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Book Review of *A People's Dream: Aboriginal Self-Government in Canada* by Dan Russell

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A People's Dream: Aboriginal Self-Government in Canada. Dan Russell. Vancouver: University of British Columbia Press, 2000 xiv+243 pp. Preface, acknowledgments, illustrations, notes, selected bibliography, index. \$85.00 cloth, \$29.95 paper.

The issue of achieving self-government has long been a concern of many Aboriginal people in Canada. Indian, Métis, and Inuit people were formally recognized in the Canadian constitution in 1982, when s. 35 of the *Constitution Act, 1982* proclaimed that the “existing aboriginal and treaty rights of the aboriginal people of Canada are hereby recognized and affirmed.” But did this include the right to self-government?

Dan Russell, an Aboriginal lawyer practicing in Toronto, has a threefold purpose in *A People's Dream*: to dispel doubts about the viability of self-government; “to outline some of the difficulties that must be overcome if Aboriginal self-government is to be viably implemented”; and to warn against going about the

“exercise of recognizing and implementing Aboriginal self-government in the wrong way.”

In each of his book’s nine chapters Russell examines a different approach to, or aspect of, self-government. After tracing the Canadian constitutional developments relevant to Aboriginal self-government following implementation of the *Constitution Act, 1982*, he presents a detailed and informative discussion of existing self-government structures in the United States—describing the jurisprudential and statutory developments that have shaped self-government jurisdiction among such tribes as the Navajo of Arizona and the Pueblo of New Mexico.

A central point is Russell’s rejection of treaty making as a means of entrenching self-government. He uses the Nisga treaty—reached in 1998 between the Nisga Nation of northern British Columbia and the governments of British Columbia and Canada—as an example of what he views as primarily a land claims settlement, which also included some limited, and overly-restrictive, self-government powers.

Claiming that attempts at negotiating such self-government jurisdiction with federal and provincial governments will be unproductive and limited in scope by the contents of the Nisga treaty, Russell favors a constitutional amendment formally recognizing Aboriginal self-government within the Canadian constitution. Drawing on the failed Charlottetown Accord (which included such recognition but was rejected in a 1992 national referendum) and on the principles of “domestic dependant nationhood” which have been “used and refined by US courts,” he proposes amending s. 35 of the *Constitution Act, 1982* to recognize Aboriginal peoples as “domestic dependant nations,” with Aboriginal governments prevailing in cases of conflict with the powers of provincial and federal governments. Criminal law power would remain temporarily with the federal government for ten years after this amendment, “unless acted upon” by the local Aboriginal government.

Russell includes a lengthy critique of the work and recommendations of the Royal Commission on Aboriginal Peoples, arguing that the self-government jurisdiction proposed by this commission is narrow and more restrictive than that earlier contained in the Charlottetown Accord. In his view, this report represents “just another lump of coal.”

By his own admission, Russell’s suggestions will be controversial among the broader Canadian population, but also among many Aboriginal people. His rejection of treaty negotiation as a way of entrenching self-government may be questioned by Aboriginal groups in the prairies and British Columbia who have long cited treaty entitlement as a major source and recognition of their rights as Aboriginal people. His questioning of whether the Canadian *Charter of Rights of Freedoms* should apply to Aboriginal governments is likely to be challenged by Aboriginal women’s groups. His alternate proposal of a “metaphorical Aboriginal Charter” to replace the Canadian *Charter* highlights a fundamental struggle running through

the self-government debate: the attempt to reconcile the collective and individual rights of Aboriginal people.

On the whole, Russell's book is well written, thought provoking, and a must for anyone interested in Aboriginal rights and self-government. **Ross Gordon Green, Q.C.**, *Barrister and Solicitor, Saskatchewan Legal Aid Commission.*