Mutual Accommodation Primer: The Quebec Act of 1774

Subject Matter Expert

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Discussion Overview

Mutual accommodation in action? The Quebec Act of 1774 Fifty years ago, when Canada was in the midst of celebrating its 100th anniversary, the fate of the nation seemed in jeopardy – and the key dividing line separated French and English Canadians.

William Innes • June 29, 2016 at 08:02 pm
It is interesting to reflect on the Quebec Act of 1774, as to how it might guide thinking about the use of Sharia Law or Aboriginal Law in Canada. In the case of Muslims in Canada, the small scale of the community seems to render a separate civil law code impractical. However for Aboriginal peoples who are a much deeper and extensive part of the Canadian fabric, it seems there might be a case for a distinct civil code. However does the fractured structure of the aboriginal communities lend itself to a shared distinctive civil code? Thank goodness we have moved beyond the idea of sanctioned religions.

Chris Dummitt • July 5, 2016 at 12:40 pm
William Innes wrote on June 29:
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Hi Bill - I see the example of 1774 as being more general - about the way in which quite elaborate accommodations can be made, and set into law. This might or might not be about separate legal systems. But it is about acknowledging the reality that these things have happened in the Canadian past. It's not even having a blinkered idea that this was done out of some benevolent vision and kindness (of it wasn't). But it is acknowledging that these accommodations are part of our experience and our shared (if controversial) history.

William Innes • July 9, 2016 at 12:06 pm
Thanks Chris. I agree that the Quebec act should encourage us that accommodation is possible in complex issues like the civil code. I am way out of my depth, but it seems to me that a distinct Aboriginal civil code might be an important component of supporting the First Nations community. If it was possible for Quebec, why not for the other founding community of Canada? Help! Is there a lawyer out there?

Heather Nicol (Subject Matter Expert) • August 10, 2016 at 09:59 am
Thank you Chris and Bill for your comments. I am intrigued with the idea that we could at this stage in the history of Canadian development embrace innovative ways of accommodating distinct civil codes. After all, the international community has agreed, through the United Nations Declaration on the Rights of Indigenous Peoples that even international law must move to be more inclusive. But while agreeing with Bill that a distinct Aboriginal code could be an important part of accommodation, I think the problem is how we limit this accommodation to founding communities - and should we? Or, as we change and grow as a society of Canadians from diverse backgrounds and codes should we be open to similar transformations in the future? As Chris notes this process might be impractical, or even seem to be unfair. But I think this question is fundamental to the discussions of this online community.

William Innes • August 17, 2016 at 08:46 pm
Heather Nicol wrote on August 10:
Thank you Chris and Bill for your comments. I am intrigued with the idea that we could at this stage in the history of Canadian development embrace innovative ways of accommodating distinct civil codes. After all, the international community has agreed, through the United Nations Declaration on the Rights of Indigenous Peoples that even international law must move to be more inclusive. But while agreeing with Bill that a distinct Aboriginal code could be an important part of accommodation, I think the problem is how we limit this accommodation to founding communities - and should we? Or, as we change and grow as a society of Canadians from diverse backgrounds and codes should we be open to similar transformations in the future? As Chris notes this process might be impractical, or even seem to be unfair. But I think this question is fundamental to the discussions of this online community.

You raise a very real issue, but even as we become a more diverse society it would seem that the influence and central role of the founding communities is likely to remain a dominant reality in the definition of our country. In that context the Aboriginal peoples seem to have by far the highest claim to a distinct Civil Law process. In the very long term I would agree that the disintermediation enabled by modern communications may enable much more diverse governing/legal processes-- but I would like to see us make progress with the aboriginal peoples before we take on a broader challenge! Great posting!

Heather Nicol (Subject Matter Expert) • August 18, 2016 at 07:28 pm
I think one of the real chalenges we face is prioritizing determining when, where and for whom unique codes apply. Indigenous peoples are clealry first in line, well past due in fact. But are we in danger of thinking that if we accomplish this the imperative of MA more generally is less pressing? Or that there are categories of peoples whose accommodation is legitimate and other categories who are not? If so where do we draw the line and who decides? In other words this has to be a committment to principle and the processes through which we make legal accommodations need to reflect a broader committment. One step at a time for sure, but we have to be prepared to go the distance.

William Innes • August 19, 2016 at 01:08 am
Heather Nicol wrote on August 18:
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I agree that if we commit to extending unique codes to indigenous peoples, it requires that we define to the principles and processes through which others may or may not be considered. I suspect that we would learn a lot from the experience with indigenous peoples so there is some practical logic in one step at a time.

William Innes • September 20, 2016 at 08:58 pm
Heather Nicol wrote on August 18:
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The discussion about first nations' rights has reminded me that Quebec and the First Nations are each recognized as having quite unique "nations" status within Canada. Their case for distinct recognition seem to be quite different from other immigrant groups despite their huge contributions to the Canadian fabric.

William Innes • October 23, 2016 at 12:03 am
There seems to be a broader perspective of the accommodations which have allowed Quebec to find a place within Canada. Bilingualism and the Quebec civil code were important pillars in recognizing Quebec's unique place in Canada, but it extends to representation in the supreme court, parliament, and the senate, External affairs, La Francophonie, federal equalization, the Canadian dollar Etc. I wonder whether there are other accommodations which would serve us well for the future.