

A New Covenant

Towards the Constitutional Recognition and Protection of Aboriginal Self-Government in Canada

A Pastoral Statement by the Leaders of the Christian Churches on Aboriginal Rights and the Canadian Constitution

February 5, 1987

Introduction

Overcoming many obstacles and setbacks, aboriginal leaders in Canada were successful in entrenching aboriginal and treaty rights in the Constitution Act, 1982. Those rights, however, were not defined, and four First Ministers' Conferences (FMCs) were held in order to identify and define them. First Nations leaders hoped that the fourth FMC, held in 1987, would result in the entrenchment of the aboriginal right to self-government.

A New Covenant, signed on the eve of the 1987 First Ministers' Conference by the leaders of all the supporting Churches of the Aboriginal Rights Coalition (Project North), called on the First Ministers to entrench self-government explicitly in the Constitution. Unfortunately, no such Constitutional Amendment occurred. Although the memory of the FMC has faded, the pastoral statement's fundamental message that a new relationship is required between aboriginal and non-aboriginal peoples remains relevant. (October 1990)

Historical Moment

In the spring of 1987, Canada's major political and Aboriginal leaders will gather in Ottawa for the final session in the current round of constitutional talks on the right of Aboriginal peoples in Canada. For the past four years, the various national associations of Aboriginal peoples in Canada - the Assembly of First Nations, the Native Council of Canada, the Inuit Committee on National Issues, the Metis National Council - have developed a common approach and are striving to reach an agreement with the Prime Minister and the premiers on constitutional amendments regarding Aboriginal rights in Canada. After three meetings with the First Ministers, the central issue appears to be the entrenchment of the rights of Aboriginal peoples to self-government in Canada.

Over the past four years, the major Christian Churches in Canada have also been working together in an effort to promote Aboriginal rights in the Canadian Constitution. Our primary objective here has been to stimulate public awareness and mobilize public support for the recognition and entrenchment of basic Aboriginal rights in the Constitution, particularly the right to self-government. During this period, Church representatives have attended each of the First Ministers Conferences as observers under the auspices of the various national Aboriginal organizations. At the same time, Church representatives have held consultations with national and provincial Aboriginal leaders,

met with federal cabinet ministers and provincial premiers, participated in joint press conferences with Aboriginal leaders, sponsored public forums on Aboriginal rights, and published popular education materials on the issues.*

As pastoral leaders, we believe that this is an historic movement in the life of this country. This round of constitutional negotiations will affect the lives of some two million Indian, Inuit and Metis people and their descendants for the generations to come. Many of these Aboriginal peoples, whose ancestors have inhabited this country since time immemorial, are members of our churches. Following the liberating message of the Gospel, we believe that this is a time for new beginnings - a time to rectify historical injustices and to recognize the rights of Aboriginal peoples in the Canadian Constitution. It is a time to establish a new covenant with the first peoples and nations of Canada.

* At the request of Church leaders, these initiatives have been largely co-ordinated by Project North [now Aboriginal Rights Coalition (Project North)], the inter-church coalition on Aboriginal rights in Canada. The Church bodies involved are The Anglican Church of Canada, Canadian Conference of Catholic Bishops, The Council of Christian Reformed Churches in Canada, Evangelical Lutheran church in Canada, Mennonite Central Committee Canada, the Presbyterian Church in Canada, Religious Society of Friends (Quakers) in Canada, Society of Jesus (Jesuits) and The United Church of Canada. Initially, the particular concerns about constitutional changes on Aboriginal rights were outlined by the Churches in 1984 through the publication of a pamphlet entitled, You Can Help Write the Next Chapter in Canada's History.

A New Covenant

Indeed, the current road of constitutional talks may be the last opportunity for developing a new covenant between Aboriginal and non-Aboriginal peoples in this country. In retrospect, it has become all too clear that the old covenants, including many of the treaties, have not served the demands of justice. Initially believed by Aboriginal peoples to be instruments of friendship and peace, the treaties were often misused and broken, without consent, by the newcomers who wanted this land for their own. Dispossessed of their lands, relegated to reserves or marginalized in urban centers, Aboriginal peoples soon experienced the highest rate of unemployment, poverty, alcoholism, suicide, imprisonment, and infant mortality in Canada.

The idea of covenant-making has deep spiritual roots which, in turn, can teach us a great deal about the true purpose and meaning of covenant-making and covenant-keeping among peoples today. In many Aboriginal communities, the elders remind us of the covenants which their ancestors made with the Great Spirit, the Creator. Similarly, we recall in the Judaeo-Christian tradition the covenant which God made with the people of Israel. In turn, this covenant was renewed by Jesus Christ who proclaimed the equality of all human beings as sons and daughters of creation (e.g. Galatians 3:28).

In the story of Israel, for example, God freed the people from oppression and led them to a homeland (Exodus 6:2-13) where a covenant was established to create a new people in a new nation (Deuteronomy 7,8). A distinct community and way of life was recognized by laws and regulation (cf Deuteronomy 12-31). And, when the people forgot that the land was a sign of God's generosity, the prophets warned against greedy instincts and called the people back to their responsibilities under the covenant.

Thus, there are moral and spiritual dimensions to making and keeping covenants. These dimensions must be part of the task of creating a new covenant involving Aboriginal peoples in Canada today. A new covenant would recognize the rights and responsibilities of Indian, Inuit and Metis to be distinct peoples and cultures. A new covenant should affirm their rights and responsibilities as self-determining nations and societies within Canada. A new Covenant could also enhance Aboriginal peoplehood in this country. These are the major challenges at the heart of The current constitutional talks on Aboriginal rights.

Aboriginal Rights

It is well known that numerous Aboriginal nations and cultures existed in this land prior to European occupation some four centuries ago. These Aboriginal societies were self-governing nations with their own self-sufficient economies, characterized by distinct cultural practices, social structures, spiritual traditions and strong family bands. Today, after the experience of cultural oppression and economic dependency in recent centuries, aboriginal peoples are struggling to decolonize themselves and regain recognition of their historic rights in Canada. These Aboriginal rights are recognized in both international law and the historic documents of this country. We maintain, however, that the rights of Aboriginal peoples are not simply a legal or political issue, but first and foremost, a moral issue touching the very soul and heart of Canada.

For these reasons, we believe that some basic dimensions of Aboriginal rights need to be recognized and guaranteed as an integral part of the constitutional process.

The right to be distinct peoples. Today, as in the past, Aboriginal peoples are steadfastly resisting policies designed to assimilate the into the dominant society and foster divisions and inequalities among themselves. Instead, Aboriginal people, Indian, Inuit, Metis have the right to be recognized, culturally speaking, as peoples and nations. This includes the right to be distinct peoples even among themselves.

The right to an adequate land-base. If Aboriginal peoples are to retain their self-understanding as peoples and cultures, land rights are essential. Aboriginal societies are rooted in a special relationship between the people and the land. There is, in other words, a spiritual bond between the people and the land which forms the basis of their unity. A land-base with adequate resources is also necessary for developing and sustaining a viable economy.

The right to self-determination. If Aboriginal peoples are to realize their aspirations as peoples and nations they must be architects of their own future, freely and responsibly. They have the capacity to make their own decisions, develop their own lands and economic potential, educate their own children and plan their own future.

Self-Government

Taken together, these basic dimensions of Aboriginal rights need to be realized through the recognition and implementation of Aboriginal self-government in Canada. Self-government is the means by which Aboriginal peoples could give concrete expression of themselves as distinct peoples, develop the economic potential of their own lands, and design own cultural, social, and religious institutions to meet the needs of their own people. Through this process, Aboriginal people could break the bonds of dependency and retain a sense of human dignity and self-worth as self-determining peoples and nations in this country. This calls for the explicit entrenchment of Aboriginal self-government in the Canadian Constitution.

We maintain, however that it is not sufficient to simply affirm the principle of Aboriginal self-government in the constitution. All too often, intransigent governments at provincial and federal levels in the past have found ways to either ignore or resist implementing the rights of Aboriginal peoples. If self-government is to become a reality in Canada, then both federal and provincial governments need to be constitutionally obliged to negotiate and implement the terms with Aboriginal nations and peoples. This calls for the recognition of Aboriginal self-government as an enforceable right in the constitution.

At the same time, we maintain that the diversity which exists among the various Aboriginal peoples and groups in Canada needs to be recognized and respected in these negotiations. There can be no single, uniform model applicable to all Aboriginal peoples. While recognizing this to be a new distinct level of government in Canada's political structure, it is important to remain open to a variety of options in response to diverse needs and circumstances. Yet, whatever forms of Aboriginal self-government

are negotiated, it is essential that several basic components are ensured. These include an adequate land-base, sufficient fiscal resources, and appropriate decision-making powers required for the exercise of self-government at this level.

Call to Action

The final session of the current constitutional negotiations on Aboriginal rights represents a critical moment for Canada. As a country, we have a unique opportunity to overcome past injustices, bind-up the wounds, and develop just relationships by establishing a new covenant with Aboriginal self-government as an effective right in the Constitution. It also calls for action to ensure that constitutional amendments will be realized on related concerns such as: the provision of the basic means (i.e. land-base, fiscal resources, decision making powers) required for the exercise of Aboriginal self-government; the recognition of equality between peoples including sexual equality; measures to prevent the extinguishment of Aboriginal rights in future land claims settlements, and the assurance that future constitutional amendments affecting Aboriginal peoples will not be made without Aboriginal consent.

As a country, we should not allow this historic moment to slip by without taking action along these lines. While some of the details may be complex, requiring intense discussions and negotiation, a healthy dose of political vision, and will is essential if Canada is to move forward with a new covenant. For these reasons, we fervently hope and pray:

that the diverse Aboriginal groups throughout Canada will continue working in solidarity to advance their proposals for the entrenchment of Aboriginal self-government and related Aboriginal rights in the Constitution;

that all governments will respond openly and positively to the common Aboriginal proposals for the constitutional recognition and protection of their rights;

that members of the Christian churches, together with those of other faiths and all people of good will, will join us in generating public awareness and support for the recognition and implementation of these Aboriginal rights in Canada.

In this way, Canada could become a living example, before the rest of the world, of a society that is coming to terms with the historic demands for justice affecting the descendants of its original inhabitants. In so

doing, we might be able to recover some of the deeper spiritual meaning of covenant-making, the essence of which, resides in God, the Creator, the Great Spirit.

Signatures include:

- Most Rev. Michael Peers, Primate, Anglican Church of Canada
- Most Rev. Bernard Hubert, President, Canadian Conference of Catholic Bishops
- Rev. Arie G. Van Eek, Executive Secretary, Council of Christian Reformed Churches in Canada
- Rev. Donald O. W. Sjoberg, President, Evangelical Lutheran Church in Canada
- Donald Laitin, Clerk, Canadian Yearly Meeting, Religious Society of Friends (Quakers)
- Rev. Dr. J. Charles Hay, Moderator, Presbyterian Church in Canada
- V. Rev. Roy Boucher, O.M.I., President, Oblate Conference of Canada
- Rev. Ross Nigh, Chairperson, Mennonite Central Committee Canada
- Dr. Anne Squire, Moderator, United Church of Canada

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A New Covenant Reaffirmed

- Most Rev. Andrew Hutchison, Primate, Anglican Church of Canada
- Rt. Rev. Mark MacDonald, National Indigenous Anglican Bishop, Anglican Church of Canada
- Most Rev. Andre Gaumond, Archbishop of Sherbrooke and President of the Canadian Conference of Catholic Bishops
- Bruce Adema, Director of Canadian Ministries, Christian Reformed Church in North America
- Raymond Schultz, National Bishop, Evangelical Lutheran Church in Canada
- Beverly Shepard, Clerk, Canadian Yearly Meeting, Religious Society of Friends (Quakers)
- M. Wilma Welsh, Moderator, 132nd General Assembly, The Presbyterian Church in Canada
- Don Peters, Executive Director, Mennonite Central Committee Canada
- David Giuliano, Moderator, United Church of Canada

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