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Indigenous\textsuperscript{1} Self-Governance: An International Perspective

Executive Summary
The context of indigenous self-governance has become increasingly internationalized in recent years. States with sizable indigenous populations have been pressured from both within and without to develop salient long-term strategies for recognition and support of first peoples’ right to self-determination. There has thus been an increase in quantity and viability of state managed frameworks for self-governance, and locally managed administrations by indigenous polities. This rise both lends itself to, and can benefit from, a comparative analysis. Yet at the same time, the terms of self-governance often vary on a state-by-state basis.

This study attempts to (1) offer a vocabulary and framework for the comparative study of indigenous self-governance internationally, (2) discuss key issues shared by self-governing peoples in a wide variety of local contexts, and (3) offer case-study examples discussing self-governance in practice, with emphasis placed on the provision of services. The case studies undertaken are comparative, focusing on different strategies taken to address similar problems. Given the multifaceted nature of governance in general and indigenous self-governance in particular, emphasis is placed on key themes and trends. Wherever possible, citations are extensive, to facilitate more in-depth exploration of particular issues.

Given the complexity of the issues involved, most recommendations are context-dependent. However, generally speaking, awareness of local contexts, sufficient and efficient use of capital resources, and strategic framing of key issues, have proven winning strategies.

\textsuperscript{1} For the comparative value of this paper, I privilege the increasingly ubiquitous term \textit{indigenous} over the more commonwealth \textit{aboriginal}.
Introduction
Since the ratification of the UN Declaration of the Rights of Indigenous Peoples in 2007, and its endorsement by Australia in 2009, and the United States, Canada, and New Zealand in 2010, indigenous peoples’ inherent right to self-determination has been of increasing international concern. It is no surprise that the aforementioned former British colonies delayed in supporting the declaration. Each state hosts a majority non-native, settler population with histories of legislation, negotiations, treaties, and policies particular to the native people living within their borders. Nowhere else is the line between ‘indigenous’ and ‘settler’ clearer, nor the implications of that difference upon nation building more strongly felt. Yet international notions, and awareness, of self-governance initiatives are playing an increasingly strong role in the discourse on rights, and the comparison between self-governance regimes is ever more relevant.

Organization of this Report:
This paper examines indigenous self-governance initiatives outside of Canada. It is divided into three sections.

The first section discusses self-governance in the most general of terms, and offers a comparative framework for discussing key issues internationally. I argue that self-governance can be examined in terms of level (what level of government is being engaged), degree (what extent an indigenous polity governs itself), status (how indigenous citizens are recognized and regulated as such), and territory (how indigenous lands are delineated and regulated as such).

The second section discusses the mechanisms by which indigenous polities self-govern. I focus on issues of constitutionalism (how governing frameworks are established, recognized, and ordered), transparency and civic awareness (how the citizenry is made aware of government and its initiatives), and accountability (what mechanisms may exist to ensure the viability and legitimacy of leadership).

The third section discusses various strategies related to the provision of services. I focus on fiscal services (regulation of local economy, government monies, and infrastructure), health and social services (healthcare, social work, and including food distribution models), education (regulation of schooling provided by the polity and the state, measures taken to improve education and reduce ‘brain-drain’), and justice (local judiciary and policing measures).

This paper is comparative, citing examples from North America, Oceania, Africa, and Latin America. In the second and third sections, I emphasize the site of my current research, the Saint Regis Mohawk Tribe (SRMT) as a case study. While many indigenous nations straddle the borders of Canada and the United States, Saint Regis (also referred to as Akwesasne) is the only geographically contiguous community to do so, situated in Quebec, Ontario, and Upper New York State. As the majority of members hold status in both Canada and the United States, residents make regular strategic choices based on
which programs are more, or less, successful. Saint Regis is, in itself, a living example of comparative indigenous self-governance.

**Section One: Self Governance, an International Framework**

**Levels of Self Governance**
Crudely, we can consider self-governance on three distinct, albeit inter-related, levels: international, national, and intra-national.

**International** – The way international law governs indigenous polities. It has been argued that the identity category of indigeneity is something born of international law and only subsequently inhabited by distinct populations (Niezen 2003; Niezen 2010). The United Nations is the most common example of an international body/agreement legislating indigenous self-determination, but continental or regional arrangements such as NAFTA and the European Union may also be included here. Further, it is worthwhile to note that many indigenous populations live astride political borders and are impacted by the laws and agreements between several states.

**National** – The ways in which states administrate/provide for the self-governance of indigenous polities. Do states allow federal officers on indigenous territory? Is a constitution required for self-governance? Are lands held in trust by the state? Etc. There can be a single policy for all indigenous peoples (i.e. New Zealand), or different policies restricted to different populations (e.g. Inuit vs. First Nations in Canada).

Although I do not emphasize it here, within nation-states there are often administrative districts such as provinces (or, in the United States, states), which have their own policies pertaining to indigenous residents. While these are important, especially with regard to access to services, as I discuss below, federal governments are typically the ultimate arbiters of indigenous policy. The United States’ federal government formally ended states’ abilities to negotiate treaties within indigenous peoples in favor of a nation-to-nation relationship that was both simpler, and more copacetic with the status of native polities as nations.

**Intra-National** - As much as they are ruled from without by the state, self-governing polities are ruled from within by their own institutions. Even if there exists a single national policy for how indigenous residents may govern themselves, individual nations and communities often have their own distinct governing frameworks.

This paper focuses on national regimes relating to indigenous self-governance, and intra-national administrations of self-governance from a variety of polities. International level discussions are increasingly relevant in matters of justice, and I discuss the implications of this change toward the end.
Degrees of Self-Governance

Self-Governance, or self-determination, is not sovereignty; and this distinction matters. Sovereignty is perceived differently in different contexts, but often involves the ability to define the terms of one’s own authority, and to hold the powers associated with states, including the coercive use of force (Weber 1958), and the regulation of inter-national movement (Torpey 2000). In his comparative discussion of joint-decision making boards between states and indigenous peoples, André Hoekma notes, “in almost all such arrangements I know of, national governments reserve for themselves the ultimate responsibility and ultimate decision making power in [some] matters” (1994, 177). In discussing self-government in the United States, John Ekstedt notes that the terms of self-governance are defined by the federal government, rather than indigenous peoples (1994, 51). Carpenter et. al. argue that this effect is seen most strongly in issues of property and land-ownership, in which the ultimate right over land, even if not in use, is held by states (2009, 118:1022). Self-governance differs from sovereignty in that self-governance is inherently limited and inevitably under the aegis of an external state. Recognizing this distinction is critical if one wishes to get a sense of why self-government is sometimes rejected by indigenous populations searching for autonomy. In Saint Regis, for example, many traditionalists, among others, voted against the adoption of the Tribal constitution, and continue to not vote in Tribal elections, dismissing “the notion that the Tribe [government] held any legal sovereignty or was a signatory to any legitimate treaty” (Bonaparte 2007). In this vein, adoption of state-legislated self-governance can, and often is, seen as an implicit rejection of sovereignty, and a possible abrogation of treaty rights.

Yet the limitations of self-governance can vary tremendously in degree. To say an indigenous polity is self-governing can imply anything along a wide spectrum of authority. Some self-governing polities operate within a very tightly state-defined governance framework, with self-governance meaning little more than having an elected office. Other polities hold power over a wide range of services, including their own policing and judiciary. Simply put, self-governance is never an ‘either-or’ prospect, but rather a spectrum ranging from minimal to maximal control over what is typically managed by the state.

Again drawing on with our case study, the SRMT has claimed self-governance for decades. It has its own constitution, electorate, judiciary, and police force. Yet at the same time, most residents go to schools managed by the state of New York. Although the Tribe provides clinics, these clinics often refer residents to New York state hospitals, where they can pay using federal or state insurance. Elder residents are free to collect federal social security. The tribe’s self-government can thus be seen as a Chimera, containing aspects of federal, state, and its own services and administrative bodies.

Two Axes
In addition to scale and degree, we can speak of self-governance as resting on two axes – status and territory.

**Status** refers to the unique legal status ascribed to indigenous identity and the rights associated with that identity. The state, indigenous polities (such as tribes, or bands), or a combination of the two may recognize indigenous status. One can be recognized as a member of a polity, but not indigenous, or as indigenous, but not a member of any particular polity.

In North America, status is often linked to demonstrable ancestry and blood quantum. Circe Sturm’s *Blood Politics* (2002) examines various combinations of membership that have come to define indigenous belonging, and the underlying political ramifications. She notes that among the Cherokee Nation, there has been an incentive to open up tribal membership in order to bolster government funding. Many of those same tribal members do not, however, meet the federal requirement for the degree of Indian bloodedness, and cannot access the same services as other members. They may be regarded as Cherokee, but not Indian.

In other contexts, language (such as in Norway), or self-identification (such as in Colombia) may play a role in a state’s legal criteria for demarcating indigenous status (1994, 47).

In discussing the distinction between minority and indigenous status, recognition is key. While regimes exist for minority and indigenous self-governance, only indigenous peoples can claim rights under the UN declaration, and participation in international indigenous movements. Claims to indigenous status are, at times, contentious. In a Tanzanian context, anthropologist Michaela Pelican (2009) has demonstrated the ways in which more, rather than less, powerful African peoples have successfully lobbied for indigenous status, thereby undermining what has conventionally been a tool for mitigating inequality.

**Territory** here refers to lands recognized by states as held (either in trust, or otherwise), by indigenous peoples. These are the geographic boundaries of indigenous polities (sometimes referred to as reserves, or reservations). Ancestral occupancy has historically been the most common legitimating factor in indigenous land claims (1994, 164). Access to, and rights concerning territory are a, if not, the, major source of concern for indigenous peoples internationally. Self-governance models are faced with difficult questions concerning whether land ownership should be held privately by individual members, or collectively by the governing body of the indigenous polity. There is also debate over the degree to which lands should be alienable.

What constitutes indigenous territory is ultimately determined by the state. Claims to large swaths of land are almost always rejected, as was the case when one-third of Nicaragua’s land-base was claimed by the Misurasata Indian organization (In Assies et. 
Concerns, as in Nicaragua, that successful claims would result in “too much land for too few people” (Stocks 2005), in practice ensure their judicial failure regardless of legal veracity.

At the same time, what can be done with that territory may be determined at a national level, such as in Columbia where collective ownership is constitutionally enshrined (Assies et. al. 1994, 54). Alternatively, land rights can be determined intra-nationally by indigenous polities themselves, as in the United States in which a plurality of territorial regimes are each delineated by different indigenous administrations, or on a case-by-case basis through a negotiation of both customary and state conceptions of property, as in Indonesia (Biezeveld 2004).

The question of whether indigenous territory should be rendered alienable or non-alienable is a consistent concern. Given a history of expropriation, many indigenous polities fear that opening up land for sale could result in a further reduction of the tribal land-base. It has been conversely argued that fee simple ownership opens up previously untapped collateral possibilities for economic development on reserves (Flanagan, Le Dressay, and Alcantara 2010).

Self-governance often turns on both axes of status and territory. William J. Assies offers a tripartite of ‘ideal type’ permutations for self-governance:

1. Cases of local or regional autonomy where ethnicity formally does not play a role [...] indigenous population constitutes as [regional] majority [...] and thus effectively can realize a degree of self-government within the nationally established administrative framework [...] (e.g. the Nunavut territory in Canada, Greenland)
2. Cases where ethnicity and territoriality are formally linked in self-government arrangements where, within certain limits as to scope and content, only the indigenous may partake in the government of a territory (e.g. Colombia, the Kuna in Panama, or the Indian reserves in the USA);
3. Cases where ethnicity is a criteria without being linked to territory, that is place of residence. The Saami Parliament in Norway is drawn from the national constituency and operates at a national level, where it is involved in representing Saami interests in sectoral policies that eventually may become territorialized in their execution. Indigenousness may also be a requirement for welfare entitlements for specific groups such as migrants to urban areas. (1994, 45–46)

Assies’ paradigm works as an ideal type, though in practice it is often the complex negotiation of overlapping lines of authority that affect the quotidian administration of indigenous polities. This has come to a head recently in the United States, where efforts are being made to close gaps in legislation that make it impossible for tribal police to arrest non-native sexual offenders who commit crimes on reservation lands (Erdrich 2013).
My discussion of territory has thus far focused largely on sedentary populations when, in fact, many indigenous (and minority) peoples follow pastoral, or migratory, subsistence strategies. Such strategies require a greater land base for subsistence, and can often pose a greater problem for state management and privatization interests. In Botswana, anthropologists Robert Hitchcock and James Everett (1989) observed that state policies encouraging sedentization of foraging peoples are associated with the development of a host of problems, especially resource depletion. They further argue that communal ownership of land results in greater natural resource depletion (the tragedy of the commons).

The above argument seemingly conflicts with commonly held beliefs that indigenous peoples and knowledge offer a particular path toward resource preservation. Ultimately, traditional use patterns can become problematic in the face of substantially depleted land bases, as is often the case for indigenous populations worldwide (IBID).

Parallel stresses have been noted by anthropologists observing Maasai peoples living in Kenya, whose livelihood has transitioned from pastoralism to landed cattle ranching and tourism, and from communal to private land ownership. Julie Narimatsu argued that, “it is ironic that while the government is blaming Maasai overgrazing on park degradation, they are encouraging unsustainable practices by restricting them from migrating” (Narimatsu 2013). Beyond environmental impacts, Thompson and Homewood (2002) have found that privatization has resulted in its own host of other concerns, particularly the rise of local elites who come to control most of the land base and wealth.

Section Two: Governance

In this section, I provide a comparative analysis of the governing mechanisms of indigenous polities. I offer as a case study the government and constitution of the Saint Regis Mohawk Tribe (SRMT).

Constitutionalism

Constitutions are the most common way of articulating, enshrining, and legitimating self-governance measures. Concerns related to a “tyranny of the majority” are prevalent in any democratic context, but arguably arrive en-masse in the face of the rapid rise in indigenous self-governing bodies, and when membership (status) is a legally defined and limited concept. More so than minorities within contemporary liberal democracies, disadvantaged populations in indigenous polities may not only face a lack of sufficient representation of their interests, they may also face legal discrimination or disenfranchisement and loss of citizenship within their Tribe, Band, or Community.
States are then faced with questions of how, and under what circumstances, to impose their own will.

The SRMT’s current powers are defined in its constitution, which was adopted by referendum in 1995. This adoption was challenged, as the wording of the constitution requires a 51% majority, yet only 50.8% of tribal members voted in the affirmative in the referendum. This textual confusion resulted in millions of dollars in court fees. As discussed above, many of the constitution’s detractors saw the constitution as an implicit rejection of sovereignty. Other concerns involved the powers of the Tribe and limitations on participation by resident non-members. As an op-ed piece written by the traditional leadership remarked:

Those who are legitimate residents of Akwesasne and consider themselves members of the Mohawk Nation are excluded from the constitution. Since they are not part of the Tribe they will not enjoy freedom of religion, may have their individual rights denied, will be excluded from any of the programs administered by the Tribe and will only enjoy “secure educational advantages and vocational opportunities” at the pleasure of Tribal officials.

This preamble states clearly to the people that as a resident of Akwesasne you must belong to the Tribe in order to be secure in your home, property, and business or have access to medical programs, tuition assistance, or even visit the dentist.

If you are not a Tribal member you will be considered a non-status ethnic Mohawk whom the Tribe may at any time evict, especially those who might dare to criticize the Tribe. And remember the Tribe has exclusive control over its membership lists and can add and exclude people without notice or appeal. (In Darren Bonaparte 2007)

Regardless of these critiques’ validity (they were promptly contested by the constitution committee), they bespeak more pervasive concerns in indigenous constitutionalism. Of particular import are fears that constitutions not only delimit the powers of government, but also delimit membership - who can participate in that government.

Perhaps the most notable membership controversy in recent history is tied to the Seminole Nation of Oklahoma. The Oklahoma Seminole adopted a constitution with the explicit goal of disenfranchising tribal members of African heritage (descendants of escaped and freed slaves who had joined the Seminole as early as the 17th century) (Miller 2005). This decision was challenged in federal court, but the United States Supreme Court refused to intervene, recognizing the Seminole as a sovereign nation and beyond their jurisdiction. The Bureau of Indian Affairs however took the new constitution as an abrogation of treaty status, as treaties had been made with a
Seminole Nation that included members of African descent. Facing the loss of federal funding, the Seminole nation soon rescinded the constitution’s exclusionary clause.

This measure serves as a good example of the state simultaneously acting in its interests in preserving civil rights, while recognizing a nation-to-nation relationship with an indigenous self-governing body. Though the federal government ultimately got what it wanted, this incident differs from other instances of the state exerting its will because it was (to borrow a term from Erving Goffman (1974)) ‘framed’ in a nation-to-nation context in which sovereignty mattered. Strategic framing ultimately comes down to the dialogic process of context building (Scheff 2006), that is to say, exercising one’s will not simply to affect change, but to affect the context in which a given situation is perceived – in this case, one of horizontal rather than vertical negotiation of power. In the above instance, sovereignty was as much about the negotiated context of the given interaction as it was about the powers exerted by parties (For a treatment of strategic framing in international indigenous rights discourse, see Morgan 2004).

**Transparency and Civic Awareness**

Continuing to take the SRMT as an example, great steps are taken to develop civic awareness amongst residents. Monthly council meetings are held publicly, and agendas for meetings are published along with action plans, follow ups, and other information in the monthly Kawenni:ios Newsletter, which is available in print and online. Information is also provided about ongoing programs and events, and there are sections dedicated to ‘giving’, which discuss monetary disbursements by the Tribe, and ‘new faces’, which provides the names of newly hired employees. Finally, there is a section on hiring, and hiring information is also made available publicly over the radio. At present, the tribe is proposing a Governance Ordinance Amendment, which would aim to increase access to records (including information about where funds go) for tribal members. Monthly council meetings are held open to the public.

Transparency is as much about what is perceived as what is done. For all the extensive measures taken to ensure civic awareness, indeed well beyond those of any neighboring non-indigenous communities, many community members find there to be a lack of transparency. Some members are under the impression that despite meetings being held publicly, too many decisions get made behind closed doors. Additionally, distribution of Casino funds, which I discuss at length in Section 3, is a major cause of concern. Many members are (willfully or not) unaware of the publications and records available to members discussing the machinations of government.

**Accountability**

The constitution of the Saint Regis Mohawk Tribe creates a tripartite government, consisting of executive, legislative, and judicial branches. In practice, the legislative and executive branches seem to bleed together. The mechanisms for ensuring accountability involve a series of checks and balances. The legislative branch, the tribal council, consists of three chiefs and three sub-chiefs, with staggered 3-year terms. As a
result, there is an election each year, and unpopular chiefs would not be able to hold power for more than three years. According to the Tribal Council Procedures Act of 1994, elected or appointed tribal officials “may be removed from office by a majority vote of the Tribal Council for any of the following offenses: (a) Final conviction by a Tribal, State of (sic) Federal Court of competent jurisdiction for the commission of a felony; (b) Final conviction in the Tribal Court for any offense in violation of the Tribal Ethics code where the penalty for such violation is removal from office” (94-D, 1994). Violations must take place during the officials’ term of office for removal to be warranted. Elected Tribal Officers may also be recalled following a petition signed by 30 percent of eligible voters, and a majority vote in which twenty-five percent of voters participate.

Within the Judiciary, Saint Regis has established a judicial oversight committee consisting of three justices, each with substantial legal experience. As of 2012, there are Court of Appeals Associated Judges who hear cases that have been appealed, and Tribal Courts Associate Judges who hear cases in which the Judge has been reused due to a conflict of interest (Gray 2012, 11).

Section 3 – Services
This section discusses the provision and accessibility of services. It is in this context that I previously suggested that one look to self-governance as a Chimera – a being of multiple parts. Saint Regis members and/or residents may access services unique to the tribe, services offered by the federal government solely to Native Americans, services offered by the Federal government to all American citizens or residents, and services offered by New York State to New York State residents. This is not to mention the host of services accessible to dual-members of the Canadian portion of the reserve. Saint Regis has proven particularly adept at applying for, and receiving, funding as for limited or pilot programs. As an example, St Regis is one of only three east coast Tribes to participate in the American Indian Vocational Relocation Project, which supports a staff of six professionals (Terrance and David 2012).

At times, services offered can be redundant – ill community members can visit the clinic, or a local hospital under Medicaid (though health care is ideally covered through the Indian Health Care Act, in practice, there are insufficient resources to accommodate members). Students fund their studies through a combination of State, Federal, and Tribal bursaries. From a cost-benefit perspective, Tribal monies spent educating members as to what services already exist are monies better spent than offering redundant services. As a result, efforts are made to provide community seminars educating the public as to what services are available and how they may be accessed. Given the mass of service divisions that exist in Saint Regis, and my intention to offer international comparison, I here focus on major issues and examples related to fiscal services (including a general economic overview of the Tribe), health and social services, education, environment, and justice.
Fiscal Services

The Saint Regis Mohawk Tribe is the third largest employer in Northern New York. The majority of Tribal employees work for either the Tribal government or the Akwesasne Mohawk Casino. Roughly 25 million dollars of the Tribe’s budget comes from over 200 federal and state programs (Taylor 2009), much of which is earmarked for particular purposes. Additionally, 26 million dollars are “primarily generated from the Tribe’s licensing fees, investment income, the Tribal Clerk’s office and the Tribe’s Solid Waste Transfer Station” (15).

Casinos have offered a major source of income for many native polities in the United States, one which requires neither sale of lands nor extraction/exploitation of resources. In exchange for licensing native casinos, states (such as New York) claim as much as 25 percent of the profits. Though casinos present unique challenges and opportunities, a comparison of how they are handled bespeaks broader questions of the way new (and at times substantial) sources of income are appropriated and redistributed by indigenous governments. One can compare indirect distribution models, such as that of Saint Regis, with direct distribution models, such as that of the Florida Seminoles.

Indirect Distribution refers to the fact that the Saint Regis Mohawk Tribe takes all casino profits and redistributes them into infrastructure and services. Among residents, there is often concern as to where money is going, and whether or not it is being squandered through corruption. I should note that the tribe does publish data on the way casino funds are being used; yet residents I have spoken with were surprised when I told them of the existence of these documents.

Direct Distribution refers to profits (most often a percentage rather than the entirety) being given directly to members of an indigenous polity. Among the Seminole of Florida, whose Casino profits are possibly the largest of any indigenous population, members receive checks bi-weekly. The handing out of checks has become a community event, and an opportunity for the government to raise civic awareness through various booths (Cattelino 2009). Direct distribution in Florida has raised substantial stigma and criticism of Seminoles on the part of their non-native neighbors. Members are often seen as ‘lazy’ or impractical with their wealth.

With Casinos in general, certain sovereign powers are sacrificed to the state in exchange for greater access to capitol. The Seminole Nation took this one step further in securing loans for the acquisition of Hard Rock International in 2006 for $965 million. Banks are hesitant to lend to native polities, for fear that they could not take those polities to court in the event of a dispute. In securing capital for the acquisition, the Seminoles were arguably relinquishing sovereign claims (at least as far as management of the casino is concerned) in exchange for guaranteeing their creditors (Cattelino 2011). As of 2006, the Seminoles hold a AAA credit rating (higher than the federal government of the United States).
Community Giving is another major source of monetary circulation independent of the tribal government’s legislation. Fifty-fifty raffles, auctions, and other sorts of fundraising provide both a host of community activities, and funding for numerous services.

Indigenous Tax Regimes have not been studied intensively, and to my knowledge, indigenous polities do not typically levy an income tax. Depending on location and employment, indigenous residents may pay the same taxes as any other citizens of the settler state (and, in exchange, enjoy the same rights and privileges in addition to those specific to indigenous peoples). I have not encountered incidents of self-governing polities taxing their own membership. Latin America does provide several successful tax models employed on businesses in indigenous lands. Among the Kuna, there exists, “a wharf use tax on foreign boats, airport taxes, a head tax, rents for the use of buildings by Panamanian government services, fines, income from community enterprises, and assistance from outside agencies.” (Assies et al ed. 1994, 55). Among the Kayopo in Brazil, taxes are placed on logging, mining, and the processing of Brazil nuts (IBID). In both instances, taxes are levied on industries and access to local resources, and not to local incomes.

Education
Public education of Saint Regis residents is managed and funded by the state of New York, although there have been Mohawk school board members since 1967 and the Tribe holds a contract with the local public Salmon River School District (White 2009, 105–106). A substantial percentage of students at the Salmon River School are Mohawk. Salmon River received several hundred thousand dollars from the tribe to fund campus security (these funds included a salary for a security officer from the community). Though the school offers Mohawk schooling, there have been complaints from parents that the caliber of traditional education is sub-par, and that nationalizing elements of American public education, such as the daily recital of the Pledge of Allegiance, are inappropriate for their children (IBID).

There are also privately managed local learning institutions attended by residents. The Akwesasne Freedom School provides education in the Mohawk Language from Pre-K to grade 9. The school is primarily funded by parents and fundraising, although it received a $100,000 disbursement from the tribe in 2013.

For their post-secondary education, members residing in either the American or Canadian portions of the community are allowed to register as in-state residents at State Universities of New York (SUNYs). This agreement by New York State has been successful in both improving the overall educational opportunities available to tribal members, and as providing an example of good will on the part of the state in recognition of Saint Regis’ unique and problematic geopolitical situation.
Brain Drain is a concern among indigenous, and other small, communities globally. It is a problem when residents leave for education and do not return so the community may benefit. Saint Regis can be taken as a case study for an indigenous polity that has been largely successful in bringing university graduates back after completion of study. By all qualitative measures available, Akwesasne does not suffer from a serious ‘brain drain’.

Many University-educated residents return to the community to work for a combination of reasons. Firstly, most students attending SUNYs are not visiting urban areas in which they may find work opportunities after graduation, or, and this is speculation, develop any sort of affection for urban life. Many people enjoy living on the reserve, and there is no stigma associated with braininess, as there may be in other places. Secondly, there are employment opportunities for educated professionals in Tribal government that do not necessarily exist in neighboring communities. Finally, there is an interest in ‘giving back to the community’ which I’ve encountered among many residents of all ages.

Regardless of place of residence, funding is available to members through a combination of federal, state, tribal and band council funding. The Canada-based Mohawk Council of Akwesasne (MCA) offers more funding for members attending schools in either Canada or the United States, and has more overhead to manage disbursal of these funds. As one would expect, students and parents prefer state regimes that facilitate the affordability of post-secondary study.

Justice
The Tribe’s justice department handles justice in Saint Regis. As the administration of the Tribe’s justice office has been previously discussed in the above section, I’d like to use this section to discuss state strategies concerning the incorporation of multiple judicial frameworks – also known as legal pluralism - internationally.

Though currently managed by the Tribe, in previous decades, corruption and inefficiency on the part of the Tribal Police led to their disbandment. A vacuum in local law enforcement was filled by a Warriors Society, which later became a focal point in conflicts within the community over gambling. This “civil war” was multifaceted enough to warrant several publications (See Hornung 1991; George-Kanentiio 2006), none of which are considered accurate or sufficient by participants who lived through it. Regardless of one’s perspective on the legitimacy of the Warriors Society, this history suggests that gaps in local law enforcement institutions necessitate alternative forms of protection and enforcement.

Legal Pluralism refers to the coexistence of several legal regimes within a single state or territory. There may exist different permutations of this overlap. In many contexts, indigenous polities legislate in accordance with written or unwritten customary law. In other contexts, tribal courts may legislate policies and principles with little difference from western legal regimes. Leaving aside debates about the commensurability of
indigenous and western legal regimes (Bohannan 1957; Gluckman 1965; Nader 1965), legal pluralism presents a consistent challenge for states seeking to both recognize minority and indigenous rights to self-governance, and to protect their populace under a liberal democracy’s standards of equality.

In Botswana, as Anne M. O. Griffiths points out, “individuals have a choice as to how they marry, which includes but is not restricted to customary law. Another option is under the Marriage Act [Cap.29:01] is registration of civil as well as religious marriages.” (In Law and Anthropology: A Reader 2005, 224). Enabling individual choice as to which legal regimes to abide by makes sense in certain contexts, such as marital arrangements, but may be impossible in issues of property exchange, and inheritance. Griffiths found that while an increasing percentage of marrying couples have chosen to marry under the act, the overall significance of institutionalized marriage as a cornerstone of family-building has declined as a result.

Griffiths finds that a major implication of marriage types involves women’s access to resources. Sally Engel Merry offered a similar study in Taiwan examining the way in which indigenous customary inheritance laws discriminated against women. Along the same vein, anthropologists and historians have demonstrated that that many ‘traditional’ courts emerged as a means to bolster already powerful interests in post-colonial Africa, rather than to serve the will of the majority (Hobsbawm 1983). Merry (2006) suggests that international rights discourse is a powerful tool for articulating claims rejecting inequality and discrimination. This is not to say that states cannot play a part – one could argue that states have resources indigenous communities lack, and can use those resources to provide support for NGOs and groups seeking to raise awareness of issues and “translate” (IBID) local issues into an international rights discourse (this can also be seen as a matter of strategic framing). In this manner, state regimes support the ideals of self-governance without stepping on the toes of its practice.

It is hard to valuate state policies regarding customary law controversies. By overruling customary legal regimes seen as oppressive, states thereby undermine local claims to sovereignty. By ignoring such claims, states may allow for the perpetuation of discrimination, leading antagonists to question the legitimacy of customary legal regimes. Canadian philosopher Will Kymlicka (1995) suggests that erring on the side of ‘more rights’ is typically preferable to limiting collective rights in preemptive resistance to imagined worst-case scenarios.

Conclusions
The above overview of international perspectives and instances of indigenous self-governance has been cursory. It is my hope that the framework, case studies, and citations provided offer windows into a deeper study of particular issues, or a language
useful in future comparative analysis. Among hundreds of cases of indigenous self-governance in a myriad of national contexts, some trends emerge.

Not uncommon are concerns related to the ‘tyranny of majority’, and worries that recourse to tradition and custom may serve to bolster local elite interests rather than those of indigenous populations at large. State intervention in these matters can be seen as delegitimizing the principles of indigenous self-governance, sovereignty, or self-determination.

The particularities of service provision differ tremendously between different contexts, though their success often rests on sufficient capitol, administrative efficiency, and public awareness. Acquisition of capitol, and its distribution offers unique challenges in indigenous contexts that are often not shared by their neighbors.

To ensure the viability of indigenous governments, mechanisms of transparency and awareness are essential, both to promote confidence and efficacy of government, but also to ensure efficient use of, and access to, resources coming from a variety of sources. Though self-governance is a valuable tool for the self-betterment of indigenous polities, it inevitably falls under the aegis of federal settler states. Emergent international discourse and law further offer new permutations of accountability, both on the parts of states, and those polities. International dialogue also provides for a more equal-footed negotiation between states and indigenous polities, despite persistent imbalances of power.

States such as Canada seeking to more effectively legislate self-governance are well served by taking awareness of both local notions of what it means to govern, and international forums in which these notions manifest.


