

OUR LAND IS OUR FUTURE

UNION OF BRITISH COLUMBIA INDIAN CHIEFS

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UNION OF BRITISH COLUMBIA INDIAN CHIEFS

ABORIGINAL TITLE AND RIGHTS POSITION PAPER

(Ratified at the UBCIC 17th Annual General Assembly)

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The sovereignty of our Nations comes from the Great Spirit. It is not granted nor subject to the approval of any other Nation. As First Nations we have the sovereign right to jurisdictional rule within our traditional Territories. Our lands are a sacred gift. The land is provided for the continued use, benefit and enjoyment of our people, and it is our ultimate obligation to the Great Spirit to care for and protect it.

INTRODUCTION

Traditionally, First Nations practiced uncontested, supreme and absolute power over our territories, our resources and our lives with the right to govern, to make and enforce laws, to decide citizenship, to wage war or to make peace and to manage our lands, resources and institutions. Aboriginal Title and Rights means we as Indian people hold Title and have the right to maintain our sacred connection to Mother Earth by governing our territories through our own forms of Indian Government. Our Nations have a natural and rightful place within the family of Nations of the World. Our political, legal, social and economic systems developed in accordance with the laws of the Creator since time immemorial and continue to this day.

Our power to govern rests with the people and, like our Aboriginal Title and Rights, it comes from within the people and cannot be taken away.

Our Aboriginal Title and Rights Position Paper represents the foundation upon which First Nations in British Columbia are prepared to negotiate a co-existing relationship with Canada. We present it, on behalf of our people, in the spirit of optimism, dignity, co-operation and strength. The goals of our people from our past through the present, to those yet unborn, provide the framework through which we will possess the tools necessary to maintain the strength of our Indian identity. The effective implementation of our position will resolve current political, economic, legal and social conflicts facing our people and will mean that, for the first time, Indian people will share in the wealth of Canada. At the same time, Canadians will have the opportunity to enjoy the benefits of our rich heritage.

THE FOUNDATION OF OUR POSITION THROUGH OUR
DISTINCT ORDERS OF GOVERNMENT IS THAT:

- a) We are the original people of this land and have the right to survive as distinct Peoples into the future;
- b) Each First Nation collectively maintains Title to the lands in its respective traditional territory;
- c) We have the right to choose and determine the authority we wish to exercise through our Indian Governments;
- d) We have the right to exercise jurisdiction within our traditional territories to maintain our sacred connection to Mother Earth through prudent management and conservation of the resources for the economic survival and well-being of our citizens;
- e) Only through a process of informed consent may our governing powers or our land be shared;

JURISDICTION

The modern expression to the exercise of our Sovereign Title is called Jurisdiction.

Each First Nation has the right to define and enforce the areas of jurisdiction necessary to protect that Nation's Sovereign Title.

These Rights are seen as a Sacred Trust between the citizens of our First Nations and our chosen Governments. Such Rights are entrusted to each citizen to uphold and protect for the mutual benefit of our Nations' Government and citizens.

Areas of jurisdiction over which First Nations may make laws include but are not limited to:

Boundaries of our Traditional Territories including land, sea, water and air.

Food-Gathering through Hunting, Fishing, Trapping and Harvesting for the well-being of our First Nations.

Conservation Management and environmental protection of the traditional territory and all renewable and non-renewable resources within it.

Economic rights including resource development, manufacturing, trade and commerce and fiscal relations.

Spiritual Rights to practise our religion, spiritual customs, traditions and culture including protection of our sacred lands within our care.

National Rights to enjoy our national identity, language and history as citizens of our Nations.

Political Rights to self-determination to form our political institutions, and to exercise our government through these institutions, and to develop our political relations with other First Nations, Canada and other Nations of the World.

Legal Rights to make, change enforce and interpret our own laws according to our own processes and judicial institutions including our own Constitutions, system of justice and law enforcement.

Social Rights of the citizens of our First Nations to high standards of care in education, health and welfare, social development, marriage, communications, birth and death for whole health and fulfillment of our people's needs.

Citizenship Rights of each individual to human rights as embodied in the Universal Declaration of Human Rights.

INDIAN GOVERNMENT MANIFESTO

Our Aboriginal Title and Rights Position affirms our right to be here and to maintain and protect the responsibilities given to all First Nations to this continent. These rights and responsibilities held us together as Nations for thousands of years, maintaining our sacred connection to Mother Earth and to the Creator. We celebrate our survival and the beauty of our land.

The relationship between the Governments of our First Nations and the Government of Canada has never been clearly understood in common by First Nations and Canada. We have always known Indian and European institutions could co-exist in Canada. European colonial leaders held a similar conviction. They sought to be known and respected by the Heads of our Nations and asked our leaders to make alliances and agreements. They did not question the authority of our leaders to speak on behalf of our people, just as our leaders did not question the authority of the colonial leaders to speak on behalf of the Crown.

As recognition of Indian Governments and Indian cultures was developing through a process of consent, there were other colonial figures who sought to refuse recognition of Indian Governments. They advocated the destruction of Indian Governments and Indian cultures.

Canada's view that First Nations be forced to assimilate under Canada's European-based democratic institutions without Indian consent has diminished the relationship between Canada and the First Nations. Such a view is long outdated in the progression of International law and justice. It is time Canada undertook to decolonize the First Nations and enter the process leading to the full realization of Indian control of Indian Governments and traditional territories based on mutual respect, recognition and consent.

In the spirit of mutual respect, we set the following principles as established and endorsed by the International community for self-determination.

THE BASIC PRINCIPLES

Self-Determination

First is the principle of self-determination of peoples. The International Covenant on Economic, Social & Cultural Rights and the International Covenant on Civil and Political Rights state that:

"All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."

By virtue of this principle, any alienation of our land or political jurisdiction must carry the consent of the First Nations.

Inherent Sovereignty of the First Nations

The second principle is that of inherent sovereignty of the First Nations. According to this principle, any agreement between the Crown and any First Nation may only be altered or repealed with the consent of that First Nation.

These two basic principles are recognized and confirmed in the first compact between ourselves and the Crown culminating in the passage of the Royal Proclamation of 1763. By the Proclamation our territory and governing institutions are reserved for us, until through a process of informed consent we choose to surrender them to the Crown.

Our right to self-determination is a right which we have not and will not surrender.

Decolonization

The third principle is our right to be decolonized. This principle is recognized in the trust relationship between the Crown and the Indian Nations reflected in Section 91(24) of the Constitution Act, 1867.

The World Court has determined that the Trust may be devolved only with the attainment of independence and self-determination of the First Nations concerned.

Canada's Conditional Sovereignty

The fourth principle is that Canada's sovereignty is conditional upon Canada protecting forever Crown obligations to the First Nations. Britain insisted that the Canadian Constitution be patriated upon this condition.

Canada remains vested with obligations to assure that the self-determination of First Nations becomes a reality. At the First Ministers' Constitutional Conferences, the Federal Government refuses to face its true obligations and the Constitutional position of First Nations to date.

CONCLUSION

Since 1969, the Union of British Columbia Indian Chiefs carried out extensive research and consultation with Indian people throughout British Columbia in relation to the totality of Aboriginal Title and Rights. We conclude, that our people have no desire, under any circumstances, to see our Aboriginal Title and Rights extinguished. Our people consistently state that our Aboriginal Title and Rights cannot be bought, sold traded or extinguished by any Government under any circumstances.