

TREATY REFERENDUM: MYTHS AND FACTS

MYTH: A referendum on Treaty principles will allow British Columbians to have a say in what the Province negotiates.

FACT: A referendum is a one-time deal that does not guarantee citizens ongoing say into Treaty negotiations.

MYTH: Referendums are part of the democratic process.

FACT: Referendums on minority issues and rights is tyranny of the majority.

MYTH: The government needs the referendum to ensure that they have a clear mandate for negotiations.

FACT: MLAs are elected representatives who received their mandate when they won their seats.

MYTH: A referendum will provide a concise mandate that will enhance negotiations and lead to a more expedient Treaty process.

FACT: A referendum will create such division in the province that the Treaty process may not be able to resolve anything.

MYTH: A referendum will provide greater economic certainty in the province.

FACT: A referendum will lead to greater uncertainty—BC will be 'closed for Business'.

"It is essential, if [one] is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law."

-UN Universal Declaration of Human Rights

WHAT YOU CAN DO TO STOP A REFERENDUM:

Say 'NO!' to a Treaty referendum! Write your MLA, the Premier and the Attorney General:

Premier, Gordon Campbell
P.O. Box 9041
STN PROV GOVT
Victoria, BC V8W 9E1

Ask him to respect human and constitutional rights and put an end to the treaty referendum initiative.

Geoff Plant, Attorney General & Minister Responsible for Treaty Negotiations
PO BOX 9044
STN PROV GOVT
Victoria, BC V8W 9E2

Question him on possible conflict of interest issues arising from treaty negotiations conducted within a framework that violates the human rights of Aboriginal people.

WHAT IF A TREATY REFERENDUM IS CALLED?

The Premier says that a Treaty referendum is intended to allow public input into the BC Treaty process:

If less than 20% of British Columbians vote in the referendum—the government cannot claim to have meaningful public input.

Please **BOYCOTT THE TREATY REFERENDUM**—do not cast a vote!
REFUSE TO PARTICIPATE IN HUMAN RIGHTS VIOLATIONS!

ABORIGINAL RIGHTS ARE HUMAN RIGHTS

Protect OUR Rights—Say 'No!' to
the BC Treaty Referendum



"Injustice anywhere is a threat to justice everywhere. Whatever affects one directly, affects all indirectly."

-Dr. Martin Luther King Jr.

Aboriginal Rights in an International Context

UN human rights declarations are statements of human rights principles which governments are expected to uphold-even though they are not legally binding. In 1948, the UN adopted the Universal Declaration of Human Rights and in 1993 drafted a Declaration on the Rights of Indigenous Peoples. These declarations are intended to promote respect for the equality and dignity of all people, as individuals and as peoples. These declarations are based on the "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace." The new BC government fails to see the wisdom of these declarations and has promised to hold a treaty referendum, regardless of the human rights violations involved.

The UN Universal Declaration of Human Rights sets the minimum standard of human rights acceptable for all peoples and all nations, without discrimination. Given that Aboriginal peoples of BC are entitled to the same fundamental human rights and freedoms as other peoples, a treaty referendum would be a clear violation of Aboriginal peoples' fundamental human rights as defined in the Declaration. For example;

Article 7 states that "all are entitled to equal protection against any discrimination in violation of this Declaration and against incitement to such discrimination."

Article 17 states that "no one shall be arbitrarily deprived of [one's] property."

Subjecting the rights of a minority to the whim of the majority in order to deprive them of their property (unceded lands), as proposed by the treaty referendum initiative, is both discriminatory and arbitrary, and therefore a violation of their human rights.

The UN Draft Declaration on the Rights of Indigenous Peoples affirms that indigenous peoples are equal in dignity and rights to all other peoples, and expresses concern that they "have been deprived of their human rights and fundamental freedoms, resulting in their colonisation and dispossession of their lands. To address this, the draft declaration recognises that "indigenous peoples have the right to determine their relationships with States in a spirit of coexistence, mutual benefit and full respect."

Article 7 states that indigenous peoples have the right not to be subjected to "cultural genocide," including :

- 1) Any action which has the aim or effect of depriving them of their integrity as distinct peoples;
- 2) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
- 3) Any form of assimilation or integration by other cultures or ways of life imposed on them by legislative or other measures.

Article 27 states that indigenous peoples have the right to the restitution of lands and resources which they have traditionally owned, occupied or used, and which have been expropriated without their free and informed consent.

Article 39 states that indigenous peoples have the right to mutually acceptable and fair procedures for the resolution of disputes with States.

If indigenous peoples already have the right to the restitution of unceded lands and the right to fair, mutually acceptable dispute resolution with the State, then not only is the sole purpose of a treaty referendum to foster popular support for the violation of these rights, but the process itself is in clear violation of the fundamental rights of indigenous peoples in BC.

Aboriginal Rights in Canadian Law

- 1763: The British Crown issues a Royal Proclamation recognising Aboriginal sovereignty and title to land.
- 1867: The British North America Act adopts the Royal Proclamation into Canadian rule of law.
- 1973: Calder v. The Attorney General of BC, Supreme Court agrees that Aboriginal title exists and is a right inherent to Aboriginal peoples.
- 1982: The Constitution Act, section 35 recognises and affirms existing Aboriginal and treaty rights, superceding all legislation that is inconsistent with its provisions.
- 1990: R v. Sparrow, Supreme Court rules that the Crown must 'import some restraint on the exercise of sovereign power,' requiring the justification of any regulations that may infringe upon Aboriginal rights.
- 1996: R v. Van der Peet, the Court determines that Aboriginal title is a sub-category of Aboriginal rights that deals solely with Aboriginal rights to land.
- 1997: Delgamuuk'w v. BC, the Supreme Court rules that Aboriginal title includes the right to exclusive use and occupation of land, and the right to consultation and compensation for title infringements.

Aboriginal rights are recognised and confirmed in Canadian law. Here again, it seems that the sole purpose of a treaty referendum is to foster popular support for violating the constitutionally protected rights of Aboriginal peoples in BC.

A treaty referendum is a divide and rule strategy that violates human and constitutional rights in order to eliminate the possibility of local control over land and resources so that it can be handed over to big business. Say 'NO' to a treaty referendum!