



WISCONSIN CATHOLIC CONFERENCE

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INDIAN TREATY RIGHTS IN WISCONSIN

A CALL TO COMMUNITY

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From the earliest days of our Church the Apostles have taught that all people regardless of race, sex, or political power are one in Christ.(1) This truth is central to the Gospel, yet it is frequently necessary to remind ourselves of the need to respect the rights and dignity of people whose traditions and ways of life are different from our own. Events of the last several years surrounding the interpretation and use of treaty rights guaranteed Indians in Wisconsin compel us to restate this message. While much of the statement deals more directly with the specific matter of the Chippewa, we intend for it to apply to all Indians in Wisconsin.

As was the case with the Statement of the U.S. Catholic Bishops on the Church and American Indians over a decade ago, we come to this statement aware of our failures to respect the rights and cultural heritage of our American brothers and sisters.(2) We offer this statement as Catholic Christians in Wisconsin and as brothers and sisters to all citizens of our state, whether their ancestors are native to this land or whether they came to it, at the end of a long journey from other places. Our goal is not to condemn but to help heal; not to rewrite the past, but to reaffirm the possibilities of the future; not to judge different cultures, but to encourage sharing and understanding between them. In the process, we hope to remind all who will hear us that, while our common humanity endows us with certain rights, our choice to embrace the Gospel confers upon us obligations to exercise those rights in charity and with respect for others.

THE HISTORICAL PERSPECTIVE

The history of our state makes it clear that American Indians have certain inalienable rights to the land and its resources. These rights flow not only from thousands of years of physical presence, but from cultural traditions of reverence for the land and a lifestyle that respects it. Both were recognized by our ancestors.

Indians have lived in what is now Wisconsin for some 14,000 years.(3) The first Indians adopted a lifestyle developed from acceptance of the environment. They fished the streams, they harvested the fruit of the land, and they refined the sap from the maple trees.(4) Generally the Indians lived at peace with themselves and one another. While inter-tribal conflicts took place, they became more frequent and more vigorous only with the appearance of European settlers.(5) More specifically, the Chippewa, especially the Lake Superior bands, were less aggressive than other tribes, and they fought no bloody wars of resistance against white pioneers.(6) Their culture in place at the time of the first contact with white settlers had changed little over 2,000 years.(7) While some may view this stability as a lack of progress, to others it represents a successful adaptation to the land and environment. Modern Americans of all races will do well to emulate this ability to live in harmony with nature as we ponder our many environmental, economic, and social difficulties of today.

By the time Wisconsin achieved statehood in 1848, approximately 10,000 Indians lived here.(8) They lived peacefully with the white settlers of the period, and this harmonious coexistence accompanied the enactment of the treaties of 1837, 1842, and 1854. Those treaties, which are the source of the present controversy, were precipitated, not by unrest on the part of the Chippewa, but rather by the entrance into Wisconsin of copper miners, lumber interests, farmers, and builders. Their successful ratification played a vital role in the growth of Wisconsin, especially around western Lake Superior. The treaties secured north shore mineral resources, opened timber forests for development, and, by not displacing the Indians themselves, provided and preserved an important labor supply for the economic interests which entered.(9)

The treaties were certainly in the interests of Wisconsin's development as a state, and the citizens of the time had no desire to remove Indians from the state. On the contrary, Joint Resolutions from both the Michigan Legislature and the Wisconsin Legislature specifically petitioned the Federal Government not to remove Indians from these two states even though the treaties of 1837 and 1842 allowed it.(10)

Unfortunately, the treaties' long term effects were not equally beneficial to all. Although they have remained in Wisconsin for 140 years since statehood and their population has nearly doubled (11), most Indians have certainly not shared in the growth and progress which the state has enjoyed since that time.

More than a quarter of the housing units with Indian householders or spouse over age 65 lack central heating compared to 10% of the state as a whole. Of these housing units, 15% have no telephone and 44% have no vehicle. This compares with only 3% and 27% respectively for the balance of the state. Almost 16% of owner-occupied Indians' homes in Wisconsin lack complete plumbing compared to less than 6% for all of Wisconsin. Indian unemployment remains far above the statewide average, and the percent of Indian deaths attributed to suicide is more than double that of other races in Wisconsin. Indians under the age of 35 have had a death rate of $3\frac{1}{2}$ times larger than that of the general population.(12) Twenty-two percent of American Indian families in Wisconsin had incomes below the poverty line, whereas this was true of only 5% of all the state's families. The median family income for Indians is only 64% of that of white families. Those Indians who live on reservations tend to be worse off economically than those who live elsewhere.(13)

These disparities cannot be explained away by differences of character and motivation. Nor can they be justified by the fact that many Indians choose to live differently from the rest of society. Rather, we must seriously consider the statement in the Wisconsin Blue Book of 1975 that "Indians have kept their part of the bargains, but, more often than not, white society has ignored its commitments."(14) We must recognize this gap between what Indians and the rest of us have realized since the treaties were ratified; especially when evaluating the argument that Indians who exercise treaty rights should be limited to the technology available to them when the treaties were signed.

Indeed, some have argued that the dependence of many Indians on white society has its origins in the type of life the treaties required the Indians who remained in Wisconsin to lead. As one researcher found:

"Before 1854, they (the Chippewa) needed his superior tools, weapons, utensils and other manufactured goods. After the Chippewa were on reservations, they relied heavily on annuities from Washington, lumbermen to clear their land, Bureau of Indian Affairs Money Managers, and off reservation employment....Chippewa poverty and maladjustment in the prevailing economic system went hand in hand with such dependence."(15)

It also must be admitted that government policy toward Indians has been anything but consistent in the years since statehood. Until the 1930's the Federal Government's primary goal for the Chippewa and other Indians was to "civilize them" by eradicating the most apparent features of their culture and replacing it with white cultural traits.(16) Since then, federal policy has vacillated between an effort to strip Indians of their distinctive culture and efforts to respect that distinctness and viability.(17)

Throughout all this, there seems to have been a consistent failure to understand the Indians on their own terms, to recognize and deal with their own aspirations and goals, and to understand that the values and lifestyles they hold dear may be different from those which preoccupy so many other Americans today. This must be kept in mind when we are tempted to judge the Indians for a refusal to accept complete assimilation into white society.

Beginning in the late 1960's and early 1970's, as Indians began to assert the rights and guarantees retained by the treaties of the last century, their claims have been upheld by the courts. The reaction to these court decisions has been emotional and the debate surrounding them not always constructive. Part of the problem is due to the fact that many people retain certain misconceptions about what the court decisions and the treaties really mean.

Some argue that the rights were manufactured by the courts and imposed upon an unwilling citizenry. The fact is that the treaties of 1837, 1842, and 1854 make it clear that these rights always existed. Another erroneous claim is that such rights are unique. While it is true that the hunting, fishing, and gathering recognized in such treaties may be exercised only by Indians, the rights are very similar to those routinely exercised by property owners. Indeed, these rights are analogous to mineral rights, which may be retained when the land is sold. A third misconception is that the treaty rights are unlimited. In fact the rights are exercised under interim agreements negotiated with the State of Wisconsin. They are subject to quotas, seasons, and additional regulations adopted by each tribe or band.

These misconceptions, coupled with ill-informed public statements about the implications of the treaties, have had a destructive effect on efforts to foster good will and understanding between the Indians and non-Indians in Wisconsin.

A CHRISTIAN RESPONSE

We urge everyone to reflect on several important relationships that are intertwined with the discussion of treaty rights. One is the relationship between human beings of different cultures, which leads us to the problem and fact of the existence of racism; the second is the relationship between people and the land, which leads us to the nature of stewardship; and the third is the relationship between society and the rule of law, which leads us to the treaties themselves.

Let us begin with the problem of racism. As the Bishops of the United States wrote nearly ten years ago:

"Racism is a sin: a sin that divides the human family, blots out the image of God among specific members of that family and violates the fundamental human dignity of those called to be children of the same Father. Racism is the sin that says some human beings are inherently superior and others essentially inferior because of race. It is the sin that makes racial characteristics the determining factor for the exercise of human rights. It mocks the words of Jesus: 'Treat others the way you would have them treat you' (Mt. 7:12)."(18)

As mentioned earlier in this statement, the economic plight of Indians in Wisconsin offers ample evidence that they have suffered and borne more than their share of our inability as a society to cope with economic change over recent decades. This cannot be attributed solely to an unwillingness on the part of the Indians to fully adapt to contemporary culture. It must be acknowledged with complete candor that discrimination and racism have accounted for a significant portion of these differences.

Our challenge is not to deny this past, but to rise above it. In doing so we would do well to remember our own heritage. Like the Chosen People whom Moses led out of Egypt, our ancestors were pilgrims leaving the only lands they ever knew to seek freedom, fulfillment, and a better life in a place they had never seen before. The Book of Exodus tells us that as God gave His Commandments to His people, He admonished them to treat those they found in their new land with justice, "You shall not oppress an alien; you know how it feels to be an alien, since you were once aliens yourselves in the land of Egypt."(19)

Our ancestors, to their discredit, ignored this advice and instead fulfilled the prophecy of Micah, "They covet fields and seize them, houses, and they take them; they cheat an owner of his house and of his inheritance."(20)

While tensions between Indians and non-Indians in Wisconsin today flow from decisions made and attitudes held by previous generations, the challenge of dealing with them is ours. The absence of personal guilt for past wrongs does not absolve us of all responsibility. We must resist and undo injustices we have not caused, lest we become bystanders who passively endorse evil and so share in the guilt for it.(21)

The justice God calls His people to give is not measured by uniformity or equality but rather respect. Like those who arrived in the Promised Land, our mission is to treat our neighbors with dignity and honor, to live side by side in peace with those who were here first. We are called to remember the travels of our ancestors and the uncertainties they faced in winning acceptance in a strange land from peoples they did not know. It calls us to turn away from the tradition of treating Indians as aliens in their own land and, instead, to respect their right to sustain the bonds and traditions of their ancestors who were here before any of us.

For non-Indians, indeed for everyone, this means rising to the challenge of understanding other people, accepting their uniqueness and the fact that they have made different choices about how to live and relate to our world. For Indians themselves, it means resisting the temptation to flaunt rights too long suppressed or denied, or to use these rights to exact "legal revenge" on people who have wounded them before instead of employing them for the purpose expressed in the treaties. Meeting these challenges will be difficult for all of us. But as pastors we call all of our brothers and sisters to do so - for only then can we live together in true harmony.

The legacy of Wisconsin's Indian ancestors leads us to a discussion of stewardship, which means caring for God's creation. Civil title to the land does not confer absolute ownership of it. That belongs to God alone. Rather, stewardship is expressed by custody of the land according to the civil laws governing property relationships at that time and place, laws that must always be subordinate to those of God. In addition, the land must be used wisely, according to the best of current knowledge so that both present and future generations might benefit.(22)

Wisconsin's first residents had a special relationship with the land that should serve as an example to us. Their way of life and religion were based on a sense of harmony with nature and gratitude to God for providing for their needs. The first Wisconsinites lived the commandment of Leviticus that land must not be sold in perpetuity, that human beings, no matter how wealthy and powerful, are only strangers and guests on it (23), and they avoided the practice of perpetual ownership which changes the land's nature as a community benefit to one of private preserve. To argue that this way of life is inferior and less suited to nature than our own ignores both history and the values and success of the Indian culture.

Today, stewardship makes important demands of all of us. It compels us to examine carefully whether all commercial development and growth is truly in the best interest of the land and of the next generation. At the same time, it calls upon Indians to continually ask themselves if the methods and practices by which they exercise their treaty rights truly conserve the land and its resources according to the best of current knowledge.

Thirdly, the existence of the treaties and the rights they confer force us to reflect upon our commitment to the rule of law. The Gospel tells us we are a people of the covenant; of agreements written and unwritten, which bind us together in society and to our Creator. Moreover, by affirming the rule of law and living it out in our lives, we set a powerful example for our children and reinforce our efforts to teach them to face up to the responsibilities that are theirs in life.

Accordingly, we are called to honor these covenants made by our ancestors. This involves two basic commitments. The first is to view Indian tribes as sovereign nations when negotiating the issues associated with the treaties. Whether we agree with it or not, our ancestors made the decision to deal with the Indians in Wisconsin in this manner. Whatever their other failures, they chose a different course than that taken by less enlightened nations before them who treated weaker societies as conquered people with no rights whatever. Their Judeo-Christian heritage led our forefathers to choose the rule of law in ratifying their ongoing relationship with Indian tribes. It is a rule of law we are bound to and must uphold.

The second is to acknowledge that changing the treaties can be done only by mutual consent. Unilateral modification or abrogation of these treaties violates the rule of law to which our ancestors pledged themselves and us. For that reason, we applaud the decision of the Federal Congress not to modify the treaties without the mutual consent of the State of Wisconsin and the Chippewa. We believe that to do otherwise would violate both our word as a people and our duty to the rest of society, the world, and the next generation.

In exhorting our fellow citizens of this state to live under the rule of law, we do not assert that efforts to modify the treaties are morally wrong. All of us, Indian and non-Indian alike, have an equal right to petition our government to seek a redress of grievances. However, all who wish to change the treaties by which we live must practice the same reverence for the laws as they exist today that they have expected of the Indians in the past. If the historical record of the relationship between white Americans and Indians teaches us anything, it is that violent resistance to the rule of law is futile and brings only pain, suffering, and defeat to those who walk down its path.

As we call upon everyone in Wisconsin to walk down a different path, we also offer the following specific observations and suggestions:

- 1) We applaud the ongoing efforts of all who negotiate the agreements under which the treaty rights are exercised. They are contemporary examples of those referred to in the Sermon on the Mount, "blessed are the peacemakers, for they shall be called God's children."(24)
- 2) We also applaud those citizen organizations, representing all sides of the debate, who emphasize discussion and dialogue and counsel against violent expressions of their points of view.
- 3) Since mutual respect and understanding are essential to a happy resolution of these issues, we heartily endorse educational programs that foster improved understanding of these issues. To this end, we encourage efforts to educate everyone, especially the young, on the history of Indians in Wisconsin. We recommend that such programs place a special emphasis on the culture and customs of those tribes and nations still living with us. Such educational efforts must also focus on the background and content of the treaties, so there are no misconceptions as to what they mean.
- 4) Similarly, we affirm the dignity and self-control of those who have had to endure verbal and physical abuse as they have exercised their treaty rights and applaud their decision to return the insults directed at them with nonviolence.
- 5) We call upon all citizens to be open to objective assessments of the impact of the practices allowed by the treaty on Wisconsin's fish and game resources. We believe such an understanding can do much to defuse resentment and tension.
- 6) Conversely, we deplore misleading or erroneous statements which confuse public opinion and contribute nothing to efforts to enlighten the citizenry as to the implications of treaty rights and their use.
- 7) We also deplore slogans, commercial enterprises, and other behavior which has the effect of reviving or encouraging racial prejudices and violent behavior. Not only does such activity increase the potential of violence, but demeans those who participate in it far more than the Indians at whom it is directed.
- 8) We call upon the news media and others who describe events surrounding the negotiations and the hunting and fishing activities allowed by them to avoid inflammatory and misleading accounts of what takes place. Special effort must be made to distinguish between derogatory protests marked by racism or verbal and physical intimidation and those peaceful demonstrations of dissent, with the policies being enforced. Impressions which imply that all non-Indians are racists are as unfair as those which view all Indians as lazy.
- 9) Finally we encourage all efforts, in both the public and private sectors, to bring Indians into the economic mainstream of Wisconsin. Not only do these efforts advance the Gospel mandate of social justice, but they will alleviate the need of many Indians to rely on fish and game acquired through exercise of treaty rights for subsistence.

CONCLUSION

Over ten years ago, the Bishops of the United States, in speaking on the Church and the Indians of our nation, acknowledged the following:

"As American Catholics, we have learned only gradually and with difficulty that the building of one community can only be authentic if it is based upon respect for the distinctive traditions, customs, institutions and ways of life of its people."(25)

The task of building our community from such a diverse mix of backgrounds and cultures has convinced us that it is possible. As we look at our beloved State of Wisconsin, we see that, despite the past failures and present tensions of our efforts to live as a community, we have all come a long way together since the white settlers were greeted by Wisconsin's first residents over three centuries ago. We offer our prayers and continued support that we may all, strangers and guests to this special part of the earth, continue in peace our earthly pilgrimage to the Kingdom of God.

6/15/88

FOOTNOTES

- (1) Galatians 3:28
- (2) "The Church and American Indians: Toward Dialogue and Respect",
Origins, May 19, 1977, p. 766
- (3) Hodge, William H., Ph.D., "The Indians of Wisconsin",
Wisconsin Blue Book, 1975, p. 111
- (4) Danziger, Edmund J., The Chippewas of Lake Superior,
University of Oklahoma Press, 1978, p. 6.
- (5) Hodge, op. cit., p. 114
- (6) Danziger, op. cit., preface ix.
- (7) Ibid., p. 8.
- (8) Hodge, op. cit., p. 119.
- (9) Danziger, op. cit., pp. 9, 86.
- (10) Ibid., p. 88
- (11) Hodge, op. cit., p. 120
- (12) Indians in Wisconsin 1978-82, Center for Health Statistics,
Wisconsin Division of Health, 1985, p. 9
- (13) Sandefur, Gary D. and Sakamoto, Arthur, Improving the
Economic Well-Being of Indians in Wisconsin, June 1986
- (14) Hodge, op. cit., p. 100
- (15) Danziger, op. cit., p. 211
- (16) Ibid., p. 92.
- (17) Hodge, op. cit., p. 124, and Sandefur & Sakamoto
- (18) "Brothers and Sisters to Us, NCCB Statement on Racism",
Origins, Nov. 29, 1979, p. 383.
- (19) Exodus 23:9
- (20) Micah 2:22
- (21) "Brothers and Sisters to Us", op. cit., p. 384
- (22) "Toward Community in the Heartland: Strangers and Guests",
statement by the Midwestern Bishops, Origins, June 26, 1980, p. 88.
- (23) Leviticus 25:23
- (24) Matthew 5:9
- (25) "Toward Dialogue and Respect", op. cit., p. 766.