

The Charlottetown Accord

What is it?

The Charlottetown Accord is the document agreed to by the federal government, provincial and territorial governments and Aboriginal leaders in Charlottetown, Prince Edward Island on August 28, 1992. Legal wording must be developed and resolutions passed by the federal and provincial governments before the proposed constitutional changes can become law. A Canada-wide referendum is scheduled for October 26, 1992 in which all Canadian voters will have the opportunity to say whether or not they agree with the Accord. The results of the referendum may influence governments but they are not binding, which means that governments have the power to ratify the agreement and change the constitution regardless of the referendum results.

What's in it?

The Charlottetown Accord proposes sweeping changes to the existing constitution. Many of the sections affect Aboriginal peoples. Following is a summary of the sections of the accord which specifically address the rights of Aboriginal peoples:

The Canada Clause:

A new clause to be included in section 2 of the constitution will be used to guide the courts in interpreting the constitution. Section 2. (1) (b) reads,

the Aboriginal peoples of Canada, being the first people to govern this land, have the right to promote their languages, cultures and traditions and to ensure the integrity of their societies, and their governments constitute one of three orders of government in Canada;

Other parts of the Canada Clause recognize Quebec's distinct society and society's commitment to racial, ethnic and gender equality. Section 2. (2) specifically affirms "the role of the legislature and Government of Quebec to preserve and promote the distinct society of Quebec."

Aboriginal Peoples and the Charter of Rights and Freedoms

Section 25 currently protects Aboriginal and treaty rights from being eroded by any of the other rights in the Charter. An expanded section 25 will ensure that "nothing in the Charter abrogates or derogates from Aboriginal, treaty or other rights of Aboriginal peoples, and in particular and rights or freedoms relating to the exercise or protection of their languages, cultures or traditions."

The Inherent Right of Self-Government

A new section 35.1(1) will recognize that the Aboriginal peoples of Canada have the inherent right of self-government within Canada. In particular, Aboriginal governments will have the authority "to safeguard and develop their languages, cultures, economies, identities, institutions and traditions; and to develop, maintain and strengthen their relationship with their lands, water and environment." Courts will not be able to rule on the inherent right until 5 years after the amendments become law.

Exercising the Right to Self-Government

The constitution will contain a commitment by the federal and provincial governments and the Aboriginal peoples in the various regions and communities of Canada to negotiate in good faith with the objective of concluding self-government agreements. Negotiations would focus on the implementation of the right of self-government including issues of jurisdiction, lands and resources, and economic and fiscal arrangements.

The Negotiating Process

A political accord will be developed to guide the process of self-government negotiations.

Constitutional Protection of Self-Government Agreements

The Charlottetown Accord states that self-government Agreements should be set out in treaties, including land claim agreements: treaty rights are currently protected under Section 35(1) of the Constitution, and land claim agreements are considered to be treaties. Self-government rights in other types of agreements could also receive constitutional protection if a section of the agreement explicitly states this.

Application of Federal and Provincial Laws

Until Aboriginal governments pass laws within their jurisdictions, existing federal and provincial laws will apply. A constitutional provision will ensure that Aboriginal governments do not pass laws inconsistent with existing laws which are "essential to the preservation of peace, order and good government in Canada."

Gender Equality

Section 35(4) of the constitution currently "guarantees existing Aboriginal and treaty rights equally to male and female persons." There are no changes to this section, and the issue of gender equality will be discussed at a First Ministers' Conferences of Aboriginal Constitutional matters scheduled for 1996.

Inuit Tapirisat of Canada and the Constitutional Reform Process *(Excerpts from ITC 1991-92 Annual Report)*

"The past year has been a crucial one for Inuit and for our collective aspirations as a people. Some of the most far-reaching constitutional talks in Canada's history got under way, and the Inuit Tapirisat of Canada (ITC) was involved from the start.

The stakes for Inuit and other aboriginal peoples have been very high: to bring aboriginal peoples into Confederation as full and equal partners.

Start of the New Constitutional Round

Last summer, pressure began to build for a new initiative to amend the Canadian Constitution because of Quebec's frustration over the 1990 death of the Meech Lake Accord.

Quebec has passed legislation calling for a referendum on its future in Canada, with a deadline of October 26, 1992. Other provinces also sought constitutional change --for example, Alberta and Newfoundland want an equal, effective and elected Senate.

Inuit have insisted that this "Canada Round" bring about constitutional recognition of the inherent right of aboriginal self-government, protection for Inuit language and culture, and recognition as one of three orders of government.

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ITC and Constitutional Reform (continued)

In September (1991), Ottawa released a comprehensive package of proposals for reform called *Shaping Canada's Future Together*. The *Special Joint Parliamentary Committee on a Renewed Canada* was formed to hold public hearings on these proposals across the country. ITC conducted its own consultations through regional Inuit organizations and an Inuit Assembly on the Constitution.

ITC Constitutional Consultations and Political Lobbying

For most of last fall, ITC focused on developing the general framework for an Inuit constitutional position. Its starting point was the *Pangnirtung Accord*, adopted unanimously by the *Inuit Assembly on the Constitution* in September 1991. There were three key principles:

- * Inuit are a distinct people and society and should be constitutionally recognized as such;
- * Inuit should have the inherent right to self-government and this right need not be defined for the purposes of constitutional entrenchment; and
- * Inuit must have full, direct and equal participation in all stages of the current constitutional process.

ITC created the *Inuit Committee on the Constitution* (ICCI) chaired by ITC President, Rosemarie Kuptana and consisting of representatives from each of the Inuit regions. A Legal/Technical Team was also formed to give the committee political and legal advice.

Each of the six Inuit regional organizations, the Inuit Youth Team, and Pauktuutit held community and regional level meetings on Inuit constitutional concerns. Results of these consultations were fed into the work of the Legal/Technical Team and the ICCI.

Beginning in January 1992, ITC participated in meetings with the Joint Parliamentary Committee, and Inuit representatives attended six policy on the Constitution held across the country. ITC representatives were centrally involved in the policy conference on Aboriginal Issues, held in Ottawa in mid-March. Mary Simon co-chaired this conference with Premier Joe Ghiz.

Multilateral Meetings on the Constitution

At the end of February, the *Report of the Special Joint Committee* (the Beaudoin-Dobbie Report) was released.

ITC saw the Report's recommendations on aboriginal self-government as falling far short of Inuit objectives, but useful as a starting point for discussion. At the March 12th Constitutional Affairs Ministers' meeting in Ottawa, the federal government was forced to open up the reform process and involve Inuit and other aboriginal peoples in all constitutional matters under discussion by Ministers.

As a result of interventions by ITC and other aboriginal groups, the meeting's final communique invited "representatives of the Aboriginal peoples to be full participants in the constitutional process agreed upon." This was a major victory for Inuit and the other aboriginal peoples.

Constitutional negotiations over the next three and a half months largely followed the terms of the March 12th agreement. The objective was to reach a "best efforts agreement" on an overall package by the end of May. Rosemarie Kuptana and other Inuit leaders have represented Inuit interests at the Ministerial level." (*end of excerpts from ITC Annual Report*)

ITC Supports Constitutional Deal

The Charlottetown Accord, agreed to by First Ministers and Aboriginal leaders in late August, recognizes the inherent right of self-government. It also recognizes Aboriginal governments as one of three orders of government in Canada. ITC recently formed a *Referendum Committee* to campaign for the "yes" side in the upcoming referendum on the Charlottetown Accord. Pauktuutit President Martha Flaherty is a member of this Committee.

Pauktuutit Board Calls for Constitutional Protection of Language and Culture

WHEREAS Inuit women, as the custodians of Inuit culture, are committed to the preservation and enhancement of Inuit culture and the Inuktitut language;

BE IT RESOLVED THAT Pauktuutit develop detailed proposals for the constitutional recognition, protection and enhancement of Inuit language and cultural rights;

AND FURTHER that the recognition, protection and enhancement of Inuit language and culture be pursued in all relevant processes and forums dealing with the reform of the Canadian Constitution and other issues of national unity.

MOVED: Enooya Enook **SECONDED:** Mary Matto
Carried Unanimously at Pauktuutit's Board of Directors Meeting, September 17, 1991, Iqaluit

Note: The right to promote Aboriginal languages and cultures is recognized in the Canada Clause.

Native Women's Association of Canada

Summary of a press release issued by the Native Women's Association (NWAC) on September 2, 1992:

"Gender equality has been postponed to a 1996 First Minister's Conference on Treaty and Aboriginal Rights under the Charlottetown constitutional "deal" reached by First Ministers and Aboriginal leaders in late August 1992," said Gail Stacey-Moore, Speaker, Native Women's Association of Canada (NWAC).

The Native Women's Association was denied seats as full participants at the Charlottetown Conference, despite winning a victory in the Federal Court of Appeal. It went to court in an attempt to gain equal status with other Aboriginal groups in the constitutional negotiations as well as funding equal to that received by the four national Aboriginal Associations - The Assembly of First Nations, the Native Council of Canada, the Metis National Council and the Inuit Tapirisat of Canada.

"The federal Court of Appeal found the Federal Government deliberately violated the Charter rights of aboriginal women and the Native Women's Association of Canada by giving seats at the table only to men's organizations," said Stacey-Moore.

Commenting on the new constitutional deal, Stacey-Moore said, "Native women have cause to worry about the new constitutional deal, including the wording proposed for the Canada Clause... Under this new package, every aspect of Native life will be interpreted to recognize that Aboriginal peoples have the right to promote their languages, cultures and traditions and to ensure the integrity of their societies..."

"Culture, tradition and societies are undefined terms in law right now, and there is nothing preventing Native governments from introducing sex discriminatory laws in the communities," said Stacey-Moore.

NWAC is opposing the referendum on the grounds that legal drafting is currently taking place without their involvement, and this drafting is resulting in legal text prejudicial to the rights of Aboriginal women.

(NOTE: Pauktuutit participated in the constitutional process as a part of the Inuit Tapirisat's negotiating team and was not a part of the court case launched by the Native Women's Association of Canada.)

National Action Committee on the Status of Women Opposes Deal

The National Action Committee (NAC), an organization representing over 500 women's groups, has decided to campaign against the Charlottetown Accord. NAC believes the accord puts women's rights and national social programs at risk.

The Applicability of the Charter of Rights and Freedoms to Self-Government

This was one of the most important issues which Aboriginal women had to grapple with during the constitutional negotiations. The main question for Inuit women was the following:

If Aboriginal self-government is entrenched in the Canadian Constitution, how important is it to ensure that sexual equality guarantees apply to Aboriginal governments?

This question was presented to delegates at Pauktuutit's Annual General Assembly in February by lawyer/ constitutional consultant Eloise Spitzer. Eloise summarized the issues as follows:

A major element of the Constitution Act, 1982 was the **Canadian Charter of Rights and Freedoms**, a constitutionally entrenched set of individual and collective rights that were proclaimed the supreme law of the country and which override federal and provincial legislation alike. Sexual equality is currently protected in the Constitution in sections 15, 28 and 35(4).

However, the "**notwithstanding clause**" (section 33) allows the federal parliament or a provincial legislature to pass a specific piece of legislation even though it infringes certain constitutional rights.

One question that arises is "if federal and provincial governments have this ability to '**opt out**', should Aboriginal governments be allowed this right as well?"

Section 25 of the constitution ensures that Aboriginal, treaty and other rights and freedoms pertaining to the Aboriginal peoples will not be undermined by the application of the Charter. In 1985, the Native Women's Association (NWAC) wanted sexual equality firmly entrenched to go beyond the rights in section 35(1) - to extend to all constitutional rights enjoyed by Aboriginal peoples. The four national Aboriginal groups accepted the following NWAC draft in 1985, but it was subsequently rejected by the Premiers at the 1985 First Ministers' Conference:

"25(2) Notwithstanding anything in this Charter, all rights and freedoms of the Native peoples of Canada are guaranteed equally to male and female Native persons."

AGM delegates discussed this complex issue, but no clear conclusions were reached. Pauktuutit's executive was directed to examine the issue, develop a position on the best way to protect the rights of Inuit women under self-government, and to present this position to the Inuit Tapirisat of Canada. The position adopted by Pauktuutit is as follows:

Inuit women want to see their rights as Inuit and as women fully protected in the Canadian Constitution. No government, including future Aboriginal Governments, should be able to pass laws which are contrary to the Canadian Charter of Rights and Freedoms.

What the Charlottetown Accord says:

"The Canadian Charter of Rights and Freedoms should apply immediately to governments of Aboriginal peoples."

"The legislative bodies of Aboriginal peoples should have access to section 33 of the Constitution Act, 1982 (the notwithstanding clause) under conditions that are similar to those applying to Parliament and the provincial legislatures but which are appropriate to the circumstances of Aboriginal peoples and their legislative bodies."

CONSTITUTIONAL NOTES

by Pauktuutit Vice President, Martha Greig

Pauktuutit President Martha Flaherty and Vice President Martha Greig represented Pauktuutit on the Inuit Tapirisat of Canada's constitutional negotiating team. Six months of highly charged meetings with federal, provincial and Aboriginal representatives culminated in the signing of the Charlottetown Accord. Below, Martha Greig writes about some of her impressions of being involved in this exciting, but sometimes intimidating, process.

My first involvement with the constitution was in March 1992 when Martha Flaherty, Andrea Webb and I attended a conference in Ottawa on Aboriginal Rights and the Constitution. Though it was very different from the meetings I attended as Pauktuutit's Health Coordinator, this meeting was less formal and less intimidating than the ones that followed. In addition to Martha and Andrea, Mary Crnkovich and Eloise Spitzer were there to provide technical and legal advice. Most of this meeting was taken up with orienting the Premiers and the Canadian public to Aboriginal issues.

Due to Martha Flaherty's busy schedule with the Canadian Panel on Violence Against Women, I attended constitutional meetings in Edmonton, Montreal, Toronto and Ottawa on behalf of Pauktuutit. At first, I found the discussions very confusing. As much as I wanted to be a help and a support to the main ITC negotiators like Rosemarie Kuptana, Mary Simon, Charlie Watt and Roger Grueben, I was finding things moving at such a fast pace that I sometimes felt I would just slow down the process by asking them to take the time to explain things. I found it very difficult to jump into "hot" discussions which had been going on for years without me. I also found the language hard to understand, especially all the legal text.

The issue I was most involved in was gender equality. I strongly believed that Inuit women should not agree to the proposed subsection on gender equality which stated that the sexual equality guarantees should be "guided by traditional governmental systems and spiritual practices in which Aboriginal female and male persons have different and equally respected responsibilities." The AFN was strongly supporting this and, at first, the Native Women's Association of Canada supported it. There was a lot of pressure on me at that time.

I was afraid that if that subsection was agreed to, it would apply to Inuit, for the Canadian public tends to lump Indian and Inuit peoples together - they think we are the same. However, throughout the process of developing constitutional provisions recognizing the fundamental rights of Aboriginal peoples, most of the delegates tried to respect the diversity of Indian, Inuit and Metis cultures.

In the end, despite a great deal of discussion, the Charlottetown accord does not include a sexual equality provision.

There were many hard times at those meetings, trying to make the right decisions for the Inuit and not compromising too much, but when things move at such a pace, sometimes there is no time to consult with one another. There had to be a lot of trust.

I have a lot of respect for the Inuit leaders who have been working on constitutional issues for years without burning out. The technical staff put in many long hours, and I wish to thank them for helping me when I constantly asked for more layman's terms so that I could understand the issues better.

The constitutional process has given me an experience that I never expected to have. I hope that others who, like me, might get involved in something new, will not be afraid to try. Using common sense was my best tool, as well as trying to be useful and contribute to the process and not being too shy to ask questions.

LETTERS

Dear editor:

Some people had thought that Mulroney, when he got elected as a Canadian political party leader, left behind his union strike heckling days behind. Guess what, he just finished scuttling the biggest union he has come up against - the union of Canada!

One of the many English language's cliches says: "When in a delima; dazzle them and win", it seems Mulroney's Conservatives have done just that! Some time after the death of the Meech Lake Accord, he razzled the Canadians with the unorthodox personality of Mr. Spicer, then he threw Mr. Clark's "Community input" dizzying public forums at them and as a finale, he swept the premiers off to Green Gable Country (making them believe that politicians could actually work and achieve something without experts around), and had them sign the wordiest political accord anyone had ever seen. Really now, wouldn't you say there was a master plan all along and he razzled them into it?

Meanwhile, Canadians are laid-off, going bankrupt, and now with this new accord, their social programs are in danger of being cut, cut, cut. Bourassa and Mulroney have made sure that the Federal government has a chequeing account but the provinces hold the delivery which means two things:

- a). Provinces have the right to divert the funds, according to their political agenda, and
- b). You can be sure the Feds are going to turn around and cut funding, "because they are not responsible for the programs, it's a provincial responsibility.

Mulroney and his cliquish colleagues are doing what Mr. Trudeau was accused of, trying to make the Canadians forget about the economic disasters, by making noise about the Canadian Constitution. What is more, Mulroney is threatening, saying that "there will be dire economic consequences, if the Charlottetown Accord goes down." Who does he think he is? Canadians know that the real reason behind "dire economic consequences" is not the ill-fated Charlottetown Accord but his unilateral insistence on selling Canada and ALL of her resources to the US, through:

1. US-Canada Free Trade Agreement and,
2. His begging to join North-American Free Trade Agreements.

Canadians, under these ill-begotten agreements, are loosing their means of survival; small businesses going under, big corporate Canadian companies folding, unemployment reaching record levels and hundreds of Canadian unionist forced into wage and work concessions. There are houses that have been on sale for a year and major estates going for half priced and whole communities dying. Do you know why? It is because there are no people earning money to buy houses, and consumer goods.

Take heart Canadians, do not feel pressured into voting yes, when you know within you that you are not voting no because you want the Canadian union to fall apart but because you are voting no to the style, pressure tactic, and against the Conservative political agenda from Mulroney and the like. His record to date has been to "up-grade" Canadianism into Americanism - by looking at what he has given away in terms of Canadian jobs, Canadian companies, and Canadian resources. Spoil your ballots, make sure Canadians are once more heard loud and clear - Not yes to Referendum on Constitution but yes to Election.

Yours sincerely,

Ruby Arngna'naaq

UPDATE ON PAUKTUUTIT ACTIVITIES

Inuit Circumpolar Conference, Inuvik, July 20-24, 1992

Martha Flaherty and Martha Greig represented Pauktuutit at the General Assembly of the Inuit Circumpolar Conference held in Inuvik this summer. Board Member Lizzie Palliser was a delegate at the ICC Elders Conference which took place in nearby Tuktoyaktuk at the same time, and Pauktuutit's Health Coordinator Roda Grey worked as a resource person for the elders.

For the first time since the ICC was created, delegates took a firm stand on **family violence issues**.

Inuit Circumpolar Conference Resolution 92-21 **The Cycle of Violence in our Communities**

Whereas, Inuit and the governments of the Nation States in which we live have been in a state of denial with regard to the levels and impacts of family violence (including both physical and psychological abuse) and child sexual abuse in our communities; and

Whereas, Inuit are increasingly conscious of how these acts form a cycle of violence which is passed on from one generation to the next, and are the root cause of much of the alcohol abuse, substance abuse and suicide in our communities; and

Whereas, few resources are available to people at the community level who wish to help both the abused and the abusers, and so to break the cycle of violence; and

Whereas, there is a desperate need for permanent, culturally appropriate treatment facilities designed and implemented by Inuit for Inuit;

Now therefore be it resolved that the Inuit Circumpolar Conference recognizes the urgency of these problems and commits itself to addressing them; and

Be it further resolved that the ICC insists that national and regional governments, together with the ICC and member Inuit organizations, must recognize, discuss and give the highest priority to addressing these problems.

The following resolution urges organizations, businesses and communities to encourage women's involvement and to support quality day care programs.

Inuit Circumpolar Conference Resolution 92-08 **Equality Rights for Inuit Women**

Whereas, Inuit women have the fundamental right to gender equality; and

Whereas, Inuit women want to participate fully in all aspects of community life including business activities, and can contribute significantly to economic development; and

Whereas, it is a fundamental value of Inuit to nurture their children and families;

Now therefore be it resolved that the Inuit Circumpolar Conference requests all member organizations, together with community governments, to take all steps necessary to ensure a comprehensive, affordable, quality child care program and facilities within communities; and

Be it further resolved that the Inuit Circumpolar Conference requests all member organizations to take measures to effectively integrate women into all aspects of business, organizations and activities.

Pauktuutit Board of Directors Meeting

Pauktuutit's Board of Directors is meeting in Ottawa, September 22-24, 1992. Following is the draft agenda of the meeting. A full report on the Board Meeting will be included in the next issue of *Suvaguuq*.

1. Opening Prayer
2. Welcome and Opening Remarks: **Martha Flaherty**, President
3. Executive Reports (President, Vice President, Secretary-Treasurer)
4. Regional Reports
5. Update on Special Projects and Activities
 - Health Consultation Project
 - Substance Abuse Project
 - Documentation of Traditional Midwifery
 - Royal Commission Intervenor Funding Proposal
 - Banff Centre for the Arts (**Ruby Arngna'naaq**)
 - Inuutsiarniq (Suicide Prevention Video)
 - Charitable Status
 - Adoption
 - Constitution (**Rosemarie Kuptana** and **Mary Simon**)
6. Discussion of Issues
 - Family Violence programs and funding
 - * **Len Griffore**, DIAND (NWT Region)
 - * **Carolyn Mandrusiak**, NWT Family Violence Section
 - Codes of Conduct for Inuit Organizations
 - Arctic Cooperatives Ltd.
 - Discussion of Credit Union Development
 - * **Simona Arnatsiaq-Barnes**, Manager
 - Andre Goussaert**, Credit Union Co-ordinator
 - Canadian Panel on Violence Against Women
7. Update on Projects and Activities (cont'd)
 - Justice Project and Court Challenge: **Mary Crnkovich**
 - Economic Development (CAEDS)
 - * **Mary Jamieson**, Consultant
 - * Kakivak Association
 - Moses Koonoo**, Chairperson
 - Solomon Allurut**, Vice-Chairperson
 - Scott MacAulay**, Manager
8. Business
 - Approval of Minutes of Board of Directors Teleconference
 - Discussion of AGM Minutes
 - Review and Approval of Financial Statements
 - Discussion and planning for 1993 Annual General Meeting
 - Discussion of Pauktuutit's election process, accountability issues and communications.
8. Other Business
9. Closing Prayer

Pauktuutit's New Health Coordinator

Roda Grey, originally from Kangirsuk, began working as Pauktuutit's Health Coordinator on June 1, 1992. She replaces Martha Greig, who left the position in February to become Vice President of the organization.

Roda has a varied background and is well qualified for the position. She has worked as a Registered Nursing Assistant, a home support worker and an interpreter-translator, and she recently graduated from a two year Social Service Worker program.

Since beginning work at Pauktuutit, Roda has been very busy. In July, she travelled to Inuvik and Tuktoyaktuk to act as a resource person for the Elders Conference of the Inuit Circumpolar Conference. She has also attended health meetings in Yellowknife and Winnipeg and is the Inuit representative in a new series of multi-lateral federal-provincial meetings of health officials. In addition, Roda is coordinating Inuit involvement in the federal government's new "Brighter Futures" initiative aimed at improving the health of Aboriginal children. Roda's lobbying on behalf of Inuit has led the federal government to sponsor a meeting of representatives of Regional Health Boards in the NWT, Quebec and Labrador to discuss Inuit participation in the Brighter Futures program. This meeting takes place in Ottawa at the end of September.

Pauktuutit has a mandate to represent all Inuit on health issues. Roda's position is funded by a Health and Welfare Canada program aimed at promoting awareness and expertise in Inuit communities in relation to health care.

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