Reclaiming Our Lands: Muskoday First Nation's Narrative of Agency, Self-Determination and Nation-Building

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By
Sabrina Mullis

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ABSTRACT

The objective of this Grounded theory thesis was to apply the Harvard Project on

American Indian Economic Development's Nation-Building model as a theoretical framework to

examine Muskoday First Nation's efforts to regain control over their lands and resources within

the Treaty framework. Additionally, this model has generated discussion, but has not been tested

to any great extent in the Canadian context. Muskoday First Nation was selected as case study

because the community was one of the original signatories of the *Framework Agreement on First

Nations Land Management* and had implemented its own Land Code. Additionally, Muskoday is

the first community in Saskatchewan to successfully negotiate and implement a *Treaty Land

Entitlement* Claim. The purpose of my thesis research was to determine what internal

mechanisms contributed to Muskoday First Nation's efforts to restore authority of their reserve

lands and resources. The findings of the research indicated that Muskoday First Nation has a

strong cultural drive for authority over the lands and resources and maintains collective

ownership over lands as agreed upon in Treaty.

ACKNOWLEDGMENTS

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CHAPTER 1
AN INTRODUCTION TO MUSKODAY FIRST NATION AND THE NATION-BUILDNG
MODEL

The socio-economic circumstance of First Nation peoples, in Canada, and the economy

on their reserves is a complex mix of historic circumstance, public policy and social dynamics.

Despite all the funds allocated to First Nation reserves by federal and provincial governments many

reserves still have a culture of dependency and poverty. The Harvard Project on Indian Economic

Development created a model that explains why some reservations in the states are successful.

The Nation-Building model was selected for this thesis because it focused on how communities

changed and improved the socio-political circumstances on their reservations. Additionally this

model has generated discussion in the United States and Canada, but has not been tested to any

great extent in the Canadian context.   The objective of this study was to apply the Nation-

Building model as a theoretical framework to examine Muskoday First Nation's efforts to regain

control over their lands and resources within the Numbered Treaty framework. The Nation-

Building model offers five definitions that are measureable concepts of governance. These

concepts are: *de facto* sovereignty, capable institution of governance, strategic orientation,

cultural match and leadership.[1] The primary research question that has guided this thesis is: What

underlying competencies internal to Muskoday First Nation have supported its lengthy work to

gain control over its lands and resources while maintaining the Treaty-federal relationship with

the Canadian Crown? The secondary research question is: To what degree do the five principles

of the Nation-Building model apply to Muskoday First Nation's experience? This thesis

concluded that Muskoday First Nation's internal competencies, which closely adhere to

principles of the Nation-Building model, have allowed them to adapt and assert their style of

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[1] The Harvard Project on American Indian Economic Development, "Overview," (accessed April 2012) http://hpaied.org/about-hpaied/overview.

governance in a way that continues to reflect the community's goals and inspirations. Muskoday First Nation actively engages in agency and self-determination as well as demonstrates the cultural ability to adapt to current circumstances while actively pursuing its sovereignty.

Muskoday First Nations

This section about Muskoday First Nation is to provide context and some history of the community. Muskoday First Nations, formerly known as John Smith Band, is a *Treaty 6* community located nineteen kilometres southeast of Prince Albert. The original Band members were generally thought to originate from St. Peter's reserve near Selkirk, Manitoba. In the 1870's Chief John Smith and his followers travelled from Selkirk and then settled into river lots along the South Saskatchewan River.[2] On 23 August 1876, Chief John Smith signed *Treaty 6*, on behalf his Band at Fort Carlton. At this time, these river lots became a part of the official reserve.[3] The Field Notes of the Muskoday Indian Reserve, surveyed by Elisha Steward, indicates that the John Smith band members requested that their reserve be referred to as Muskoday reserve.[4] Remnants of the original Seigneurial system remained after the Crown surveyors applied the Dominion Land Survey system (APPENDIX A). The remainder of the

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[2] The Encyclopedia of Saskatchewan, "Muskoday First Nation," (Accessed 2012) http://esask.uregina.ca/entry/muskoday_first_nation.html.

[3] Aboriginal Affairs and Northern Development Canada, "Copy of Treaty No. 6 between Her Majesty the Queen and the Plain and Wood Cree Indians and other Tribes of Indians at Fort Carlton, Fort Pitt and Battle River with Adhesions," (accessed May 29, 2012) http://www.aadnc-aandc.gc.ca/eng/1100100028710#chp1.

[4] This information was found in documents that the community provided for me. This specific fact comes from the "Field Notes of the "Muskoday Indian Reserve on the South Saskatchewan River, Treaty 6 North West Territories," by Surveyor Elisha Stewart D.L.S. September 1878.

reserve was sub-divided into the standard Dominion Lands survey sections in 1949 and in 1950.[5]

The present day Muskoday First Nation reserve is 9686.80 hectares. The Band's population (as of July 2013) is approximately 599 persons on-reserve and 1198 members off-reserve.[6] The community is governed by an elected Chief and Council and their Band membership code is regulated by Sections 5-13 of the Canadian federal *Indian Act*. As of March 21, 2013, the current Chief and Council consist of- Chief- Austin Bear and Councilors –Eldon Crain, Herman Crain, Alfred Crain, Randy Bear and Elaine Ross. [7] Education information from the 2006 census from Aboriginal Affairs and Northern Development Canada (AANDC) indicates that the members of Muskoday First Nation are actively pursuing education and employment. At that time 85 on-reserve residents aged 15 and older had their high school diploma, 110 had a certificate in the trades or other private colleges, fifteen had a university certificate and ten had a university degree. [8] The 2006 AANDC's statistics for employment participation rate also indicated that the labour force on reserve was 57.1 percent or an employment rate of 46.4 percent. The unemployment rate was 18.8 percent.[9]

In addition to *Treaty Six*, historically, Muskoday First Nation land and resources

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[5] Encyclopedia Saskatchewan, "Muskoday First Nation," (accessed May 29, 2012) http://esask.uregina.ca/entry/muskoday_first_nation.html

[6] Aboriginal Affairs and Northern Development Canada, "Registered Population," (accessed August 2013) http://pse5-esd5.ainc-inac.gc.ca/fnp/Main/Search/FNRegPopulation.aspx?BAND_NUMBER=371&lang=eng.

[7] Saskatoon Tribal Council, "Muskoday First Nation," (accessed 2013) http://www.sktc.sk.ca/member-nations/muskoday-first-nation/. inac.gc.ca/FNP/Main/Search/FNGovernance.aspx?BAND_NUMBER=371&lang=eng

[8] Aboriginal Affairs and Northern Development Canada, "Education Census Statistics: Muskoday First Nation 371," (accessed May 22, 2012) http://pse5-esd5.ainc-inac.gc.ca/fnp/Main/Search/FNEducation.aspx?BAND_NUMBER=371&lang=eng.

[9] Aboriginal Affairs and Northern Development Canada, "Workforce Statistics: Muskoday First Nation 371," (accessed May 22, 2012|) http://pse5-esd5.ainc-inac.gc.ca/fnp/Main/Search/FNWorkforce.aspx?BAND_NUMBER=371&lang=eng.

were regulated by the federal *Indian Act*. [Under the *Indian Act,* reserve lands are regulated by

Sections 18-34, and Sections 53-66]. These sections of the *Indian Act* defined how First Nation

lands were to be surrendered, managed and how resources on-reserve were to be utilized.[10] In

1987, Muskoday First Nation and thirteen other First Nation communities from across Canada,

all of whom had land management delegated to them under Sections 53- 60(1)of the *Indian Act*,

began meeting with each other to discuss problems associated with delegated authority under the

Indian Act. These fourteen First Nation communities were dissatisfied with delegated authority

and began to pursue the creation of a new land management regime with the primary goal of

regaining control and authority of land and resources.[11] They proposed to AANDC (then Indian

Affairs and Northern Development Canada) that they opt out of the provisions of the *Indian Act*

that regulate lands and resources. This proposal resulted in the creation of the *Framework*

Agreement on First Nations Land Management which received Royal Assent on June 17, 1999

as *The First Nations Land Management Act, 1999,*(FNLMA) ratifying the framework agreement

and resulting in an new law accepted by AANDC.[12] This Agreement and law provides First

Nations with the authority to manage their lands outside the *Indian Act* and re-establishes the

existing right for Muskoday First Nation to have control over its lands and resources.[13] Presently,

Muskoday First Nation lands are managed by the Band under FNLMA. This thesis will not be

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[10] Indian Act, R.S.C., c1-5, (1985) (Can). (accessed 2013) http://laws-lois.justice.gc.ca/eng/acts/I-5/.

[11] First Nation Land Management Resource Centre Inc., "Framework Agreement on First Nation Land Management," (accessed 2013) http://www.labrc.com/FA.html.

[12] Aboriginal Affairs and Northern Development Canada, "First Nations Lands Management Regime: Background," (accessed May 15, 2012) http://www.aadnc-aandc.gc.ca/eng/1327090675492; First Nations Land Management Resource Centre Inc., "New Land Management Legislation," http://www.fafnlm.com/indexe.html. (accessed 2011).

[13] INAC, *First Nations Land Management Act,* http://www.ainc-inac.gc.ca/br/mrp/ip/ipn8-eng.asp. (accessed December 2009).

discussing the framework agreement or FNLMA. Although these two pieces of legislation should be examined to determine whether or not they contribute to sovereignty and economic development they remain outside the scope of my thesis. Instead, an examination of historical factors and competencies that contributed to regaining control of First Nation reserve land and resources has provided a useful vehicle to evaluate successful economic development and governance of First Nations.   It has been fifteen years since Chief Austin Bear signed the agreement and to date, there is little research exploring the effort by Muskoday First Nation peoples at restoring its authority over their reserve lands and resources. The findings in this thesis demonstrate that there are specific underlying competencies unique to Muskoday First Nation that have supported its lengthy work to regain control over its lands and resources while maintaining the Treaty-federal relationship with the Canadian Crown, and that these factors have likely contributed to economic success of this Nation.   Muskoday First Nation was selected as the case study because this community was one of the original signatories of the *Framework Agreement on First Nations Land Management* and has implemented its own land code. Additionally this First Nation is the first community in Saskatchewan to successfully negotiate successfully and implement a Treaty Land Entitlement Claim.[14] Muskoday First Nation has also been ranked among the top five of successful First Nations communities in Saskatchewan.[15] A

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[14] Muskoday First Nations, "Lands and Resources," (accessed May 22, 2012) http://www.muskoday.ca/index.php?option=com_content&view=article&id=19&Itemid=52; First Nations Lands Advisory Board, "Framework Agreement on First Nations Land Management Executive Summary," (accessed May 22, 2012) http://www.fafnlm.com/framework-agreement.html.

[15] Doug Elliot, "Selected Characteristics of the Saskatchewan Aboriginal Population." Regina: SaskTrends, 2009. http://www.sasktrends.ca/Sask%20Trends%20PARWC%20June%202.pdf.; Dan Sandberg, Rebecca Walberg, and Joseph Quesnel, "Aboriginal Governance Index: A 2007 Ranking of Manitoba and Saskatchewan First Nations." Winnipeg: Frontier Centre for Public Policy, 2008; I went through the list of all reserves in Saskatchewan and looked up their well-

case study approach is appropriate for examining the social reality of this Nation, since their reality is too complex for experimental or survey research. Additionally a case study is focused, is usually used for illustration purposes and the findings can be easily applied to other situations (with some cautions). Muskoday First Nation's way of reclaiming control over their land also indicates that they continue to honour the treaty relationship with the Canadian Crown.

The Nation-Building Model

The Nation-Building model has five criteria that were identified as a result of Stephen Cornell and Joseph Kalt's research.[16] The social and economic ideology behind these five concepts is that nations need to create an environment where individuals feel secure to invest their time, effort and resources.[17] These five criteria are *de facto* sovereignty, sustainable institutions and policies, a fair and effective dispute resolution system; a separation of politics from business management practices and cultural match. This model will be more fully explain in chapter two of this thesis.

Literature Review

Current Canadian scholarship on Aboriginal self-government is extensive; particularly, a large part of it was written during the Canadian Constitution "talks" in the 1980's. This body of

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being rating in the INAC websites. Indian and Northern Affairs Canada: Martin Cooke and others, "Measuring the Well-being of Aboriginal People: An Application of the United Nations Development Index to Registered Indians in Canada, 1981-2001." (Accessed October 2009) http://www.collectionscanada.gc.ca/webarchives/20071122094949/http://www.ainc-inac.gc.ca/pr/ra/mwb/index_e.html.

[16] The Harvard Project on American Indian Development, "Overview," (accessed April 2012) http://hpaied.org/about-hpaied/overview.

[17] Stephen Cornell and Joseph Kalt, "Sovereignty and Nation-Building: The Development Challenge in Indian Country Today," *The Journal of Aboriginal Economic Development,* vol.3 no.2, 2003: 193.

literature has many themes, such as economics, treaty federalism, definitions of self-government

and capacity building (to name a few), and tends to be legally focused and concerned with rights

and politics.[18] Despite a colonial legacy in Canada, to date there is no evidence in historical or

contemporary literature that First Nations people have ever given up their right to govern

themselves; however, in many communities it has been decades since First Nation peoples have

had control of their own government.[19] Presently, there are multiple perspectives of First

Nation's self-government; however, First Nations peoples and federal government perspectives

and understandings of self-government are vastly different.[20] The literature on Aboriginal self-

government includes distinct reports that include analysis about the theft of Aboriginal people's

land and resources, historical economic development and the lack of economic development on

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[18] Michael Asch, "Political Self-Sufficiency," in *Nation to Nation: Aboriginal Sovereignty and the Future of Canada,* ed by Diane Engelstad and John Bird,(45-52) (Concord, House of Asaansi Press Ltd.: 1992.) 45, 46 and 50, 51; Ovide Mercredi and Mary Ellen Turpel, *In the Rapids: Navigating the Future of First Nations*,(Toronto: Penguin Book Ltd, 1993)107-109; Christopher Alcantara: "To Treaty or Not to Treaty? Aboriginal Peoples and Comprehensive Land Claims Negotiations in Canada," *Publius: The Journal of Federalism*, vol 38, no. 2: 343-369. 347; Wayne Warry, *Unfinished Dreams: Community Healing and the Reality of Aboriginal Self-Government*, (Toronto, University of Toronto Press Inc.: reprinted 2007.), 3 and 48; John H. Hylton, Introduction, in *Aboriginal Self-Government in Canada: Current Trends and Issues 2nd Edition,* ed.by John H. Hylton,(Saskatoon, Purich Publishing Ltd. 2008), 3, 4.
[19] Robert Odawi Porter, "The Decolonization of Indigenous Government," in *For Indigenous Eyes Only: A Decolonization Handbook*, ed by Waziyatawin Angela Wilson and Michael Yellow Bird,(Sante Fe, New Mexico, School of American Research Press: 2005.)92.
[20] Sally Weaver, Indian Government: A Concept in Need of a Definition," In *Pathways to Self-Determination: Canadian Indians and the Canadian State*, ed. Leroy Little Bear, Menno Boldt, and Anthony J. Long,(Toronto: University of Toronto Press: 1994),65; Canada, Indian and Northern Affairs, "The Government of Canada's Approach to Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government: Within the Constitutional Framework." http://www.ainc-inac.gc.ca/al/ldc/ccl/pubs/sg/sg-eng.asp#inhrsg. (accessed 2010); Alan Cairns, *Citizen Plus: Aboriginal People and the Canadian State*, (Vancouver, UBC Press: 2000)111; Phil Fontaine, "Forward" to *Aboriginal Self-Government in Canada: Current Trends and Issues 3rd Edition,* ed. Yale Belanger, (Saskatoon, Purich Publishing Ltd. 2008.); John Hylton, "Introduction" to Aboriginal *Self-Government in Canada: Current Trends and Issues 3rd Edition,* ed. Yale Belanger, (Saskatoon, Purich Publishing Ltd. 2008.)

reserves.[21] Presently one of the main focuses of economic development literature and First

Nations economic development is discussion about property rights.[22] This body of literature

highlights the history that has lead to First Nations government's lack of political, social and

economic autonomy and highlights the need for political, social and economic capacity building,

and points out misconceptions about Aboriginal culture.[23] However, it is apparent that multiple

perspectives on self-government exist and are complicated by the fact that the terms sovereignty,

self-government and self-determination are used interchangeably.[24] This latter body of literature

is large, general and examines national policies but fails to discuss individual community's

concepts of self-government or to point out internal competencies within communities that

would enable them to actively seek self-government status. Hence, this thesis provides an

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[21] Arthur J. Ray, "Fur Trade History: As A Aspect of Native History," *Expressions in Canadian Native Studies*, ed. Ron Laliberte and others, (Saskatoon, University of Saskatchewan Extension Press, 2000), 164; Dean Jacobs, Walpole Island: Sustainable Development, *Nation to Nation: Aboriginal Sovereignty and the Future of Canada,* ed. Diane Engelstad and John Bird, (Concord, House of Asansi Press Ltd.: 1992), 179-185;

[22] Tom Flanagan, Christopher and Andre Le Dressay, *Beyond the Indian Act: Restoring Aboriginal Property Rights,* (Montreal, McGill-Queen's University Press; 2011); Flanagan, Tom and Christopher Alcantara, "Individual Property Rights on Canadian Indian Reserves," *Public Policy Sources,* no.60, 2002:3-19; Terry L. Anderson*, "The Property Rights Paradigm: An* Introduction," in *Property Rights and Indian Economies: The Political Economy Forum,* ed. Terry L. Anderson, (Lanham MD, Rowman and Littlefield Publishers, Inc.: 1992)

[23] Francis Widdowson and Albert Howard, *Disrobing the Aboriginal Industry: the Deception behind Indigenous Cultural Preservation*, (Montreal, McGill-Queen's University Press: 2008); Tom Flanagan, *First Nations? Second Thoughts*, (Montreal, McGill-Queen's University Press: 2008), 48-66 and 89-112; Francis Widdowson, "Corruption North of 60," *Policy Options*, (January-February 1999): 37-40. 40; Douglas E. Sanders, "Some Current Issues Facing Indian Government," in *Pathways to Self-Determination and the Canadian State*, ed Leroy Little Bear and others, (Toronto, University of Toronto Press: 1984.), 113-121. 115; David Nicholson, "Indian Government in Federal Policy: An Insider's View," in *Pathways to Self-Determination and the Canadian State*, ed Leroy Little Bear and others, (Toronto, University of Toronto Press: 1984), 59-64.
[24] Patricia Monture-Angus, *Journeying Forward: Dreaming First Nations' Independence*, (Halifax, Nova Scotia: Fernwood Publishing, 1999), 21 and 28.

example of Muskoday First Nation's perspective and definition of self-government.

Some Aboriginal scholars suggest self-government is not static; rather self-government is a growing and evolving responsibility. For example Canadian Mohawk lawyer Patricia Monture-Agnus states: "[Self-government] is to me a 'responsibility' which entails living the 'good way' with self-discipline and following the Great Law of Peace. It also involves not asking, but action".[25] Monture's fundamental belief of self-government is about action. Political Scientist Taiaiake Alfred would like the Canadian federal and provincial Crowns to recognize First Nations people's inherent right to self-government and allow for change in the current relationship which exists between the Canadian Crown's and First Nations peoples.[26] Anthropologist Michael Asch suggests that self-government should include control over their communities and lands without seeking permission from other governments.[27] For Aboriginal peoples, a large body of the literature on the goals of self-government includes determination over their spiritual lives, language and beliefs as well as decision-making authority on economic, social, and political issues within their communities.[28]

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[25] Patricia Monture-Angus, "*Journeying Forward,*" 21-39.

[26] Taiaiake Alfred

[27] Michael Asch, "Self-Government in the New Millennum, in *Nation to Nation: Aboriginal Sovereignty and the Future of Canada,*" ed. John Bird, Lorraine Land and Murray MacAdam, (Toronto,ON: Public Justice Resource Centre, 2002), 65-73. 66

[28] Yale D. Belanger, Introduction, in *Aboriginal Self-Government in Canada: Current Trends and Issues3rd Edition,* ed Yale Belanger,(Saskatoon, Purich Publishing Ltd. 2008.) vii, viii; David Newhouse, "From Tribal to Modern: The Development of Modern Aboriginal Societies," in *Expressions in Canadian Native Studies* ed by Ron Laliberte et al, (Saskatoon, University of Saskatchewan Press: 2000.); Dan Russell, *A Peoples Dream, Aboriginal Self-Government in Canada,*(British Columbia, UBC Press: 2000), 7 and 8; Wayne Warry, Introduction: Dreams, Visions, and Plans to *Unfinished Dreams: Community Healing and The Reality of Aboriginal Self-Government*, (Toronto, University of Toronto Press Incorporated: reprinted 1999.) Sol Anderson, "Preparations for Indian Government in Saskatchewan," *Pathways to Self-Determination and the Canadian State*, ed Leroy Little Bear and others, (152-158)(Toronto,

A number of scholars have focused on the relationship between the federal government

and First Nation people which is guided by federal-treaty policy.[29] Political Scientist and

Canadian Research Chair in Indigenous Politics and Governance Kiera Ladner, elucidates that

federalism is not a new phenomenon for Aboriginal people; rather it has been around for

centuries in North America.[30] Political Scientists Francis Abel and Michael Prince assert the

University of Toronto Press: 1984.)159; Frank Cassidy and Robert L. Bish, *Indian Government: Its Meaning in Practice*, (Lantzville, B.C., Oolichan Books: 1989)162; Kirke Kickingbird, "Indian Sovereignty: The American Experience," in *Pathways to Self-Determination and the Canadian State*, ed by Leroy Little Bear and others, (Toronto, University of Toronto Press: 1984), 46, 47; 407. Sally Weaver, Indian Government: A Concept in Need of a Definition," *Pathways to Self-Determination and the Canadian State*, ed by Leroy Little Bear and others, (Toronto, University of Toronto Press: 1984.),66; Anthony Long and others, "Federal Indian Policy and Indian Self-Government in Canada." In *Pathways to Self-Determination: Canadian Indians and the Canadian State*, ed. Leroy Little Bear, Menno Boldt, and Anthony J. Long,(Toronto: University of Toronto Press: 1994) 67

[29] Anthony J. Long and others, Federal Indian Policy and Indian Self-Government in Canada," In *Pathways to Self-Determination: Canadian Indians and the Canadian State*, ed. Leroy Little Bear, Menno Boldt, and Anthny J. Long,(67-84)(Toronto: University of Toronto Press: 1994)71; Marie Smallface Marule, "Traditional Indian Government: Of the People, By The People, For the People," *Pathways to Self-Determination and the Canadian State*, ed by Leroy Little Bear and others, (36-45)(Toronto, University of Toronto Press: 1984.) 36, 37; Sally Weaver, Indian Government: A Concept in Need of a Definition," *Pathways to Self-Determination and the Canadian State*, ed by Leroy Little Bear and others, (65-68)(Toronto, University of Toronto Press: 1984.)66; Frank Cassidy and Robert L. Bish, *Indian Government: Its Meaning in Practice*, (Lantzville, B.C., Oolichan Books: 1989.)160-163; Frances Abele and Michael J. Prince, "Aboriginal Governance and Canadian Federalism: A To-Do List For Canada," in *New Trends in Canadian Federalism 2nd Edition*, ed by Francis Rocher and Miriam Smith, (135-165)(Peterbourough, Broadview Press Ltd.: 2003) 139, 140; Andrew Bear Robe, "Treaty Federalism-A Concept From the Entry of First Nations into the Canadian Federation and Commentary on the Canadian Unity Proposal," For the Siksika Nation Tribal Administration.(April 30, 1992)18-28; Tracy Campbell, "Co-management of Aboriginal Resources," in *Natural Resources and Aboriginal People in Canada: Readings, Cases and Commentary*, ed by Robert B. Anderson and Robert M. Bone,(47-53)(Concard, Captus Press Inc.:2003)50-51; Graham White, "Treaty Federalism in Northern Canada: Aboriginal-Government Land Claims Boards," *Publius: The Journal of Federalism*, vol.32, no.3(Summer 2002): 89-114. 90.

[30] Kiera L. Ladner, "Treaty Federalism: An Indigenous Vision of Canadian Federalism," in *New Trends in Canadian Federalism 2nd Edition*, ed by Francis Rocher and Miriam Smith, (167-194)(Peterbourough, Broadview Press Ltd.: 2003)168-170.

current process of interaction between the Canadian state and Aboriginal organizations is called three-cornered federalism because all levels of the Canadian federal government are interacting with Aboriginal organizations.[31] Executive Branch Manager of Siksika Nation Andre Bear Robe states:

> First Nations-Canada relations should now be completed through the
> concept and process of treaty federalism which would define the political
> and economic aspects of our peaceful co-existence as several distinct
> societies under the protective roof of Canadian federalism.[32]

Bear Robe's statement is consistent with historical understanding of Treaty that the state and First Nation peoples will co-exist peaceful but First Nation peoples will be distinct. Professor Graham White's work on northern Aboriginal communities discusses how co-management boards established under Comprehensive Land Claims are an example of treaty federalism.[33] He suggests that treaty federalism "…legitimizes Aboriginal order of government. It also requires the development of relationships specifying just how the shared responsibilities take form."[34] Christopher Alcantara points out that bilateral agreements benefit Aboriginal communities because they demonstrate that government are willing to show more flexibility, they are quicker and less expensive to negotiate then with a multiple number of stakeholders, and usually the stakes are lower and less complex than negotiations with several government bodies.[35] However, Ladner points out:

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[31] Frances Abele and Michael J. Prince, "Aboriginal Governance and Canadian Federalism:" 139.
[32] Andrew Bear Robe, "Treaty Federalism-A Concept From the Entry of First Nations," 19.
[33] Graham White, "Treaty Federalism in Northern Canada,"50-51;
[34] White, 92.
[35] Christopher Alcantara: "To Treaty or Not to Treaty? Aboriginal Peoples and Comprehensive Land Claims Negotiations in Canada," *Publius: The Journal of Federalism*, vol 38, no. 2: 343-369

> …the problem is not federalism in and of itself but the subordinate position of the imposed system of *Indian Act* Band governance which does not allow Indigenous nations to govern themselves or to create policy with federal delegation and approval. [36]

Treaty federalism does have many advantages for First Nation's governance; however under the imposed system of the Indian Act, Band governments must seek approval to make decisions with Aboriginal Affairs and Northern Development Canada (AANDC) which is direct contradiction to the principles of treaty governance.

The Canadian federal government currently views Aboriginal self-government as an existing Aboriginal right under Section 25, under the *Charter of Rights and Freedoms,* and 35 of *The Constitution Act, 1982.* Their inherent right to self-government is expressed through treaty, and in the context of the Crown's relationship with treaty First Nations. With treaty First Nations, federal government recognition of their inherent right is based on the view that First Nation peoples have the right to govern themselves in matters that are internal to their communities. Canada's interpretation of Aboriginal self-government includes matters related to their unique cultures, identities, traditions, languages and institutions and also includes issues related to their special relationship with the land and resources.[37]   However, Professor and Research Director of the Native Law Centre of Canada James Young Blood Henderson states that *The Constitution Act, 1982*, does not explicitly recognize Aboriginal and Treaty rights as part of a new shared political "order" because sections 91 and 92 (division of federal and provincial jurisdictional

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[36] Kiera Ladner, "Colonialism Isn't the Only Obstacle: Indigenous Peoples and Multilevel Governance In Canada." Paper presented at the Annual Conference of the Canadian Political Science Association, (Ottawa, May 27-29, 2009.)13.

[37] Canada, Indian and Northern Affairs, "The Government of Canada's Approach to Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government: Within the Constitutional Framework." http://www.ainc-inac.gc.ca/al/ldc/ccl/pubs/sg/sg-eng.asp#inhrsg. (accessed 2010)

authority) of the Act are not directly affected by section 35 and 25 of the *Constitution Act, 1982*.
[38] The parameters of Sections 35, 91 and 92, have not been tested in Canadian courts.
Consequentially, the Canadian government's interpretation of Section 35 is limited to Aboriginal
community, Aboriginal culture, lands, and resources which limit the scope of Aboriginal self-
government.

First Nations people's perspective of governing includes control over their communities
and government bodies, as well as authority over education of their young. They would also like
control of their spiritual lives, languages, beliefs and traditional, as well as input into economic,
social, and political decisions of their communities.[39] Presently, First Nations communities
continue to struggle to assert their self-government agreements, to provide health and stability to
their communities, and to maintain transparent governments.[40] Since First Nation communities

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[38] James Young Blood Henderson, "Empowering Treaty Federalism," in *Saskatchewan Law Review*, vol.58, 1994: 241-329, 244.

[39] Sol Anderson, "Preparations for Indian Government in Saskatchewan," *Pathways to Self-Determination and the Canadian State*, ed by Leroy Little Bear and others, (Toronto, University of Toronto Press: 1984.)159; Frank Cassidy and Robert L. Bish, *Indian Government: Its Meaning in Practice*, (Lantzville, B.C., Oolichan Books: 1989)162; Kirke Kickingbird, "Indian Sovereignty: The American Experience," in *Pathways to Self-Determination and the Canadian State*, ed by Leroy Little Bear and others, (46-53)(Toronto, University of Toronto Press: 1984.)46, 47; David Newhouse, "From Tribal to Modern: The Development of Modern Aboriginal Societies," in *Expressions in Canadian Native Studies* ed by Ron Laliberte et al,(Saskatoon, University of Saskatchewan Press: 2000), 407.

[40] Sally Weaver, Indian Government: A Concept in Need of a Definition," *Pathways to Self-Determination and the Canadian State*, ed by Leroy Little Bear and others,(Toronto, University of Toronto Press: 1984.)66;Yale D. Belanger, Introduction, in *Aboriginal Self-Government in Canada: Current Trends and Issues3rd Edition,* ed by Yale Belanger, (Saskatoon, Purich Publishing Ltd. 2008.) vii, viii; Dan Russell, *A Peoples Dream, Aboriginal Self-Government in Canada*,(British Columbia, UBC Press: 2000) 7 and 8; Wayne Warry, Introduction: *Dreams, Visions, and Plans to Unfinished Dreams: Community Healing and The Reality of Aboriginal Self-Government*, (Toronto, University of Toronto Press Incorporated: reprinted 1999.) 1 and 2; Anthony Long and others, "Federal Indian Policy and Indian Self-Government in Canada." In *Pathways to Self-Determination: Canadian Indians and the Canadian State*, ed. Leroy Little Bear, Menno Boldt, and Anthny J. Long, (Toronto: University of Toronto Press: 1994) 67.

struggle economically and socially, self-government is seen by them as a way to improve the

quality of life by removing control away from AAMDC and back into the hands of the

community.[41]   For example, Muskoday First Nation has moved away from the rhetoric of rights

and politics, in the hope of developing a better future, but has stayed within the existing treaty

relationship by signing an agreement with the federal government to have control over lands and

resources.

A number of scholars have focused attention on the nature of the Treaty relationship

between the federal government and First Nations people when discussing Canadian Aboriginal

self-government issues.[42] The most obvious example of this relationship is the signing of the

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[41] Rick J. Ponting and Roger Bibbins, "Thorns in the Bed of Roses: A Socio-Political View of The Problems of Indian Government, *Pathways to Self-Determination and the Canadian State*, ed by Leroy Little Bear and others, (Toronto, University of Toronto Press: 1984.)123, 124; Augie Flearas and Jean Leonard Elliott, *The Nations Within: Aboriginal State Relations in Canada, the United States, and New Zealand*, (Toronto, Oxford University Press: 1992.) 8; Alan C. Cairns, *Citizens Plus: Aboriginal People and the Canadian State*, (Vancouver, UBC Press: 2000) 111; Ken Coates and W.R. Morrison, "From Panacea to Reality: The Practicalities of Aboriginal Self-Government Agreements," in *Aboriginal Self-Government in Canada: Current Trends and Issues 3rd Edition,* ed.by Yale Belanger,(Saskatoon, Purich Publishing Ltd. 2008.)106; Frances Abele and Michael J. Prince, "Aboriginal Governance and Canadian Federalism: A To-Do List For Canada," in *New Trends in Canadian Federalism 2nd Edition*, ed by Francis Rocher and Miriam Smith,(Peterborough, Broadview Press Ltd.: 2003) 139, 140; Tim Schouls, *Shifting Boundaries: Aboriginal Identity, Pluralist Theory, and Politics of Self-Government,* (Vancouver, UBC Press: 2003), 178.

[42]Kiera Ladner, "Colonialism Isn't the Only Obstacle: Indigenous Peoples and Multilevel Governance in Canada." Paper presented at the Annual Conference of the Canadian Political Science Association, (Ottawa, May 27-29, 2009.)13:Anthony J. Long and others, Federal Indian Policy and Indian Self-Government in Canada," in *Pathways to Self-Determination: Canadian Indians and the Canadian State*, ed. Leroy Little Bear, Menno Boldt, and Anthony J. Long, (Toronto: University of Toronto Press: 1994),71; Marie Smallface Marule, "Traditional Indian Government: Of the People, By The People, For the People," in *Pathways to Self-Determination and the Canadian State*, ed. Leroy Little Bear and others, (Toronto, University of Toronto Press: 1984), 36, 37; Sally Weaver, "Indian Government: A Concept in Need of a Definition," in

numbered treaties in Western Canada from the 1870's. Here, both parties view Treaty

differently, and at present there is an unequal balance of power and control. [43] Politician Ovide

Mercredi and Canadian lawyer and former Saskatchewan Provincial Judge Mary Ellen Turpel

state that First Nations people do not want to be isolated from federal, provincial, or municipal

governments; rather "First Nations people [want] to govern ourselves in keeping with our values,

customs, and traditions and not be ruled by the Minister of Indian Affairs or the Department of

Indian Affairs." [44] Mercredi and Turpel assert First Nations are not opposed to a peaceful

relationship with the Canadian state under the protection of federalism. Rather, they want the

federal government to acknowledge First Nations sovereignty and allow First Nations people to

govern themselves, but still continue the current agreements between the Canadian state and First

Nation peoples under treaty federalism.

Pathways to Self-Determination and the Canadian State, ed. Leroy Little Bear and others,
(Toronto, University of Toronto Press: 1984), 66; Frank Cassidy and Robert L. Bish, *Indian
Government: Its Meaning in Practice*, (Lantzville, B.C., Oolichan Books: 1989.),160-163;
Frances Abele and Michael J. Prince, "Aboriginal Governance and Canadian Federalism: A To-
Do List For Canada," in *New Trends in Canadian Federalism 2nd Edition*, ed. Francis Rocher
and Miriam Smith,(Peterborough, Broadview Press Ltd.: 2003), 139, 140; Andrew Bear Robe,
"Treaty Federalism-A Concept From the Entry of First Nations into the Canadian Federation and
Commentary on the Canadian Unity Proposal," For the Siksika Nation Tribal
Administration.(April 30, 1992)18-28; Tracy Campbell, "Co-management of Aboriginal
Resources," in *Natural Resources and Aboriginal People in Canada: Readings, Cases and
Commentary*, ed. Robert B. Anderson and Robert M. Bone,(Concord, Captus Press Inc.:2003),
50-51; Graham White, "Treaty Federalism in Northern Canada: Aboriginal-Government Land
Claims Boards," *Publius: The Journal of Federalism*, vol.32, no.3(Summer 2002): 89-114. 90;
Christopher Alcantara: "To Treaty or Not to Treaty? Aboriginal Peoples and Comprehensive
Land Claims Negotiations in Canada," *Publius: The Journal of Federalism*, vol 38, no. 2: 343-
369.
[43] Kiera L. Ladner, "Treaty Federalism: An Indigenous Vision of Canadian Federalism," in *New
Trends in Canadian Federalism 2nd Edition*, ed Francis Rocher and Miriam Smith,
(Peterborough, Broadview Press Ltd.: 2003),168-170; Frances Abele and Michael J. Prince,
"Aboriginal Governance and Canadian Federalism:" 139.
[44] Ovide Mercredi and Mary Ellen Turpel, *In the Rapids: Navigating the Future of First Nations*,
(Toronto: Penguin Book Ltd, 1993), 107-109.

The quality of First Nations governance has been negatively impacted by the colonial

relationship that still exists between First Nations peoples and the Canadian state. Aboriginal and

non-Aboriginal scholarly discussion of effective Aboriginal governance centres on socio-

political capacity building, autonomy and accountability to its body politic. One important

feature of successful political capacity building and accountability is the character and integrity

of the Chief and his/her ability to apply these qualities to the role of a leader.[45] Mercredi states:

"Our leaders have to be more than just typical politicians. But to get there they have to escape

the Indian Act way of thinking and recapture the traditions and values of our societies." [46]

Research from the Harvard Project on American Indian Economic Development indicates that

leaders in successful American Indian reservations are chosen for their abilities as political

leader. The role of political leadership was defined as: being responsible for the long-term future

of the nation; to make long-term decisions as well as have integrity and vision.[47]   The project

findings further suggest that leaders need to be accountable to their communities through a fair

and effective dispute mechanism, a competent bureaucracy and a separation of business

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[45] Tom Flanagan, First Nations? Second Thoughts, (Montreal, McGill-Queen's University Press: 2008), 94-96; Francis Widdowson, "Corruption North of 60," *Policy Options*, (January-February 1999): 37-40. 40; Frank Cassidy and Robert L. Bish, *Indian Government: Its Meaning in Practice* (Lantzville, B.C., Oolichan Books: 1989)126; Del Riley, "What Indians Want and the Difficulties of Getting It," in *Pathways to Self-Determination: Canadian Indians and the Canadian State*, ed. Leroy Little Bear, Menno Boldt, and Anthony J. Long, (Toronto: University of Toronto Press: 1994)160.
[46] Mercredi and Turpel, *In the Rapids,* 113.

[47] Stephen Cornell, "Indigenous People, Poverty and Self-Determination in Australia, New Zealand, Canada, the United States," http://www.jopna.net/pubs/jopna%202006_02_coverandinside.pdf. (accessed 2010) 26; Stephen Cornell et al, Seizing the Future: Why Some Native Nations Do and Others Don't," http://www.jopna.net/pubs/jopna_2005-01_Seizing.pdf. (accessed 2010). 27, 28; Stephen Cornell, "Forging Linkages & Finding Solutions." Paper presented at a BC Treaty Commission Conference for First Nations, Vancouver, BC, October 29-31, 2008. 46, 47.

management and politics.[48] However, Widdowson argues that First Nation governments in

Northern Canada are "a fertile ground for corruption and mismanagement, where "back room

dealings" are common place and self-serving unelected officials control the policy making

process."[49] Also Widdowson states: that the focus on maintaining tribal values rather than

satisfying current aboriginal needs, the territorial system is regressing to an archaic form of

political organization, preventing the social evolution required for full participation in the world

of the 21st century.[50] Hence, this thesis research is attempting to determine whether or not

Muskoday First Nation's leadership can reflect the values of the community while effectively

participating in the 21st century through fair and effective dispute mechanisms, competent

bureaucracy, and a separation of business management and politics.

Political Scientist Tom Flanagan argues that the current authority of present day Band

Chief and Council is limited to the historical authority of an Indian agent; whose role was to

carry out and enforce federal Indian policy.[51] Flanagan and Political Scientist Alan Cairns are

concerned how the small size will affect the First Nation's ability to fill the roles of the techno-

structure of the government.[52] However, other scholars point out the autonomy and capacity of

Chief and Council can be expanded away from this historical context simply through the actions

and processes they employ to make positive changes in their communities.[53] According to

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[48] Cornell and others, "Seizing the Future," 5; Cornell, "Forging Links & Finding Solutions," 50;
[49] Francis Widdowson, "Corruption North of 60," *Policy Options*, (January-February 1999):37-40. 37
[50] Francis Widdowson, "Corruption North of 60," 40.
[51] Tom Flanagan, First Nations? Second Thoughts," 94-96.
[52] Tom Flanagan, Ibid; Alan Cairns, First nations and the Canadian State: in search of coexistence. Kingston, Ont.: Institute of Intergovernmental Relations, Queen's University, 2005. 16.
[53] Brain Craik, "The Importance of Working Together: Exclusion, Conflicts, and Participation in James Bay Quebec," in *The Way of Development: Indigenous Peoples, Life Projects and*

several scholars, capacity and autonomy can be built by First Nations leaders simply by

improving the circumstances on reserves. The process of changing the social and political

environment on-reserve could be used to fill bureaucratic and infrastructural gaps that exist on

First Nations communities.

Another problem associated with federal policy and Aboriginal self-government involves

the issues of power, authority, and money. The federal government's reduced program funding

directly reduces the power and authority First Nation communities. [54] Sykes Powderface points

out:

> "all the funds that come from the federal government have strings attached, and
> this puts many bands or regional Indian councils into a position where they are
> accountable the Indian Affairs Branch and not their band members. This is a problem not
> only in the political field but also in the business field. [55]

David Nicholson states: [d]evolving program responsibility to band governments without

providing the necessary financial resources will place Indian governments in a worse fiscal

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Globalization, ed. Mario Blaser and others, (London, Zed Books Ltd., 2004), 167. Robert
Alexander Innes and Terrance Ross Pelletier, "Cowessess First Nation: Self-Government,
Nation-Building and Treaty Land Entitlement," in *Aboriginal Self-Government in Canada 3rd
Edition*, ed. Yale D. Belanger (Saskatoon, Purich Publishing Ltd.: 2008), 256; Gabrielle Slowey,
"Unfinished Business: Self-government and the James Bay Northern Quebec Agreement Thirty
Years Later," 218. Taiaiake Alfred, "From Sovereignty to Freedom: Towards and Indigenous
Political Discourse," *Indigenous Affairs*, no. 3(2001): 22-34. 26 and 27.
[54] Douglas E. Sanders, "Some Current Issues Facing Indian Government," in Pathways to Self-
Determination and the Canadian State, ed by Leroy Little Bear and others, (113-121)(Toronto,
University of Toronto Press: 1984.) 115; Ken Coates and W.R. Morrison, "From Panacea to
Reality," 116-117.
[55] Sykes Powderface, "Self-Government Means Biting the Hand That Feeds Us," *Pathways to
Self-Determination and the Canadian State*, ed Leroy Little Bear and others, (Toronto,
University of Toronto Press: 1984.)165; also discussed in Michael J.Prince and Frances Abele,
"Paying For Self-Determination: Aboriginal Peoples, Self-Government, and Fiscal Relationships
in Canada," in *Canada the State of Federation 2003: Reconfiguring Aboriginal-State
Relationships,*(Montreal, McGill-Queen's University Press: 2003), 245.

dilemma than the [AANDC] is in today." [56] These two scholars are pointing out the current

practice of the federal government is to remove accountability and authority. Prince and Abel

state that the reason there is limited fiscal policy for Aboriginal-Canada is because Aboriginal

people as distinct societies, would disappear. Only fleeting attention has been paid to past and

present Aboriginal-Canada fiscal arrangements and nothing was stated in the *British North*

American Act, 1867 about fiscal roles of First Nations or any other potential Aboriginal

governments. Prince and Abel also assert that the *Indian Act, 1867* removed governing powers

from First Nations, which ensures the fiscal weakness of Aboriginal communities and

governments by constraining Chief and Council's decision-making and Parliament delegating

limited powers. [57] Regardless, Aboriginal peoples are aware they need to finance their own

governments to date; there are many examples of procedures that are being implemented to help

in the process of financing Aboriginal self-government.[58] These examples include money

generated from the revenue of settled land claims, Treaty Land Entitlement land rent, taxes on

reserve, and urban reserve revenue.[59]

Thesis Outline

       This thesis will consist of five chapters. Following this introduction, Chapter two

provide a description of the Nation-Building model's five components. Additionally there will be

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[56] David Nicholson, Indian Government in Federal Policy: An Insider's View," Pathways to Self-Determination and the Canadian State, ed by Leroy Little Bear and others, (59-64.)(Toronto, University of Toronto Press: 1984.)62

[57] Michael J. Prince and Frances Abele, "Paying For Self-Determination,"238-244.

[58] Frances Abel and Michael Prince, "The Future of Fiscal Federalism: Funding Regimes For Aboriginal Self-Government," in *Aboriginal Self-Government in Canada: Current Trends and Issues3[rd] Edition,* ed Yale Belanger, (Saskatoon, Purich Publishing Ltd. 2008.), 159-166.

[59] See: Joseph Garcea, "First Nations Satellite Reserves: Capacity Building and Self-Government in Saskatchewan," in *Aboriginal Self-Government in Canada: Current Trends and Issues 3rd Edition,* ed Yale Belanger, (Saskatoon, Purich Publishing Ltd. 2008.)

a review of some of the scholarly critiques of Cornell and Kalt's work. The third chapter will provide a discussion of my methodology and my research methods. The fourth chapter will provide historical background to Muskoday First Nation's efforts to manage its reserve lands over the last two centuries. Chapter five presents the results and is organized through using the Nation-Building model's five themes. The final chapter summarizes the main findings of the thesis, discusses the limitations of the research and identifies areas for future research.

CHAPTER 2
THE NATION-BUILDING MODEL AND CRITQUES OF THE NATION-BUIDLING
MODEL

This chapter will review in detail the Nation-Building Model which was created by

researchers Stephen Cornell and Joseph Kalt from The Harvard Project on American Economic

Development.[1] As discussed briefly in the introduction, the Harvard Project's Nation-Building

model was used for this research because it focused on how, why and what made some Indian

Nations economically successful. Secondly the Nation-Building model has been widely

discussed, however; it has not been tested in Canada. The five principles of the Nation-Building

Model have been used in this research as a tool to assess the presence or absence of

competencies of Muskoday First Nation's land management experience. The Nation-Building

Model identifies the principles of *de facto* sovereignty, capable governing institutions, cultural

match, strategic orientation, and leadership as being more important than classic economic

factors (i.e. natural resource endowments or high levels of educational achievement) in obtaining

economic success on reservations.

This chapter is divided into three sections. The first section provides an outline of the

Harvard Project's five principles. The second section provides a summary of scholarly critiques

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[1] Stephen Cornell and Joseph Kalt, "Redefinition of Property Rights in American Indian
Reservations: A Comparative Analysis of Native American Economic Development,"
http://hpaied.org/images/resources/publibrary/PRS87-3.pdf; "Pathways From Poverty:
Development and Institution Building on American Indian Reservations," May 1989. (accessed
June 2013) http://hpaied.org/images/resources/publibrary/PRS89-5.pdf; "Culture and Institutions
as Public Goods: American Indian Economic Development As A Problem of Collective Action,"
(accessed 2011) http://hpaied.org/images/resources/publibrary/PRS89-12.pdf.

of the Harvard Project's research methods and analysis. The third section will discuss the rationale of applying the Nation-Building Model as a conceptual model in this research.

Nation-Building Model

The Nation-Building Model specifically focuses on changing the internal social, political and economic environment of U.S. Indian reservations by examining how a community is implementing sovereignty, governance, leadership, strategic orientation and culture.

Assertion of Sovereignty

The historical relationship between the United States federal government and American Indian reservations has had substantial negative political, social and economic repercussions for Indian reservations today. One consequence of the federal government running the internal affairs of American reservations has left reservations lacking both genuine decision-making authority and an inability to deliver sustained services and actions that change the internal environment of the reservation. [2] Federal economic development policies on reservations reflected the interests, politics and agenda's of outsiders and took away from Indian leaders the experience of capacity-building, including the positive and negative consequences of decision-making. As a result, economies and economic development strategies on reservations were not focused on sustainable development.[3]

Federal policies have also left Indian sovereignty open to legal interpretation. An after-effect of this has left to Indian leadership the responsibility of turning the abstract promises of

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[2] Stephen Cornell, Catherine Curtis and Miriam Jorgensen, "The Concept of Governance and Its Implications for First Nations," jopna.net/pubs/jopna_2004-02_Governance.pdf. (accessed April 2012) 8 and 9.
[3] Stephen Cornell and Joseph Kalt, "Pathways from Poverty," 2.

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sovereignty and self-determination by the federal state into a practical reality of genuine decision-making.[4] In Cornell's 1995 review of the Canadian context, he notes, that Canadian Aboriginal peoples have rights by virtue of treaty and interactions with the state; however, in relation to economic development these decision-making rights are limited by the state.[5] In Canada, the federal government imposes a template of government on communities and does not delegate to First Nation's governments jurisdictional power or authority for any real decision-making.[6]

The Nation-Building Model defines *de facto* sovereignty as, "having genuine decision-making control over the running of tribal affairs and the use of tribal resources".[7] According to the Nation-Building Model, sovereignty is more than just a right; it is a responsibility that includes decision-making while accepting the consequences of decision-making. The ability to have control over decision-making relates directly to concerns with tribal and land rights as well as to the maintenance, protection of the community, and political survival.[8] Responsibility (i.e. the ability to deliver services and change the internal environment) is related to Cornell and Kalt's concept of *de facto* sovereignty because these are the actions of sovereignty. They stress that in order for a reservation's government to be accepted as legitimate, it must effectively provide services to their constituents and services to outside agencies through delivery of

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[4] Cornell and Kalt, "Sovereignty and Nation-Building," 195.
[5] Stephen Cornell, "Five Myths, Three Partial Truths, A Robust Finding, and Two Tasks," http://www.hks.harvard.edu/hpaied/pubs/pub_131.htm. May 1994. 12.
[6] Stephen Cornell et al., "The First Nations Governance Act," 1, 2.
[7] Stephen Cornell and Joseph Kalt, "Reloading the Dice: Improving the Chances for Economic: Development on American Indian Reservations," http://www.hks.harvard.edu/hpaied/pubs/pub_120.htm. 15; Manely A. Begay Jr. Stephen Cornell and Kalt, "Making Research Count in Indian Country," 5.
[8] Stephen Cornell, "American Indians, American Dreams, and the Meaning of Success," http://www.hks.harvard.edu/hpaied/pubs/pub_138.htm. May 1987. 6.

sustained, organized, and effective actions. These services would be effectively administered by stable social and political mechanisms of the reservation. Cultural norms, values and beliefs would enable leadership to translate the strategic vision of the reservation's membership into action involving the people. However, in some communities, there remains a vacuum where Indian leadership has limited capacity building opportunities and limited exposure to the consequences of their own decision making.

Capable Governing Institutions

Cornell and Kalt define capable governance as a network of relationships which has an established set of informal and or formal rules co-ordinating the interactions of a community's leadership with its members and outsiders. As well, these rules govern relationships with external entities, such as industry and other governments. [9] These rules describe procedures, processes, policies and laws of how to govern.

Government, in the Nation-Building Model, is the physical entity comprised of a set of offices and specialized positions of personnel. Governments are responsible for the implementation of governance.[10] Governments are most effective if they provide stable governance that entails a fair dispute mechanism, a separation of politics from the day-to-day affairs of the government, and a competent bureaucracy. A fair and effective dispute mechanism

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[9] Stephen Cornell, Catherine Curtis and Miriam Jorgenson, "The Concept of Governance And Its Implications for First Nations, http://jopna.net/pubs/jopna_2004-02_Governance.pdf. (Accessed April 2012), 3.
[10] Stephen Cornell and Joseph Kalt, "Sovereignty and Nation-Building: The Development Challenge in Indian Country Today," *The Journal of Aboriginal Economic Development,* vol.3 no.2, 2003:86-100. 91.

allows for people dealing with the institution to know their complaints and concerns will be fairly adjudicated.[11]

According to the Harvard Project, the primary responsibility of a government is to create and sustain an appropriate economic environment for the nation, create rules that economic players must follow, and to make strategic decisions about the overall direction of economic development.[12] This view underscores the importance of separation of politics from day-to-day business decisions. Businesses cannot be successful when decisions are made according to a political agenda and vice versa. Politicians can then focus on visions and long-term decisions for the community.[13] Political interventions can be curtailed using various mechanisms like well-designed checks and balances which allocate power across political branches to increase accountability; similarly, the staggering of political election terms supports institutional memory and increases the likelihood that legislative decisions regarding financial, operational, and legal commitments will be carried out.[14] These two strategies are effective in a competent bureaucracy. Effective bureaucracy is important in managing the day-to-day affairs of the government but it must match the overall culture of the community.

Cultural Match

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[11] Stephen Cornell and Joseph Kalt, "Sovereignty and Nation-Building," 91 & 92.
[12] Stephen Cornell and Joseph Kalt, "Reloading the Dice: Improving the Chances For Economic Development on American Indian Reserves," http://www.hks.harvard.edu/hpaied/pubs/pub_120.htm. (accessed November 2009).31.
[13] Stephen Cornell and Joseph Kalt, "Sovereignty and Nation-Building," 92.
[14] Kenneth Grant and Jonathan Taylor, "Managing the Boundaries Between Business and Politics: Strategies for Improving the Chances for Success in Tribally Owned Enterprises," in *Rebuilding Native Nations: Strategies for Governance and Development,* ed. Miriam Jorgensen,(175-196) (Arizona, University of Arizona: 2007) 181 & 182.

Some authors have asserted that Aboriginal culture interferes with reserve economic growth. The research from the Harvard Project, however, indicates particular culture presents a community with a set of considerations relevant to strategic thinking, organization-building and the selection of development projects.[15] The Nation-Building Model defines culture match as "the match between governing institutions and the prevailing ideas in the community about how authority should be organized and exercised."[16] The examples of strong cultural matches Cornell and Kalt provide are, among others, the White Mountain Apaches of the Fort Apache Reservation and the Oglala Sioux of the Pine Ridge Reservation.

Cornell and Kalt point out that the White Mountain Apache's contemporary *Indian Reorganization Act, 1934* (IRA) government matches traditional Apache government, whereas the Oglala's contemporary IRA government does not match their historical governance system.[17] The White Mountain Apache's traditional government was centralized. Power was placed into the hands of one leader, who selected the council and had no independent judiciary. Because of this cultural match, the members of White Mountain Apache Reservation support the current system since it is consistent with the community perception of appropriate organization and exercise of authority.[18]

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[15] Frances Widdowson and Albert Howard, *Disrobing the Aboriginal Industry: The Deception Behind Cultural Preservation*, (Montreal, McGill-Queen's University Press: 2008); Tom Flanagan, *First Nations? Second Thoughts*, (Montreal, McGill-Queen's University Press:2000); Stephen Cornell, "Five Myths, Three Partial Truths, A Robust Finding, and Two Task," 3-4
[16] Stephen Cornell and Joseph Kalt, "Sovereignty and Nation-Building: The Development Challenge in Indian Country Today," *American Indian Culture and Research Journal* 22(3)(1998):36.
[17] Stephen Cornell and Joseph Kalt, "Sovereignty and Nation-Building," 187-214. 202 and 203.

[18] Stephen Cornell and Joseph Kalt, "Sovereignty and Nation-Building," 203.

On the other hand, the traditional government system of the Oglala Sioux of the Pine Ridge reservation was a legislative council that chose four executives and a police force, called the akicita or the warrior society. The akicita were an independent body that had cultural consent to punish chief executives and legislators for breaking the laws of the community. Also within the traditional government structure there was a separation of strategic decisions and day-to-day business management.[19] Unfortunately, this community could not easily adapt to the IRA government because the norms, values and beliefs of the IRA government did not match the government system of the Oglala Sioux. Cornell and Kalt argue that the cultural match of a contemporary Indian government needs to be reflected in the bureaucracy and must be accepted by the people to create sustainable economic development.

Leadership

Having effective institutions and bureaucracy, and good cultural match in place is only part of the solution to change a reservation's internal environment. According to the Nation-Building Model, communities need leadership that is willing to engage with community members, so that the community members participate in changing the community through strategic planning and action. Currently on many reservations, leadership is put into a difficult position because of high poverty rates and dependency; this means the imperative is job creation and economic growth. [20] However, the current approach (which is focused on a short-term highly visible initiative) is not working as it relies on outsiders to make decisions for the community

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[19] Stephen Cornell and Joseph Kalt. "Sovereignty and Nation-Building," 203.
[20] Stephen Cornell and Joseph P. Kalt, "Two Approaches to Economic Development on American Indian Reservations: One Works, The Other Doesn't," (accessed July 25, 2012) http://www.jopna.net/pubs/jopna_2005-02_Approaches.pdf.

and than leaders become mere distributors of resources. Leadership's focus on economic development strategies is often short-term and non-strategic. [21]

Leadership on American Indian Reservations

In order to move past this paradigm of dependency leadership, leaders need to step beyond the limits imposed by the federal government (and often their own experiences and learned community history) and to work with community members at re-interpreting or re-creating a sense of the community and its history.   Effective leaders possess the ability to help the community's membership to move beyond blame to the vision that things can be changed. They orchestrate this change by re-telling the Nation's story in a different way, and proposing new courses of action. [22] Only then will the community's membership be willing to move out of its existing circumstances.

In order to manage effectively the affairs of a reservation and to create change leadership needs to plan out long-term objectives, priorities, and concerns by taking an inventory of assets and constraints of the community and evaluating the realty of the community's social, political and capacity-building needs. In addition to an inventory, leadership needs to set parameters for accepting and rejecting economic development proposals including a process for shifting dependence on the federal government to Indian leadership and its government. [23] It is a substantial paradigm shift, full of difficulties that accompany a substantial change in worldview.

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[21] Stephen Cornell and Joseph P. Kalt, "Two Approaches to Economic Development," 4.
[22] Stephen Cornell and others, "Seizing the Future: Why Some Native Nations Do and Others Don't," http://www.hks.harvard.edu/hpaied/pubs/pub_160.htm. (accessed 2009). 25.
[23] Stephen Cornell and Joseph Kalt, "Two Approaches to Economic Development:" 16, 17; "Reloading the Dice: Improving the Chances For Economic Development on American Indian Reserves," http://www.hks.harvard.edu/hpaied/pubs/pub_120.htm. (accessed November 2009.)10-14.

The creation of a sustainable economic development strategy needs to come from the community, not just the faction in power.[24]

Leadership does not have to come only from elected officials. Other people in the community, such as those with the desire to change the negative circumstances, can also be leaders. For example at the Northern Cheyenne Reservation, some people sick of the poverty, factional politics, and failed economic initiatives, became active at reforming the constitution by arranging community meetings, campaigning for change, and strengthening the judicial system.[25] Leadership can also come from the grassroots. For example, on the Pine Ridge Sioux Reservation, it evolved through the an entrepreneur's efforts to rebuild the reservation's economy by challenging tribal legislation, promoting constitutional reforms, and leading the way in creating a less politicized tribal court.[26] Whether leadership is at the political or grassroots level, an effective leader must be willing to lead the effort of change by changing the story of the nation and proposing new courses of action.

Strategic Orientation

A new course of action and changing the story of a community has to be guided by strategic orientation. A strategic vision is influenced by a leader's understanding of community goals, needs and wants as well as an understanding of the community's cultural values.[27] In order for strategic orientation to be successfully implemented by a community a paradigm shift

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[24] Stephen Cornell and Joseph Kalt, "Two Approaches to Economic Development:"18.
[25] Stephen Cornell and others, "Seizing the Future:" 27 & 29.
[26] Ibid, 28.
[27] Stephen Cornell, "Forging Linkages & Finding Solutions," (Paper presented at a BC Treaty Commission Conference for First Nations, Vancouver, BC, October 29-31, 2008.), 49.

needs to occur. The leadership of the community must change their thinking and actions from reactive to proactive. Long-term thinking, objectives, priorities and concerns need to be installed in the reservations plans. Strategic orientation is part of a paradigm shift that will change the overall thinking of leadership. This shift requires the community to give up instant employment in favour of long term sustainable economic development and for leadership to move from administrating federal programs to assuming responsibility of actions and decisions. This research will be examining whether or not strategic orientation has been implemented at Muskoday First Nation.

The Nation-Building model provides a framework that clearly defines what sustainable economic development is and what it is not, and sees economic development within a larger context of governance. Cornell and Kalt determined that economic development is a social problem that requires communities to organize themselves in ways to provide activities that generate income and enhance their well-being. According to their findings, if Indian Governments more frequently chose to use the Nation-Building Model, they would have clear criteria for effective sustainable economic development on reserves, addressing issues of sovereignty, putting self-determination into action through governance, creating a division of politics from the day to day affairs of the community, and finally basing systems on a cultural match that is recognized and accepted by the community. To do this, effective leadership and strategic thinking are essential.

Criticisms of the Harvard Project

The main sources of criticism of the Harvard Project on American Indian Economic Development come from Australia and Canada. General criticisms include the legitimacy of

applying United States findings to non-American Indigenous peoples, questioning to what degree

the research finding can be replicated, identifying problems with incomplete data, the lack of

discussion on causation or the correlation of the data with the analysis presented as well the use

of poorly defined terms.[28]

Australian scholar, Martin Mowbray's essay "Localising Responsibility: The Application

of the Harvard Project on American Economic Development to Australia," makes two arguments

simultaneously.[29] The main criticisms focus on the inadequate research methods and the lack of

empirical evidence to support the assertions of the Harvard Project's authors. Specifically, he

points out that the data was collected from the period of 1977-1989, the methods employed were

problematic, and that assumptions were made with their data.[30] For example he asserts that the

Harvard Project's findings and its five determinants as bordering on tautology, unexceptional,

commonsensical and that the information overlaps the broader business managerial literature.[31]

He asserts that, "the Harvard Project appeal is better explained by the consonance of its findings

with existing, primarily economic, policy trajectories than either their originality or empirical

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[28] Tonina Simeone, "The Harvard Project on American Indian Economic Development: Findings and Considerations," Political and Social Affairs Division, November 15, 2007. http://www2.parl.gc.ca/content/lop/researchpublications/prb0737-e.htm. (accessed 2011);Patrick Sullivan, "Indigenous Governance: The Harvard Project, Australian Aboriginal Organisations and Cultural Subsidiary," Working Paper 4, March 2007. 4; Martin Mowbray, "Localising Responsibility: The Application of the Harvard Project on American Indian Economic Development to Australia," Australian Journal of Social Issues 41, no.1 (Autumn 2006): 88-103, 99; Alan C. Cairns, "First Nations and the Canadian State: In Search of CoExistence," Institute of Intergovernmental Relations School of Policy Studies, Queen's University: 2002. http://www.queensu.ca/iigr/pub/archive/books/LMacGregor.pdf. 20.

[29] I came to this understand this essay through personal discussions with Dr. Kim Morrison Ph D. September 3/13.
[30] Martin Mowbray, "Localising Responsibility," 96-99.
[31] Martin Mowbray, "Localising Responsibility," 88-92.

merit."[32] He is concerned that the findings of the Harvard Project are being used in Australian social policy because it provides a lexicon that appeal to policy makers and to Aboriginal communities.[33] He is concerned that policy makers can use the Harvard Project's principals to justify further devolution of resources and then blame the Indigenous communities for their failure and about the imposition of American imperialist's ideology.[34] Additionally he is concerned that the ideological underpinnings of Cornell and Kalt's work comes from public choice theory and neo-classical economists. He states that the philosophy of the Harvard Project is found in the essay titled "Where's the Glue? Institutional and Cultural Foundations of American Indian Economic Development." [35] Mowbray criticizes the esoteric terms featured by neo-classic economists because he believes that "Where's the Glue?" reveals much about the nature and quality of the research but is not accessible to most people.[36] Interestingly, from the lexicon that he uses, his work is also not accessible to most readers. Additionally, Mowbray makes the connection between the Harvard's Project's philosophy and the brand of neo-classical policy known in Australia as 'economic rationalism' or market rationalism. For Mowbray, using the fundamental precepts of economic rationalism is problematic because other analytic concepts from different schools of thought are excluded from the analysis.[37] Mowbray is concerned that the rationale behind their grand universal statements supports the status quo of economic policies.

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[32] Martin Mowbray, "Localising Responsibility," 88.
[33] Martin Mowbray, "Localising Responsibility," 88.
[34] Martin Mowbray, "Localising Responsibility," 100.
[35] Ibid
[36] Martin Mowbray, "Localising Responsibility," 94.
[37] Martin Mowbray, "Localising Responsibility,"100.

Canadian policy maker Tonina Simeone, Political Scientist Alan Cairns, Christina

Dowling and Native Studies scholar Albert Berland discuss the Harvard Project's five principles

and their definitions. They express concern about how they are to be applied in the Canadian

context. Specifically, Simeone is concerned that Cornell and Kalt do not address political rights

or control over lands and resources, which she states is contrary to the recommendations of

Royal Commission of Aboriginal Peoples, 1996 and the United Nations, which call for transfer

and control of natural resources to Aboriginal people. [38] Additionally, Simeone challenges the

definition of culture by asking the question of what happens if the community's culture is

opposed to development or the values of liberal society.[39] Dowling is concerned that Cornell and

Kalt's project is "one more univocal formula, imposed from without and encouraging, yet more

mimesis and fracturing First Nations society."[40] She claims that their version of cultural match

demands of First Nations to develop machinery that is "indigenized".[41] Dowling is making the

assumption that a community's culture cannot define development in a manner that addresses the

community's needs. However, Aboriginal peoples have always been involved in pursuing

economics. [42]

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[38] Tonina Simeone, "The Harvard Project," 3.
[39] Tonina Simeone, "The Harvard Project," 5.
[40] Christina Dowling, "The Applied Theory of Fist Nations Economic Development: A Critique," *Journal of Aboriginal Economic Development,* vol.4, no. 2(2005): 121-128. 127.
[41] Ibid
[42] Authur J. Ray, "Fur Trade History: As A Aspect of Native History," *Expressions in Canadian Native Studies*, ed. Ron Laliberte and others, (Saskatoon, University of Saskatchewan Extension Press, 2000); David Newhouse, "From Tribal to Modern: The Development of Modern Aboriginal Societies," in *Expressions in Canadian Native Studies* ed by Ron Laliberte et al, (Saskatoon, University of Saskatchewan Press: 2000.); Dean Jacobs, Walpole Island: Sustainable Development, *Nation to Nation: Aboriginal Sovereignty and the Future of Canada,* ed. Diane Engelstad and John Bird, (Concord, House of Asansi Press Ltd.: 1992).

Alan Cairns suggests that the small nature of First Nation governments has resulted in

them being left out the broader public discourse and academic literature. He suggests that "the

importance of population size for the quality and jurisdictional capacity also merits extensive

attention." [43] He further suggests that "the jurisdictional capacity that can be assumed by the

majority of First Nations governments is severely limited, and so, accordingly, their capacities to

either preserve or modernize their indigenous culture."[44] Additionally, he points out that there

has been a lack of analysis of practical and normative concerns of self-government. [45] Cairns has

brought up a valuable point. There does need to be discussions on the practical problems of self-

government at the community level. Presently the only known evaluations of programs

transferred to First Nation community are being carried out by Health Canada. [46] Unfortunately

these evaluations and the finding are still in progress and primary evidence demonstrates uneven

levels of success. [47]

Albert Berland's, Master's, research suggests that a First Nation community can

undertake successful economic development without sovereignty. Berland states:

> Frog Lake First Nation's leadership—despite the restrictive regimes of co-management and
> the *Indian Act*—has been able to set the economic development agenda for the community;
> without any real form of increased jurisdictional control. Under these oppressive regimes,
> local decision-making authority was far removed from the hands of elected leadership and
> departmental programs; in fact, much of the authority on which community priorities and
> projects proceeded rested on the discretion of co-management officers—oftentimes
> unilaterally. As such, any form of a strategic effort for increased *de facto*—let alone *de*

[43] Alan C. Cairns, "First Nations and the Canadian State, In Search of Co-Existence," Institute of
Intergovernmental Relations School of Policy Studies, Queen's University: 2002.
http://www.queensu.ca/iigr/pub/archive/books/LMacGregor.pdf.16.
[44] Alan C. Cairns, "First Nations and the Canadian State," 17.
[45] Alan C. Cairns, "First Nations and the Canadian State," 19.
[46] Paul S. Maxim, Jerry P. White and Paul C. Whitehead, "Towards an Index of Community
Capacity: Predicting Community Potential for Successful Community Transfer," (accessed June
2013) http://ir.lib.uwo.ca/cgi/viewcontent.cgi?article=1080&context=pscpapers. 7, 8.
[47] Ibid.

jure—sovereignty was far from discussions at the community level. In fact, FLFN has been, and still very much remains, highly dependent on the governance frameworks provided in the *Indian Act*. For the community, systems of accountability were already in place that were provided through the *Indian Act*; policies on accountability were an accepted and learned system and very much a part of the sociopolitical culture of FLFN—arguably, even to the present day. In other words, jurisdictional control was systematically removed from leadership and departmental programs, thereby further removing community responsibilities of accountability.[48]

What is confusing about his assertion is that the data he has presented demonstrates that the community has asserted sovereignty through their decisions. For example the Frog Lake community had once amassed a huge debt, had no strategic financial plan or no mechanisms to enforce financial accountability and was possibly being placed in receivership. Presently, the community does have financial control. They have put mechanisms of control in place such as a qualified financial controller and a director of operations. [49] Additionally the community has created the Frog Lake Energy Resources Corporation and established a Trust Account.[50] Berland, stated that the corporation also wanted to fully participate and engaged in joint venture plans as a way to expand the drilling program and create employment.[51] These examples demonstrated sovereignty because the community actively created a Corporation, set in place mechanisms to manage their own finances, and agreed to participate fully within the perimeters of the joint-venture. They were making decisions about tribal affairs and tribal resources.

Christina Dowling points out that in Aboriginal communities there are many differing views of how Aboriginal development should be carried out. Dowling's criticism of the Harvard Project includes its underlying ideology and how it only embraces Western style economics, which advocates for individual orientation and the acceptance of authority based on self-

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[48] Albert J. Berland, "Frog Lake First Nation and Economic Development: A Case Study," Unpublished Master's Thesis, University of Saskatchewan: 2012. 99, 100.
[49] Ibid," 13, 14.
[50] Ibid, 16.
[51] Ibid, 66.

interests. [52] She argues that "Cornell and Kalt's analysis both presumes the supremacy of the western capitalistic ideology, and glosses over the complexities of actual situations." She is against the concept of sovereignty because it is constructed and is an Aboriginal response to colonization. She also questions how self-determination can be carried out in the artificial environment of reserve which was originally created to isolate Aboriginal people from other Canadians and provided the origins of 'welfare of dependency' and a reiteration of leaving Aboriginal people out of the Canadian economy.[53]

A consequence amongst the Nuxalk of Bella Cola is that the impact of 'welfare of dependency' affects the ability of these peoples to be able to see themselves as participating in an economy. Dowling's research demonstrates that "recurring themes among many Nuxalk is the [negative] impact of 'welfare of dependency' and how this affects the peoples' thinking towards economic development. She states that the Nuxalk do not think their people have 'what it takes' or the right 'emotional make-up' to be an entrepreneur. In the first instance, people do not have the skills or the experience with business systems to run them efficiently. Additionally, she states, "Traditional First Nations societies (particularly hunter-gatherers) are essentially opposed to the very conditions of industrial development: the accumulation of wealth, growth and Westernized notions of 'progress'."[54] What is alarming about her analysis is the fact she has connected traditional First Nation societies to hunter-gatherers. This historical concept of hunter-gatherers does not allow for Canadian people to think of First Nations people and economic development together. The discussion of First Nation culture often points to activities like the pow wow, the sweats, the tipi and agrarian society. Discussion like these focuses on symbols of

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[52] Christina Dowling, "The Applied Theory of Fist Nations Economic Development," 120.
[53] Ibid, 122.
[54] Christina Dowling, "The Applied Theory of Fist Nations Economic Development," 122.

First Nations culture rather than the norms, values, beliefs and ideologies of the culture. The effect of focusing on symbols is that First Nation culture is stuck in a historic context which does not allow it to adapt or change to its environment or circumstance. In fact, there exists a cultural perspective within some Indigenous communities about the importance of the land and its resources, however; this perspective does not always disregard economic development rather development should incorporate an Indigenous worldview.

One of the problems with Dowling's research is that she is using it as the basis for a general assertion that all communities are stuck in 'welfare dependency' and opposition to development. Research has shown that many First Nation communities have already found development strategies that work for their community. For example in Wanda Wuttunee's book *Living Rhythms: Lessons in Aboriginal Economics Resilience and Vision*, Wuttunee draws attention to 8 rural and urban communities across Western Canada that have created development strategies that are not about exploiting natural resources. For these communities, success in economic development sometimes meant that increased employment was important something to be quantified. More often than not, they judged success in terms of how self-governing they are. She also states that small businesses, jobs, education and training were priorities for these communities to ensure their continued existence. [55] Additionally she states the effective economic development strategies for Aboriginal communities include a recognition of the need for strong leadership that understands and supports local needs. They recognize a strong

[55] Wanda Wuttenne, *Living Rhythms: Lessons in Aboriginal Economics Resilience and Vision,* (Montreal, McGill-Queen's University Press: 2004.),19

kinship system which is not duplicated in Western society, and they have room for many cultural

values." [56]

It is true that reserves were created to isolate and assimilate First Nation peoples. In fact

we know in the Saskatchewan that there was/is a short-fall of land as provided under treaty.

Eventually under Treaty Land Entitlement shortfall acres, "a specified amount of Crown lands is

identified and/or a cash settlement is provided so that a First Nation may purchase federal,

provincial/territorial, or private land to settle the land debt."[57] Some of the TLE communities

have purchased land specifically in urban communities and have converted it to reserve status.

The creation of urban reserves resulted because of economics, social issues, division in

communities about rights, economic prospects, political philosophies and a lack of employment

in rural and urban centres. Urban reserves allow for economic activities and an opportunity to

assert self-government.[58]

Culture is an area that is often brought up when discussing First Nation people and

economic development. The Nation-Building model says that economic development must

reflect the contemporary culture of the community. Australian anthropologist Patrick Sullivan's

criticisms focus, among other things, on the use of Aboriginal culture in governance and

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[56] Wanda Wuttunee, *Living Rhythms:"* 20
[57] Peggy Martin-McGuire, "Treaty Land Entitlement in Saskatchewan: A Context for the
Creation of Urban Reserves," in *Forging New Relationships in Saskatchewan*, ed. Laurie F.
Barron and Joseph Garcea, (Saskatoon, Purich Publishing: 1999.), 70.
[58]Laurie F. Barron and Joseph Garcea, "The Genesis of Urban Reserves and the Role of
Governmental Self-Interest," *Forging New Relationships in Saskatchewan*, ed. Laurie F, Barron
and Joseph Garcea, (Saskatoon, Purich Publishing: 1999.), 26, 27; Peggy Martin-McGuire,
"Treaty Land Entitlement in Saskatchewan," 75; Michael E. Gertler, Indian Urban Reserves and
Community Development: Some Social Issues," in *Forging New Relationships in Saskatchewan*,
ed. Laurie F, Barron and Joseph Garcea, (Saskatoon, Purich Publishing: 1999.), 266.

concerns with what he sees as subsidizing cultural development initiatives.[59] Sullivan states:

"…to conceive of "Aboriginal culture as a set of institutions that can be translated, in one way or another, into effective organisational structures for self-management or commerce."[60] However, he suggests that Aboriginal culture can be shared. He points out that sharing is the only way to protect bureaucracy and governance from any risks of maladaptive and unacceptable Aboriginal cultural forms which will have an influence over people's life's and functional organizations.[61] Furthermore, he reasons that there are not proper guidelines for acceptable authority of leadership within an Aboriginal domain to protect minority and dissidents' interests. [62] Sullivan also does not believe that traditional cultural governance principles can be applied to modern governance principles and is concerned that policy makers and organizations in Australia are interpreting culture as a restoration to traditional governance principles. It is not clear who his audience is. However, it appears he might be questioning why the government should have to pay for the implementation of Indigenous government.

Sullivan's analysis seems close to blaming the Indigenous peoples of Australia for the current dysfunctional state of their governance. He states that: "If processes for good governance as understood in contemporary terms exist in Indigenous cultural practice, there is no need for intervention, nor would we see the dysfunction that has been publicly acknowledged for at least

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[59] Patrick Sullivan, "Indigenous Governance: The Harvard Project, Australian Aboriginal Organisations and Cultural Subsidiary," Working Paper 4, March 2007. 13-15.
[60] Patrick Sullivan, "Indigenous Governance:"1.
[61] Patrick Sullivan, "Indigenous Governance," 2.
[62] Patrick Sullivan, "Indigenous Governance: The Harvard Project, Australian Aboriginal Organisations and Cultural Subsidiary," Working Paper 4, March 2007. 1

twenty years."[63] This statement suggests that only dysfunction exists in Indigenous culture.

However he does state:

> "Indigenous communities are clearly embedded in post-colonial settler relations in multiple ways. Authority in Indigenous life, as much as in post-colonial administration, is layered, contextual, contested and continuously subject to exegesis such that both the totality of the settler state and the essentialised nature of Indigenous groups that confront it are called in question.[64]"

Sullivan is stating in his own words that "Indigenous communities are embedded in post-colonial relations." Being embedded suggests that there needs to be two parts. If there are two parts, than they blame for the dysfunction in Aboriginal communities can not fall just on Aboriginal people. One of the failings of his argument is that he does not acknowledge that the existing problems in Aboriginal communities already have government oversight.

Many scholars have pointed out that Canadian First Nation communities struggle economically and socially, and that self-government is a way to assume control away from the AANDC and place it back into the hands of the community.[65] Meanwhile other scholars

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[63] Patrick Sullivan, "Indigenous Governance,"
7.[64] Patrick Sullivan, "Indigenous Governance," 1.
[65] Rick J. Ponting and Roger Gibbins, "Thorns in the Bed of Roses: A Socio-Political View of The Problems of Indian Government, *Pathways to Self-Determination and the Canadian State*, ed. Leroy Little Bear and others,(Toronto, University of Toronto Press: 1984),123, 124; Augie Fleras and Jean Leonard Elliott, *The Nations Within: Aboriginal State Relations in Canada, the United States, and New Zealand*, (Toronto, Oxford University Press: 1992), 8; Alan C. Cairns, *Citizens Plus: Aboriginal People and the Canadian State*, (Vancouver, UBC Press: 2000) 111; Ken Coates and W.R. Morrison, "From Panacea to Reality: The Practicalities of Aboriginal Self-Government Agreements," *Aboriginal Self-Government in Canada: Current Trends and Issues 3rd Edition,* ed. Yale Belanger, (Saskatoon, Purich Publishing Ltd. 2008),106; Frances Abele and Michael J. Prince, "Aboriginal Governance and Canadian Federalism: A To-Do List For Canada," in *New Trends in Canadian Federalism 2nd Edition*, ed. Francis Rocher and Miriam Smith,(Peterborough, Broadview Press Ltd.: 2003), 139, 140; Tim Schouls, *Shifting Boundaries: Aboriginal Identity, Pluralist Theory, and Politics of Self-Government,* (Vancouver, UBC Press: 2003), 178.

introduce the idea there are other factors such as the *Indian Act*, a lack of fiscal policy for First

Nation communities and devolution of programs without proper resources which contribute to

lack of accountability of First Nation's leadership and the many obstacles faced by First Nation

communities.[66] The negative impact of government policies on First Nation identified by

scholars is reinforced by community based commentary.[67] The current climate of decision

making on reserves is restricted by the *Indian Act*, the inability of federal and provincial

governments to relinquish control and decision-making on reserve and by the authority of

AANDC. Control over decision making needs to be placed back into the hands of First Nation

communities.

  The Nation-Building model will be used to evaluate the results of this thesis research,

because this model provides a North American baseline from which to carry out research in the

Canadian context. This research will be using the Nation-Building Model's definition of de *facto*

sovereignty, capable governing institutions, cultural match, leadership and strategic orientation

as discussed earlier in this chapter. As Mowbray, Simeon and Sullivan question are the five

principals of the Nation-Building model applicable outside of the United States Indian

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[66] Ken Coates and W.R. Morrison, "From Panacea to Reality," 116-117; Michael J. Prince and Frances Abele, "Paying For Self-Determination,"238-244; Douglas E. Sanders, "Some Current Issues Facing Indian Government," in Pathways to Self-Determination and the Canadian State, ed Leroy Little Bear and others, (Toronto, University of Toronto Press: 1984.), 113-121. 115; David Nicholson, "Indian Government in Federal Policy: An Insider's View," Pathways to Self-Determination and the Canadian State, ed Leroy Little Bear and others, (Toronto, University of Toronto Press: 1984), 59-64. 62

[66] David Nicholson, "Indian Government in Federal Policy: An Insider's View," Pathways to Self-Determination and the Canadian State, ed Leroy Little Bear and others, (Toronto, University of Toronto Press: 1984), 59-64. 62

[67] Dean Jacobs, Walpole Island: Sustainable Development, *Nation to Nation: Aboriginal Sovereignty and the Future of Canada,* ed. Diane Engelstad and John Bird, (Concord, House of Asaansi Press Ltd.: 1992), 179-185; Sykes Powderface, "Self-Government Means Biting the Hand That Feeds Us," Pathways to Self-Determination and the Canadian State, ed. Leroy Little Bear and others, (Toronto, University of Toronto Press: 1984.),164-167.

reservation system? Mowbray and Sullivan do bring up some valuable points about causation

and correlations of the American research findings. However, this thesis is not about critiquing

Cornell and Kalt's research methods and methodologies. Rather it is about determining whether

or not the Nation-Building Model's five principals are useable in the Canadian context. Despite

the layers of racism, classism and a colonial history with the state that exist in the USA, the

model focused on what successful Native American communities, what are they doing to make

positive changes rather than focusing on how First Nations are failing in economic development

strategies and assertion of sovereignty. Ponting and Voyageur state, "a 'deficit paradigm' ie. a

focus on the woes, conflicts, and other problems of First Nations and on their status as victims,

has been very prominent in much social science treatment of First Nations." [68] They also suggest

> that positive aspects of the situation of First Nation individuals and collectivities are too
> readily overshadowed by negative aspects. Often the result is that unduly pessimistic
> impressions come to prevail among First Nation individuals and non-Natives alike, which
> raises the spectre of hopelessness and [the] perpetuation of the worst aspects of the status
> quo.[69]

The raw data collected for this thesis research suggests that despite a legacy of Canadian

colonization the community and the leadership of Muskoday First Nation was not willing

to accept that type of status quo and had a legacy of continued cultural persistence in

challenging the authority of AANDC and the Canadian federal government through various

communal and individual acts of agency. Hence the use of this Nation-Building model

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[68] Rick Ponting and Cara Voyageur, "Challenging the Deficit Paradigm Grounds for Optimisms for First Nations in Canada," *The Canadian Journal of Native Studies,* XXI, 2(2001): 276.
[69] Rick Ponting and Cara Voyageur, "Challenging the Deficit Paradigm," 277.

seemed to be an appropriate framework through which to evaluate the Muskoday First

Nation case.

Starting the Research

Research methodology is the explanation and rationale used by a researcher for obtaining

and processing research information to solve a research question.[1] Methodology is guided by

rules and principals of a discipline and determines how research should proceed. In Native

Studies, our responsibility is to carry out research that conveys an Indigenous cultural

perspective, conduct research that benefits Indigenous peoples and their community, and employ

appropriate research methods and theories that will achieve these goals.[2] The role of an

Indigenous scholar is complex and multiple academic skills and expectations, as well as

accountability to the Indigenous community by acting as a mediator, translator and having an

understanding and pursuit of Indigenous intellectual epistemologies, as well as worldview.[3] One

of the main goals of this research was to carry it out ethically and to start a research relationship

with Muskoday First Nation built on reciprocity. Unfortunately, I was not completely aware of

how to begin research with a community that I had no relationship with. The literature I read on

Indigenous and Native Studies research methods and methodologies was in no way exhaustive,[4]

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[1] Augie Fleras, "Researching Together Differently: Bridging the Paradigm Gap," *Native Studies Review: Dialogue on Aboriginal Research Issues,* vol15, no. 4 (2004): 120.

[2] Robert Alexander Innes, Introduction: "Native Studies and Native Cultural Preservation, Revitalization and Persistence," *American Indian Culture and Research Journal* 34, no.2 (2010): 1-9.

[3] Winona Wheeler, "Thoughts and Responsibilities for Indigenous/Native Studies," *The Canadian Journal of Native Studies XXI,* 1 (2001): 97-104. 98.

[4] Robert Alexander Innes, Introduction: "Native Studies and Native Cultural Preservation, Revitalization and Persistence," *American Indian Culture and Research Journal* 34, no.2 (2010): 1-9; Margaret Kovach, *Indigenous Methodologies: Characteristics, Conversations, and Contexts*, (Toronto: University of Toronto Press, 2009); Shawn Wilson, *Research is Ceremony: Indigenous Research Methods*,(Halifax: Fernwood Publishing, 2008); Margaret Kovach,

but I have noted a few things. The literature is usually organized by differentiating Native

Studies scholarship from other traditional long-standing scholarship.[5] This body of literature

also appears to be written from the perspective of individuals who have a long term relationship

with one or more First Nation or Indigenous communities and are describing an ideal of

community-based research. Some notable limitations of this literature are the lack of concrete

examples by scholars of how to carry out Indigenous research methods and how to start an

ethical relationship with an Aboriginal community.

Data Collection Methods

A case study approach is appropriate to examine Muskoday First Nation's

social reality because the social phenomena of Muskoday First Nation is too complex for

experimental or survey research. The research began with a question on why Muskoday

First Nation's membership pursued control of their lands and resources and how did they

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"Emerging From the Margins: Indigenous Methodologies," *Research As Resistance: Critical, Indigenous and Anti-Oppressive Approaches*, ed. Leslie Brown and Susan Strega (Toronto: Canadian Scholars Press, 2005):19-36.; Peter Cole, "tricker(ster)s of aboriginal research: or how to use ethical review strategies to perpetuate cultural genocide," *Native Studies Review: Dialogue on Aboriginal Research Issues* vol.15 number 2 (2004);Robert Alexander Innes, "American Indian Studies Research is Ethical Research: A Discussion of Linda Smith and James Waldram's Approach to Aboriginal Research." *Native Studies Review Dialogue on Aboriginal Research Issues* 15, no.2 (2004):131-138; Nathalie Piquemal, "Four Principals to Guide Research with Aboriginals," *Policy Options,* December 2000: 49-51; Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous People,* (London UK: Zed Books Ltd., 1999); Verna St. Denis, "Community-Based Participatory Research: Aspects of Concepts Relevant for Practice." *Native Studies Review* 8, no.2 (1992):50-74; Peter Kulchyski "What is Native Studies," *Expressions in Canadian Native Studies*, ed. Ron Laliberte and others (Saskatoon: University of Saskatchewan Extension Press, 2000), 13-26; Neal McLeod "Indigenous Studies: Negotiating the Space Between Tribal Communities and Academia," *Expressions in Canadian Native Studies*, ed. Ron Laliberte and others (Saskatoon: University of Saskatchewan Extension Press, 2000), 27-39.
[5]Chris Anderson, "Critical Indigenous Studies: From Differences to Density," *Cultural Studies Review*15, No.2 (2009): 82.

accomplish this? Initially, I started with a bibliographical search on published findings on

Muskoday First Nation and expanded to self-government, economics on reserves and

governance using primary and secondary documents found in the library and the internet.

As mentioned earlier, this information proved to be too general and did not directly apply

to Muskoday First Nation's experience. It became apparent that there was a limited

amount of research about how and why Muskoday First Nation wanted to manage their

lands and resources; and how they were able to start the process of getting this authority

and control from the Canadian government.

As an outsider to Muskoday First Nation and a novice researcher, I next contacted

Muskoday First Nation's Land Manger, Dean Bear. I first explained to Mr. Bear that I was a

graduate student, with the department of Native Studies at the University of Saskatchewan,

interested in doing research with Muskoday First Nation. Mr. Bear asked me a few questions

about the research and I explained to him that it was in a preliminary stage. I also queried about

whether or not Muskoday First Nation had their own set of research and ethics application

procedures. He informed me that I would have to do a presentation explaining my research for

the Chief and Council. I also explained to Mr. Bear that I was required through the University of

Saskatchewan policies to fulfill specific ethical research standards as well (my ethics application

was accepted June 1, 2011). In another phone conversation, with Mr. Bear I asked if he could

think of people to contact that had worked on the Lands Management Agreement and the Land

Code and that would be willing to answer questions and talk about their experience. In addition, I

explained that I was interested in working for the community, for a week while carrying out my

research. Prior to my presentation for the Chief and Council, Mr. Bear and I corresponded

through emails and he came to campus to meet Dr. Robert Innes and myself to discuss the

research. Prior to the presentation for the Chief and Council, I was requested to summit a

Briefing Note to the Clerk of Council. Dr. Robert Innes and I travelled together and spoke to the

Council about my research. The Chief and Council agreed to the research and Chief Austin Bear

and I signed the research agreement (APPENDIX A).

Research Methods

I intended to collect qualitative data that was rich in detail, since limited data could be

collected in my bibliographical search. Having examined several the qualitative research

methods, it became apparent that interviewing Muskoday First Nations members was an

important step and suitable methodology and detailed information about Muskoday First Nation

and their movement towards self-government.

Second, Grounded Theory was selected as the most appropriate method to analyze the

data in this research, because it is the most widely used framework for analyzing qualitative data.
[6] Grounded theory was first introduced in the book, *The Discovery of Grounded Theory,* by

Sociologists Barney Glaser and Anselm L. Strauss, as a systematic and comparative method of

data analysis for the purpose of social theory construction.[7] Grounded theory has been described

by qualitative researchers as a technique of analysis rather than a research approach. [8] The

general methodology of Grounded Theory is to conduct data analysis from the perspective of the

researcher's interaction with the data, while carrying out simultaneous data collection. These

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[6] Alan Bryman and James J. Teevan, *Social Research Methods,"* 283.
[7] Frederick J. Wertz et al., *Five Ways of Doing Qualitative Analysi*s, (New York, Guilford Press: 2011), 56-59; Michael Bloor and Fiona Wood, *Key Words in Qualitative Methods: A Vocabulary of Research Concepts,* (London, Sage Publication Ltd.: 2006); Barney G. Glaser and Anselm L. Strauss, *The Discovery of Grounded Theory: Strategies for Qualitative Research*, (Chicago, Aldine Publishing Company: 1973)
[8] Michael Bloor and Fiona Wood, *Key Words in Qualitative Method,* 95.

interactions with the data also include comparative data methods and tools for constructing

theories. Additionally, a Grounded theorist uses data coding as a tool to take data sets apart and

define what they mean. The analysis of data begins with coding, but a researcher's analysis and

thoughts about the data are also written in memos. [9] The theory that arises from the data is

inductive rather than deductive which allows researchers to move from specific instances to

general conclusions. [10] This qualitative method differs from other qualitative research methods

because the coding is not created from pre-conceived themes; rather the codes are created from

the researcher's initial review of the data and the analysis within memos. Researchers Birks and

Mills state that Grounded Theory is appropriate to use when "little is known about the subject

area, the generation of theory is the desired outcome, [and] an inherent process is imbedded in

the research situation that is likely to be explicated by grounded theory methods."[11] What had

became evident in the literature search was how limited published information was about

Muskoday First Nation; this created a space that lead to more questions than answers and thus

was ideal for using Grounded Theory as a analysis method.

The information about Muskoday First Nation was full of holes that required specific

questions to be asked in the interviews. Juliet Corbin and Anselm Strauss suggest that Grounded

Theory allows for the researcher to begin analysis as soon as the first bits of data are collected.

Initial analysis is necessary because it further directs the interviews and qualifies the

observation.[12] Using the information from the literature review I started to formulate general

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[9] Wertz et al., *Five Ways of Doing Qualitative Analysis*, 165.
[10] Michael Bloor and Fiona Wood, *Key Words in Qualitative Method,* 96.
[11] Melanie Birks and Jane Mills, *Grounded Theory: A Practical Guide,* (Thousand Oaks CA., Sage Publications Ltd.: 2011), 16.
[12] Juliet Corbin and Anselm Strauss, "Grounded Theory Research: Procedures, Canons and Evaluative Criteria", *Zeitschrift fur Soziologie*, Jg. 19, Heft 6, Dezember 1990: 418-427. 419.

questions about the historical and contemporary reasons for reclaiming lands and resources. I

also became more curious about finding the driving factors in the community that led to change.

From these original questions, I formulated a number of interview questions (APPENDIX B) that

I hoped would lead to the answers of the broader questions.

Interviewing Method

. In our preliminary meetings about my research, I had requested Dean Bear, Muskoday

First Nation Land's Manager, find individuals that were part of the Land Management

Agreement and instrumental in creating the Land Code. As per my ethics application and my

presentation to Chief and Council, I interviewed nine people using specific open-ended interview

question (APPENDIX B) and because this style of interviewing is flexible and seeks out the

worldview of the participants.[13] These people were chosen by Dean Bear and were past and

present members of the lands advisory board and band officials; and an individual from the

nearby community of Birch Hills. The interviews were carried out in the Land Manager's office

locate on Muskoday First Nation's reserve during the two trips I made up to Muskoday First

Nation. As a novice researcher, open-ended interviews seemed to be the most efficient means to

obtain the data because I could prepare my interview questions and thoughts ahead of time. [14] I

Christopher's Alcantara's chapter form *Beyond the Indian Act and First Nations Land Management Act* focuses on the First Nations Land Management Act (FNLMA) rather than analyzing the *Framework Agreement for First Nations Land Management.* The report Sharing Canada's Prosperity –A Hand up Not a Hand Out suggests that a new funding formula needs to be created to address staff requirements and funding for capacity building. Other sources of data include information from the First Nations Lands Advisory Board and Aboriginal Affairs and Northern Development Canada. These sources of information lead to confusing and more questions than answers about Muskoday First Nation's *Framework Agreement for First Nations Land Management* and their land code.

[13] Alan Bryman and James J. Teevan, *Social Research Methods,"* 211.

[14] Alan Bryman and James J. Teevan, *Social Research Methods,"* 184.

recorded the interviews because I did not think I could take notes fast enough and listen attentively to the interviewee. Alan Bryman and James J. Teevan suggest that the raw data collection should be recorded because interviewers should be to be engaged in listening and observing how the participants are saying things, as well as hearing the content of what the participants says. Additionally, they suggest that effective interviewers are to follow up with additional questions to clarify what the interviewee is saying, to prompt and probe the interviewee, and to question inconsistencies in the interviewee's answers. [15] As a result of my lack of expertise, I often did not know what additional questions to ask until I had read the initial transcripts many times. One of the problems with recording interviews is that it is an artificial setting and the interviewee may feel uncomfortable with the tape recorder. As a result of not being able to think quickly during the interviews I had to phone Dean Bear a few times to clarify general information given about community events, but did not clarify information about what the interviewees discussed.

The raw data was transcribed, by a professional transcriber from Imprimis Secretarial Services (I struggled to type fast enough to keep up with the pace of the interviewee), which allowed for a review of the data checking for internal consistency. In order to be ethical and adhere to the contract drawn up between the community and myself, the raw data will not be shared with other researchers and will be returned to the community after the thesis is defended. These interviewees were picked by the First Nation and the interview contents were transcribed verbatim for the purpose of not losing the interviewee's "voice". The first reading of my transcripts was done for the purpose of recognizing general ideas and themes emerging from the data. Strauss and Glaser suggested:

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[15] Alan Bryman and James J. Teevan, *Social Research Methods,"*191.

literally to ignore the literature of theory and fact on the area under study, in order to ensure that the emergence of categories will not be contaminated by concepts more suited to different areas. Similarities and convergences with the literature can be established after the analytic core of categories has emerged."[16]

The first reading in Grounded Theory analysis is also to carry out the initial coding of the data. The initial coding is created around the ideas that people are describing in their interviews. Then one interview is compared with another to add or correct initial coding so it clearly defines the categories of the data and generates an analytic framework that leads to an understanding of the meaning behind the data. [17] Contemporary Grounded Constructivist theorist Kathy Charmaz states that initial coding should be quick and spontaneous focusing on gerunds because this helps the researcher stay focused on the data and detect processes. It is important for the researcher to construct simple, short and precise codes, which allow one to understand the data and where it is leading you. [18] The first time I read my transcripts, I created general codes manually such as self-government, relationship with the Canadian state and Indian Act; rather than a larger number of specific codes.[19] This initial coding was problematic because too much data fit under these codes and the categories were influenced by literature on self-government and First Nations communities. I manually began line-by-line coding which helped to remove my previously constructed categories of understanding of the information and allowed new ideas to emerge.

Before I read the data for the second time, I gave each interview a number, and then coded each interviewee with a code using their initials. I also numbered each line of each transcript in ascending order beginning with one. After numbering the interview lines, I started

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[16] Barney G. Glaser and Anselm L. Strauss, *The Discovery of Grounded Theory,"*37.

[17] Kathy Charmaz, *Constructing Grounded Theory: A Practical Guide Through Qualitative Analysis*, (Thousand Oaks, CA. Sage Publications Ltd.:2006), 45-48.

[18] Kathy Charmaz, "*Constructing Grounded Theory,"* 49.

[19] All the coding I did manually because I was not offered a program. I struggled with the volume of information that I had to analyze and organize.

reading line by line pulling, out key terms and ideas from the data. I would then write these

terms as codes including the interview number, the interviewee's code and the line number of

where the code is located at the top of the index card. Grounded Theory coding gives code

names to items that seem to have potential theoretical significance, and the codes help organize

the raw data.[20] Grounded theorist Kathy Charmaz also states that "we define what we see as

significant in the data and describe what we think is happening." For example, in my research I

applied the code name "bureaucracy" to any information that related to daily workings of

Muskoday First Nation's government.

Coding the data line by line provided me with codes that were particular to the interview

data and differed from the data collected in the literature review about First Nations

communities. Charmaz states:

> Coding every line may seem like an arbitrary exercise because not every line
> contains a complete sentence and not every sentence may appear to be important.
> Nevertheless, it can be an enormously useful tool. Ideas will occur to you that
> have escaped your attention when reading data for a general thematic analysis. [21]

The reading of the interview data line by line allowed for categories to emerge that were specific

to Muskoday First Nation's experience. The data that emerged between Muskoday First Nation

experiences after completion of this line-by-line coding began to demonstrate similarities to

Muskoday First Nation experiences and findings in published literature about other First Nations

communities. In addition, data also emerged that was unique to Muskoday First Nation

experience.

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[20] Alan Bryman and James J. Teevan, *Social Research Methods,"* 285.
[21] Kathy Charmaz, *Constructing Grounded Theory,"* 50.

The second stage of coding is called focused coding. Focused coding allows for researchers to observe the data from different interviews to compare experiences, actions and interpretations.[22] The purposes of focused coding was to apply the most frequently used codes in the data sets and apply them to analyze and pull out meaning from large amounts of data. [23]   The initial coding created more than 50 focused codes, although I did notice that some of these focused codes had overlaps and similarities whereas others were distinct. Subsequently, I amalgamated the focused codes with overlaps to create five broader codes that covered these focused codes. The reviewing of initial codes and amalgamation of codes into broader codes removes preconceptions within the topic.[24] The final stage of coding is axial coding, which brings back together the segmented data into a coherent whole and answers the questions of who, what, where, why, how and with what consequences.[25]

This research project was an attempt at creating reciprocity with a First Nations community. There have been a few lessons along the way. Ethically, interviewing individuals and analysis of their responses using Grounded Theory is an appropriate method to use in Native Studies research because there is limited published knowledge about Muskoday First Nation's land code, the *Framework Agreement for First Nations Land Management*, or the community's perception of land. Additionally, the epistemology and worldview of Aboriginal peoples comes out more clearly through the coding of the data, because the coding is inductive and not created from preconceived themes.

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[22] Kathy Charmaz, *Constructing Grounded Theory," 59.*
[23] Kathy Charmaz, *Constructing Grounded Theory," 57.*
[24] Kathy Charmaz, *Constructing Grounded Theory," 60.*
[25] Kathy Charmaz, *Constructing Grounded Theory," 61,* 62.

From my experience of using this method I have learned that Grounded Theory is a process that requires re-reading of data and follow up to respond to gaps in the data. In retrospect, it would have been more expedient to increase my use of the memos as a tool for further analysis. I also should have conducted a second set of interviews to expand on the information that was collected, checking specifically the information that came out in the focused coding stage. This would have provided me with richer data and allowed the participants to add to or clarify the information.

From my experience of using this method I have learned that Grounded Theory is a process that requires re-reading of data. In retrospect, it would have been more expedient to increase my use of the memos as a tool for further analysis. I also should have conducted a second set of interviews to expand on the information that was collected, checking specifically the information that came out in the focused coding stage. This would have provided me with richer more detailed data sets and allowed the participants to add to or clarify this information. Limitations in the methodology resulted in limitations in the data sets collected and hence, these research findings are preliminary in nature and point to the need for more research around internal competencies, agency and resistance in this community. Unfortunately, some categories of data were unavailable because of the lack of records or memory in the community or the death of community members in historic events. The other limitation included my lack of experience at framing questions and how to probe different individuals to reveal sufficient data and the limited number of research participants.

Assessment of the Results

This methodology is appropriate to apply to the Nation-Building model because I could pull out the data the demonstrated the principal's of the model. Since I agreed to return the raw data to Muskoday First Nation and information not included in this thesis I put the data into spread sheets and then I pulled out the best examples.

Results: A

This historical chapter was added because Muskoday First Nation provided me with a

collection of private and publically available documents (that were somewhat difficult to access

because of lack of resources) and information they had collected and compiled privately about

their history. This information was reviewed later for consistency with the Canadian on-line

sessional records from the Canadian federal government. As I read from these community's

resources, I concluded that there was a story of agency that needed to be shared. Far too often

judgments about First Nations peoples are formulated from a deficit paradigm perspective. This

latter perspective focuses on First Nation peoples as victims, from the negative aspects of woe,

and conflict within their communities and is common in social science literature.[1] At one point,

the deficit paradigm was needed to raise awareness among non-Aboriginal Canadians of how

First Nation peoples were treated and to provide information of the difficulties of First Nation

peoples in Canada.[2] Unfortunately, these negative reports never examined or provided a

complete, balanced discussion of First Nation peoples. These incomplete discussions of First

Nations peoples have furthered contributed to the racialization and stereotypes of First Nations

peoples.   Richard Missens states:

> Far too often we hear the voice of mainstream media bellowing their continuous criticism
> of First Nations governments; allegations of misspending; mismanagement; the lack of
> accountability; the deplorable conditions within First Nations communities; and the
> always unfortunate loss of young life as a result of suicide. Without a significant shift

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[1] Rick J. Ponting and Cora J. Voyageur, "Challenging the Deficit Paradigm: Grounds for
Optimism among First Nations in Canada," *The Canadian Journal of Native Studies,* XXI,
2(2001): 275.
[2] See Hawthorne Report 1966-67; Royal Commission on Aboriginal Peoples 1996

towards empowering First Nations communities to take matters into their own hands, and the capabilities of addressing them, many of the symptoms we hear about in the media will persist.[3]

First Nations peoples are still marginalized and affected by Canadian federal colonial policy. In order to complete the story of First Nation people's experience in Canada discussions of success and agency need to be added.

For the purpose of this chapter "stories" or records of agency were examined and four emerging themes (ie. Treaty signing, state education, farming efforts and treaty provisions) were reviewed against the "lens" of the Nation-Building model to highlight cultural competencies existed historically and currently in the Muskoday First Nation. The on-line Canadian sessional records was also extremely large and needed to be reviewed slowly line-by-line to pick out individual details about Muskoday First Nation among details of many other First Nations. In the context of time for this Master of Arts thesis, the Muskoday documents provided a much faster way to record evidence of Muskoday First Nation's agency and the government sessional records were used to confirm this story. Much of this information was publically available, but difficult to obtain without costly travel to Archives Canada in Ottawa.

Scholars, Laurence J Kirmayer, Stéphane Dandeneau, Elizabeth Marshall, Morgan Kahentonni Phillips, and Karla Jessen Williamson, from the Research Project "Roots in Resilience," suggest that stories at both the collective and individual level make reference to core cultural values that contribute to communal and individual capacities to make change. They further this by stating:

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[3] Richard Missens, "Sovereignty, Good Governance and First Nations Human Resources: Capacity Challenges," Research Paper for the National Centre for First Nation's Governance, May 2008. (accessed 2013) http://fngovernance.org/ncfng_research/richard_missens.pdf.

> People may make sense of their own predicaments and map possibilities for adaptation and a positive vision of their identity and future prospects by drawing on collective history, myths, and sacred teachings. At the same time, these collective forms of narrative serve not only to help people make sense of their experience and construct a valued identity but also ensure the continuity and vitality of a community or a people. Narrative speaks directly to the ruptures of cultural continuity that occurred with the systematic suppression and dismantling of indigenous ways of life that resulted in a profound sense of dislocation and despair. Narrative resilience therefore has a communal or collective dimension, maintained by the circulation of stories invested with cultural power and authority, which the individual and groups can use to articulate and assert their identity, affirm core values and attitudes needed to face challenges, and generate creative solutions to new predicaments.[4]

This quote suggests that agency is carried out not by focusing on traditional practice; rather by focusing on the principles located in collective history, myths, and sacred teachings. By focusing on the principles behind worldview and philosophy, individuals can adapt to a changing environment by transferring the principle to the new challenges that they face. This does not suggest that traditional practices (like working on the trap line) should be thrown away. However, they may not appeal to all; whereas, applying the principles like "wahkootowin" or "miskasowin" to modern living activity in urban centres might enable individuals to better connect and use the principle.

The four themes with the Muskoday documents chronicled Muskoday First Nation's agency, which has resulted in effective management of its reserve lands over the last two centuries. A timeline from federal sessional records also was used to confirm land management efforts. This timeline began with historical data and ended with examples from the present. The historical data from both Muskoday and the Canadian government sessional records are present will be used to demonstrate the community's cultural persistence of "making a living"

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[4] Laurence J Kirmayer, and others, "Rethinking Resilience from Indigenous Perspectives," *The Canadian Journal of Psychiatry,* vol 56, No 2, (February 2011): 84-91.85-86.

(pimacihowin).[5] It demonstrated the importance of having control and authority over their reserve lands and resources and illustrated that Muskoday First Nation respected "Miyo-wicehtowin" while also adapting federal policies to comply with community's norms. "Pimacihowin" is a word rooted in the Cree concept of "pimacihowin" and pimatisiwin (meaning life).[6] "Miyo-wicehtowin is a Cree word meaning having or possessing good relations. This word outlines the nature of relationships Cree people were required to establish. The origins of this word are rooted in the laws and relationships that their nation has with the Creator. [7] Following each of the four historical examples themes and analysis of agency was provided. Secondly, each example was evaluated to determine whether or not Muskoday First Nation's historical competencies matched or differed from the Nation-Building Model's five principles and their related sub-elements.

Section 1: Early History and Indian Affairs Management

Theme: Treaty Signing

On September 9th 1876, Chief John Smith and his councilors William Badger, Benjamin Joyful, John Badger and James Bear of the John Smith band signed Treaty Six. [8] During the time period of numbered treaty signing, life on the prairies was difficult for some First Nation groups and there was a lot of conflict. However, it is not clear whether this was Muskoday First

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[5] For greater clarity of the Cree terms see Harold Cardinal and Walter Hildebrandt, *Treaty Elders of Saskatchewan: Our Dreams our Peoples Will One Day Be Clearly Recognized as Nations,*(Calgary, University of Calgary Press: 2000).

[6] Harold Cardinal and Walter Hildebrandt, "Treaty Elder's of Saskatchewan," 43.

[7] Harold Cardinal and Walter Hildebrandt, "Treaty Elder's of Saskatchewan," 14.

[8] Canada, Parliament, Indian Affairs Annual Reports, 1864-1990, "Annual Report for the Department of the Interior for the Year Ending 30th of June, 1876," 70, 72.

Nations experience. What is known presently as Saskatchewan First Nations Elders foreseen the

coming of the Euro-Canadian peoples and decided that the newcomers would be treated as

relatives. [9] Treaty Elders believed that the land could never be sold or given away, but shared to

the depth of a plow blade, and that the people would not be deterred from living their way of

life.[10] Saskatchewan First Nation leadership also believed that the provisions of Treaty 6 would

permit First Nations peoples to continue their relationship with the land, while helping them

establish themselves economically and socially and preserve their way of life. [11] The sharing of

the pipe between First Nations peoples and treaty commissionaire Morris was an established

cultural practice by First Nations peoples understood that "only the truth would be spoken" at the

treaty meetings.[12] From a First Nations perspective there was no indication that their lands

would given away; rather they believed that their lands were to be shared. This pipe sharing

demonstrated agency at the Saskatchewan Nation level because the leadership was practicing

"Miyo-wicehtowin". The fundamental principles of Miyo-wicehtowin direct and require Cree

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[9] Harold Cardinal and Walter Hildebrandt, "Treaty Elder's of Saskatchewan," 7.

[10] John Leonard Taylor, Aboriginal Affairs and Northern Development Canada, "Treaty Research Report: Treaty Six (1876)," Treaties and Historical Research Centre Indian and Northern Affairs Canada. 1985. (accessed August 2012) http://www.aadnc-aandc.gc.ca/eng/1100100028706/1100100028708; Canada, Aboriginal Affairs and Northern Development, "Copy of Treaty No. Six Between Her Majesty the Queen and Plains and Wood Cree Indians and Other Tribes of Indians at Fort Carlton, Fort Pitt and Battle River with Adhesions," (accessed August 2012) http://www.aadnc-aandc.gc.ca/eng/1100100028710; Harold Cardinal and Walter Hildebrandt, *Treaty Elders of Saskatchewan: Our Dream is That Our Peoples Will One Day Be Clearly Recognized as Nations,* (Calgary, University of Calgary Press: 2000), 31.

[11] Canada, Aboriginal Affairs and Northern Development, "Copy of Treaty No. Six,"; Harold Cardinal and Walter Hildebrandt, ed., *Treaty Elders of Saskatchewan,"* 46.

[12] Aboriginal Affairs and Northern Development Canada, "Treaty Research Report-Treaty 6," accessed March 2013 http://www.aadnc-aandc.gc.ca/eng/1100100028706/1100100028708.

peoples are to conduct themselves in a manner that they create positive relations be it with individuals or collectively.[13]

The example of treaty signing also demonstrates *de facto* sovereignty, effective leadership, strategic orientation and a cultural match as outlined in the Nation-Building model articulated by the Harvard Project American Indian Economic Development.[14] The signing of treaty was an example of *de facto* sovereignty because the treaty signers believed that their way of life was going to continue without interference from settlers or the Canadian government. The treaty signer's understanding of treaty was that their community would be giving the training and tools to adapt to the new economy.[15] Although scholarly literature states that leaders on the plains were concerned about smallpox, the probability of starving because of the diminution of the buffalo is not clear whether or not these were the circumstances faced by John Smith and his Band because their territory was along the boreal forest line and the buffalo was not their main source of food.[16] John Smith and his councilors demonstrated effective leadership and strategic orientation because they were ensuring the continuation of their way of life as well as seeking aid so that their community could successfully learn to farm in the new economy. The John Smith

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[13] Harold Cardinal and Walter Hildebrandt, "*Treaty Elders of Saskatchewan,*" 14.

[14] Nation-Building Model's definitions of: de facto sovereignty: "having genuine decision-making control over the running of tribal affairs and the use of tribal resources;" effective leadership; communities need leadership that is willing to engage with the community members so that the community members change the community through strategic planning and action; A new course of action and changing the story of a community has to be guided by strategic orientation; Strategic orientation is influenced by a fundamental understanding of the community and its culture from the experience of the leadership; culture match is defined as " the match between governing institutions and the prevailing ideas in the community about how authority should be organized and exercised"

[15] Canada, Aboriginal Affairs and Northern Development, "Copy of Treaty No. Six,"

[16] Canada, Aboriginal Affairs and Northern Development, "Treaty Research Report," John Leonard Taylor, Treaties and Historical Research Centre, http://www.aadnc-aandc.gc.ca/eng/1100100028706/1100100028708.

Band leaders demonstrated cultural match because the decision to sign treaty was made from the

perspective of their understanding of treaty. The signing of treaty is also an example of "iyiniw

saweyihtakosiwin" and miyo-wicehtowin because Chief John Smith's understanding of land was

grounded in Aboriginal people's norms, values, beliefs and worldview.[17]

Theme: Early Farming Efforts

The Canadian sessional records indicated that the band members of John Smith Band

(now Muskoday First Nation) were engaged early on in farming and pursuing a new way of life

while continuing their relationship with the land.[18] At John Smith reserve, the Canadian sessional

records indicated that as early as 1878, the community had 120 acres of land under cultivation

and that the reserve was granted more seed for planting. [19] In 1880, W. A. Loucks, the farm

instructor at John Smith, reported that on the home farm the members had 23¼ acres under crop,

23¼ acres were fenced and 20 acres was in hay cut. At the time on the reserve, a total of 296

acres of lands were broken and under crop, 300 acres were fenced, 20 acres was in hay and

comfortable houses were established. His report also mentioned that the occasional white labour

was hired during the busy season.[20] By 1881, the reserve had broken 250 acres of additional

land, with 250 acres under crop of which 1000 bushels were wheat, 1,500 oats and 800 were

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[17] Harold Cardinal and Walter Hildebrandt, *Treaty Elders of Saskatchewan:" 10-17.*
[18] The name John Smith reserve was the historical name for present day Muskoday First Nation.
John Smith reserve or John Smith band is used in historical documentation.
[19] Canada, Parliament, Indian Affairs Annual Reports, 1864-1990, "Report of the Deputy
Superintendent General of Indian Affairs," 64 and 57.
http://www.collectionscanada.gc.ca/databases/indianaffairs/001074-119.01-
e.php?page_id_nbr=1176&PHPSESSID=qpb57jvbfetg8hvlafb6onmhd6.
[20] Canada, Dominion of Canada, "Annual Report of the Department of Indian Affairs for the
Year Ended 31 December 1880,"
http://www.collectionscanada.gc.ca/databases/indianaffairs/001074-119.01-
e.php?page_id_nbr=1751&PHPSESSID=qpb57jvbfetg8hvlafb6onmhd6 . 95.

potatoes.[21] The John Smith band members also apparently used sustainable crop development

methods (ie. rotations) to ensure the continued health of the land on their reservation. Thomas

Page Wadsworth reports that "since my last visit man have left the old worn out lands along the

river and broken out farms on the next bench," [22] although there is no explanation found in

Wadsworth's report as to why the John Smith farmers quit using the old worn out lands one can

assume it was because the farmers of the band were not getting good crops or maybe the land

was not suitable for the growth that they needed to sustain the community. The members of John

Smith's band demonstrated personal initiative and adaptability to the new economy because they

actively engaged with farming and their success was demonstrated by good crop yield not

needing to be given more seed and by having to hire outside of the community. This example is

demonstrating agency because the community was demonstrating pimacihowin. Pimacihowin is

a concept that requires the people to make a living or livelihood. This principle is rooted in the

belief that they are able to look after themselves through the use of gifts the Creator provided.

The gifts include the land, the ability to feed ourselves and look after our children and the ability

to take care of themselves. Pimacihowin provides guidance for skill building, direction and

guidance for self-sufficiency and codes of behaviour that contribute to one's ability to making a

living.[23] This example of early farming also demonstrates sovereignty because the community

was being self-determining by moving the location of where they farmed to a healthier area and

by ensuring they were providing for themselves. Additionally this example demonstrates

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[21] Canada, Dominion of Canada, "Annual Report of the Department of Indian Affairs for the
Year Ended 31 December 1881," 44.
http://www.collectionscanada.gc.ca/databases/indianaffairs/001074-119.01-
e.php?page_id_nbr=2137&PHPSESSID=qpb57jvbfetg8hvlafb6onmhd6
[22] Dominion of Canada, Parliament, Indian Affairs Annual Reports 1864-1990, "Annual Report
for the Department of Indian Affairs for the Year Ended 31 December 1883," 120
[23] Harold Cardinal and Walter Hildebrandt, "*Treaty Elders of Saskatchewan,*" 43-47.

strategic orientation and leadership because community members were able to see that the lands were worn out and productivity was not sufficient for the community. Although there is no direct evidence that community members were able to see that the river lot lands were worn out and productivity was low it can be suggested they made the decision to change the lands they were farming because they had an already established relationship with the land.

Theme: Education

Canadian sessional records showed that John Smith's Band members have always stressed the importance of education for their children. By 1878, records indicate that the Anglican Church Missionary Society established a school on the reserve and the attendance average per term was 22 treaty students.[24] In 1898, records indicate that the community had a new school house.[25] Despite the difficulties the community faced in having their children educated, the records showed that membership of Muskoday First Nation decided that they were going to form a school board for the purpose of supporting teachers, encouraging attendance, and as a means to deal with matters of education. [26] By advocating that their students attend school on reserve demonstrates the willingness of the band members to have their children receive a European education, while they remained in their home community with their families. Unfortunately, the education the children received was hampered by a lack of a suitable school-

[24] Canada, Dominion of Canada, "Annual Report of the Department of Indian Affairs for the Year Ended 31 December 1880," 90.
[25] Canada, Dominion of Canada, "Annual Report of the Department of Indian Affairs for the Year Ended 31 December 1880. 319. http://www.collectionscanada.gc.ca/databases/indianaffairs/001074-119.01-e.php?page_id_nbr=12025&PHPSESSID=qpb57jvbfetg8hvlafb6onmhd6.
[26] Canada, Dominion of Canada, "Annual Report of the Department of Indian Affairs for the Year Ended 31 December 1888," 145. (Accessed October 2012) http://www.collectionscanada.gc.ca/databases/indianaffairs/001074-119.01-e.php?page_id_nbr=6124&PHPSESSID=qpb57jvbfetg8hvlafb6onmhd6. 3

house and a lack of available and qualified teachers.[27] In 1889, a school board was created with

some of the most "intelligent" members serving. Meetings were held regularly with good

results.[28] Interestingly, records from 1896 also indicate that of the 46 children on reserve, 10

attended the Battleford Industrial School, one attended the Duck Lake Boarding School, and 23

attended the day school located on reserve. Additionally it was noted that only three families

from the reserve had no interests in their children schooling. [29] The sessional records were

unclear as to why some of the students were sent away to Battleford or whether or not the

community's active involvement in the running of their school contributed to only a limited

number of children attending residential schools outside their community.

The community ensured their children received the treaty promise of education by having

a school located on reserve. The Treaty Six provision about education states:

> Her Majesty agrees to maintain schools for instruction in such reserves hereby made as to
> Her Government of the Dominion of Canada may seem advisable, whenever the Indians
> of the reserve shall desire it. [30]

The creation of a school board is an example of the Nation-Building requirements of institutional

building and sovereignty because the members understood the most effective way to support

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[27] Canada, Dominion of Canada, "Annual Report of the Department of Indian Affairs for the Year Ended 31 December 1888," 84.
http://www.collectionscanada.gc.ca/databases/indianaffairs/001074-119.01-e.php?page_id_nbr=6063&PHPSESSID=qpb57jvbfetg8hvlafb6onmhd6
[28] Canada, Dominion of Canada, Annual Report of the Department of Indian Affairs for the Year Ended 31 December 1889. Part 1 page 68.
http://www.collectionscanada.gc.ca/databases/indianaffairs/001074-119.01-e.php?page_id_nbr=6669&PHPSESSID=qpb57jvbfetg8hvlafb6onmhd6.
[29] Canada, Dominion of Canada, Annual Report of the Department of Indian Affairs for the Year Ended 31 December 1896. 170.
http://www.collectionscanada.gc.ca/databases/indianaffairs/001074-119.01-e.php?page_id_nbr=10626&PHPSESSID=qpb57jvbfetg8hvlafb6onmhd6.
[30] Canada, Aboriginal Affairs and Northern Development, "Copy of Treaty No. Six,"

education on reserve was through the creation of a board that oversaw the school's actions.

Additionally the community was demonstrating agency because they were demonstrating

personal conduct codes of "kakeskihemowina".[31] Individuals were encouraged to acquire

characteristics that would contribute to "pimacihisowin" (making one's own living). For example

individuals were responsible to develop a keen mind (iyinisiwin) or the ability to develop

understanding (nisitohtamowin).[32]

Theme: Treaty provisions

John Smith's band members exercised their own sovereignty, according to the

records they shared with me, by having an awareness of the reserve Treaty provision.

Additionally, the records indicated that members exercised sovereignty by advocating for the

boundaries of their reserve lands. Treaty Six states, "reserves hereby agreed to be set apart to the

Indians shall have been agreed upon and surveyed, there shall be granted to the Indians included

under the Chiefs adhering to the treaty at Carlton," [33] In a 1878 report to the Minister of the

Interior, Elihu Stewart, a Surveyor for Indian Reserve Surveys, was ordered by Lindsay Russell,

Surveyor of the General Department of the Interior, Ottawa, Ontario, to relieve Alexander L.

Russell, In-Charge Section 1 Special Surveys Dominion Lands Winnipeg Manitoba. "Stewart

arrived at the settlement for the John Smith reserve on August 8, 1878 where Mr. Alexander L.

Russell and I took observation."[34] On August 9, 1878 Steward's diary indicates that there was

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[31] "This word translates into the ability to develop an inner sense of industriousness or inner ability or desire to be hard working." Harold Cardinal and Walter Hildebrandt, "*Treaty Elders of Saskatchewan,"*45.
[32] Harold Cardinal and Walter Hildebrandt, "*Treaty Elders of Saskatchewan,"*45.
[33] Canada, Aboriginal Affairs and Northern Development, "Copy of Treaty No. Six,"
[34] This information was found in documents that the community provided for me. This specific fact comes from the document "Field Notes of the "Muskoday Indian Reserve on the South

"[a] misunderstanding between Governor Laird and the Indians concerning the position of this [south] boundary." [35] On August 13, 1878, Steward found out from Lindsay Russell that an agreement had not been made regarding the southern boundary lines. Stewart was ordered to head to Sturgeon Lake. Upon returning to the reserve on September 23, 1878, Steward learned that John Smith's band had already agreed upon the southern boundary line of the reserve on September 11, 1878. Additionally they were also given Indian Crossing Island. [36]

According to Muskoday First Nation's oral stories, Chief John Smith wanted his reserve to be six miles square by six mile square. The problem with extending the boundary line to the south was there were non-Indians living on river lots and they were not interested in becoming part of the John Smith band. [37] Stewart's reports indicated that the John Smith Band was capable of advocating for their reserve boundary lines. This example demonstrated strategic orientation since John Smith used the cultural practice of adoption as a way to solve the problem of the reserve boundary lines. Additionally, he understood "miyo-wicehtowin" (having or possessing good relations) since he did not press the matter of the reserve boundary lines.

At the individual level, Muskoday First Nation's community members demonstrated leadership and strategic orientation by practicing sustainable economic development strategies.

Saskatchewan River, Treaty 6 North West Territories," by Surveyor Elihu Stewart Dominion Lands Surveyor September 1878; W. J. Christie, memorandum-Treaty No. 6,"
[35] W. J. Christie, memorandum-Treaty No. 6-Indian Reserve, Carlton Indians, Crees of Saskatchewan, October 10, 1876. NA RG 10 vol 3656 file 9092.
http://iportal.usask.ca/docs/ICC_CD/James%20Smith%20Cree%20Nation/1/index/Index.pdf
[36] This information was found in documents that the community provided for me. This specific fact comes from the document "Field Notes of the "Muskoday Indian Reserve on the South Saskatchewan River, Treaty 6 North West Territories," by Surveyor Elihu Stewart Dominion Lands Surveyor September 1878; W. J. Christie, memorandum-Treaty No. 6," 4.
[37] Dean Bear, interviewed by Sabrina Mullis, September 2011, Muskoday First Nation, [DB, transcript]. Follow up conversation about reserve boundary lines on the phone.

In a session report by Thomas Page Wadsworth, Inspector of Indian Agencies and

Superintendent of Indians Farms to the Superintendent-General of Indian Affairs, he noted that "

at the time of my visit to this reserve [John Smith Reserve] the chief and most of the band were

away having taken a contract from the Hudson Bay Company to cut 3,000 cords of wood for the

steamboats…" [38] Although the letter from Wadsworth does not explain detailed reasons for why

the band went out to cut wood it can be surmised the members needed the income for hunting

activities or for supplies to build a school house. This example also demonstrated

"pimacihowin" because the community was utilizing the resources of the "askiy" (land.) [39]

Another example of a sovereignty and a cultural match carried out by the community was

the continued use of trapping while farming. In the report called "The Number of Indians in the

North-West Territories and their Whereabouts," states that of the 182 members of the John Smith

band 57 of the members were out trapping.[40] As late as 1897, in the report from Indian Agent

Robert Sutherland Mc Kenzie to the Superintendent General of Indian Affairs, stated that the

members of John Smith band also derived income from hunting, picking roots, the sale of cattle,

butter and eggs.[41] These actions carried out by the community members demonstrate individual

and communal *de facto* sovereignty and cultural match because the community members were

practicing sustainable economic development strategies while carrying out activities that kept up

the relationship in traditional with the land.

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[38]Dominion of Canada, Parliament, Indian Affairs Annual Reports1864-1990, "Annual Report
for the Department of Indian Affairs for the Year Ended 31 December 1883," 130.
[39] Harold Cardinal and Walter Hildebrandt, "*Treaty Elders of Saskatchewan,"*43.
[40] Dominion of Canada, Parliament, Indian Affairs Annual Reports1864-1990, "Annual Report
for the Department of Indian Affairs for the Year Ended 31st December 1881," 56.
[41] Dominion of Canada, Parliament, Indian Affairs Annual Reports Year Ended 30th June 1897,"
146.

Theme: 1920's

Evidence collected in the year-by-year Canadian sessional records on-line corroborates the Band's records asserts that the community members were opposed to the surrendering of their lands to the rural Municipality of Birch Hills No. 460, despite the repeated efforts of government to obtain the surrender of the land. For example in a letter dated June 21, 1923 between William Morris Graham Indian Commissioner to Mr. Duncan Campbell Scott, Deputy Superintendent General Department of Indian Affairs indicated that Graham was asking for permission to negotiate a surrender for a portion of Muskoday reserve. By 1925, the town of Birch Hill's community members wanted to obtain a portion of Muskoday's reserve lands for settlement purposes. The amount of the land that was being petitioned was 37.4 square miles, consisting 3000 acres of wood, 20175 acres of arable lands and 790 acres of land under cultivation. The Birch Hills community then involved Saskatchewan's Member of the Legislative Assembly for Prince Albert, Thomas Clayton Davis to speaking on their behalf. Davis stated in a letter to Charles Stewart, Minister of the Interior, Ottawa, that the land Birch Hills was interested in was a large section of arable land that was unproductive. [42] The Department also planned to amalgamate John Smith band and the James Smith band so that the John Smith reserve would be free for settlement. [43] Information in the Department of Indian Affairs correspondence state that on October 23, 1923 Commissionaire Graham held a community referendum on the subject of a land surrender vote. His records indicated that 43

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[42] This information was found on a letter to the Hon. Charles Stewart, Minister of the Interior, Ottawa, Ontario. Dated September 4, 1925 from the M.L.A T.C Davis.

[43] This information was found on a DIA document dated February 16, 1927from W.M. Graham. More details about this amalgamation is found in a letter to Mr. Scott dated April 13th, 1926 from W.M. Graham. Another document title Duck Lake, Sask dated March 2nd ,1927 from C.P. Schmidt Indian Agent goes on for three pages discussing the amalgamation on the James Smith reserve. A DIA letter to Mr. Scott dated March 25, 1926 proposing for the amalgamation.

members were present and that 31 members voted against surrender; 10 abstained and two were in favour. [44] Unfortunately there was no discussion in departmental records of John Smith's Band member's reaction to the surrender vote. However it is clear from departmental records that the obtainment of the surrender of the coveted land was an obstacle for Birch Hill and for DIA. This example demonstrates sovereignty of the John Smith band members because they were voting to determine whether or not they wanted to surrender a part of their reserve lands. It also demonstrates strategic orientation and effective leadership because the lands that Birch Hill coveted were rich with natural resources that the band might have needed at a later date to sell or use for themselves.

Theme: 1950's

First Nation farmer's lives were affected by federal policies and two examples from government records showed how Muskoday First Nation showed sovereignty by negotiating around controlling federal policies. For example under the permit system, all transactions had to be authorized by a department agent. [45] A member of Muskoday First Nation, Everett Bear was not able to directly receive his money from the grain elevator for a load of grain. At the time the permit system required First Nation farmers to get permission from DIA when they wanted to sell their grain or hay. Bear decided that the permit system was restricting Muskoday First Nation's farmers from being in charge of their own operations. Bear and Chief Dave Knight proposed to the Indian Agents in Prince Albert that if the Muskoday First Nation's farmers were

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[44] DIA letter from Commissioner's Office dated February 16, 1927 from W.M. Graham. RG 10 vol.7542, file 29109-5.
[45] Sarah Carter, *Lost Harvest: Prairie Indian Reserve Farmers and Government Policy*, (Montreal, McGill-Queen's University Press: 1990), 212.

to move forward in their farming efforts the permit system needed to be abolished when this happened, the Muskoday farmers could directly collected payment from the grain elevator.

Everett Bear interview demonstrated that another problem First Nation farmers faced was that money from finance companies or banks was not being made available to them because there was no way a finance company or bank could collected arrears. The *Indian Act* excluded First Nations from taxes, liens, mortgages and repossession of debt and the Department warned parties who traded with the Indians that it would not be responsible for debts incurred by Indians. Legislation was created to prohibit (under penalty) the giving of credit to First Nation farmers. [46] Because the farmers of Muskoday First Nation needed to finance big farm machinery to be successful farmers, the Chief and Council signed an agreement with a finance company that allowed the company to come onto the reserve and repossess items that were in arrears. The band also decided that it was not the Chief and Council's responsibility to bail out individual's that were in financial trouble. [47] The act of signing an agreement for finance companies to repossess items in arrears and not bailing out farmers in arrears was a strategic economic move to limit risk and liability and "work around" government policy. However. it could be argued that by agreeing to these terms, the Chief and Council were affecting community practice of reciprocity because they were not fulfilling expected kinship responsibilities.[48] Additionally the actions of

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[46] Carter, *Lost Harvest*, 211and 212.
[47] Everett Bear, 7.
[48] Lorraine F. Mayer, "A Return to Reciprocity," *Hypatia*, vol. 22, No. 3 (Summer 2007): 22-42., 26. Mayer defines reciprocity as: survival through a relationship of reciprocal interaction among and within tribes. On a very basic level, reciprocity involved sharing necessities, which ensured both tribal survival and harmonious intertribal relationships. But on another level, reciprocity entailed ability to move in relationship, the sharing of necessities, and the building of relationships.

the Chief and Council demonstrated innovative ways of managing their economies within the limitations of government legislation.

Theme: 1960-1970's

Interview data showed that Muskoday First Nation was approached by a manufacturing company from Kansas, which manufactured sickle blades for forage equipment and was interested in setting up a manufacturing plant on the reserve. The Band leadership had to tell representatives of the manufacturing company that they would have to deal with the Minister of Indian Affairs and the community would have to obtain a vote to use the land for commercial and industrial purposes which would take anywhere from six to eighteen months. The company decided that the six-eighteen month wait was too long and moved on to another site. [49] Section 53 of the *Indian Act* states that the band may not: "manage, lease or carry out any other transaction affecting designated lands."[50] Muskoday First Nation's sovereignty was directly and negatively affected because Section 53 did not allow the Chief and Council to use their lands for economic development on reserve without permission from the department. The right to make the decision of using their lands for economic development would have allowed the band opportunities to implement strategic orientation and implement governance.

Interview data demonstrated that in the 1960's and 1970's under DIA's authority, the band administrator had to draw up leases, get the leasee to sign, and then take the lease to the

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[49] Dean Bear, 9; documentation provided to me from the community.
 Canada, Department of Justice, Indian Act (R.S.C., 1985, c1-5) section 53 (1) states: The Minister or a person appointed by the Minister for the purpose may, in accordance with this Act and the terms of an absolute surrender or a designation as the case may be, b)manage, lease, or carry out any other transaction affecting designated lands.
[50] Indian Act, R.S.C., cI-5(1985) (Can) accessed 2012. http://laws-lois.justice.gc.ca/eng/acts/I-5/.

office in Saskatoon.[51] During this time period, Muskoday First Nation engaged with DIA to get

delegated authority under Section 53/60 of the *Indian Act*. The community first asked for

delegated authority in 1963 and again in 1968. Both of these applications were denied. [52]

Finally in1978, with the help of Bill Rees, District Manager in the Department of Indian Affairs,

Muskoday First Nation received delegated authority, from the Department of Indian Affairs.[53]

The granting of authority was not experimental; the band had to have in place knowledge of

lands management, minor knowledge of preparing and registering documents, a history of

financial and political stability as well as activity on the reserve lands.[54] Additionally, Chief

Andrew Bear and Council were responsible for the performance of their land management. Their

level of success would determine whether or not other bands would be granted the same

privilege of managing their lands under delegated authority. In addition, if the *Indian Act* was

violated, this right would be revoked and the band would be monitored by the department

through financial audits and other department checks.[55] The delegated authority was passed by

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[51] Mervin Bear, 1, 2.
[52] Dean Bear, 1
Canada, Department of Justice, Indian Act (R.S.C., 1985, c1-5) section 60 (1) states: The
Governor in Council may at the request of the band the right to exercise such control and
management over lands in the reserve occupied by that band as the Governor and Council
considers desirable. (2) states: The Governor in Council may at any time withdraw from a band
a right conferred under subsection (1).
[53] Aboriginal Affairs and Northern Development, "Info-Lands and Environment," (accessed
2013) http://www.aadnc-aandc.gc.ca/eng/1100100019426/1100100019427. AANDC defines
delegated authority as: the Minister may delegate authority to a band to not only prepare land
transactions, as is the case under the RLAP, but also the authority to approve land transactions.
The First Nations are therefore delegated administrative and decisional authority. In order to
adhere to this program, certain conditions must be respected by the band, such as having a duly
trained lands manager as well as a well-established management and register system, and the
band must obtain the consent of the majority of the electorate.[53]

[54] Austin Bear, 4, 5.
[55] Newspaper article, Muskoday First Nation, "Muskoday First Nation: History of Land
Management," (Muskoday, Land Management Department, nd), 2.

Order-in Council February 8, 1978. This order provided the band to exercise control over the land in the name of the band. This control included the right to authorize permits, collect rent and then pay land-holders.[56] A consequence of Muskoday First Nation gaining control over leases was that there was an increase in revenues generated, farming practices were monitored and by-laws were passed to govern farming practices. Additionally, assessments were carried out on the lease lands to determine rental rates and ensure fair market value. [57] The community asserted its sovereignty and strategic orientation as the delegated authority matched the communities desire to regain control of their lands and resources. This example demonstrates capacity building since the band had to go through the process laid out by the government to obtain delegated authority and the community also had to be responsible for leasing their lands, collecting lease payments, creating by-laws and having the lands assessed for lease rates. Furthermore, this move demonstrated strong ethical leadership because Chief Andrew Bear and the land's manager Wilfred Bear did not back away from the burdens DIA laid upon the community.

Theme: 1980-present

Delegated authority allowed for Muskoday First Nation to assert some control. However, two of the main failings of delegated authority were that it did not promote or enable the Band to create economic development nor did it recognize the inherent right for First Nations to manage their own lands.[58] Under the leadership of Chief Austin Bear, Muskoday First Nation and thirteen other First Nations from across Canada created the *Framework Agreement on First*

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[56] Mervin Bear, 1.
[57] Muskoday First Nation, "Muskoday First Nation: History of Land Management," 2.
[58] Muskoday First Nation, "Muskoday First Nation: History of Land Management," 3.

Nation Land Management (FAFNLM). The main issue that these communities wanted to address was that First Nations wanted their inherent right to manage their lands and resources without the 34 sections regarding land of the *Indian Act* interfering with their own authority.[59] After signing this agreement on February 12, 1996, the band immediately began to create a land code. [60] By doing so, the band was able to assert the main traits, such as leadership, culture match, *de facto* sovereignty, capacity building, strategic orientation and capable governing institutions, that the Nation-building model has identified as essential for good governance and successful economic development. The actions of creating a piece of legislation, working with other First Nations to create this legislation, and having the federal government agree to the legislation demonstrated dedication, negotiation skills and a willingness to work with others. Additionally, this required trust in their partnerships and willingness hear and protect partnership interests while staying focused on the primary goal of assertion of sovereignty. This example demonstrated culture match because the primary goal of this piece of legislation was to assert First Nation people inherent right to manage their own lands and resources. For First Nations peoples, land was perceived as a gift that provided them life through its resources. [61] The land was the primary focus of the framework agreement because the land is needed to continue to exist. Sovereignty and strategic orientation were demonstrates because the band's leadership went out and created legislation that conveyed their interests and carried this out on a Nation-Nation basis. Capacity building and capable governing institutions were demonstrated because the people involved in

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[59] First Nations Lands Advisory Board, "New Land Management Legislation," (accessed 2011) http//:www.fafnlm.com/index.html.
[60] Muskoday First Nation, "Muskoday First Nation: History of Land Management," 4.
[61] Harold Cardinal and Walter Hildebrandt, *Treaty Elders of Saskatchewan: Our Dream is That Our People Will One Day be Recognized as a Nation*, (Calgary AB, University of Calgary Press: 2000), 3.

this process would have been exposed to the processes of how legislation is made, the laws of the land and how to work with many interests through established informal and formal rules of the many parties.

Summary of Agency

The historical examples provided in this chapter demonstrated that as a community (both at the individual and collective level) Muskoday always has been proactive at asserting control of their lives (ie. agency) despite federal policies. Since the signing of Treaty 6, Muskoday First Nation has continued to adhere to their understanding of the treaty relationship while asserting their sovereignty and the community's relationship with the land. Examples of individual agency, provided through the interviews such as Lena Bears example of questioning the authority of the Indian Agent and requests by the reserve to have more say in its operation budget demonstrated this agency. Federal documents also confirmed that Muskoday First Nation asserted sovereignty around education, farming and reserve land management. The community acted historically action to maintain its relationship with the land while adapting to the changing economy demonstrated resistance and sovereignty. The direct challenge by community members towards government policy demonstrates that there was indeed a strong culture capacity for sovereignty.

CHAPTER 5
CHANGING OUR SITUATION: MORE THAN JUST A STEROTYPE

Muskoday First Nation's story is about adaptability, agency and asserting their sovereignty. As discovered by read their documents, Canadian sessional records and by interviewing their members the community had a long history of internal competencies that allowed it to adapt to farming, the wage economy as well as work at providing education for their children. Despite the consequences of federal policies, like the *Indian Act*, Muskoday First Nation never gave up its right to manage its internal affairs. The community asserted its sovereignty and works within the Treaty framework by strategically choosing federal policies that fit the community's goal of managing their livelihood, lands and resources.

Table 5.1 The Community Participants

Austin Bear	Chief
Dean Bear	Land's Manager
Ava Bear	Director of Health for Muskoday First Nation
Mervin Bear	Land's Manager for Muskeg Lake (1977-83) and Assistant Land's Manager for Muskoday First Nation
Everett Bear	Band Member
Gerald Olson	Tenant who leases land-audio difficulties, no interview
Ed Bear	Development Officer at the Land's Advisory Board
Rhonda (Angie) Bear	Member of Muskoday First Nation's Lands Committee
Land Code	Conversation between Dean, James and myself

The reminder of this chapter will first provide will be structured under each of the Nation-Building model concepts. Within each section, examples from the raw interviewed data will be used to demonstrate that Muskoday First Nation fits the Nation-Building model. However, the concept called capacity building needed to be added to the model to fit the Canadian context because of the consequences of Canadian federal legislation (like the *Indian Act*). [1] Within each section, an analysis will be provided that the shows the underlying competencies internal to Muskoday First Nation have supported its lengthy work to gain control over its lands and resources while maintaining the Treaty-federal relationship with the Canadian Crown.

Sovereignty

Stephen Cornell and Joseph Kalt, author of the Nation-Building model state that First Nations communities are faced with two major tasks- the assertion of sovereignty and the ability to govern effectively. They also pointed out that there are many problems associated with these two tasks. For instance, how do First Nations turn the federal policy of self-government into a practical reality? Secondly, how does a community shift from being managed by AANDC to managing their own affairs? Thirdly, how does a community protect the interests of the

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[1] Ken Coates, "The Indian Act and the Future of Aboriginal Governance in Canada," Research Paper for the National Centre for First Nation's Governance. May 2008. 2-4; Canada, Royal Commission of Aboriginal People, Volume 1, Chapter 9 "Indian Act," (accessed 2013) http://caid.ca/RRCAP1.9.pdf. 18, 19.

community members and enforce laws? Finally, what does it look like when a community accepts consequences of their decisions and has the ability to adapt to those consequences? [2]

From the interviews, Muskoday First Nation's approach to sovereignty was and still is framed within their understanding of Treaty Six and their evolving culture, and was implemented by taking responsibility through action. Muskoday demonstrated competency to advance its sovereignty through community policies and the creation of its own laws and bylaws. One of Muskoday s perspectives of sovereignty is demonstrated through the community's understanding of treaty. An example from the interviews was provided by Chief Austin Bear, speaking on behalf of his community, who stipulates:

> The treaties actually direct us or dictate that we should do this. Because the treaties are a nation-to-nation agreement and prior to the treaties we believed our people had the inherent to self-govern ourselves. So we're, I'm bringing to the people of Muskoday uh exactly what we believe our nations to be. Self-governing and always had that, that right and that ability and we've done that for thousands of years.[3]

The community also demonstrated (and is still demonstrating) sovereignty by linking management their own lands and resources to the treaties. The act of taking back control of lands and resources was demonstrated Muskoday First Nation's responsibility in the treaty relationship. Sakej Youngblood Henderson work outlining the legal responsibilities of the treaty relationship, points out that the terms of treaty established constitutional law for the Chief and Headmen. Additionally, he adds that "the spirit and intent of the treaty is the controlling law for the Chiefs and the treaty people and supplements the existing First Nations jurisprudences. The

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[2] Stephen Cornell and Joseph P. Kalt, "Sovereignty and Nation-Building: The Development Challenge in Indian Country Today," 90
[3] Austin Bear, interviewed by Sabrina Mullis, unknown date, Muskoday First Nation [AB transcripts], 9.

Chiefs promised and to 'strictly observe' the treaty."[4] Muskoday First Nation strictly observed

the treaty relationship by asserting sovereignty over their lands and resources. Signing Treaty 6

itself was a sovereign act that ensured, from a First Nations perspective, their right to continue

to manage their affairs.

A legal, political and cultural example of sovereignty that supports the Nation-Building

model and the interviews come from Muskoday First Nation's ability to articulate its view of

sovereignty within their legislation. This supporting published example is located in the recitals

from the *Framework Agreement on First Nations Land Management 1996* (FAOFNLM). The

recitals state: "The First Nations have a profound relationship with the land that is rooted in

respect for the Spiritual value of the Earth and the gifts of the Creator and they have a deep

desire to preserve their relationship with the land."[5] Specifically, the Framework Agreement

states: "between the following First Nations….Muskoday First Nation and her Majesty the

Queen in Right of Canada, as represented by the Minister of Indian Affairs and Northern

Development." [6] The community's assertion of sovereignty is also demonstrated in their land

code. Their land code affirms that, "Muskoday First Nation has a profound relationship with the

land that is rooted in respect for the Spiritual value of the Earth and the gifts of the Creator and

has a deep desire to preserve its relationship with the land." Additionally the land code states:

"Whereas Muskoday First Nation has entered into a government-to-government Framework

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[4] James [Sajek] Youngblood Henderson, "Treaty Governance," in *Aboriginal Self-Government in Canada : Current Trends and Issues 3rd ed.,* ed. Yale D. Belanger, (Saskatoon, Purich Publishing Ltd.: 2008), 25.
[5] First Nations Lands Advisory Board, "Framework Agreement on First Nations Land Management," accessed 2013, http://labrc.com/documents/Framework%20Agreement%20-%20Amendment%205.pdf. 1
[6] First Nations Lands Advisory Board, "Muskoday First Nation's Land Code October 31, 1997," accessed 2013, http://labrc.com/test/land-codes/land-code-2.html.

Agreement on First Nation Land Management." [7] Hence, in the code and Framework Agreement,

Muskoday First Nation used a practical and legal step towards their sovereignty, its cultural

understanding of nationhood, the importance of land and the relationship with the Queen. The

codes principal of non-coercion, respect and non-interference between First Nations and their

relationship with the Creator, guide their relationship with the Queen, and described a covenant

between three parties- the Creator, the people and the Crown.[8] The community was (and still is)

not asking for control or waiting for recognition by the state rather it is using peaceful action to

exercise its sovereignty.

According to the interview transcripts Muskoday First Nation further asserted its

sovereignty by protecting the community's financial interests surrounding its Treaty Land

Entitlement money. In order to ensure that there was a separation of politics from money, Chief

and Council implemented guidelines, over and above federal regulations, to protect the

community from the possibility of misspent money. Interviewee Chief Austin Bear shares,

> Now there were, there are horror stories of how TLE funds have
> been mismanaged, misused and perhaps even squandered by some
> First Nations. I don't, condemn them. I just know that it, that it's,
> happened. We didn't want to threaten the people's TLE funds. So
> one of the things I stressed to the members in the, in our
> community meetings and when we were leading up to the
> ratification of the TLE agreement, was that we're not going to, I
> don't support and I wouldn't support a local trust elected or
> otherwise, members. I recommended and supported that we go to
> a corporate trust where we have no influence in managing those
> funds. We have access to those funds, but through procedures. Not
> direct access by means of a stroke of a pen by either a local trust or

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[7] First Nations Lands Advisory Board, "Muskoday First Nation's Land Code October 31, 1997," accessed 2013, http://labrc.com/test/land-codes/land-code-2.html.
[8] Harold Cardinal and Walter Hildebrandt, *Treaty Elders of Saskatchewan: Our Dream is That Our Peoples Will One Day Be Clearly Recognized as Nations,* (Calgary, University of Calgary Press: 2000), 25-38.

that of a Chief and Council. You know, we have to go through
procedures. And the procedures are checks and balances. And
that's what we've established and that's what we've maintained.
And we'll continue to do that.[9]

This example illustrates how Muskoday First Nation exercised (and still exercises) sovereign

control by creating a legal safeguard against any political "ambitions" by holding the money in a

corporate trust. This financial control has protected the community member's interests by

safeguarding against theft and greed. Additionally, by this method the Band's council was (and

still is) less likely to be drawn into political controversy at the community and societal level.

Implication of Colonialism that Impact Negatively on Assertion of

Sovereignty

The managing of day-to-day affairs on Muskoday First Nation is still affected by

colonial policies and their negative consequences. One interview drew attention to the

impact of the colonial legacy on Muskoday First Nation's cultural understanding of being

responsible for the whole community's wellbeing and concern for the future. Interviewee

Mervin Bear explained there is

a tug of war of the elector's interests, what they Elders think will benefit the
community and the band council's responsibilities and wants. Struggles of lack
of financial resources, the people not seeing the benefit of long term planning and
the struggle to work together to get things accomplished.[10]

Muskoday First Nation's sovereignty is still affected by the individual and collective

consequences of colonialism. The unbalanced relationship established between the state and

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[9] Austin Bear, 20.

[10] Mervin Bear, interviewed by Sabrina Mullis, unknown date Muskoday First Nation [MB transcripts], 6.

First Nations peoples has undermined the overall wellbeing of a community. This relationship

with the state has created a culture of poverty that contributes to pressure for economic

development, in the way of employment. Additionally the lack of financial resources does not

allow for long term planning and contributes to an environment of hostility over resources.

One of the practical results of colonialism concerns that Muskoday First Nation faces

today in asserting its sovereignty is a culture of institutionalized dependency that directly affects

the reserves its ability to govern effectively. For example, under FNLMA the land's manager

struggle to effectively carry out duties because of a lack of sufficient funds. Dean Bear explains

that "the funding formula of the Framework Agreement does not specify how much funding the

community should receive in the individual transfer agreement.[11] Another institutionalized

dependency that creates problems for the lands office is the lands registry. The land registry

keeps track of transactions made by the reserve and determines how much money will distribute

in transfer payments the next fiscal year. Lands manager Dean Bear points out:

> financial information in conjunction with non-financial information and
> undertakes compliance activities in order to determine whether funds have been
> expended for the purposes intended; ensure terms and conditions of funding
> agreements have been met; and ensure that the recipient's financial situation is
> sufficiently stable in order to assure continued delivery of funded services.[12]

However, because AANDC, rather than the community makes the final decisions on funding

distribution this causes problems for Muskoday First Nation's ability to effectively provide

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[11] "Land Code", interviewed by Sabrina Mullis, September 2011 Muskoday First Nation [LC transcripts], 13.
[12] Canada, Aboriginal Affairs and Northern Development Canada, "Year End Financial Reporting Handbook February 2010," (accessed April 2013) http://www.aadnc-aandc.gc.ca/eng/1100100010101/1100100010103.

services. Interviewee, James, the Band land clerk, describes on-going problems with AANDC bureaucracy and its inefficiency.

> The biggest problem that I have with AANDC and their involvement or relationship with our office is their lack of efficiency, on their part when it comes to us filing our electronic files with them and they know that the number of files that we register with them is a direct impact on the amount of money they create. There's a formula that they have that is driven by the amount of registrations that we have regarding permits, leases, uh ROU's anything that we feel that we have to register with them. There's a list that they have that they give us that we have to register. We have a set number that we register with them; we know what we're doing; we have a number that we go in there knowing okay, we need to register this much, this much, that much, we do. When they send us a report back, sometimes it's as much as 25 -30 % off – short. And they don't consult us in that; they don't give us a report saying, we reviewed your report. They don't ask about the report. We reviewed your input, registered documents and this is what we've got. They don't give us a chance to say, okay, whoa, whoa, you guys are like 25 – 30 short here. Seems short. They just say, okay, here's what we found and this is what you're getting and uh, so for the last three years, it's been way out of balance. Uh, the first year I got here, it was out. The second year I got here it was not bad, but they were still, there was a little discrepancy there. This past year, it was way out of whack and the first year they took a long time to get back to us because it was the first time they had really screwed up that bad. So they kind of lay it over the second year, which kind of influenced the second year's funding because they said it was an overflow and they corrected it and there was no real way clearly of quickly of, seeing how quickly they fixed the problem and how it related to the current year's funding, last year's funding.[13]

The example shows that the lands registry system, the lack of communication from AANDC about reports and the inefficiency and inaccuracy of transfer payments has affected Muskoday land's office ability to carry out their duties. According to the interviewee Muskoday Lands Department is never certain about the amount they will be receiving through their transfer payments. Unfortunately, there is not a specified funding arrangement under the Framework Agreement so that when errors are made in the AANDC land's registry the federal government is able to cut funds without Band consultation. Scholar Michael Asch also points out that the

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[13] Land Code, 4.

Canadian government has a number of funding programs to promote their object of devolution such as block transfer payments to the Chief and Council; however, because these program funds are the government's money, the Chief and Council must apply for the money and account for how they spend it. Asch suggests the "grant" like funding arrangement does not allow First Nation communities to make decisions about funds dispersion without the approval of the Canadian government. [14] Hence, the practical level of asserting self-government, the control AANDC has in Muskoday First Nation's financial affairs directly affects their programs and service delivery.

Strategic Orientation

The main focus of strategic orientation, as presented by Cornell and Kalt, suggests that the community leadership and the community membership must have a desire and willingness to change their current reality. This requires a paradigm shift from being administrated by the federal government to assuming responsibilities for governance, decision-making and long-term thinking. One strategy Muskoday First Nation's leadership used to create a shift was by is learning from another community's mistakes. For example, interviewee Ava Bear shares how they benefitted from experiences of other First Nations,

> "Muskoday was able to learn from what worked and what maybe didn't work so there's
> something to be said of not always being the first because you get to, there's no use in

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[14] Michael Asch, "Self-Government in the New Millennium," in *Nation to Nation: Aboriginal Sovereignty and the Future of Canada 2nd Edition*, editors John Bird, Lorriane Land and Murray MacAdam, (Toronto, ON: Public Justice Resource Centre, 2002,)65-73. 67.

recreating the wheel when there's something to go by so I think we had that ability to

look at other First Nations that had tried it already.[15]

By accumulating information and assessing other experiences, Muskoday First Nation's

leadership was then able to develop a strategic plan that allowed them to determine a viable

course of action.

Muskoday First Nation also demonstrated (and still demonstrates) strategic orientation by

maintaining healthy networks. MervinBear explained, "You want to let the other bands know

immediately if you're being sued or you're suing someone that could end up that case law that'll

affect other bands so that they, even though they know they're going to lose, they could have a

stand in, in court." [16] Communication with other communities' allows access to information and

information to flow back into Muskoday First Nation.

Muskoday First Nation has also implemented a risk management/risk assessment

as a means to ensure the community's business interests are protected. Interviewee Chief

Austin Bear attests

> One of the policies I've asked for and we've implemented and have in place now
> is risk management/ risk assessment. We have a policy in place to manage and
> identify risk. I think that's with respect to economic development and investing.
> We have ways and means of assessing risk. It's a piece of policy that is necessary.
> [17]

Additionally he adds,

> Now then, for our own protection, I mentioned, we have a risk management
> policy. Partners and investors in any partnership, of course, there's risk involved.

[15] Ava Bear, 7.
[16] Mervin Bear, 2.
[17] Austin Bear, 18-19.

But the strength of the business plan helps to determine risk and the return, for investment. So if the business plan is not strong then of course investors are not going to continue or, or pursue that. Investors who, and our partners, most of them are, or all of them, well most of them are established so they know uh from their own internal risk management know the strength of, of business plans, business cases, business proposals so if they're not comfortable, they're not going to continue. Same with the banks and other lenders. If you can't defend your business case, you're not going to get investors, and you're not going to get lenders. It's as simple as that. [18]

One of the fundamental ideas put forth by the Nation-Building model under their strategic orientation description is that First Nation communities need to create a safe place for outside investments. The creation of the risk management/risk assessment policy by Muskoday First Nation strategically changed their realty by providing financial protection for the community and for outsiders wanting to invest with the community. The creation of a strong business strategy also demonstrated cultural competency and cultural adaptation. The community was maintaining involvement in the economy; however, they are doing it by protecting their own interests and creating their own agenda. The business strategy has in place protection, rules and norms of business for the community and for investors. The act of defining business norms demonstrated miyo-wicehtowin and pimacihowin. Miyo-wicehtowin was being demonstrated because the strategy would have reflected the community's concepts of protecting the land and how to divide and share the responsibilities of the business arrangement.[19] This community laid out (and continues to lay out) their understanding and perspective of how to do business for outsiders. Additionally, the community has strategically put in place the means to enable their members provide for their own needs.

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[18] Austin Bear, 18-19.
[19] Harold Cardinal and Walter Hildebrandt, *Treaty Elders of Saskatchewan,"* 15.

One of the other mechanisms that the Muskoday community has strategically put in place to change the realty is a land use plan. The land use plan provides guidelines both for the members of the community and for outsiders. Interviewee, Ava Bear advocates for the land use plan,

>We developed a land use plan like a few years ago for zoning and I think that that would be really, that is really beneficial. We haven't been able to attract – like there's one area that's zoned for residential area that we could lease to non-band members that would be great because that would create all kinds of spin offs for economic development for dollars, but I mean creating employment, as well. You know what I mean? People have to have their garbage picked up; they have to have all kinds of things: their roads maintained and that kind of thing, so that would create employment for more people. Definitely, if they were able to come in and set up businesses here; that means jobs and jobs turns into money and making people feel good about themselves, it increases their self esteem and self confidence and all that and I think that would cut down, actually not think but I know that would cut down on some of the social issues that the people experience so very good in terms of that kind of thing.[20]

The land use plan demonstrated both sovereignty and strategically orientation as well as it demonstrated to the community and to other governments how the community regards the land. Secondly, the plan provided guidelines for what and how the economy should look like on the reserve. Learning skills from the land, personal codes of conduct and self-sufficiency from a Cree perspective is Muskoday is putting into practice the Cree notions of "pimacihowin" and "tipiawewisowin". [21]

In summary Muskoday First Nation demonstrated strategic orientation by changing its current realty through learning from others, keeping lines of communication open with other communities and by seeking help from outside agencies. Additionally, this community changed

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[20] Ava Bear, 4.
[21] Harold Cardinal and Walter Hildebrandt, *Treaty Elders of Saskatchewan,"* 44, 45.

its realty by implementing outside recommendations. Finally, Muskoday First Nation

participated in training and capacity building before implementing sectoral self-government. The

Harvard Project contains information and examples about strategic orientation of USA

Aboriginal communities which provide context that Nation-Building lessons have been learnt[22].

However, one of the short-comings of the principal of strategic orientation presented by Cornell

and Kalt is the lack of a robust description defining importance of strategic orientation and the

way it also intersects with all other principals.

Culture

The Nation-Building model describes "culture" as the culture of the community.

Specifically the model stated that communities need to have their own definition of authority,

how it should be organized and exercised.[23] Muskoday First Nation's cultural definition of

authority has been affected by the *Indian Act*. However, this historical definition of authority is

shifting as the community makes symbolic steps towards decolonizing how it defines authority.

Interviewee Ed Bear shared his experience at the *Indian Act* burning ceremony,

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[22] See: Nation Building Among the Chilkoot Tlingit Indian Association (Haines, Alaska)
(accessed July 2013)
http://hpaied.org/images/resources/publibrary/Nation%20Building%20Among%20the%20Chilkoot%20Tlingit.pdf; Cherokee Nation History Course Department of Human Resources Cherokee
Nation (Tahlequah, Oklahoma) (accessed July 2013)
http://hpaied.org/images/resources/publibrary/Cherokee%20Nation%20History%20Course.pdf;
Mark Nelson and Will Pitz, "Building the Fort Apache Heritage Foundation: Developing A
Strategic Vision, Organization System and Management Plan," May 2000. (accessed July 2013)
http://hpaied.org/images/resources/publibrary/PRS00-5.pdf; Constitutions& Fundamental
Honouring Nations, "Governmental Reform: Lessons in Excellence in the Governance of
American Indian Nations," (accessed 2013)
http://hpaied.org/images/resources/publibrary/web%20fundamental%20gov%20reform%20hn.pdf.

[23] Stephen Cornell and Joseph Kalt, "Sovereignty and Nation-Building: The Development
Challenge in Indian Country Today," *American Indian Culture and Research Journal* 22(3)
(1998):201, 202.

We had an *Indian Act* burning ceremony when we had a treaty day. One day after we became operational and I took the Indian Act itself, the hard copy, I cut and paste sections that would no longer apply and Chief would read this section out, I'd hand it to him and he'd throw it in, he'd read it and throw it in the burning barrel. Now we had, some of the members that were there, actually heard you know, a little blurb out of the Indian Act and said, no way! Is that, is that right? It's been a hundred and some years and that was the way it was, so people never knew about the Indian Act or stuff like that so, I think we gained quite knowledge on that.[24]

The burning of the sections of the *Indian Act* demonstrated an end to colonial definitions of authority and an end to colonial authority over the community's lands and resources. The burning of the sections of the *Indian Act* indicated that Muskoday has the authority and the ability to manage their lands and resources. Additionally this action is an example of "miskasowin" (finding one's sense of origin and belonging).[25]

The importance of elders and children was also a part of the community's culture and can be illustrated through actions carried out by the Muskoday government. For instance, interviewee Rhonda Bear explains the way in which the band assists the Elders and in turn how that assistance improves the Elders' standards of living,

There's a lot of that that goes on here for elders. I think, our elders are very fortunate; they of course have a building that they can go to and meet in and visit and socialize. It was provided for them, the funding for the building; I know there's funding set aside to assist them if they, if they have something, an expense or a need, that comes up and they just can't, they don't have a means to do it, I know that there's sort of a pot of money that they can go to Council and request some assistance for that. They fund raise every year for a trip to go somewhere and if they're short or, Council will usually put in some money for them to go on a trip, you know they charter a bus and go on a trip. This year they're going to be going pretty soon and they're going to be going to a reservation that's just outside of Winnipeg. So I think that they're lucky because, they're fortunate because there are programs and there are but there are, there is a budget set aside for elders.[26]

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[24] Ed Bear, 6.
[25] Harold Cardinal and Walter Hildebrandt, *Treaty Elders of Saskatchewan,"* 21-24.
[26] Ava Bear, 7.

As a means to involve youth in decision making the community also established institutions

specifically for the youth. Interviewee Rhonda Bear shared, "They have a youth Chief and

Council for the youth to get more involved in the community, so that they were taking their

decisions and you know just trying to partake you know, really trying to find out what's going on

as well. She also added,

> we have really good youth, there's lots of, we used to have youth building, and they have
> lots of recreation going on for us and you know, they have chances for youth to sit in on
> things like this, like they have housing committees and education committees, policing
> committees for, and if you want to partake, you know, you submit yourself a letter to the
> band office, explaining why you think you would be good and why you kind of want to
> do it and that's what I did. I had to go through all that when I joined, you know, why I
> wanted to do it and what I thought I could give as part of the youth and just as a youth
> perspective, they wanted to know kind of more about what we thought you know, that I
> kind of talk with the other youth and bring that into the meeting as well. [27]

As the culture of Muskoday First Nation changed so has their definition of authority. As

part of their cultural understanding of authority it has been and still is important that the

government help its Elders, and provides mechanisms for their youth to learn about how

their government works.

The example of maintaining healthy networks with other First Nation demonstrated the

cultural competency of reciprocity. Muskoday First Nation is engaging in responsible behaviour

for the welfare of its community and for its relationship with other governments. The exchange

of information contributes to the wellbeing of both parties in the relationship and is an example

of the cultural principal miyo-wicehtowin (the laws concerning good relationships). The laws of

miyo-wicehtowin include laws around human relationships. All human relationships are to be

nourished, reaffirmed and are strengthen the bonds of First Nations peoples.

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[27] Angie Bear, 1-2.

Leadership

Research from the Harvard Project on American Indian Economic Development indicated that leaders were chosen for their abilities as political leaders. These authors further suggest leadership needs to be accountable to its community through fair and effective dispute mechanisms, a competent bureaucracy, and a separation of business management and politics. [28] The Nation-Building model defined a leader as an individual with the ability to implement strategic planning, encourage community participation to change the community and one who has the desire to make change. Additionally, an effective leader needs to have the stamina, courage and resolve to move beyond federal control and look beyond the needs of today, not be controlled by community member's criticisms and have the strength and humility to learn from others. Interviewee Chief Austin Bear demonstrates leadership by engaging the community's Elders first to get their support for moving the community beyond *Indian Act* control. He did this because of their negative historical experiences under the Act.

> I spoke with the elders first. The elders, of course, had the history of the Indian Act, because some of them came into this world right about or just after the Indian Act, and all through those years the development in Muskoday after the treaties. They experienced the ravages of the Indian Act. And they were farmers. They were trappers and they were travelers. And in those years prior to the mid-fifties, if a farmer wanted to sell an animal or a load of wheat, or a load of hay they had to get permission from Indian Affairs to sell their product. If Indian Affairs didn't give them the permit, they couldn't sell it. And it was up to the Farm Instructor of the Indian Agent whether or not they would approve for a farmer to sell his product. If you wanted to leave the community and go to visit a family member in another place, you had to get a permit to leave. So the elders remembered that quite clearly. And after a couple of opportunities to discuss this concept of sectoral piece of self-government, the elders basically supported me by saying as their Chief, it's about time that we removed Indian Affairs and the *Indian Act* from our lives. [29]

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[28] Cornell and others, "Seizing the Future," 5; Cornell, "Forging Links & Finding Solutions," 50;
[29] Austin Bear, 8 and 9.

The Elders were able to provide Chief Bear their historical knowledge of how the community struggled in the past to be self-sufficient (tipiyawewisowin) and how they learnt to practice "pimacihisowin" in the changing economy. Additionally Elders are waiting to share about "miskasowin".

By speaking with the elders and seeking legislation to change authority of lands and resources, Chief Bear also indicated that he understood "askiwipimacihowascikewina" (phrase that speaks of the livelihood arrangements at the treaty discussions). The underlying principles of askiwipimacihowascikewina are to look beyond the present circumstances towards freedom, independence and self-sufficiency.[30] Chief Bear was ensuring that his community had the freedom to manage their lands and resources. Additionally, he was looking beyond the present because he envisioned that managing the community's lands and resources would in fact allow the community self-sufficiency and independence from AANDC. Interviewee Ava Bear recounts,

> I remember him coming back to a council meeting and telling us about it and explaining it to us and telling us all the benefits it would have for our community and asking for our permission to go ahead and um, pursue this initiative at the time and you know and council gave him the full go ahead to do that because it sounded like a wonderful opportunity for our people.[31]

This quote suggests that Chief Bear spent a lot of his personal time in leadership activities to bring about the change of regaining control of their lands and resources. It also showed his belief that his people deserved better than being managed under the *Indian Act,* and that it was his responsibility, as a Chief and as dictated in the Treaties, to be self-governing. The evidence of

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[30] Harold Cardinal and Walter Hildebrandt, *Treaty Elders of Saskatchewan,"* 60, 61.
[31] Ava Bear, 3.

this trust is that Chief Austin Bear has been re-elected for his 14th term and the community has

signed the framework agreement and created their land code.

Institution Building

The Nation-Building model suggested that leadership needs to be accountable to its

community through a fair and effective dispute mechanism. Muskoday First Nation does have

the practice of a dispute mechanism. One example of a dispute resolution mechanism is located

in Section 30 of their Land Code. (APPENDIX C) The main points of the local resolution

system are as follows. In the event a lands dispute cannot be resolved by Council or the Lands

Advisory Committee, a member or a non-member with an interest in Muskoday land may, in

accordance with this section, appeal the dispute to the dispute resolution body for their decision.

The dispute resolution body may, after hearing an appeal (1) confirm or reverse the decision, in

whole or in part; (2) substitute its own decision for the decision appealed from; (3) direct that an

action be taken or ceased; or (4) refer the matter or dispute back for a new decision. Additionally

decisions of the dispute resolution body are final and binding. [32]

To verify that Muskoday has an effective dispute mechanism Muskoday Land

Manager Dean Bear also provided me with the current copy of a Muskoday First Nation Dispute

Resolution Board's Policy and Procedures (APPENDIX D).[33] This document outlines who can

be on the Dispute Resolution Board - an elder, a representative of the Lands Advisory Board

established under the *Framework Agreement on First Nation Land Management* and a

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[32] First Nations Lands Management Resource Centre, "Muskoday First Nations Land Code October 31st 1997," (accessed July 2013) http://www.labrc.com/land-codes/land-code-2.html.
[33] Follow up phone conversation to clarify questions I had of the data.

representative of the Saskatoon Tribal Council. This document also states that Band members must meet within 15 working days of a written appeal. Decisions of the Dispute Resolution Body must be in writing, signed by the person chairing the dispute resolution body or an officer designated by the dispute panel to do so. The Dispute Resolution Body must give reasons for its decision, and shall do so in writing if the party to the proceedings requests them before or within fourteen (14) days after the date of decision.[34] Dean Bear shared with me that Council made a decisions to cancel a lease when there were no payments. After a complaint made by the lease, Muskoday First Nation's Dispute Resolution Board met in January 2013 and over turned the decision of Chief and Council. (APPENDIX E) This example demonstrated that the community follows the policies and procedures laid out in their land code and by the Dispute Resolution Body.

Self-government literature points out that community members of some Aboriginal communities (and outsiders) are concerned that their issues and griAvances against Chief and Council are not addressed. Some scholars like Thomas Flanagan and Francis Widdowson assert that Canadian Aboriginal peoples are not ready or capable of self-government. Widdowson and Howard's critique of Aboriginal self-government points to the nepotism and corruption which exists in Aboriginal communities.[35] Flanagan goes further to state that Aboriginal governments in Canada are beset with structural features that encourage venality. He also points out that the capacity and authority of Canadian First Nations communities is limited to administrators of federal government policy and the deficiencies of property rights on reserve. As well he believes that sovereignty of First Nations peoples is contrary to the history, jurisprudence and national

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[34] Muskoday First Nation. "Policies and Procedures." Dispute Resolution Board, February 2013.
[35] Francis Widdowson and Albert Howard, *Disrobing the Aboriginal Industry,"* 114-116.

interests of Canada. [36] According to Widdowson, Howard and Flanagan, First Nation peoples need to fix nepotism and corruption on reserve and become a part of Canada's capitalist society. In contrasts, Muskoday First Nation members has applied the principal of dispute mechanism and are taking steps to ensure that their Chief and Council are not open to venality or nepotism.

Muskoday First Nation leadership has moved from oral policies and procedures to writing down on paper its laws, policies and procedures.[37] The writing of laws from oral history into written documents is a good governance practice that shows strong leadership since we know that traditional knowledge is being eroded quickly in contemporary society. Therefore, efforts to codify traditional governance guidance in Muskoday First Nations represent one way of reducing the risk of erosion. The codifying of laws in writing also allows the members of the band who do not live on the reserve and are spread across Canada access to the information. Having the laws in writing also allows for anyone involved in a relationship with the community to know the rules, norms and regulations of the government. This provides both parties clear guidelines of their roles in the relationship.

The interview data supported the concept that Muskoday First Nation had progressive leadership ensured that there is a separation of politics from the activities of the lands department. In the early 1990's, a decision was made by Chief and Council, to invite an outside organization to help reorganize the internal structures of the government. Interviewee shared Ed Bear shares, "prior to Austin being Chief, the chief of the day basically controlled all the departments." The outside firm helped the community set up policy that separated the Chief and Council from management of the government. Interviewee Chief Austin Bear shares,

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[36] Tom Flanagan, *First Nations? Second Thoughts*, (Montreal, McGill-Queen's University Press: 2008), 48-66 and 89-112.
[37] Austin Bear, 10.

And where it becomes most evident that the separation is intact and working is at election time. When election comes along, people after election don't lose their jobs. The new Chief and Council don't fire a group of people and bring in their own administration or in public works.[38]

Interviewee Dean Bear stated,

For example the councilor with [the land] portfolio sits in on our meetings but he doesn't have any sort of holding power on that committee. (I: Okay) Uh, he's just an *ex officio* person on the committee.[39]

These interviews demonstrated the strong qualities of good governance, cultural competency and cultural adaptation within Muskoday First Nation leadership, because the current Chief and Council were able to see that there was a problem and sought outside help to amend the problem. Additionally, leadership implemented outside recommendations for change and showed enforcing the policy of separation of politics from daily activities. This example demonstrates that they Muskoday community has a stable bureaucracy and councilors have *ex officio* positions on committees.

Capacity Building

One aspect area of effective Aboriginal governance which is not among the five factors in the Nation-Building Model centres on capacity building. One area of the capacity building in the literature focuses the role of the Chief in governance capacity building.[40] Canadian Aboriginal political leader Ovide Mecredi says: "Our leaders have to be more than just typical politicians.

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[38] Austin Bear, 14.
[39] Dean Bear, 19.
[40] Tom Flanagan, *First Nations? Second Thoughts*, (Montreal, McGill-Queen's University Press: 2008), 94-96; Francis Widdowson, "Corruption North of 60," *Policy Options*, (January-February 1999): 37-40. 40; Frank Cassidy and Robert L. Bish, *Indian Government: Its Meaning in Practice* (Lantzville, B.C., Oolichan Books: 1989)126; Del Riley, "What Indians Want and the Difficulties of Getting It," in *Pathways to Self-Determination: Canadian Indians and the Canadian State*, ed. Leroy Little Bear, Menno Boldt, and Anthony J. Long,(Toronto: University of Toronto Press: 1994)160.

But to get there they have to escape the *Indian Act* way of thinking and recapture the traditions

and values of our societies." [41] Research from the Harvard Project on American Indian Economic

Development indicated that leaders are chosen for their abilities as political leaders. It further

suggested that political leadership needs to be accountable to its community through fair and

effective dispute mechanisms, a competent bureaucracy, and a separation of business

management and politics. [42] In contrasts, Tom Flanagan pointed out that the current authority for

many First Nation Canadian reserves is that the of present day Chief and Council is limited to the

historical authority of an Indian agent, and these Indian government positions were mechanisms

of the federal government to carry out and enforce federal Indian colonial policy. [43] However,

other scholars point out that the autonomy and capacity of Chief and Council has been expanded

within a few Canadian First Nations simply through the actions and processes they employ to

make positive changes in their communities.[44] It appears by merely changing present day

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[41] Stephen Cornell, "Indigenous People, Poverty and Self-Determination in Australia, New
Zealand, Canada, the United States,"
http://www.jopna.net/pubs/jopna%202006_02_coverandinside.pdf. (accessed 2010)26; Stephen
Cornell et al, Seizing the Future: Why Some Native Nations Do and Others Don't,"
http://www.jopna.net/pubs/jopna_2005-01_Seizing.pdf. (accessed 2010). 27, 28; Stephen
Cornell, "Forging Linkages & Finding Solutions." Paper presented at a BC Treaty Commission
Conference for First Nations, Vancouver, BC, October 29-31, 2008. 46, 47;Mercredi and Turpel,
In the Rapids, 113.

[42] Cornell and others, "Seizing the Future," 5;Cornell, "Forging Links & Finding Solutions," 50;
[43] Tom Flanagan, First Nations? Second Thoughts, (Montreal, McGill-Queen's University Press:
2008), 94-96.
[44] Brain Craik, "The Importance of Working Together: Exclusion, Conflicts, and Participation in
James Bay Quebec," in *The Way of Development: Indigenous Peoples, Life Projects and
Globalization*, ed. Mario Blaser and others,(London, Zed Books Ltd., 2004), 167. Robert
Alexander Innes and Terrance Ross Pelletier, " Gabrielle Slowey, "Unfinished Business: Self-
government and the James Bay Northern Quebec Agreement Thirty Years Later," 218. Taiaiake
Alfred, "From Sovereignty to Freedom: Towards and Indigenous Political Discourse,"
Indigenous Affairs, no. 3(2001): 22-34. 26, 27.

circumstances on-reserves; capacity and autonomy can be built. These processes could be used to fill bureaucratic and infrastructural gaps that exist on First Nations communities. Since this section is concerned with capacity building as a necessity for Canadian First Nations to move effectively towards self-government, it will focus on Muskoday First Nation examples of this particular Nation moved simply administrating Canadian Indian policies, to making long-term strategic decisions that enables them to implement effective policies that engendered positive changes for its community by building internal capacity.

Canadian First Nation governments were and often continue to be merely an apparatus to merely administrate of federal state programming and a tool of assimilation. As a result, some communities lacked essential technical and managerial skills to effectively govern themselves.[45] On Muskoday, the situation appears very different and seems to be a result of capacity building. Former land manager MervinBear shares that Muskoday First Nation trained itself in lease matters needed to run their own land management.

> When I was a land manager, we had to be trained in negotiations, contracts, what makes a legal contract. You have to know legal things about what's the best way to collect if a farmer doesn't pay you or he's not farming in a ( )like manner, and you've got to remember that you're a member of these bands all across Canada and if you take a ( )course, lawsuit against a farmer and you lose, under case law in Canada, this will affect your other bands across Canada so that's very vital that land managers have some background in law so that they don't get themselves-their contracts are failsafe; you don't end up losing a ( ) that makes bad case law for other bands across Canada.[46]

Additionally he adds,

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[45] Kiera Ladner and Michael Orsini, "The Persistence of Paradigm Paralysis: The First Nations Governance Act as the Continuation of Colonial Policy," in *Canada: The State of Federation 2003: Reconfiguring Aboriginal –State Relations,* ed. Michael Murphy, (Montreal, McGill-Queen's University Press: 2005)187, 188.
[46] Mervin Bear, 2

This is why legal training has to be vital. You're also doing local governance things like the land codes, membership codes and everything. You gotta know what's gonna apply, what's gonna be thrown out of court, or if you're gonna get sued by a band membership or people that uh, bylaw is supposed to have governance over.

Also he states,

one important aspect of that is, the ability of the bylaw that someone being able to take it to court, whereas when you do a bylaw that chief and council are not the final say. ( ) chief and council to say this is our final say. To make any bylaw stand up in court, people have a right to take that bylaw to court of law. If uh, your bylaw doesn't allow this, that bylaw has no jurisdictional standing in Canada, any province you go to. Every citizen has a right to take any bylaw to court. It's their, it's our right. Any bylaw that says no, that chief and council have the final say, it's not a valid bylaw.

Marvin's narrative example demonstrates that it was up to the Muskoday community to learn how to create land and membership bylaws and not understanding legal process was unacceptable.

The present role of land manager has many responsibilities and tasks and unfortunately at Muskoday First Nation only two staff are available carrying out all the tasks. MervinBear discusses some of the tasks and responsibilities associated with current land management at Muskoday First Nation.

Each land manager now has to be a trigger, to trigger an environmental screening of any work that goes on off the reserve that could have an impact on a reserve or any project that works on a reserve that you can do it on an environmental screen, you could trigger if uh, see now, transports going down the highway and it spills its load, we can trigger that environmental screening, we could get a ( ) from the truck owner or else the oil company and they would have to clean up our reserve.

Marvin's interview demonstrated that the land and the resources of the reserve are the responsibility of the lands manager. The land manager had to know, and still has to know what was happening on reserve lands and how to administer land policies and procedures. Hence Muskoday had to trains its land manager and by doing so, this Nation built its own capacity.

Mervingoes into speaking of training directly,

> Land managers got to be trained in how to assess land so dealing with negotiation, you know, how to buy land and what it's worth and what to ask for in rent of the land and in case our land does get contaminated, you might have to ask for more land as a remedy or part of the remedy. You have to be trained in each and all areas and you've got to be a negotiator. [47]

The limited size of the lands department required that the training of land manager was not regulated to just land management policies. In fact, a land manager needed to be trained in many areas, and currently there are no know specific course that focus specifically on land management on First Nation reserves. Hence Muskoday's training of its own people internally demonstrates that they built their own capacity and determined how to do simply by using their own judgment using information they picked up along the way.

Professionalism is also a component of land management activities on Muskoday First Nation. Having good relationships with your leasees is important, and land managers have to keep a professional distance because their first relationship is to the land and to then to the Band. Interviewee MervinBear provides a discussion of professionalism,

> You've got to be firm with farmers; you can't be taking a hard-luck story, oh, okay, I'll drop the price down to half. You got to remember, you're representing the band; you've got to be firm. This is my bottom line and I'm not going lower than that. I'm sorry I'm not backing up, but if you want to farm on Muskoday, this is the lowest price and there's not a thing I could do about your problem when I'm representing the membership of my band. So you've got to be firm negotiator. You've got to recognize if a farmer's in trouble, you got to know what he's worth, what he owes, and you've got to make sure you're not the last in the pecking order when he goes bankrupt. You've got to have some, something that is lucrative like uh, you could uh ( ) band can't do that, but you can because it's not a lease; if it was a lease, you could borrow on that lease, but if it's a permit, you can't go to the bank and say, here I'm going to put my crop in trust, whereas a

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[47] MervinBear,

lease, he can, but a permit you can't. So the reserve will get first action to get that crop off so if he's in arrears from last year, you don't let him take that crop off in this year's until he pays last year's. So you got to be firm; you can't be a bleeding heart for a farmer; you can't be a friend to the farmer; because you work for the band.

You don't, ideally, you don't socialize with all your clients which are farmers because then, you're my friend, you can't ask me to pay you this. It doesn't matter if you're a friend; you represent the band and right now we're at 1600 strong and that farmer's only one person. You're working for 1600 people. So you can't be a friend to a farmer. ( ) call your friendship because you're dealing with 1600 friends and relatives.[48]

MervinBear interview is showing that in order for the community to successfully manage their own lands and resources, they needed to have in place many skills, legal training, integrity and be responsible for the lands and resources because those lands are the communities lands not the personal lands of the land manager. MervinBear interview also showed about the culture principles of "miyo-wicehtowin" and" pimacihowin". Miyo-wicehtowin was being demonstrated because the community was concerned with creating positive and enduring relations.[49] Mervininterview outlined his responsibilities and roles as a land's manager in the community's relationship with other communities and with outsiders. He also demonstrated the characteristics of "pimacihowin" that each individual was encouraged to develop.

Ava Bear in a part of her interview discusses the market garden, points out the larger issue of the connection between capacity building, employment and people's overall house. She shares,

We had a project a few years ago where they had a market garden here and almost every single person in this community was employed and many people from there, there were little courses that they offered with it, as well, like horticulture and you know different things like that and a lot of people went on to go to getting to upgrading because they just

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[48] Mervin Bear
[49] Harold Cardinal and Walter Hildebrandt, "Treaty Elders of Saskatchewan," 14-16.

felt good about themselves, being working and employed every day and bringing home that pay cheque and they went on to take other classes—some went to SIAST, some to adult basic education and many of them became employed and are now supporting their families and I don't think that Muskoday in terms of um unemployment as related to many of the other First Nation communities or even related to the general public, I don't think we have a really high rate of unemployment, but we still have quite a few people who are unemployed, so it would be really important to bring different businesses and organizations here that could create those jobs and employment for people.

Ava Bear was alluding to the concept that when individuals have fewer restrictions and more opportunities many will grab at them to change their lives for the better. This example of a market garden may not have provided sustainable employment; however, it did provide people with the experience of understanding that they could succeed, if exposed them to a different employment opportunity, and the market garden activity also provided them with the personal experience of having a pay cheque.

Capacity building needs to be included in the Nation-Building model in the Canadian context, because the specific colonial relationship between the Canadian state has resulted in many First Nations governments continue largely to administer the interests of the federal government rather than the interests of their own people. It is not a secret that First Nation peoples in Canada are less likely to be employed, more likely to be in trouble with the law, and lacking education. However, as demonstrated in these Muskoday interviews examples, when First Nation peoples are given the chance to change their lives, they develop additional capacity to change for the better. Having full control over their lands and resources and having the proper knowledge to manage them, sets the bar on the expectation of success as demonstrated by the success that Muskoday First Nation is experiencing today.

CHAPTER 6
DISCUSSION AND CONCLUSION: A STORY OF SELF-DETERMINATION

Within the social sciences First Nations peoples continue to be discussed from a deficit paradigm of social ills, poverty, addiction and corrupt governments. This perspective focuses on negative stereotypes, acts to reinforce them and additionally contributes to marginalizing First Nations peoples. However, this negative paradigm is very narrow and does not give a complete picture of First Nations peoples, nor does it acknowledge any level of their rich history of agency and competency. Muskoday, like most Aboriginal communities in Canada, suffered (and still suffer) from the negative impacts of colonization. This community is (like other Aboriginal communities), far more than just the sum of their deficiencies. Muskoday First Nation story is about adaptability, agency and asserting their sovereignty. As discovered by reading their documents, in the historical chapter, the community had a long history of internal competencies that allowed it to adapt to farming, the wage economy, as well as work at providing education for their children. The community asserted its sovereignty and actively worked within the treaty framework by strategically choosing federal policies that the community's goals of managing their livelihood lands and resources.

A Grounded Theory case study method combined with personal interviews determine that Muskoday First Nation had (and still has) internal competencies, which enabled the community to start to take back control of their lands and resources. The Grounded theory/interview research method was chosen at the start because there was limited information available about Muskoday First Nation. It was expanded to include information in a privation collection of documents held by the Band. Muskoday First Nation was forth coming with

information. Upon reading the private collection and interview transcript data they provided me with, it became apparent this community had a strong history of actively advocating and creating change on the reserve despite government policies. Muskoday First Nation has been advocating, engaging in self-determination and self-government practices since the signing of Treaty 6 and the selection of their reserve boundary lines. These two actions, signing of Treaty and reserve selection, demonstrated that Muskoday First Nation created sovereignty (self-government) through action and is guided by the concepts, ideologies and norms of their evolving culture. This community actively engaged in farming. The Canadian sessional records indicate they were successful to the extent that they hired workers from outside the community. Some cultural examples that the community demonstrated in farming were sustainable economic development strategies, such as crop rotation, hunting and gathering of resources from the land. Additionally the community was active in ensuring that their children received an education. One of the steps that this community took was to create a school board and found funds to build a school house on reserve. These examples all demonstrated that the community was asserting sovereignty, strategic orientation and good governance practices. Additionally the community demonstrated effective leadership.

The community was also engaged in actively challenging the authority of the DIA and the Indian agent. This community challenged the Department of Indian Affairs authority through individual and communal advocacy and through challenging and changing federal policies. An example, of individual advocacy was Lena Bear questioning of the Indian agent's authority to decide whether or not the family could kill a cow for food.   An example, of communal advocacy was the community's act of not surrendering their pasture lands despite the repeated efforts of government to obtain the surrender of the land. Additionally, the community had a history of

challenging government policy and procedure either by adapting the policy to work for the community's needs or by advocating so they were changed. For example, the community challenged the permit system and created a right of use policy. This allowed the community to decide who had the right to lease the lands. The community used delegated authority under section 53-60 of the *Indian Act,* as a method to have more control of their lands and resources. Delegated authority was also used by the community to learn how to fill in lease, to handle lease payments and pay land leasers. Muskoday First Nation in partnership with other First Nations challenged federal authority of lands and resources by creating the *Framework Agreement on First Nation Land Management.* Under this framework agreement land and resources were returned to the control of First Nations. This thesis examined a Canadian Aboriginal community examination of a community and individual's understanding of core cultural values which contributed to communal and individual's capacity to make change. It determined that historically, Muskoday First Nation continued to practice the core cultural values of "wahkootowin" (good relationships with the Creator, with others) or "miskasowin" (finding one self, origins) "pimacihowin" (making a living for oneself) and "miyo-wicehtowin" (having or possessing good relations) during the entire period of colonization. The community has also taken the core cultural values and adapted them to present day circumstances. This is one way that the community has created change on their reserve and countered the notion of a deficient paradigm.

The strength of the Nation-Building model is that it recognizes that many Native American communities in the United States have taken steps to improve community well being and assert their sovereignty by developing and implementing sound political structures. Yet, this

model has been tested and found to apply to the Canadian context only in two studies.[1]   The

model will have important government policy implication if it can be shown with a much larger

body of Canadian data that it fully applies in Canada. Hence the theoretical framework of the

Nation-Building model was tested in thesis study of the Muskoday First Nation to broaden its

Canadian research base and because this model focused on what has made communities

successful rather than why communities were failing. Additionally the Nation-Building model

was selected as a research tool because there have been scholarly critiques written about

methods and analysis used to develop the model. The research also examined these critiques in

the context of revealing Muskoday's story of agency and found them to be informative but also

problematic.   However, to date there is no other known research methodologies that

specifically examined these five components. Should this model be scraped? No, I think this

model should not be scraped it is providing a baseline for research. However this model should

be expanded to include other areas that need to be researched like capacity building.

Muskoday First Nations approach to sovereignty is understood through the community's

historical and current understanding of Treaty and through its evolving culture. Muskoday

perspective of sovereignty and treaty is that it is their responsibility to be self-governing. One

way this community demonstrated sovereignty was by stating their cultural understanding of

their relationship with the land and the Queen in their Land Code's recitals and in the

Framework Agreement on First Nation Land Management. Currently, this community is also in

the process of writing down its oral laws and regulations. Institutional building, capacity building

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[1]See Albert J. Berland, Frog Lake First Nation and Economic Development: A Case Study,"
Unpublished Master's Thesis, University of Saskatchewan: 2012; James McBride, Aboriginal
Community Economic Development: Overcoming Barriers to Aboriginal Entrepreneurship,"
Unpublished Master's Thesis, Simon Frasier University, 2004.

and effective leadership are also demonstrated by this community. The community has created

governance structures that protect the interests of their lands and resources and allows for

outsiders to understand their role in the relationship. Additionally the community has created a

dispute mechanism that has been tested. Unfortunately this community's daily sovereignty is

still affected by federal authority and control, which directly affects the community's ability to

provide services to its constituents

The Nation-Building model discusses the ideal leader. One of their suggestions is that

there is a separation of business and politics. Muskoday First Nation does have mechanisms

within in their bureaucracy that creates this separation. However, we will not know if there is a

stable bureaucracy until Austin Bear is not in power. One of the limitations of The Nation-

Building model's focus on economic development, however; there needs to be a robust

discussion of what mechanisms need to be in place for a smooth change over from one

leadership to another. The Nation-Building model is not discussing information that is not

discussed in the general literature of good governance practice. The focus that is unique about

this model is that they are discussing successful communities which can provide examples for

other communities to follow.

One of my goals in carrying out this research was to start a relationship with Muskoday

First Nation and to carry this research out in an ethical matter. One of the short-comings of my

research methods was the limited number of individuals I had interviewed and the fact that they

were all government employees. Since this was the start of a relationship, with Muskoday First

Nation, I suggest that as a community they may have had concerns with how the information

they shared would be used and analyzed. As in any new relationship we do not just give away

everything about ourselves without spending time creating trust within the relationship.

Additionally the information that was collected from the nine people provided me with the

historical background that I was seeking. Furthermore I sensed that this was the extent the

community was going to go until they saw my work.

Recommendations for Further Research

The results and conclusions of this research on one First Nation (Muskoday) that signed the

FNLMA in Saskatchewan is limited sample size so it limits the analysis and can only be used to

illustrate capacity building ideas for economic development at the local First Nation level. I

recommend an examination of the cultural competencies of the other original signers of

FNLMA to determine whether other cultural competencies and adaptation techniques existed

within these communities and contributed to governance. This would be useful to expand the

broader body of Canadian research about First Nations people's agency and resistance to

colonial policies and procedures and could potentially lead to more effective government policy

and a lifting of restrictions that hinder First Nations' ability to take their rightful place as equal

participants in Canadian federation. Muskoday First Nation is still in the process of

implementing its economic development strategy. In 10 years, an examination of these efforts

should be examined to determine whether or not their existing governance practice contributed

or hampered economic development and whether or not the community's definition of

sovereignty had changed.

Muskoday First Nation's efforts to make change in their community can be discussed

within the theoretical framework of the Nation-Building model. Muskoday First Nations

approach to sovereignty is understood through the community's understanding of Treaty and

through its evolving culture. This community perspective of sovereignty and treaty is that it is

their responsibility to be self-governing. One way this community demonstrates sovereignty is

by stating cultural understanding of their relationship with the land and the Queen in their Land

Code's recitals and in the *Framework Agreement on First Nation Land Management.*

Additionally, this community is also in the process of writing down oral laws and regulations.

Unfortunately this community's sovereignty is still affected by federal authority and control.

This control and authority directly affects the community's ability to provide services to its

constituents. Institutional building, capacity building and effective leadership are also

demonstrated by this community. The community has created governance structures that protect

the interests of their lands and resources and allows for outsiders to understand their role in the

relationship. Additionally the community has created a dispute mechanism that has been tested.

The community leadership also demonstrates that there is a separation of politics and business.

Additionally the community leadership has the ability to maintain good relations with other

communities and is able to take advice from outsiders and to learn from the mistakes of others.

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Draft Research Agreement Between:

Sabrina Mullis and Muskoday First Nation

Researchers Responsibilities

As the research, I will agree to do the following:

1. **Conduct respectful and ethical research and follow community protocol and customs.**

2. **Spend at least one week in the community working, on a voluntary basis, for the band in some capacity.**

3. **Contact and present Chief Austin Bear with a letter outlining my research.**

4. **Prepare a presentation for the Chief and Council to explain my research theoretical framework, the collection and returning of raw data and the dissemination of results.**

5. **Interview people and provide them with a copy of their transcript to add, delete or make any changes to the interview. The interviewee has the right to waive their anonymity but their confidential information will be protected. Interviewees at anytime can chose not to withdraw from the project, until the defense date, and the raw data collected from the participant will either be destroyed or returned to the participant.**

6. **Present the findings of the research at an international conference in Sacramento, CA in May 2011.**

7. **Incorporate the findings of the research into my MA thesis, which will be submitted as partial fulfilment for my MA degree for the department of Native Studies, University of Saskatchewan.**

8. **Present a draft copy of my thesis to the Band to review.**

9. **Invite community representatives to attend my thesis defence.**

10. **Upon successful defense of my thesis, provide the community with:**
    a. **a copy of my thesis**

     b.   **an executive summary of the work**

     c.   **a community presentation on the findings of the research.**

11. **In the event that I am interested in submitting my sections of the thesis for publishing I will provide the community with a draft copy of the essay to review and will provide a four-week window for the community member to read I have written and respond.**

12. **To invite representatives to attend the thesis defense.**

Participants Responsibilities

Muskoday First Nations agrees to the following:

1. **To grant me permission to conduct the research on Muskoday First Nation**

2. **To provide me a list of people that you would like to be interviewed regarding the community's TLE and land management agreement and code.**

3. **To allow me to engage in voluntary work on the reserve for a week**

4. **To choose to select any person (or persons) believed to be appropriate to review a draft copy of the thesis. The review will allow community input into the thesis. The reviewer(s) will**

     a.   **identify any incorrect factual information.   I will change the information**

     b.   **point out disagreements with any interpretation of the data and provide alternate interpretations. If the alternative interpretation corresponds with the data, I will change my interpretation and explain why I have changed the interpretations. However, if the alternative interpretation is not substantiated by the data, I will not change my interpretation. Nonetheless, I will include the alternative interpretation in the final draft; thereby ensuring community perspective is included in the thesis.**

5. **The Band can also review any future publication.**

6. **Since there will be a time constraint for me to present my thesis to my committee to defend, and to a lesser degree, for publications of articles, the community review of the draft of the thesis will need to be completed within three weeks. However, I will be more than willing to incorporate any changes into the thesis I receive after my defense with permission from my thesis**

supervisor and thesis committee. However, in order for these changes to be incorporated I will need receive them before I submit my to the College of Graduate Studies and Research.

7. If I receive the changes after I submit the thesis to the College of Graduate Studies and Research, I will incorporate them in any future publications.

8. Reviewing the thesis and any future publication is voluntary. The Band is not required to review and provide input into the thesis if they choose not to. If the Band chooses not to review the document, a representative of the Band should sign a waiver to review the document.

9. Attendance the thesis defense will be greatly appreciated, but is voluntary.

Both the researchers and Muskoday First Nation agree to the above.
Signatures
Name: (Print) _____

Signature: _____

Date: _____

Representative of Muskoday First Nation:

Name: (Print) _____

Position: _____

Signature: _____

Date: _____

Land Ownership and Self-government

1. Discuss the community's perspective of self-government.

2.   Explain this in relation to treaty?

3. Describe the community's perspective of land and land use?

4. Discuss whether or not this differs from the federal government's perspective?

5. Historically how were lands managed on and off reserve and how has this changed to reflect modern society?

6. Describe Muskoday First Nation's method to manage reserve lands before the FNLMA was implemented?

7. Discuss the advantages and disadvantages of this method

The FNLMA

9. Explain the motivation to join together with another community and advance your interests in ownership over lands and resources.

A) Who in the community was the driving force behind this move? Explain what their motivations were?

B) Describe what initial concerns the community and band's leadership had about advancing this idea of land and resource ownership to the Canadian federal government?

C) Describe how this process helped build community capacity

D) Describe what advantages and disadvantages this process of implementing the start of this process existed in the community and how these were used and overcome?

E) Discuss the implication this had on your relationship with the surrounding municipalities, the province, and the federal government

10. What motivated Muskoday First Nation to sign the First Nations Lands Management Agreement?

a) Describe how this agreement reflects the political and social culture of Muskoday First Nation and how does it not?

b) Discuss the implication this had on surrounding communities and your relationship with said communities.

11. Outline why Muskoday First Nation decided to implement its land code in the matter that it did?

12. How, explicitly, does Muskoday First Nation use their First Nations Lands Management Agreement to exercise its will?

    a)What is their strategic plan for using the agreement and the new institutions? Where are they going with this work? Where does it fit into bigger plans for their community?

    b) Are they creating structures, processes, and outcomes that cohere overall with that strategic thinking?

13. What is the community doing to make the land code this theirs? Is any new structure being created to reflect Indigenous/community values?

14. What mechanisms are in place to separate the political agenda of politicians and the day to day affairs of managing your lands?

       a) Outline the operating structure and management of Muskoday's Lands Management Office.

       b) Describe the relationship between the lands management office and Muskoday's band government.

       c) If a dispute arises between the lands management office and the band's Chief and Council how is it resolved?

15. Is sovereignty a core value for Muskoday First Nation? If so how describe how it defined in your community.

       a) Describe how the leadership and community using self-government are preserving Muskoday First Nation's culture and Cree culture in general.

16. Can you describe the relationship between the reality of your community and the management of your land code?

       A) Describe any political and social issues that occur when economic development strategies are implemented on reserve.

17. Describe the development strategy (vision, mandate) which guides the community's efforts?

18. Discuss the different views of economic development in your community.

19. Discuss the initial positive and negative impacts of land and resource control?

20. Discuss how both positive and negative impacts are being used to further administrate lands and resources

21. Describe how the community measures successful economic development

22. Discuss how the community balances political sovereignty with economic development strategies

23. How does the community balance culture with economic development strategies?

      A) Describe what obligations exist within the community ie. Kinship, collective, and self?
      B) Describe what is perceived as more important individual or collective interests and behaviours
      C) How does Muskoday view hierarchy and intra-group organization?

24. Define the culture of Muskoday First Nation

Economic Development

25. How has Muskoday First Nation decided the basic organization of its economy? Who is this administrated and controlled?
      A) Discuss the advantages and disadvantages of this development model?
      B) What governing institutions are most effective at administrating and achieving the goals of development?
      C) Discuss the development policy and how it has implemented
      D) What rate and type of development is being pursued and why?
      E) Describe the degree of outsider influence the community is willing to have in regards to economic development? How was this decision made?
      F) Describe what kind of activities best fit with what the community wants to change and what it wants to preserve?
      G) What is the community's perspective about the actually development process?
      H) What economic opportunities does Muskoday First Nation have?
      I) What economic drawbacks does the community have?
      J) Describe the specific nature and degree of control the community have over resources. Is there conflict with the province and local municipalities?
      K) Describe how the people interpret the economic problems on-reserve.
      L) What happens to investor's interests if there is an administration change?
      M) Is there an existing commercial code that specifies how business and the chief and council should conduct themselves?
      N) What motivated the leadership to change from the federal government controlling lands and resources to the community controlling lands?
      O) How did the leadership mobilize change?
P) Discuss how is information discussed between leadership and the community for making changes?

26. How has a separation of powers been implemented within the band council? Describe what checks and balances are in place to deal with external and internal economic development issues.

27. Describe the strategic vision of the community

28. Describe how your chief and council or kept accountable to its people and to outside relationships

29. How is the FN going to implement the agreement? What is the substance of that work? Are they making new positions with new powers? Creating a new organization within the FN government? This helps get a handle on the institutional structure.

30. Local Dispute Resolution Systems

Appointment of dispute resolution body

1.5 The Council shall, within 60 days of the coming into force of this Land Code, appoint a dispute resolution body to deal with disputes and appeals relating to Muskoday land that arise after this Land Code comes into force.

Appealable disputes

1.6 The matters that may be appealed to the dispute resolution body shall be provided for by a land law.

Disputes not resolved by Council

1.7 If there is an appealable dispute that cannot be resolved by the Council or the Lands Advisory Committee, a member or a non-member with an interest in Muskoday land may, in accordance with this section, appeal the dispute to the dispute resolution body for their decision.

Appeal procedures

1.8 An appeal to the dispute resolution body shall be made and determined in accordance with the appeal procedures established by the dispute resolution body.

Improper influence

1.9 Any attempt by a person making an appeal to improperly influence the decision of the dispute resolution body will result in the automatic rejection of the appeal.

Limitation period

1.10 The limitation period for an appeal to the dispute resolution body is 30 days after the day the decision, act or omission being appealed was made.

Power on appeal

1.11 The dispute resolution body may, after hearing an appeal

(1) confirm or reverse the decision, in whole or in part;

(2) substitute its own decision for the decision appealed from;

(3) direct that an action be taken or ceased; or

(4) refer the matter or dispute back for a new decision.

Decision final

1.12 A decision of the dispute resolution body is final and binding[1]

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[1] First Nations Lands Management Resource Centre, " Muskoday First Nations Land Code October 31st 1997," (accessed July 2013) http://www.labrc.com/land-codes/land-code-2.html.

APPENDIX D
MUSKODAY FIRST NATION DISPUTE RESOLUTION BOARD
POLICY AND PROCEDURES

As per Section 30 of the Muskoday First Nation Land Code, Council shall by resolution, appoint a dispute resolution body to deal with disputes and appeals relating to Muskoday land that arise after the Land Code comes into force.

As per Land Resolution 1999-/00-01 dated February 28, 2000, Council has appointed a dispute resolution body to be known as the "Muskoday First Nation Dispute Resolution Board" to hear any appeals in regard to Muskoday land.

This board shall consist of 3 members, and these members shall select one person as their chair.

The makeup of the board shall, as per Land Resolution 1999/00-01, consist of the following:

a) An Elder appointed by Council, who is willing to serve and has no direct conflict of interest with respect to the subject matter of the dispute of the appeal, the parties to it or the land at issue.
b) A representative of the Lands Advisory Board established under the *Framework Agreement on First Nation Land Management*.
c) A representative of the Saskatoon Tribal Council.

Appeal Procedures

An appeal to the Dispute Resolution Body shall be determined in accordance with the appeal procedures established by the dispute resolution body.

1. Appeals to the Dispute Resolution board must be made in writing to Chief and Council by way of the Lands Department citing reasonable grounds for invoking the dispute resolution body to hear their appeal.

2. Limitation period – the limitation for an appeal to the dispute resolution body is thirty (30) days after the original day of decision by Council or any act or omission being appealed was made.

3. The Dispute Resolution Body shall, upon availability, meet within fifteen (15) working days of written confirmation that the appellant wishes to appeal the original decision made by Council.

4. Power on appeal – the dispute resolution body, may after an appeal;
   a. Confirm or reverse the decision, in whole or in part.
   b. Substitute its own decision for the decision appealed from.

c. Direct that an action be taken or ceased; or
d. Refer the matter or dispute back for a new decision.

5.   Decision final – a decision by the Dispute Resolution Body is final and binding, subject to any exception established by a Land Law.

6.   Written decisions – Decisions of the Dispute Resolution Body must be in writing, signed by the person chairing the dispute resolution body or an officer designated by the dispute panel to do so.

7.   Reasons – The Dispute Resolution Body shall give reasons for its decision, and shall do so in writing if the party to the proceedings requests them before or within fourteen (14) days after the date of decision.

8.   Improper Influence – Any attempt by a person making an appeal, an immediate family member of such person or any other persons to improperly influence the decision of the Dispute Resolution Body will result in the automatic rejection of the appeal.

9.   Costs – costs associated with the members of the Dispute Resolution Board shall be taken from the annual Lands budget. Those members sitting on the board will be remunerated accordingly.

10.   The Director of Lands and/or their assistant may be required to prepare the administrative work for the hearings. This will include:
a. Listing all the appeal(s).
b. Provide Chief and Council with a list of eligible Elders' names, one of which will be appointed to the Appeals Board.
c. Coordinating the hearing dates when the board members are available.

Provide all supporting documentation to the Dispute Resolution Body members five (5) working days prior to the hearing.

d. Book a meeting room for the hearings.
e. Hire a recording secretary.
f. Notify the appellant(s) of the time and place of the hearing.

11.   Employees of the Muskoday First Nation Lands Department and members of the Muskoday Lands Advisory Committee may be asked or required to present evidence to the Dispute Resolution Board.

12.   This policy shall be reviewed and amended from time to time as required.

On January 7, 2013, MFN Council cancelled the right of use of member Randy

Bair upon a recommendation from the Lands Advisory Committee. Over the past few

years, complaints were made that Mr. Bair's livestock (horses) had been running at large,

being a public hazard next to a busy roadway and trampling and eating crops of

neighbouring lessees. A number of letters were sent by the Lands office to rectify this

problem. The member would comply but complaints would still continue to come to the

Lands Office. After a complaint in December of 2012, the Lands Committee

recommended that Council cancel the right of use based on non compliance of his right

of use (ROU) and the Secure Enclosures Land Law of 2008, plus the letters sent to Mr.

Bair requesting he take the proper steps to ensure the ROU was not cancelled. Council

cancelled the ROU and informed the Lands department that this was now a Lands issue

to deal with if the member wished to appeal under Section 30 of the Land Code.

Mr. Bear did give his notice in writing and will attend the appeal on his own behalf.

> When Council canceled the Right of Use of a member in January, we informed
> the individual by letter that he was able to appeal the decision, which he did in
> writing. At that point, it became a Land Management issue, not a Chief and
> Council issue.

> Our office then assembled the dispute resolution body as mentioned in the
> resolution of February 2000. The members selected were:

> Chief Clifford Tawpisin, Jr. of Muskeg Lake Cree Nation (Lands Advisory Board
> member)
> Doug Porter of the Saskatoon Tribal Council
> Orville Knight (elder, Muskoday First Nation)

> The dispute resolution body selected a chairperson and adopted rules for their use.
> (a copy of this is attached)

The board then selected a date for the hearing. They interviewed the appellant and myself and then took a few days to render a decision.

In the end, they sided with the FN member, thereby overturning Council's decision, which Council accepted.

The member's Right of Use was renewed, but with stricter terms and conditions.

The process took approximately 6 weeks; the biggest hurdle was getting a date agreeable to all parties to meet.