

**A CRITICAL ANALYSIS OF SELF-GOVERNANCE AGREEMENTS
ADDRESSING FIRST-NATIONS CONTROL OF EDUCATION IN CANADA**

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This paper reviews the meaning and content of various First-Nation self-government discourses that have emerged over the last 40 years. Based on a detailed thematic analysis of policy papers, reports, and self-governance agreements on this issue of First-Nations control of education, this paper presents a coherent and defensible understanding of the current state of First-Nations rights to control education while mapping institutional arrangements or internal principles of organization for self-determination that have emerged over time in discourse on First-Nations rights and education in Canada.

Introduction

Based on a thematic analysis of policy papers, reports, and various self-governance agreements concerning First Nations control of education, the objective of this paper is to provide understanding of the current state of First Nations rights in education within the context of treaty and constitutional rights, and Federal-Local Education Agreements¹ that emerged over time from policy discourse about the meaning of First Nations control of education in Canada. Furthermore, this paper addresses the need for dialogue about the development of a conceptual or institutional framework which could provide a basis for First Nations self-government of education that would accommodate and minimize tensions, conflicts, and oppositions in a world

¹ Federal-Local Education Agreements are jurisdictional agreements that replace the education provisions of the *Indian Act* and provide legal recognition of First Nations authority over education.

of distinct but overlapping First Nations and non-First Nations groups competing for resources (Schouls, 2003).

The notion of Indian control of education emerged in the aftermath of publication in 1969 of the “*White Paper*” on Indian policy by the government of the time. In this policy paper, Prime Minister Trudeau and his Minister of Indian Affairs, Jean Chretien, presented a federal perspective on how to address what they saw as a need to “normalize” relations between First Nations peoples and the government of Canada. Their understanding of the normalization process entailed repealing the *Indian Act* and terminating of all special legal and fiduciary relationships between the Government of Canada and First-Nations peoples.

In the long term, removal of the reference [to Indians] in the constitution would be necessary to end the legal distinction between Indians and other Canadians. In the short term, repeal of the Indian Act and enactment of transitional legislation to ensure the orderly management of Indian land would do much to mitigate the problem. (Chrétien & Canada. Dept. of Indian Affairs and Northern Development, 1969, pp. 9-10)

The *White Paper* and its threat of unilateral termination by the federal government of its special relationship with First-Nation people in Canada led the National Indian Brotherhood to reject the White Paper both in terms of its principles and of its politics. The first major act of the Brotherhood was publication of *Indian Control of Indian Education* (National Indian Brotherhood, 1972) in which they singled out education as the platform on which to formulate detailed resistance to the *White Paper*. *Indian Control of Indian Education* (ICIE) departed decisively from previous educational policy discourses surrounding First-Nations (or as it was then called “Indian”) education. ICIE called for control of education by First-Nations people living on reserves within a vision of eventual complete First-Nation jurisdiction and autonomy over education, and demanded First-Nations representation on local provincial and territorial school boards serving First-Nations students.

Since publication of ICIE in 1972, a variety of policy directions and Federal-Local Education Agreements with First Nations Communities dealing with issues around local control of education emerged. The majority of these educational agreements promoted a hegemonic model of power that fosters asymmetrical relations between First Nations and non-First Nations cultures and supported assimilationist policy discourses advocating unequal power relationships between these different groups. These assimilationist policy discourses subordinated aboriginal knowledge and value systems to those of a hegemonic mainstream system, and hence suppressed and delegitimized First Nations thinking and epistemology (Battiste, 2002).

These policies and Federal-Local Education Agreements defining the context of and arrangements for First-Nations education all stressed a narrowly delimited meaning of control by First Nations communities and failed to address exclusionary practices, socio-economic and educational marginalization, and power inequalities affecting First Nations groups. While these policies and Federal-Local Education Agreements promised control and access to quality education for all First-Nations children, the discourses from which they were crafted and the governance structures they produced are still characterised by a supposedly apolitical perspective that has largely ignored factors of critical mass, fragmentation, and major power inequalities between First Nations and non-First Nations groups. The outcomes of such policy initiatives and agreements resulted in a form of “control of education by First Nations communities” that remained firmly rooted in relations of internal colonialism while avoiding issues of equality and the overriding problems of internal “colonization” of First Nations groups by non-First Nations populations. By internal colonialism, we refer to a form of “colonialism in which the dominant and subordinate populations are intermingled, so there is no geographically distinct ‘metropolis’ separate from the ‘colony’” (Romero, 1995, p. 246).

Based on a thematic analysis of policy papers, reports, and various self-governance education agreements that explicitly address First Nations control of education, the first objective of this article is to present and explore an understanding of the current state of First Nations rights in education while mapping and critiquing various forms of institutional arrangements and agreements for self-determination that emerged over time from policy discourse about the meaning of First Nations control of education in Canada. Second, we address the need for dialogue about the development of a conceptual or institutional framework that could provide a basis for First Nations self-governance in education founded on principles of self-determination that would lead toward emergence of a separate and distinct indigenous educational process with its own particular mission, one convincingly grounded in relevant First-Nations culture and language.

Understandings and Modes of Self-Governance in Education

A review and critique of the meaning and content of various forms of First-Nations self-government that have emerged over the last 40 years will be presented in the first part of the article. The dominant policy discourse accounts for the effects of First Nations control of education by using determinist, causal, and unidirectional terms such as a linear movement from assimilationist policies toward increasing local control of First Nations education. At the same, there is a movement away from racism, cross-cultural insensitivity, identity conflict, and the hegemony of mainstream culture toward reform along the line of cultural needs and ethnic differences as the very basis for delivering high-quality, relevant education to First-Nation students.

Assimilation, Integration, and Devolution of Power: Policy Directions from the 40s to the 90s

Assimilation and integration were the main policy objectives until the 90s. They were widely perceived by non-aboriginals as the only way of enabling First Nations to realize their potential as human beings within mainstream Canadian society. Education for First-Nation communities, then, was designed to foster marginal accommodation of First-Nation conceptions of fundamental needs, interests, and capacities and to neutralize cultural differences by promoting more-or-less undifferentiated membership in mainstream Canadian society (*such conceptions had come to frame ideas of what it is to be a “normal” human being—for all human beings including First Nations persons*).

This philosophy, however, displays several flaws or omissions and ambiguities. The government’s policy on the preservation of the Indian languages and cultural traditions, for example, is not clear. As a general rule, they are not assigned much importance. This makes it difficult to distinguish between a policy of integration and a policy of assimilation, which allows the loss of the basic cultural values of the integrated ethnic group. (Hawthorn et al., 1967, part 2, p. 41)

Formal education was, without apology, assimilationist. The primary purpose of formal education was to indoctrinate Aboriginal people into a Christian, European world view, thereby ‘civilizing’ them. Missionaries of various denominations played a role in this process, often supported by the state. (Royal Commission on Aboriginal Peoples, 1996, volume 3, chapter 5, p. 2)²

Rather than attempting to recognize and accommodate cultural differences among First-Nation and non-First-Nation communities, policy-makers attempted to reorder power relationships in such a way that government could either transcend these differences through a policy of assimilation or integration, or unilaterally and directly divest itself of the “Indian

² See also Hawthorn, Tremblay, & Bownick (Hawthorn et al., 1967, part 2, p. 28).

problem” in keeping with what Turner aptly labels “white paper liberalism. Either way, policymakers reasoned, the “Indian problem” would no longer cause conflict and division.³

Marginalization and suppression of First-Nations cultures, languages, and communities has remained the central purpose of educational policy from 1867 when the Federal government became responsible for Indian communities. Policy directions in First-Nations education were designed to further subjugate and marginalize aboriginal cultures, languages, and communities as opposed to actually working as a catalyst to redress the existing power imbalance between First-Nation and non-First-Nation knowledge and worldviews (Agbo, 2005). Subordination, rather than overt suppression, however, became the preferred way of denying and negating their educational significance for First-Nations students—and others (Battiste & Henderson, 2000). First Nations protested in vain that they were denied a degree of educational control comparable to that found in mainstream society, that their First-Nations educational priorities and realities were largely defined by non-First Nation representational practices that shaped and controlled aboriginal production of knowledge and identities and made particular societal visions and courses of action appear possible, others impossible, and still others inevitable for First Nations.⁴

This policy of assimilation was implemented through a process of re-education and replacement of ancestral First-Nations cultural values by mainstream “settler” values. As human beings, aboriginal people were conceptualized within dominant mainstream liberal ideology as *individuals* who needed to be subordinated to mainstream society as a whole, that is, first and foremost, Canadian citizens who needed to be trained not to think of or experience their indigeneity beyond the “script” of a socio-economic system in which they occupied, and for the most part still occupy today, the lowest position. Success for First-Nations and non-First-Nation

³ See also Hawthorn, Tremblay, & Bownick (Hawthorn et al., 1967, part 2, p. 41, 90).

⁴ See also Hawthorn, Tremblay, & Bownick (Hawthorn et al., 1967, part 2, p. 41, 65)

persons could only be based on a concept of human excellence achieved through hard work, self-discipline, and conformity to mainstream society and its economic projects. Conformity to mainstream society, competition, and market values were seen as the only way forward for Canadian society as a whole and equally for aboriginal people who were necessarily an “integral” part of the greater Canadian society. On the basis of that concept of aboriginality, non-First-Nation policy makers embedded in their policy work a conception of the conditions deemed essential for the fulfillment of aboriginal communities that pre-structured First-Nation educational, cultural, political, economic, and social life in ways that disadvantaged and negated First-Nation visions of human good, and ultimately even silenced their voices in that regard, and in many others. Integral to this effort was suppression of the knowledge and culture of aboriginal communities and their corresponding ways of understanding how society should work and for whose benefit.

The consequence of this forced assimilative educational system has been traumatic for first Nations peoples, and reconciliation to Aboriginal knowledge within their contexts and place should be a restorative feature of education for the future of First Nations. (The Standing Senate Committee on Aboriginal People, 2011, p. 40)

Policies advocating assimilation, and later on, integration of aboriginal students into non-aboriginal public schools, were basically prescriptions for specific “normal” educational practices and institutions viewed as necessary to full integration of aboriginal communities into a hierarchically encapsulating vision of pluralism (Moon, 1993). Such a vision involves managing pluralism so that the dominant group (non-aboriginal society) excludes all others (aboriginal communities) from genuine political participation. Hierarchical encapsulation may also be combined with indirect rule “in which direct authority over particular groups is exercised by a “declared” elite group within the group (e.g., Chief and Band Council), that, whatever his

[their/its] traditional authority might have been, has come to owe his [their/its] power mainly to his relationships to the ruling stratum” (Moon, 1993, p.15).

Emerging from the assumptions within these policy directions of assimilation and integration of First-Nations into mainstream Canadian society were specific socio-cultural, political, and economic functions of First-Nation education. The socio-cultural functions of education for aboriginal communities were thus viewed as twofold. First, education promoted a society in which the beliefs and self-understandings of First-Nation people were such that they voluntarily accept the legitimacy of inequality and of beliefs that certain groups in society are naturally better suited to perform certain socio-economic, cultural, and political roles than others. “The right of Aboriginal people to articulate and apply their own standards of excellence in education is at stake in this debate” (Royal Commission on Aboriginal Peoples, 1996, volume 3, chapter 5, p. 35) .

Second, the cultural function of education for aboriginals was to initiate First-Nations into the liberal democratic ideals of progress and consumerism and to foster a vision of creativity as synonymous with economic, technological, and scientific progress.

Present policy in which Indians are encouraged to engage fully in economic competition as social equals of other Canadians has been encouraged by public opinion and we must look forward to the day when Indians have as equal a chance as any other group to the very best that the country has to offer. (Hawthorn et al., 1967, part 2, p. 29)

Politically, this assimilationist/integrationist policy discourse promoted educational and institutional practices designed to maintain an “oligarchic social structure of society, acceptance that an elite minority makes decisions on behalf of the majority, and thus [to] legitimate a hierarchical decision-making structure” (Bertrand & Valois, 1980, p. 173) (in effect, hierarchical encapsulation). In terms of socio-economic order, such educational policy directions for aboriginals “promote intellectual aptitudes, contribute to reproducing the existing social division

of work, and promote the legitimacy of the established order and its value” (Bertrand & Valois, 1980, p. 178). Maintenance of the *status quo* rather than transformation of First-Nation education was the main goal in spite of partial “devolution” of power to First Nations over education. “Along the way, Indian control of education became synonymous with local control. Admittedly, the policy paper⁵ was short on details in terms of what actually constituted Indian control. But local control as an objective was clearly enunciated in the document and INAC cheerfully accepted this interpretation of Indian control because it fit conveniently with its emerging policy on devolution” (McCue, 2004, p.4).

In spite of having been delegated limited jurisdiction and autonomy in the field of education, First Nations began to contest the legitimacy of policy directions that took as their starting points, acceptance of inequality and permanent subservience of First Nations to the ruling non-aboriginal political elite who, in turn, delegated the control to the DIAND/INAC bureaucracy. Eventually, it became obvious that hierarchical encapsulation no longer constituted a viable or sustainable response to the problem of aboriginal self-government within a pluralistic society. Among First-Nation communities and organizations, emerging understanding of self-government was one that disavowed the particularly non-First-Nation view of community-level freedom or consent at the heart of federal “devolution policy” and committed instead to better the relationships between First-Nations and non-First-Nation communities within renewed political relationships. The creation and strengthening of institutions outside of First-Nation communities’ control was viewed as central in the development gospel of First-Nations education. Such external control, however, was imposed mainly in a vacuum devoid of First-Nations cultural, economic, social, and political context, one that consistently ignored systemic

⁵ The reference here is to *Indian Control of Indian Education* (National Indian Brotherhood, 1972/1984). See discussion on p. 96.

and societal limitations on First-Nation communities' capacity to respond effectively and efficiently to the many challenges they were facing at that time. This focus on external control deprived First-Nations of what was required at the time for a healthy and sustainable aboriginal education system that would enable First-Nation communities to improve their collective well-being. Such a limited vision of First-Nations participation in education arrested capacity-development and growth of expertise within First-Nation communities, *or aggregates of communities*, capacity and expertise required to participate in their own development on their own terms. As well, reliance upon non-aboriginal expertise and short-term projects has minimized aboriginal ownership of development processes and rendered unsustainable any useful changes that did occur while freezing the potential for innovative thinking aimed at constituting authentically educational jurisdiction by First-Nation communities.

In the 1970s and 1980s, a trend towards increasing First-Nations jurisdiction and control over education converged in the National Indian Brotherhood's report entitled *Indian Control of Indian Education* (National Indian Brotherhood, 1972). This report called for control by First Nations of education on reserves with provisions for eventual complete jurisdiction and autonomy over education, and, toward that end, it called for First-Nations representation on local school boards serving First-Nation students. The Federal government, however, did not implement policies that would have enabled First-Nation communities to generate and gain the knowledge needed to assume full control of their education systems although it was prepared to delegate ("devolve") partial control over education to First Nations communities.

The implementation of the policy of *Indian Control of Education* has not been without its challenges. Key among the criticisms has been that "Indian control" has often meant little more than First Nations administration of federal education programs and policies. (The Standing Senate Committee on Aboriginal People, 2011, p. 8)

In 1984, the National Indian Brotherhood/Assembly of First Nations undertook a nation-wide review of First-Nations education. Their efforts resulted in the publication of a two-volume report entitled *Tradition and Education: Towards a Vision of our Future* (National Indian Brotherhood & Assembly of First Nations, 1988) which called for contesting the colonialism of non-First Nations epistemology and moving beyond the dominant understanding of how First-Nation and non-First-Nation communities within Canada exercise agency and voice in educational policy development and practice.

The 90s and Beyond: Adaptive Policy Initiatives for Increased First-Nation control of Education

As recently as the late 90s, no clear shift in policy directions had occurred in First-Nations educational governance.

The federal government considers delegated authority sufficient to meet the principle of First Nation jurisdiction/control over education. Under delegated authority, the government retains control over the determination and allocation of resources needed to establish, manage, and operate local First Nation schools. First Nation education authorities must comply with federal directives. Within federal and band operated schools, First Nations are required to comply with provincial educational policies and standards which do not include culturally or linguistically appropriate teaching and methodological approaches. (Assembly of First Nations, 2004, p. 7)

The Government of Canada must demonstrate the political will to support First Nations control over their education. Control of First Nations education is a cornerstone of self-government. (Assembly of First Nations, 2004, p. 4)

As mentioned previously in this paper, pre-1980 policies manifested several classic characteristics of a colonial relationship. They imposed a non-First-Nation conception of education, devalued First-Nation languages, histories, and culture, and specified outcomes that were assimilative in nature. Post-1980 policies promoted First-Nations control of education in the context of a model of integration of First-Nations students within existing provincial delivery systems of educational services and programs. First-Nations control of education was being

promoted as a means for some forms of political autonomy as well as for economic development of First-Nation communities—all considered at the time as critical elements of decolonization through devolution of power. The Canadian and provincial governments promoted self-government and control of education in particular as a means to enhance the opportunity of First Nations to enter the market society and, allegedly, to liberate them from traditional colonial constraints. However, such a conceptualization of the central purposes of self-government represents a form of neo-colonialism than it does of decolonization and *is deeply rooted in the denial of First-Nation peoples' capacity to formulate their own conceptions of person and society.*

The use of this model entailed the creation of some kind of advisory structure at the local community level in different areas in Canada often in the form of guaranteed representation on local public-school boards. This integrated model was followed in turn by a delegated-authority model as the main mode of First-Nations control of education. This delegated-authority model authorized First-Nation communities to administer the laws and procedures for the education of First-Nation children on behalf of provincial authorities (provincial and territorial ministries of education). Within this model, the province or territory retains ultimate authority over laws, regulations, and policies setting forth education standards and criteria for academic success (See, for instance, the Framework Agreement signed by the federal and provincial governments and First Nations in British Columbia (*Bill C-34: First Nations Jurisdiction over Education Act*, 2006).⁶

Provincial comparability limits first Nations jurisdiction over education. First Nations standards must be based upon a First Nations philosophy and vision of

⁶ First-Nations that opt to participate in education jurisdiction under this legislation enter into a *Canada-First-Nation Education Jurisdiction Agreement*. This agreement will give the participating First-Nations in BC control over education in their communities. They will be allowed to design and deliver education programs and services which are culturally relevant for their communities and provincially recognized.

education. First Nations do not wish to emulate provincial systems and standards that have consistently failed to meet the needs of first Nations students. (Assembly of First Nations, 2004, p. 5)

In spite of the emergence of a policy discourse promoting autonomy and control of aboriginal education by First Nations within a pluralistic society, the reality is that

... the education clauses in these agreements [SGAs] clearly indicate that the federal government still supports their 1950 policy of integration – every one of the SGAs referred to [The Federal Framework for Transferring Programs and Services to Self-Governing Yukon First Nations, 1998 (YFN); Mi'kmaq Education in Nova Scotia, 1997 (ME); The Manitoba Framework Agreement, 1994 (MFA); Nisga'a Treaty Negotiation: Agreement in Principle, 1996 (NTM); The James Bay and Northern Quebec Agreement (JBNQA); The United Anishaabeg Councils Government Agreement-in-Principle, 1998 (UAC)] includes a clause or clauses that in effect say that the education that the affected First Nation(s) provides as a result of the SGA must be comparable to the provincial system, or that students must be able to move from the First Nations education program to a provincial school [at any time] without penalty.” (McCue, 2006, p.6)⁷

Basically, McCue argues that the underlying patterns in policy directions in aboriginal education have amounted to little change in practice (see Table).

⁷ Some of the Yukon agreements come at it from a slightly different direction—but the coupling to territorial education is nonetheless clear in them.

Table

Education Provisions of Self-Government and Education Agreements Currently in Effect (adapted from Paquette & Fallon, 2010, p. 191)

First-Nation Entity	Date Concluded	Effective Date*	Key Education Provisions
Nova Scotia			
1. Mi'kmaq Education Agreement	1997	1998	<ul style="list-style-type: none"> • transfer to provincial schools “without penalty” “to the same extent as the transfer of students is effected between education systems in Canada” • jurisdiction, control, and law-making authority invested in individual First-Nations • in the case of conflict with “any other law” the First-Nation law prevails but only if it is within what is provided for in the agreement • band councils may delegate jurisdiction to a community “education board” • aggregate organization (MK) is simply a support-service provider
Yukon			
2. First-Nation of Nacho Nyak Dun	1993	1995**	<ul style="list-style-type: none"> • provision of education programs and services for Citizens choosing to participate but not in facilities out of the community
3. Champagne and Aishihik First-Nations	1993	1995**	<ul style="list-style-type: none"> • no explicit program equivalency requirement
4. Vuntut Gwitchin First-Nation	1993	1995**	
5. Teslin Tlingit Council	1993	1995**	<ul style="list-style-type: none"> • control over ancestral culture and language education matters
6. Selkirk First-Nation	1997	1997	<ul style="list-style-type: none"> • possible voice in Yukon government curriculum and supervision relating to education in their community
7. Little Salmon/Carmacks First-Nation	1997	1997	<ul style="list-style-type: none"> • provision of education programs and services for Citizens choosing to participate but not in facilities out of the community
8. Tr'ondëk Hwëch'in First-Nation	1998	1998	<ul style="list-style-type: none"> • no explicit program equivalency requirement • possible sharing by request with Yukon government design, delivery, and administration of curriculum and supervision relating to education in their community right to negotiate mandatory membership on school entities involved in education in the community

First-Nation Entity	Date Concluded	Effective Date*	Key Education Provisions
9. Ta'an Kwach'an First-Nation	2002	2002	<ul style="list-style-type: none"> • can provide various educational programming including adult and vocational, and native language and culture • mainly looks to Yukon-wide agreement to provide details • no equivalency requirement • very sparse on details of educational jurisdiction in the absence of a future Yukon- wide agreement
10. Kluane First-Nation	2003	2004	<ul style="list-style-type: none"> • control over ancestral culture and language education matters
11. Kwanlin Dun First-Nation	2005	2005	<ul style="list-style-type: none"> • can provide various educational programming including adult and vocational, native language and culture
12. Carcross/Tagish First-Nation	2005	2006	<ul style="list-style-type: none"> • possible voice in Yukon government curriculum and supervision relating to education in their community • no explicit program equivalency requirement
North West Territories			
13. Tłı̨chǫ land claims and self-government agreement	2003	2005	<ul style="list-style-type: none"> • strong and reiterated program equivalency provisions • delivery of programs envisaged as flowing from “intergovernmental service agreements” (IGAs)—hence by intergovernmental collaboration (“single mechanism”) • notwithstanding, programs will “respect and promote” language, culture and way of life also, Tłı̨chǫ law (but not Tłı̨chǫ community law) has precedence over federal laws except laws of general application and over territorial laws except when they implement federal obligation under international agreement
British Columbia			
14. Sechelt	1986	1986	<ul style="list-style-type: none"> • power to make laws in relation to education
15. Nisga’a Lisims Government	1999		<ul style="list-style-type: none"> • provision of education programs and services • curriculum, examination, and other standards to permit transfer between school systems and to provincial PSE • certification of Nisga’a language and culture teachers • certification of other teachers within provincial norms

First-Nation Entity	Date Concluded	Effective Date*	Key Education Provisions
			<ul style="list-style-type: none"> • create and manage PSE institutions but within provincial norms and standards
16. Westbank First-Nation Self-Government Agreement	2003	2003	<ul style="list-style-type: none"> • transfer to provincial schools “without penalty” “to the same extent as the transfer of students is effected between education systems in Canada” • jurisdiction and law-making authority vested in First-Nation can create administrative bodies

* Year indicated is the year in the agreement came into effect under federal legislation.

** §5(1) of the *Yukon First Nations Self-Government Act*, S.C. 1994, c. 35 s. 5(1) indicates that these self-government agreements came into effect on the day the *Act* came into effect, namely February 14, 1995. The “Regulatory Impact Analysis Statement” published with the list of Statutory Orders and Regulations included at the end of Schedule II of the *Act*, however, implies that these self-government agreements became effective on the day the *Act* received royal assent, July 7, 1994. I am indebted to Marianne Welch for this detail.

While these Federal-Local Agreements related to education may have wording that suggests change, the institutional norms embedded in these agreements reduce the role of such agreements to one of management tools fostering a kind of hegemony understood as a relation of dominance of non-First-Nation governments over First-Nation communities through devolution of power to First Nations framed within a municipal-model of self-government. First-Nation communities are given administrative autonomy but only within educational directions, frameworks, and policies set and ultimately controlled by federal and (mostly) provincial governments. In spite of policy discourses advocating empowerment of First-Nation communities in shaping their educational systems, the concept of the kind of changes being sought—changes necessary to authentic “aboriginalization”—seems to have been ignored by First-Nation and non-First-Nation policy makers and advocates. McCue (2004) claims that this history is simply repeating itself, and that recent apparent shifts in First-Nations educational policy do not amount to fundamental change.

In the model reflected in these SGAs, First-Nation communities have acquired administrative (in the sense of “low-level management”) powers, but not the legislative or executive powers usually associated with self-government. Control of First-Nations education is based on the assumption that any forms of First-Nations control or self-governance of education can only exist by *virtue of authority delegated by the Canadian parliament*, and are not derived from any inherent right of First-Nation communities to control education (Indian and Northern Affairs Canada, 2004).

Aboriginal governments and institutions exercising the inherent right of self-government will operate within the framework of the Canadian Constitution. Aboriginal jurisdictions and authorities should, therefore, work in harmony with jurisdictions that are exercised by other governments. It is in the interest of both Aboriginal and non-Aboriginal governments to develop co-operative arrangements that will ensure the harmonious relationship of laws which is indispensable to the proper functioning of the federation. (p. 10)

As a result, no real alternative world-view options in terms of First-Nation attitudes, norms, values, perceptions, culture, and beliefs have been targeted by any of the policy directions pursued so far with regard to First-Nations control or self-governance in education. No substantive policy has emerged that aims to change and renew fundamentally political relationships between First-Nation and non-First-Nation governments in the field of education. Instead, current policies of devolution in First-Nations education pursue their quest to improve the efficiency and effectiveness of what was and is currently done, without disturbing it, without disturbing basic organizational features, without substantially altering the way that First Nations and non-First-Nation communities perform their respective roles with regard to education in the relevant power structure. These policies have embodied no significant attempt to change the fundamental ways that First-Nation educational organizations were, and are, put together, including goals—especially learning and socialization goals, and structures and roles in

providing education to their people. Basically, policy-makers have assumed that locally self-managed First-Nation educational institutions should be organized according to a simple template promoting high accountability—at least in formal terms—accountability embodied in laws, regulations, policies, especially curriculum policy, designed by a non-First-Nation authority, notably provincial and territorial education ministries, an approach which obviously raises serious issues of legitimacy.⁸ As McCue (2004) noted:

Devolution never equaled control—the programs and services that INAC and other federal departments devolved to First Nations were still controlled by Ottawa. Nowhere is this inadequacy and illusion more apparent than in elementary-secondary education. (p. 4)

The policy thrust toward increased First-Nations self-governance over education in the late 90s and early 2000s ironically sustained and arguably even exacerbated the historical tendency toward fragmentation among First-Nation communities. The notion of local control has mutated to a form that deprives First-Nation communities of the capacity to establish relevant, healthy, and sustainable education *systems*.

Unlike other communities in provinces and territories, First Nations on reserve have historically lacked access to the benefits that a system of education provides to elementary and secondary students. They note that while provincial governments have established comprehensive education systems, including ministries of education, elected school boards, education acts and legal requirements for parental involvement, the education system in place for First Nations children lacks several, if not most, of these features. (The Standing Senate Committee on Aboriginal People, 2011, p. 20)

The absence of a governance and administrative education infrastructure to support individual schools continues to be a long-standing concern raised by witnesses. The absence of these critical educational supports is considered by many to directly contribute to the low education outcomes of First Nations students. (The Standing Senate Committee on Aboriginal People, 2011, p. 21)

⁸ These issues of lack of legitimacy may be caused by a lack of fit between the formal institutions of governance and First-Nation conceptions of how authority should be organized and exercised. The perceived legitimacy among First-Nation peoples of any form of First-Nations self-governance in education will depend on the fit between those forms of self-governance and First-Nations political culture (Cornell, Jorgensen, & Kalt, 2002).

These policy-driven dynamics of fragmentation have continued to contribute to the plurality and dispersion of administrative authority and to heightened probability of a looming authority crisis in First-Nations education implicating both First Nations and non-First-Nation communities.

Local First-Nation communities' capacity to cope with the dynamics of change and self-governance has lessened as the complexities and contradictions of fragmentation and diseconomies of scale (less than "optimally efficient" size of the majority of First-Nation communities) have become more pervasive—and more significant given the broader context of education in Canada and across an increasingly globalized knowledge economy.

Many First Nations students and communities face fundamental issues and challenges that are more prevalent for them than for other Canadians and may impede their educational achievement. For example, most First Nations communities are small, with fewer than 500 residents. Thus, their schools have difficulty providing a range of educational services. (Auditor General of Canada, 2004, chapter 5, p. 2)

Persistence in identifying Indian control with mainly local (community-level) control has failed to increase the capacity of First-Nations to know when, where, and how to engage in collective action with regard to self-governance in education. "Capacity-development initiatives" reduced to short-term project-funding schemes by INAC ("Gathering Strength" although particularly well-known is but one example) have never aimed at enabling First-Nation communities to become effective in assessing and addressing their own educational needs from their own perspective and certainly not at defining and acquiring the resources and skills that would support higher levels of self-governance and responsibility on a developmental and permanent basis.

However, communities and organizations possess these capacities in unequal amounts. Senior and executive management skills are scarce, as are a wide range of professional skills requiring university education. At the same time, there are Aboriginal people with the relevant skills and experience to provide the backbone of Aboriginal self-government. The challenge will be to create opportunities for

them to acquire a variety of skills that will support new, higher levels of responsibility.” (Royal Commission on Aboriginal Peoples, 1996, volume 3, chapter 5, p. 140)⁹

“Empowering” First Nations educational governance through these policies of “devolution”—and here one must inquire how INAC could, in any case, “devolve” a control over First-Nation schools that it clearly never had in the first place—has severely limited the scope of First-Nation control of education to forms of local administrative autonomy and discretion based mainly on low-level managerial expertise and productivity-based outputs validated through student achievement assessed in terms of student capacity to move into a non-First-Nations education system at any time without penalty. These policies were designed mainly to enable First-Nation communities to assume *operational control* of their local education “system” while provincial governments retain power over everything that really matters in terms of educational outputs (curriculum policies, assessment, and graduation standards) with the sole exception of funding in the case of First-Nations education which is controlled by the federal government. Also, very little substantive discussion has occurred about the necessity for First-Nation communities to address fragmentation and lack of critical mass through the development of aggregated entities of authentic self-governance, entities capable of fostering capabilities to adapt and self-renew, to influence, direct, and master change within themselves or with and among other non-aboriginal players, and to adopt new ideas.

Given preoccupations with the current lack of relevancy of First-Nations education and with uncertainties inherent in the current dynamics of fragmentation, no new policy direction has been put in place to promote effective collective action on the part of First-Nations through functional, self-determining aggregated governing institutions reflecting First-Nation

⁹ See also Royal Commission on Aboriginal Peoples (1996b, volume 3, chapter 5, p. 134).

conceptions of how authority should be organized and exercised in the field of education and for what societal purposes (Cornell et al., 2002).

The Federal government must realize that there is a need to develop with First Nations governments, instruments, laws, and policy making procedures at the national and local level to support and give confidence that the implementation of First Nations jurisdiction over education will be a reality in the near future. (Assembly of First Nations, 2005, p. 1)

In these words the AFN offers a telling, comprehensive general critique of the current state of First-Nations control of education. We believe it is also an expression of what is of ultimate importance from a First-Nations perspective. No principle could be more important for First-Nation peoples than the meaning and mechanisms of self-determination in education! Common ground on such a fundamentally consequential issue among First-Nation communities seems to have been lost in an anchorless relativism reflecting the present “balkanization” of First Nations education across the country. The current struggle, therefore, to agree on principles for aggregated self-governing entities in First-Nations education seems, to us at least, long overdue.

As a Committee, we have heard unequivocally that fundamental, systemic change is required to replace that antiquated system of isolated and improperly resourced First Nations schools with the necessary organizational infrastructure needed for a 21st Century school system. (The Standing Senate Committee on Aboriginal People, 2011, p. 56)

It is an awakening that must not be squandered in yet another decade of political-economy-motivated struggles.

Concluding Comments: Trends, Open Questions, and Challenges Ahead

Up to now, these policy directions and all existing SGAs containing wording on education have effectively restricted efforts on the part of First-Nation groups to give public expression within Canadian society as a whole to their distinctive identities and concepts of aboriginal “flourishing,” to organize their educational affairs in terms of their particular

traditions and values, and to protect their integrity and existence over time by controlling education. This subordination of “Indian control of Indian education” to non-First-Nation program goals and standards remains the most important as well as an almost intractable source of political conflict between First-Nation and non-First-Nation governments and interest groups in regard to education. It reinforces the subalternation of First-Nations knowledge and culture by restricting the possibility of First-Nation modes of thinking and being as the main drivers in First Nations educational policy development.

Existing SGAs do not reflect an effort to discover norms and values that all can accept, and that can be used to regulate shared First-Nation and non-First-Nation interests. They cannot be understood as legitimate attempts to reformulate the relationships between federal and provincial governments on the one hand, and First-Nation schools and communities on the other. The basis of existing self-government agreements on First-Nations educational control and jurisdiction is limited to devolution of low-level managerial powers over the provision of provincially sanctioned curricula. This basis offers only a limited vision of First-Nations self-government, leaving wide areas of First-Nations socio-cultural, educational, and economic life to be regulated remotely by and through non-First-Nation institutions. It could be argued that these agreements on “devolved” power over education impose the principle that First-Nation control of education must be bound strictly within the paradigm within which federal and provincial policy, and most notably provincial education policy, is framed. Organizational principles embedded in these educational agreements that regulate the use of power by First-Nation and non-First-Nation interests fix the balance permanently in favour of non-First-Nation interests and thus make it impossible to establish meaningful policy “boundaries” around First-Nations governance of education. The most debilitating gridlock point in First-Nations education has changed little over

the last forty years. As a matter of policy, although the reality lived “on the ground” in First-Nation schools is often far different, First-Nations education is required to mimic provincial education sufficiently closely that students can transfer to provincial schools *without penalty at any time*.

Despite the enormous complexity that currently marks First-Nations education, several features that underscore the potential for functional aggregation in the governance of First-Nations education are discernible. One is that the purposes, interest, and developmental aspirations on the national stage are so numerous, diverse, and disaggregated that a hierarchical national or provincial structure with a single mechanism for self-governance is not going to emerge in the immediate future although it may be desirable over the medium and long-term. The creation of aggregate models of self-governance in First-Nations education will require further discussion and negotiation on the meaning and nature of First-Nations aggregated governing entities. To an extent, all First Nations are part local and part global. Eventually the two parts will have to meld in new and functional ways and, in doing so, redefine who First-Nations people are within the parameters of aggregated self-governing entities and what such aggregate self-determining entities will look like. Pure aboriginal localists seem to harken back to an obsolete model of self-governing First-Nation communities while pure aggregationists might well be seen as individuals who have lost their local footing. Aggregated self-governing educational entities can only exist and sustain themselves by respecting, balancing, and nurturing diverse First-Nation local cultures and by giving them reasonable autonomy to support their own ways of looking at the world—but with due respect at the same time for the realities of economy of scale. Such a governance structure would necessarily rest on multiple foundations in the sense of overlapping agreement on the shared purposes of education among distinct First-Nation

communities and peoples, notwithstanding great diversity in languages, traditions, and developmental aspirations. Such agreement would require considerable compromise and mutual accommodation on all sides. Transition to such self-governance of First-Nations education resting on multiple foundations is, of course, fraught with potential difficulties. At the forefront of such difficulties is the problem of competing priorities. For instance, adherents to different developmental aspirations¹⁰ and educational purposes are likely to have conflicting priorities on values and principles that would have to underpin any overlapping agreement because these values and principles might occupy different priorities in First-Nation communities and tribal areas that compose an aggregated self-governance structure.

Despite the attendant difficulties, we are convinced that an account of essential First-Nation capacities, framed in terms sufficiently general to encompass cultural and historical diversity among First-Nation communities, could be developed and could provide a promising basis for First-Nations to “flourish.” Furthermore, despite specific circumstances associated with particular settings and contexts, such an account of essential First-Nation capacities could guide and shape creation of aggregated self-governance institutions and broadly shared policies necessary to realize a First-Nations conception of what constitutes the “human good.” Naturally, we should not expect to be able to reduce First-Nations socio-cultural life, or an efficient, effective, and appropriate educational preparation for it, to a precise science; but we are convinced that a framework within which tensions and conflicts could be substantially reduced and contained within limits set by policy that requires functional compromise is possible and that true First-Nations political “community” could thus be attained. This framework should be

¹⁰ By “developmental aspiration” we mean a vision of the capacities and resources needed by First-Nation communities to achieve their own understanding of what it is to lead a worthwhile life (conception of human good and ideals of human excellence) as an aboriginal citizen within the broader Canadian context or capacities and resources deemed essential to First-Nations self-determination.

essentially a First-Nations one, in the sense that it should specify a conception of what it means for First-Nations to “flourish”¹¹ and evaluate political, cultural, social, economic, institutional, and governance practices in terms of their contribution to realizing that ideal. For us, this is not solely a question of changing organizational structure, but of the very terms of the dialogue about the nature and purposes of a self-governed First-Nations education entity based on the notion of interdependence of First-Nation and non-First-Nation groups. Also, it is not a question of simply replacing existing competing epistemologies either; these will certainly continue to exist and as such will remain viable as spaces of critique. The alternative to the domination of hegemonic non-First-Nation policy discourse in the field of First-Nations education is not in the promotion of particularism, but recognition of the primordial importance of cooperation and collaboration in governance.

Therefore, the question remains of how to probe the number and diversity (in terms of content and context) of First-Nations self-governance systems, particularly in education so that the fragmentation of self-governance among First-Nation communities can come to an end. The key question remains whether, how, and in what time frame, the current radically disaggregated First Nations education non-system can be transformed into—or replaced by—effective, efficient, and appropriate self-governance that redresses the subalternation of First Nations communities that is too often lost in relativistic discussion of cultural differences.

¹¹ After a great deal of thought and discussion we prefer “flourishing” in this context to the more anodyne—and typically Anglophone—“development” usage. We believe that “flourishing” much more accurately captures what we believe should be the ultimate social and economic policy objective and aboriginal and First-Nation affairs.

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