The Donner Prize Finalists

Thou Shall Not Say No to an Indian

How the 'Aboriginal Industry' and its racist taboos are keeping native peoples from becoming equal participants in society

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Chapter 1 from *Disrobing the Aboriginal Industry: The Deception Behind Indigenous Cultural Preservation*, by Frances Widdowson and Albert Howard

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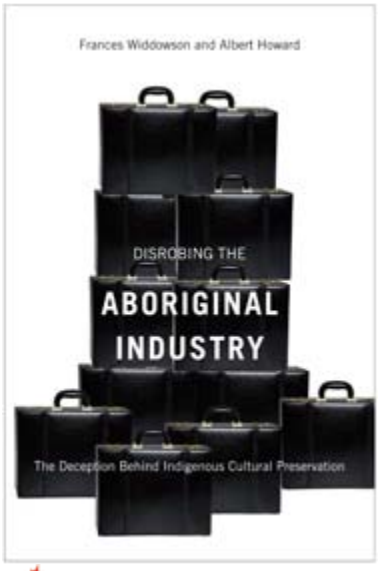
Several winters ago we encountered our dentist at a ski resort in the lunchtime lineup. While chatting about what a good time we were having, he joked that one of our recent root canals was paying for his weekend. The dentist's ironic sense of humour exemplified an overlooked aspect of the monetary relationship between care-givers and their clients: a patient's detriment is the practitioner's benefit. The obvious business development strategy would be to encourage sugar consumption and negligent dental hygiene, but of course both personal and professional ethics preclude such outrageous tactics.

Most of us can identify the portion of our work that earned a vacation, a bottle of wine, or a new car, and we feel justified in encouraging the purchase of what we produce; but care-givers face a conflict of interest in that their advice, when followed, diminishes the demand for their services. Practising doctors and dentists make their living by treating health problems, not in eradicating their source. The dichotomy is reflected in many areas where services are created to respond to preventable conditions.



The charity and poverty industries are examples of the supply of service without addressing the problem. No one suggests that handing out soup and blankets to the homeless will affect the homelessness situation. Charity fundraising depends on whatever disease or disaster is the object of the campaign. Although fundraisers are rarely in a position to actively maintain the conditions that assure the need for their services, whole industries have developed around conditions for which the real remedy is fundamental change.

There is, however, a socially accepted industry that provides a product, the consumption of which actively increases the need for more. It is funded by Canadians through labour exploitation and taxation, and it is highly profitable. The Aboriginal Industry is an amalgamation of lawyers, consultants, anthropologists, linguists, accountants, and other occupations that thrive on aboriginal dependency. The industry's strategy is pushing atavism – reverting to the past for solutions to present problems. Jean Allard, a Métis lawyer and politician, describes the interdependent relationship between service providers and their clients to elaborate upon the motivations of the Aboriginal Industry. According to Allard, “the impoverished Indians living in Third World conditions are essential to the continued existence of the multitude of consultants, program analysts, researchers, administrators and managers who swell the ranks of the bureaucracy. These are largely middle class professionals who have families to support and households to maintain. They are part of the Canadian economy. If Indian Affairs was successful in addressing the needs of its clients, its raison d'être would cease. All those people who make up the bureaucracy would find themselves unemployed.”

The activities of the Aboriginal Industry, in fact, are cynically referred to in bureaucratic circles as “The Great Game.” The nature of this “game” was spelled out succinctly by David Crombie, the minister of Indian and Northern Affairs between 1984 and 1986, who naïvely thought he could transform aboriginal policy during his tenure in the department:

You get a whole bunch of obfuscation, meeting after meeting, word games, magic shows of all kinds. And that's why so much of Indian Affairs is a convoluted process of negotiation, meeting, consultation ... Because for bureaucrats, ‘Oh well, we've got to go out and consult,' well, that meant you didn't have to decide for a very long time. And for the Indian leadership it was just as good, because consultation meant money ... Consultation was the word that allowed the solutions

to the problems to be postponed. A whole round of activity that was an industry. There is a consultation industry, and that means work for politicians, lawyers. It means money for Indians. It means everything but getting on with the task at hand.

The magnitude of the Industry's processes can be seen in the number of government agencies among the participants. In addition to the Department of Indian and Northern Affairs, almost every government department now funds an aboriginal division and numerous programs that target the aboriginal population. Such funding enables the Aboriginal Industry to pursue endless negotiations, the main function of which is to pave the way for more meetings.

It is important to point out, however, that the actions of the Aboriginal Industry are not necessarily a case of vulgar opportunism like the hypothetical dentist proffering candy or Andersen's swindling tailors; its motivations are far more subtle and complex. Many members of the Aboriginal Industry are not even aware that they are part of it. There is no conspiracy being perpetrated by the lawyers, consultants, and anthropologists working for aboriginal organizations. What exists is a natural impulsion to follow material interests, to veer ultimately toward self-interest. It is understandable that Industry members advocate policies that lead to jobs, contracts, and payments to members of their group. Politics is all about interests, and so it is hardly surprising that political actors turn out to be self-interested.

What is notable about the Aboriginal Industry is its altruistic posture. Its members claim to be trying to “work themselves out of a job,” while they pursue initiatives that ensure the continual need for their involvement in aboriginal policy. The atavistic programs and services they advocate as aiding “self-determination” actually maintain native dependency and dysfunction, thereby justifying demands for increases in government funding. And while they may truly believe their intervention is beneficial, their interests tend to prevent them from examining inconvenient facts and theories that would reveal the destructive character of the initiatives they propose and implement. Their arguments supporting current aboriginal policies become a form of mystification, and everyone involved in the industry is inclined to support them because they are all benefiting from keeping the processes going.

It is also important point out that there is a diversity of motivations within the Aboriginal Industry itself. First, there is the idealistic group, emotionally motivated by a sincere desire to help native people. Some uncritically accept that the best future for aboriginals is some level of return to the Rousseauian ideal, where they will live in some kind of mythic pre-contact Eden. Others simply support whatever aboriginal organizations demand because of the belief that this must be what aboriginal peoples “want.”

A second group can, for lack of a better term, be considered professionals. They are hired to promote the cause within the capacity of their discipline. Their role is to fill the demand for a pre-determined purpose; they may teach, consult, supply professional services, and so on. Their attitudes range from cynicism to disinterest.

A third group often encompasses the attributes of the first two but is defined by the fact that its members are the initiators of the reactionary policies that maintain native people in the state of dependency that all three groups supply. These are the members that most closely resemble the scoundrel-tailors of the parable. They are the bureaucrats who instigate useless, money-gobbling policy programs, then quit the government and head the program. They are the linguists who promote unilingual native language teaching in elementary grades, then develop course materials and teach them, sentencing the children to a future of low academic achievement and the resulting social dysfunction. They are the anthropologists who encourage a backward spiritualism and mythology in which they themselves do not believe, but which keeps native people in a convenient

state of passivity. They are the consultants who dream up studies or research that are neither. And especially, they are the lawyers who collect enormous fees for conflicts they initiated, for agreements that require endless negotiations, for land claims settlements they use as retirement funds.

The development and increasing prominence of the Aboriginal Industry can only be understood by situating it within its wider historical context. When Europeans first arrived in what is now Canada, aboriginal peoples' hunting and gathering skills provided useful services to the fur trade. As the country made the transition to agriculture and industry between the eighteenth and the twentieth centuries, however, these skills became obsolete, and aboriginal peoples were largely excluded from participation in the production of socially necessary goods and services. The subsistence lifestyle before European contact did not provide the cultural prerequisites to engage easily in wage labour and intensive agriculture. Aboriginal peoples had practised only hunting and gathering and horticulture, which (as discussed in chapters 2 and 3), did not require the same degree of forethought, discipline, and cooperative labour necessary in more complex and productive economic systems. Economic marginalization meant that aboriginal peoples were largely denied access to the resources needed to further their development; it was taken for granted that those who did not adapt to the changing world order would just “die out.” A frontier mentality assumed that those who were unable to contribute to economic development on the occupied lands Europeans wanted to settle were obstacles to progress, rather than human beings needing support in their struggle to become part of the civilized world. All concerns about the provision of goods and services to the indigent aboriginal population, like the treatment of “the poor” more generally, were left to philanthropic institutions and not considered a state obligation.

While the relative lack of productivity of subsistence economies and societies made it easy for colonial governments to neglect and ignore the needs of the aboriginal population, it also presented an interesting challenge for British law. Never before had British explorers encountered cultures at such an early stage of economic and social development, yet legal precedents required that, in lieu of conquest, new territories must be ceded to, or purchased by, the Crown before settlement occurred. In order to maintain peaceful relations with aboriginal groups so that development could proceed unencumbered, British authorities originally proposed that native “Nations or Tribes” should remain autonomous and not be “molested or disturbed” on designated “hunting grounds.” But the looming obsolescence of aboriginal economies in the modern context soon required the development of new legal designations; “treaties” were signed and various forms of guardianship asserted so that aboriginal practices could be temporarily reconciled with agricultural and industrial development. Although the government intended that the invention of the category “Indian” would gradually disappear as aboriginals developed the skills to become participants in modern society, legal fictions like aboriginal “nationhood” and “sovereignty” persisted because the wording in legal documents remained. And as aboriginal people remained isolated from wider social processes, they became increasingly preoccupied with their “special relationship” to the Crown, based on the perception that the treaties constitute a “sacred covenant,” even though the reason for it no longer existed.

The marginalization of aboriginal peoples has made them particularly vulnerable to manipulation. The aboriginal leadership, in fact, is a *creation* of the Aboriginal Industry. Various service providers befriended promising young natives who could become figureheads in newly created, Industry-controlled organizations that took responsibility for services rather than having the government deliver them. The bureaucracy was encouraged to divert funds to these entities, and the industry controlled the spending. The result has been an entrenched comprador element within the aboriginal population. Corruption of leaders, by way of proffering privileges, is a tactic that has served the powerful through history, be they labour leaders or chieftains in oil-rich countries. The

wealth and advantage they obtain distances them from the people they purport to represent, and their interests become aligned with the dominant power. In aboriginal communities the status of chief now embraces a coterie of bureaucrats, association executives, board of director appointments, and other sinecures. To protect their own privileges, these “leaders” shield the Aboriginal Industry from scrutiny.

This combination of circumstances has enabled four groups to use aboriginal advocacy to further their own interests – clergy, government consultants, lawyers, and anthropologists. These advocates continue to be the major players in the Aboriginal Industry's “Great Game” and, along with the comprador leadership that they have created, are the major beneficiaries of the legal and bureaucratic initiatives that maintain native dependency and the funding it generates.

Cultivating the silkworms: creating spiritual dependency

In addition to various government agencies, much of the blame for aboriginal circumstances has been directed at the various missionary groups that historically interacted with the native population. Beginning in the nineteenth century, the colonial government gave a number of churches funds to educate, Christianize, and civilize the native population so that they would become productive members of Canadian society. The most significant initiative with respect to this agenda came to be the residential school system; removing aboriginal children from their communities was intended to reduce the impediment of a tribal and subsistence lifestyle on their development. Thus the pace of the civilizing process could be increased and aboriginal peoples more effectively assimilated into the social fabric.

The emerging consensus is that this assimilation strategy was a mistake. A number of different arguments to this effect range from assertions that aboriginal peoples should have been “left alone” to those maintaining that the process was lacking in sufficient “respect” and “cultural sensitivity.” Aside from the horrors of physical and sexual abuse, the church is accused of destroying aboriginal culture by forcing aboriginal children to speak English and adopt Christianity, by disrupting community child-rearing practices, and by subjecting aboriginal children to disciplines that were alien to their traditions. These practices, it is argued, deprived aboriginal peoples of their cultural pride and community integrity, resulting in the dependency and social pathologies in existence today.

With the burgeoning number of lawsuits being brought against the churches, these accusations are becoming more and more vehement. While in the past it was accepted that missionary involvement was a necessary (albeit poorly executed) attempt to give aboriginal children the skills, values, and attitudes for participating in modern society, current examinations of the subject conclude that these initiatives were part of a conscious racist strategy to exterminate aboriginal peoples. Roland Chrisjohn and Sherri Young in their book *The Circle Game*, for example, compare the residential school experience to the Holocaust, arguing that the missionaries were part of a conspiracy on par with Hitler's attempts to create an Aryan master race in Europe.

Labelling the missionaries' efforts as “genocide,” however, obscures the fact that “obliterating” various traditions is essential to human survival. Conservation of obsolete customs deters development, and cultural evolution is the process that overcomes these obstacles. Many of the activities held as destructive to aboriginal peoples – the teaching of English, the discouraging of animistic superstitions, and encouraging of self-discipline – were positive measures intended to overcome the social isolation and economic dependency that was (and continues to be) so debilitating to the native population. Accusations of genocide are affected to avoid the reality that when cultures at vastly different levels of development come into contact, more components of the relatively simple culture have to be discarded in comparison to those of the more complex. So, oral

cultures are “stolen” from pre-literate societies when they learn to write, as are creation myths when they are faced with the scientific theory of evolution. Although the missionaries deserve criticism for the methods they employed in attempting to bring about this transition, the “loss” of many cultural attributes is necessary for humans to thrive as a species in an increasingly interconnected and complex global system.

The spurious logic of retaining atavistic cultural features, coupled with assertions of genocide, suggests a causal effect of the missionaries' failed assimilation attempts on the current conditions in aboriginal communities. In examining this case, we have to consider the question of what aboriginal communities would be like were it *not* for residential schools. Leaving aside the tragedy of incidental sexual abuse, what would have been the result if aboriginal people had not been taught to read and write, to adopt a wider human consciousness, or to develop some degree of contemporary knowledge and disciplines? Hunting and gathering economies are unviable in an era of industrialization, and so were it not for the educational and socialization efforts provided by the residential schools, aboriginal peoples would be even more marginalized and dysfunctional than they are today.

Charges of “genocide” have been able to stick because authors like Chrisjohn and Young adopt the sophistry of using modern values to judge actions of the past. Enlightened attitudes against physically assaulting children did not exist because, well into the twentieth century, corporal punishment was believed to “build character.” (The old adage “spare the rod and spoil the child” continues to be practised by a number of religious sects today.) Religious imposition was taken for granted because Christianity was assumed to be a universal truth. The claim that these activities were racially motivated is senseless, since they reflected attitudes that affected all people in Canada; present-day rejection simply demonstrates an ability to learn from past mistakes. Besides, attempting to impose one's own culture on others can hardly be called genocide, regardless of how offensive the process is considered. The argument that all cultural change is genocidal defies both definitive and historical fact and imparts the negativity to education that currently undermines native schooling.

Instead of hysterically equating assimilation with genocide, it would be more constructive to analyze the failure of previous efforts to address aboriginal dependency, to examine the historical relationship between the government, the churches and aboriginal peoples. Why was the responsibility for the servicing of the aboriginal population left to the missionaries in the first place? What did it mean for the assimilation of native tribes into modern society?

Increasing references to the term “genocide” in current aboriginal policy debates is a distraction from the fact that it was generally neglect, not a deeply entrenched racism (although racist attitudes did exist), that characterized the government's relationship with natives until the 1940s. In the nineteenth century the welfare state was still a long way off, and care for the poor and abandoned, which included the aboriginal population, was simply left to the whims of the churches. As a result, aboriginal peoples received inferior health and education services in comparison with other Canadians, and religious indoctrination was much more pronounced in aboriginal communities. In 1920, for example, early Canadian anthropologist Diamond Jenness observed that in elementary mission schools for native children “the standard of teaching was exceedingly low,” ensuring that they were “well indoctrinated in the Christian faith, but totally unfitted for life in an Indian community and, of course, not acceptable in any white one.”

These lower educational standards were further exacerbated by the lack of any formal education system before contact, and aboriginal parents had no understanding of modern educational disciplines. Today, deficiencies in instruction could be addressed with various remedial programs,

but that was not part of the method in the early twentieth century. The scarce resources devoted to aboriginal education meant that the adult population was ignored; a generational division was created within aboriginal groups, and education came to be seen as a destructive force. The entrenchment of such attitudes, along with the promotion of irrational ideology, continues to plague native communities today. It is reflected in the poor educational levels aboriginal children achieve in all subjects, especially science and math. As will be shown in chapter 8, the answer has been to lower standards, perpetuating a domino effect into university levels where “Aboriginal” programs increasingly appear.

The isolating effect of inferior services, along with the diminishing role of religion in Canadian society, set the stage for a transition in the missionaries' role from assimilationists to advocates for segregation. Initially the churches shared the government's interest in aboriginal modernization; the power of the churches in early Canadian history was based on the extraction of tithes from small family farms, so creating aboriginal agricultural communities would increase the wealth of a particular denomination. But as the country became more secularized and the industrial sector grew, the agricultural base of church power eroded. The churches became increasingly oriented toward maintaining aboriginal dependency rather than providing tribes with the necessary skills to integrate with Canadian society. To retain the loyalty of the native population, it became necessary to isolate aboriginal peoples from “corrupt” influences. Isolation ensured that the church, not public institutions, would receive funding for education and health services designated for aboriginal communities.

Their interest in maintaining aboriginal dependency led the churches to become the first lobbyists for land claims. The advocacy role of the missionaries has largely been ignored in current historical accounts, but it was instrumental in the formulation of the legal agenda that now dominates aboriginal policy. The church increased its power by obtaining land, compensation, and special rights for the native population. This led to religious sects encouraging political divisions within native communities in order to set up rival missions and gain control over Crown land and resources.

Control over the aboriginal population was solidified through co-optation of the aboriginal leadership. This was done through the church-controlled education process, where the most capable aboriginal students were groomed to become members of the clergy. Like the “trading captains” or “chiefs” who were given presents for bringing furs to particular forts, those who were loyal to the church were rewarded with paid leadership positions and the perks that came with them. These privileged positions bought their support for the churches' legal agenda since it assured them the lion's share of any compensation obtained.

The native leadership needed the missionaries' knowledge of European law to negotiate with the authorities, while aboriginal involvement gave legitimacy to the missionaries. Although this relationship was to achieve a much more sophisticated form with the involvement of consultants and lawyers, the missionaries' authoritative position in aboriginal communities at this time made them the most significant advisors to aboriginal groups. They wrote petitions and letters, were interpreters at meetings, and organized the conferences and excursions necessary to make effective demands on governments and international authorities. Furthermore, they had access to funds for various legal processes and “nation-to-nation” junkets. It is these resources that made it possible for missionaries and native leaders in British Columbia and Ontario to form a number of “aboriginal delegations” that presented demands for native legal rights to Britain between 1850 and 1930.

Although the missionaries were undoubtedly motivated to some extent by the poor treatment aboriginal peoples were receiving from the British and Canadian governments, the churches were,

and continue to be, dubious friends of aboriginal peoples. Their main interest has always been in maintaining the political power and resources of the church, not the concerns of the native population. As the churches have receded in importance, they have increased their advocacy for land claims and self-government initiatives. They now support the retention of aboriginal cultural practices rather than native indoctrination. The Catholic Church and various Protestant sects are even incorporating native spirituality into their teachings in the hopes of maintaining their hold over aboriginal peoples. And though the churches still raise money to support aboriginal causes, their advisory capacity has been taken over by two far more sophisticated, professions – consultants and lawyers. These two groups now dominate all aspects of aboriginal policy in Canada: the legacy of government neglect and the missionaries' exploitation of aboriginal vulnerability.

Preparing the silk thread: Let the consultations begin

Whether it was the fight against the Indian Act in the 1960s, land claims struggles in the 1970s, or attempts to entrench the “inherent right” to self-government in the 1980s, a common thread runs throughout: the large number of non-aboriginal consultants who are paid to construct legal demands and bureaucratic processes on behalf of aboriginal organizations. The presence of these non-aboriginal advisors was made possible through the provision of government funding to these groups. Ironically, under the auspices of helping aboriginal peoples to run their own affairs, non-aboriginal advisors are paid to fundraise, conduct research, run meetings, write speeches or “political manifestos,” lobby governments, and prepare court cases. These initiatives take place behind closed doors, while the native leadership is paraded before the public to make it seem as if these ideas originated within the aboriginal population.

Aboriginal leaders are often candid about their dependence on outside advisors, justifying it with claims that they are no different from other politicians. But the leadership of an oppressed people differs radically from representatives in mainstream politics, and many aboriginal leaders' identification with political opponents is significant of their impotence. Outside advisors are the most immediate example of the Aboriginal Industry in action – telling natives what to do. A scenario of native leaders turning up at meetings and conferences with their non-native handlers, who interpret and “translate” the proceedings, is commonplace. But the more disturbing element of this phenomenon is high-profile leaders whose objectives are personal gain through sinecures and attendance fees. These compradors front for the Aboriginal Industry by gaining public sympathy and government funding as representatives of an oppressed group.

The development of aboriginal organizations differs fundamentally from other political liberation movements because native groups receive their primary funding from government sources, not the people they supposedly represent. The leaders of labour unions, radical movements, and other oppositional groups are under the control of those who fund them, and breaches of trust and the taking of privileges are recognized as corruption. But because the native leadership receives funding from the very entity it pretends to contest, it has been easy for the Aboriginal Industry to shape aboriginal politics in its own interests.

This history has created organizations that are completely unconnected to any grassroots political activity. Concerns of the leadership have become intertwined with maintaining the salaries and prestige of privileged friends and relatives, not with the widespread political mobilization of “their people.” The marginalization of the native population actually justifies more funding to the leadership, giving these organizations an interest in maintaining aboriginal dependency. So while movements of blacks, women, and Quebec sovereigntists have historically sprung from the aspirations of the people in struggle, and their leadership emerged from within that group, aboriginal leaders hire non-aboriginal professionals so that they can achieve their primary goal:

getting more money from the government. The government, in turn, uses the dispersal of funds in its attempts to manage the discontent of the native population.

Government funding for aboriginal groups first became available in the 1940s with the postwar era's more progressive ideas about human rights. The deplorable circumstances in aboriginal communities were beginning to be publicized, and pressure was brought to bear on the government to “do something” about the problem. Originally the new government approach focused on reforming the Indian Act, the piece of federal legislation that had designated aboriginal peoples as “wards of the state” since 1876. The government initially attempted to revise the act, now deemed to be discriminatory and paternalistic, so that it would be more conducive to aboriginal peoples entering into modern society. However, as noted before, the leadership was politically attached to this legal fiction, historically resisting “enfranchisement” (becoming citizens like other Canadians) because it would mean giving up the privileges associated with their “special relationship” to the Crown. This tension was to weigh on all government efforts to develop aboriginal communities.

Recognizing that assimilation would continue to be resisted, the government began to look at other self-determination movements around the world and to consider the possibility of giving aboriginal communities the “organizational tools” to solve their own problems. Money began to flow into aboriginal organizations to fund their participation in governmental consultations, and a number of “community organizing” programs were initiated whereby idealistic university students and graduates, armed with new theories of social change, were dispersed into aboriginal communities to aid their political development.

While the government intended that the workers would be a temporary presence, many community organizers began to oppose the government, becoming fixtures in aboriginal politics long after these programs had been abandoned. Because of their populist visions of empowerment, many organizers identified with native issues and began to aid the aboriginal leadership in their resistance to governmental authority. Like the missionaries before them, community workers found themselves pulled in two directions. Propelled by their ideological agenda and a rejection of what they perceived to be government paternalism, they began siding with the band councils and chiefs in opposition to the government that employed them.

In an attempt to overcome the resulting conflicts between its integrationist agenda and the political demands of community workers, the Canadian government began to fund aboriginal organizations to run these programs themselves. By 1971, five provincial Indian organizations – the Indian Association of Alberta, the Federation of Saskatchewan Indians, the Manitoba Indian Brotherhood, the Union of Nova Scotia Indians, and the Union of New Brunswick Indians – were receiving service contracts from the Department of Indian Affairs to hire community organizers of their own. The many educated nonaboriginals who continued to live in native communities after finishing their stint as government employees were (along with the leadership) the main beneficiaries of this funding. They had the writing and research skills to lobby the government and became a major force in aboriginal politics.

Besides being influenced by the interests of non-aboriginal community organizers, aboriginal policy has been shaped by consultants hired to study aboriginal problems. At the same time as the community organization efforts were underway, the government embarked on its most ambitious study of aboriginal peoples, known as the Hawthorn Report. In 1963 the federal government appointed anthropologist Harry Hawthorn to investigate the conditions of native communities. The report compiled the work of fifty-two academics, mostly anthropologists, who studied specific reserves in a consultancy capacity.

Hawthorn's survey was a milestone in the development of modern aboriginal policy because it was the first government-funded study to alter the goal of integration by advocating the idea of “citizens plus” for aboriginals. This concept assumed that “in addition to the normal rights and duties of citizenship, Indians possess certain additional rights as charter members of the Canadian community.” To support this idea, the report recommended that the government provide additional funds to aboriginal political organizations to encourage their growth. It also maintained that an aboriginal person should not be forced to “acquire those values of the majority society he does not hold or wish to acquire.”

This vision, however, came into direct conflict with the liberal ideas of Prime Minister Pierre Elliott Trudeau. Trudeau's fight against Quebec sovereignty had led him to be hostile toward the political claims of cultural groups and to reject the recommendations put forward by the Hawthorn Report. He countered “citizens plus” with the White Paper on Indian Policy in 1969, which proposed the phasing out of special status for aboriginal peoples. It recommended eliminating the Indian Act, privatizing reserves, and transferring the responsibility for aboriginal peoples to the provinces, in an attempt to provide natives with the same opportunities offered to other Canadian citizens. The White Paper also maintained that it was important to help the poorest aboriginal communities first rather than giving blanket privileges on the basis of ancestry – a proposal that was vehemently rejected by the native elite.

Trudeau's White Paper was a turning point in Canadian aboriginal policy. The resistance that it generated caused the pendulum to swing in favour of Hawthorn's recommendations. In 1970 the Indian Association of Alberta even produced a paper entitled “Citizens Plus,” which proposed the “retention of status, full preservation of culture, protection of federal jurisdiction, equal economic help to all reserves (rather than the poorest first), the recognition of the spirit and intent of the treaties, and ownership of land, communally and in trust, by Indian people.” It also argued that the Indian Act should remain in law, but that it should facilitate aboriginal control over their affairs.

The growing opposition forced the Trudeau government to withdraw its proposals, but two developments in its aftermath would change aboriginal policy dramatically over the next thirty years. First, the funding that was meant to be used to implement the White Paper was instead used by aboriginal groups to pursue their legal struggles against the government. These, according to Jean Chrétien, were the “glory days” of the Department of Indian and Northern Affairs. Secondly, the federal government decided that it would entertain land claims and in 1974 set up an Office of Native Claims. These two developments created both the financial and organizational support for the primary beneficiaries of current aboriginal policies – lawyers.

The weaving that never ends – lawyers never settle

Anyone who has had experience with the courts – whether an accident claim, custody battle, or divorce settlement – will be familiar with the truism “lawyers never settle.” There are endless precedents to be researched, notices and briefs to be prepared, pre-trial hearings, consultations with other lawyers, days of complex and inaccessible arguments, and the inevitable appeals. Although such a process takes up a great deal of time and money, most people grit their teeth and bear it because they hope that the benefits from proceeding with their case will outweigh the costs. But while rewards for clients are often elusive, lawyers always benefit because they are making money off the process, not the results. This gives them a vested interest in drawing out acrimonious proceedings rather than finding a quick, uncomplicated solution to a dispute. And instead of trying to reconcile the conflict, their objective is to obtain “compensation” for its victims. No one expects that the legal process will address the cause of the conflict; the resulting bitterness may even increase its intensity.

The role that they play in an adversarial legal system has led lawyers to be referred to as advocates. Paid to argue a particular point of view regardless of their own conviction, lawyers have earned a reputation as unprincipled hucksters. Michael Mandel, in his scathing critique of the use of the courts to achieve social justice, argues that lawyers are “a variation on the mercenary soldier or the professional mourner” since they take on causes for monetary gain. The arguments of lawyers, therefore, should not be confused with those of philosophers or the leaders of political movements. A lawyer's goal is not to determine the truth or achieve a particular vision of society. Lawyers are paid to obtain a favourable judgment for their client, regardless of ethical viability or social cost.

This makes the involvement of lawyers in aboriginal affairs very different from the initial advocacy role played by missionaries and community organizers who were, at least in the beginning, sympathetic to the plight of aboriginal peoples. For many lawyers, aboriginal marginalization and dependent legal status is a lucrative opportunity. This has made them push much harder than other advocates to expand aboriginal rights on behalf of native tribes. And because the legal profession needs assurance that fees will be paid, compensation and control over government funds have now become the major demands in all negotiation processes. Questions about how increased funding with less accountability will help aboriginal peoples are completely absent from this legal agenda. In addition, scrutiny of billing procedures by government is non-existent because it fears criticism for restricting aboriginal legal rights.

The focus on compensation leads to an endless process in which any real action to solve aboriginal problems is impossible. It takes decades to negotiate land claims and self-government agreements, and even when they are “settled,” more lawsuits and negotiations invariably follow to clarify the various rights and responsibilities. An antagonistic process has been created between government lawyers seeking a narrow interpretation of rights so as to limit compensation, and aboriginal organizations' lawyers seeking a broad interpretation to increase it. As a result, billions of dollars have been diverted from the services sorely needed by native people.

Although the involvement of lawyers has been most visible since the government began dispersing large amounts of money into aboriginal communities in the 1970s, the profession has been on the scene since aboriginals were given a special designation in the developing British/ Canadian legal system. The most significant initiative for the growth of the Aboriginal Industry was the signing of treaties, since this provided lawyers with a contract that they could use to take the government to court. Their legal fees had originally been obtained from band funds or by taking cases on a contingency basis, enabling a burgeoning industry to form in the late nineteenth century. Between the 1890s and 1920s, nine separate legal actions were being pursued by lawyers hired by aboriginal tribes. These cases involved a number of legal firms making demands for compensation from the Canadian and U.S. governments. One lawyer in particular, A.G. Chisholm, appeared as counsel in five of these cases, and he spent fifty years as an advocate for various tribes in Ontario. A particularly lucrative claim over which Chisholm presided, the Six Nations' dispute concerning the inappropriate investment of band funds in a navigation company, even outlived him since it involved fifty-six years of legal wrangling!

Another lawyer who acted for aboriginal leaders in the case of the British Columbia land question became a missionary, showing the linkages that can develop between two elements of the Aboriginal Industry. Arthur O'Meara's legal background enabled him to push legal initiatives in British Columbia further than ever before. For some time missionaries had recognized that British Columbia was a special case because, unlike other areas in Canada, treaties had not been signed when lands were settled. O'Meara's training enabled him to link this circumstance to documents in British law that stipulated that treaties must be negotiated before the Crown could assert ownership of the land. On the basis of this legal argument O'Meara attempted to make the case that aboriginal

groups must be compensated with money, parcels of land, and privileges before Crown ownership could be established over the territories originally used by the native population.

O'Meara's involvement would stretch over a period of twenty years. Numerous lobbying forays to provincial, federal, and British authorities were made, including the preparation of a petition to the Judicial Committee of the Privy Council in London. Here for the first time land claims in British Columbia were publicly linked to the promises made by the Royal Proclamation of 1763. Although these initiatives were largely financed by O'Meara's formation of the Society of Friends, an organization that used the aboriginal land question as a cause to extract donations from parishioners, approximately $100,000 was obtained from band funds in the initial pursuit of the land question.

Originally the Canadian government was ambivalent toward the involvement of lawyers in aboriginal affairs. When lawsuits were being undertaken against the U.S. government on behalf of aboriginals living in Canada (usually because of the non-fulfillment of a treaty), the Canadian government tended to be amiable toward lawyers working for aboriginal groups and even offered financial or research assistance, since awards of compensation would not be the Crown's responsibility. Claims directed against the Crown, on the other hand, were generally met with opposition, but in a few instances the federal government agreed to fund test cases or commissions so that legal questions could be settled. As claims stretched on for decades, however, the government became more and more sceptical of the ability of these lawsuits and bureaucratic processes to settle anything. Common ground between the government and aboriginal groups was almost impossible to find, since lawyers working for aboriginal groups had an interest in keeping the door open for further litigation. The large amounts of legal fees being generated by lawyers working for aboriginal groups led Charles Stewart, the superintendent general of Indian Affairs, to comment in 1927 that “for years the British Columbia Indians have been paying certain persons for their services in connection with claims which it had been represented could be enforced. I think those Indians have claims – at all events for consideration. But from one end of Canada to the other it is becoming a common practice to represent to the Indians that they have certain rights, and those making the representations usually manage to get the Indians to enter into a contract providing substantial remuneration for their advisers.We think it is to the advantage of the Indians that these contracts be scrutinized by the Department in order to protect them from exploitation.” The government responded by amending the Indian Act so that money could no longer be raised by lawyers to pursue claims without its approval. This effectively stopped legal initiatives until 1951, when government funding to aboriginal organizations was reinstated.

Since the defeat of the White Paper in 1969, the funding of aboriginal organizations has been the government's way of dealing with native grievances. Beginning with the formation of the Office of Native Claims in 1974, the government has provided native groups with various grants and loans to hire experts to research and present their grievances. Large sums of money have been given directly to aboriginal organizations to participate in the Indian Act and constitutional development consultations. The primary beneficiaries of this money are, once again, lawyers, since only they have the capacity to provide the legal arguments for the compensation and privileges demanded by aboriginal groups. Demands for exclusive benefits on the basis of ancestry would never be accepted if they were made politically, so lawyers must be hired to find a legal rationale for their assertion. Legal rights can then be used as trump cards to override the inevitable political opposition that arises when one group is granted privileges at the expense of another.

In the quest to obtain compensation for past wrongs through the entrenchment of special rights, lawyers have employed two strategies. The first is stealth, where they push to have seemingly innocuous rights acknowledged, and then use these minor legal gains as a basis for cases where

much more significant entitlements are demanded. The second is evasiveness. This approach attempts to have a particular, but not clearly defined, principle adopted in Canadian law. Then years are spent attempting to reach an agreement on a definition, usually without success. Both strategies are attractive to the Aboriginal Industry because they avoid the actual implications of legislation becoming known at the time it is adopted, thus making public acceptance more feasible. And when the implications do become known (if they ever get past the legal processes), it will be too late for the public to do anything about it. Often the government initiating the process is no longer in office, and the principle has become entangled with other legal obligations. As a result, various initiatives can be justified by a legal framework already in place, even if newly defined aboriginal rights are contested politically at a later date.

But even though the majority of natives undoubtedly resent the huge expense of legal fees (as is evidenced by periodic demands to purge “white advisors”), these legal processes are perceived as a necessary evil to receive compensation. Lawyers have generated unrealistically high expectations about the benefits from various agreements, implying that aboriginal peoples will be able to live happily ever after on government grants and royalties. And since the funding for these negotiations is received either directly from the government or as a deduction from land claims settlements yet to be finalized, most aboriginal peoples are not even aware of the amounts that are involved. They simply wait to benefit from these settlements just as people dream about winning the lottery. But as with lotteries, only a very few will share in these elusive winnings. The rest will spend their lives hoping, becoming increasingly resentful as the glorified welfare never comes.

Despite the fact that some aboriginal leaders have recognized that “lawyers are like cockroaches who feed off the misery of native people,” and that legal fees are “misery money,” most encourage the hiring of legal professionals. Lawyers, therefore, like all other Aboriginal Industry advocates, have formed a symbiotic relationship with aboriginal leaders. Aboriginal leaders hire lawyers because an understanding of legalese is lacking in aboriginal culture (and in the Canadian population generally), while lawyers require the presence of aboriginal leaders to justify their involvement. The parasitical relationship between aboriginal deprivation and lawyers would be exposed, without the native leadership at their side. And because aboriginal leaders regurgitate arguments formulated by their lawyers, it appears that these demands are being developed by aboriginal peoples themselves.

This symbiotic relationship has been taken one step further in recent years by incorporating the most educated segment of the native population into the legal profession. Much like the missionaries' attempts to bring aboriginal peoples into leadership positions to maintain aboriginal loyalty to the church, the legal profession has made a concerted effort in the last thirty years to increase the numbers of aboriginal lawyers in Canada. Many law schools now offer “native law” programs, where standards are lowered so that aboriginal students, denied quality preparatory education, can pass. They then go on to work for aboriginal organizations or law firms that specialize in “native issues.”

While the financial benefits obviously garner support for these initiatives within the aboriginal population, it is harder to understand the government's encouragement of a process that costs so much, yet achieves so little. Governments provide funding for these legal processes; they also have assumed that aboriginal rights exist before the judgments are reached by the courts. This seemingly irrational behaviour can be explained by the fact that the courts have become a useful tool in managing aboriginal opposition. As Michael Mandel points out, “as long as you could get the aboriginal peoples to stay in court or at the constitutional bargaining table nothing radical could possibly happen; and when the long drawn-out legal processes had exhausted themselves you could generally count on being back where you started, with those who had dared to challenge the status

quo a lot worse for wear." By turning aboriginal policy into a legal question, the government disguises its impotence in dealing with aboriginal problems. And since these legal processes are likely to stretch far into the future, the politicians encouraging them will never have to take responsibility for the inevitable policy failure.

Attempts to diffuse aboriginal discontent through legal action can be seen in the governmental support of an increasingly activist judiciary in the area of aboriginal issues. This activism first appeared in the North where the clash between aboriginal custom and modern justice was the most pronounced. Since primitive practices like blood feuds and infanticide often brought aboriginals into conflict with the Canadian legal system, the federal government appointed two "culturally sensitive" justices – first J.H. Sissons and then William G. Morrow – as a "solution" to the problem. Since both were in favour of using the bench for political ends, including the preservation of aboriginal culture, they were not "averse to bending the law a bit here and there to shield Canada's aboriginals from the law's harshest dictates." This view was especially prevalent in Morrow's case, since he had been a lawyer defending aboriginal peoples in the North before being appointed as a judge. In his opinion, "Northern ways must be taken into account, and respected, however unpalatable they might sometimes be to Southerners."

The infiltration of advocacy into the judiciary is now coming in through the back door in the area of legal scholarship. The University 38 Origins of British Columbia's Alan Cairns explains how legal scholars like Kent McNeil, Bruce Ryder, Patrick Macklem, and Brian Slattery have influenced court rulings on aboriginal rights, especially groundbreaking Supreme Court decisions. According to Cairns, these legal scholars "write not as judges or mediators reconciling opposing parties, but as advocates." In their attempts to "maximize the autonomy of First Nations" by "devising innovative constitutional doctrine," these scholars "are more akin to an intellectual social movement than participants in a broad-ranging debate with checks and balances."

In order to gain public acceptance for these initiatives, however, advocates cannot simply rely on obscure legal documents. They also must provide evidence that aboriginal land claims and self-government are viable in the modern context. This feat has been achieved through the co-opting of other supposedly scholarly disciplines that study aboriginal groups. By conducting research that is funded by native organizations, and by being concerned about how their findings will impact legal claims for aboriginal rights, a number of social scientists have been seriously compromised by advocacy goals. The discipline that has been most affected is anthropology, because favourable court decisions have required revisionism in one of the discipline's main areas of study: aboriginal culture.

Admiring invisible cloth: the encouragement of atavism

During debates over the health effects of smoking, the tobacco lobby commissioned scientists who presented findings denying the link between cigarettes and lung cancer. This research was immediately criticized for the obvious reason that it was conducted for the purpose of advocacy, not to ascertain the truth. Because tobacco companies support only those research projects consistent with their agenda, scientific conclusions become distorted.

The relationship between interest and tainted scientific research, however, is ignored in studies of aboriginal peoples and in the evaluation of aboriginal programs. Many of the researchers involved in such studies have ties to aboriginal organizations, often receiving funding directly from them. As a result, there is a complete distortion of the understanding of aboriginal–non-aboriginal relations and the causes of aboriginal problems. This "research" has been the primary justification for the increasingly legal character of aboriginal policy.

The most significant perpetrator of distorted research is the discipline of anthropology. Historically, the work of anthropologists has necessitated a close relationship with aboriginal groups. This circumstance often turned into a quid pro quo; in exchange for information about their subjects, anthropologists advised aboriginal peoples in their disputes with the government. Often this advice progressed to the next stage: anthropologists working as lobbyists for aboriginal organizations. In the early land claims struggles of British Columbia, for example, James Teit, Franz Boas's assistant, became involved with aboriginal groups through his fieldwork. According to Teit, “the Inds. almost everywhere would bring up questions of their grievances concerning their title, reserves, hunting and fishing rights, policies of Agents and missionaries, dances, potlatches, education, etc. etc. and although I had nothing to do with these matters they invariably wanted to discuss them with me or get me to help them, and to please them and thus to better facilitate my research work I had to listen and give them some advice or information.”

Teit became so well known to the aboriginal groups in British Columbia that he was convinced in 1908 to become a member of the Interior Tribes of British Columbia. Until his death in 1922 he was a central figure in the aboriginal movement in the province, using “his translation skills and his anthropological expertise to assist in a writing campaign aimed at land reparations and other concerns.”

Many anthropologists have followed in Teit's footsteps. One of the most significant was Wilson Duff, a curator of anthropology at the British Columbia Provincial Museum (1950-1965) and then a professor of anthropology at the University of British Columbia until his death in 1976. Known as a person who “delved beneath the surface appearance of things to search for the less obvious deeper meanings,” Duff played an important role in the initiation of land claims in British Columbia. He was sought out by the lawyer Thomas Berger in 1963 because his views on “aboriginal title” could be used to support the court cases being pursued on behalf of aboriginals.

Duff's research, however, cannot be considered objective because of his close association with aboriginal groups. As is shown by a book written in hismemory, *The World Is as Sharp as a Knife*, his career was as much about advocacy as anthropology. We are told that his death “deprived the native peoples of the Pacific Northwest of one of their true and most actively helpful non-Indian friends” and that he promoted the idea that anthropologists should, if possible, try to help the peoples they study. But the help that anthropologists are supposed to provide is always seen in terms of supporting land claims and self-government; this support is demanded regardless of whether or not these initiatives address the objective needs of native peoples.

It is now expected that anthropologists will advocate on behalf of marginalized groups, not merely study them – a development that has been referred to as “decolonizing the discipline.” Such political involvement in aboriginal organizations has disastrous implications for anthropological theory and the social sciences more generally. There is a fine line between assistance and advocacy, and anthropologists who are paid as consultants for aboriginal groups have obliterated this marker. Unlike Teit, who claimed to have been unable to avoid his involvement in aboriginal politics, many anthropologists today eagerly offer their services to aboriginal organizations who pay for “research” that will be used to support their legal demands. This puts anthropologists in a serious conflict of interest, not unlike the scientists for tobacco companies who receive funds to deny the health hazards of tobacco.

Some anthropologists have even admitted to omitting certain details to buttress these legal demands. Noel Dyck, an associate professor of anthropology at Simon Fraser University, acknowledges in his article “Telling It Like It Is: Some Dilemmas of Fourth World Ethnography and Advocacy” that most anthropologists do not speak of the serious problems existing in

aboriginal communities. He points out that “appalling and, arguably, worsening social conditions” as well as the “misuse of band funds and other resources” are common problems that go unmentioned in anthropological accounts of native life. These circumstances have evidently prompted Dyck and his colleagues to engage in a great deal of soul searching, because “in not exploring or writing about matters we know to be important ... anthropologists give short shrift to awkward but pressing social and political problems at the reserve or settlement level. This is a situation that most intellectuals would, in principle, be unwilling to tolerate in any other context. Why, then, is it accepted in this one?”

In an attempt to answer this question, Dyck argues that “moral and ethical constraints” are at the roots of the discipline's failings, since anthropologists are reluctant to compromise the political agenda of those whom they study. There is an underlying expectation that “anthropologists should identify personally with the people they study and that they ought to protect their ‘subjects' interests.” And because anthropologists are “cognizant of the vulnerability of the political gains registered by Native peoples in Canada during the past two decades,” they avoid discussing matters that would reduce public support for the demands that aboriginal groups are making.

Dyck's concern is that self-censorship is preventing anthropologists from offering a “sympathetic” reading of these problems, thus leaving the discussion to “those with less tender sensibilities” – presumably, the public. He is also troubled about the integrity of a discipline that chooses to censor certain facts for political reasons. His view is that “however meritorious or convenient the motives which inspire anthropological silence on these issues, we run the risk of producing diminished, analytically atrophied, and thus misleading ethnography and advocacy which in the end will be of little use to Native communities, the Canadian public, or the discipline.”

But how can the goal of advocacy be reconciled with social science? Doesn't advocacy require the exact opposite – constructing arguments that support a particular viewpoint rather than objectively analyzing and discarding ideas that are inconsistent with the evidence? The fact that anthropologists like Dyck have systematically neglected discussion of certain features of aboriginal politics underlines this contradiction. Their overriding concern with supporting land claims and self -government means that evidence that would challenge these initiatives is suppressed.

Dyck does not ask or explain why anthropologists have come to see themselves as advocates rather than scientists. While this disciplinary development is related to the postmodern rejection of science that is discussed in the next chapter, it is also rooted in the increasingly legal character of the solutions being proposed for aboriginal peoples. As we explained earlier, advocacy is generally associated with the legal profession because lawyers are expected to select evidence that best supports the case of their client. In legal processes all pieces of evidence are deemed to be “equally contingent,” and lawyers on each side have “every incentive to overstate the weakness of the other's case.” This is very different from the scientific enterprise, where “facts are established by incremental adjustments and carefully bounded negotiations among communities who share a commitment to closure” because of their common interest in determining an accurate understanding of the world.

This difference between legal and scientific processes becomes very problematic for anthropology when academic disagreements within the discipline are decided in the courtroom. Anthropologist James Clifton described how he experienced this problem personally during his stint as an “expert witness” on behalf of a number of American aboriginal groups:

In these trials by history (i.e., law office history), watching the highly skilled, forceful attorneys serving the Indian cause at work was a thoroughly eye-opening experience. From them I learned much about the selective use and suppression of historical and anthropological evidence,

systematic distortion of facts in support of a preconceived "theory of the case," the dexterous manipulation of judicial and public sentiments, perfectly astounding hyperbole, and the most outrageous fabrications. Watching some "experts" approach the witness stand with hats in hand, and others demur when caustically coached about how and what they should testify to, balking myself when pressed to distort or suppress interpretations and sources, I concluded that in Indian treaty rights cases the standards of evidence and logic are not what they are elsewhere, especially so in scholarly work ... the paramount aim, at last I had explained to me by an unusually impetuous counsel, was not veracity but to win at all costs. These particular attorneys were interested in neither truth nor social consequences, except those of obtaining for their clients the largest short-term benefits attainable – money and power.

Lawyers working for aboriginal organizations, therefore, use academic work only if it supports their demands. At the same time, government attempts to pacify aboriginal groups inhibit Crown lawyers from presenting scientific evidence in opposition. This means that although at any given time a number of different theories may be circulating about aboriginal peoples' position in modern society, the increasing amount of funding being made available for aboriginal rights claims seriously limits the kind of research deemed to be acceptable. And with so much money at stake, aboriginal peoples themselves become intellectually corrupted, refusing to cooperate with any researcher who attempts to "tell it like it is" if that version undermines their own interest.

An increasing preoccupation with the legal gains being made by aboriginal groups has also led to the use of methodologies that result in distorted or subjectively interpreted data. The most flagrant of these is the use of "oral histories" in documenting the features of aboriginal cultures in the past. Oral histories must be regarded with extreme scepticism, not only because memory is often faulty but also because, as McGill anthropologist Bruce Trigger has pointed out, there is a "tendency for lore to be refashioned as circumstances change." The archaeologist Mark Whittow has noted that locals visiting a twelfth century archaeological site in Jordan had "vivid and contradictory accounts of their father or grandfather living in the house the team was excavating," even though the site had not been occupied for hundreds of years. He goes on to point out that "anthropologists have demonstrated how fluid and adaptable oral history can be" and that "the oral history of a tribe was primarily concerned to explain the present" and "would adapt and shape its view of the past, creating stories with supporting details to explain and justify present circumstances." According to Whittow, even during continuous settlement of an area, accurate memory lasts no more two generations and "in times of ... social upheaval change is quicker and more profound."

The "evidence" from "oral histories" is even more problematic when economic interests are involved. Oral histories have been known to change when a claim is necessary to obtain access to valuable resources. For example, the "memories" of elders from the Yellowknives Dene First Nation in the Northwest Territories about the "traditional use" of their territory mysteriously altered when diamonds were discovered outside the area that they had claimed. Since aboriginal peoples did not have writing before contact, it becomes easy for aboriginal organizations to change "oral histories" in support of their claims for compensation and privileges. A further complication is that many of the "oral historians" are unilingual native speakers and require a translator who is in a position to freely interpret the message.

In order to access the substantial funds associated with land claims and self-government, oral testimonies masquerading as history have been used to establish that conceptions of ownership and sovereignty, and their associated "institutions," existed before contact with Europeans. One prominent example of this was the land claim of the Gitksan Wet'suwet'en in British Columbia. Since the recognition of "aboriginal title" depended upon establishing that aboriginal peoples had forms of ownership and governance before contact, the testimony of anthropologists became

paramount. In this case, the “expertise” of anthropologists working for aboriginal organizations supported claims on behalf of the tribal leadership. These lobbyists, in their association with Aboriginal Industry lawyers, also were attempting to elevate oral histories from the status of hearsay, inadmissible in a court of law, to a form of evidence 44 Origins held on equal footing with written documents. This giant step backward for the Canadian legal system was supported by labelling requirements for concrete historical documentation as “ethnocentric,” “colonialist,” and “insensitive” to aboriginal cultural traditions.

With the appeal of the Gitksan Wet'suwet'en case, the views of anthropological advocates were to become much more dominant in Canadian aboriginal policy. The original ruling, which denied the aboriginal claim, was eventually reversed in a unanimous decision by the Supreme Court of Canada on 8 December 1997. Justice Antonio Lamer wrote the decision, with his fellow justices on the highest court in the land concurring. He stated that “notwithstanding the challenges created by the use of oral histories as proof of historical facts, the laws of evidence must be adapted in order that this type of evidence can be accommodated and placed on an equal footing with the types of historical evidence that courts are familiar with, which largely consists of historical documents.”

“Placing” these “histories” on “equal footing” with other types of evidence, however, means not subjecting them to the same tests used in evaluating other forms of evidence. As Alexander von Gernet, an anthropologist who has analyzed the use of oral histories in court cases, has noted, such a view “will almost certainly be regarded by some not as merely as an effort to level the field or lower the standard, but as an outright abandonment of the rigorous scrutiny that is essential to any fact-finding process. When taken to its logical conclusion this would seem unworkable in conflict resolution and, as others have noted, it would open the way for a radical reinvention of the law itself.”65 The effects of the Supreme Court's use of this “evidence” will be felt for decades to come. It is already resulting in challenges to the Gitksan Wet'suwet'en decision. Because the memories of elders have no corroborating evidence, they are open to challenge from competing “oral histories.” This has already sparked new lawsuits from other aboriginal groups who claim that their historical memories, not those of the Gitksan Wet'suwet'en elders, are the ones that are actually true.

Besides the havoc that anthropological advocacy will bring to the Canadian legal system, it is also undermining any rational basis for current aboriginal policy. As we have seen with Noel Dyck's comments, advocates working for aboriginal organizations avoid discussing the dysfunction and corruption in aboriginal communities so that the public will continue to support existing legal initiatives. More importantly, specious research prevents the fundamental cause of aboriginal problems – the evolutionary gap between aboriginal culture and the modern world – from being understood.

Parading the emperor: the “eleventh commandment”

A highly significant aspect of aboriginal policy is the extent to which open and honest debate is constrained. This circumstance is related to what James Clifton notes is “one of the most stringently observed canons governing the behavior of those who work among Indians” –referred to behind closed doors as the “Eleventh Commandment.” This “commandment,” according to Clifton, is “Thou Shall Not Say No to an Indian.” Anyone who does not abide by its associated “norms and taboos of deferential conduct” is immediately labelled as an enemy of aboriginal peoples. In Canada, “racism,” “colonialism,” and “insensitivity” are the usual accusations that constrain debate, but Clifton provides a multipage appendix of the verbal sanctions that have been deployed over the years.

The lack of critical analysis inhibits the understanding that the prevailing view of aboriginal peoples is actually racist. This view maintains that because aboriginal peoples' culture is tied to their ancestry or "race" (an idea based on the belief that the native population was put in North America by "the Creator" instead of evolving with other human beings out of an ape-like ancestor in Africa), they must retain all their traditions and remain separated from modern society. This perspective forms the basis of the "two row wampum" approach to aboriginal/ non-aboriginal relations, or what Alan Cairns has referred to as "parallelism." The most racially segregationist account of this vision can be found in H. Millar's "Record of the Two Row Wampum Belt," an "oral history" provided approvingly as the opening quotation in an article by the anthropologist Marc G. Stevenson:

The Whiteman said, "... I confirm what you have said ... Now it is understood that we shall never interfere with one another's beliefs or laws for generations to come." The Onkwehonweh replied: "I have a canoe and you have a vessel with sails and this is what we shall do: I will put in my canoe my belief and laws; in your vessel you will put your belief and laws; all of my people in my canoe; your people in your vessel. We shall put these boats in the water and they shall always be parallel. As long as there is Mother Earth, this will be everlasting. The Whiteman said, "What will happen if any of your people may someday want to have one foot in each of the boats we have placed parallel?" The Onkwehonweh replied "If this so happens that my people wish to have their feet in each of the two boats, there will be a high wind and the boats will separate and the person that has his feet in each of the boats shall fall between the boats; and there is not a living soul who will be able to bring him back to the right way given by the Creator, but only one: The Creator Himself."

Due to a generally sympathetic attitude toward the plight of aboriginal peoples, Canadians lean to the romanticization of native culture as a way of righting past wrongs and thus have not challenged these dubious (and racist) assertions. But romanticism does not help the romanticized; it isolates them from rational thought, giving an unrealistic assessment of their abilities and place in the world. As Roger Sandall has pointed out in the Australian context, aboriginal peoples have become "the deluded victims of the extravagances of their admirers." Condescending attitudes have doubly victimized aboriginal people –first by a government that justifies non-intervention, and secondly by consultants and aboriginal leaders who increase their wealth by maintaining the dependency that comes with the retention of aboriginal peoples' undeveloped cultural characteristics.

Aside from keeping aboriginal peoples in a time-warp of isolation and despair, the romanticization of aboriginal culture has harmful consequences for non-natives as well. The creation of a separate legal category for aboriginal peoples under the guise of "preserving their culture" has led to increasing social conflict. Aboriginal peoples, because of their "status," receive privileges and immunities to which others with similar circumstances are not entitled. On the basis of the historical injustice committed by one group's ancestors, economically disadvantaged aboriginals and non-aboriginals have come to view each other as enemies instead of people with common political interests.

What must be understood is that it is not the Aboriginal Industry's interminable quest for compensation but a government strategy for aboriginal cultural development that is currently needed. Aboriginal problems stem from the fact that they are poorly educated and culturally deprived, not because they lack money. Many aboriginal leaders who make hundreds of thousands of dollars each year suffer from the same social dysfunction as those who are impoverished. Even when the most marginalized hit the land claims jackpot (as is the case with oil rich reserves), the problems continue. As occurs with many lottery winners, the money is spent on fancy trucks, gambling, and drugs, not on services that will help aboriginal people to become "self-determining."

This circumstance was admitted to in a CBC documentary by Tony Merchant, the owner of one of the largest law firms representing aboriginal groups in teh residential school dispute.

Now that the cry the “emperor has no clothes” has been sounded, we can examine the developmental gap between that the racism accusation taboo is hiding. The historical relationship between aboriginal peoples and Europeans is complicated and has not been understood so far because obfuscation serves the interest of the Aboriginal Industry. The task of this book is to explain the nature of this relationship, so that real solutions, not compensation for continuing marginalization, can be found. As members of the same species with common needs and aspirations, only through eliminating racially based theories of human development can we move toward substantive equality for the whole of humanity. Then the process of allowing aboriginal peoples to become equal participants, rather than justifying their exclusion and cultural deprivation, can begin.

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