by the Canadian state and what self-determination may mean for its sovereignty, the proof of self-governance may not be enough due to what First Nations

²⁶ Marshall Decisions. *Cherokee Nation vs. Georgia* (1831) Based on US Supreme Court rulings understanding that Indian nations were self-governing nations under domestic rule.

self-determination may mean for Canada's external sovereignty. To avoid an onus of proof, treaty is an excellent path to negotiate or implement self-governance.

The problem is found within the assumption that the current framework of the colonial relationship and the negotiation relationship is the *only* acceptable or available framework to address the injustices of colonization especially the denial of the treaty relationship. A nation cannot have self-determination when the accepted framework of relations is based on the supremacy of a foreign state. This understanding in effect undermines the FAI process. Treaty as an understanding of nationhood and the relationship between nations would help to clarify and clear the complexities of this self-governance process.

TREATY AND FAI

Self-government flows from the treaty relationship, which is inherently nation-to-nation. Therefore, nations who entered into treaty are accorded rights including self-governance and self-determination. As with the discourse on self-governance and self-determination, the treaty relationship adds a complex layer to the FAI process. Initially, there was some concern regarding the impact that FAI may have on the treaties, especially any negative impact that FAI may incur on the treaty relationship or treaty rights. This concern was seen throughout the organization, the negotiators, the communities and the chiefs who provide leadership on the FAI file. Understanding the significance of treaties and what they imply for self-governance and self-determination, the hesitancy to accept a different or separate process for self-government was difficult. Treaties have an important place in Manitoba and were significant to the framework of relations between the Crown and First Nations. To maintain this centrality to the relationship, treaty is clearly expressed in FAI. FAI reaffirms that the treaties form the basis of any discussion on self-government. Treaty rights and the idea of the treaty relationship are addressed in FAI through principles 5.1, 5.2 & 5.3:

“5.1: First Nations treaty rights, aboriginal rights and constitutional rights will in no way be diminished or adversely affected by this process.

5.2: The inherent right of self-government, First Nations Treaty rights and Aboriginal rights will form the basis for the relationships, which will be developed as a result of this process.

5.3: In this process, the Treaty rights of First Nations will be given an interpretation, to be agreed upon by Canada and First Nations, in contemporary terms while giving full recognition of their original spirit and intent.”²⁷

²⁷ *FAI*, Principle 5.1, 5.2 & 5.3, p.6

These principles will enhance the treaties according to their original spirit and intent (5.3), without negatively affecting them (5.1) and will be based on the inherent right of self-government and a nation-to-nation relationship (5.2). Further to this, the draft AIP also states in principle 2.6, “The parties agree to interpretation of the treaty rights of First Nations, in contemporary terms while giving full recognition to their original spirit and intent.”²⁸ From the perspective of AMC, the leaders and the communities, this self-governance process is a treaty process. FAI is about an interpretation, not a re-opening but a filling of the gaps where the government of Canada needs to recognize the other promises and the spirit and intent of treaty that was developed during the negotiation of this sacred covenant. Furthering this, the draft AIP reinforces this treaty relationship in the Mutual/Treaty Relations section.

“4.1: Recognition of the existence of aboriginal title, aboriginal rights, international rights, Treaty rights, inherent right of self-determination and the inherent right of self-government; collectively and individually by the Constitution of Canada will not dilute, impair or undermine First Nation people or First Nations governments.

4.2: The First Nations recognize and affirm the continuance of the sovereignty of Canada and the necessity for Canada to retain its territorial integrity; Canada recognizes and affirms the continuance of the sovereignty of the First Nations and the necessity for the First Nations to retain their territorial integrity.”²⁹

It is important to note the treaty relationship as reflected in principle 4.2. The treaty relationship is based on the spirit of co-existence and this principle exemplifies the non-interference value as asserted in accordance with the spirit and intent of the treaty relationship. Co-existence is central to the treaty relationship and FAI is attempting to carve out a space in which this idea can become a reality. As a vision for self-governance, FAI allows for the basis of self-governance to be understood within the

²⁸ *Comprehensive draft AIP*, 2.6, p.4

²⁹ *Comprehensive draft AIP*, Principles 4.1 & 4.2 June 11, 2002.

context of the treaty relationship. The treaty relationship guides the union between the Indigenous nations and the newcomers. Broadly interpreted, the treaties were entered into on the understanding that as separate, unique nations, two or more nations could co-exist. This understanding of the relationship is continually expressed through the FAI process and is shown with principle 4.2.

Since its inception, FAI has always been emphasized as a treaty implementation process, although on first impression FAI seems like a separate process, it is a process that is attempting to further the treaty relationship. Throughout the years of preliminary research and negotiations, it has been maintained by the FAI team (legal counsel and negotiators) that FAI is a treaty process.³⁰ In 1995, the Grand Chief corresponded with the DIAND Minister reaffirming that FAI was a treaty implementation process as distinctly stated by principle 5.3. The Minister on the other hand, attempted to narrowly define FAI as simply a self-governance process.³¹ Furthering this, in 1997 the FAI Project Director Report clarifies and emphasizes that the FAI process is a treaty implementation process. Currently, the Grand Chief maintains the position that treaties are central to any negotiation on the characteristics of the relationship. This includes the FAI self-governance process. “We have not taken full advantage of our treaties, there has never been a full treaty implementation process. If we are looking towards self-government it has to come from those treaties, with respect to the dismantling process it has to work simultaneously, you cannot work with one without the other.”³² Treaties are not static, historical documents and it is hoped that a contemporary interpretative process

³⁰ Informal discussions with FAI legal counsel and negotiators.

³¹ Irene Linklater, *Treaty and Treaty Relations: Protection and Implementation, Discussion Paper*. AMC, 2001, p.11

³² Chief White Bird, 1999, CCOFAI

can happen with FAI by implementing self-governance and self-determination.

However, what is written or hoped for within the FAI process is not necessarily what is occurring.

Currently, the re-interpretation of treaty while remaining true to the spirit and intent is not being visited at this point of negotiations.³³ A major obstacle for FAI negotiators is Canada's refusal to budge on the idea that any issue regarding treaty is not within their mandate to negotiate. The present Minister and Canada's negotiators affirm that there is no mandate for treaties, however it is clearly stated in principle 5.3, which the government signed in good faith that treaty must be given an interpretation. This appears to be the biggest stumbling block to opening up discussions on self-governance. There is no federal policy on treaty implementation, or rather it is policy of no discussion within self-governance negotiations. As a result, a lack of treaty policy or instruments to open up treaties has caused Canada to rely on its existing policies to deal with treaties. Canada is in the position of trying to fit treaties into these existing policies rather than attempting to develop a new policy to deal with the treaty relationship in an honourable manner. Canada's policies are inadequate or useless in terms of comprehensive processes such as FAI and treaty implementation/interpretation. Demonstrating the limited perspective and position Canada takes with treaty, it is not surprising that treaty is not dealt within FAI negotiations. This lack of recognition of the treaty relationship has led to frustration and because FAI was signed on the understanding that an interpretation would be given based on the nation-to-nation relationship, FAI has compromised one of its core principles in the struggle for self-governance. Treaty interpretation for federal negotiators are outside processes and consequently this is in breach of the FAI or

principle 5.3. Federal negotiators for self-government arrangements have guidelines, which stipulate that these negotiations have little or nothing to do with treaties. Treaty or treaty rights are found only with general recognition within an agreement (Framework, AIP or Final) or specific recognition within domestic legal terms, for example the right as enshrined by section 35 of the *Constitution Act, 1982*.³⁴ Canada has assumed a perspective regarding treaty implementation or interpretation as follows,

“The Department of Justice has acknowledged that the First Nation inherent right of self-government exists. The implementation of this right involves resolving two issues: first establishing that it exists for a particular group, secondly controlling the scope of the right.”³⁵

This shows Canada’s inability to honour the respective nature of what treaty means and the treaty relationship. Consequently, Canada is limiting and determining the right to self-governance and self-determination of nations who are in possession of this inherent right by applying limitations or requiring proof for it. The general recognition that this right exists does not require any specific recognition. Either way, whether Canada recognizes this right or not, specifically or generally, the right continues to exist. First Nations self-governance from Canada’s perspective is solely a matter of movement away from the monetary obligation that Canada holds. The Canadian government will only allow First Nations to take the first step in determining their future in accordance with their rights as nations on their terms. Fundamentally, the federal government relies on the *Indian Act* framework to deal with treaties or in other words the federal government uses colonial legislation and policies to ignore the treaty relationship. The

³³ Informal discussions with FAI legal counsel and negotiators.

³⁴ Department of Justice and Inherent Right Directorate. *Guidelines for Federal Self-government Negotiators: Language for Recognizing the Inherent Right of Self-government in Agreements and Treaties*. March 1996, p.3

colonial framework is meant to dissolve or water down the meaning of treaty, failing to give any broad recognition or interpretation of the treaty relationship. The nature of the negotiation process is inherently adversarial due to this relationship, which has a historical context relevant to this process. The role history and colonization has played allows the Canadian government as partners in the treaty relationship to reduce the idea of Indigenous nations capable of self-governance and self-determination as implausible. The contradiction between the historiography and the interpretation of treaties places a formidable burden on the formulation and realization of future negotiated legal instruments between Indigenous peoples and states.³⁶ Treaty embodies nationhood and this is expressed through the FAI process, unfortunately it is limited only to words and rhetoric. Actual negotiation on the re-vitalization or interpretation of the treaties or the treaty relationship is non-existent.³⁷ FAI is neither a treaty implementation nor a re-interpretation process because it is a process that lacks Canada's commitment on this issue. Canada refuses to address the treaty issue or the significance of treaty within the FAI process. From the perspective of FAI, Canada lacks a mandate to negotiate treaties, as well as allowing little explorative movement on the treaty issue. FAI intends to be a path for treaty re-vitalization but ends up falling short namely due to the unwillingness by Canada to enter into these types of discussions. Thus, the narrow interpretation of treaties and the dishonouring of the treaty relationship continues.

Flowing from the problem of understanding the treaty relationship in a colonial framework is the understanding of Indigenous governance also from within this

³⁵ AMC, FAI on Self-government, *First Nation Government Implementation, Rolling Draft 1, Legal Reference*, March 2002, p.9

³⁶ Martinez, UN Report, *Study on Treaties, agreements and other constructive arrangements between States and Indigenous Populations*. P.20, Para 121

framework. Traditional nations, which signed treaty, have now been replaced by a foreign system of bands through the *Indian Act*. Band governance was not an Indigenous idea and remains an inappropriate structure for governance. This system is creating problems of accountability, good governance and ultimately this structure has imposed a system of relations that infers First Nations as separate, small communities with limited territories, lands and peoples. If FAI is a treaty implementation process this framework of relations may be problematic if the governance structure remains in band form. To work within this framework is difficult because any movement towards self-governance or self-determination of nations (Dene, Cree, Oji-Cree, Dakota, Ojibway) will ultimately displace power and authority from the local band level. This is problematic because local ratification is needed for FAI, including general support by the chiefs and councillors. How do nations act like nations and become self-governing by negotiating the nationhood concept as conceptualized by the treaty relationship by negotiating from the basis of band governance? Working within a colonial framework of relations and attempting to move the decolonization process forward will bind the process to failure. FAI assumes that the colonial framework is the basis to begin discussions on treaty. Working towards nationhood or self-determination within this framework is assuming that nationhood is not inherent, as the treaty relationship would suggest. When functioning with this reasoning, this leads to the assumption of the superiority of the Canadian state and in doing so is tantamount to the admission that Indigenous peoples are not nations.

The negotiations between Canada and FAI have stalled at times or have become burdensome because of Canada's lack of political will to address treaty or the hard issues such as self-determination or sovereignty.

³⁷ Informal discussions with FAI legal counsel and negotiators.

The intrinsic nature of the negotiation process to have an adversarial context due to the historical background and relationship is a difficulty in allowing this process to move forward. There have been a number of factors throughout this nine-year period since the agreement was signed that illustrate the frustrations and difficulties in negotiating self-governance arrangements with Canada. Informal discussions with FAI negotiators clearly demonstrate this.

“The factors that have created impediments to the negotiations are largely the lack of political will together with the limitations of the governmental frameworks of Canada. The limited view held by government’s public officials and bureaucrats, who fail to appreciate the distinctness of Canada’s obligations based on treaties between the Crown and First Nations and the First Nations inherent right of self-determination through self-government.”³⁸

While Canada’s position is problematic, the acceptance of this position by FAI is equally problematic. As with the acceptance of the colonial framework, the treaty issue has been deferred by the FAI comprehensive table. The treaty is the basis of the relationship and ultimately this issue should not be deferred to Final Agreement negotiations. The treaty issue must be part of the negotiations as stated in the FAI, principle 5.3. Self-governance impedes the interpretation of treaty in this process because FAI is deemed to be a “practical arrangement” in negotiations by Canada. However, if the perspective or approach is reversed to see the centrality of treaties in self-governance the potential to have less confusion or complexities regarding self-governance may be improved. However, clarification on what treaty means and implies for the nations involved needs to be understood by both parties before any movement towards self-governance is initiated.

³⁸ FAI, *Project Director Report*. 1999/2000

As a vehicle for self-governance and treaty implementation or interpretation, FAI is ineffective on a number of aspects. FAI is encountering its share of problems including the complex nature of FAI and the difficulty to move self-government forward will be felt by reluctant communities. Progress and acceptance of this self-governance process will vary across communities. The Canadian government's negotiation strategy and position on First Nations governance is shown in their position regarding treaties. Negotiating an interpretation for treaties is highly unlikely due to a number of reasons and any sense of justice may not be found within the FAI process because it begins with the assumption on the legitimacy of the process and framework of relations. A framework based solely on colonial ideology will not bring any sense of justice or resolution on the differing interpretations of treaty. Nor will this process reconcile what self-governance or self-determination may mean for First Nations. Working from within this framework allows Canada to be influential in the determination of what self-governance for First Nations will look like. The right is often narrowly defined and is only enforceable upon Canada's initiation. Consequently, the right to self-governance becomes dependent on Canada's goodwill, when in reality it is the right of the nation to implement.

It's been almost ten years since FAI was signed and the negotiations have had serious problems, in the area of federal negotiators due to commitment level and issues of authority. Other problems consist of non-engagement of First Nation leadership into the self-governance process. Initially, in the beginning of the process, leadership was directly involved. However, at this point leadership has become shielded from the real aspects of the negotiations and the direction negotiations are taking. A primary

recommendation by a Special Assembly on the FAI concluded that there needed to be more frequent Chiefs Committee on FAI (CCOFAI) meetings, yet shortly afterward the CCOFAI fell apart in 1999/2000.³⁹ This reflects problems of support and awareness within leadership circles as well as a destabilization of the structure and direction for the FAI process. The process will not improve unless unity and support among leadership is taken into serious consideration.⁴⁰ The direction for the FAI file is loosely intact with partial support from the General Assembly. Direction and authority on the FAI file is now provided by the executive council in AMC's structure. Looking away from leadership and support problems is the concern of community support.

Sixty-First Nations or communities signed onto the process, but the finalization of the AIP as well as the Final agreement will be difficult to attain. Lack of community involvement and input has presented a problem for FAI. The three-year review (MAANG report) suggests a serious re-visiting of community support, specifically the need for continued community consultations. There has been recognition that people in First Nation communities must be informed about this process and are required to provide input in compliance with FAI principle 3.

“It is recognized that the first and foremost requirement of this project and its outcomes is for the people of the First Nations of Manitoba to be fully informed and to give informed consent to the Project and its outcomes at every stage of its development.”⁴¹

Unfortunately, resources for community consultations ceased in 1999 in breach this principle. Availability of resources in other areas is also problematic. Fiscal arrangements are intrinsic to this process and will most likely be a continual problem.

³⁹ Informal discussions with FAI legal counsel and negotiators.

⁴⁰ Special General Assembly on the FAI. *Recommendations of the Chiefs Committee on Framework Agreement Initiative*. March 1999, p.14

The federal government has shown that resources will not flow when FAI negotiators attempt to move beyond the restrictive dialogue of the negotiations. Canada's negotiation position lately has been hardnosed, instrumentalist and paternalistic in nature and as such is not representing a commitment to self-governance as outlined in the FAI. Like treaty interpretation, the views regarding self-governance have also been divergent. This is likely due to the inability to understand what the opposing party is trying to convey, "like we are speaking past each other."⁴² Negotiating in bad faith is shown through changes in lead negotiators and refusal to discuss hard issues, such as treaties or sovereignty. An example of bad faith negotiating is the expectation from Canada for FAI to get community support when consultation monies were pulled a number of years ago. It is impossible to get support when funds are cut because this limits the ability of AMC/FAI to educate and inform the communities. This negotiation approach taken by Canada circumvents any real progress of treaty revitalization or implementation of true self-governance. Not only has Canada limited the FAI process, but has also placed restrictions on what the FAI agreement is *not* about. Specifically, it has been stated by Canada that FAI is not about programs and services or increased funding and there is no guarantee of improvement in First Nation lives. If FAI cannot get beyond these restrictions or limitations, it is not a self-governance process nor will FAI be "practical arrangements."

As a reflection of treaty or as an implementation of self-governance and self-determination, the FAI process falls short of the vision set out in the Blue Book (FAI, Memorandum of Understanding, Workplan). FAI attempts to set up a treaty re-

⁴¹ FAI, p.9

⁴² Informal discussions with FAI legal counsel and negotiators.

interpretation process, yet in negotiations this issue is not being pursued. As a result, self-determination does not flow from FAI; self-governance may be a result of this process but only in a very limited manner. Unless provincial or federal powers are *surrendered* and not merely delegated, then self-government is nothing more than a façade and a vehicle for further institutional assimilation. FAI begins with a transfer of administration and jurisdiction, creating a governance structure that is not a *real* governing body, as nations would be entitled to. Although, FAI is attempting to broaden this scope of governance, FAI is still relegated with limited powers devolved from DIAND. The colonial framework ensures that DIAND consistently and constantly remains with the power. Therefore, self-governance is merely a façade, a structure of administration or jurisdiction pretending to be a governing nation.

These problems are indicative of the unstable path of FAI, uncertainty of self-governance, and uncertainty of where treaty fits. The diminishment of treaty has resulted in a process working backwards to implement a relationship only recognized by one party. FAI is effective in establishing a process to implement a limited form of self-governance in an administrative or limited jurisdictional manner or “practical arrangement,” but FAI is not effective in allowing a discourse to occur regarding treaty. The colonial framework of relations is inappropriate to address this relationship, which is based on nation-to-nation relations of co-existence. The colonial framework of relations denies this understanding; therefore any discussion of the treaty relationship in current negotiations will be highly difficult. Consequently, FAI will die before any further movement is made, unless FAI accepts the understanding of practical arrangements or self-administered DIAND programs and policies. FAI has potential, but for Canada, First

Nations self-governance is internal, limited and delegated. Reconciling FAI's vision with Canada's perspective will be a very long, complex and arduous process.

CONCLUSIONS

The Manitoba Framework Agreement is unlike any other self-governance initiative in Canada. The complexity and comprehensive nature of this agreement has the potential to be historically monumental or has the possibility of falling short in its vision. The amount of work and dedication seen within the process has been overwhelming. Creating a self-governance arrangement for one nation or for a First Nation community can have many hurdles and complexities, let alone a process that encompasses seven treaty areas, five linguistic groups, sixty-First Nations and three political organizations. The complexity of this process is creating substantial stress for the negotiators. However, a core problem with this process is the negotiating relationship with Canada.

The right to self-determination is conferred in nationhood and cannot be legislated away. Although, there has been a dishonouring of the treaty relationship by Canada, the fact remains that it does exist and it is a matter of having this revitalized and honoured today. Treaty principles can be manifested with different approaches in self-government arrangements involving First Nation peoples, yet it is the freedom of choice that self-determination infers which allows for self-government processes to take place. FAI is a self-government arrangement and with this, the choice is compromised when governance becomes something that is negotiated.

Self-governance with FAI reflects an acceptance of the colonial framework of relations, thus denying the treaty relationship. FAI is a model that reflects a westernized, bureaucratic/administrative style of governance and is inherently inadequate because of the number of problems and limitations that are plaguing the current negotiations. As a vehicle for self-governance FAI is not working appropriately. The agreement is a

transfer of jurisdiction with limited powers and there are problems with that, including internalized notions of western political structures and denial of the treaty relationship. Specifically, self-governance can be limited to administrative or jurisdictional control but self-determination is something more, it is something that goes beyond structures, authorities and power. This process could be about the restitution of the inherent right to self-determination with the fullest possible definition and means. The vision of self-governance for Indigenous peoples can take many possible forms, yet the federal government and the current structure of the system restrict this vision.

The problem lies with Canada's negotiation strategy and mandate. Indigenous peoples have found themselves in a surreal reality, where as nations their backs have been broken by colonization. Consequently, the responsibility lies with Canada to change the colonial relationship and the framework in which they operate to maintain the status quo. However, Indigenous peoples have responsibilities as well, namely to not keep lying on broken backs and accepting the negotiating framework as the only avenue for self-determination. Even if these recommendations are put in place the struggle to become self-governing nations will be limited and restricted by the Canadian state, therefore the change lies in the hands that refuse to share. Canada must play a more prominent role in this process and have an understanding of the resources that are required in this process. Canada needs to examine steps for immediate and long-term action necessary to address its administrative, structural and institutional obstacles to make meaningful progress in self-government negotiations. As a matter of the Crown's honour, Canada should maintain and fulfill its obligations to the terms of treaties.

Across Canada we are witnessing self-government agreements being negotiated and ratified. For the sixty-First Nations in Manitoba, the idea of self-governance as defined by the Canadian state has been manifested with FAI. The issues that need to be dealt with in a self-government process are diverse and complex. And with the problems being encountered with the FAI process, the likelihood of having self-determining nations in the spirit of the treaty relationship remains highly unlikely. Yet, there is no simple or single answer, nor are there any quick formulas to what form First Nations self-government will take. It is an answer that lies within each person, within each community, within each nation and ultimately with the people.

RECOMMENDATIONS

- Resolution of the political relationship between the newcomers and the Indigenous peoples must be based on justice. The spirit co-existence as expressed in the oral renderings of the treaties needs to be addressed. A sharing of resources, wealth, lands and powers that respect both of the parties, their status as nations and their autonomy is needed. Thus, a solid commitment from Canada to bring openness and generosity to the table is required.
- Negotiations with Canada need to attain a greater level of trust and this requires the negotiators with authority to be at the table. The historical, adversarial relationship cannot be changed, but a new perspective of relations based on the treaty relationship could assist to bring better working relations.
- Community consultations must continue with or without adequate federal funding. Traditionally, governance was about being accountable to the people. Therefore, the Assembly of Manitoba Chiefs has an obligation to ensure that the people are informed and providing input into this process.
- Recommend that the proposed governance structure be based on the principle of self-determination and authority vested in nations. The governance structure should not be based on local authority or band governance.
- A reorganization of the political structure is needed. Specifically the reorientation of actual First Nations, those being the five nations, rather than the sixty communities of First Nations.
- There is a need for adequate resource work with the Elders. Further research is needed on oral evidence to determine the original spirit and intent of treaty. Especially in regards to the scope, meaning and content of treaty and how this perspective is important to balancing the interpretation of treaties, the treaty relationship, self-determination and self-governance.

- The Elders have expressed support for the following statements:
 - Creation and establishment of a Treaty Commission that is based on relations with the different Treaty groupings.
 - A Treaty Act to be legislated.
 - An Elder's gathering should be held to communicate to leadership that Elders' participation is intrinsic to a treaty process.
 - Elder, Youth, Men and Women Councils be created.
 - Political unity resolutions.
 - A treaty approach should not be governed by the English language terminology or by existing provincial boundaries.
 - The treaty process is based on mutuality and as equals.
 - *Indian Act* infringes on the treaty relationship.⁴³

- Negotiations on the meaning and intent of the treaty, as well as treaty principles needs to occur as stated in FAI's principles 5.1, 5.2 & 5.3, in order to move forward with self-determination or self-governance. Therefore, the establishment of a Treaty Implementation Strategy or Commission is desirable if any further understanding of treaty is to be determined.

- Communication between the Treaty Commission and FAI is necessary to allow for a better understanding of the treaty relationship. This communication will inform FAI on treaty principles, as well as to relay information to improve FAI's negotiating position. Addressing self-governance or self-determination through FAI and a Treaty Office would respect the treaty relationship, as well as maintain core treaty principles. Working from the treaty concept, self-governance would be based on existing principles of self-determination and nationhood.

- It is recommended that the focus of this process should rely on the treaty *relationship* as opposed to the treaty itself. By focusing on the relationship the

⁴³ Assembly of Manitoba Chiefs, *Treaty Workshop Report*, March 2002

understanding of nation-to-nation relations will be utilized as opposed to focusing on the written treaty, which is limited and restrictive.

- First Nations or the Assembly of Manitoba Chiefs on behalf of the First Nations should consider taking international avenues to pursue the implementation of treaty principles as well as the implementation of nationhood.
- Effective leadership and direction is needed, as well as a clear mandate and vision of self-governance for this process to work. Support and unity for the FAI process needs to be promoted effectively.
- A coherent strategy for the realization of First Nations inherent right to self-governance is needed. The question of what *true* self-government is for Manitoba First Nations needs to be answered. A detailed description of what self-government is for First Nations is required to proceed effectively with negotiations. The negotiators need to know precisely what they are negotiating because at this stage it is still unclear.
- There must be effort and commitment towards the implementation of research, strategies and negotiations. An inundation of information can become self-defeating if it is not acted upon. Self-government will only become a reality when it is put into effect.

LESSONS LEARNED

The four months spent at the Assembly of Manitoba Chiefs in the Framework Agreement Initiative office was informative and revealing. The experience was informative on the basis that I learned how political organizations are run and how this relates to the larger framework of national politics. The experience was revealing in that one of the greatest difficulties I had in developing my project report was the forging of theoretical ideas and the reality of the political situation. Self-governance is a topic that can be highly divergent, in theory, as nations we should be acting within the capacity as such, however practically, acting as nations is difficult when our communities are unhealthy and are facing adversity.

My role within the Framework Agreement Initiative office was to attend informational internal meetings and provide insight where needed. However, my primary purpose in FAI was to provide an overview and critique of the FAI. Stemming from that, I was also to provide potential recommendations that may be helpful to this process. Additional responsibilities included having to familiarize myself with the negotiation structure, the community consultations and the internal history of FAI.

My academic work related to my experience in FAI through an examining of how theoretical models and concepts addressed in previous work may or may not apply to the current political atmosphere in Manitoba. Indigenous governance is a long and intensive process and the work has just begun in Manitoba to see this vision of nationhood become a reality. Previous academic work developed a background in which I could bounce ideas on when information on real or practical processes and structures of governance became overwhelming.

The supervisory relationship with Priscilla McIvor as well as additional support from the FAI office was extremely helpful and insightful. The openness and support given was unexpected considering the nature of this project. Priscilla McIvor was exceptionally encouraging and accommodating with her time, given that her time is limited and her workload full. The feedback and direction received from Priscilla assisted in polishing and reworking this project.

Overall, the relationship with the FAI office was positive and cooperative. In addition, this experience assisted in laying the foundation for continued work in a political setting with Indigenous peoples. The lessons learned regarding the nature of self-governance negotiations would be useful, as the relations with the Canadian state will never cease for Indigenous peoples. Our reality can become defined by this setting and as such this experience was invaluable in this regard.

BIBLIOGRAPHY

Aboriginal Consulting Inc. *Manitoba First Nations Government: Governance Issues and Options*. Volumes 1 to 4, 1998.

Alfred, Taiaiake. *Peace, Power and Righteousness: An Indigenous Manifesto*. Oxford University Press, 1999

Alfredsson, Gudmundur and Peter Macalister-Smith eds. *The Living Law of Nations: Essays on refugees, minorities, indigenous peoples and the human rights of other vulnerable groups*. N.P. Engel, 1996.

AMC Legal Counsel. *Executive Branch: Analysis and Compilation*. Manitoba Self-Government Framework Office, 1999.

AMC Legal Counsel. *Law-Making Process: Analysis and Compilation*. Manitoba Self-Government Framework Office, 1999.

AMC website: www.manitobachiefs.com

Asch, Michael ed. *Aboriginal and Treaty Rights in Canada: Essays on Law, Equality, and Respect for Difference*. UBC Press, 1997.

Asch, Michael. *Indigenous Self-Determination and Applied Anthropology in Canada: Finding a Place to Stand*. Paper presented at CASCA, 2001.

Assembly of Manitoba Chiefs. *14th Annual Assembly, 2002 Annual Report*. September 2002.

Assembly of Manitoba Chiefs. *Chiefs Committee on Framework Agreement Initiative*. 1999.

Assembly of Manitoba Chiefs. *First Nations Sovereignty-Treaty Forum: Concurrent Processes and Institutions for the Implementation of the Inherent Right to Self-government, Determination and First Nations Government*. 1995.

Assembly of Manitoba Chiefs: Framework Agreement Initiative. *Elders Perspectives*. 1998.

Assembly of Manitoba Chiefs: Framework Agreement Initiative. *First Nation Government Implementation, Rolling Draft 1, Legal Reference*. March 2002.

Assembly of Manitoba Chiefs: Framework Agreement Initiative. *Governance Options Paper, Summary*. Gooseberry Hill Press, 1998.

Assembly of Manitoba Chiefs: Framework Agreement Initiative. *Project Director Report*. 1999/2000.

- Assembly of Manitoba Chiefs. *Statement on Treaties*. Nov. 1995.
- Assembly of Manitoba Chiefs. Special General Assembly on the Framework Agreement Initiative. *Recommendation of The Chiefs Committee on Framework Agreement Initiative*. March 1999.
- Assembly of Manitoba Chiefs. *The Dismantling of the Department of Indian Affairs and Northern Development, the Restoration of Jurisdictions to First Nations Peoples in Manitoba and Recognition of First Nations Governments in Manitoba*. Framework Agreement Initiative. 1993.
- Assembly of Manitoba Chiefs. *Treaty Workshop Report*. March 2002.
- Boldt, Menno. *Surviving as Indians: The Challenge of Self-Government*. University of Toronto Press, 1993.
- Cairns, Alan C. *Citizens Plus: Aboriginal Peoples and the Canadian State*. UBC Press, 2000.
- Cassidy, Frank. *Aboriginal Self-Determination*. Institute for Research on Public Policy, 1991.
- Canada, Department of Indian and Northern Affairs Canada. *The Government of Canada's Approach to Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government*.
- Canada, Department of Indian and Northern Affairs Development. *Treaty Overview Paper*. Treaty Policy and Review Directorate. 1997.
- Canada, Department of Justice and Inherent Right Directorate. *Guidelines for Federal Self-Government Negotiators: Language for Recognizing the Inherent Right of Self-government in Agreements and Treaties*. March 1996.
- Canada, Framework Agreement Initiative Office. *Consultation Paper on Self determination for Manitoba First Nations*. 1996.
- Canada, Framework Agreement Initiative Office. *Comprehensive Agreement-in-Principle*. Draft For Discussion. June 2002.
- Canada, Royal Commission on Aboriginal Peoples Report. 1993.
- Cassidy, Frank. *Aboriginal Self-Determination*. Institute for Research on Public Policy. 1991.
- Cassidy, Frank. *Aboriginal Self-Government in Canada: In Search of the Field*.

- Institute for Research of Public Policy Working Paper, 1980.
- Cook, Curtis and Juan Lindau eds. *Aboriginal Rights and Self-Government*. McGill-Queens University Press, 2000.
- Corntassel, J. and T.H Primeau. "Indigenous "Sovereignty" and International Law: Revised Strategies for Pursuing "Self-Determination." *Human Rights Quarterly* 17(2), p. 343-365, 1995.
- Grammond, Sebastien. *Aboriginal Treaties and Canadian Law*. *Queen's Law Journal* 20: p.57-87, 1994.
- Hylton, John ed. *Aboriginal Self-Government in Canada: Current Trends and Issues*. Saskatoon: Purich Publishing, 1994.
- Indian Tribes of Manitoba. *Wahbung: Our Tomorrows*. 1971.
- Institute on Governance website: www.iog.ca
- Linklater, Irene. *Treaty and Treaty Relations: Protection and Implementation, Discussion Paper*. AMC, 2001.
- LittleBear, Leroy. *Aboriginal Self-government and Treaties: A Discussion*. Discussion Paper, AMC.
- LittleBear, Leroy, Menno Boldt and Anthony Long eds. *Pathways to Self-Determination: Canadian Indians and the Canadian State*. Toronto: University of Toronto Press, 1984.
- Lytwyn, Victor P. *Muskegowuck Athinuwick: Original People of the Great Swampy Land*. Winnipeg: The University of Manitoba Press, 2002.
- Martinez, M.A. *Study on treaties, agreements and other constructive arrangements between states and indigenous populations*. United Nations Commission on Human rights, 1999.
- McCaskill, Don. *Manitoba Framework Agreement Initiative Review: Final Report*. Winnipeg: Maang Associates, 1999.
- Monture-Angus, Patricia. *Journeying Forward: Dreaming First Nations Independence*. Fernwood Publishing, 1999.
- Morris, Alexander. *The Treaties of Canada with the Indians of Manitoba and the North West Territories including the negotiations on which they were based*. Saskatoon: Fifth House Publishers, 1991.

- Moynihan, Daniel. *Pandemonium: Ethnicity in International Politics*. Oxford University Press, 1994.
- Orkin A.J. and J. Birenbaum. *Aboriginal Self-Determination within Canada: Recent Developments in International Human Rights Law*. Constitutional Forum 10(4): p.112-119, 1999.
- Russell, Dan. *A People's Dream: Aboriginal Self-Government in Canada*. Vancouver: UBC Press.
- Tomuschat, Christian ed. *Modern Law of Self-Determination*. Dordrecht: Nijhoff Publications, 1993.
- United Nations. *Draft Declaration on the Rights of Indigenous Peoples*.
- United Nations. *International Covenant on Civil and Political Rights*.
- United Nations. *International Covenant on Economic, Social and Cultural Rights*.
- United Nations. *The United Nations Charter*.
- United Nations. *The Vienna Convention on the Law of Treaties*.