



Aboriginal Rights and the Labour Movement

A Report by the
Canadian Labour Congress

November, 1993



Cover: The medicine wheel - a spiritual symbol for many Aboriginal people in Canada - next to the machinery wheel symbolizing labour and the trade union movement. Design by Oksana Shewchenko.

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Further copies of this brief are available on request. Copies of the CLC Discussion Paper on Aboriginal Rights and the Labour Movement, and of the full report submitted to the Royal Commission on Aboriginal Peoples, are also available on request.

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*Brief by the Canadian Labour Congress
to the Royal Commission on Aboriginal Peoples*

November, 1993

Introduction

The Canadian Labour Congress represents 2.4 million organized working men and women, 60% of the total membership of trade unions in Canada. As the major voice for the Canadian labour movement the CLC has been an advocate for Aboriginal rights from the time Aboriginal issues first began to appear on the national agenda a quarter century ago. We welcome this opportunity to appear before the Royal Commission on Aboriginal Peoples.

We wish to begin by reiterating the labour movement's support for the inherent right of Canada's Aboriginal peoples to self-determination, including the right of self-government and jurisdiction over lands and resources. The CLC outlined its position in a major policy statement at our 1992 Vancouver convention. We have included that statement with this brief.

In the past, the labour movement has tended to concentrate on the broad issues related to Aboriginal rights. We have only given limited attention to more practical issues, such as what impact the advances in Aboriginal rights may have on working Canadians, and the specific role the labour movement should play to advance Aboriginal rights while respecting legitimate concerns of its members.

The creation of this Commission has led the Congress to focus on these practical issues which, we now believe, must be addressed as part of the process of creating a new relationship between Aboriginal and non-Aboriginal people in Canada. Over the past eight months we have engaged in extensive consultation on these practical issues, at all levels of the labour movement and in many parts of Canada.

We thank the Royal Commission for assisting this consultation through its Intervenor Participation Project. This brief, and the report on "Aboriginal Rights and the Labour Movement" which is being submitted along with it, are the results of that consultation and the reflection which it provoked.

Our approach has been to deal with how changes in Aboriginal rights that affect labour can be accommodated, rather than whether they should occur at all. Many of our recommendations are in fact directed to the labour movement itself. The CLC Executive Council has considered and accepted these recommendations and we intend to act on them. As we address these issues within labour, we hope that governments, employers and Aboriginal communities will also act on the proposals and ideas contained in our report.

In submitting this brief we do not overlook the problems of cultural survival, poverty, economic development, and inadequate housing, health and social services which Aboriginal communities continue to experience. These are major issues.

They must be dealt with in the context of self-determination and just settlements of treaties and Aboriginal land claims. The solutions you propose, however, should also deal with the questions of implementation which are the focus of this brief and of our report.

The CLC's Aboriginal Rights Project is described more fully in our report to the Royal Commission. It has included the preparation and wide distribution of a 40-page discussion paper, both within the labour movement and to Aboriginal organizations. We have held consultations in six provinces that included people from labour, government, social movements and Aboriginal communities. Aboriginal union members took part in a number of the consultations, and were actively involved in reviewing the final report.

In this brief, we outline the thinking that went into our report on Aboriginal rights and labour and give a brief summary of the consultations which we undertook. We concentrate on the recommendations from our report.

Current Situation

In our report we describe the key elements in the emerging recognition of Aboriginal rights. These include the gradual development of self-government as Aboriginal communities acquire more political and financial autonomy, and the emergence of more stable, self-confident communities in which healing has begun to take place. We anticipate that this process will continue whether or not there are changes to the Indian Act or the constitution.

The agenda for change is being driven by the pressure for action by Aboriginal peoples; by the growing confidence and visibility of native organizations and leaders; by the increasing political commitment of governments such as those in Ontario, Saskatchewan and B.C.; and by court decisions affirming Aboriginal rights. Treaty and land claims settlements are putting new territories under exclusive or partial Aboriginal control, and Aboriginal people are acquiring shared authority over land management and resource development through various forms of co-management.

The positive impact of these changes for Aboriginal communities is obvious. In the non-Aboriginal community, however, the changes that lie ahead may create uncertainty, fear and misunderstanding. Existing jobs may be threatened, notably in the resource sector and in non-Aboriginal organizations that deliver various public services to Aboriginal people. In some areas there may be a cumulative impact on non-Aboriginal workers and communities, which are already affected by changing international market conditions and the move to more sustainable development of natural resources.

Developments Within the Labour Movement

While the labour movement has been expressing its support for Aboriginal rights for a long time, Aboriginal issues have not been a priority for trade unions in the past. This is because of the pressure of other issues affecting unions today; the small numbers of Aboriginal people who are members of unions; their even more limited representation in union leadership; and a tendency to see Aboriginal rights as a cause for labour to support, but not an issue for direct involvement. Of

the four employment equity groups, women and visible minorities have received considerably more attention within the labour movement than Aboriginal people.

Unions are acting to raise awareness of Aboriginal issues

Today that situation is changing. Some unions are taking action to raise awareness of Aboriginal issues, provide cross-cultural training for members and increase the participation of Aboriginal members in union activity. The most notable examples are the Public Service Alliance of Canada (PSAC) and several of its component unions; provincial government employees' unions; and the Northwest Territories Federation of Labour. The British Columbia Federation of Labour has had a full-time staff representative working on Aboriginal issues for the past three years.

The United Steelworkers of America has made pioneering efforts in developing contract provisions to meet the special needs of Aboriginal workers in northern Ontario and Saskatchewan. In northeastern Ontario, the Labourers' Union has developed an arrangement with Ontario Hydro that would open up 20% of the jobs on new Hydro projects within its jurisdiction for Aboriginal workers. In Manitoba, there was substantial Aboriginal training and recruitment for Manitoba Hydro's Limestone project in the early 1980s. The Union of Northern Workers, a PSAC component union, has organized 43 bargaining units with some 700 Aboriginal members in local governments throughout the Northwest Territories.

Aboriginal people are starting to move into staff and executive positions within labour. Serious efforts have begun in a number of CLC affiliates and provincial labour federations to help Aboriginal union members gain more prominence and influence, for example through the creation of Aboriginal caucuses and networks. The first Aboriginal caucus within the CLC was held at our 1992 Convention, and we are now taking steps which we hope will result in creation of an ongoing Aboriginal network within the Congress early next year.

Aboriginal membership among the CLC's affiliates is as high as 25% in the United Fishermen and Allied Workers' Union, in British Columbia, and 30% in the Union of Northern Workers, representing Territorial and local government employees in the Northwest Territories. While the total number is not known, we estimate that there are at least 40,000 Aboriginal members of trade unions in Canada, of whom at least 25,000 belong to unions affiliated to the CLC.

Key Issues

1. Perceptions

Despite labour's support for Aboriginal issues, there are strong negative perceptions of unions in the Aboriginal community, both among many leaders and among many Aboriginal people in general. These perceptions are based on a feeling that unions exclude Aboriginal people or are unsympathetic to them.

This feeling is often based on actual experience, i.e. difficulties of Aboriginal workers being hired on construction projects in northern areas, cultural differences that lead to difficulties for Aboriginal workers if they are hired, problems in getting access to training and to promotions, and isolation and racism experienced by

Aboriginal workers in contact with non-Aboriginal workers. Many of these problems are caused by employers, but unions still get the blame.

Some Aboriginal workers question the adversarial approach taken by unions towards employers, suggesting that this runs against native traditions of seeking cooperation and consensus. There is also the perception that unions are just another white man's institution with little time for Aboriginal people, like big companies and big government. There appears to be little awareness of the role of unions in fighting poverty and unemployment, or in working for social justice.

On labour's side, there is generally strong support in principle for Aboriginal rights among union leaders, but less awareness and support among rank and file union members. Some union leaders express concern at evidence of racist attitudes towards Aboriginal people, which they say exist among some union members. These attitudes are not unique to non-Aboriginal trade unions, but perhaps a reflection of attitudes to Aboriginal people held by many non-Aboriginal Canadians.

2. Lands and Resources

Our discussion paper suggested that the area where the realization of Aboriginal rights was most likely to affect union members was in the resource industries, in particular forestry and commercial fishing. This was confirmed in our consultations.

Our report discusses the specific case of the B.C. fishing industry at some length, since what happens in this industry could influence the resolution of many other resource issues involving Aboriginal rights and unionized workers. If win-win solutions can be found that benefit First Nations along the Fraser and other salmon rivers, without undermining the position of workers in the commercial fishery, this will be a valuable precedent for many other industries. This is not a simple conflict between First Nations and non-Aboriginal peoples, since about 40% of the people who work in the commercial fishing industry, on shore and at sea, are themselves Aboriginal.

In B.C., labour has an important role in the Treaty Advisory Process

As negotiations over Aboriginal treaties and land claims move from the North into southern Canada, there is more and more potential to affect third-party or non-Aboriginal interests. We note, with approval, that both the provincial and federal governments have accepted the full participation of labour in the advisory process for the British Columbia treaty negotiations. We believe this precedent should apply in all third-party consultation processes where Aboriginal rights are being recognized, and where there is a potential impact on working people.

There is a particular need for consultation that includes labour where co-management agreements are being established with Aboriginal communities, or where interim agreements related to land or resources are negotiated between Aboriginal communities and governments, prior to a final land or treaty settlement.

3. Self-government

The CLC, and many provincial federations of labour and CLC affiliates, have lent their support to the struggle of First Peoples in Canada for the recognition of self-government as an inherent right. This remains our position, but there are some practical concerns which, we believe, should be addressed.

The fear was expressed during our consultations that Aboriginal governments might adopt low environmental standards in order to attract business and create jobs on their territory, or that self-government might lead to the creation of Aboriginal "Maquiladoras" within Canada, using low wages and reduced employment standards as a means of attracting industry.

The desire of Aboriginal workers to form unions is likely to increase as their communities develop under self-government, and as the size and number of Aboriginal enterprises increases. A system of self-government which put obstacles in the way of union organization would be very hard for the labour movement to accept. It would also be in conflict with international conventions on human rights drawn up by the United Nations and the International Labour Organization, which include the basic labour rights of free association and collective bargaining.

The CLC has expressed strong support for equality rights for women, including Aboriginal women, and recognized the need for adequate day care and for action against family violence and sexual abuse. Our dilemma is whether equality for women should be made a condition for the recognition of Aboriginal self-government or whether this, as well as labour and employment rights, should be determined solely by Aboriginal people once they achieve self-government.

4. Employment Equity

Apart from the B.C. fisheries and some areas of public-sector employment, Aboriginal workers are barely represented in unionized workplaces across the country. Even in cities where the Aboriginal population is 10 or 15% of the total population, the proportion of Aboriginal workers in organized bargaining units is only 1 to 2%. This holds true not just for government employment at all levels and for construction, but also for manufacturing and for service industries where the qualifications required for entry are not a substantial barrier. If efforts have been made towards employment equity for Aboriginal workers, they have been a dismal failure.

We discovered many examples of the exclusion of Aboriginal workers during our consultations. Only two out of 800 employees at a meat packing plant in Saskatoon were Aboriginal, and only two out of 400 employees at the Canada Post depot in Regina. Aboriginal people are 5% of the Manitoba public service, compared to 12% of the population.

Reports filed under the federal employment equity law show that Aboriginal workers made up 2.1% of the labour force in 1986, but only 0.7% of the workers employed by companies reporting under this law. That share had risen but was still under 1% in 1991.

**Canadian Pacific
hired 625
employees in 1991.
None was
Aboriginal**

Many of the companies that report under this law are widely known and provide good, well-paying jobs, but not for

Aboriginal workers. In 1991 Canadian Pacific Railways, which has half its workforce in western Canada, had 144 Aboriginal employees (0.7%) out of a total of 21,000. None of the 625 employees the CPR hired in that year was Aboriginal.

Bell Canada had a comparable proportion of Aboriginal employees, and hired only three Aboriginal people out of the 429 full-time employees it recruited in 1991. Air Canada hired one new Aboriginal employee. Canadian Press, the major news service for most Canadian newspapers and broadcasters, had one Aboriginal employee and no Aboriginal journalist on its staff of 470.

There is a lengthy list of problems and obstacles to be addressed before Aboriginal people in Canada gain equitable access to secure, well-paying jobs. Those identified during our consultations included the lack of commitment of employers, beginning with top management; weak administration of employment equity programs; bias and racism directed at Aboriginal workers; hiring procedures that discriminate; unreasonable demands for qualifications; and work arrangements that affect the ability of Aboriginal workers to settle into a job and to retain it. There are particular problems in construction which relate to industry and union practices, and to the industry's requirement for high skill levels and a highly mobile labour force.

During our consultations with labour there was widespread acceptance of special measures to increase the hiring and the retention of Aboriginal workers. However, the idea of using special measures to accelerate the promotion of Aboriginal workers once hired, or to protect the jobs of Aboriginal workers in the event of layoffs, was resisted.

Recommendations

1. A Strategic Issue

We conclude in our report that the relationship between Aboriginal people and labour should be seen as a strategic issue by the CLC and by all of the labour movement in Canada. We cannot expect Aboriginal people or governments to create a new and enduring relationship on their own. We in the labour movement must share that responsibility as should employers, industry associations, churches, the media, and the wide range of voluntary and non-government organizations that play a part in Canadian society.

On the level of principle, it would be unthinkable to exclude Aboriginal rights from labour's fight for social justice in Canada. Working people will be affected by how Canada resolves the many outstanding issues affecting its Aboriginal peoples. All of us - Aboriginal and non-Aboriginal alike - will be better off if a new partnership between Aboriginal and non-Aboriginal Canadians can be created based on the recognition of Aboriginal autonomy. Working people and all other Canadians will be losers, if the social fabric of Canada is torn by a renewal of the kind of conflict that occurred in 1990 at Oka.

The labour movement comes closer to representing the general interests of most Canadians than any other non-political organization, and is therefore in a unique position

***Working together,
there is more
chance to achieve
social justice***

to help contribute to the reconciliation that is needed between Aboriginal and non-Aboriginal Canadians. Both the labour movement and Aboriginal people have had to struggle against oppression and against having their concerns ignored by governments and large corporations. They have more chance of achieving social justice for all Canadians if they work together than if they work at a distance.

On a practical level, Aboriginal people are already a significant population group, and are becoming more important both in terms of numbers and influence. They are also becoming more important in terms of new entrants to the labour force, whom unions will want to organize.

If the labour movement can reach out to Aboriginal people now, this will enhance the chances that worker rights will be acknowledged under Aboriginal governments, on a basis that is comparable with the rest of Canada. This would be a service to the working people who in time may want to form unions on Aboriginal territories. It would also limit the prospect of Aboriginal communities trying to attract jobs from other areas of Canada through a competitive downgrading of employment standards.

2. A Dual Approach

There is a potential conflict in the labour movement's position on Aboriginal issues, which we have concluded it would be better to recognize than to ignore. On one hand we in the labour movement are strongly committed to seeing Aboriginal rights recognized and social justice achieved for Aboriginal people. On the other, one of the primary objectives of unions is to protect and advance the interests of working people in general and of their own members in particular. If unions do not act on behalf of members whose livelihood is affected by the implementation of Aboriginal rights, the general support of its members both for their union and for Aboriginal rights would surely be imperilled.

These two lines of thinking point to the need for a dual approach by the labour movement, with two strategic priorities:

- * The labour movement should work for social justice and for the collective and individual rights of Aboriginal people;
- * Labour should work to minimize the adverse effects of changes in Aboriginal rights and Aboriginal communities on union members and other working people.

These two priorities are sufficiently important that they should receive strategic attention from the senior leadership of the labour movement on a regular basis.

3. Social Justice and Human Rights

The labour movement's primary concerns in this area should be to maintain and to communicate its long-time support for Aboriginal rights, to increase awareness and understanding of Aboriginal issues within its own ranks, and to take the initiative in making employment equity for Aboriginal people a reality both through legislative action and in the workplace. The list that follows begins with

recommendations that relate to the labour movement, but the need to address employment equity issues is at least of equal importance.

Support for Aboriginal rights

Labour organizations at all levels should take practical steps to demonstrate their solidarity with the struggle of Aboriginal peoples for an end to the colonial oppression which they have had to endure. This can include education programs to raise public awareness and understanding of Aboriginal rights, labour participation at Aboriginal demonstrations and events, lobbying of governments and elected representatives, and support on issues involving specific Aboriginal communities.

Labour organizations should be prepared to consult Aboriginal organizations for advice on how labour can help, and to provide direct assistance where it is requested. This should include consultation with Aboriginal women's organizations on how women's rights should be recognized in the creation of Aboriginal self-government.

Aboriginal involvement

There is a need to identify Aboriginal members in the labour movement, and to assist in leadership development and in the development of Aboriginal networks, circles or caucuses at all levels of the labour movement.

The process of seeking out Aboriginal members should begin with self-identification in union locals, labour councils, CLC conventions, etc., but could also involve co-operation with Aboriginal groups, or gaining access to Aboriginal employees with the assistance of employers, as has occurred within the Manitoba government.

Where Aboriginal union members decide to form a network or caucus, the CLC and other labour bodies should provide assistance and resources, and should be prepared to consult regularly with respect to bargaining issues and to activities that relate to Aboriginal peoples or to Aboriginal members

Ongoing awareness

There is a need to develop an ongoing awareness of Aboriginal issues and of Aboriginal people at all levels of the labour movement. This should include training in cross-cultural awareness at every level of the labour movement, from the CLC executive council down to district labour councils, local unions and rank and file members. Union newspapers, videos and other material should all be used to raise the understanding of Aboriginal issues, if labour's general support for Aboriginal rights is to continue.

Aboriginal issues and racism

The CLC has incorporated Aboriginal issues as an integral part of the anti-racism program it is currently developing, and has included a number of Aboriginal members in its program for anti-racism trainers. Aboriginal issues should be a regular component of anti-racism training provided not just by the labour movement but by governments, police forces, and private employers.

Reaching out

The labour movement should make a point of reaching out on a consistent and continuing basis to Aboriginal people and to Aboriginal organizations at the local, regional and provincial as well as national level. This should include regular contacts between union and Aboriginal leaders, labour representation at Aboriginal events, and the inclusion of Aboriginal representatives at union conventions and other events.

In making these contacts the labour movement should seek discussion and advance planning around issues involving both groups, and should look for coalition strategies through which unions and Aboriginal people or groups can work together.

Bearing in mind the perceived conflicts between union culture and Aboriginal ways of doing things, unions should review internal practices which may be difficult for Aboriginal members to accept. They should also communicate why unions need to be adversarial at certain times, particularly when defending the rights of workers against an unsympathetic employer.

Aboriginal awareness of labour

If the labour movement needs to extend its awareness of Aboriginal people and issues, the labour-Aboriginal relationship could also benefit if Aboriginal people were more aware of the objectives of the labour movement and of how unions work. The CLC and its affiliates should be prepared to assist Aboriginal groups and organizations that wish to increase their members' knowledge and awareness of the labour movement and its activities.

Labour as an employer

Unions should make a conscious attempt to demonstrate their commitment to Aboriginal rights through their own employment practices. Very few Aboriginal people are currently employed within the labour movement; there is a need for internal affirmative action, even if the current economic pressures on unions make this difficult.

Employment equity

The dismal failure of employment equity for Aboriginal workers is an issue which labour should address directly. It cannot afford to ignore this reality on the grounds that hiring is the responsibility of the employer. Strategies are needed to ensure that more Aboriginal workers are hired and that once hired, Aboriginal workers are more likely to stay and to be trained and promoted.

The labour movement needs to pursue these strategies at the local, provincial and national levels at the same time that it continues to pursue legislation for mandatory affirmative action for Aboriginal workers.

The improvement of Aboriginal employment opportunities is a primary area for coalition building between labour and Aboriginal peoples and organizations.

Labour should also seek the involvement of local and other governments, economic development agencies, employers and employer groups.

Union initiatives should focus on removing obstacles to hiring of Aboriginal workers, and on the creation of pre- and post-employment programs to improve their retention once hired. To retain the co-operation of existing workers, the focus should be on affirmative action hiring measures rather than changing seniority provisions, where they exist, to provide special rights for Aboriginal workers.

Hiring procedures

Where unions are involved in making decisions about hiring, urgent action is needed to ensure that Aboriginal workers have a fairer chance of qualifying for the hiring procedure, of being hired and of keeping their jobs once hired.

This could include initiatives such as preferential hiring for construction projects in Aboriginal areas; the creation of satellite hiring halls in northern regions; providing special access to training programs for Aboriginal workers; on-reserve training projects sponsored or assisted by craft unions; and a review of certification requirements to eliminate any systemic discrimination against Aboriginal workers.

Because of the time required to train a skilled building trades worker, it is very difficult to open up skilled positions on a new construction project to Aboriginal workers unless there is advance planning. The CLC and other labour organizations should work with Aboriginal organizations, employers and governments to find ways by which Aboriginal people can have greater access to skilled jobs in construction projects. A number of innovative models already exist.

4. Minimizing the effects of change

Labour as a stakeholder

The second strategic priority which we identified is the need to try and minimize the adverse effects of changes in Aboriginal rights and communities on union members and other working people. For this to occur, labour must be able to influence issues relating to the implementation or expansion of Aboriginal rights.

The practice of non-Aboriginal, third-party involvement or consultation on these issues by governments is becoming more and more common. Third parties include owners of property and of resource rights, environmental groups and user groups such as anglers and hunters. However, the federal government has not committed itself to including labour as a third party in its policy on consultation regarding treaty and land claims.

In British Columbia, the labour movement and major unions are now treated as important stakeholders with the same rights of consultation on Aboriginal negotiations as other non-Aboriginal organizations. We believe this precedent should be followed nationally. The labour movement should ask and expect to be treated as an important stakeholder in third-party consultations anywhere in Canada, if there is a potential impact on existing workers or communities. This kind of consultation should also become the norm, and should include labour involvement, where governments are negotiating interim measures, or entering into co-management agreements with Aboriginal communities.

Impact on workers

Governments have taken the position that third-party property rights that are diminished or taken away by Aboriginal land or treaty settlements should be protected or compensated. We believe that this principle should also apply to workers in existing positions, if they are substantially affected by land and treaty settlements or other decisions involving Aboriginal groups. The rights of workers affected by Aboriginal settlements should surely be at least equal to the rights accorded to owners of property.

Where compensation or other adjustment measures are required for workers, the cost should be a charge on Canadian society at large. This is because it would be wrong to make a small group of workers absorb major costs of adjustment, when it is Canadian society as a whole which was responsible for the injustices to Aboriginal people which are being corrected. Nor should these costs of adjustment be a charge on Aboriginal people, who had no part in the decisions that allowed their territory and resources to be alienated.

Where governments agree to interim measures involving Aboriginal communities well in advance of final treaty or land settlements, the labour movement should seek to be consulted and should seek action to minimize the adverse effects that any changes may have on existing workers or their communities. Where appropriate, this should also include adjustment measures or other forms of compensation. The costs should be paid through government and not be a charge on Aboriginal people.

Minimize adverse effects

Individual unions and the labour movement should try to minimize the adverse effects on existing employment arising from the implementation of Aboriginal rights, but in a way that is also beneficial to Aboriginal people. This means looking for creative solutions, such as the expansion of an industry, the development of opportunities for training for Aboriginal workers, and the creation of new kinds of partnerships, as an alternative to win-lose scenarios which may provoke resentment among non-Aboriginal workers. A positive example is the proposal of the UFAWU to increase the B.C. salmon catch by one-third, through salmon enhancement programs employing Aboriginal people.

Advance planning

Labour organizations should become involved in trying to identify problems relating to Aboriginal employment, training, access to resources, etc. and to find solutions before these issues become critical or polarized. Governments, employers and Aboriginal communities should also try to identify problems in advance in order to work out acceptable solutions. With advance planning and discussion, many of these issues can be resolved in ways that both Aboriginal and non-Aboriginal partners can accept.

Labour rights on Aboriginal territories

The CLC supports the Aboriginal right of self-government, but at the same time we remain committed to upholding the basic rights of workers both

internationally and within Canada. We recognize that there could be a conflict between these positions, including the risk that basic labour rights could be denied in Aboriginal territories.

The labour movement should seek to minimize that risk, by initiating discussions with Aboriginal leaders on the need to maintain labour and employment rights on Aboriginal territory, and on what those rights should consist of.

Labour should base its case on the general acceptance of labour rights both in international conventions and in Canada, and on the need for mutual support between labour and Aboriginal peoples to struggle against the agenda of governments and of the private sector. It should also point to the injustice that would occur if Aboriginal communities were to recognize the rights of business in their territory, through the acceptance of Canadian commercial law, while denying basic rights to workers.

There are some specific approaches which it is reasonable to ask of any new Aboriginal government. As a general principle, federal and provincial labour codes and employment standards should continue to apply on Aboriginal territory unless the Aboriginal government decides they should be changed. A shift of authority to Aboriginal self-government should not be allowed to overturn existing collective agreements before they come up for renewal.

Successor rights should be provided for bargaining units which are transferred from non-Aboriginal jurisdiction to an Aboriginal organization or company, so that the workers involved can maintain their certification and their collective agreement.

These approaches would help to ensure continuity and a smoother transition of services that are transferred to Aboriginal control. They would not interfere with the right of an Aboriginal government to make changes in labour or employment law, if that was its considered decision.

The CLC or provincial federations should explore with Aboriginal organizations how to meet particular Aboriginal requirements in the area of labour standards, without abandoning the general principles of Canada's labour codes. They should also review whether labour relations boards, or some other body, should adjudicate questions of labour and employment law in Aboriginal territories. This might include referral to an Aboriginal institution such as a council of Elders.

Aboriginal women's rights

We considered at length whether to propose that action on abuse, family violence, or gender equality be made a precondition for the recognition of Aboriginal self-government. In the end we decided that this is an area which requires further reflection and consultation.

This does not mean that the labour movement must be silent. We can and should express labour's concern about these issues and its support for women's equality rights within Aboriginal territory, as well as elsewhere in Canada and in other countries. If asked, the CLC and affiliates should be prepared to assist women's organizations, like the Native Women's Association of Canada, in their struggle for Aboriginal women's rights in Aboriginal communities.

Many Aboriginal women now live in urban areas where poverty, inadequate child care, poor housing and unemployment are common experiences. The labour movement should incorporate the needs of these women in its support of women's equality.

Mechanism for disputes

In our Vancouver policy statement we called for the creation of a mechanism for settling disputes between Aboriginal peoples and labour, but did not suggest what that mechanism should be. We have concluded that at this time, the creation of one or more such mechanisms would be premature. The priority for labour should be to create relationships with First Nations and Aboriginal organizations which are close enough to allow, among other things, for discussion of any mutual problems. If such a working relationship exists, then it will provide a means of addressing any disputes that may arise.

5. Action by governments

Our report put forward a model for collaboration in which the labour movement continues to support Aboriginal people and communities in gaining recognition of their rights, while seeking to minimize adverse impacts on working people and on unions. We believe this approach should be supported by governments.

Labour's support on Aboriginal issues is important because of the large number of Canadians whom the labour movement directly represents, and because there is no other body in Canada that can speak on behalf of working people as a group. That, in turn, means that governments should be prepared to listen, and to provide assistance if necessary, in cases where there are labour concerns related to Aboriginal rights.

As this report has focused on the practical implications of Aboriginal rights for workers and unions, its recommendations for labour and government are also focused in that area. Many are directly related to our proposals involving the labour movement.

Make employment equity work

We cannot overemphasize the need for governments to make employment equity work effectively for Aboriginal people as well as people in the other equity groups. Our report to the Commission makes a number of specific proposals, including the need for mandatory legislation to require large employers to implement employment equity programs.

Provincial and federal governments should take vigorous action to gain the co-operation of industry associations, chambers of commerce, community groups and voluntary associations, and of individual employers to increase the access to employment and career opportunities for Aboriginal people and people in other equity groups.

Collaborative employment equity programs involving unions and employers should be encouraged, as should initiatives to set up networks or advisory committees of Aboriginal employees both in the public and private sectors.

Governments should work with employers, unions, educational institutions and Aboriginal organizations to identify obstacles to Aboriginal employment, and to put programs and strategies in place to overcome those obstacles. They should also ensure that their own programs for employment equity are effective and fair for all the equity groups, including Aboriginal people, and do not ghettoize Aboriginal workers into low-paying jobs.

Increase awareness and fight racism

Governments have the resources to assist unions and other organizations that want to provide cross-cultural training, or use other means to increase understanding of Aboriginal people and of Aboriginal rights. This assistance can be of particular value in the development of new programs, such as the Native Issues Seminars organized by the Ontario Public Service Employees' Union with the Ontario government's assistance in 1992-93. It should be made a priority.

Governments should seek to make anti-racism training an integral part of the workplace, and should encourage - if not require - employers to become involved in providing this training during normal work hours.

Recognize labour as a stakeholder

We have already referred to the inclusion of labour as a stakeholder in the Treaty Advisory process in British Columbia. This precedent should be followed in every province and territory and by the federal government.

Working people should have as much opportunity to be consulted about important changes affecting their future and their communities as any other non-Aboriginal group. The only effective way for this to take place is through the involvement of the labour movement, because labour representatives can be held accountable for their participation, whereas citizens appointed by a government are not directly responsible to any constituency.

Governments should commit themselves to using a third party advisory process wherever important decisions are being made with respect to Aboriginal rights, including interim measures and the creation of co-management agreements. This right of consultation should be continuing and should not be terminated when such agreements come into force.

Minimize adverse effects on workers

Governments should accept labour's concern to minimize any adverse effects on existing workers from the implementation of Aboriginal rights and to ensure that where there are such effects, the burden is shared fairly.

Workers who are adversely affected as a result of new arrangements with Aboriginal communities should be entitled to receive compensation, for the same reasons that governments accept compensating third party property interests affected by Aboriginal claims settlements. This compensation could include one or several of adjustment assistance, cash payments, retraining, or measures to provide alternative jobs. Governments should make it clear that steps to minimize the adverse effects on workers, including compensation, are a part of the price to be

paid by Canadian society for its past neglect of Aboriginal rights, not a charge on Aboriginal communities.

Labour and employment rights

As already noted, governments should seek to ensure the continuity of collective agreements in negotiations with Aboriginal communities, and seek to develop legislated successor rights arrangements in the event that a bargaining unit is transferred from government to an Aboriginal organization. Governments should also seek to ensure continuity of existing labour and employment law in Aboriginal territories, while acknowledging the right of self-governing Aboriginal communities to make changes they feel are required.

6. Action by employers

Employers have an important contribution to make in opening their workplace to Aboriginal workers, and in combatting racism and discrimination on the job. Working with unions and Aboriginal communities, they can also assist to minimize the adverse consequences on employees related to the implementation of Aboriginal rights.

For the most part, the specific steps to be taken by employers involve co-operation and support for initiatives already suggested with respect to unions and governments. These include the provision of cross-cultural training, and support for programs of Aboriginal awareness directed to employees and management and carried out during working hours; support and provision for on-the-job anti-racism training; and commitment, from top management down, to support employment equity programs and not to tolerate racism or bias among supervisors, managers, or employees.

Employers should be prepared to assist Aboriginal workers who wish to form an Aboriginal network or circle, and to assist unions in gaining access to their Aboriginal members for the same purpose. They should be open to flexible work arrangements and to other innovative provisions being included in collective agreements to meet the special needs of Aboriginal workers, both in northern communities and in urban areas.

This report has identified a need for labour to take the initiative in pressing employers for effective action to increase their hiring of Aboriginal workers. Employers should be prepared to co-operate with such initiatives, rather than fighting them off as an intrusion by their union into the hiring process.

As a matter of principle, employers should avoid making agreements with Aboriginal communities that may affect employment until they have consulted with their union, where members of a bargaining unit are involved. Employers, both public and private, should also seek to minimize the effects on their existing work force, when making arrangements that involve the transfer of jobs or resources to Aboriginal control.

7. Action by Aboriginal Communities

A major conclusion from this report is the need for greater co-operation and dialogue between the labour movement and the Aboriginal community, at all levels.

Labour needs to reach out, but we would also hope for a positive response to initiatives directed to the Aboriginal community. This could include a willingness to consider cross-cultural training on the part of Aboriginal communities and organizations about unions and the labour movement, and providing assistance to unions to help them identify their Aboriginal members and to raise awareness about Aboriginal issues.

Aboriginal communities should be prepared to accept initiatives coming from the labour movement - in such areas as employment equity for Aboriginal workers, and raising Aboriginal awareness within the unions - as being made in good faith. They should also accept that the concerns of the labour movement for its existing members are legitimate, and be prepared to work with labour, with employers and with governments to search for positive solutions for these concerns. This is not a matter of maintaining the status quo, but of trying to reduce and spread any disruption flowing from the transfer of resources or employment to Aboriginal control.

Conclusion

Poverty, injustice and inequality remain the daily reality of the First Peoples of Canada, 500 years after the first Europeans came to North America. Over that entire period Aboriginal cultures have been under attack, Aboriginal social and political institutions have been suppressed, and Aboriginal peoples have been dispossessed from the lands and resources which they had used and occupied since time immemorial.

The CLC believes this must change. There must be a new relationship based on mutual respect and good faith, and founded on the recognition by all Canadians of the inherent rights of Aboriginal peoples, including the right to self-determination and self-government.

This brief and our report both deal with the practical implications that may arise, as this new relationship between Aboriginal and non-Aboriginal peoples comes into being. We have attempted to reconcile the labour movement's support for Aboriginal rights with a realistic understanding of labour's responsibility for its existing membership. We look to a future in which there is greater dialogue and collaboration between the labour movement and Aboriginal peoples, and in which the role of Aboriginal people within their unions is enhanced. We also look to a future in which Aboriginal people who live in urban areas, or who wish to take part in the industrial economy, no longer face the obstacles to their participation that exist today.

There are costs involved in achieving a just and equitable new relationship between Aboriginal and non-Aboriginal Canadians. Ways must be found to ensure that these costs are shared fairly by all Canadians, so that no group or community has to carry an undue burden. Labour may have a special role to play in finding solutions because of its wide base of representation, its tradition of support for Aboriginal rights, and its experience with the negotiation process.

It will be a challenge for all Canadians to maintain public support for a new relationship while the transition to Aboriginal self-determination and self-government is taking place. Meeting that challenge will demand patience, realism,

and commitment. Within the labour movement, it will require the involvement and active support of men and women at every level of the CLC and its affiliates.

Thank you for the opportunity to make this presentation. This document is respectfully submitted on behalf of the Canadian Labour Congress.

Robert White,
President

Dick Martin,
Secretary-Treasurer

Nancy Riche,
Executive Vice-President

Jean-Claude Parrot,
Executive Vice-President

Appendix A

CLC Aboriginal Rights Policy Statement

In June of 1992, the Canadian Labour Congress unanimously adopted the following Aboriginal Rights Policy Statement at its 19th Constitutional Convention in Vancouver:

WE CAN DO IT: SUPPORT ABORIGINAL RIGHTS

1. On the eve of Canada's 125th anniversary and 500 years since Aboriginal Peoples discovered Columbus — poverty, inequality, environmental degradation and injustice remain the daily reality of the First Peoples of this land, and Canada has caused it to a large extent. In the midst of these acute national tensions, the Canadian Labour Congress reiterates its support for Aboriginal Peoples' rights.
2. Ever since the first Europeans set foot in the so-called "New World," Aboriginal cultures have been under attack. The Aboriginal Peoples were systematically taught to believe that their religions, their languages, their ways of raising children, their whole way of life should be discarded. Although the Aboriginal Peoples' enforced retreat has resulted in shocking casualties, they have refused to assimilate.
3. Clearly, the contemporary reality of Aboriginal Peoples is dire and can be understood in terms of the consequences of a process that has involved dispossession from, and physical colonization of Aboriginal lands and exploitation of their natural resources. Aboriginal social and political institutions have been suppressed and supplanted in varying degrees by legal and administrative systems imposed by the dominant state. Although these practices began in the age of European colonialism, they have been continued through the actions of successor states structurally indistinguishable from those of the colonial era.
4. As workers, we know that racism is a tool used by corporations and their governments to keep us divided so we cannot unite to fight for our right to a job with decent wages and conditions. Likewise, we know that racism is used to keep Aboriginal Peoples in conditions of abject poverty and deprivation as confirmed by the following census facts:
 - i) There are 164,000 Indigenous people on reserves (62%) who live on social assistance and 120,000 off-reserve (52%) who are estimated to receive social assistance.
 - ii) Census data shows Indigenous income to average little more than half (54%) of non-Indigenous income.
 - iii) Indigenous joblessness rates average nearly 70%.

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- iv) Federal expenditures on Indigenous Peoples' programs have declined in real dollars by 11% over the last five years while the Indigenous population has increased by 33%.
 - v) Indigenous infant mortality rates are more than double the Canadian rate (17.2 compared to 7.9 per 100 babies).
 - vi) Indigenous people make up 3% of the population and 10% of the jailed population.
 - vii) Functional illiteracy (those people with less than a grade nine education) for First Nations is 45%, or two-and-a-half times the Canadian rate of 17%.
 - viii) The Indigenous suicide rate is three times the national rate. For young people aged 17 to 24, the rate is seven times higher.
5. It was not always this way. In spite of the fact that Aboriginal resistance has existed since first colonization, general concern about Aboriginal issues in Canada is a relatively recent national phenomenon.
 6. The concept of power-sharing is an important one and critical to a just resolution of the grave problems confronting Aboriginal Peoples. It is clear, however, that the starting point for discussions about power-sharing arrangements must be mutual respect and good faith. We have witnessed all too clearly that this has not been the case in Canada.
 7. Like their sisters and brothers around the world, the Aboriginal Peoples living in Canada have suffered centuries of ethnocide and dispossession. The Canadian government, in common with others, may have changed the terminology from "assimilation and integration" to "consultation and participation," but the process remains unaltered. Governments continue to violate their legal and moral obligations to the Aboriginal Peoples.
 8. The Aboriginal Peoples of this land are engaged in a struggle for restoration of their sovereign rights and an end to the colonial oppression which they endure. The Canadian Labour Congress expresses its solidarity in their struggle.
 9. In 1980, the Canadian Labour Congress refrained from taking a formal position on the Constitutional issue, however, because of the unique and special position which Aboriginal Peoples must have in this country, our position was as follows:
 - i) Though the solemn treaties, guarantees and promises left much to be desired in being honoured, they at least provided hope as well as a basis for advancing just claims for fulfilment.
 - ii) Now that Canada's constitutional arrangements are about to be substantially altered, Aboriginal Peoples are understandably alarmed at the

prospect that they might lose even the limited rights they were promised by the Crown and by the governments composed of other Canadians admitted into their homeland.

- iii) The CLC shares the sense of alarm of Aboriginal Peoples at this very real prospect. We believe that Canadians and their various governments have a special obligation at this time to ensure that the Aboriginal and treaty rights are reaffirmed, secured and honoured in full.
 - iv) The CLC, therefore, calls upon the Governor-General, the Prime Minister and his government, as well as the Joint House-Senate Committee on the Constitution, to act promptly and effectively to ensure the entrenchment of Aboriginal and treaty rights in the revised Constitution, and also on the right of Aboriginal Peoples to be fully and meaningfully involved in the process of constitutional change.
 - v) We also call upon provincial governments to promptly affirm their full support for these just claims of Aboriginal Peoples; and, within the limits of their powers, to put these rights into practice.
10. Today our position has not changed; we still maintain our support of the Aboriginal Peoples on constitutional matters.
11. The Canadian Labour Congress, therefore, calls on the Government of Canada:
- a) to recognize the rights of the Aboriginal Peoples to self-determination as guaranteed under international law.
 - b) to ensure that these rights are recognized for all Aboriginal Peoples whether they have chosen to participate in the constitutional process or not.
 - c) to acknowledge that negotiations regarding land claims or self-government cannot be considered to be "in good faith" or as just, until the inherent sovereign rights of the Aboriginal Peoples are first recognized and respected.
 - d) to respect treaties with Aboriginal Nations on the same basis as Canada's other International Treaty Obligation.
 - e) to recognize that the right to self-determination must include jurisdiction over lands and resources.
 - f) to have a provision in the Constitutional Act which assures the Aboriginal Peoples that no amendments affecting their rights can be made without their consent.
12. Furthermore, the CLC has to look at other kinds of support we can give in the future to Aboriginal sisters and brothers. Historically, the CLC has always been in the forefront in supporting the Aboriginal Peoples of Canada. Our

resolutions and our 1974 policy statement show our commitment to the Aboriginal Peoples. Recent events have resulted in a new political consciousness, in political and moral terms. To fulfill this, we have to be willing to expand our means of support.

13. To progress toward this goal, the labour movement, CLC affiliates, unions, locals, federations of labour and labour councils should be involved around the following points:
 - i) To press governments to recognize the rights of the Aboriginal Peoples;
 - ii) Where they agree, to organize meetings between Officers, Executive Committees and Councils, representatives, members and different Aboriginal communities, to be held on their lands, in order that we would have a better understanding of the real issues in the daily life of the people;
 - iii) The labour movement and the Aboriginal Peoples must have a mechanism in place for settling disputes that arise between them;
 - iv) To promote Employment Equity programs to facilitate the entry of Aboriginal people into the workforce.
14. The CLC belief is, and always has been, that we do not speak on behalf of Aboriginal Peoples. The CLC believes that every people, or nation, must speak for itself or in agreed conjunction with each other. We are, therefore, here to provide support and solidarity for Aboriginal Peoples' struggle.
15. As Canadian people, we cannot accept that our state continue its colonial domination of the Aboriginal Peoples.
16. We must stop believing that our economic choices, our priorities for development, our interests, our institutions and our values are necessarily the best and that they must dominate when they come into conflict with the culture, way of life, values, institutions and development of Aboriginal Nations.
17. Aboriginal Peoples enter into negotiations acutely aware that the recent past has been desperate, the present seems hopeless, and the future looks bleak. The CLC has a particular obligation to help to redress basic injustices which still constitute the reality of the Aboriginal Peoples.

WE CAN DO IT — provide support and solidarity to Aboriginal Peoples.