

## NATIVE RIGHTS AND SELF DETERMINATION

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To understand the issues of indigenous peoples' rights in North and South America today, it is necessary to consider the history of the New World.<sup>1</sup> You have to go back to the era of the Spanish Conquest, to the days of Bartolomé de Las Casas, Bishop of Chiapas, a man who renounced his *encomienda* and devoted his life thereafter to vindicating the rights of the Indians. The issues that Las Casas raised - the rights of indigenous peoples, the destiny of Western man, the idea of progress - all these still trouble us today.

Columbus may have thought that he had reached India, but the Spanish soon realized that they had discovered a new world, a world already inhabited by another race, speaking languages of their own, with their own cultures, their own civilizations. By what right did the Europeans conquer the Indians, take their land and subjugate them?

There were two views: on the one hand, the view espoused by Juan Ginés de Sepúlveda, who believed (relying on Aristotle's *Politics*) that some races are inferior to others, that some men are born to slavery. By this reasoning, the Europeans, a superior race, were justified in subjugating the Indians, an inferior race. Las Casas, on the other hand, argued that all men are endowed with natural rights, that the Europeans had no right to enslave them, that the Indians were a people with an evolved culture, and that Indian culture, customs, and institutions deserved respect on their own merits.

How could it be that Europeans were entitled to the lands of people far away who had held them for a thousand years or more? The consideration of these questions did not take place in a vacuum. There was a natural tendency to justify the accomplished fact. Spain had taken the New World by force, and was not about to relinquish it. The prevailing disposition was to declare that this was as it should be. Las Casas, however, believed that all peoples, including the Indians, had the right to govern themselves.

The institutions established by our European ancestors have been in place

for four centuries. In most countries the Indians, though numerous, are distinctly a minority. Nevertheless, the voice of Las Casas may still be heard. Las Casas speaks to us of human rights, the great issue of our time, as it was of his time. The Indian people of the New World are still dispossessed. From Canada to Argentina their condition is in many respects the same as it was in the days of Las Casas. Four hundred years ago, Las Casas called upon Spain to consider: by what right does one race impose its laws and institutions on another? Today, we are struggling still with the implications of that question, though it does not arise in precisely the same terms as it did at the threshold of European occupation of the Indian domain. Still, we ask ourselves: what measures can establish a fair and equitable relationship between dominant societies, cast in the European mould, and the Indian people?

In Canada our own history goes back to that earliest encounter between the Europeans and the indigenous peoples of the Americas, an encounter that was repeated throughout the New World. In Canada, it was an encounter first between the French and the indigenous or Native people, then between the English and the Native people. It was an encounter which has ramified throughout our history, and the consequences of which are with us today.

In Canada the metropolis' requirements for energy and resources - energy and resources now being sought at the frontier - are bringing industrial activity to communities which may not be prepared to cope with the impact. These communities are usually Native communities. These are not simply clashes between industry and Indians, but rather they are clashes between Native people and the dominant society. The recent clashes of culture and of values that have occurred in Canada between the dominant society and the Native peoples have forced a reconsideration by Canadians of the assumptions by which we live and of the means by which we hope to prosper in the future. With the advance of industry to the frontier at a time when indigenous peoples' ideas of self-determination are emerging in contemporary forms, these age-old questions of the relationship between dominant societies cast in the European mould and indigenous peoples confront us again.

Perhaps the best-known recent encounter between the dominant society in Canada and the Native peoples was that which occurred when the oil and gas industry proposed in the mid-1970's to build a gas pipeline from the Arctic to the mid-continent. The pipeline was to run along a route from Alaska through Canada - along the Mackenzie Valley to the Lower 48, across environmentally sensitive lands claimed by the Native peoples of the North.

The Government of Canada appointed a Commission of Inquiry to examine the social, economic and environmental impact of the proposed pipeline. The Mackenzie Valley Pipeline Inquiry provided a focus for consideration of the consequences of the advance of the industrial system to Canada's last frontier and beyond, the necessity for the preservation of the Northern environment and, above all, the rights of the Native peoples living on the frontier. The Inquiry had to weigh the value of establishing large-scale extractive industry in the midst of Native communities trying to preserve traditional values and to re-establish local self-sufficiency.

Two ways of looking at the world were in conflict. Throughout the New World, since the time of Cortez and Pizarro, men have sought wealth at the frontier, wealth to enrich the metropolis. Ever since the days of New Spain, men have wished for another Montezuma's treasure, another Atahualpa to be ransomed.

The drive to extract the wealth of the New World continues today. John Armstrong, Chairman of Imperial Oil, in a speech given in August, 1980, said: "The Canadian oil industry should be moving into our most promising Atlantic and Arctic properties like an army of occupation".<sup>2</sup> The language he chose epitomizes a value judgment about the future and the predominant place of large-scale, capital intensive technology in that future. His preferences are, indeed, widely shared. Our notions of progress have, in fact, acquired a technological and industrial definition.

But there has always been another strain running through our attitude toward the land and its resources. It is exemplified by the members of the first European settlement in North America (north of Florida) - the Frenchmen who established Port Royal on the Bay of Fundy in 1605. One of them, Marc Lescarbot, a lawyer from Paris, wrote in his diary:

"... farming must be our goal. That is the first mine for which we must search. And it is better worth than the treasures of Atahualpa for whoso has corn, wine, cattle, linen, cloth, leather, iron and lastly, codfish, need have naught to do with treasure."

It is not surprising that these settlers - who came to be known as Acadians - had the most harmonious relations of any European group with the native peoples. The view of man's occupation of the land that they exemplified is one which has an increasing number of adherents today in Canada.

The debate still goes on. It was the underlying theme of the Mackenzie Valley Pipeline Inquiry. The Arctic Gas pipeline was to be the greatest project, in terms of expenditure, ever undertaken by private enterprise anywhere. It was to be a major construction project across Canada's northern territories, across a land that is cold and dark in winter, a land largely inaccessible by rail or road, where it would be necessary to construct wharves, warehouses, storage sites, airstrips - a huge infrastructure - just to build the pipeline. There would be 130 gravel mining operations. There would be 600 river and stream crossings. There would have to be a network of hundreds of miles of roads built over the snow and ice. There would be pipe, trucks, heavy equipment, tractors and aircraft. The capacity of the fleet of tugs and barges on the Mackenzie River would have to be doubled. There would be thousands of construction workers required to build the pipeline, and to build the gas plants and gathering systems. There would be, in addition, thousands of in-migrants seeking jobs and opportunities. We were told that if a gas pipeline were built it would result in enhanced oil and gas exploration activity all along the route of the pipeline throughout the Mackenzie Valley and the Western Arctic, and that an oil pipeline would follow. So the Inquiry had to examine the social, economic and

environmental impact on the North of an energy corridor from the Arctic to the mid-continent.

If you were to build a pipeline from Alaska along the Arctic coast of the Yukon, you would, be opening up the calving grounds of the Porcupine caribou herd. This is one of the last great herds of caribou, 110,000 animals, in North America. Every spring they journey from the mountains in the interior of the Yukon, to the calving grounds on the Arctic coast. There they are able to leave the wolves behind, they can forage on cotton grass, and bern their young before the onset of summer mosquitoes and bet flies.

In late August as many as 500,000 snow geese gather on the Arctic Coastal Plain to feed on the tundra grasses, sedges and berries, before embarking on the flight to their wintering grounds. They must build up an energy surplus to sustain them, indeed, so must all other Arctic waterfowl and shore birds, for their long southward migration to California, the Gulf Coast, or Central and South America,

These wildlife populations, on which the Native peoples have depended, have always been protected by their inaccessibility. With pipeline construction, the development of supply and service roads, the intensification of the search for oil and gas, the establishment of an energy corridor, and the increasing occupation of the region, they would no longer be inaccessible to man and his machines.

Thus the proposal by Arctic Gas to build a pipeline across the Northern Yukon confronted us with a fundamental choice. It was a choice that depended not simply upon the impact of a pipeline across the Northern Yukon, but upon the impact of the establishment of an energy corridor across it. For if a gas pipeline were to be built, an oil pipeline would logically follow along the same route.

The Mackenzie Valley and the Western Arctic constitute a region as large as Western Europe. Though it is sparsely settled (only 30,000 people live in the region: 15,000 white, 15,000 native), it is inhabited by four races of people white, Indian, Inuit and Metis speaking six languages - English, Slavey, Loucheux. Dogrib, Chipewyan and Inuktitut.

The economy of the region is a mixed economy. The people living in the Mackenzie Valley and the Western Arctic have a long-established renewable resource sector, based on hunting, trapping and fishing. Native people have traditionally found employment in this sector. There is, as well, a non-renewable resource sector, based on mining and, in recent years, oil and gas exploration. The mining industry largely employs white people. The oil and gas industry has sought to employ Native people, though the largest number of employees in the industry are white. Since the 1960's and 1970's the federal and the territorial governments have been the principal employers of both the white and the Native population.

We had been committed to the view that the economic future of the North lay in large-scale industrial development. There had been generated, especially among Northern business, an atmosphere of expectancy about industrial development. There had always been a traditional renewable resource sector in

the North, but instead of trying to strengthen it, we had, for a decade or more, followed policies by which it could only be weakened or even destroyed. We believed in large-scale industrial development and depreciated the existing economic base. Indeed, people who tried to earn a living by hunting, trapping and fishing had often been regarded as unemployed.

I found that the development of the non-renewable resources of a region can bring serious pressures to bear on its population: people who try to continue to live on the renewable resources may experience relative poverty and may be faced with the loss of a productive way of life. Gradually more and more people may give up one kind of work, and therefore relinquish the way of life associated with it, in favour of another kind of work and life. Where this has happened, they often feel they had very little choice in the matter. If the neglected sector of the economy represents a preferred or culturally important way of life, if it is a means of self-identification and a source of self-respect, then the devaluation of that way of life can have widespread and dismaying consequences. These consequences are exacerbated if the industrialized economy offers rewards that are only short-term.

The pace of industrial development is the key. I concluded that in the Mackenzie Valley and the Western Arctic industrial advance on a massive scale would gravely weaken the renewable resource sector, and that its social impact would be disastrous. I urged that the rate of advance should be calculated so as not to overwhelm the existing economic base.

This implied a new set of priorities for northern development: the strengthening of the traditional hunting and trapping economy; the development of local logging and sawmilling operations where there are merchantable stands of timber on the Mackenzie, the development of the fishing industry, the development of recreation and conservation; an orderly programme of petroleum exploration in the Mackenzie Delta and the Western Arctic; and in due course a pipeline along the Mackenzie Valley. Native people - given this set of priorities - could participate in all of these economic activities. The advance of the industrial system could be orderly and beneficial to all.

We think of the city, of the metropolis, as the mirror of progress. So hunting, fishing, and trapping in the far North is not thought of as a way of getting a living that any people who believe in development would want to pursue.

In the same way, we in the industrialized nations often think that the model of economic development that our own experience represents is the only one to which other countries ought to aspire. But such a model invariably requires an emphasis on large-scale centralized technology at the expense of traditional values and local self-sufficiency.

If the sole emphasis of government policy is on the development of non-renewable resources - if that is to be the only kind of development, the social impact of such activity will be magnified throughout the entire region. People will be drawn into it for want of any alternative and the social impacts will proliferate in places far from the project itself. You will get a massive shift in employment, disruption of family and community life, and a plethora of prob-

lems in urban centres. Only balanced development can ameliorate or avoid such effects.

I do not want to be misunderstood about this. I did not propose that we shut up the North, as a kind of living folk museum and zoological gardens.

I recommended that no pipeline should be built and no energy corridor established across the Northern Yukon because of the likelihood of substantial and irreparable losses to wilderness, caribou, and migratory birds; losses which would indeed extend into northeastern Alaska. I also recommended that no pipeline should be built and no energy corridor established across the Mackenzie Delta because the occupation of the calving grounds of the white whales of the Beaufort Sea would mean the eventual loss of a herd of 5,000 whales. I did, however, advise the Government of Canada that a pipeline corridor is feasible, from an environmental point of view, to transport gas and oil from the Mackenzie Delta along the Mackenzie Valley to the Alberta border. At the same time, however, I recommended that we should postpone the construction of such a pipeline for ten years, in order to strengthen Native society, the Native economy - indeed, the whole renewable resource sector - and to enable Native claims to be settled.

This recommendation was based on the evidence of the Native people. Virtually all of the Native people who spoke to the Inquiry said that their claims had to be settled before any pipeline could be built. It should not be thought that the Native people had an irrational fear of pipelines. They realized, however, that construction of the pipeline and establishment of the energy corridor would mean an influx of tens of thousands of white people from all over Canada seeking jobs and opportunities. They believed that they would be overwhelmed, that their Native villages would become white towns, and that they would be relegated to the fringes of Northern life.

They believed that the building of the pipeline would bring with it complete dependence on the industrial system, and that it would entail a future which would have no place for the values they cherish. For Native people insist that their culture is still a vital force in their lives.

The culture of Native people amounts to more than crafts and carvings. Their tradition of decision-making by consensus, their respect for the wisdom of their elders, their concept of the extended family, their belief in a special relationship with the land, their regard for the environment, their willingness to share - all of these values persist in one form or another within their own culture, even though they have been under unremitting pressure to abandon them. Their claims are the means by which they seek to preserve their culture, their values and their identity.

The Government of Canada rejected the Arctic Gas pipeline proposal and decided that, if a pipeline were to be built, it should be along the Alaska Highway route, that is, along the alternate route that I urged be considered. Now the Government of Canada and the Government of the United States have agreed on the construction of a gas pipeline along the Alaska Highway route.

As to Native claims, the decision not to build the Arctic Gas Pipeline gives us, and the Native people, the time to achieve a fair settlement of Native claims

in the Mackenzie Valley and the Western Arctic - an opportunity to meet what I believe is Canada's greatest challenge in the North. In 1978, an agreement in principle was reached between the Committee for Original Peoples' Entitlement (C.O.P.E.), representing the Inuit of the Western Arctic, and the Government of Canada; they are now commencing further negotiations. Negotiations are also getting under way between the Indians and the Metis of the Northwest Territories and the Government of Canada. For the Native people their claims are the means to the preservation of their culture, their languages, their economic mode - the means by which they can continue to assert their distinct identity in our midst and still have access to the social, economic and political institutions of the dominant society.

This is an unusual, perhaps unprecedented outcome - a recognition that industrial goals do not at all times and in all places take precedence over environmental values and Native rights.

As a result of the decision to postpone the construction of the pipeline for ten years, a number of developments have taken place in the Northwest Territories.

There has been a renewed emphasis on the possibilities of the development of non-renewable resources. The report "Fish, Fur and Game in the Northwest Territories", issued in September, 1980, by The Science Advisory Board of the Northwest Territories, discussed the importance of wildlife as a source of income and food. In their report, the Board says that "intensive management can increase substantially the fish and wildlife that can be harvested", and that "the economic importance of fish, game and furs can be greatly expanded". They conclude that the fish and mammal resources of the Northwest Territories could provide sufficient protein for a human population in the Northwest Territories two to four times as large as the present one. There must, of course, they say, be a greatly expanded programme of wildlife management, and a carefully regulated harvest, and Native people in the North must become actively involved in resource management. To achieve these objectives, a school of renewable resource management technology has been established at Fort Smith, N.W.T.

The Dene, the Metis and the Inuit are advancing proposals for two new political units in the Northwest Territories. Their proposals are far-reaching, including entrenched guarantees for aboriginal representation in whatever new political institutions emerge, and entrenched guarantees for aboriginal rights. Whatever their outcome, they are evidence of a renewed determination and a new capacity on the part of Native peoples in the North to establish a distinct and contemporary place for themselves in Canadian life. The Native people are now a political force to be reckoned with in the North and in the country.

The emergence of Native claims should not surprise us. After years of poor achievement in our schools, after years of living on the fringe of an economy that has no place for them as workers or consumers, and without the political power to change these things, the Native people have now decided that they want to substitute self-determination for enforced dependency.

Will Native claims make a difference? They will, but only if there is a

change of attitude as well as a change of policy. Our tendency to dismiss Native culture led us in the past to dismiss the notion of Native claims. Now that we have accepted our responsibility to negotiate a settlement of Native claims there must be a change in attitude toward Native history, Native culture, and Native rights. We shall have to accept that a settlement of Native claims will be a beginning, not an end.

Native claims, whether founded on aboriginal rights or treaty rights, begin with the land; but they do not end there. They extend to renewable and non-renewable resources, education, health and social services, public order and, overarching all of these, the future shape and composition of political institutions. The proposals that Native people are making are, many of them, far-reaching. They should not, however, be regarded as a threat to established institutions, but as an opportunity to affirm our commitment to the human rights of indigenous minorities.

Settlement of their claims ought to offer the Native people a whole range of opportunities: the strengthening of the hunting, fishing and trapping economy where that is appropriate; the development of the local logging and lumbering industry; development of the fishing industry and of recreation and conservation. I urged in "Northern Frontier, Northern Homeland" that in the Northwest Territories priority should be given to local renewable resource activities - not because I feel that such activities are universally desirable, but because they are on a scale appropriate to many Native communities. Development need not be defined exclusively in terms of large-scale, capital intensive technology. I also urged that wilderness areas in the far North should be managed jointly by Parks Canada and the Native people. Such activities are amenable to local management and control, and related to traditional values. But there is no reason why Native people should not have access as well to the economy of the dominant society where large-scale technology predominates.

You may say, this is all very well. It may be that in the North, and in frontier areas throughout Canada, Native people can strengthen their society and their economy. But, it will be said, many Native people are living in an urban, industrial society. For them there can be no return to the past. What do Native claims mean to them?

This, of course, is the whole point. Native people do not wish to return to the past. They do not wish to be the objects of mere sentimentality. They do not say that Native culture, Native communities and the Native economy should be preserved in amber for our amusement and edification. Rather, they wish to ensure that their culture can continue to grow and change - in directions they choose for themselves.

Native claims are founded on something as important to the urban native as it is to the rural native. Their determination to remain distinct peoples is based on their conviction that individual identity depends on collective identity - knowing who you are means knowing who your people are, where your home is.

Man is a social animal. He can only define himself by knowing his people, his language, his race, his customs, his traditions. This applies to all of us. But a



search for one's identity, for one's people, for one's homeland, acquires a compelling dimension among indigenous minorities, the peoples of the Fourth World.

Their determination to retain their identity as Native people does not mean that they want to return to live in tents or igloos. Because the Native people use the technology of the dominant society does not mean that they must learn no language in school except English or French, and learn of no one's past but ours, and be governed by no institutions except those of our sole devising.

It will take time to limn these claims, especially as regards their implications for Native people entering urban life. Nevertheless, some elements are clear enough; for instance, Native people say that their children are taught about the kings and queens of England, and about the brave band of settlers who established the colony of New France on the banks of the St. Lawrence. This, they say, is your history. But what about ours? They say that they want schools where their children can learn Native history, Native languages Native lore and Native rights. Of course they want their children to learn to speak English or French, as the case may be, and to learn the history of our European antecedents, and to study mathematics, science and all the subjects that they need to know in order to function in the dominant society. But they must have schools where they can learn about who they are, as well as who we are. These proposals are not limited to a frontier or rural context.

Before anyone says this is out of the question, let me tell you that it is already happening. Since 1973 the federal government has accepted the right of Native communities to have their own schools, their own teachers and their own curriculum. Today, in every province, programmes are being established to train Native teachers to teach in Native communities.

The same thing is happening in other fields. The federal government's new Indian Health Policy adopted on September 19th, 1979, is founded on the principle that Indian people ought gradually to assume responsibility for health care and health care programmes in Native communities. Indian health councils and Indian health boards are being established in Alberta, British Columbia and Saskatchewan.

The key to Native claims is, of course, aboriginal rights. In the *Statement of the Government of Canada on Indian Policy*, 1969, the Government said:

"Aboriginal claims to land . . . are so general and undefined that it is not realistic to think of them as specific claims capable of remedy except through a policy and program that will end injustice to Indians as members of the Canadian community."

Prime Minister Trudeau, speaking in Vancouver on August 8, 1969 said:

"Our answer is no. We can't recognize aboriginal rights because no society can be built on historical 'might have beens'."

In saying this, the Prime Minister spoke for all of us. Yet the policy of the

government was overthrown by the vehemence of the Native people's reaction. The belief that their future lay in the assertion of their own common identity and the defence of their own common interests proved stronger than any of us had realized. They were soon to force the government to reverse its policy.

In *Calder v. AGBC*, [1973] S.C.R. 313, a suit brought by the Nishga Indians of British Columbia, the Supreme Court of Canada affirmed the concept of aboriginal title, though they were divided on the question whether or not the old colony of British Columbia had effectively extinguished the aboriginal title of the Nishga Indians. But they had no doubt that there is such a thing as aboriginal title. After this decision came down, the Government of Canada indicated that it was prepared to enter into negotiations to settle aboriginal claims.

In 1980, Canada began drafting a new Constitution. On January 29th, 1981, the Joint Committee of the Senate and the House of Commons on the Constitution agreed to recommend an amendment to the new Constitution which provided:

"The aboriginal rights and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed."

On November 5th, 1981, the Prime Minister of Canada and the Premiers of nine provinces agreed to delete this provision. But many Canadians objected and, within little more than a week, they agreed to its restoration, although they did so in a qualified fashion. It is "existing" aboriginal and treaty rights that are recognized and affirmed. Nevertheless, explicit recognition of aboriginal and treaty rights pursuant to the Constitution will have its uses. These words are binding not only on the federal government, which, by and large, has been willing to acknowledge aboriginal rights, but also on the provinces, which, by and large, have been unwilling, to do so.

We witnessed in March this year the first of a series of constitutionally-mandated conferences between the First Ministers and the Native leaders of Canada. Out of this can only come a more complete understanding of the issues to be resolved.

In British Columbia a shift in governmental attitudes and policies can be observed within the last decade. Sometimes concessions have been made, agreements reached, even changes in governmental arrangements decided upon, which profoundly affect Native communities and which serve the same purposes as Native claims.

In 1975, the Government of British Columbia agreed that the Nishga Indians of the Nass Valley were entitled to their own school district. Formerly, they had been included in the Terrace School District. As a minority within that district they had little or no control over the schooling of their children. Now that a new district consisting of their four villages along the Nass has been carved out of the Terrace district, they can adopt their own curriculum, hire and fire their own teachers, etc. They have begun to implement a bilingual, bicultural programme in the schools. In this way they are able to ensure that

their children grow up knowing about their own people and their own past as well as knowing all that they need to know in order to function in the dominant society.

Earlier this year the Province of British Columbia awarded a tree farm licence to the Stuart-Trembleur band in northern British Columbia. In the past, tree farm licences have been granted only to forest companies. The licence gives to the licensee the right to cut timber within the licensed area, to saw it and to sell it; the licensee is responsible for fire control and is obliged to re-plant the forest on a perpetual yield basis, etc. The Stuart-Trembleur licence, the first of its kind, gives the band an expanded resource base, and the opportunity to develop its own resources and to provide employment for band members. Nobody calls this Native claims or land claims, but what else is it? Just as the Nishga school district protects Indian culture, so the Stuart-Trembleur tree farm licence conserves the resources the Indians claim.

Nor is this all. Last year, the British Columbia Legislature passed the Indian Cut-Off Lands Disputes Act. The Act authorizes the provincial government to enter into agreements with Indian bands and the federal government to resolve long-standing grievances over the loss of reserve lands in the early part of the century. As a result of the recommendations of the McKenna-McBride Commission, which reported in 1916, much valuable acreage was "cut-off" Indian reserves as laid out in the latter part of the 19th century. These claims affect twenty-two bands throughout the province. With federal co-operation, 12,000 acres of reserve lands cut off from the Pentiction Indian Band were restored last year. In addition, the band received \$14.2 million. The legislation should allow this process to continue.

In September, 1982, a royal commission of inquiry into Canada's fishing industry recommended that Indian claims on fish should be acknowledged. Dr. Peter Pearse, the Commissioner, proposed that the fisheries, department allocate a specific quantity of fish to each band involved in the Indian fishery, the quantity and kind of fish to be determined through negotiations with the bands. The catch allocated to bands should, he urged, have priority over commercial and sports fisheries and, if in any year a band failed to harvest its allocation because of conservation measures, they should be compensated with bonus quotas in future years. No royalties should be levied on these catches. The department should enter into 10-year fishery agreements with bands and the agreements should specify the band's allocation of fish and authorize the band to harvest its allocation according to an annual fishing plan determined jointly by the band and the department. There should be no restrictions on the sale of fish.

These changes, in little more than a decade, in public attitudes and official perceptions are remarkable. They have not come as fast or gone as far as Native people wish, but they represent progress that will not, I think be turned back, and which, in one way or another, bears the imprimatur of all three of Canada's national political parties.

The settlement of Native claims ought to provide the means to enable Native people to thrive, and Native culture to develop, in ways denied them in

the past; the means to ensure that they know who they are and where they came from. They can become hunters, trappers, fishermen, loggers, doctors, nurses, lawyers, teachers, or workers in the oil and gas fields. But most important of all, the collective fabric of Native life will be affirmed and strengthened. The sense of identity of individual Native people - their very well-being - depends upon it.

It is my conviction that if, in working out a settlement of Native claims, we try to force Native social and economic development into moulds that we have cast, the whole process will be a failure. No governmental ukase will settle the matter once and for all; no tidy, bureaucratic chart will be of any use unless it takes into account the determination of Native people to remain Indian, Inuit and Metis. There must be an affirmation of their right to a distinct and contemporary place in the life of our country. At the same time they must have access to the social, economic and political institutions of the dominant society.

Native claims have been described as claims based on the idea of apartheid. We really must make an effort to understand what we are talking about. In South Africa the blacks are being confined to "homelands", without any right to citizenship in South Africa itself and without any right to live, work or own property in South Africa. Those who live and work in South Africa do so on sufferance. The Native people in Canada are seeking access to the social, economic and political institutions of the dominant society. What they are seeking is the exact opposite of apartheid. Only if we were to deny them that access could it be said that we were guilty of apartheid.

Nevertheless, it is said that the entrenchment of the rights of the Native people is anomalous. The argument can be made: why should they have any rights not enjoyed by other Canadians? To provide a formal place within the Constitution for aboriginal peoples is believed by some to be an affront to the conventions of liberal democracy. The new Constitution, however, recognizes and affirms the existing rights of aboriginal peoples. The recognition of such anomalies may in time constitute Canada's principal contribution to the legal and political order. J.E. Chamberlin has said that "Canada is Canada not only because of its unique commitment to French and English cultures, but also because of its unique commitment to native nations". Constitutional protection of French and English makes the way easier for other languages, because it negates the idea of a monolithic culture. In the same way, the guarantees to the Indians, the Inuit and the Metis (imperfectly rendered though they may be) exemplify the Canadian belief in diversity.

It is not only we in Canada who must face the challenge that the presence of Native peoples with their own languages and their own cultures presents. There are so many other countries of the Western Hemisphere, with their indigenous minorities - peoples who will not be assimilated, and whose fierce wish to retain their own culture is intensifying as industry, technology and communications force a larger and larger mass culture, extruding diversity.

These are themes which reflect the fact that lies at the beginning of the history of the New World: the dispossession of one people by another. And these same people are with us today. In the past they refused to die; today

they will not be assimilated. Their refusal to be assimilated is a triumph of the human spirit; it is to be celebrated, not deplored.

It is, in fact, in our relations with the people from whom we took this land that we can discover the truth about ourselves and the society we have built, and gain a larger view of the world itself. It is worth reminding ourselves of what Claude Lévi-Strauss said, in *Tristes Tropiques*, when discussing "... the confrontation between the Old World and the New":

"Enthusiastic partisans of the idea of progress are in danger of failing to recognize - because they set so little store by them - the immense riches accumulated by the human race on either side of the narrow furrow on which they keep their eyes fixed; by underrating the achievements of the past, they devalue all those which still remain to be accomplished."

#### NOTES

1. This paper was originally presented at The Voices of Native People Conference, London, Ontario, September 25, 1983.
2. The Toronto Globe and Mail, August 30, 1980.