

Stalemate at Lubricon Lake

Using Game Theory to Model Political Science

THESIS: By modeling an ongoing political situation with Game Theory, past events can be better understood and future behaviors can be predicted.

The story behind the stalemate at Lubricon Lake dates back hundreds of years and is so convoluted and full of poor communication that it is not surprising that the situation can now be modeled as the game of Deadlock. Deadlock sounds just like the name; players remain in equilibrium at a point that is not desired but neither party is willing to cooperate to any other square. The payoffs for the game are as follows:

Figure 1: The Game of Deadlock

	A	B
A	3,1	2,2
B	2,2	1,3

From the above payoff matrix one can see that the first choice for one player is the last choice for the other. Thus the only two stable squares are where both players receive their second choice, and no agreement is reached, which presents as a problem for political discussions. What happened to create a game of Deadlock between the Lubricon Lake Cree of Northern Alberta and the federal government of Canada?

In 1899-1900 treaty commissioners passed through Northern Alberta via the major lakes and water ways, thus largely skirting the Lubricon homeland. Although as many as 500 natives did not sign the Treaty Eight agreement of 1900, the government decided that all Indian title could be considered extinguished. (This discrepancy on the government's part constitutes as the Lubricons main argument. The Lubricons have put forward their Theory of Aboriginal Rights, claiming that because their ancestors never signed the Treaty Eight, no Lubricon has given up their title and they are thus entitled to an aboriginal right settlement. This theory proves to be a critical component of the Deadlock model.)

From 1933-1971 the Lubricons petitioned the government multiple times for a reserve at Lubricon Lake, but there was little forward movement. Then, in 1975, the Indian Association of Alberta tried to register a caveat to 25,000 square miles. The effort was made on behalf of the isolated communities of Northern Alberta, with a main objective to block the Syncrude Oil Project. The Indian Association of Alberta claimed to be entitled to reserves by asserting that they had un-extinguished aboriginal rights. Alberta quickly responded by revising the 'Land Titles Act' and declared that there were no un-extinguished aboriginal rights, only unfulfilled treaty entitlements. This slight change of wording of the Land Titles Act is the second major component of the game of Deadlock that the two parties enter into. The provincial government has declared under law that there are no longer any un-extinguished aboriginal rights, only unfulfilled treaty entitlements. Remember, the assertion of un-extinguished aboriginal rights will become the Lubricons main premise.

After the Indian Association of Alberta presented their claim, the Lubricon band emerged as its own political actor in 1978. Bernard Ominayak was elected as chief of the Lubricons and he quickly appointed James O'Reilly to act as the Lubricons legal strategy. 14 years later the current Minister of Indian Affairs finally accepted the Lubricons claim and called a federal-provincial meeting to negotiate the treaty entitlements.. However, the meeting never occurred as the Lubricons feel that to negotiate for a treaty entitlement within the stipulations of Treaty Eight would undercut their position that they had never signed or adhered to the Treaty Eight. Hostility increased dramatically between the Lubricons and the government until 1984 with the election of the Progressive Conservative Party. E. Davie Fulton is assigned by the government to further investigate the Lubricon case and after spending time with the Lubricons he essentially began to advocate their case.

Alberta, at this point fearing the worst, offers to transfer 25 square miles to the Lubricons in 1985 if they agree to drop all further litigation. The Lubricons refuse for two reasons. One, their band size is now much too big, as 25 square miles was the size recommended by a survey completed in 1942, and two, remember that the Lubricons are not after a reserve anymore so much as they are trying to claim un-extinguished aboriginal rights.

Discussions began anew in 1986 with the newly appointed negotiator Robert Tasse. However they ended as quickly as they began when the government disputed the Lubricons band size and denied their Theory of Aboriginal Title. The Lubricons shifted their tactics from the negotiation table to putting more emphasis on trying to influence the public. The dispute continued with no forward motion until 1989 when a private meeting

between Ominayak and the Alberta premiere resulted in an agreement of a 95 square mile reserve. Unfortunately negotiations once again broke down when the Lubricons would accept no less the \$167 million in compensation for extinguishing their aboriginal title.

At this point the last stages of the dispute can be modeled as the game of Deadlock. Both parties have shown consistent behaviors in the past, which allows a game theorist to accurately infer their preferences.

Clearly the Lubricons first preference is a settlement based on their Theory of Aboriginal Rights, which would give them 95 square miles, money for their compensation of their aboriginal title and many other rights including self government, and the right to regulated the wildlife in their reserve area. By the last stage, their main alternative was 95 square miles based on a treaty entitlement with less cash and fewer benefits. The Lubricons will not accept this offer, even though it is more generous than ever before. Although this may seem irrational, it is actually quite rational as the Lubricons would rather remain without a treaty settlement in hopes of obtaining the more lucrative aboriginal right settlement. The Lubricons acceptance of this stalemate situation hinges on the belief that it is only a temporary situation; a pause before they achieve a greater reward. It would, in fact, be irrational of the Lubricons to prefer the stalemate to a treaty entitlement agreement if the stalemate were permanent.

On the other hand, the federal government's preferences mirror those of the Lubricons. Their first choice is a treaty settlement, which they feel obligated to offer under law. The federal government's last choice would be to agree to an aboriginal rights settlement. This in turn is also very rational as the federal government feels accepting the Lubricons Theory of Aboriginal Rights would have vast repercussions. Officially

accepting one claim may pave the way for other groups to but forward their own claims of un-extinguished aboriginal rights and cause a complete failure of the aboriginal treaty system. Thus the government also prefers the stalemate of no settlement to recognizing the Lubrican's Aboriginal Claim rights; however, they are willing to see it as a permanent situation, and would rather sacrifice the bad publicity than accept that there are un-extinguished aboriginal right. Remember that it explicitly says under law that there are no-extinguished aboriginal rights. One can quickly appreciate the dilemma faced by the government, which must act as a law abiding party. Because principle is so important to both parties, the conflict becomes intractable.

Figure 2: The Stalemate at Lubricon Lake Model as the Game of Deadlock

		<u>Federal Government</u>	
		TE	AR
<u>Lubricons</u>	TE	3,1	2,2 (ND)
	AR	2,2 (ND)	1,3

TE: Treaty Entitlement, the federal government's first choice

AR: Aboriginal Right, the Lubricons first choice

ND: No Deal, ie no agreement has been reached.

The Lubricons have a dominant strategy to play AR, while the federal government has the dominant strategy to play TE.

Thus the result is both parties will receive their second choice and end up staling in the bolded box. Notice that actual payoffs are not necessary, simply having an ordered preference is sufficient to interpret the game

So what does game theory add to the mix? In fact, by modeling the conflict as the game of Deadlock, both parties, as well as onlookers, can extract key pieces of

information. This information can help to illustrate the strategies played by both parties as well as demonstrate the rationality behind those strategies, thus allowing a prediction of future actions on both sides.

The Lubricon's strategy in the later stage of conflict was to create embarrassment for the government, forcing them into a situation where they would be induced to reverse their rankings, and prefer any agreement to none at all. The Lubricon's also extended this strategy by trying to embarrass and impose costs on Alberta, hoping that the provincial government will persuade Ottawa to reach a settlement. Although this strategy is rational, it has proven ineffective as the government has shown no response. It would appear that without an actual reserve, the Lubricon's have little leverage over the federal government.

Figure 3: Illustrating the Rationale behind the Lubricon's Strategy

		<u>Federal Government</u>	
		TE	AR
<u>Lubricons</u>	TE	3,1	2,3 (ND)
	AR	2,3 (ND)	1,2

By inducing the federal government to prefer and agreement to ND (essentially reordering their preferences to have ND be third) the Lubricons can achieve their AR settlement. The Lubricons still have the dominant strategy of playing AR and the federal government can see this and would rather reach a settlement of AR (bolded cell) than ND. Notice that the federal government still prefers TE to AR, so they are receiving their second choice in this game.

Ultimately the Lubricon's could resort to testing their theory of aboriginal rights in court, as a win would make the federal government responsible by law to acknowledge their Theory of Aboriginal Rights. However, the Lubricon's have not pursued this course of action most likely because of a high probability that they would not win the case. A loss at this stage would completely undermine their theory, essentially allowing the federal government to dismiss their claim of un-extinguished aboriginal rights, forcing them to accept a treaty entitlement.

Alternatively, the government's strategy also could involve taking the Lubricon's to court, and force them to defend their theory under law. However, such action would also subsequently require the federal government to sue the province of Alberta, which would be bad for intra-government cooperation. Additionally, the Lubricon's have shown they are not willing to cooperate and will most likely not attend the trial. Although the federal government would have a good chance of success, winning a case in that manner would make them look like a bully and be bad for public relations. Therefore Canada also has much to lose by taking the case to court.

This leaves a sole strategy for the federal government to try to induce the Lubricons to somehow prefer TE to ND. Currently the Lubricons prefer ND because they feel that it is temporary and the option of TE is always available. However, if the government can show to the Lubricons that the situation is a much more permanent one and that TE might not always be an option, it is no longer rational for the Lubricons to prefer ND to TE and they would have a new dominant strategy of TE. The government is currently employing this strategy by writing off reserves to over groups in the Lubricon Lake area.

Figure 4: Illustrating the Rationale behind the Federal Government’s Strategy

		<u>Federal Government</u>	
		TE	AR
<u>Lubricons</u>	TE	2,1	3,2
	AR	3,2	1,3

By showing the Lubricons that ND may be a permanent situation and TE will not always be available, the federal government can induce the Lubricons to prefer TE to ND (ND is no longer a rational strategy). Therefore the Lubricons no longer have a dominant strategy and are best off coordinating with the federal government. Because the government still has the dominant strategy of playing TE, the Lubricons will also play TE to maximize their utility.

Notice that should either party be successful in forcing their opponent to change their preference order, immediately the game can no longer be modeled as Deadlock. However, as either party has as of yet been successful at creating such a change Deadlock is still an appropriate game to use.

By looking at past behaviors we can make plausible assumptions about preferences and what future behaviors are compatible with these preferences. For example, the Lubricons have little other choice than to continue try to create enough public outcry and frustration that the government is forced to cooperate to simply appease others. On the other side, the government will continue to grant treaty entitlement to other groups in the Lubricon Lake area, slowly whittling away at the reserve area that could be granted to the Lubricons. The government hopes that such an action will demonstrate to

the Lubricons that they are willing to accept ND as a permanent solution and that TE may not always be available, as the Lubricons think.

By modeling the game as Deadlock, there is an emphasis placed on the rationality of both sides, therefore making Deadlock an appropriate choice for the situation. In addition, both parties emerge as tough, capable strategists, pursuing hard-headed goals of great importance to their respective constituencies. It can be noted that the recognition of rationality of one's opponent is a small step to settlement, as well as the additional benefit of being able to predict behaviors. Therefore, by modeling the Stalemate at Lubricon Lake as a game of Deadlock, the strategies currently employed by both parties can be better understood and future behaviors can be predicted.