

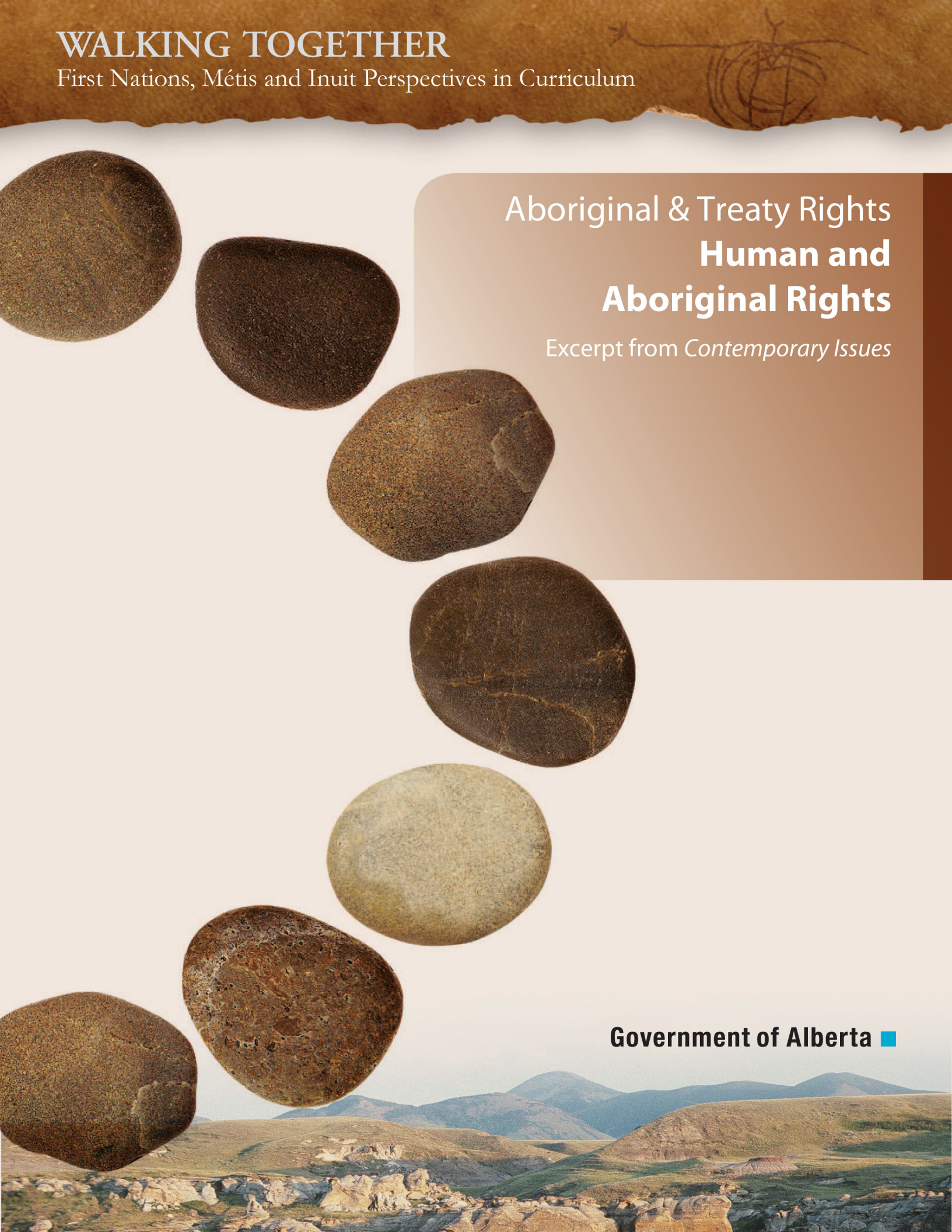
# WALKING TOGETHER

First Nations, Métis and Inuit Perspectives in Curriculum

## Aboriginal & Treaty Rights Human and Aboriginal Rights

Excerpt from *Contemporary Issues*

Government of Alberta ■





## HUMAN AND ABORIGINAL RIGHTS

Excerpt from *Contemporary Issues*

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## HUMAN AND ABORIGINAL RIGHTS

### A Summary of Colonial History in Canada

As you learned from the worlds of United Nations Special Rapporteur J. Martinez Cobo on page 5, indigenous peoples around the world have histories of colonization by other nations. Pages 6–7 review the history of the relationship between Aboriginal peoples and the governments that colonized Canada. Each group of Aboriginal people in Canada was affected differently by colonial policies, so all aspects of this summary do not apply to all Aboriginal groups. You will learn more about the specific experiences of First Nations, Métis, and Inuit peoples in later sections of this textbook.

The information on these pages is adapted from *People to People, Nation to Nation: Highlights from the Report of the Royal Commission on Aboriginal Peoples*, which was published in 1996. It summarizes many centuries of history into four stages.

Most of this information is likely a review of material you learned in other courses. If this history is unfamiliar, so some of your own research. You might start by reading the full Royal Commission highlights document at [www.ainc-inac.gc.ca](http://www.ainc-inac.gc.ca).

### Stage 1: Separate Worlds

There was a time when Aboriginal peoples (First Nations and Inuit) in the Americas and European peoples lived on separate continents and knew nothing of one another. Before 1500, societies in the Americas and in Europe developed along separate paths. The differences in their languages, cultures and social traditions were enormous. On both sides of the Atlantic, independent peoples with their own social, economic, and political systems flourished and grew.

### Stage 2: Nation-to-Nation Relations

In the years after the first contact, First Nations and European nations developed fragile relations of peace, friendship, and rough equality. Cautious co-operation, not conflict, was the theme of this period, which lasted into the eighteenth or nineteenth century, depending on the region. Early contact unfolded roughly as follows:

- mutual curiosity and apprehension
- an exchange of goods, tentative at first, then expanding steadily
- barter and trade deals, friendships and intermarriage, creating bonds between individuals and families
- military and trade alliances, creating bonds between and among nations

For the most part, First Nations and European nations saw each other as separate, distinct, and independent. Each was in charge of its own affairs. Each could negotiate its own military alliances and trade agreements. This co-operation was seen in treaties, both those in writing and those recorded by First Nations oral history and wampum belts, as well as in the Royal Proclamation of 1763.

### **Stage 3: Respect Gives Way to Domination**

In the nineteenth century, power tilted towards Euro-Canadian peoples and their governments. European settlers displace First Nations and Métis peoples from much of their land and tried to impose European ways upon them. Euro-Canadian peoples gained power during this period from four changes that were transforming this country:

- The population mix was shifting to favour settlers. Immigration continued to add their numbers, while disease and poverty diminished Aboriginal nations. By 1812, immigrants outnumbered Aboriginal peoples in Upper Canada by a factor of ten to one.
- The fur trade was dying, and with it the old economic partnership between traders and trappers. The new company was based on timber, minerals, and agriculture. It needed land — not labour — from Aboriginal peoples, who began to be seen as impediments to progress instead of valued partners.
- Colonial governments in Upper and Lower Canada no longer needed Aboriginal nations as military allies. The British had defeated all competitors north of the 49th parallel. South of it, the United States had fought for self-government against the British and won. The continent was at peace.
- An ideology proclaiming European superiority over all other peoples on Earth was taking hold. Europeans travelled throughout the world, taking charge of colonies to add their countries' wealth. The ideology of superiority provided a rationale for policies of domination and assimilation that slowly replaced policies of partnership in the North American colonies.

Ironically, the transformation from mutual sovereignty to domination by Euro-Canadian laws and institutions began with the documents of the era of nation-to-nation relations: treaties and the Royal Proclamation of 1763. These documents offered First Nations peace and friendship, respect and some degree of equality, but also “protection.”

The government's policy of protection was the leading edge of domination. At first, it meant preservation of First Nations lands and cultural integrity from encroachment by settlers. Later, it meant assistance, which in reality meant help in assimilating into Euro-Canadian settler society. Policies of protection took the form of compulsory European-style education, economic adjustment programs, social and political control by federal agents and more.

### **Stage 4: Renewal and Renegotiation**

Policies of domination and assimilation battered traditional Aboriginal institutions, sometimes to the point of collapse. Poverty, ill health, and social disorganization grew worse.

Resistance to assimilation went underground. In the fourth stage of relationship, resistance caught fire and began to grow into a political movement. One stimulus was the federal government's White Paper on Indian policy, issued 1969.

First Nations were nearly unanimous in their rejection of the proposed changes. With Inuit and Métis communities, they began to realize the full significance of their cultural survival in the face of sustained efforts to assimilate them. They began to see their struggle as part of a worldwide human rights movement of indigenous peoples. They began to piece together the legal case for their continuity as peoples — nations within Canada — and to speak out about it.

This is the stage of contemporary Aboriginal political, economic, and social renewal in Canada.

## **HUMAN AND ABORIGINAL RIGHTS**

The period of renewal and renegotiation described on page 7 gained momentum in the 1970s, but actually began many years earlier. It began with a fundamental change in the way colonizing countries viewed colonized nations.

This change in attitude was expressed on December 10, 1948, when the United Nations adopted the Universal Declaration of Human Rights. This declaration asserted that no cultures and no individuals are superior to any others. The declaration stated that all people are equal and deserving of rights and dignity. These human rights are above any rights guaranteed by a constitution, set of laws, or government. A person has these rights simply by virtue of being human. Human rights are inherent part of human existence.

Throughout colonial history, Europeans had acted under the belief that societies with more advanced technologies also had people who were more advanced. In centuries past, when European countries colonized new territories — Asia, Africa, and the Americas — they felt justified under this belief of superiority, in attempting to change, control, or destroy the cultures they encountered.

To a great extent, World War II changed this thinking. In Germany, the Nazi government's extreme racism proclaimed that Aryan (non-Jewish Caucasian) people were genetically superior to others. These beliefs led to the systematic murder of millions of people. Individuals and countries around the world were horrified. Even before the war ended, a group of nations were working together to try to prevent anything similar from ever happening again.

In 1945, fifty-one countries formed the United Nations. According to the declaration of human rights adopted three years later, all peoples have the right to determine their own potential, economic, social, and cultural futures without external interference from other nations.

In the years following World War II, most European colonial empires were dismantled, creating many more independent countries in the international community. European countries were recovering from an expensive war and could no longer justify having colonies — financially or politically. Nor could they justify them morally in the face of changing attitudes about equality and human rights.

Some Countries, such as India, Sri Lanka, and Burma, became independent, as they had been before European colonization. Other countries, such as many of those in East and West Africa, were created from groups of formerly independent territories or kingdoms.

In other parts of the world, such as the United States and Canada, the situation for indigenous populations remained unchanged. Aboriginal peoples in North America were not recognized by the world community and independent nations.

### **Aboriginal Rights**

In the civil rights movement of the 1960s, African Americans demanded to have the same rights as other American citizens. This inspired Aboriginal peoples to make their own demands. In the United States, the American Indian rights movement expressed the rights of indigenous peoples in that country.

In Canada, First Nations, Métis, and Inuit political groups gained strength in their assertion of Aboriginal rights. Aboriginal rights belong to a group of people because of their position as indigenous peoples. They and their ancestors have a long history of occupying and using the land. This history entitles them to certain cultural and land rights.

The Aboriginal rights movement gathered momentum during the 1960s, but Aboriginal peoples' demands for self-determination began much earlier. For example, Métis calls for autonomy date back to the Red River settlements in the early nineteenth century. Many people consider the Battle of Seven Oaks in 1816 as the beginning of Métis nationalism. Leaders from the Six Nations Confederacy have declared their independence from British and Canadian authority since the late eighteenth century. Throughout Canadian history, First Nations, Métis, and Inuit groups have resisted Canadian government policies and legislation in ways that range from quiet resistance to armed conflict.

Most Aboriginal rights involve land. A land claim is when a group of people asserts its right to title or other rights regarding certain territories. Aboriginal title is a legal right to exclusive use and occupancy of a specific territory, which is usually ancestral land. Both these terms will be explored in more detail in Chapters Three and Four.

### **COLLECTIVE AND INDIVIDUAL RIGHTS**

All Aboriginal rights are collective rights, which means they belong to a group of people. For example, the traditional knowledge of a particular First Nation or Inuit group belongs to the whole group, including ancestors of the group and those who are yet to be born into the group. Traditional knowledge includes generations of experience with aspects of life such as the behaviour of animals, seasonal change, traditional medicines, and plant cycles. A few individuals in a group might be entrusted with this knowledge, but the information itself is collective property.

In Blackfoot, the concept of a collective right to land is described as *O'kiowai:ssksaahko. Kimaatotamsksaahkoominnoona. Manaakitapiiwamattsito 'tohkoikiwai.* (The land is collectively owned by our people. It is not ours alone. The ones who have not yet been born have a right to it, too.) In the Cree language, a similar concept is expressed by *Kisé manito ôta ê-kî ahikoyahk tanâkattēyihmahk ôma askiy.* (The Creator has placed us here to look after this land.) The Dene Suliné say *Setsune adi nuhni theh dja nahide hih.* (Grandmothers say that this is our land. The Dene Suliné are the first people of North America.)

In contrast, cultures based on Western European philosophical thinking tend to define rights in individual terms. Individual rights protect people's ability to pursue their lives in their own self-interest. This worldview asserts that what is good for an individual might not be good for the

group. For example, individuals living on the land might want to hoard food to make sure they have enough to survive a long winter, even if this means other people in the group will not have enough to eat.

In reality, most governments protect people's rights to pursue their own interests only as long as this pursuit does not infringe upon other people's ability to do the same. The purpose of a government is to ensure balance between various individual self-interests. If the act of hoarding food did not prevent other people from hoarding their own food, that right would be protected.

Traditional Aboriginal forms governance did not distinguish between individual self-interest and the interests of the group. They were seen as one and the same. Individuals who act against the good of the group would be perceived as acting against their own interests as well.

Using the example of individual hoarding food, such selfishness would be perceived as a foolish depletion of the individual's support network. What if the individual survived the winter, but became sick or injured and unable to hunt in the spring? Without the support of the group, the person might not survive.

The collective rights that belong to an Aboriginal group vary from nation to nation and community to community, depending on their history and culture. For example, one First Nation may have an Aboriginal right to fish, while another may have a right to hunt moose. Aboriginal leaders maintain that these rights include everything necessary to live a good life, including rights to land and the right to preserve language, values, and political, economic, cultural, legal, and spiritual systems. In the Canadian legal system Aboriginal rights are defined on a case-by-case basis by the courts. Chapters Two, Three, and Four explore the implications of this process.

## **INHERENT RIGHTS**

Aboriginal rights are inherent rights. Inherent rights cannot be taken away, transferred, or surrendered. Inherent rights cannot be given, but can be recognized, by a government. These rights are sometimes called inalienable rights.

Aboriginal leaders often stress that their nations have the inherent right to sovereignty, or independence, and have had this right from time immemorial. The right was never lost, although the ability to exercise the right may have been.

Some people misunderstand and respond negatively to a demand for sovereignty, seeing the demand as the desire to separate from Canada. Most Aboriginal leaders do not want to pursue separation, but want to prevent the federal government from imposing rules upon or interfering in Aboriginal ways of life.

Perhaps because sovereignty can be a controversial term, most Aboriginal leaders call instead for the right to self-determination. Self-determination allows control over such areas as education, cultural preservation, economic development, and government. Self-determination is ultimately the right of a nation to determine its own future.

Many leaders frame this demand as the desire for self-government, through which they hope to achieve all the goals of self-determination. Self-government is a community's right to make decisions about matters internal to the community. It is also the most common means of achieving self-determination in Aboriginal communities today, and has become an integral part of land-claims negotiations.

### **A Declaration of First Nations**

We the Original Peoples of this land know the Creator put us here.

The Creator gave us laws that govern all our relationships to live in harmony with nature and mankind.

The Laws of the Creator defined our rights and responsibilities.

The Creator gave us our spiritual beliefs, our languages, our culture, and a place on Mother Earth which provided us with all our needs.

We have maintained our Freedom, our Languages, and our Traditions from time immemorial.

We continue to exercise the rights and fulfill the responsibilities and obligations given to us by the Creator for the land upon which we were placed.

The Creator has given us the right to govern ourselves and the right to self-determination.

The rights and responsibilities given to us by the Creator cannot be altered or taken away by any other nation.

— Assembly of First Nations