



House of Commons
CANADA

Standing Committee on Aboriginal Affairs and Northern Development

AANO • NUMBER 013 • 2nd SESSION • 39th PARLIAMENT

EVIDENCE

Wednesday, February 13, 2008

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Chair

Mr. Barry Devolin

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•(1710)

[English]

The Chair (Mr. Barry Devolin (Haliburton—Kawartha Lakes—Brock, CPC)): Order, please.

Ms. Crowder, would you like to speak to your motion?

Ms. Jean Crowder (Nanaimo—Cowichan, NDP): I would like to speak to it.

I think it's unfortunate that our last discussion was not on the public record. I'm in the position of reiterating my point so that there is some public record of it.

I don't need to reread the motion, but we're calling on this committee to support a motion that we endorse the United Nations Declaration on the Rights of Indigenous Peoples as adopted by the UN General Assembly on September 13, 2007.

I think there are a number of very good reasons to do this. This committee has discussed it in the past, but given that there are any number of both national and international organizations and states that have supported it, I think Canada can look for an opportunity to demonstrate leadership on the rights of indigenous peoples.

Amnesty International, for example, has put out a paper called, *Righting Historic Wrongs, Embracing a Future of Justice and Hope*. I think those words, talking about embracing a future of justice and hope—particularly in light of what has happened in Australia over this last day or two—would send a clear message to first nations, Métis, and Inuit people in this country that Canada is willing to look at that future of justice and hope.

I would urge all members of the committee to support this.

Given that we've had substantial discussion, I wonder whether we could move to a vote on my motion. There are other motions before the committee that I know we'd like to consider today, so I would suggest that we call the question and move to a vote.

The Chair: I appreciate your comments, that we have discussed this in the past, and your interest to move it as quickly as possible. I share the general sentiment, but I also need to give other committee members who want to comment on it an opportunity before we call the question.

I have Mr. Bruinooge and Mr. Albrecht.

Mr. Rod Bruinooge (Winnipeg South, CPC): Thank you, Mr. Chair.

You are quite right, we have debated this a number of times. I know the positions are probably well known, although I'm going to

take the opportunity to continue to bring about the government's position on this.

One point I would like to make initially is that not only have motions similar to this one been passed in this committee in the previous Parliament, but another committee passed a similar motion just recently as well, so I believe it's just a bit redundant. There has been the motion already passed by the status of women committee. I know that obviously the opposition benches in this committee would like to duplicate that effort, but maybe I'll go more to the questions that I would like to bring forward in order to have at least some opinion put on the record by members of the opposition.

Within Canadian history, we have negotiated at different times in different contexts with our first peoples. I'll be the first to admit, as an aboriginal Canadian, that not all those moments were good ones. Perhaps not all of them were done in the fairest way, but over time there has been an effort to build a great country, which was done in conjunction with first nations people, with Métis people, with Inuit people. This entity called Canada is founded on many treaties that were negotiated throughout our country. It was built on constitutions that have been ratified by all of our peoples, and it continues to be a country that is built on an ongoing dialogue with our first nations people, our Métis people, and our Inuit people.

If we as a government were to endorse this international declaration, which clearly suggests within its text to reset the field to the context of the moment that contact with European nations first happened and provide that as the base point of all future negotiations, it really contemplates setting aside all that we've done as a country to get to where we are currently in 2008.

I just see what we're contemplating in this text as something that in fact could be very divisive for our country, something that will begin to unravel the things we've built up over the years and the ongoing interest we have in negotiating for the future. If we can't count on the negotiated treaties of the past, it's going to be very challenging to do anything in the future.

That is the question I would bring back to the mover of the motion. I'd also like to hear the opinions of others on the committee, who are very learned in this area and have a lot of good opinions. I would like to hear all their opinions on how we as a country will be able to entertain what is proposed by this declaration.

•(1715)

The Chair: Thanks, Mr. Bruinooge.

We'll hear Mr. Albrecht's view.

Mr. Harold Albrecht (Kitchener—Conestoga, CPC): Thank you, Mr. Chair.

I don't have all of the experience and personal knowledge that my colleague the parliamentary secretary has, but I do know that there were a number of attempts throughout the 1980s and 1990s by a number of different Canadian governments to work at achieving this UN declaration to affirm the rights of indigenous people around the world. It's my understanding that no Canadian government up until this point has in fact supported or agreed to the text in its current form.

So that's one concern I have: we need to have full discussion by all parties on this prior to moving ahead with this.

Currently, Canada does have constitutionally entrenched aboriginal rights. We believe that those constitutionally entrenched aboriginal rights represent clearer and more effective guidance than what is outlined in the current draft declaration.

The other point that needs to be made—and my colleague made this already, in terms of the divisive nature of what this could accomplish—is that we believe that for the final declaration to be useful, it will have to balance clearly and realistically the rights of all citizens, both aboriginal and non-aboriginal, in a way that promotes harmony and reconciliation, and it must not be open to interpretations that will cause further domestic confusion.

The point was also raised previously that this text revives the rights of aboriginal peoples that have been extinguished for hundreds of years, going back to treaties that have been negotiated since 1763.

As I pointed out the last time we discussed this particular motion, it's contrary to the National Defence Act. It actually prohibits the Minister of Defence from exercising his or her authority without the consent of aboriginal communities.

I could go on. The text is also inconsistent with the fundamental policies under which Canada operates in addressing aboriginal land and governance claims, including our policies on comprehensive claims, specific claims, own-source revenue, and inherent right to self-government.

The text also creates present-day rights to restitution for historical acts that were completely lawful at the time. I think that's important for us to understand. These acts were completely lawful at the time. This would create present-day rights for restitution, and in that sense, it's inconsistent with Canada's stated understanding of international law.

There are a number of other factors, I think, that we need to be very careful with. I think I want to go back to the first point, which was the fact that this has been an ongoing discussion for many years. Many successive Canadian governments have worked to achieve this declaration, and it would be, I think, improper for us to proceed with it at this time.

The Chair: Thanks, Mr. Albrecht.

I have Mr. Warkentin and then Ms. Crowder.

Mr. Chris Warkentin (Peace River, CPC): Mr. Chair, even today we were discussing how we were going to move forward in terms of moving current legislation. I think the struggle for all of us

is to understand the ramifications of moving something like this through the United Nations and how that will impact even current negotiations and the current attempts to rectify past wrongs.

We've seen the issue of the residential schools being rectified through that. I shouldn't say rectified; there have been attempts made to recognize the pain and suffering that was inflicted on aboriginal people. Canada has stepped up to the plate, I think, and taken responsibility for many past wrongs, and recognized that there have been past wrongs. But I'm not certain that moving with this motion is going to do it or that concurring with the United Nations on this effort will do anything to rectify past wrongs here in Canada, because we, as Canadians, have taken other measures in the context of our own realities.

I think every country that is part of the United Nations has different concerns and different circumstances relating to their indigenous people. I know there are similarities, but even across this country of Canada, we have different realities from one end to the other. So I don't think there's something that all nations can sign on to that's going to rectify or correctly address the concerns that aboriginal people have here in Canada.

● (1720)

The Chair: Thanks, Mr. Warkentin.

I have Ms. Crowder, and then Mr. Bruinooge again.

Ms. Jean Crowder: Thanks, Mr. Chair.

To go back to the earlier point Mr. Bruinooge made, that another committee has passed a motion supporting the declaration, I think it would be a sad comment if the aboriginal affairs committee did not demonstrate leadership in supporting the declaration. Although there is another motion out there, I think this is the place where it would be important for leadership to emerge.

Again, in terms of some of its philosophical underpinnings, this declaration is from the Amnesty document, which I think says it very well: "The declaration provides an inspiring vision of a new relationship between states and indigenous peoples, one based on cooperation and respect for the rights of all. The declaration consistently and repeatedly refers to collaboration, cooperation or partnership."

I just think the context says a lot about what people are hoping to see in terms of support and leadership. We often talk in this committee about being non-partisan, but this would be an opportunity to have a strong non-partisan statement in support of this declaration.

In terms of the specifics around some of the questions Mr. Bruinooge raised, my understanding is that there are specific articles that lay out the fact that there is a balancing of the rights of all parties, including third parties and states, in any of the disputes that arise. There are specific articles within the declaration that outline some of those matters.

I know some of the claims that have been made about it hindering the land claims process, but there are balancing mechanisms in place within the declaration. So I think some of the issues that have been raised are, in part, simply attempts to put spokes in the wheel of this declaration moving forward.

Again, we're going to run out of time in this committee, and I would suspect that we're going to have continuing attempts to delay a vote on this motion, so it'll come back to the committee again.

The Chair: Thanks, Ms. Crowder.

I have Mr. Bruinooge, and then Ms. Karetak-Lindell.

Mr. Bruinooge.

Mr. Rod Bruinooge: Mr. Chair, to speak somewhat in relation to what Madam Crowder has put on the record—and I appreciate her referring to the questions that I put on the table—I find myself in disagreement with what she said, and one of the main reasons is that the international community and the United Nations believe there is in fact a one-size-fits-all.

But in the context of Canada—and this was referred to by my colleague—we have such a wide degree of claims and historical negotiations that have occurred between various indigenous groups, aboriginal groups. There have been, for instance, a number of historical settings where we've had to mediate claims between Métis and first nations. Within the context of Canada, this is a unique scenario. The United Nations has a declaration that suggests something that really contemplates setting aside some of these ideas that we've had in the past on how we mediated these internal discussions in our country.

Another element that I find, of course, very problematic is that, without any consideration for what we've accomplished, there tends to be a seeping effect of these types of political declarations at the international level; and should Canada sign on, there is an authentication to what is said within the document, and we undoubtedly would begin to see it affect judicial rulings in our country. I know those who are on the other side of this issue would say that's completely false, that of course that could never happen, but I believe it to be the case, and I know it's the case.

We can look at specific rulings, some quite recently, where there is contemplation of considerable tracts of crown land being treated in a way that is outside the context of Canada. I refer to the William case in British Columbia.

When we start to refer to an ultra vires document such as the draft declaration and give it authentication and actually endorse it as a government, it would have, in my humble opinion, a dramatic effect on the legal discourse in this country. It would have a dramatic effect on the way that we continue to negotiate our agreements.

We'd like to see considerable finality to many of the ongoing negotiations that are on the table, but unfortunately, when some of the parties believe there are perhaps other means to achieving these goals, there is no progress made. So it is my hope that we can continue the progress that we've made as a country and not have this international declaration imposed on our Canadian context and attempt to rewrite the history that is within our encyclopedias today.

We can't run from our history. We need to reconcile it and need to have it apply in a context that's meaningful to all Canadians, and this is something that really, in my opinion, attempts to almost bring a revisionist concept to what we're actually looking at as Canadian history.

• (1725)

The Chair: Ms. Karetak-Lindell.

Ms. Nancy Karetak-Lindell (Nunavut, Lib.): Thank you.

In the interest of time, I'm going to make my comments very brief.

This declaration does not create any new rights. It is an affirmation of every country fighting for human rights, and—

Mr. Rod Bruinooge: There's a difference.

Ms. Nancy Karetak-Lindell: I didn't interrupt you while you were speaking, Mr. Bruinooge, so I expect the same.

On one hand, we've heard with other legislation that it has been 30 years since people have been talking about it and it's time to get on with it. That was the argument for Bill C-21. With this one, it's exactly the same. People have been working for a long time, but that argument now doesn't hold, and they want to hold off on this. It's interesting that 30 people supported it, with only two opposed. So this is like saying that those 30 countries have no idea what they're doing, that only two countries know what this means and that their position should prevail. I find that a little presumptuous.

Also, Australia was one of the countries speaking out against the declaration. Now that they have a new Prime Minister, it's a complete turnaround. They've offered an apology to indigenous people and have indicated that they would now support the declaration. So that argument makes it a little difficult for me, when other people can do an about-face as a country.

The argument that the Conservative Government of Canada keeps using, that this affects their ability to make international decisions, does not hold. Foreign Affairs and Indian Affairs had recommended that this be approved. The Department of National Defence made the same recommendation. But this government has rejected those positions. They have been working with African countries trying to change the text, and the very countries they're working with have horrific human rights abuses. So the arguments they're making against this are difficult to take.

So I strongly support it, and I say we go to a vote.

• (1730)

The Chair: Thank you, Ms. Karetak-Lindell.

The bells have started to ring. Mr. Bruinooge would like to speak again.

There are three options before this committee. One is to suspend the meeting and continue after the vote. The second option is to call the question at this time. I can do that if I have unanimous consent.

Is there unanimous consent to call the question?

Some hon. members: No.

The Chair: A third option would be to adjourn this meeting, if there's unanimous consent, and continue it at a future time.

So we can adjourn, with unanimous consent, and carry on at a future meeting, or I can suspend, in which case we'll return here in an hour and continue.

Did you have a question?

Ms. Nancy Karetak-Lindell: Why do you need unanimous consent to call the question now?

The Chair: Because I still have a speakers list.

The Clerk of the Committee (Ms. Bonnie Charron): The bells are ringing. Standing Order 115 says we have to suspend immediately, without unanimous consent.

The Chair: So I can either suspend and we return afterwards, or we could agree—

Mr. Chris Warkentin: Let's take it up at another meeting.

The Chair: Is there agreement to defer suspension, stop for today, and take this up at another meeting? Is there any disagreement?

Seeing none, I adjourn the meeting.

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Publié en conformité de l'autorité du Président de la Chambre des communes

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