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Commentary

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The Political Economy of Tribal Citizenship in the US: Lessons for Canadian First Nations?

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I recently had the honor of addressing an Assembly of First Nations (AFN) gathering hosted by the Enoch Cree Nation, near Edmonton, Alberta. The National Forum on First Nation Citizenship was held November 15–16, 2011 at the River Cree Resort. It brought together First Nations community members from around Canada, including governmental leaders from First Nations and regional organizations such as the Assembly of Manitoba Chiefs, youth, and elders. I was asked to share US experiences of tribal citizenship with the gathering. I have little direct or applied knowledge of the “government-to-government relationship”—as we would call it in the US—between First Nations and the federal government in Canada. I also have little familiarity with the Indian Act and how it has conditioned Aboriginal governance possibilities and identity in the twentieth and early twenty-first centuries. But, I have spent my entire life as an “enrolled” member (we often like to say “citizen”) in one or another federally recognized US tribe (we often like to say “Native nation”). I’ve spent significant episodes in my life as both a reservation-based and urban Indian. I have spent nearly twenty years working for tribal governments, federal agencies, national Native American organizations, in private consulting, and now as an academic on issues that intersect the environment, science, technology, and Native American cultures. I also pay attention to how Native American citizenship and identities are conditioned by the aforementioned political economic circumstances.



Fig. 1. MC MECHANIC—HAND FIXING HAND—Homage to MC Escher.
(based on M.C. Escher’s 1948 print, “Hands Drawing Hands”).
Used with permission by Shane Willis (<http://www.radactphoto.com/>)

In other words, I look at how policy and material realities shape and are shaped in return by concepts of “tribe,” “race,” and “nation.” These realities do not completely precede one another, but like the two robotic hands in the image above, policy, economic realities, and Aboriginal peoples’ identities—both in the US and Canada—are mutually constructive. That is, federal policy, resource allocations, and concepts of race and nation loop—always building and tweaking one another simultaneously—although not as evenly as the image of the hands indicates. Colonization, of course, is power imbalance.

With this background, I spent two days listening to First Nation voices at the AFN forum that spoke to the issue of First Nations’ citizenship in Canada after the Indian Act. I alternately nodded my head as issues resonated deeply with my own experience, and found myself completely confused by the terminology flying around the room. During the opening panel, I heard AFN Regional Chief for British Columbia, Jody Wilson-Raybould, note that she is “6-1,” but missed the broader context of her comment. To my US American ears, I heard “6 (feet) 1 (inch).” I thought, “She doesn’t look that tall!” Later at lunch, the only non-Canadian at the table, I listened to a conversation in which every other term was “6-1,” “6-2,” and “6-1(c),” as individuals discussed status categories under the Indian Act. I figured out that Wilson-Raybould was not commenting on her height, but rather her status under the Indian Act. I came home from Canada and read about the Act and came to understand that 6-1 represents a “full Status Indian”; 6-2 represents a “half Status” person and is a category ascribed to one born to a 6-1 and a non-Status person. However, a person born to two 6-2s reverts to a 6-1, with full Status, as does a child born to a 6-2 and a 6-1; a person born to a 6-2 and a non-Status person “loses” their status altogether. Finally, a 6-1(c) is a woman who previously lost her status due to marrying a non-Status man (even though Status men did not lose their status by marrying non-Status women), and then had that status restored. Even this small bit of information makes my head spin. At the very least, I now get the basic contours of the various levels of Indian Status. But, that afternoon, I felt like I was in the middle of that old comedy sketch, “Who’s on First?”, and I was the clueless one.

US Tribal Citizenship and Blood Rules

“Tribal” or “Native Nation” citizenship, as we call it in the US, is equally confusing; perhaps even more so than in Canada. We did not have a monolithic piece of legislation historically, like the Indian Act. We have, in some ways, ideological equivalents to the Indian Act, in which nearly everyone assumes that “blood” matters very much, but it matters in different ways to different people. Indeed, things are confusing down here because we have had 100 years to construct, revise, and revise again—in response to ever-shifting political economic circumstances—circuitous rules about who gets to belong and who does not to the tribal body politic. We’ve also had no national conversation like that taking place via Assembly of First Nations forums to discuss the pros and cons of particular concepts and criteria.

In the late nineteenth and early twentieth centuries, US tribes and federal agents together constructed “base rolls,” or lists of “Indian” individuals living on reservation (and often their supposed blood quantum) who eventually became members of those tribal entities. One can imagine the kinds of discrepancies that came into play, which have been

documented by scholars. If individuals were absent from the reservation when the rolls were compiled, for example, they might have been left off and their descendants ineligible for enrollment. Or, an individual may have been judged on sight, and according to phenotype, to be “half-blood,” while their full sibling was judged to be “full-blood.” Thus, their respective descendants would have different rights to citizenship in tribes that use a blood quantum (and not simply lineal descent) rule. Additionally, during the past century, tribes have also variously allowed enrollment according to reservation residence, simple parental enrollment, legal adoption of children, and marriage. All of these complex rules, worked together differently in different tribes, have resulted in confusion and disparity regarding who has citizenship rights in tribal nations.

Different scholars characterize federal intervention in tribal enrollment differently. Some characterize the federal role as “imposing” dominant “racial ideologies” and biologically essentialist criteria, particularly blood quantum, onto Native American tribes.¹ While other scholars—with, dare I say, more empirical evidence—characterize the federal role in more complex terms as a “conversation” between Indians and federal agents throughout the twentieth century. Historian Alexandra Harmon explains:

In the [Coeville] enrollment councils, federal agents did not brainwash or impose their will on Indians; neither did Indians resolve to draw an economically strategic, racially defined boundary around themselves. Rather, officials and Indians participated in a prolonged discourse that I would characterize as incomplete mutual education and accommodation.

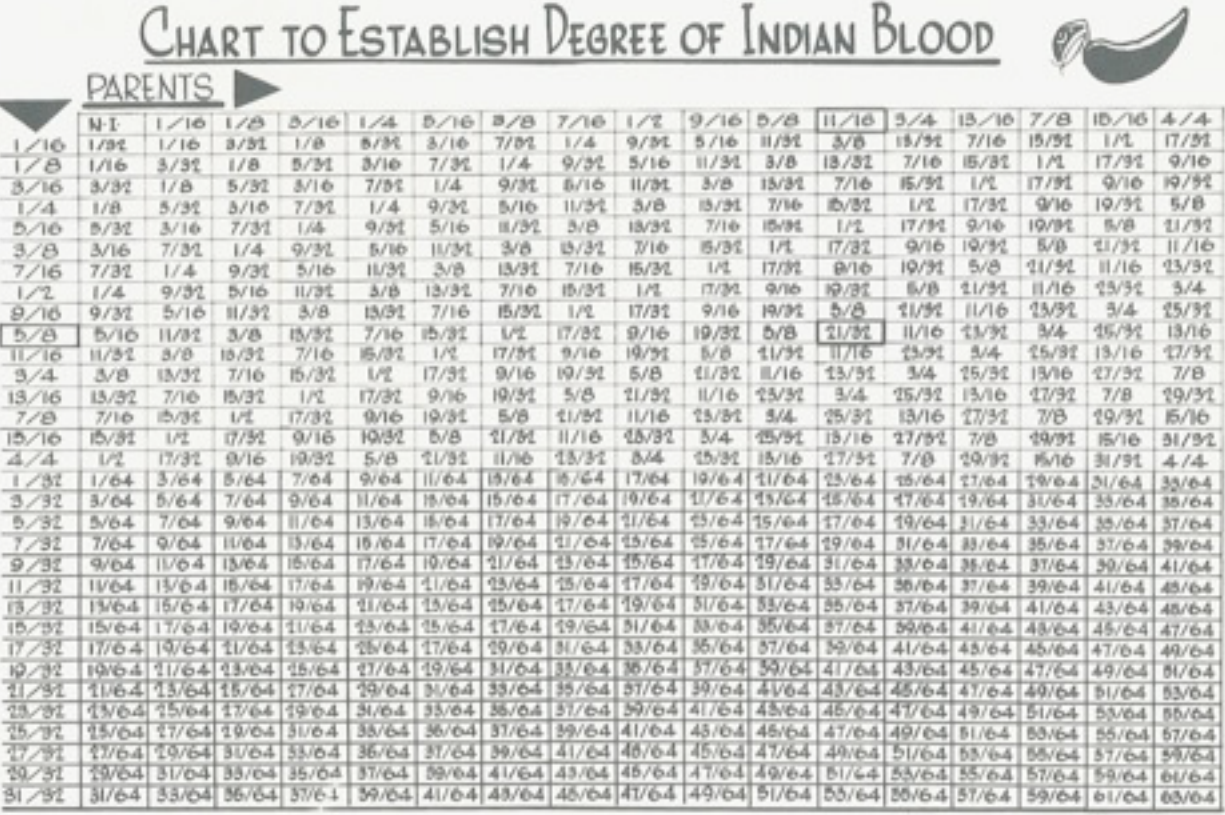
Harmon refers to the commissions as “an unprecedented conversation—one that would take place in many tribal communities and continue for decades—about what it meant to be Indian in the twentieth-century United States.”²

Throughout the twentieth century and into the twenty-first, Native American tribes have shown that they are deeply attached to kinship, much of it biological, in determining citizenship. Interesting exceptions of non-biologically based tribal citizenship are the Seminole and Cherokee Freedman cases. Descendants of freed slaves—and not necessarily “blood” relations of the tribe—have long been eligible for tribal enrollment due to post-Civil War treaty provisions. Nonetheless, Freedman descendants continue to struggle against the privileging of blood rules within the tribe and broader society, with their tribal citizenship either at risk or recently revoked.

The below chart (see Figure 2) often shocks audiences when I display it during presentations. I often hear audible gasps and comments about “antiquated ideas of race.” At other times, and such was the case with my AFN audience, the visual is met with silence. (I had to ask if the audience was shocked by the image, and many chimed in from the floor that they were.) But in “Indian Country,” as we call it in the US, we are accustomed to blood talk and visuals. The above chart is from a 1982 BIA enrollment manual. The visuals in today’s guidance documents, whether they be generated by the Bureau or a tribal government itself, are probably computer-generated, but the general concept still prevails. We know such conceptual frameworks are problematic, but familiarity lessens our surprise. Even critics of blood quantum in the US, who tend to privilege concepts of “citizenship,” “nation,” and “decolonization,” do not eschew altogether biological bases

for Native American identity. They advocate concepts of tribal citizenship that ultimately extend beyond biology, such as reservation residence, cultural requirements, adoption, and other allowances for naturalization. But they also argue for the more inclusive blood rule of lineal descent. According to the concept of lineal descent, a would-be tribal citizen would need only to document his or her biological descent from an individual named on the tribe's "base" roll. In a very few tribes that use descent rules, the ancestor must be strictly maternal or paternal, according to traditional modes of clan affiliation, but for most tribes such a rule would apply to either line. I find it interesting that lineal descent is portrayed by scholars as less biologically essentialist because it is more inclusive than say a one-quarter blood quantum rule. However, a simple descent rule might also be characterized as more biologically essentialist because it facilitates an identity claim reckoned through a single ancestral line. Indeed, absent any blood quantum rule, we are likely to have claims to citizenship based on fewer and more distant Native American ancestors—a thin biological connection granting access to the tribe for those with little or no experience with the tribe. Lineal descent is not non-essentialist. It is differentially essentialist.

CHART TO ESTABLISH DEGREE OF INDIAN BLOOD



TO DETERMINE DEGREE OF BLOOD OF CHILDREN, FIND DEGREE OF ONE PARENT IN LEFT COLUMN AND OF THE OTHER PARENT IN TOP ROW. READ ACROSS TO RIGHT AND DOWN THE COLUMN TO THE PROPER DEGREE.
NI MEANS NON-INDIAN. EXAMPLE: CHILD OF ONE PARENT 1/16, THE OTHER 5/8, WOULD BE 2/32 DEGREE INDIAN.

Fig. 2. Chart from 1984 Bureau of Indian Affairs (BIA) Enrollment Manual. US Department of Interior. Bureau of Indian Affairs. Tribal Enrollment. Phoenix: Phoenix Area Office, 1984

Moving from blood quantum to descent rules also does not free us from conceptual colonialism. Notions of blood quantum may seem to fall into the same conceptual pot as racial ideas such as mulatto, quadroon, and octoroon. But lineal descent—that multi-generational lineal blood relationship (real and true, whatever the legal framework decrees)—has also been shown to be a dominant US (European) American mode of reckoning kin and identity (Schneider 1980). Indeed, it helps us understand the genetic ancestry testing craze among non-Native Americans as they give biological samples in order to have their maternal (mother’s mother’s mother’s) or paternal (father’s father’s father’s) lineages traced to certain populations and geographic locations in the distant past (Lee et al. 2009, 38–39).

Alternatively, the blood quantum concept can also be seen in more “traditional” terms in that it foregrounds genealogical links between individuals and an extant group via biological links to a multiplicity of named and tribally-affiliated ancestors (Medicine 2001). Native American Studies scholar Elizabeth Cook-Lynn, a vocal advocate for the rights of Native American tribal citizenship and sovereignty, sees being “Indian” or a member of a particular tribal nation as being precisely about citizenship, but one based in part on blood. She acknowledges that “relationships based on blood have been a tenet of survival and identity in native enclaves from the beginning and continue to be” (2007, 145). Blood quantum can be seen to stand in for probabilistic social links between an individual and a land-based group; for example, the higher the blood quantum, the more relatives one has that are Native American or of that specific tribe (depending on the way that blood is calculated), and the greater the probability of actual group affiliation.³ There are problems with blood quantum, but the concept is not only about biological essentialism or an uncritical take-up of Eurocentric modes; ideas about relatedness that go to the heart of what is unique about the tribe also ground its continuing use.

Shifting Political Economy, Shifting Rules: From “Race” to “Tribe”

In addition to US histories of race, federal government heavy-handedness to varying degrees, and Native American concepts of kin and tribe, shifting political-economic conditions prompted demographic changes that shaped tribal citizenship rules throughout the twentieth century. The majority of tribes in the early twentieth century used parental enrollment, residency, marriage, and adoption. But, by the mid-twentieth century, tribal enrollment rules changed in order to account for shifting patterns of residence, exogenous marriage—that is, to non-tribal folk—and shifts in the “blood quantum” of offspring.

During this period, federal government thinking emphasized individual Indian development and assimilation rather than tribal economic and governmental development. Federal policy focused on urban relocation programs and tribal termination policies. During World War II, a mass migration of Native Americans from the reservations swelled as approximately 50 percent of “able-bodied Indian” men left for military service (Gover 2008, 286). Economic conditions, federal policy, and war prompted profound demographic shifts that led to changes in enrollment rules. In 1940, 5 percent of Indians lived in urban areas. By 1970, 50 percent lived in cities. Legal scholar Kirsty Gover (2008) explains that parental enrollment and residency rules that dominated pre-World War II became unsustainable.⁴

The effect of these migrations was to disrupt or weaken the demographic continuity of tribes and also to interrupt the intergenerational “transmission” of legal membership from parents to their children... Membership design decisions made by tribes after 1970 are influenced not just by the new opportunities and resources provided by federal self-determination policy, but also by the legacy of termination-era policies and migrations... Lineal descent and tribal blood rules can therefore be seen as part of a tribal response to the disruptions caused by shifts in federal policy and changes in tribal demography... They are forms of self-help that are intended to reconstitute a tribe as a historically continuous community (248).

Many tribes used enrollment criteria to try to “repair the historic continuity of the communities,” (Gover 2008, 248). in part by shifting from what Gover calls the “racial mechanism” of “total Indian blood” to the “genealogic mechanism” of “tribe-specific blood.” In her survey of 330 tribal constitutions, Gover describes the emergence of a new “genealogic tribalism” in the second half of the twentieth century (2008). Tribal nations increasingly coupled either Indian blood quantum or a tribe-specific blood quantum (all calculated symbolically through documentation of ancestors) with the concept of lineal descent to produce the “genealogic tribe.” It is genealogic in that it traces a genealogy of ancestors, and it is tribal in that it increasingly prefers tracing ancestors to one tribe rather than Indian ancestors more broadly.

Today, 70 percent of tribal constitutions surveyed use a blood quantum rule, with 40 percent still using total “Indian blood” and 33 percent using a “tribe-specific blood rule.” Tribe-specific blood rules are on the increase. An example might help. I was previously enrolled in the Cheyenne & Arapaho Tribes of Oklahoma (C&A), which require one quarter “Cheyenne and Arapaho blood” to be enrolled, a tribe-specific blood rule. The tribe in which I am currently enrolled is the Sisseton-Wahpeton Oyate (SWO). SWO also uses a blood quantum rule, but requires one quarter total Indian blood with a genealogical trace to the base roll. Most tribes in the US use a one-quarter blood quantum rule. Some tribes use a blood rule as exclusive as one half tribe-specific blood. Others use no blood quantum rule, but rather use simple lineal descent.



Fig. 3. Sisseton-Wahpeton Oyate Enrollment Card

On the reverse of my tribal enrollment card, shown above, is the following:

Degree of SWO Indian Blood: 1/32

Other Sioux Blood: 1/16 Flandreau Santee

Other Indian Blood: $\frac{1}{4}$ Chey-Arap., 1/16 T. Mt/Chpw

Total Indian Blood: 13/32

Because SWO rules require one quarter total Indian blood plus lineal descent from their base roll, I am eligible to be enrolled, even though my SWO blood quantum is the lowest of any I am seen to possess. I happen to identify most strongly with my SWO and Flandreau Santee heritages as those are the places where I spent formative time in my life. I lived recently on the reservation of the Sisseton-Wahpeton Oyate. It is also the place where two of my three siblings are enrolled, and where my mother is enrolled and lives periodically. So, I am grateful that SWO has regulations that allow me to mesh my lived experience with my tribal citizenship.

Not all the enrollment changes of late have been to my advantage, or those of other Indians with strong personal and cultural ties to specific tribes. Since the passage in 1975 of the Indian Self-Determination and Assistance Act, the frequency of descent and blood-quantum rules in tribal constitutions has increased rapidly. It seems ironic that in an era of increased tribal economic development, reduced federal oversight, increased formal tribal autonomy, and the administrative devolution to tribal governments of programs previously managed by the BIA (e.g., health care, education, housing), that tribes moved away from policies of dual enrollment, residency, and adoption. Enrollment of legally adopted children and enrollment through residency are two mechanisms that critics of blood rules often put forward as more in keeping with traditional concepts of kin. They are almost never allowed in tribal enrollment post-Self Determination. This cannot be explained by federal government heavy-handedness.

For example, even though I spent practically my entire childhood in Flandreau, South Dakota, that tribe won't enroll me because I am eligible to be enrolled elsewhere. It's worth noting that this additional enrollment rule came into being only after gaming started. SWO engages in gaming too, but they don't pay out dividends to individual members, as Flandreau does. Gaming and per capita payments, increasingly, are driving forces changing enrollment rules: in my view, for the worse, but that is a topic to be treated in detail elsewhere. In general, we see in the enrollment rules of both tribes central to my family, C&A and SWO, a transition from total Indian blood to tribe-specific blood rules that Gover observes in tribes across the country post-World War II. Changes to "citizenship criteria" (maybe you're beginning to understand why I have mixed feelings about using that term) in tribes across the US are not best understood by thinking of simply imposed federal criteria or simple conceptual self-colonization. Shifts in tribal enrollment regulations have plenty to do with managing numbers, of both people and dollars, in changing political-economic circumstances. I quote Gover's pithy summary of the significance of tribal enrollment shifts at the end of the twentieth century:

Increased tribal preference for lineal descent and blood rules... challenge the assumption that the characterization of tribes as “ethnic” or “racial” groups (rather than political or cultural ones) is a colonial artifact, imposed and perpetuated by the federal government, that would be shed by the tribes as their autonomy increased... In fact, tribes are not becoming more like civic communities and less like ethnic ones. Additionally, their membership practices are not becoming more “liberal,” in the sense of using racially and ethnically neutral criteria. They are moving away from a race-based model of tribal membership (which conceives of Indians as a racially undifferentiated albeit tribally organized population), but are not moving toward a classically liberal “civic polity” model. Instead... tribes are evolving their own... construction of membership, in the form of a “genealogic” tribalism (2008, 249).

In other words, lineal descent coupled with tribal-descent rules enables both continuity (children of urban Indians can be enrolled) and imposes limits on the number of potential enrollees, especially post-1970s, when tribes became wealthier. I hear from tribes all over the US that they are inundated with enrollment applications from individuals whom they have never heard of, who may have no real personal connection to the tribe, and who may seek enrollment primarily for economic benefit. Thus, tribal blood rules may not be “traditional,” but neither are they simply “imposed.” Gover’s findings concur with other scholars’ assessments that the older model of “total Indian blood” is characteristic of federal government thinking and of dominant US race thinking that focuses on Native Americans as members of an undifferentiated racial mass. But, she also demonstrates that the concept of tribe-specific blood quantum is “a tribally endogenous concept” (2008, 251).

The most difficult challenges to US tribal citizenship—and I would suspect it is similar with First Nations’ citizenship—will not be in any measure to simply throw off the ideological yoke of colonialism. Political economic pressures very much condition Indigenous citizenship responses. It is true that political economy is part and parcel of a broader history of colonialism and its institutions, but the relationships are not linear, nor are tribes simply on the receiving end of intervention. The words of a second individual I met at the recent AFN National Forum on First Nation Citizenship resonate. Grand Chief of the Assembly of Manitoba Chiefs, Derek Nepinak, emphasized that control over Indian status in Canada is very much related to resource allocation. There was so much talk in the room of fundamentally changing the way that we think as Aboriginal peoples towards a model of citizenship and nation, and away from what was roundly described as outmoded concepts of race, but Nepinak asked us, how do resource rights matter? Who has the power to mediate rights to resources? And what will that mean for “ongoing First Nations citizenship processes?” He and others—I noticed, all educated and worldly men in my generation—advocated First Nation-controlled economic development, and moving away as much as possible from federal support of First Nations. Yet they were unanimous in the idea that while First Nations improve their own economic realities, they must continue to press the Canadian state to remember its treaty and historical obligations to Aboriginal people. Increased Aboriginal economic self-sufficiency does not lessen Canada’s obligations. I consider this self-sufficiency a good thing, but it will shape tribal identity and citizenship, and in ways that are not always perfectly predictable, or necessarily to the good.

I noted earlier that, fortunately, we in the US do not have an Indian Act that officially regulates our citizenship practice. But, I think it is fair to say that, in both practical and ideological terms, we have an Indian Act that profoundly shapes our ability to govern and to determine who is part of the “we.” It is true that the federal government sometimes throws its weight around, for example in tribal federal recognition processes, where the US has great leverage in determining (according to dominant racial criteria) who legitimately constitutes an Indian (Gover 2008; see also McCulloch and Wilkins 1995). On the other hand, US tribes have varied and complex tribal citizenship ordinances that we have considerable legal control over (some of us more than others, depending on how we were recognized by the federal government.) We all have enrollment or citizenship cards. Yet, the ideal of citizenship among US tribes remains questionable, and economic power and real control over our lands and resources have everything to do with the practical limits we see on tribes as nations governing citizenries. With all of our “reparative” efforts throughout the twentieth and early twenty-first century, we still produce something that does not look quite like citizenship.

Canada and the US: Parallel Cosmologies

Every time I come to Canada I feel like I’ve entered a parallel universe where upon first sight things look and sound pretty much like home. But as I listen longer and more closely, I observe that the political constellations are plotted a little differently across the historical sky. They shine and light our two skies similarly, but their names and coordinates are different. One cannot use them to navigate until one understands how they relate to the cultural topography that lies beneath our feet, and which is ever shifting. So, I don’t want to overstate what I have to offer your conversation about First Nations citizenship as it unfolds across Canada.

However, I have one final insight to share, and it comes in fact from one of your own. I only know his name is Howard. The young man from Saskatchewan sat quietly next to me at the AFN forum for an hour or two as we listened to one speaker after another—both the “big names” and the elders on the panels, and voices from the floor, including vocal and committed youth. On the other hand, Howard was unusually soft-spoken. He turned to me after a while, when there was a short break, and said something akin to the following: “What I don’t understand is, why ‘citizen’? And why ‘nation’? Are those concepts ours? Are they in our languages? Are they the best translations for what is in our own languages?” It seems important to emphasize that he was not accusatory. He was humble and contemplative. He was concerned that his fellow First Nations’ people were seizing on concepts that, while they may go some ways (one hopes) towards political sovereignty, seemed to be taken up too readily as if they easily represent Aboriginal concepts of peoplehood and self-determination. A discussion of assumptions at that fundamental level, such as Howard broached with me, was never approached in the broader conversation those two days in Enoch. Perhaps these questions were also on the minds of other quiet folk in the room.

I’ve come back several times to Howard’s words. He made such an impression on me. I too share his concerns. Like him, I think hard on these things and I wonder sometimes, are these the best conceptual frameworks for organizing our decolonization and how we govern? Will we think of something better, especially as these concepts are increasingly

undermined or come to lack coherence in nations much more powerful than ours? I am a pragmatist, however. We cannot invent anew governing structures as if 1492 never happened, as if the Indian Act and 1876 never happened, and thinking as a Dakota now, as if the 1862 war in Minnesota never happened. Those pivotal moments in the histories of all our peoples re-circumscribed the geographies, political economies, family relations, governance, and identities of our ancestors. All Aboriginal peoples have similarly crucial historical narratives—those pivotal moments in colonial history that re-shaped our ancestors' lands and now ours, and thus our land-based identities. We go on from here.

I wish the Aboriginal peoples to my north good luck as you undertake this national conversation to again circumscribe your communities or peoples, very probably according to the concepts of nation and citizen. I hope you have a wide opening in this moment to do a better job of it than it seems we in the US have done to date. Perhaps we will learn from you.

Endnotes

1. See Churchill (1999; 1994); Edmunds (1995); Edmunds and Jaimes (1992); Neath (1995); Neath and Yellow Bird (2005).
2. Also see, for example, Gover (2008); Alexandra Harmon (2001, 179, 200; 1998); Carole Goldberg (2002); Carole Goldberg-Ambrose (1994).
3. There is a genetic test that complements blood quantum called the DNA profile, and also known as a “DNA fingerprint” or the common “paternity test.” Unlike tests that trace one’s genetic lineage to a continent or region of the world long ago, the DNA profile confirms genetic connections between closely related and named individuals, and it is increasingly used by tribes with lineal descent rules.
4. I rely to a great extent in this section on the recent empirically rich work of law scholar Kirsty Gover (2008). Gover’s analysis confirms my anecdotal experiences with shifting tribal enrollment rules in the multiple tribes that I am descended from, and in the many tribes that I’ve had the good fortune to work with as an environmental planner and consultant.

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