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The Inequitable Political Pillars of Canada's Founding Nations: A Perspective Through Three Heuristic Categories

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Introduction

According to renowned political scientist Bernard Crick, politics is the conciliation of interests.¹ Thusly when conceptualising the nature of Canada's federation, Peter H. Russell understands this conciliation of interests in the context of the relations between Canada's founding nations – Aboriginals, Anglophones, and Francophones – which he connotes as the primary driving force behind the state's development.² While the interplay between these nations did have a critical effect on establishing the direction of Canada since its infancy, Russell's thesis departs from reality. That being it ignores that the relation's interaction up until the later part of the twentieth century was orchestrated solely by the Anglophone nation.

Only with the awakening of the Aboriginal and Francophone political consciousness in the post-Second World War period did the relationship move towards Russell's acclaimed partnership. Presently, there is a shift in the relationship that aims to redefine it so that it includes the most repressed of the nations: the First Nations. Despite efforts by the Government and wider-society to redress many past injustices committed against the state's native population, there nevertheless is a noticeable lag between Aboriginals and their non-aboriginal counterparts.³ This lag is particularly appreciable in their lack of engagement in Canadian politics.

The engagement of Aboriginals in politics, as in other areas, has been attempted by making it a system that recognises and empowers them. Yet such affirmative action has been restrained from achieving its desired outcome of rebalancing Canada's political equilibrium. Representing roughly 4.5% of Canada's population, this issue is further emphasised by this group's aversion to participating in the very politics which will lead to change.⁴ Contrary to Tom Flanagan's position, it is self-evident that Canada's Aboriginal question is one which will remain

¹ Bernard Crick, "The Nature of Political Rule," in *Mapping the Political Landscape: An Introduction to Political Science*, ed. Reeta Chowdhari Tremblay et. Al, (Toronto, Nelson, 2007), 17.

² Peter Russell, *Canada's Odyssey: A Country Based on Incomplete Conquests* (Toronto, University of Toronto Press, 2017), 3-4.

³ "Aboriginal Electoral Participation in Canada," Elections Canada Online | Turnout and Reasons for Not Voting During the 42nd General Election: Results from the Labour Force Survey, 27 August 2018. <http://www.elections.ca/content.aspx?section=res&dir=rec/part/abel&document=p2&lang=e> (accessed 04 December 2018).

⁴ Statistics Canada, "Census Profile, 2016 Census (Canada)," Statistics Canada, April 24, 2018. <https://www12.statcan.gc.ca/census-recensement/2016/dp/prof/details/Page.cfm?Lang=E&Geo1=PR&Code1=01&Geo2=&Code2=&Data=Count&SearchText=Canada&SearchType=Begin&SearchPR=01&B1=All&GeoLevel=PR&GeoCode=01> (accessed 04 December 2018).

a fixed issue in Canadian politics for generations to come.⁵ Accordingly, it is of the utmost importance to identify the institutional barriers within contemporary federal-Aboriginal relations that inhibit Aboriginal participation. This study hypothesises that the Aboriginal absenteeism from Canadian politics is attributed to a sense of alienation within the community to the Western culture which had tried to assimilate theirs. This is particularly problematic because this Western culture serves as the basis of every facet of the Canadian state; politics being no exception. Surveying this topic is a necessary first step in identifying obstacles to Aboriginal participation in politics. Doing so will allow for the redefinition of the relationship between the founding nations so that it recognises and empowers Aboriginals while satisfying the needs of Canada.

Theory

It is important to understand that the ensuing literature review will make a macro survey of the differing Aboriginal perspectives on participating in Canadian politics. Accordingly, it will exhibit positions which range from the Mohawk's adversarial stance which views participating as sell-outting out while the Osoyoos' amicable one perceives partnership as the path to attaining their political aspirations.⁶ The findings from this survey will be amalgamated into general trends which support the hypothesis that explains the obstacles which discourages Indigenous participation in politics. This accordingly will identify the obstacles which need to be addressed as to open the space for making the amendments as to encourage Aboriginal participation and ameliorate the legitimacy of Canadian politics.

Literature

Since first settling North American thousands of years ago, Aboriginals had organised themselves in political associations ranging from complex nation-societies of the Great Lakes region to the base nomadic ones of the Parries. Come the arrival of Europeans, these traditional societies were forever upset as the newcomers consolidated power over the continent and enforced their rule. Subsequently, policies such as the *Indian Act of 1876* and residential schools were conceived, developed, and executed through as the Government. Unsurprisingly, this institution, which presided over these injustices, has earned a resentful reputation amongst Aboriginals.

Despite developments, both global and domestically, in the post-Second World War era which appeared promising in amending the relationship, critics highlight that Aboriginals in the

⁵ Tom Flanagan, "Chapter 6: The Inherent Problems of Aboriginal Self-Government," in *First Nations? Second Thoughts* (Montreal, QC: McGill-Queen's University Press, 2000), 111-12.

⁶ Alfred, Taiaiake, *Wasáse: Indigenous Pathways of Action and Freedom* (Toronto: University of Toronto Press, 2009), 40-41; and Ezra Rosser, "Self-Determination, the Trust Doctrine, and Congressional Appropriations: Promise and Pitfalls of Federal Disentanglement from Indian Health care," in *Fédéralisme Et Gouvernance Autochtone / Federalism and Aboriginal Governance*, ed. Ghislain Otis and Martin Papillon (Québec: Presses de L'Université Laval, 2013), 189.

Americas have yet to experience political and cultural decolonisation.⁷ Much of this lacking emancipation scholars identify to be linked to the issue of Aboriginal self-government.⁸ Without the Government's acknowledgement of their preexisting sovereignty, constitutional recognition has traditionally been the focus of Aboriginal efforts to achieve this recognition and by extension self-governing status.⁹ While pursued by pan-Canadian Aboriginal groups to the effect of achieving the inclusion of Aboriginal and treaty rights in section 35 of the 1982 *Constitution Act*, this initiative did not translate into wider political emancipation.¹⁰ Demands over articles such as greater political autonomy prove difficult to enshrine through constitutional amendments, à la the amending formula, because they conflict with Canadian sovereignty.¹¹ Against the backdrop of the failed Charlottetown Accords the approach of achieving emancipation through constitutional reform has died.¹²

Consequently, activist groups have attempted, with success, at incrementally gaining concessions through individual treaties with the various levels of government as illustrated by the Yukon's Umbrella Agreement and the Final and Self-Government Agreements of the 1990s. However, staunch critiques of the Government such as Taiaiake Alfred are dismissive of such

⁷ Mary Ellen Turpel, "Indigenous People's Rights of Political Participation and Self-Determination: Recent International Legal Developments and the Continuing Struggle for Recognition," *Cornell International Law Journal* 25, no.3, 6 (1992):https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?referer=https://scholar.google.ca/scholar?start=20&q=aboriginal+participation+in+canadian+politics&hl=en&as_sdt=0,5&httpsredir=1&article=1296&context=cilj (accessed 17 September 2018), 579-80.

⁸ Ken Coates, "The Indian Act and the Future of Aboriginal Governance in Canada," *National Center for First Nations Governance* (2008); Flanagan, "Chapter 6: The Inherent Problems of Aboriginal Self-Government"; and Turpel, "Indigenous People's Rights of Political Participation and Self-Determination: Recent International Legal Developments and the Continuing Struggle for Recognition," 580.

⁹ Martin Papillon, "Adapting Federalism: Indigenous Multilevel Governance in Canada and the United States," *Publius: The Journal of Federalism* 42, 2 (2011), doi:101093/publius/prj032, 300.

¹⁰ Ibid.; Alan Cairns, *Citizens Plus* (Vancouver, BC: University of British Columbia Press, 2000) as quoted in Ibid., 301.

¹¹ John Borrows, "Legislation and Indigenous Self-Determination in Canada and the United States," in *From Recognition to Reconciliation: Essays on the Constitutional Entrenchment of Aboriginal and Treaty Rights*, ed. Patrick Macklem and Douglas Sanderson (Toronto: University of Toronto Press, 2016), 475.

¹² Papillon, "Adapting Federalism: Indigenous Multilevel Governance in Canada and the United States," 300.

legislation for it represents a trend of “least resistance” within Canada’s Aboriginal population.¹³ A stalwart of his nation’s disdain for the ‘colonial’ Government, he prefaces his aversion to such legislation on the premise that it legitimises the Government’s maltreatment of Aboriginals for such legislation conciliates the interests of both the Government and Aboriginals.¹⁴ Rather than to negotiate for their rights back as to achieve justice, Alfred argues that struggle against the ‘colonialist’ state is the only appropriate means to attain peace.¹⁵ His position reveals his understanding that the rights the negotiators aim to reclaim for their communities are ones which have always belonged to Aboriginals for they were never voluntarily forfeited to the state. This thusly raises the question of why Aboriginals choose to engage in Canadian politics if they are merely reclaiming what originally was theirs.

This interpretation speaks to Asch and Macklem’s 1991 study which illustrated the Government’s perception of their legal responsibilities to the state’s Indigenous population through the lens of two theories on Aboriginal rights: contingent and inherent.¹⁶ The first theory, perceives Indigenous rights as the creation of negotiations and legislation in which the government allocates particular rights and responsibilities to Aboriginal groups.¹⁷ This predisposes that Aboriginals have engaged in a sort of social contract with the government, that they acknowledge their supremacy, and that the government has the right to redistribute freedoms as they wish back to them.¹⁸ This is contrasted by the second right, inherent, which as the name implies recognises the “totality of power and responsibilities necessary or integral to the maintenance and reproduction of aboriginal identity and social organisation”.¹⁹ Moreover, it recognises that these rights “[pre-exist] the settlement of Canada and continue to exist notwithstanding the interposition of the Canadian state”.²⁰ Questions on Aboriginal self-

¹³ Alfred, *Wasáse: Indigenous Pathways of Action and Freedom*, 43.

¹⁴ *Ibid.*, 43-44.

¹⁵ *Ibid.*, 103.

¹⁶ Michael Asch and Patrick Macklem, “Aboriginal Rights and Canadian Sovereignty: An Essay on *R. v. Sparrow*,” *Alberta Law Review* 29, no. 2 (1991): HeinOnline (accessed 18 September 2018), 498-501.

¹⁷ *Ibid.*, 502.

¹⁸ *Ibid.*

¹⁹ *Ibid.*, 503.

²⁰ *Ibid.*

government and sovereignty in this perspective are thus understood as that the Aboriginal interests are supreme to those of Canada's.²¹

As alluded to prior, Alfred's position that Aboriginal rights are inherent is indicative of the position held by a much larger cohort in Canada's Aboriginal population, however, this conflicts with the Government's which selectively understands some as inherent and other as contingent.²² The Government, à la the Supreme Court of Canada's ruling in *R. v. Sparrow*, had begun a transition from their previous absolute adherence to the contingent theory to accepting certain rights as inherent.²³ Currently they recognise select articles as existing outside the creation of Canada and its legal system, however, the Supreme Court's ruling was worded carefully as to reaffirm the Crown's, and by extension Canada's, territorial supremacy over Canada.²⁴ Subsequently, the discussion on Aboriginal sovereignty and the extension of any rights or responsibilities which may undermine Canadian sovereignty is closed.²⁵ Moreover, this conclusion stipulates that political accommodation, particularly in regards to self-governance, cannot be the ultimate solution to addressing Aboriginal political aspirations and that alternative options must be considered.

The unquestionable denial of self-determination and the length of the process to achieve incremental gains are additions to a legacy of demoralisation and disenfranchisement caused by the colonial institutions which have dispossessed Aboriginals of their lands and oppressed their culture.²⁶ This is reflected in a report which exhibits that many abstain from the political system "by the sense that the electoral arena is an inappropriate or unresponsive means to advance [their] priorities".²⁷ Political disengagement is thusly understood in the prism that it doesn't matter if one cooperates with colonial government or not for in the end they "will take away everything [aboriginals] have and [aboriginals] will be on [their] own again and have nothing left

²¹ Asch and Macklem, "Aboriginal Rights and Canadian Sovereignty: An Essay on *R. v. Sparrow*," 503.

²² *Ibid.*, 498.

²³ *Ibid.*, 503-07

²⁴ *Ibid.*, 503.

²⁵ *Ibid.*

²⁶ Alfred, Wasáse: Indigenous Pathways of Action and Freedom, 40.

²⁷ Taiaiake Alfred, Brock Pitawanakwat, and Jackie Price, "The Meaning of Political Participation for Indigenous Youth: Charting the Course for Youth Civil and Political Participation," Canadian Policy Research Networks (June 2007): EBSCOhost (accessed 18 September 2018), iv.

to lose”.²⁸ The report finishes with the grim conclusion that there are no options within the current political framework which can engage the underlying sources of alienation entrenched by the ruling in *R. v. Sparrow*.²⁹

Furthermore, this seemingly absolute position of the Government signals to Aboriginals that to move forward in gaining incremental increases in rights can only be achieved through submitting to federal supremacy. Doing so effectively forgoes their desired status as equals entities to the orders of Canadian government. Accordingly, the lack of Indigenous engagement, in part, can be attributed as a refusal to affirm federal supremacy.³⁰ The refusal to participate must be understood in the wider context as a clash between civilisations, that being Aboriginal and non-Aboriginal, in which the former perceives the latter to be employing enfranchisement as the instrument of assimilation.³¹ Consequently, enfranchisement to the foreign imposed political system is to endorse the rejection of Aboriginal political values, the fundamental transformation of societies, and installation of sham Aboriginal governments.³² Ergo, the parallels between enfranchisement and assimilation are drawn. This perspective additionally disseminates the understanding in communities that to enjoy the benefits of Canadian society such as participating politics is to be guilty of the past and continuing crimes against the state’s native population.³³

²⁸ Ibid., 10.

²⁹ Ibid., 19.

³⁰ Ann McGrath and Winona Stevenson, “Gender, Race, and Policy: Aboriginal Women and the State in Canada and Australia,” *Labour/Le Travail* 38 (Fall 1996): <https://www.jstor.org/stable/25144091> (accessed 18 September 2018), 41.

³¹ Alfred, *Wasáse: Indigenous Pathways of Action and Freedom*, 40; Samuel P. Huntington, *The Clash of Civilizations and the Remaking of World Order* (London: The Free Press, 2002), 52-54; and McGrath and Stevenson, “Gender, Race, and Policy: Aboriginal Women and the State in Canada and Australia,” 43.

³² McGrath and Stevenson, “Gender, Race, and Policy: Aboriginal Women and the State in Canada and Australia,” 49, 51, 53.

³³ Alfred, *Wasáse: Indigenous Pathways of Action and Freedom*, 103; “Canada's First Nations: Time We Stopped Meeting like This,” *The Economist* (19 January 2013): <https://www.economist.com/the-americas/2013/01/19/time-we-stopped-meeting-like-this> (accessed 03 December 2018); and Flanagan, “Chapter 6: The Inherent Problems of Aboriginal Self-Government,” 111-12.

Consequently, the political space which has opened for Canada's First Nation's in recent years falls to ruin as they fail to see the value in participating.³⁴ In the 1970s, the Nixon administration enacted a series of legislation which transferred responsibility and ownership to America's challenge of encouraging Indigenous political participation.³⁵ In contrast, Canada has proved quite reluctant to explore such legislation which equates Aboriginal governments similar status to states, rather the state maintains the paternalistic relation as defined in the *Indian Act*.³⁶ Understanding that to instil a lasting change in human behaviour, as per Garret Hardin, the individual and the wider group must take ownership in the change and its desired end state.³⁷ Appropriately, the *Act*'s regulation of Aboriginal affairs at the federal level and its clauses that Aboriginals are additionally under the privy of provincial legislation restrict the jurisdictional space from which these communities can exercise self-governance.³⁸ While there has been a recent move to allocate rights and responsibilities to various Aboriginal groups, these are not constitutionally entrenched and thusly are much like the powers of a municipality, in so far that they can be amended or revoked at the discretion of the government.³⁹ The product being unhealthy, disenfranchised Aboriginal polities.

This political disengagement from national Canadian politics stimulates a like disengagement in local Aboriginal politics which creates secondary barriers to engagement with politics in general. Roger Gibbons demonstrates that an individual's rights and freedoms are most secured in a more heterogeneous society wherein it is difficult for one group to express a majority because competing interests fragment and immobilised that majority.⁴⁰ Concurrently, when the federal government disentangled themselves from direct Aboriginal governance by allocating their responsibilities to local governments this effectively concentrated enormous powers into the few operating these small communities. Accordingly, Gibbon's maxim on rights becomes increasingly precarious as reaching a majority in these communities is comparatively

³⁴ Flanagan, "Chapter 6: The Inherent Problems of Aboriginal Self-Government."

³⁵ Borrows, "Legislation and Indigenous Self-Determination in Canada and the United States," 477-81.

³⁶ Ibid., 481-82.

³⁷ Garrett Hardin, "The Tragedy of the Commons," *Science* 162 (December 13, 1968): doi:10.1126/science.162.3859.1243 (accessed 10 October 2018), 1, 3, 6.

³⁸ Borrows, "Legislation and Indigenous Self-Determination in Canada and the United States," 482-83.

³⁹ Ibid., 483.

⁴⁰ Roger Gibbons as quoted in Flanagan, "Chapter 6: The Inherent Problems of Aboriginal Self-Government," 96-97.

easy to achieve and thusly is not inconceivable that many of these communities become enveloped in nepotism for the allocation of positions are at the prerogative of a select few. This is compacted by the communal nature of property on the reserve. Moreover, this few can command excludable resources for their personal benefit whilst the community bears the externality(s) of their actions.⁴¹ Secondary barriers to politics form as Aboriginals are further alienated from the wider institution of politics as their local polity is enveloped in corruption and they view this to be the fault of the national political system.

Findings

Extrapolating from the preceding literature review, this subsequent section discusses the barriers to Aboriginal participation in Canadian politics as understood in three heuristic categories – cultural, diplomatic, and ownership – into which the issues of the preceding section correspond to. The first category, cultural, engages the issues and findings through the lens of a conflict between the omnipresent, dominant Canadian culture and that of the Aboriginals. This perspective concerns the oppression of the latter historically and its effects in the contemporary period in disengaging Aboriginals from Canadian society and by extension from politics. The second category, diplomacy, envelopes the negotiating processes between Canada's Aboriginal and the Government. More precisely, the obstacles to political engagement are dictated by the supremacy of Canadian sovereignty and differing perspectives on Aboriginal rights. The final heuristic category, ownership, focuses on the secondary results of the preceding two heuristic categories in addition to the creation of further alienation as stimulated by the lack of Aboriginal ownership of their own polities and national politics.

The cultural barrier is founded on a concept developed by Samuel Huntington in the late 1990s in which conflict develops from pressing of a dominant civilisation against a subordinate one. In the Canadian context this being Canadian civilisation pressing against the aboriginal one.⁴² Alfred articulates that despite the deceptive visage of searching for truth in European philosophy, it merely acts as an intellectual cover for colonisation.⁴³ Imperial self-justification, packaged in the mission to 'civilise' is what Alfred describes as the impetuous for the Western disposition to civilise others. Accordingly, they had little regard for Aboriginals and proceeded with programs of oppressing, dispossessing them of their lands and culture, and assimilating them.⁴⁴ Despite a movement in the later portion of the twentieth century from these past practices, Alfred identifies that its vestiges linger in the institutions and non-Aboriginals in the form of "Euroamerican arrogance".⁴⁵

⁴¹ Hardin, "The Tragedy of the Commons."

⁴² Huntington, *The Clash of Civilizations and the Remaking of World Order*, 52-54.

⁴³ Alfred, *Wasáse: Indigenous Pathways of Action and Freedom*, 102.

⁴⁴ Ibid., 40.

⁴⁵ Ibid., 101-02.

This lingering ‘arrogance’ manifests itself in the contemporary dealings between the orders of government and Aboriginal nations which consequently further demoralises and disengages the latter from participating in politics. When it comes to negotiating new treaties, particularly ones concerning self-government and sovereignty, it is most noticeable. Being that the Canadian government is the dominant power they assume that, by the understanding sovereignty in the Westphalian sense, they are the supreme entity in Canada. This perspective predisposes that Aboriginal sovereignty is subordinate to that of Canada’s and accordingly all things related to this field will come second to the needs of the state.⁴⁶ This refusal to recognise their preexisting sovereignty, as reinforced by the lack of official legislation enshrining it, and the insistence to accept the supremacy of the government lends substance to the claims that Canada’s Aboriginals continue to live under a form of political and cultural colonisation.⁴⁷

Building on the barriers from the cultural category, the diplomatic one relates particularly to the political relationship between the government and Aboriginals when engaged in negotiations. To begin, the restrictive nature to amending the Constitution, as per the amending formula, makes sweeping reform nearly impossible, thusly Aboriginals are restricted to conducting piece-meal negotiations with various orders of government as to attain their aspirations, all of which are not constitutionally protected.⁴⁸ There is a sentiment circulating Aboriginal circles which rejects this ‘least resistance’ approach to retaking the rights and responsibilities which were taken from them.⁴⁹ This barrier illustrates a conflict in the approaches in which Aboriginals engage Canadian politics: that being the conflict between negotiating, fighting, and disengaging from the political system. This variance of approaches divides their initiative on establishing justice and an eventual peace with the Canadian nation and works to immobilize Aboriginal participation in politics.⁵⁰

Despite this intranational fighting over the means to which Aboriginal’s choose to participate in government, the second facet of this category comes from conflicting conceptions of Aboriginal rights, as per the positions of the Government and Aboriginals. Recalling the

⁴⁶ Borrows, “Legislation and Indigenous Self-Determination in Canada and the United States,” 475.

⁴⁷ Papillon, “Adapting Federalism: Indigenous Multilevel Governance in Canada and the United States”, 300; and Turpel, “Indigenous People’s Rights of Political Participation and Self-Determination: Recent International Legal Developments and the Continuing Struggle for Recognition,” 579-80.

⁴⁸ Borrows, “Legislation and Indigenous Self-Determination in Canada and the United States,” 504.

⁴⁹ Alfred, *Wasáse: Indigenous Pathways of Action and Freedom*, 43.

⁵⁰ Intranational in this context refers to within the Aboriginal nation.

sentiment that Aboriginal rights are a non-negotiable subject for they never were willingly surrendered to the Government and thusly remain theirs, the state's position, as per its Westphalian perspective, contrasts this by inherently elevating their prerogative over that of the Aboriginal one. While precedence from the Supreme Court's 1990 ruling on *R. v. Sparrow* ought to affirm Aboriginal inherent rights over most of their lives, excluding article relating to sovereignty, the Government is hesitant to acknowledge these rights.⁵¹ This is not merely demoralizing for Aboriginals for it greatly limits the rights and responsibilities which they can take on from the Government, but it too reaffirms the paternalistic relationship explored in the previous category.

The consequence of the previous two heuristic categories, the third sources its alienation of politics over the lack of Aboriginal ownership in politics and the subsequent aggravating factors from this trend. Driven off by the barrier related to lingering colonialism and diplomatic complications, the desire for Aboriginals to partake in a polity founded on foreign principles is minimal.⁵² This reluctance to engage extends from the federal to local governance. At the federal level, while accounting for a lack of Aboriginal input, disengagement is not detrimental to the functioning of the state, however, when it occurs at the local band level the effects are far more pronounced. Reinforced by a stigma that to participate in such institutions is to be guilty of crimes against First Nations, political alienation forms as Aboriginals desire to exit the system and thusly leaves their polities in want of those to take ownership and manage them.⁵³

Compounded by the Government's disentanglement from managing these local polities, as it had done in the past via Indian Agents, these local governments are less inclined to take up these responsibilities and tailor them as to serve their best interests.⁵⁴ As noted by Ezra Rosser, the transfer of responsibilities to Aboriginals in the United States is the cornerstone of federal-indigenous relations and the success of local band governance.⁵⁵ However in the Canadian case, as noted by Flanagan, it is "beset by structural features that encourage rather than constrain

⁵¹ Ibid., 498, 503.

⁵² Alfred, *Wasáse: Indigenous Pathways of Action and Freedom*, 40; and McGrath and Stevenson, "Gender, Race, and Policy: Aboriginal Women and the State in Canada and Australia," 43, 49, 51, 53.

⁵³ Alfred, *Wasáse: Indigenous Pathways of Action and Freedom*, 103.

⁵⁴ Flanagan, "Chapter 6: The Inherent Problems of Aboriginal Self-Government", 93-94; Rosser, "Self-Determination, the Trust Doctrine, and Congressional Appropriations: Promise and Pitfalls of Federal Disentanglement from Indian Health care," 189-90.

⁵⁵ Rosser, "Self-Determination, the Trust Doctrine, and Congressional Appropriations: Promise and Pitfalls of Federal Disentanglement from Indian Health care," 189.

venality”.⁵⁶ This venality, as demonstrated in the literature review, fabricates governmental corruption which in combination with barriers belonging to the two other heuristic categories disheartens Aboriginal ownership. The lack of Aboriginal ownership over their politics and engagement in national politics allows it to fall to ruin and further reinforce the state of Aboriginal alienation.

Conclusion

In addressing the reality of lower Aboriginal participation in Canadian politics, this survey examined the question of what institutional barriers within contemporary federal-Aboriginal relations discourage Aboriginal participation. This study hypothesized that Aboriginal absence from politics is accredited to a sense of alienation within the community to the wider Western culture which had oppressed their culture; this is very culture forms the bases of Canadian politics. However, in the summation of the literature on Aboriginal perspectives on engaging in politics, this study found that there are three common trends of barriers which better illustrate this sense of alienation. These are organized into three heuristic categories – cultural, diplomatic, and ownership – as per the barrier’s interaction with one another and their interplay in the federal-aboriginal relationship.

Firstly, the cultural barrier is tied to a clash between the omnipresent Canadian culture and that of the subordinate Aboriginal one, in which the latter refuses to be subsumed into the former. Informed and grounded in a historical context spanning back through centuries of injustice this category identifies that a formerly overt sensation of colonialism covertly exists in all facets of the contemporary Canadian state. Politics being no exception. This leads to the second category, diplomacy, which derives their barriers from conflicts with the Government's monopoly on Canadian sovereignty and the differing interpretations of Aboriginal rights which colour federal-Aboriginal negotiations. Developing from these two categories is the final one, ownership, which engages a lack of Aboriginal ownership over their role in national and local politics. Particularly, this category concerns the trend of ruin that occurs in certain local politics as per corruption which breeds further alienation from politics.

Consequently, these categories are refinements of the hypothesis for they present a more holistic interpretation of the barriers that inhibit Aboriginal participation in Canadian politics. It is important to understand that these categories are limited in scope and depth for they attempt to reconcile perceptions which range from hostile to amicable in nature. What the categories are intended for is to identify common groupings of obstacles, and their relationship with one another, as they discourage Indigenous participation in politics. Breaking down these problems into categories and understanding their relationship with one another is the first step in resolving them so that Aboriginals can be included in a political system that recognizes and empowers them. Ergo, allowing for the last of the founding nation to join the Canada's political process and truly achieve a conciliation of the nation’s interests.⁵⁷

⁵⁶ Flanagan, “Chapter 6: The Inherent Problems of Aboriginal Self-Government”, 94.

⁵⁷ Crick, “The Nature of Political Rule” 17.

Bibliography

“Aboriginal Electoral Participation in Canada.” Elections Canada Online | Turnout and Reasons for Not Voting During the 42nd General Election: Results from the Labour Force Survey (27 August 2018).
<http://www.elections.ca/content.aspx?section=res&dir=rec/part/abel&document=p2&lang=e> (accessed 04 December 2018).

Alfred, Taiaiake. *Wasáse: Indigenous Pathways of Action and Freedom*. Toronto: University of Toronto Press, 2009.

—, Brock Pitawanakwat, and Jackie Price. “The Meaning of Political Participation for Indigenous Youth: Charting the Course for Youth Civil and Political Participation.” *Canadian Policy Research Networks* (June 2007). EBSCOhost (accessed 18 September 2018).

Asch, Michael, and Patrick Macklem. “Aboriginal Rights and Canadian Sovereignty: An Essay on R. v. Sparrow.” *Alberta Law Review* 29, no. 2 (1991): 498-517. HeinOnline (accessed 18 September 2018).

Borrows, John. “Legislation and Indigenous Self-Determination in Canada and the United States.” In *From Recognition to Reconciliation: Essays on the Constitutional Entrenchment of Aboriginal and Treaty Rights*. Edited by Patrick Macklem and Douglas Sanderson. Toronto: University of Toronto Press, 2016.

Cairns, Alan. *Citizens Plus*. Vancouver, BC: University of British Columbia Press, 2000.

“Canada's First Nations: Time We Stopped Meeting like This.” *The Economist* (19 January 2013): 37-38. <https://www.economist.com/the-americas/2013/01/19/time-we-stopped-meeting-like-this> (accessed 03 December 2018).

Coates, Ken. “The Indian Act and the Future of Aboriginal Governance in Canada.” *National Center for First Nations Governance* (2008).

Crick, Bernard. “The Nature of Political Rule.” In *Mapping the Political Landscape: An Introduction to Political Science*, edited by Reeta Chowdhari Tremblay et. Al, 13-22. Toronto, Nelson, 2007.

Flanagan, Tom. “Chapter 6: The Inherent Problems of Aboriginal Self-Government.” In *First Nations? Second Thoughts*, 87-112. Montreal, QC: McGill-Queen's University Press, 2000.

Hardin, Garrett. “The Tragedy of the Commons.” *Science* 162 (December 13, 1968): 1243-1248. doi: 10.1007/s00787-010-0130-8 (accessed 10 October 2018).

- Huntington, Samuel P. *The Clash of Civilizations and the Remaking of World Order*. London: The Free Press, 2002.
- McGrath, Ann, and Winona Stevenson. "Gender, Race, and Policy: Aboriginal Women and the State in Canada and Australia." *Labour/Le Travail* 38 (Fall 1996): 37-53.
<https://www.jstor.org/stable/25144091> (accessed 18 September 2018).
- Papillon, Martin. "Adapting Federalism: Indigenous Multilevel Governance in Canada and the United States." *Publius: The Journal of Federalism* 42, no. 2 (2011): 289-312.
doi:101093/publius/prj032.
- Rosser, Ezra. "Self-Determination, the Trust Doctrine, and Congressional Appropriations: Promise and Pitfalls of Federal Disentanglement from Indian Health care." In *Fédéralisme Et Gouvernance Autochtone / Federalism and AboriginaEditedance*. Edited by Ghislain Otis and Martin Papillon. Québec: Presses de L'Université Laval, 2013.
- Statistics Canada. "Census Profile, 2016 Census (Canada)." Statistics Canada. April 24, 2018.
<https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/prof/details/Page.cfm?Lang=E&Geo1=PR&Code1=01&Geo2=&Code2=&Data=Cousnt&SearchText=Canada&SearchType=Begins&SearchPR=01&B1=All&GeoLevel=PR&GeoCode=01> (accessed 04 December 2018).
- Turpel, Mary Ellen. "Indigenous People's Rights of Political Participation and Self-Determination: Recent International Legal Developments and the Continuing Struggle for Recognition." *Cornell International Law Journal* 25, no.3, 6 (1992).
https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?referer=https://scholar.google.ca/scholar?start=20&q=aboriginal+participation+in+canadian+politics&hl=en&as_sdt=0,5&httpsredir=1&article=1296&context=cilj (accessed 17 September 2018).