

**REACTION TO "IN ALL FAIRNESS: A NATIVE  
CLAIMS POLICY"**

**ON HOLD: A REVIEW OF "IN ALL FAIRNESS:  
A NATIVE CLAIMS POLICY"**

Canadians who read the latest (December 1981) policy statement from the minister of Indian Affairs and Northern Development on Land Claims may find it a little "slick". "In All Fairness" is certainly fair to the position of the Government. Despite appearances, there are serious differences between the Government and the Native groups. The tremendous advantage in impact from such a publication requires that the Native sides of the issues be given wide circulation as well.

What first strikes the reader is the euphemistic style in which the paper is phrased. For example, in introducing the topic we read that "The Canadian government wishes to see its original people obtain satisfaction and from this blossom socially, culturally and economically" (p. 7). (Translation: Let's see if we can use theories of dealing with underdeveloped countries on the North. They are the blossoms, we are the tree.) Or, when speaking about the fierce interest in Northern Development, the paper says: "The various demands for natural resources . . . have pressed Native people to present their formal land claims to the government " (p. 8). (Translation: The increase in exploration and development will force them to come to terms.) Later, the Government presents its own interests in the case: "the motive for approaching land selection in this way is to protect the rights of Canadians, Native and non-Native alike, who might be affected by the settlement" (p. 23). (Translation: Corporations are persons, too.)

In addressing the question of monetary compensation we read: "no matter how these capital transfers take place, the amounts negotiated must be specific and finite" (p. 24). A moment of thought leads to the realization that everything a Government does (save talk?) is finite] The euphemistic style, of course, is a device which has become acceptable Government behaviour. Yet use of euphemism also covers the fact of the inability of Government to successfully deal with Native groups. It may also be a way of managing the groups them-

selves.

Native people argue that they have rights. They hold that these rights are embedded in Treaties and that their claims have authority and legitimacy associated with the very legal foundation of Canada. In its policy paper, the Government has almost completely adopted use of the term "interests" rather than "rights". This is not a minor distinction. The switch bypasses the serious differences of opinion between the Government and the Natives - and this tends to mislead other Canadians as well. Who (besides Mr. Drury) can really believe that Native ties to their land can be reduced to the "interest" one might have in stocks or investments? Canadians should realize that while euphemism is typical for Government, it serves to distort the concerns of Native people and other citizens who press their case.

A second feature of the Claims Policy paper involves a more direct strategy of "fencing in" the Native claimants. The Government position is that instead of going through the courts, it will undertake negotiations with various Native groups. In defining the matters which can be negotiated, the Government has given itself a great advantage.

This is, first of all, because negotiations pertain only to non-political aspects relating to land claims. A moment of reflection leads one to see that tremendous control over economic and political matters cannot be discussed. Yet they are of such importance to the future of the Native people! How can Native people seriously begin to negotiate about their future on the land when the basic developmental forces cannot even be addressed? Second, the negotiations are now framed in such a way that the objectives pit Native land rights and lifestyle against "all others" (we know who they are). Hence the Government is saying, "You may make a claim, but it must be considered as only one among all other interests in this area!" It has no priority among claims in the North. Further, the role of Natives throughout these proceedings is defined as "participation". While this varies by type of activity, it usually means membership on a decision-making body. While the committee process may have value in certain situations, it is not likely to be effective in protecting Native interests in the land where there are conflicts over resource development.

The Native people are fenced in by a) the small scope of what they can negotiate; b) their standing in relation to other interests; and c) the "participatory" type of involvement.

In addition to the use of euphemism and the "fencing in" strategy, the Government has added one more element in its policy. It is now claiming that this will be the final solution: "the government requires that the negotiation process and settlement formula be thorough so that the claim cannot rise again in the future. In other words, any land claims settlement will be final" (p. 19). This may seem admirable. Who in this country (Native or not) would not like to find a way to deal positively with the century of turmoil that has passed and rectify it? There is no denying that this is one point on which all would agree. Yet, as you ponder the history of these relations, you find that the dream for "final solutions" has accompanied every new wave of activity aimed at "the

Native problem". Without considering the sinister overtones to the term, perhaps we should see this dream for solutions in a more realistic light. What major problem in Canada has been finally solved?

A lesson may be learned from the situation of the Federal government in its relations with the Metis and Non-Status population. Through scrip (land or money scrip) the Government claims it has dealt with these Native people. While this may be argued on technical grounds, only a very narrow argument would deny the validity of many of the Metis and Non-Status claims. True, an agency or jurisdiction may rid itself of responsibility (now called accountability). But in any comprehensive sense, land claims extinguishment policy regarding the Metis and Non-Status people has failed. And the history of those relations is filled with promises of "final solutions".

One wonders if the Government sees that the present policy is reproducing a situation like the one from which it is trying to escape. By limiting the scope of Native activity and ensuring dependence, the future outcome will differ from the past in only the content of expression. The successive Governments have never figured out how a non-paternal (non-colonial?) relation with Native peoples can be established. And doing so is contrary to other priorities. Until this is done, arbitrary statements like "this is the last time, the very last time..." amount to little more than further pressure on negotiations.

In this epoch, the crucial focus has been upon the land. Government proposals will only perpetuate the type of situation for Native people that we have seen in the past. The increase in the Native population is ignored while the Government insists that only currently used land may be the basis for potential use. The notion that claims upon the land for traditional use must be shared with the demands for transportation, resources and the like only masks the conflict. The provision from the James Bay agreement for various categories of land dilutes the Native need for larger portions of land which may be preferentially and exclusively used. And the use of "participatory" procedure undermines the assurances of autonomy which are necessary to avoid a repetition of the past.

The process to date has hardly been successful in terms of actual outcomes. Despite the optimistic tone of the paper, the contrast with outcomes should not preoccupy us. It seems to me that the Government has the Native people "on hold" while carrying out business with greater priority on other lines.

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