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## Conflicting Ethics: Aboriginal Values and Religious Renaissance

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### Introduction

Old Edward rose every morning in the mist and went down to the lake where he sang ...  
Ah Man-i-t-ou! Then he goes on his way...(Waugh 1996, 136)

Vandersteene recalled this benediction of the day after his many years among the Cree. This hymn to life connected Old Edward to one of his deepest relations—what we might term the natural orderer of things, *Kitchimanitou*—and it gave shape and form to the rest of the day, the rest of his life. It is fitting to begin there with this study, for it demonstrates that Aboriginal peoples are already thoroughly embedded in the context of the land, and our stance to it reflects how we orient ourselves to its deeper truths.

In one sense this helps us locate where we are in a very complicated moment in Canadian history. With Aboriginal traditions in renaissance, we need to reorient ourselves around a common task of speaking to each other and adjusting our common story to the new reality, for we are all embedded in it and cannot step outside it.

Therefore, this paper argues that the ongoing renewal of Aboriginal practice will require a significant realignment of many aspects of Canadian society, including a grappling with some very difficult aspects of our own history. It insists that:

1. Aboriginal practices have continued to exist in various forms despite the assimilating pressures of majoritarian<sup>1</sup> culture in Canada, and they still today have both therapeutic and spiritual value.
2. Aboriginal traditions themselves have also evolved in tandem with their encounter with various pressures, rendering a simplistic, unidirectional analysis untenable.
3. Practitioners now encounter a religious world within Aboriginal culture itself that is more pluralistic than an Aboriginal/Christian dichotomy would suggest. This will have profound significance for the whole notion of renewal.
4. Those who hold what might be termed traditional religion, law, or ethical values face having to reinterpret them in the light of contemporary realities; once this is granted, who will adjudicate what is traditional and what is new?

If the validity of these points are to be accepted as part of the Canadian reality, then a significant adjustment will be required of both culture and institutions, with obvious policy implications.

We will explore these themes through four case studies, which we will present and then try to provide commentary and analysis. These case studies are based upon real people with whom I have interacted throughout my career, but elements of their stories have been changed so that the stories only symbolically have anything to do with existing people. Rather than provide a full-blown academic discussion of each theme (which is not possible in such a paper), I will focus on one significant work as representative of scholarship relative to it. I am aware that this provides some distortion, but I hope that the larger sketch it provides will make up for its problems. In conclusion, I wish to raise the question about whether the renewal of Aboriginal tradition is not itself indicative of a more sophisticated perception of the religious life evolving in Canada, and what that might mean for us all.

## **Case Study 1: The Ritual Cleansing of the Sweat Lodge**

Aboriginal practices have continued to exist in various forms despite the assimilating activities of majoritarian culture in Canada and they continue to have both therapeutic and spiritual value.

I spent much of my early life with my grandfather, who was a pipe-holder and ceremonialist among my (Plains) band. Neither my mother nor father were around ... my mother was in the States living with a Sauteaux. I'm not sure whether my father was. Grandpa spoke mostly Cree, but he was married to an Ojibwa woman. I left home when I was 14 and took a job in the logging camps up north. That's where I started drinking. I hooked up with a Native girl from a local Pentecostal church, and started to go right, but then lots of things happened, like I was injured on the job and couldn't work, and they didn't pay me and I drank a lot. We had a kid, but I didn't want to stay in that place so I left and went down south to look for my mom. I never made it to the States and ended up in jail because I beat this guy up at a binge party. When I got out I had no place to go so I hung around Edmonton's poor side of town and took whatever job I could get. Then I went south to the Siksika people for a while and worked at odd jobs. Mostly I was drunk on weekends and they threw me in jail. That's where I met an elder who told me I had to get straightened out, and he took me to a sweat. That reminded me of my grandpa, and I started going regularly to his sweats and started hearing the spirits talking and all that in the sweats. I knew that was the right way for me to go. I met this girl there and she was good to me and we got married. So the sweat was the starting place for getting me back in touch with the real me ... it was the beginning of my journey back.

There is no need to rehash the sorry history of Aboriginal religious practice in Canada; it is sufficient to note that, in general, either officially or unofficially, majoritarian society conspired to destroy all Aboriginal traditional religious practice. We have no idea how long these practices had been in place, but some of them surely reach back to an early date of human habitation on Turtle Island.<sup>2</sup> Given

the great variety of peoples, one might conjecture that there are few connecting elements among these many traditions, but this is not the case. Furthermore, we now know that there was extensive trade before Europeans came, as signalled by the extraordinary existence of Cahokia,<sup>3</sup> and this suggests that religious practices were also subject to the same type of creative movement as trade. Given its widespread recent practice, the sweat may well be one of those kinds of practices.

Obviously not all peoples practiced this rite, since they did not have the resources to do so—to begin with, it requires extensive wood holdings for heating the rocks—but also the rite itself can hardly be divorced from the extensive details carried on, such as geographical orientation, spirit songs, and spirit-visitation concepts. Yet despite the variant practices, all appear to unite around the eminently practical point of community cohesion for purposes of personal religious engagement. It is this perception that we will focus upon here, for our case study demonstrates that the sweat was primarily “a way” for personal identity and well-being to return to the individual within the framework of collective religious awareness.

Our case study stresses a kind of personal revitalization through the sweat. Yet it would be a mistake to emphasize the therapeutic values of the sweat over its religious intent; it is often the desire of Western scholars to segregate various elements out and to apply them to some cultural agenda, such as healing. No one who knows anything about the sweat would deny its potential as a healing rite, but it would be a violation of its meaning to divorce it from the fertile ground of religion within which it sits.<sup>4</sup> It is tempting today, of course, to adopt it as a tool for healing, one of several others deriving from Aboriginal life and still retaining their powers. In my area of the country, some Native Evangelical and Pentecostal groups have adopted the sweat as a cultural artifact useful for meditation and confessional-type religious experiences; in effect, a culturally grounded tool designed to connect their enthusiastic practices with traditional spirit-visitation religion. While traditionalists might condemn this as another example of cultural appropriation, the fact is that once again aspects of the practice (i.e., the therapeutic) are serving to foster social cohesion. Is the sweat utilized for other than its traditional experiences still the sweat? Or is the adaptability of the rite the central feature of its meaning?

These queries cast us right in the middle of the religious-theory briar patch. Some scholars, like Jordan Paper, argue that each Aboriginal religion is basically experiential; it has its own integral character based on a long, local growth trajectory, but its goal remains firmly rooted in a personal encounter with the spirit world (Paper 2007). In insisting on personal experience as the central feature of the tradition, however, one effectively opens Aboriginal traditions to all seekers. The result is well known: New Age shamans (Harner 1980; <http://shaman.hemuz.org>), German tribes (Kinzer 1996), and businessmen who are weekend warriors (Wall 2005; Dyar 2003).

Others, like early anthropologists and Christian theorists, regarded Aboriginal traditions as completely other than Euro-American cultural assumptions and

hence outside the grasp of the contemporary student (Luckert, personal communication, 2003). Theorists like Lévy-Bruhl believed the “primitive” mind to be quite different than the “modern”; among other things, this led us to policies of social and cultural genocide all too familiar to traditional practitioners and in Canada’s history. Others, mindful of such distortions, shift the onus towards methodology, and when encountering the bewildering array of religious practices throughout the Americas, have, like Gill, retained the incongruity of understanding of Aboriginal religions, but suggested alternate models of engagement, such as dance and art (Gill 1987, 177; Gill 1982).

Of course there have been integrationist pressures, too. One, like Belgian missionary Vandersteene, regarded these traditions as symbol systems that could be related to European systems, such as the communal “feast” of the Cree *witohkowin*, which he saw as replicated in the Catholic mass and the values of which could then be built upon to construct a genuine Cree Christianity (Waugh 1996). The notion of integration has powered the enculturation movement among Catholic theologians—it was introduced by Pedro Arrupe, SJ (1907–1991), the former superior general of the Society of Jesus (Maier, 2007)—and continues to have a direct impact on Catholic perceptions, in which it is usually interpreted as “incarnating” Christianity into a new culture (Schineller 1988; Shorter 1990).

Our case study indicates some perspectives that will modify these concepts. Firstly of all, he has memory of his grandfather’s pipe, just about as powerful a symbol as can be found in Plains culture. Secondly, he obviously engaged Christian tradition through Pentecostalism, certainly one of the more experiential traditions within the Christian spectrum. Whatever this did for him, it did not give him ownership over his life. Thirdly, it was the distinctive structure of the sweat that took him in the correct direction, and note this, under the tutelage of the sweat owner. In effect then, Aboriginal experiential traditions are not disconnected from the authority of traditional ownership of spiritual practices. And that authority is based upon a memory system that is rooted in the oldest and most reliable people, with songs and visions to back it up. Then the validity of that memory must be proven by observable spiritual prowess in everyday life, that is, in helping deliver the person in need of real assistance. This seems to indicate that religious memory is a key element at the heart of Aboriginal cultural life.

We then take from this case study that Aboriginal traditions are indeed experiential, but they are founded upon a memory system and an authority system that has to be continuously validated in the real world of Aboriginal culture.

## **Case Study 2: The Challenge of Feminism and Traditional Religious Practice**

Aboriginal traditions themselves have also evolved in tandem with their encounter with contemporary pressures, rendering a simplistic, unidirectional analysis untenable.

My marriage was on the rocks, I found no help from the church and I was scared for my children. I really wanted desperately to connect with my ancestors' traditions and maybe to find myself so I could help my own kids in who they are. I didn't want them floundering around like me. But mostly I hoped to put my own soul back together. So I went with my grandmother and some friends to a thirst dance in Saskatchewan. We drove most of the night to get there, and it was going fine—one of the grandmothers took all us young women aside and talked about being pure and all that. We were told where to go into the lodge and where to sit and how to blow the bone whistles during the ceremonies. Some of us asked how come women weren't pierced since only men were allowed to dance and be pierced, but nobody would say much about it except that wasn't the traditional way.

Then I found out it was my moontime.<sup>5</sup> I was a little upset because some older women came by our teepee and said that I had to go stay in one teepee where other moontime women were staying. We could not go into the thirst dance lodge and could not participate in any of the religious practices. We were very upset. We told the old ladies that it was not right. We even met outside the grounds with the ceremonial leader and he said we were too dangerous for the ceremonies and we should stay away. We told him that the moontime was perfectly normal for women and just as natural as anything else that the tradition argued for, and we objected to being sent off into a teepee at the edge of the ceremonial grounds. He said his thirst dance would stick to the tradition and women in their moontime were not allowed into the ceremonial lodge; we were just too powerful. I told him that in this day and age women won't allow themselves to be made into something bad just because of menstruation. I decided to leave and come back home right away. Maybe I'm just too much of a feminist for the tradition.

The sun dance is one of the most spectacular of North American religious practices, and the one most often associated with the Plains peoples. It is a magnificent ceremony. It was banned by the government, as well as hounded by the RCMP and local residents. It went underground and survived. It is now in the throes of a major change, challenged from an unusual direction: an equal place for women in the ceremony.<sup>6</sup>

Currently, in some sun dance rites, such as those of some Lakota people, women dance as well as men, are pierced on their backs or their arms and break free at the end of an exhausting dance in a similar commitment of one's personal stamina and endurance to the spirits. In effect, regardless of where the sun dance is held or who holds it, there are internal pressures to make the ceremony "more equitable" for women.

Traditionalists list several reasons why fully integrating women should not be a priority:<sup>7</sup>

1. To do so is to suppose that "equality" means men and women doing the same thing all the time. They point out that this is a majoritarian cultural trait deriving from a subservient position accorded women. Rather the important value is symmetry: men responsible for key aspects of public ceremonial life, and women responsible for the creation of the physical and social reality within which everyone operates. For traditionalists, women have ceremonies specifically for themselves as life-givers, and these are not ceremonies that men can attend. At these ceremonies, they

embrace Mother Earth and all her fecundity, and women are connected to that fecundity at their moontime. Furthermore, Mother Earth is juxtaposed to the Father Sun in ideological understanding, which presupposes an integration of male/female symbolic meaning far superior to the sacrificial perceptions dominant in the sun dance ceremony.

2. Recognizing the power of women during their moontime is not anti-feminine, and restricting their participation is not a condemnation. To argue thus is just not to comprehend the deeper truths of Aboriginal religion, which have to do with women's control over the physical and social realities of the universe; after all, women not in their moontime and menopausal women participate fully in rituals, so it is *not* a bias towards the feminine that drives this understanding.
3. Some have tried to moderate the effect of this restriction by ushering in the use of a special purifying ceremony—a smudge ceremony designed to offset the impact of the moontime. Even in traditional times there were moments when such a protocol was used for sun dance ceremonies, as in critical healing moments or crises within families. Traditionalists accept that these can be performed, but they hold that they were designed for crisis situations, not for protection during the normal carrying out of the ceremony during a woman's normal period.
4. Finally, traditionalists argue that it is not necessary for the sun dance structure to reflect the norms and attitudes of majoritarian society. They point out that feminism is rather recent in North America, whereas their traditions have guided them for millennia.

Not all women pay attention to the restriction. Some have told me privately that they attended at some moment during this time, and it did not impact on the validity or power of the sun dance. Some point out the great expense and the vacation arrangements that are necessary just to come, and they do not want their spiritual states to be altered by something as trivial as that. Others now firmly established in urban environments admit that connection to the earth is largely symbolic to them, and since they never had rites of menstruation performed with the holy women, they have no strong emotional connection to the reality of which the traditionalists speak. For them, it is more a matter of solidarity with their people, along with the excitement and spiritual high they receive. Moontime just cannot be important enough to overthrow the spiritual encounters they receive.

Now what we may be facing is another reading of the situation of women in the ongoing development of traditionalism. For example, if we were to study traditionalism not as some kind of fixed corpus of rites, but as an ongoing encounter with the spirits that modifies and develops like most other aspects of life, we would see an entirely different picture. In other words, have Aboriginal rites been subjected to the same kind of rigid borders that have come to define the Christian tradition? Were these kinds of borders always in place or have they come to be

rigid in mimicking majoritarian religion? In this regard, it is helpful to look at the scholarship of Anderson (2007), who shows in her work that we have a long way to go in understanding how Aboriginal peoples have responded to the Christian presence, that, in fact, creative Aboriginal minds were already wrestling with the differences in religious systems very early in our sojourn on this continent, and they have continually responded to it. They, in fact, tried to adapt many of their conceptual systems to accommodate the new realities. Unfortunately, the European mindset was blind to their accomplishments. The fact is, we have few studies on how women reacted to this situation religiously. Had our scholars been more democratic in examining women's lives, and more dedicated to analyzing their responses as humans to humans, we would now have a rich intellectual archive of a critical part of Canadian religion.

To return to the sun dance, it would appear, then, that the symbol system that has undergird the sun dance rites is no longer in tight control of values, or at least is truncated, among urban Aboriginal women. And, since Aboriginal people are moving into urban space in unprecedented numbers, some permanent modifications may be underway. Some argue it will be only a generation or two before this restriction is lifted; the answer may lie in how strong the renaissance movement is, and how urbanization will change sun dance values. Yet it is hard not to conclude that the meaning system sustaining the sun dance is being modified. Will the sun dance/thirst dance be the same without it? Are we seeing a shift in traditionalism's meaning system?

### **Case Study 3: The Challenge of Alternate "Traditional" Religious Practices**

Practitioners now encounter a religious world within Aboriginal culture itself that is more pluralistic than an Aboriginal/Christian dichotomy would suggest.

I really liked old uncle Joe. When he was dressed in his full regalia, with feathers and special shirt and leather smock, he looked superb. His old, weathered face made me think that he would always live and that he must look exactly like the great leaders of the Indians when white man first came. He was a powerful person, with several important pipes, and he knew all the songs from the sun dance and several of our Blackfoot ceremonies. He had never got into the whiskey like so many of his tribal brothers and he kept trying to get us to stick to the "old ways." I remember well, though, how tragic it was when one of the old healers had died. Old Joe was really broken by it. We talked for a long time at his place. His wife gave us some food and we talked and smoked long into the night. About midnight he began to tell me of the old ways and what he remembered from the times early in the century, after the treaties and everything had put the people on this piece of land. He seemed to have to go over it all just to make himself be in touch with who he was. I felt really bad for him. He was taking his loss hard.

But then he began to talk of how his people were really finished, because of religion. He said he wasn't talking about the church and the priests—they mostly stayed in their houses and some people liked the ceremonies and whatever the Church gave them. He was talking about the new religion from the States—the roadhouse men that had come

through his territory and lots of people had hooked up with the peyote and he shook his head very sadly. He said he talked to another old man who told about new church people that used guitars and prayer meetings and had their own sweats and sermons and songs in the people's language, and young Aboriginal ministers who were leading them, and now lots of people were joining them. He sat for a long time and said nothing. Then very quietly he sighed deeply, hung his head and began to weep. "We're finished," he whispered. "We're just finished."

Much of the literature juxtaposes traditional Aboriginal religion to the coming of Christianity, the medicine man/shaman standing in opposition to the priest/minister. While it is clear this was an important part of the picture, it assumes that Aboriginal religion is an institutional expression standing against the church. Such a view has serious flaws, at least in today's world.

For one thing, my colleague Clint Westman suggests that Western scholars have been fixated on "traditional religion"; he suggests this derives from a kind of idealism reminiscent of "the noble savage" (Westman 2008). The result has been that the study of Aboriginal religion has focused on the past, as if to track down the "real Indian religion." He argues that, therefore, many anthropologists and religious studies scholars cannot see the religious diversity operating within Aboriginal culture, a diversity that has embraced several Christianities, including Catholicism, Anglicanism, and the United Church, but has also adapted Pentecostalism, Evangelicalism, and Baha'i. At one time, a well-known religious leader in Islam in Edmonton undertook a mission to imprisoned Aboriginals. The result of these religious influences may well be a primer in post-colonial adaptation: formal Christian church for baptism of the kids, periodic attendance at Pentecostal rallies to offset alcohol and promote spiritual healing, plaques on the wall from Persia celebrating Baha'ullah, and religious tolerance and tattooed crosses on the chest to keep one safe. Many Aboriginal people I know remain devout Catholics, even some who are medicine people and powerful ceremonialists. How are we to understand this kind of traditionalism? Is this a new enrichment of religious understanding?

Then there are the movements that have periodically energized Aboriginal traditions, one of which has had a significant impact in Canada. The one old Joe was most devastated by was clearly the Native American Church (Le Barre 1975). It is important to see that the Native American Church is really constructed on many of the elements from Christian tradition: a priestly class of officiants, a mass-like rite, a vigorous ethical norm, and a social conscience. So it is no longer possible to see clearly the dividing lines between what is Aboriginal and what is European/Christian in religious terms.

In analyzing this part of the renewal movement, I wish to focus on some of the issues that arise out of competing Aboriginal visions of religion. Lee Irwin has argued that there is a continuing element of esoteric spirituality inherent in Aboriginal traditions in North America that provides a kind of glue for its diversity (Irwin 2008). Competing interests are not new to Aboriginal peoples, however,

and we may, in fact, be returning to the kind of marketplace of religious ideas that had free intercourse on the continent before we came. After all, healing traditions are closely tied to religious rite, and we know that prophets and healers travelled widely and were welcomed throughout Turtle Island.

The first point to make is that traditional Aboriginal religions do not require an official institutional structure within which to operate; that is, the tradition rests on giftedness, not formality or government. This allows greater freedom of personal skill, and greater opportunity for the religiously disposed to move into an influential place in society. The second point is that Aboriginal attitudes to religion are not European—religion is interlaced in culture and difficult to extricate. The third point is that religion relates to well-being, and this introduces health and wellness; a religion that cannot or does not address everyday living experience is not going to sell in Indian country. The fourth point is a species of the “voting-with-your-feet” argument: traditional religion has to deal with the perception that it can be manipulated by powerful people who use their power for evil purposes. Traditional healers’ powers are not confined to doing good, and there is some resistance to embracing them again because of the bad medicine they can control. Alternate religions are a way of escaping the impact of such negative traditionalism. The fifth point is that band organizations support traditional ceremonialists because they are allied with traditional culture, and the healers may receive band funding for their skills. However, band councils can be influenced by Christian fundamentalist chiefs/members, and the conflict between the two religious realities cannot be easily eradicated. Finally, with limited and declining finances, traditional activities have the same problems of expansion that other religious movements have—while they operate on giftedness, they still must buy gas for transportation and food for the ceremonies.

Indeed, if Aboriginal religions are understood as secretive and esoteric, many of these points would not apply. But practitioners note that they do apply. So religion is part of the woodwork of the modern Aboriginal community and this feature is another factor in the way it operates. The diversity that once reigned throughout North America has returned to the people, making religion another element that has to be negotiated in the contemporary reserve/urban situation. Traditional religion clearly has considerable hold here in terms of the traditional cultural understandings that provided the foundations of the group, but in the current environment, that religious sensitivity is fluid and subject to local determinants. And the situation is very dynamic.

## **Case Study 4: Traditional Values and the Problem of Canadian Law**

Those who hold what might be termed traditional religion, law, or ethical values face having to reinterpret them in the light of contemporary realities; once this is granted, who will adjudicate what is traditional and what is new?

“Our young people today have a real problem getting justice,” he said. And he proceeded to tell me about young Moonwalker. The youth had lived pretty well for the first part of his life, but in his teen years he had got involved in drugs and bad company. Then he had gone away for a while, but eventually had returned home to his community. One night he had had a fight with a neighbourhood boy and he had returned later with a gun and shot him. He was arrested and charged with murder. The police found drugs on him and also charged him with drug possession. Moonwalker had an uncle who was well known as a traditional healer, and the family enlisted the healer’s support while continuing to visit the youth in jail awaiting trial. Slowly a story came out that was much different than the one the police reported. In fact, Moonwalker’s family had long been enemies to the dead boy’s family. The bad blood between the families reached back three generations. Moonwalker had indeed had drugs on him, but the altercation had nothing immediately to do with drugs, although Moonwalker had given the youth some weed before their fight. The family argued that the bad blood between the families was the principle cause of the murder. The police insisted that there was no evidence of prior struggle between the youths and insisted that the murder was drug-related. The family through the healer wants a sentencing circle that will validate their interpretation of family history and provide some therapeutic value to the legal process.

In 2004 Chief Wayne Roan and I began what has become known as the Alberta Source Nature’s Law project.<sup>8</sup> Practically speaking, what we tried to do was impossible (an American colleague cautioned it would be either nonsense or white idealization). I must confess it took some persuasion to bring me onside. The goal was to outline some of the principles in pre-contact legal thinking among Alberta’s tribal peoples. Because Chief Roan is Cree, and much of my knowledge is derived from my Cree contacts and experience, this segment is heavily Cree-oriented. This is a taste of what we wrote:

In general, Aboriginal law differed from ours both in the way it was conceived and it was practiced. Aboriginal peoples had no separate institution mandated to secure the law to see that it was obeyed. Rather, law rested in the hands of each member, since each was essential for the social whole of the group. Power was not vested in an institution but in the corporate will of the people, understood as both the local group and the people as a whole expressing themselves as responsible for their environment.

The model for this personal responsibility was the medicine man or the holy woman, both of whom provided the tribe with insights into the operation of nature’s laws by virtue of their familiarity with ritual requirements. The holy person conveyed the proper way to perform a ritual in the same way that the individual had to attend to the proper way that things must be done in one’s life. When ritual was properly carried out, the people were assured that their place in the world order was confirmed. Likewise, when the best way was utilized in one’s behaviour, the assurance was that the good life would result.

Among the Cree, too, there was the concept of rule; it utilized the same root word *weya-sowewin*, but meant something close to “setting a standard.” For example, in Plains Cree culture there were rules on when you could kill a bison at the time of the annual hunt, and a special constabulary force maintained strict adherence to these rules.

Similarly, in custom—the Cree word is *nakāyātotamowin* with the implication of “what is usually done.” Here the word signals that ordinary domestic life is governed by customs

representing expressions unique to the local group—say, the style that drummers use in playing, or women use in their dress.

The Cree language also enshrined the recognition of the permanence of political institutions; a good example of this is that represented by the word *okimahkan*, a clan or tribal leader, whose role and significance might differ from band to band or tribe to tribe but which can be said to be a continuing element of Cree culture. *Okimahkan* relied upon a tribal sense of evaluation that not only involved the normal evaluations that go on among social group—in other words a “natural” human activity—but evidence of a spiritual sort delivered in such ways as what spirit helper the leader was known to have, or to which totemic line the leader belonged. (Roan and Waugh 2004, 1)

One of the myriad of issues with which we had to deal was retribution. Since tribal ethic left the responsibility for righting wrongs in the hands of the offended, the potential for fierce contestations was always present. What we found was that serious cases like the above required a special conclave—a fire council.

A fire council brought together key leaders of families and critical members of the wronged people in a circle of justice. There was no hiding behind counsel in Aboriginal law; rather, the accused had to give a full and open account of the matter before the people.<sup>9</sup> No one, however, thought he had all the answers. Rather, the wise people who sat at the fire council spent much time listening to family, friends, and old people in an effort to detect the underlying causes of what amounted to the social destruction at hand. This provides an important clue as to the difference in systems. Aboriginal justice aims to restore community wholeness—murders are clearly reflective of community imbalance and disruption, so the goal is to re-establish community equilibrium. No element of the community is immune to the fire council’s jurisdiction, and parents, relatives, and enemies may all be castigated by the community court that the fire council represents.

This system also requires face-to-face encounters of the distraught members of the community, including the accused and the recipients. The council knows very well that under traditional law, the family has the right to take the accused’s life—Aboriginal justice required families to look out for themselves—and the accused may still face that verdict (*nâtamâkewin*).<sup>10</sup> But tribal law could not allow such a tit-for-tat regime to prevail, for it would destroy the community. Hence, apology, forgiveness, rituals of cleansing, rites of price conveyance, and formal admonition were all part of the arsenal available to foster community cohesion in the face of such violence. Each had a protocol attached. In addition, some Aboriginal groups embraced a concept of spiritual retribution—sometimes it is called *ondjine* among the Ojibwa people, or *ohichitew* among my Cree friends. It is a concept reminiscent of the Asian notion of karma, that is, that actions may have good or bad implications that remain connected to the person in the future. The Cree conception holds that the retribution stays within the bloodline through several generations, but certainly from grandfather through to great-grandson. Hence an occurrence today may be connected to a previous act in one’s bloodline in an earlier generation.

In the case study, it is not just a matter of addressing the killing. It is also a matter of initiating a mitigating act that will bring balance back to the community and the bloodline that has been impugned. It will require payment to the living relatives, and ultimately to seek ritual acts (*nâspitohtawew*) that will deal with wounded spirits in this world and beyond. If the offender believes that he was acting because of some previous maligning act by the deceased's familial line—in effect righting a wrong against his family line—then that has to be adjudicated by the fire council. It cannot remain a festering sore that will break open again, resulting in more bad blood within the community.

The case study is also significant because it highlights a systemic reliance on community memory. Often in cases like this, an elder or grandmother who knows everything about community members will be called in to provide what might be called expert testimony because they are the community historian. The chore here is to be able to indicate in what generation and to what extent the imbalance occurred and what has been done to deal with its disruption. Community memory, then, plays a key role in Aboriginal justice systems.

Finally, traditional Cree systems are based upon concepts of restorative justice, which utilized a range of religious ceremonies in the process: sweats, fastings, purifications, and other methods to begin the healing and cleansing process necessary for the victim, the offender, and their families to regain mental, spiritual, and emotional well-being, and to restore family and communal harmony. Once agreements have been reached, they are binding on both families and the community. Where sanctions are applied to appease victims or to place safeguards against vengeance, they are the responsibility of the community at large to maintain.

What would have happened to young Moonwalker had this system been in place? If you were part of his sentencing circle, for what would you have argued? The real question is whether Canadian cultural and legal institutions can be flexible enough to accommodate such a system. Some halting steps have been taken in Calgary, where a sentencing circle has been established that builds upon the legal structures of arbitration law; under its regime, a legally qualified Aboriginal judge heads up the sentencing circle, and its decisions, like the fire council, are binding upon all parties. Moreover, will Canadian legal norms accept public ridicule, public shaming, whippings, temporary and permanent banishment, withdrawal of citizenship rights, financial and labour restitution, and community service, which were part of Aboriginal legal systems in the past? Very rightly, this process is extremely uncomfortable and emotional; after all, everyone connected to a case is present and equally qualified to speak. The key here is the care that the elders exercise in providing a safe environment. But the system cannot work if the extended family does not take ownership of the issues and institute the proper outcomes as the circle demands and if the goal of a healing community is not kept uppermost in the deliberations.

## Policy Issues and Some Comments

My reading of the demographics is that at least three major western Canadian cities will have Aboriginal majorities by 2025.<sup>11</sup> Hence it seems evident that a dramatic shift is underway in Aboriginal-Canadian dynamics, including political institutions. My comments are predicated on accepting that fact, along with the points raised in the above case studies. With regard to religious rites:

1. Traditional Aboriginal rites should be accepted as part of the Canadian religious reality, which means that our official cultural and legal life should take account of them. They should be recognized in the armed forces and in prison, in legislative agendas and school curricula. We have begun this process—traditional healers and medicine people are in many prisons across Canada, and some schools have initiated Aboriginal content, but we really need a fundamental change of mentality that will affect the whole structure of Canadian society, not just a piecemeal approach.
2. The traditional legal power of religious rite—that is, its norm-setting role for community health and well-being, as well as community cohesion—should not be countermanded by Canadian official institutions. That is, where warranted, hospital administrators and social workers should not be able to automatically overrule an Aboriginal religious authority.
3. The therapeutic value of traditional rite should be recognized by health care institutions, which means that hospitals and other organizations should make every attempt to accommodate traditional practice. Some hospitals now have resident elders programs, and some even have rooms where smudging can take place without the fire warning systems disturbing the proceedings, but we have a long way to go to recognize what is a hidden healing system that has been in place for millennia in Canada. When we do that, we will have a blended system. Manitoba has just announced such an initiative, and the University of Alberta is trying to get funding for a traditional medical knowledge centre.
4. No attempt should be made by majoritarian culture to define what will be regarded as traditional by its practitioners, and there should be recognition that traditional religion itself is not fixed. This means far greater flexibility in understanding Aboriginal positive attitudes towards diversity on religious matters, and Aboriginal mixed churches should have a say at the table.
5. Traditional healers, medicine people, and ceremonialists that grow within Aboriginal communities should be accorded the same position given to clergy, priests, rabbis, and imams. Where public institutions fund religious activities, traditional rites should have equal access to such assistance.
6. Every attempt should be made to undergird and promote traditional ways as part of Canadian public legacy. These have as much claim upon us as

Inuit art or lacrosse. Many of our first immigrants here were sustained by Aboriginal systems of health before our own were in place. Such early contributions should not be swept under the rug, but should be made a conscious part of the way Canada has developed.

7. Full discussion should be undertaken for a traditional justice system where numbers warrant. This would recognize the role that traditional religion played in directing legal life. The goal would be to provide the next generation with an Aboriginal community within which to thrive. For example, an earlier government had taken some positive steps with funding the Law Reform Commission of Canada to look at restorative justice practices, with some very positive results. Unfortunately, the Conservatives have terminated that initiative.
8. Parliaments and legislatures across the country should equally be opened with prayers by Aboriginal elders. We do this now for some official activities, but our official organizations and the highest official elements of our collective life should now officially recognize Aboriginal religion as part of our environment. There is really no justification in Christian ministers always having that role. After all we stand on Aboriginal land; they should stand with us.

When Canada moves forward in these directions we will take critical steps to engaging creatively with the other part of our collective psyche, the cultural echo that had carved pathways through this great land before our ancestors came. We will also recognize that this geography shaped a religious perception that still retains force. This is, in fact, our legacy. Eventually we might then be able to accept that this land calls forth from us all a response that cannot be articulated with one set of dogma, nor one set of ideologies, just as it called forth a rich religious diversity among our Aboriginal forebears. Then we might indeed sing of the good medicine of this beautiful country.

## Endnotes

- 1 Editor's note: Majoritarian/majoritarianism refers to a doctrine in which the "majority," defined in different ways—ethnic group/language/culture—has rights or preference over minority groups/cultures.
- 2 The name originally given to the land by Aboriginal peoples in North America; see <[www.first-people.us/](http://www.first-people.us/)>.
- 3 <[www.mnsu.edu/emuseum/archaeology/sites/northamerica/cahokia.html](http://www.mnsu.edu/emuseum/archaeology/sites/northamerica/cahokia.html)>
- 4 For the interpretation of it by a contemporary Catholic scholar, see Raymond A. Bucko's *The Lakota Ritual of the Sweat Lodge*. Lincoln: University of Nebraska Press, 1998.
- 5 Editor's note: Moontime refers to the menstrual period. The reference is related to the 28-day cycle.
- 6 When I first went to sweat under the guidance of Douglas Cardinal, the Canadian Aboriginal architect who had received a sweat dance from an Arapaho owner, he told me he had wanted that sweat because it had allowed women. Since then most of the sweats I have attended (admittedly therapeutic sweats and not preparations for sun dances) have included participants from both sexes.
- 7 These remarks are based upon comments from two traditional ceremonial authorities— Dave Lasuisse, Sioux, and Wayne Roan, Cree—who have produced or been involved in sun dances/thirst dances.
- 8 See <[www.albertasource.ca/natureslaws/index2.html](http://www.albertasource.ca/natureslaws/index2.html)>; it was sponsored by a generous grant from the Law Society of Alberta.
- 9 Aboriginal justice privileges the oral statement, thus the role of oral tradition is a living part of community retribution. Space does not allow an analysis of this aspect of Aboriginal culture, but we know of Canada's judicial system's long rejection of oral tradition as the basis for decisions over contentious legal issues. For a thorough analysis of oral tradition, see <[www.ainc-inac.gc.ca/ai/rs/pubs/re/orl/orl-eng.asp](http://www.ainc-inac.gc.ca/ai/rs/pubs/re/orl/orl-eng.asp)>.
- 10 For a quick reference to Cree terms, see <[www.creedictionary.com](http://www.creedictionary.com)>.
- 11 Editor's note: It should be noted that, in fact, this is not likely to occur given the many intervening variables. It is true that there will be very large and growing urban Aboriginal populations in 15 years.

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