Aboriginal Self-Determination: A Comparative Study of New Zealand, Australia, and the United States

Executive Summary:
Aboriginal groups present with sub-par outcomes in key indicators of well-being across the board. Increased capacity for self-governance presents one possibility for improving these outcomes, but its implementation is complicated by historically acrimonious relationships with federal governments and the larger context of attempting to rectify the complex harms done by colonialism. The solution involves finding the right balance between creating spaces for self-governance and providing the necessary federal assistance where appropriate.

This paper discusses the structure of and approaches to Aboriginal self-determination and self-governance in New Zealand, Australia, and the United States, with a view toward assessing which approaches could prove effective in Canada. It does so through a variety of lens and by examining impact assessments in a number of key areas:

Historical context: The context of colonialism means that Aboriginal populations lack the necessary infrastructure to make needed improvements through self-governance alone. The best outcomes are achieved when a federal government recognizes this and allows for a significant degree of self-governance, while also providing support.

Education: Educational outcomes of Aboriginal peoples are sub-par across all three countries when compared to the general population. While significant advances were seen across the board in the past few decades, these outcomes continue to impact other outcomes, such as health and economy (and are in turn impacted by issues of infrastructure). Positive approaches include allowing educators to seek out student and parent perspectives in order to improve education delivery, in addition to finding ways to facilitate the inclusion of Aboriginal identity, language, and culture into education.

Healthcare: Healthcare outcomes are likewise sub-par across all three countries. Fewer educational opportunities and more vulnerable socio-economic statuses, in conjunction with problems related to accessing traditional diets and environmental resources, play a key role in disappointing health outcomes. A positive approach involves recognizing the unique health challenges facing Aboriginal populations in order to facilitate better healthcare delivery within the country’s broader healthcare system.

Infrastructure: Problems with infrastructure present a major impediment in all three countries to improving Aboriginal outcomes. Tribal economies and tribal survival depend on the availability of affordable and safe housing and infrastructure, meaning that insufficient infrastructure significantly impacts the ability of Aboriginal peoples to seek educational and economic improvement, in addition to creating barriers to good health. For Aboriginals living on tribal land or reservations, this is an area that is more clearly demarcated as a problem of self-governance (as opposed to, say, education, where educational needs may be met on or off tribal land).
Economy: The economic struggles of Aboriginal populations were found in all cases to be tied closely to the traditional use of the land. In the case of economy, then, it is particularly important not to necessarily view statistical outcomes as indicators of what is or is not effective in terms of self-governance, but instead to consider these situations in the light of the larger barrier imposed by external forces over many years of broader oppression.

Solutions: This paper proposes four recommendations for Canada based on the success and struggles highlighted in other countries. One, that particular attention be paid to the importance of the right to self-identify as a foundation both for a positive relationship with the government and a stronger sense of self-determination; two, that traditional land rights and land use rights be strengthened for Aboriginal populations in order to foster both self-reliance and improved economic outcomes; three, that the government explore the possibilities of incorporating separate, Aboriginal-controlled independent tribal courts into the Canadian legal system, turning either to the American tribal courts model or existing models of religious law for guidance; and four, that a focus on integrative models for education and healthcare be implemented by seeking a balance between encouraging self-determination in these areas and better recognizing and integrating the unique concerns of Aboriginal populations into the broader Canadian educational and healthcare programs.

Contents
Introduction .................................................................................................................................................. 3
History and Governmental Structure............................................................................................................ 4
  New Zealand ............................................................................................................................................... 4
  Australia .................................................................................................................................................... 6
  United States......................................................................................................................................... 7
Law-making ............................................................................................................................................... 10
  New Zealand .......................................................................................................................................... 10
  Australia .............................................................................................................................................. 11
  United States ....................................................................................................................................... 11
Relationship with Government ................................................................................................................... 13
  New Zealand .......................................................................................................................................... 14
  Australia .............................................................................................................................................. 15
  United States ....................................................................................................................................... 15
Impact Assessments ................................................................................................................................... 16
Education .................................................................................................................................................. 16
  New Zealand .......................................................................................................................................... 17
  Australia ............................................................................................................................................... 18
  United States ....................................................................................................................................... 19
Introduction

There are many challenges that arise when considering how to accommodate a historically marginalized group within the broader context of a country’s political and legal systems. Approaches to Aboriginal self-governance vary greatly by country, and depend in large part on both the modern and historical relationship between parties. In this paper, we will explore some of these approaches, using the examples of New Zealand, Australia, and the United States in order to assess their efficacy.

We will begin by considering the history, legal structure, and relationship with the government in each of these countries with regard to their Aboriginal populations, in order to best understand the unique struggles and tensions that play into the ability to successfully allow for self-governance. From there, we will move to examining impact assessments, evaluating the methods and success of each country in terms of education, health care, housing and infrastructure, and economy and natural resources.
These impacts may be affected by any number of factors, including the demographics of the country as a whole. In New Zealand, the Māori number at 682,100, representing 14.6% of the total population (Statistics New Zealand). In Australia, the Aboriginal population as of 2011 numbered 669,881, or 3% of the population (Australian Bureau of Statistics). Finally, in the United States, the American Indian and Alaska Natives population was 5,200,000, or 2% of the total population (US Census Bureau).¹

**History and Governmental Structure**

Although we are concerned here with the modern outcomes of Aboriginal self-governance, it is impossible to obtain a complete picture of what these outcomes mean without an understanding of the underlying historical issues between federal governments and the Aboriginal groups who reside there. This section provides a (very brief) idea of how these relationships evolved, and what sort of historical tensions may carry over into modern attempts at successful self-governance.

**New Zealand**

The Māori people of New Zealand have been involved in the country’s politics since the Declaration of Independence of New Zealand of 1835, and have had reserved seats in the Parliament of New Zealand since 1868, receiving universal suffrage in 1893. Given the traditionally tribal structure of the Māori people, there is no one person or group who serves to speak for all Māori across the country. Instead, there are seven designated Māori seats in Parliament, and Māori occupy general roll seats as well. Governmental organizations are routinely required to seek Māori input before moving forward on issues. Because of the success of Māori in Parliament, there is frequent debate surrounding the need for the designated seats and Māori roll, and the National Party aims to abolish these seats when all historic Treaty settlements are resolved, by 2014 (New Zealand Herald).

¹ Throughout this paper I will refer to each country’s Aboriginal population by the names used by those country’s governments: the Māori of New Zealand, Aboriginal Australians, and alternately American Indians or American Indigenous Peoples.
The right to self-identify is an important aspect of self-determination. The Māori were originally referred to by European visitors and settlers as “New Zealanders” or “natives”, but Māori is the term they used to describe themselves, or sometimes the term “tangata whenua” ("people of the land") in order to describe a tribal relationship to the land. The term Māori has been officially acknowledged since the 1947 Māori Purposes Act, changing the Department of Native Affairs to the Department of Māori Affairs (now called Te Puni Kōkiri, or the Ministry for Māori Development). The legal definition of what it means to be Māori has also changed in recent years. Prior to 1974, genetic ancestry was used to determine the legal status of “a Māori person”, used for such purposes as deciding whether to enroll in the general electoral roll or the separate Māori roll. However, the Māori Affairs Amendment Act of 1974 altered this legal definition to one of cultural identification, meaning that although some sort of demonstration of ancestry or cultural connection is sometimes required – for instance, in cases of scholarships or Waitangi Tribunal settlements – there is no minimum “blood” requirement to identify as Māori and enrol on the Māori electoral roll (Move to New Zealand).

The official Māori Party first entered Parliament in 2005 (Bargh, 1). The Māori Party have made their goals clear:

The Māori Party seeks significant outcomes in whanau ora; through eliminating poverty, advocating for social justice, and advancing Māori social, cultural, economic and community development in the best interests of the nation. (Bargh, 35)

Out of these goals, we see which ministerial positions are of particular relevance: Māori affairs, health, education, corrections, social development, disability issues, and the community and voluntary sector.

Representation for the Māori in government began very early on compared to some nations’ relationships with their Aboriginal inhabitants, with the Māori Representation Act of 1867 (MRA), an act

---

2 Whānau Ora refers to “an inclusive interagency approach to providing health and social services to build the capacity of all New Zealand families in need.” Roughly translated, it refers to the well-being of the family (Te Puni Kōkiri).
that created four Māori seats in New Zealand’s parliament and officially brought the Māori nation into
the colony’s political system (Bargh, 38, 48). Perhaps as a result of this, there is far more data and
scholarship available on Māori self-determination than there is for similar communities in Australia.

Scholars see steps toward self-determination by the Māori people as encompassing three
dimensions:

First, it signifies a commitment to strengthening economic standing, social-wellbeing, and
culture identity, both individually and collectively. Second, it also touches on the dimension of
power and control, again at individual and group levels. Māori advancement is about the better
self-management of natural resources, greater productivity of Māori land, the active promotion
by Māori of good health, a sound education, enhanced usage of Māori language, and decision-
making that reflects Māori realities and aspirations. Third, advancement is also about change.
(Durie, 4)

The comparatively positive relationship between the Māori and the government of New Zealand gives a
positive example of how these goals can be achieved, which we will later see correlate with positive
outcomes in social indicators.

Australia

The history of the Aboriginal Australian people is one involving a great deal of conflict. Following
European colonization of Australia, by the late 1880s most Aboriginal Australians had joined white rural
and urban communities as a result of forced assimilation. The effects of this forced assimilation are still
seen today, as evidenced by the even more problematic relationship between Aboriginal Australians’
self-identity and self-determination, and the Australian government in comparison with either New
Zealand or the United States. Assimilation introduced the Aboriginal Australians to new diseases and
economic marginalization, resulting in massive depopulation and even extinction for some tribes.
It was not until the civil rights movements of the 1970s that real improvements began to take place, fueled by land and property rights, as Aboriginal Australians began to speak out about land that had been forcibly taken by British settlers. The Aboriginal Land Rights Act, which passed in 1976, became instrumental in territories with tribal associations, as it provided the basis for Aboriginal Australians in the Northern Territory to make land rights claims based on traditional occupation (Central Land Council). Further rights milestones occurred in the 1990s, including government legislation that provided for a greater degree of autonomy, and increased wages and welfare benefits for Aboriginal populations (Aboriginal Australia). Of particular importance was the 1992 Australian High Court decision of *Mabo and others v Queensland (No 2)*, which further recognized Aboriginal title and led to the 1993 passing of the Native Title Act, designed "to provide a national system for the recognition and protection of native title and for its co-existence with the national land management system" (The Mabo Decision). All of these developments helped to shape the context under which Australian Aboriginal populations live today, one that is unfortunately fraught with challenges to the goal of self-determination.

**United States**

The United States constitution refers three times to the relationship between the federal government and Indigenous peoples, interpretations of which are generally summarized as follows: territorial sovereignty – tribal authority over Indian land is not granted by the state where it is located, but is instead organic; the 'Plenary Power Doctrine' – Congress, rather than the Executive branch of the federal government, holds ultimate authority over issues affecting Indian tribes; and trust relationship – the federal government has a “duty to protect” the tribes (McCarthy).

The sovereignty of tribes amounts to the fact that they exist as nations within a nation, rather than as minorities within the American system:

As tribes are treaty-recognized sovereigns, tribal rights are not based on or subject to U.S. constitutional law and are therefore not protected by the Constitution. This is because as pre-
existing sovereigns tribes to do derive their inherent governmental powers from the federal or state government. Thus, tribal nations have an extraconstitutional relationship to the United States that no other group has. (Wilkins, 44)

Although President Clinton in 1998 made an executive order officially recognizing Indian tribal governments as domestic dependent nations under federal protection, the trust doctrine and trust principles have been interpreted inconsistently over the years (Wilkins, 44). In theory, the trust doctrine recognizes the sovereign status of tribes that the federal government must respect under its own federal law. It also recognizes the hundreds of treaties regarding rights and resources (such as rights to water and land, hunting and fishing rights, taxation rights, and the rights to exercise civil and criminal jurisdiction) as contractual rights protected by the trust doctrine. In practice, however, these rights have frequently been ignored, or have needed to go through litigation before they have been applied, leading lawyer Mason Morisset to refer to the relationship as “the case of the reluctant guardian” (Morisset).

This relationship differs from those between the federal government and other racial or cultural minorities, not only because of the unique nature of the trust doctrine, but also because the relationship between the federal government and the Indian population has historically been a political one, structured through treaties, unlike the relationship between the federal government and other racial and cultural minorities:

One of the fundamental differences between indigenous peoples in their relationship with the federal government and that of other racial/ethnic minorities and the United States is that from the beginning the relationship was a political one, steeped in diplomacy and treaties. (Wilkins, 49)

Although the treatment of American Indians has been often similar to that of other racial minorities, including delayed rights of voting and marriage, the political nature of the relationship both opens up the possibility of self-governance and complicates any building of trust between the parties.
Despite centuries of navigating the relationship between Indian tribes and the federal government, characterized by struggles for basic rights such as citizenship and suffrage, the move toward self-determination and self-governance began only in 1960s, and took years to become effective (Wilkins, 105). The period from the 1960s-1980s was crucial, as tribes faced an important series of efforts including fishing rights struggles, the American Indian Chicago Conference of 1961, and the 1973 Occupation of Wounded Knee in South Dakota. Although these changes and the accompanying activism led to significant upheaval, they were also precursors to the 1968 Indian Civil Rights Act, which provided a number of legal and civil rights, as well as mechanisms for redress of grievances against tribal governments (Wilkins, 115). From the 1980s to the present, sincere attempts to enable Indian self-governance have taken place (Wilkins, 117). However, there are still major hurdles to overcome:

Even Indians in their individual capacity as American citizens are still not entitled to the full protection by the U.S. Constitution of their tribally based rights, since that document and its amendments still do not apply to tribes. (Wilkins, 248)

Moreover, the fact that tribal nations are being permitted to self-govern does not change the fact that this is with the ultimate permission of the federal government, which means that tension remains between the parties:

It is most assuredly federal Indian policy and not simply Indian policy, because by and large Indians have not set the policy. They have usually reacted to or had to endure given policies (removal, reservations, allotments, termination) [...] One can argue with a measure of veracity that the 1988 Tribal Self-Governance Act, as policy, has at least been inspired by, if not established by, Indian nations. But Indian self-governance is only one of a group of policy issues that affect and are affected by tribes and Indians in the areas of politics, law, cultural rights, property and natural resources, and intergovernmental relations, among others. (Wilkins, 247)
When considering the outcomes for various social programs by self-governing Indian nations, it is important to remember the challenges that arise out of this fraught relationship.

**Law-making**

Self-determining Aboriginal peoples inhabit an interesting and somewhat precarious position within the larger legal structure of their country, similar to that of religious groups who are subject both to the laws of their religion and the laws of their nation. The use of religious courts for the resolution of some family law matters, for instance, is an example of how we are used to conceiving of a legal system within a legal system. The ability to create one’s own laws is a significant step in a group’s ability to self-define and self-govern, and New Zealand, Australia, and the United States have handled this issue to varying degrees.

**New Zealand**

The Māori court system as it exists in New Zealand is limited to the Māori Land Court (previously known as the Native Land Court). The Treaty of Waitangi of 1840 established British law in New Zealand, although interpretations of the Treaty and discrepancies in translations have led to conflicts over the years.

The Māori Land Court exists as a business unit within the Special Jurisdictions Group of the Ministry of Justice. Historically, the Court was established in order to translate customary Māori land claims into legal titles that would be recognizable under English law. However, as time went on and the problems with retention of Māori lands arose, the Court evolved to have jurisdiction to hear all cases regarding Māori land (Māori Land Court). In modern times, the Court is intended to:

- promote the retention, use, development and control of Māori land as taonga tuku iho by Māori owners, their whānau, their hapū and their descendants through the delivery of core services which include: timely preparation and processing of applications to the Māori Land Court and Māori Appellate Court; the provision of timely and accurate information and advice from the
Apart from this Court, there are no separate courts or justice systems in place for the Māori. While only a small amount of New Zealand’s land is Māori land – less than 5% – the court deals with all business related to the land, including the maintenance of records of title and ownership and the facilitation of Māori land development and administration (Māori Land Court).

Australia

Although limited programs are in development to try and teach mainstream court systems to be more sensitive to Aboriginal justice issues, Australia does not employ the use of separate Aboriginal court systems, possibly due to the lack of historical treaties between the federal Australian government and the Aboriginal population that we see in New Zealand and the United States (Government of Western Australia). While this leaves us with little to examine directly on the impact of law-making on Australian Aboriginal self-governance, the absence itself raises many questions about the ability for a population to be truly self-determined if they are subject to a legal system that is not reflective of their unique situation within their country’s population. While it could be argued that their relatively small population in comparison with New Zealand’s 14% Māori population means that an entirely separate court system is impractical, for better or for worse, the United States employs tribal courts for an Indian demographic that represents an even smaller percentage of the overall population than Australia’s. It will be important to keep this in mind when examining the outcomes of impact assessments in other areas of Australia’s Aboriginal population, and to consider how these outcomes might be changed if legal self-determination were an option.

United States

The existence of and respect for tribal courts in the United States plays a significant role in empowerment (Jorgenson, 115). Although having a multi-tiered legal system can create administrative
challenges, both the use of tribal courts and the empowerment of federal judicial courts to enact restorative and reparative justice practices go a long way toward healing relationships between parties (Jorgenson, 123 and 148).

Tribal constitutions provide for executive (tribal chairs), judicial (tribal courts), and legislative (tribal councils) functions. All tribes have a tribal chair to set up laws, issue directives, preside over council meetings, and handle negotiations with the Bureau of Indian Affairs (BIA), Congress, and local governments, as well as a tribal council to exercise powers such as employing counsel for tribal protection, purchasing land, regulating economic affairs, and making ordinances to govern the conduct of members of the tribe. However, not all tribes have a separate judiciary. For those that do, the tribal courts are divided into a number of different types. While traditional courts are becoming increasingly rare (approximately twenty remain) and Courts of Indian Offences (CFR), in existence since the 1880s, serve more as a tool of colonialism than one of tribal empowerment, tribal courts present an effective form of justice than runs parallel to the federal court system and creates opportunities for self-governance (Wilkins, 147).

The American court system incorporates Indian courts as systems that run parallel to the state and federal court systems. Although the Indian Claims Commission, formerly a subset of the Court of Claims, has now been abolished, U.S. federal district courts branch into the Indian Court System, composed of the Tribal Court of Appeals, Tribal Courts, CFR (Court of Indian Offences) Courts, and traditional courts (Wilkins, 148). Criminal misdemeanour cases that involve Indians in Indian country are heard by the tribal courts or the CFR courts, as they do not fall within the jurisdiction of their resident state. Appeals from these courts are taken to the Tribal Court of Appeals (Court of Indian Offenses). Defendants’ rights are protected both by constitutions of the applicable Indian tribes and by federal laws, including the Indian Civil Rights Act (ICRA).
Modern tribal constitutions were organized under the Indian Reorganization Act (IRA), and the court systems that evolved out of this exhibited significant improvement over the CFR courts in terms of outcomes, as tribal judges following the IRA constitutions were responsible to their tribe, rather than responsible to the Bureau of Indian Affairs (BIA) (Wilkins, 149). Although they originally dealt primarily with criminal matters, courts under the IRA have expanded in recent years to handle civil cases as well.

Although Tribal Courts have become more powerful in recent years, they are still faced with the fact that crime rates in Indian country are increasing exponentially while crime rates throughout the rest of the country decrease (Wilkins, 150). The average annual rate at which Indians are victimized by crimes was, in 1999, two and a half times the national average (with a full 60 percent of these crimes involving white perpetrators. In addition to facing the challenge of increasing crime rates, tribal courts suffer from “susceptibility to political influence by tribal politicians, inadequate tribal laws, lack of qualified personnel, and a lack of planning” (Wilkins, 151). However, tribal courts have proven more capable than CFR courts and traditional courts at combining traditional norms and culture with Western law and traditions.

**Relationship with Government**

Relationships between Aboriginal leaders and the federal government are necessarily mediated by traditional ideas about what it means to govern and be governed, ideas that may differ drastically between the two groups. This creates an interesting difficulty in even measuring what is considered a positive outcome, as it relates to governmental relations; while some outcomes, such as education or health, are fairly easy to at least make statistical comparisons that indicate whether or not self-governance is working, different ideas about what it means to govern and be governed means that the opinion of Aboriginal groups on whether or not they are successfully working or interacting with the federal government may be different from the opinions of the federal government itself. Additionally, until recently, the goals of these governing bodies may have been incredibly disparate; while federal
governments have historically sought to control and even assimilate Aboriginal cultures, confining positive aspects of the relationship to perhaps ensuring the delivery of some social goods, an Aboriginal perspective of a positive relationship with the government would lean more toward one of effective self-determination. In this section, we will examine the relationship between Aboriginal leaders and federal governments and try to assess the success of these relationships.

Much of the relationship between current governments and Aboriginal tribes involves reparations for harms committed by past governments, the success and sincerity of which helps to dictate outcomes for success in self-governance. It is not enough for a federal government to hand over power to a group that has been historically disadvantaged; that power must be accompanied by attempts to work together to repair what was a traditionally toxic situation.

**New Zealand**

The Māori population of New Zealand experiences a comparatively positive relationship with the government of New Zealand. Māori interests are woven into the broader context of the country’s governance:

Some departments have particular formal responsibilities across Government, e.g. Crown Law (legal), Treasury (fiscal). Te Puni Kōkiri (Ministry of Māori Development) provides an important contribution to policy generally, to Māori development issues and to monitoring of service delivery across Government from a Māori perspective, drawing on their interaction with Māori communities (New Zealand Ministry of Justice).

Despite this positive relationship, however, there are improvements that could be made to the coherence of this relationship. In order for the relationship to function, greater clarity is required with regard to the boundaries of this relationship, and the understanding of where particular responsibilities lie. According to the New Zealand Ministry of Justice:
On a day to day level, there is uncertainty across the public service about the relationship between tino rangatiratanga (sometimes translated as Māori control over the things Māori), and kawanatanga (good government), yet this is the relationship which is at the heart of the Treaty of Waitangi. There is a need to be much clearer as to how Government responsibility and Māori control can co-exist most effectively (New Zealand Ministry of Justice).

Because the relationship between the government and the Māori is an increasingly positive one, it is possible to allow for self-governance to take place while still being integrated fairly seamlessly into the country’s broader governance. It is particularly important to note that the Ministry of Justice appears to be very conscious of where this integration is not occurring seamlessly, and is taking steps to address these concerns.

**Australia**

Traditional ideas about governing, social and political structures, and hierarchies of power help to shape the way in which the Aboriginal people of Australia interact with the federal government. According to Howard, the “kinship-based model of social relations is extended to organizing the political realm of white-Aboriginal interaction” (Howard, 104). Traditional ideas about the concept of “bosses” as people or groups who not only possess power, but who care for those under their power and are invested in creating positive outcomes for them, mean that Aboriginal Australians anticipate a reciprocal type of relationship with their federal government. Historically speaking, this type of relationship has failed to materialize. While the modern Australian government does seek to implement strategies to improve outcomes for Aboriginal Australians, these strategies rarely appear to involve collaboration between the two groups or attempts to empower Aboriginal Australians to effectively self-govern.

**United States**

The historical relationship between the federal government and the American Indian population is one that is fraught with attempts to assimilate or even eradicate the Indian population (History
Today). Although the American constitution outlines the relationship as a mere commerce clause, meaning that it was structured simply as a way to regulate trade activities with tribes, the history of tribal-state relations is in fact a highly contentious one (Wilkins, 94). Although the relationships between Indian tribes and the government exist officially at this federal level, much of this contention occurs at a state level. According to Wilkins, “[i]n the thirty-four states where federally recognized tribes live, the two sovereigns share contiguous lands, with every reservation or Indian community being surrounded by a state’s borders (Wilkins, 94). Wilkins characterizes the relationship between tribes and states as competing sovereigns who are protective of their political, economic, and cultural resources. This current state of affairs, in conjunction with the fraught historical relationship between American Indians and the federal government, means that the relationship is often tense. This state of affairs is fairly particular to the United States, based on the strong history of concerns about state independence. While certain territorial distinctions appeared in the literature on New Zealand and Australia, these were primarily related to the existence of larger populations in one area or another. While the primarily contentious relationship for the American Indian population is with the federal government, it is important to remember going forward that the size of the United States, the lack of homogeneity of its various Aboriginal populations, and the also contentious relationship between state and federal governments, all contribute to a unique situation in terms of the relationship between the government and the American Indian population.

Impact Assessments

Education

When education delivery is impacted, it is not impacted alone. According to the Australian Bureau of Statistics:

Education has been shown as being correlated with numerous measures of wellbeing including economic participation, income, health outcomes and determinants such as health risk
behaviours and preventative service use, as well as other aspects of wellbeing including social participation and crime and justice (Australian Bureau of Statistics).

Aboriginal education as it relates to self-governance comprises two major questions: to what degree (if any) does the delivery method of education to Aboriginal youth impact their outcomes in terms of completion in relation to numbers for non-Aboriginal youth, and how effectively does the system in place enable Aboriginal youth to receive education about their own culture and heritage?

**New Zealand**

Education outcomes for Māori are poor in comparison with those of non-Māori New Zealanders. In 2001, 43.6% of Māori adults did not have school qualifications, in comparison with 23.6% of the total population (Indigenous Health). As of 2009, 48% of Māori students were achieving a year 11 National Certificate of Educational Achievement (NCEA), as opposed to 69% of non-Māori. These statistics are similar in other grades (Education Counts).

Improving Māori educational outcomes is addressed in two policy papers: Ka Hikitia - Managing for Success: The Māori Education Strategy (2008-2012) and Ka Hikitia - Accelerating Success (2013 - 2017). The strategies use five guiding principles. The first is the Treaty of Waitangi, or the utilization of collaboration with the Crown. The second is the Māori Potential Approach, which states that:

Students who are expected to achieve and who have high (but not unrealistic) expectations of themselves are more likely to succeed. Students, parents, whānau, hapū, iwi, Māori organisations, communities, peers, and education and vocational training sector professionals must share high expectations for Māori students to achieve.

The third is Ako, a two-way teaching and learning process whereby educators seek out perspectives of students, parents, and Māori organizations to improve the education process. The fourth principle is the inclusion of Māori identity, language, and culture in education, and the fifth is the formation of successful and respectful partnerships at all levels (Māori Ministry of Education). These programs are
relatively new, making it challenging to assess how efficiently these principles are being enacted, and what sort of results we might expect in terms of the improvement of outcomes. However, it is positive to note that these topics are under constant review, so that appropriate changes can take place as the policy evolves (Education Review Office).

**Australia**

As of 2002, Aboriginal Australians were more than twice as likely as non-Indigenous Australians to leave school before year ten (age 16), and half as likely to complete year 12 (age 18) (Indigenous Health, 1777). However, these numbers had increased significantly from 1994, and they continued to increase until 2004 when 37% of Aboriginal Australians had attained a minimum of year 12 or a skilled vocation, doubling the 1994 number of 16%. Additionally, those completing year ten increased from 48% in 1994 to 71% in 2008 (Australian Bureau of Statistics). These numbers were significantly impacted by the remoteness of the individuals. While major cities saw 39.8% of individuals attaining year 12 or a skilled vocation, this number dropped to 32% in regional areas, and to 21.2% in remote areas.

While it is clear that significant gains have been made in the number of youth completing some or all secondary education, there remains a large disparity between the number of Aboriginal and non-Aboriginal youth completing their education. Additionally, the higher the degree of education, the larger this disparity – although the number of Aboriginals completing a bachelor’s degree has risen over time as well, it still remained in 2008 at only 5%, compared with the non-Aboriginal number of 24%.

Education is listed as one of the six goals targeted by Australia’s “Closing the Gap” campaign, designed to improve Australian Aboriginal outcomes in life expectancy, child mortality, education, and employment. Among these are goals to:

- ensure access to early childhood education for all Indigenous four year olds in remote communities by 2013; halve the gap in reading, writing and numeracy achievements for children
by 2018; [and] halve the gap for Indigenous students in Year 12 (or equivalent) attainment rates by 2020 (Council of Australian Governments).

The Aboriginal and Torres Strait Islander Education Action Plan, which deals with the educational side of “Closing the Gap”, is an initiative of the Council of Australian Governments (COAG). Although it takes into account feedback from the Aboriginal community, it is not clear that this approach constitutes any form of self-determination by Aboriginal Australians. According to a 2014 report card on the project, only two out of eight areas regarding improvement of reading, writing, and numeracy for children have been met since 2008 (Australian Indigenous Chamber of Commerce).

United States

Education of American Indian children is partly overseen by the National Congress of American Indians (NCAI), who are concerned with the dual goal of bringing Native academic achievement on par with that of their non-Indian peers, and making sure that children are educated in a way that takes into account their particular cultural and linguistic needs (National Congress of American Indians). Of the approximately 644,000 American Indian and Alaska Native students in the US K-12 system, ninety percent attend public schools, while eight percent attend schools that are administered by the Bureau of Indian Education (BIE).

There is a significant disparity between educational outcomes for Indian and non-Indian students. In the past ten years, the Native students are the only population not to have seen any improvements in reading or math for grades 4-8. They experience some of the lowest graduation rates in the country, and even fewer enroll in post-secondary education. According to the NCAI website, “On average, less than 50 percent of Native students graduate from high school each year in the seven states with the highest percentage of American Indian and Alaska Native students.”

NCAI maintains that, although provision of education is a large part of the federal government’s trust responsibility to tribes, tribal governments themselves are in the best position to assess and
address the educational needs of tribal youth. As such, the United States has recently introduced the Native Culture, Language, and Access for Success (CLASS) Act, intended to recognize the sovereign role of tribal governments in education. The bill includes increased tribal control over education, a grant program for immersion schools, and comprehensive wraparound services (services that provide intensive individualized care for youths with complex needs).

Healthcare

Although we will here analyze both the health care systems in place for Aboriginal peoples and the outcomes that they create, it is important to note that health care systems alone do not account for these numbers. Fewer educational opportunities and more vulnerable socio-economic statuses, in conjunction with problems accessing traditional diets and environmental resources, will inevitably play a key role in disappointing health outcomes.

New Zealand

Māori people have poorer health and social outcomes than those of the rest of the population of New Zealand (Indigenous Health). Although there were substantial improvements in life expectancy between the 1950s and 1980s, non-Māori life expectancy has continued to increase since then, while Māori numbers have stagnated. Although cardiovascular disease, cancer, respiratory illness, and injury affect Māori and non-Māori alike, between 1980 and 1999 cancer mortality rates fell for non-Māori while rising for Māori peoples, and while mortality rates for cardiovascular disease have decreased for both groups, the decrease has been much smaller for the Māori.

These disparities may arise from a number of sources, some related to self-governance and some from other sources. Access to health care remains a significant factor in rates of disease and mortality, as significantly larger numbers of Māori women than non-Māori women reported in 2002/2003 being unable to meet their needs from a general practitioner (Indigenous Health).
The goal to improve health outcomes for Māori people is evident in the He Korowai Oranga (Māori Health Strategy). Part of this strategy involves an increase in the development of Māori service providers, with significant increases being seen between 1992 and now in the number of Māori organizations involved in the provision of health care services, ranging from primary health care to health promotion activities. However, given that a significant proportion of Māori still rely on mainstream primary-care providers, the solution to Māori health problems becomes twofold. Even as Māori organizations continue to increase their involvement in health provision (the “self-determination” side of the question), mainstream health services need to work to provide culturally appropriate responses to the particular unmet needs of the Māori community.

Australia

Health and social indicators for Aboriginal people of Australia indicate significant problems. The life expectancy at birth for Aboriginal Australians is around 20 years younger than that of the total Australian population, while the age-standardised rates of death were two to four times higher (Indigenous Health). Age-specific death rate ratios are higher across all age groups, but particularly in young to middle-aged groups.

These health problems are exacerbated by changes to traditional approaches to diet and health. Although Aboriginal Australians relied initially on a hunter-gatherer lifestyle, adaptation to the changing environment brought on by colonialism, in addition to its subsequent susceptibility to environmentally caused diseases, has made the mediation of Aboriginal health challenging (Coombs, 55, 60). Although intentions have been positive for rectifying these health outcome disparities, strategies have not always met with success. It was not until 1989 that Australia first agreed to a National Aboriginal Health Strategy, and subsequent reports show that that its implementation was unsuccessful, even though it listed as its goals an Aboriginal community-controlled health service, meaning one that is initiated by, governed by, and based in Aboriginal communities (National Strategic Framework). The
strategy in Australia has not always been one of Aboriginal self-governance. Coombs lists the principles for good Aboriginal health as needing to stem from Aboriginal control, an emphasis on Aboriginal health workers in the communities as the primary instruments of health service delivery, and a respect for traditional Aboriginal medical knowledge and healers (Coombs, 65). The current government’s National Strategic Framework for Aboriginal and Torres Strait Islander Health has focused on creating a better environment within which to implement this type of Aboriginal community-controlled health service originally envisioned by the National Aboriginal Health Strategy, but the recentness of its creation and implementation makes it difficult to judge what sort of impact such self-determination will have on overall health outcomes (National Strategic Framework).

United States

As in New Zealand and Australia, American Indians experience significantly higher disease rates and lower life expectancies than non-Indian Americans (National Congress of American Indians). Rates for diabetes and related illnesses, heart disease, and substance abuse are higher for American Indians than for any other group. These discrepancies stem from a number of sources, from access to health care to systemic mental and physical health problems arising out of the historical treatment of the group. The National Indian Health Board (NIHB) is responsible for advocating for the health of Indian Americans, and represents Tribal governments, both those operating their own health care systems through contract and those relying on health care delivered directly from Indian Health Service (IHS).

The IHS was established in 1955 to take over Indian health care from the BIA in hopes of improving poor health outcomes. It is an operating division of the US Department of Health and Human Services (HHS). Hospitals that are run by the IHS serve any registered Indian or Alaskan native, regardless of their income or tribe (Indian Health Service). By contrast, health services that are contracted by tribes serve only members of those tribes, unless extra space is available. This can make it
difficult for Indians who leave their tribal homes to obtain the health care services to which they are legally entitled.

Apart from issues of access, tribes must contend with health concerns specific to American Indians. Alcohol and substance abuse is significantly prevalent in tribal communities, which contributes as well to an increased risk of suicide. Mental health services in these communities are drastically underfunded, and the issue is compounded by a lack of culturally competent providers (National Congress of American Indians). The suicide rate in tribal nations is 2.5 times the national average, and suicide is the second leading cause of death for Native youth aged 15-24. As discussed above, however, it is difficult to analyze these outcomes if we consider health care delivery alone, as it is clear that problematic outcomes in other areas – education and economy in particular – in conjunction with historical wrongs will end up contributing significantly to the challenges of health care delivery and outcomes.

**Housing/Infrastructure**

Tribal economies and tribal survival can depend on the availability of affordable and safe housing and infrastructure. Insufficient infrastructure can significantly impact the ability to seek educational and economic improvement, in addition to creating barriers to good health. Additionally, this is not a one-directional problem; lack of economic ability can in turn mean that there are few opportunities to improve housing situations. For Aboriginals living on tribal land or reservations, this is an area that is more clearly demarcated as a problem of self-governance (as opposed to, say, education, where educational needs may be met on or off tribal land.)

**New Zealand**

According to a 2010 Māori Housing Report, although Māori people are characterized by relatively high rates of mobility, their housing situation remains below standards. In 2006, four times as many Māori as European households were classified as crowded, and nearly six times as many Māori as
European people lived in crowded households. Although this trend has improved over the past two decades, the disparity remains great. Additionally, twelve percent of Māori live in Housing New Zealand Corporation housing, compared with two percent of Europeans.

In the past two decades, housing has become less affordable for Māori, with the number of households paying more than thirty percent of their income to housing rising from eight percent in 1988 to twenty-nine percent in 2007. Within this same time span, home ownership has declined for all New Zealanders, but at a greater rate for Māori (Housing New Zealand).

However, in the last year, housing on Māori land has become more accessible, with infrastructure grants designed to help Māori land trusts and other collectives build on ancestral Māori land (Beehive). As these grants were only created late in 2013, it is too soon to tell what sort of effect they will have overall on the housing situation for Māori.

**Australia**

Housing outcomes for Aboriginal Australians lag significantly behind those of non-Aboriginal Australians. “In 2002, only 30% of Indigenous households were in homes owned by or being purchased by their occupants, compared with 71% of other Australian households” (Indigenous Health, 1777). In non-remote areas in particular, there is a strong correlation between rates of overcrowding and home ownership and levels of educational attainment (Australian Bureau of Statistics). “In the 2011 Census, Aboriginal and Torres Strait Islander households were more likely to rent their home (59%) than own their home with a mortgage (25%) or own their home outright (11%). In comparison, other households were more likely to own their home (68%) than rent (29%)” (Australian Bureau of Statistics).

The National Partnership Agreement on Remote Indigenous Housing, an agreement between the Commonwealth of Australia and the States and Territories, is designed to:
Facilitate significant reform in the provision of housing for Indigenous people in remote communities and to address overcrowding, homelessness, poor housing condition and severe housing shortage in remote Indigenous communities (Federal Financial Relations).

It is significant that the execution of these goals is seen as a collaboration between the Commonwealth and the States, without any obvious input or self-determination from the affected Indigenous people. While the agreement outlines the financial and political resources that should be applied in order to reach the goals of the “Closing the Gap” program to improve Indigenous outcomes, there is no indication of how these strategies will lead to sustainable development or increased self-determination.

United States

According to the NCAI, American Indians and Alaska Natives face some of the worst housing and living conditions in the United States, with forty percent of on-reservation housing considered substandard (compared to six percent outside of Indian country) and a third of homes being overcrowded. Fewer than half of these homes are connected to public sewer systems, and sixteen percent lack indoor plumbing (National Congress of American Indians). Additionally, this poor quality of housing is not reflected in the cost of housing, with twenty-three percent of Native households spending thirty percent or more of their household income on housing. Finally, in some areas, up to fifty percent of Native homes lack even phone service.

Attempts to rectify this situation have come through the Helping Expedite and Advance Responsible Tribal Homeownership Act (HEARTH Act) of 2012 (GPO). This Act gives authority to Indian tribes to lease tribal trust lands without Secretarial approval, and is intended to empower tribes to improve economic growth and job creation on tribal lands, increase community involvement, and strengthen tribal self-determination (Indian Country Today). By bypassing the BIA for approval, the idea is to allow tribes to more quickly and easily access their own land, particularly in order to approve home and business leases (White House). Although this Act has been lauded as an excellent step toward
improving Indian housing situations and empowering tribes, the recentness of its enactment makes it
difficult to judge what effect this increased self-determination will have on the dire housing situation for
American Indians.

Economy, Natural Resources, and Land Rights

Like with other outcome assessments, considerations of economic opportunities and economic
situations for Aboriginal peoples do not exist in a vacuum. The loss of land and access to traditional
hunting and fishing grounds hampers traditional modes of self-reliance, and in this way the modern
economic situation of Aboriginal peoples continues to be impacted by the years of hardship at the hands
of federal governments. In the case of economy, then, it is particularly important not to view statistical
outcomes as necessarily indicators of what is or is not effective in terms of self-governance, but instead
to consider these situations in the light of the larger barrier imposed by external forces over many
decades (or, in the case of the United States, centuries) of broader oppression.

Although it was not discussed extensively in the literature pertaining to any specific country, at a
broader international level, Aboriginal rights groups worldwide have taken the concept of Free, Prior,
and Informed Consent (FPIC) as one of the pillars of land rights discussion, applying to any activities
taking place in Aboriginal territory (First Peoples Worldwide). The use of traditionally respected and
utilized natural resources by Aboriginal peoples remains an ongoing part of policies of Aboriginal self-
governance in many countries, particularly with regard to hunting and fishing rights, in addition to drives
to protect land that holds spiritual significance or that may be otherwise exploited by that country’s
government. The ability to utilize the land in a traditional manner can have a significant impact on
economic incomes.

New Zealand

Prior to European settlement, the Māori had well-established customary law relating to land
and trade rights, as well as to environmental protection. This law:
derives from the very detailed knowledge gained from residing in a particular geographic area for many hundreds of years, developing relationships with other neighbouring communities as well as those further afield, and learning from practical experience what works and what does not. Not surprisingly, this body of law is very different from English law in how it is established, mainly because it cannot be reduced to writing and thereby set in concrete by legislation (Library of Congress).

In 1840, when the Treaty of Waitangi was signed with the British Crown, the Māori agreed to allow the British to establish a colonial government to help regulate the settlers. Ongoing breaches of this treaty right up until the 1970s and 1980s in relation to land rights led to New Zealand courts eventually declaring that “customs and practices which include spiritual elements are cognisable in a Court of law provided they are properly established, usually by evidence” (Library of Congress).

Part of the process of losing control of land throughout the late 1800s and early 1900s meant that customary land became systematically “individualized” and registered so as to break down group ownership. As such, recent efforts by the Māori with regard to land claims have involved searching for solutions to problems such as absentee ownership and title fragmentation. The most effective solution has been reversion to collective ownership through the use of incorporations or trusts (Reconciling Customary Ownership and Development).

The global economic recession has affected a higher proportion of Māori (and Pacific) people than European in New Zealand in terms of unemployment rates, rising in 2009 to twice the non-Māori rate (Māori Housing Trends 2010). In response, the Māori Economic Development Strategy and Action Plan, or "He kai kei aku ringa" (meaning “providing the food you need with your own hands”) has been designed to boost Māori economic performance (Ministry of Business, Innovation, and Employment). The action plan incorporates six strategic goals for Māori economic development through to 2040 in order to lift the Māori contribution to the economy:
1. Greater educational participation and performance;
2. Skilled and successful workforce;
3. Increased financial literacy and savings;
4. Government, in partnership with Māori, enables growth;
5. Active discussions about the development of natural resources; and
6. Māori Inc as a driver of economic growth (Te Puni Kōkiri).

Although separate statistics are kept on Māori economic growth and development, their economic interests appear to be deeply entwined with the broader economic interests of New Zealand, with Māori participating in and contributing to New Zealand’s biggest export earners: dairy, tourism, meat, wood, and seafood (Te Puni Kōkiri).

A discussion panel on the Māori Economic Development Strategy and Action Plan explained this balance between economic independence and contributions to New Zealand’s overall economy as follows:

Māori and New Zealand are at a point in our economic journey where significant opportunities and challenges are at our doorstep. The Māori economy is growing and has great developmental potential, but Māori also experience socio-economic disparities that need to be addressed. This is important both to achieve growth in the Māori economy but also to support the growth of the national economy. Addressing this and maximising Māori economic opportunities are especially important given the challenges faced by New Zealand in the current global economic climate and ongoing uncertainty following the Global Financial Crisis (Te Puni Kōkiri).

The Māori values developed for land use planning apply to ‘any natural resource, area, place, or thing (tangible or intangible) which is of physical, economic, social, cultural, historic, and/or spiritual significance to tangata whenua’ (Landcare Research). These values apply not just to the biophysical sites that we traditionally think of as land, but to historically significant and spiritually significant sites, sites
where traditionally-used medicinal and artistic plants are located, and land where cultural or artistic sites are located.

**Australia**

Prior to the 1976 passing of the Aboriginal Land Rights (Northern Territory) Act of 1967, there were no officially enshrined Aboriginal rights in Australian law (Howard, 67). Instead, land had been systematically taken away by colonialism, and the fight to regain this land and its associated rights began as far back as 1846, when Aboriginal Tasmanians petitioned the Crown for return of lands (Indigenous Rights). There are now three categories of land possession based on the traditional relationship to the land within the reserve (Howard, 67) – traditional Aboriginal owners (those with spiritual affiliation to the site and are entitled by tradition to foraging rights), anyone with traditional relationships with the land, and those with no traditional relationship, such as immigrants.

The long-standing lack of respect for Aboriginal tribal lands has contributed to a significant impact on Aboriginal economy. According to the Australian Bureau of Statistics, in 2011 “over half (56%) of Aboriginal and Torres Strait Islander people reported an equivalised weekly household income between $200 and $799. In comparison, 51% of non-Indigenous people reported an equivalised weekly household income of between $400 and $1,249” (Australian Bureau of Statistics). Although Coombs asserts that this situation could be improved by bolstering local economics, as groups who are living in relative isolation can still design an economic livelihood that leads to self-sufficiency, it does not appear that this is a major strategy for Australia’s government (Coombs, 76).

A number of organizations have been established to try and rectify this disparity. The Aboriginal Employment Strategy (AES) is a non-profit organization that provides recruitment services, traineeship services, and business development in order to improve Aboriginal employment outcomes in Australia (Aboriginal Employment Strategy). Generation One is an organization launched by former Prime Minister Hon Kevin Rudd MP as part of the “Closing the Gap” strategy, also seeking to provide
education, training, mentoring, and lasting employment (Generation One). Finally, the Australian Indigenous Chamber of Commerce was established in order to “encourage and promote self-reliance and economic prosperity for Indigenous Australians through commercial activity and private enterprise” (Australian Indigenous Chamber of Commerce).

According to the 2014 “Closing the Gap” report card from Prime Minister Tony Abbott, the goal of halving the gap in employment outcomes within the decade has not only not seen any progress, but outcomes have in fact gotten worse (Australian Indigenous Chamber of Commerce).

**United States**

American Indian tribal communities experience unemployment rates that fall significantly above the national average (National Congress of American Indians). However, recent years have seen growth in tribally owned and operated businesses. The NCAI works to support this growth by educating tribal members on financing options and advocating for loan programs, as well as providing job training and workforce investment programs (National Congress of American Indians).

The most recent development for the American Indian economy is the 2011 American Jobs Act, which contained significant benefits through tribal provisions, including $310 million to be added to the Indian Reservation Roads Program and $7.5 million for the Tribal Transit program. According to the NCAI, this bill is an excellent example of why “clear inclusion of tribal governments alongside state governments would offer significant economic benefits” (National Congress of American Indians).

A major component of the American Indian economy is the gaming industry on reservations (157, Wilkins, 164). Although it is a contentious issue, there have been a number of positive consequences of giving gaming rights to tribes. According to Wilkins, gaming has been a major factor leading to dramatic improvements in reservation economic conditions, with tribes that were the worst off having experienced the greatest benefits (167). In addition, revenues from gaming usually keep most of the economic benefits directly within the tribe, leading to increased self-sufficiency (167). However,
gaming has not been without negative consequences for tribes. Gambling can cause or exacerbate
problems for individuals and communities, such as organized crime, increased non-Indian traffic on
Indian land, and addiction. It can also heighten intra-tribal tension due to concerns about the impact of
having a gaming-based economy (169). According to the NCAI:

Tribal governments use gaming revenues to fund social service programs, including scholarships,
health-care clinics, substance abuse programs, education, law enforcement, and tribal courts.
Revenues are also used for infrastructure development such as building new roads, new sewer
and water systems, housing, and other developments. Gaming also provides jobs for tribal
citizens and non-Native members of surrounding communities (National Congress of American
Indians).

Protection of this resource is considered important for tribes to develop prosperity and reduce
dependency on federal resources. Currently, tribes are bracing themselves for the impact that the rise of
online gaming may have on this financial resource.

Advocacy for the relationship between American Indians, land, and natural resources is
governed by the National Congress of American Indians (National Congress of American Indians). Given
that tribal lands can provide essential elements for Native life, including subsistence in the form of
hunting and fishing, and cultural significance in the form of sacred tribal lands, the ability of a tribe to
exercise control over their land has great significance for self-determination. Moreover, the reclamation
of this relationship constitutes an important step in the recovery of tribal nations from wrongs
committed by the federal government in the past:

“Tribal nations have been in a state of recovery since the pre-colonial era and struggle mightily
with their status as the original sovereigns whose power, lands, and resources have faced nearly
constant exploitation and constraints not imposed on any other polity in the United States”.

(Wilkins, 246)
Working with land and natural resources can be either inward-focused – making use of the land for agriculture, hunting, and fishing – or outward focused, seeking to protect natural resources throughout the country as a whole as part of the cultural relationship with the land. Agricultural use of the land has also increasingly led to improved economic outcomes for tribes, as evidenced by the 88% increase in the number of American Indian farmers between 2002 and 2007 (National Congress of American Indians). Federal support for this and other land-based endeavours has proven an effective way for the federal government to enhance the ability of American Indians to be self-determinant.

Recommendations

Although it is obvious that the unique historical context of each country examined herein plays a large role in how effectively Aboriginal self-determination can be used to improve outcomes, there are a number of conclusions that we can draw from the models presented here in order to find ways to ameliorate Aboriginal self-determination in a Canadian context.

It is clear from the impact assessments presented in this paper that it will take a long time to undo the harms of colonialism. Clearer still is the fact that in the situation of Aboriginal issues, given the ongoing effect of these past harms, formal equality is insufficient. In order to achieve substantive equality, self-determination can be a positive tool. However, self-determination does not entail passing on responsibilities; rather, it requires a concerted effort on the part of the federal government to provide the financial and social support and infrastructures necessary for Aboriginal self-governance to be successful.

With this in mind, I give the following four recommendations:

1) **Self-identification alongside constructive and respectful government interactions:** We can see from the comparatively positive outcomes in New Zealand that a constructive working relationship between the federal government and Aboriginal groups is necessary for self-
determination to be feasible. Moreover, self-determination entails more than self-administration. Positive models for self-determination should include finding ways to ensure that the Canadian federal government behaves toward Aboriginal groups with a stance that is respectful of and deferential toward tradition, and that allows Aboriginal groups a broad degree of control over how tribal membership is defined.

2) **Land rights and land use**: Rights both to traditional lands and the rights of use of those lands have a significant impact on Aboriginal economy, which in turn serves to ameliorate other areas, particularly in housing and education. A positive move toward Canadian Aboriginal self-determination should necessarily include considerations of how to more fully and adequately restore land rights and land use rights, including a broad and inclusive approach to hunting and fishing rights and an open mind toward creative economic solutions based on traditional models of self-sufficiency.

3) **Tribal courts**: Consideration should be given to a separate, Aboriginally controlled justice system. The United States provides models both for what has been historically problematic (The Court of Indian Offences) and what has the potential to be positive and empowering (the existence of and respect for tribal courts).

4) **Integrative models for education and healthcare**: Positive models for improving educational and healthcare outcomes, particularly those in New Zealand, not only gave a wide degree of discretion to Aboriginal groups in determining the best models for improvement in these areas, but also focused on an integrative approach whereby the federal government took on a responsibility in tandem with the self-determinative approach that focused on integrating the unique needs of Aboriginal populations into the broader education and healthcare systems. This would have the effect of avoiding allowing self-determination to inadvertently create a greater
sense of isolation in Aboriginal communities, instead highlighting the importance of educating Canadian populations as a whole on Aboriginal heritage and of ensuring that the Canadian healthcare system is designed to deal with all the needs of all Canadian citizens.

**Conclusions**

This paper highlights some of the ways in which New Zealand, Australia, and the United States attempt to provide their Aboriginal populations with a degree of self-determination, and the ways in which those populations deal with the freedoms or constraints given to them. It is clear from the impact assessments shown that, in all three instances, years of oppression and colonialism have created considerable barriers to well-being. Opportunities for improvement seem to stem from allowing Aboriginal populations to have a significant say in how these years of mistakes are rectified.

With that in mind, it is not insignificant that New Zealand, the country that demonstrates the best relationship between its Aboriginal peoples and government and the country that shows the best outcomes for the delivery of social goods through a self-determined Aboriginal population, is also the one that shows the clearest respect for the right to self-identify as a people and the clearest willingness on the part of the government to take steps to integrate Māori self-governance into the governing of the country as a whole. Both Australia and the United States were slower to begin incorporating rights and self-determination into their approach to Aboriginal Affairs, and this is apparent in their outcomes.

Although nothing can be done to change the problematic histories of these relationships, each of the models examined here helps to highlight some of the promises and pitfalls of working to facilitate Aboriginal self-governance. Significant work remains to be done, but a move toward self-determination is a positive move toward improving outcomes and helping to rectify these past mistakes.
Works Cited

Aboriginal Australia: http://www.infoplease.com/spot/aboriginal1.html


Council of Australian Governments:

Court of Indian Offenses:
   http://www.bia.gov/WhoWeAre/RegionalOffices/SouthernPlains/WeAre/ciospr/index.htm


Education Review Office: http://www.ero.govt.nz/National-Reports/Promoting-Success-for-Māori-Students-Schools-Progress-June-2010/Overview

Encyclopaedia Britannica: http://www.britannica.com/EBchecked/topic/363500/Māori-Representation-Act
Federal Financial Relations:

http://www.federalfinancialrelations.gov.au/content/npa/housing/remote_indigenous_housing
/national_partnership.pdf


Generation One: http://generationone.org.au/about

Government of Western Australia:


Housing New Zealand: http://www.hnzc.co.nz/our-publications/Māori-housing-trends/2010-Māori-


Indian Country Today: http://indiancountrytodaymedianetwork.com/2013/10/18/why-tribes-need-
hearth-act-and-bia-leasing-regulations

Indian Health Services: http://www.ihs.gov/aboutihs/

Indigenous Health:

http://download.thelancet.com/pdfs/journals/lancet/PIIS0140673606687734.pdf?id=eaajw7iR-
OzvPhRhC15ru


Landcare Research: https://www.landcareresearch.co.nz/science/living/indigenous-knowledge/land-
use/values


Māori Ministry of Education:


National Strategic Framework for Aboriginal and Torres Strait Islander Health:


Reconciling Customary Ownership and Development:
19 BYU J. PUB. L. 1 (December, 2004).

Statistics New Zealand:
http://www.stats.govt.nz/browse_for_stats/population/estimates_and_projections/Māori-
population-estimates.aspx


White House: http://www.whitehouse.gov/blog/2012/07/30/strengthening-tribal-communities-
through-hearth-act

Wilkins, David E. American Indian Politics and the American Political System. Lanham: Rowman and