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Laying the Foundations of a Renewed Relationship

IN THIS REPORT WE HAVE made recommendations affecting virtually every aspect of Aboriginal people's lives. We have sought to grapple with entrenched economic and social problems in Aboriginal communities while also seeking to transform the relationship between Aboriginal nations and Canadian governments. Each problem addressed would be difficult to resolve on its own; the problems are rendered more challenging by their interdependence. The scale and complexity of the task is daunting. Implementation will be much easier, however, if the essential themes of this report are kept in view. If one theme dominates our recommendations, it is that Aboriginal peoples must have room to exercise their autonomy and structure their own solutions. The pattern of debilitating and discriminatory paternalism that has characterized federal policy for the past 150 years must end. Aboriginal people cannot flourish if they are treated as wards, incapable of controlling their own destiny.

We advocate recognition of Aboriginal nations within Canada as political entities through which Aboriginal people can express their distinctive identity within the context of their Canadian citizenship. Aboriginal people do not have to surrender their identity to accomplish those goals. Non-Aboriginal Canadians cherish their identity as Newfoundlanders or Albertans, for instance, and still remain strongly committed to Canada.

At the heart of our recommendations is recognition that Aboriginal peoples are peoples, that they form collectivities of unique character, and that they have a right of governmental autonomy. Aboriginal peoples have preserved their identities under adverse conditions. They have safeguarded their traditions during many decades when non-Aboriginal officials attempted to regulate every aspect of their lives. They are entitled to control matters important to their nations without intrusive interference. This authority is not something bestowed by other governments. It is inherent in their identity as peoples. But to be fully effective, their authority must be recognized by other governments.

1. A New Beginning

The rebalancing of political and economic power between Aboriginal nations and other Canadian governments represents the core of the hundreds of recommendations contained in this report. Unless accompanied by a rebalancing of power, no progress can be made on other fronts without perpetuating the status quo. The effects of the past will not be

undone overnight. The essential themes that underpin our recommendations and can assure the rebuilding of Aboriginal life in Canada are as follows.

First, Aboriginal nations have to be reconstituted.

Nations have been divided by policy and legislation. The basic unit of government in First Nations today is the band, a creation of the Indian Act. A band usually includes only a portion of a nation; First Nations people who lost status or did not qualify for status under the Indian Act have been excluded from their communities. As a result, bands are usually too small for effective self-government.

The situation is worse for Métis people, who have experienced very limited political recognition. Only Inuit are well advanced in the process of political reform. There must be latitude for Aboriginal people to reconstitute broader affiliations. We propose a process through which Aboriginal communities join together in new institutions to seek recognition of their status as modern nations.

Second, a process must be established for the assumption of powers by Aboriginal nations.

A definition of powers and mechanisms of transfer from other orders of government must be put in place. We recommend that this be undertaken in two phases: a recognition period in which Aboriginal governments exercise core power on their present territory, and a subsequent treaty process in which full Aboriginal jurisdiction on an expanded land base is negotiated with other Canadian governments. We expect that Aboriginal nations will exercise their powers incrementally as they develop expertise and gain experience. They will, however, have the right to exercise those powers and will control the pace of their own political development.

Third, there must be a fundamental reallocation of lands and resources.

We documented in Volume 2, Chapter 4 how Aboriginal peoples have been systematically dispossessed of their lands, not just in the first rush of settlement but continuing with the erosion of reserves, the elimination of hunting and fishing rights, and interference with other traditional uses of lands and resources.

As a matter of elementary justice, the spirit and intent of historical treaties with respect to sharing lands and resources have to be honoured. It is a matter of Canadians keeping their word, of fulfilling the commitments on which Canada was founded. But it is also critical for the future of Aboriginal nations, which cannot survive if they remain without resources, excluded from the bounty of the land and confined to parcels left over from settlement. Aboriginal people do not expect to obtain full restitution: they do not want to push non-Aboriginal Canadians into the sea or deprive them of their backyards, as the recent history of land claims settlements makes clear. But they do expect to be dealt with fairly, in a manner that recognizes their relationship to the land and their right to share in its resources, and in a way that respects the solemn agreements enshrined in the treaties.

Fourth, Aboriginal people need education and crucial skills for governance and economic self-reliance.

Poverty and neglect have resulted in lower educational attainment and a lack of certain essential skills. The absence of employment opportunities destroys incentive and fuels hopelessness among youth. The move toward collective self-reliance will counter this. Aboriginal people will see that they have an opportunity to shape their destinies and will have reason to apply themselves at school, to go to college or university, or to learn a trade. Educational reforms are not a prerequisite for self-government; the two go hand in hand. Measures must be taken immediately to bridge the gap between current educational attainment and community needs.

Finally, economic development must be addressed if the poverty and despondency of lives defined by unemployment and welfare are to change.

As we will see in the next chapter, the total annual cost to Canadian society of Aboriginal people's economic marginalization amounts to one per cent of the gross national product. There is every reason to believe that with access to resources, to development capital and to appropriate skills, Aboriginal people can participate successfully in the globally oriented southern market economy and in the increasingly self-reliant mixed economy of northern communities.

These principles are central to implementation of our recommendations. Let us explore how these tasks can be carried out.

Canadians have shared a long and sometimes troubled history. Things have happened that are painful to recount and are deplored by the great majority of Canadians. Many of these events were the result of greed or ill will; others were the product of ignorance, misguided intentions or a lack of concern for peoples already at the edge of Canadian society. They have left their legacy in the social and economic conditions of Aboriginal communities and in the distrust and betrayal felt by Aboriginal people. A sense of profound injustice and pain was expressed in testimony before this Commission. The damage is real and will take time to heal. That history of hurt has to be reckoned with in creating a new relationship. We are not suggesting that we dwell on the past. Aboriginal people, like others in Canada, want to put the events of the past behind them and work toward a stronger and healthier future. To do that two things must happen.

First, there has to be a sincere acknowledgement by non-Aboriginal people of the injustices of the past. Widespread ignorance of the history of dispossession has made it increasingly difficult for non-Aboriginal people to admit the need for restitution. Unfortunately, as Aboriginal people have gained strength in the struggle for their rights there has been a rising tide of opposition among non-Aboriginal people with an interest in maintaining the status quo. Their watchword is 'equality': everyone should be treated the same, regardless of deprivation and disadvantage or the origins of these conditions. Acknowledgement and a genuine desire to make reparations are essential prerequisites of a renewed relationship of fairness and mutual respect.

Second, there must be a profound and unambiguous commitment to establishing a new relationship for the future. High-minded policy statements and piecemeal reforms, however meritorious, will not fulfil that commitment. Symbolism is important, however. The new relationship should be heralded by a symbolic step to demonstrate that a lasting commitment has been made. For this reason we recommend that the Sovereign issue a Royal Proclamation to signal the new beginning at a special gathering called for the purpose. The proclamation would set out the principal elements of the new relationship and outline its central institutions. It would be complemented by legislation defining those institutions in detail. This step would not settle all outstanding issues — that will take many years of negotiation and adjustment — but it would create a framework of principle, procedures and institutions for accomplishing change. It would establish a clear goal and the means for Aboriginal and non-Aboriginal people and nations to work toward the goal. It would celebrate the new beginning. We would expect that consultations on a Royal Proclamation and companion legislation could begin within six months of the release of this report.

2. The Proclamation and Companion Legislation

A preamble would express the desire for a new beginning. The government of the day will determine the wording, but we would expect the preamble to express certain perspectives and intentions.

It would invoke the Royal Proclamation of 1763, the proclamation that codified and affirmed the British Crown's recognition of Aboriginal title and governance. The new proclamation would confirm the principles of that foundation document. It would symbolize Canadians' rededication to mutual respect and trust in the tradition of the Royal Proclamation of 1763.

The new proclamation would acknowledge, in general terms, the injustices of the past, especially those associated with the paternalism and disrespect that characterized the period following the decline of the fur trade when Aboriginal title was ignored, treaty rights were undermined and the Indian Act was imposed.

The preamble might express profound regret for the harm caused Aboriginal peoples by policies that deprived them of their lands and that interfered, sometimes brutally, with family relationships, spiritual practices, customary ceremonies, structures of authority and governance, and traditional relationship with the land. It could acknowledge that wrongs were committed, often as a result of stereotypical attitudes that we now recognize as racist, and that Aboriginal peoples are still living with the consequences of those policies. The history of relations between Aboriginal and non-Aboriginal people was not unremittingly negative. There were many instances when individuals acted with wisdom and respect and where cross-cultural interaction was positive. But the profoundly harmful elements of the past must be acknowledged as a way of putting them behind us, as a means of reconciliation. The preamble could express the government's will henceforth to place its relationship with Aboriginal peoples on a proper footing, and it could express

the hope that an honest acknowledgement of past wrongs will break the cycle of guilt and blame and free both sides to embrace a shared future with trust in each other.

The preamble should make clear the foundational principles of that new relationship. These include, above all, recognition that Aboriginal peoples have a right to fashion their own destiny and control their own governments, lands and resources. They constitute nations, with an inherent right of self-government. The federal Crown should undertake to deal with them as such. This would pave the way for genuine reconciliation and enable Aboriginal people to embrace with confidence dual citizenship in an Aboriginal nation and in Canada.

2.1 Recognition of Nations

A crucial first component of the renewed relationship will be nation rebuilding and nation recognition. All our recommendations for governance, treaty processes, and lands and resources are based on the nation as the basic political unit of Aboriginal peoples. Only nations have a right of self-determination. Only at the nation level will Aboriginal people have the numbers necessary to exercise a broad governance mandate and to supply a large pool of expertise. At the nation level they can develop institutions that are stable and independent of personality. Only with nationhood can Aboriginal peoples recapture the broad sense of solidarity that predated the relocations and divisions of the Indian Act era. We do not mean to suggest that community-level institutions are irrelevant. On the contrary, some activities are best located at the community level, and some Aboriginal peoples will adopt decentralized governing structures as a result.

The composition of nations will not always be straightforward. For some, the nation already exists. For others, nation institutions will emerge through a process of negotiation, political debate, and perhaps even trial and error. The majority of existing Indian governments are based on Indian Act bands, and reintegration of excluded citizens will be an important issue for them. Virtually all Aboriginal nations will have to go through a process of constitutional development before election procedures, mechanisms for ensuring accountability and decision-making processes can be put in place.

After an Aboriginal nation has been reconstituted, it can exercise self-government on its existing territory in core areas of jurisdiction and seek formal recognition from the governor in council for nation status and a formal agreement with the federal and provincial or territorial governments. The agreement would spell out core powers the Aboriginal government will exercise and provide financial resources to carry out those responsibilities. The nation would be the appropriate party to the subsequent treaty process that would establish the full scope of its jurisdiction, the nature of its fiscal and other relationships to governments, and the boundaries of its lands. Eventual adherence to the treaty resulting from this process would signal the nation's full and free participation in the Canadian federation.

Recognition would be the responsibility of the governor in council through a procedure set out in the Aboriginal Nations Recognition and Government Act we propose. The

primary determination of whether a community satisfied the criteria would be entrusted to a panel established under the Aboriginal Lands and Treaties Tribunal. The panel would convey its evaluation to the governor in council who, although not bound to follow the panel recommendation, would have to give reasons for departing from them. The process would provide an orderly means of recognition in a manner functionally analogous to what occurs when countries seek recognition at the international level.

The process may work somewhat differently for Inuit. They have already begun to coalesce into four nation groups: Inuvialuit, and Inuit of Nunavut, Nunavik and Labrador. To some degree these groupings already have stable internal structures. Inuit have already opted for the exercise of government powers through mechanisms of public government. Thus, the system of recognition described here would be implemented in a different manner for them. Flexibility would also be needed in terminology to take account of Inuit and Métis traditions. Inuit collectivities might be termed ‘peoples’, for example (or another term acceptable to them), rather than ‘nations’. Arrangements between Métis people or Inuit and governments might be settled through ‘agreements’, ‘accords’ or ‘compacts’ rather than ‘treaties’.

These are the basic contours of the recognition process we propose. Because the transition to nation government is fundamental to the new relationship we envisage, the principles and means of recognition should form a basic element of the Royal Proclamation and its companion legislation.

The companion legislation would specify the criteria of nationhood, establish procedures, and set out the consequences of recognition. It would also provide for assistance to Aboriginal nations engaged in the process of nation-building, which might take the form of technical support, funding, and mediation services. The specific elements of the nation rebuilding and recognition process are described in detail in Volume 2, Chapter 3.

2.2 The Treaty Process

The Royal Proclamation and companion legislation would also lay the foundation for the treaty process. Negotiation would be triggered by a request by a recognized Aboriginal nation. That request might concern any of a range of matters falling within the scope of the process, such as the nation’s desire to exercise powers beyond the core responsibilities of self-government, the nation’s desire to achieve full implementation of an existing treaty, or the nation’s wish to resolve a land claim. The request for negotiation would impose a clear obligation on all parties to negotiate in good faith, prompt the establishment of a regional treaty commission (if one did not exist), and give the nation and non-Aboriginal governments access to the research, mediation and other services of the relevant treaty commission.

We propose provincial and territorial involvement in all phases of the treaty negotiation process. Land settlements, the redistribution of government responsibilities, and co-management schemes all require provincial involvement. The provinces and territories cannot be indifferent about their obligations to Aboriginal peoples. In our view, they also

have a fiduciary responsibility. As the principal beneficiaries of Aboriginal peoples' land losses resulting from disregard of treaties or failure to conclude them, they have a legal and moral obligation to participate in creating a new or renewed treaty relationship. We therefore propose formal consultations and negotiations between Aboriginal peoples' representatives and federal, provincial and territorial governments through the development of a Canada-wide framework agreement.

We should make absolutely clear, however, that the federal government does not need the support of all the provinces to take action on Aboriginal issues. Under section 91(24) of the Constitution Act, 1867, Parliament has primary jurisdiction with respect to Aboriginal peoples. The federal government cannot, consistent with its fiduciary obligation, sit on its hands in its own jurisdiction while treaties are broken, Aboriginal autonomy is undermined, and Aboriginal lands are destroyed.

The policies and instruments proposed for adoption in the Royal Proclamation and its companion legislation can be established by the federal government acting alone if necessary under section 91(24). The recognition process lies entirely within federal responsibility and can be implemented fully by the federal government. Many matters covered by the treaty process also fall within federal jurisdiction. If some provinces and territories refuse to participate, the federal government should move forward with the others, leaving it to subsequent persuasion or the courts to complete the circle.

We wish to emphasize again that our preference is for co-operative action by all governments in Canada. This is in the interests of the governments themselves, as issues that long have festered will be resolved expeditiously and in a spirit of goodwill, and settlements will be reached that work with, rather than against, provincial priorities. But the frustration of Aboriginal peoples is substantial and justified. Federal action on matters of federal jurisdiction should not be postponed.

The new proclamation would set out the principles underlying the treaty process. These would include the government's commitment to respect and implement existing treaties in accord with their spirit and intent and its willingness to reconsider, in the light of oral evidence and in the modern context, issues on which there was clearly no agreement at the time historical treaties were negotiated. Throughout, the proclamation should make clear that with respect to both terminology and substance, treaty processes will be sufficiently flexible to accommodate the diverse traditions of Aboriginal peoples, including Inuit and Métis.

The proclamation would be complemented by legislation establishing the framework for the treaty process. An Aboriginal Treaty Implementation Act would provide the legislative framework under which regional treaty commissions would be established. It would lay out the general guidelines for negotiating the reallocation of lands and resources. An Aboriginal Lands and Treaties Tribunal Act would create a tribunal to deal with specific claims and assist treaty processes. Finally, legislation would establish a new Department of Aboriginal Relations within which a Crown Treaty Office would have

principal responsibility for the federal government's participation in treaty renewal and treaty making. (See Volume 2, Chapters 2, 3 and 4 for details on these proposals.)

2.3 Lands and Resources

The treaty process would provide the essential framework for dealing with issues of lands and resources. The treaty commissions and the tribunal would be the primary institutions in that process.

In the Royal Proclamation, the federal government should indicate its acceptance of certain principles relating to Aboriginal title. The first would be that Aboriginal land rights do not need to be extinguished to achieve a settlement of land claims or to agree to or implement new treaties. A second would state the federal government's recognition that Aboriginal title is a real interest in land. The third principle would signal the government's intention to resolve land claims in a manner that reconciles the interests of the broader society with Aboriginal title. Our special report on extinguishment and our chapters on treaties and lands and resources in Volume 2 suggest how these principles might be implemented.¹

The Royal Proclamation should state the government's commitment to resolve questions about the redistribution of lands and resources as expeditiously as possible. While Aboriginal nations can invoke the treaty process as a means of resolving virtually all claims through negotiations, certain claims that raise relatively defined issues might be submitted to the tribunal for binding determination. These are the claims roughly corresponding to today's 'specific claims', although we propose an expanded definition of this term. The process of resolving claims is very slow at present. The proclamation should announce the government's intention to vest adjudicative jurisdiction in the tribunal so as to speed up the process.

One of the most pressing issues regarding lands and resources is the availability of interim relief. Even with the reforms proposed here, it will take considerable time to resolve land claims. Meanwhile, lands subject to claims are being sold, trees are being harvested, game is being killed or driven out, and communities are living in poverty. It is crucial that there be some protection of Aboriginal interests while the treaty process is being pursued. We have recommended that the tribunal have authority to grant interim relief. We also recognize that provincial and territorial involvement is essential in the design of that relief and necessary if the tribunal is to have authority to grant it.

The best forms of interim relief combine a high degree of protection for a portion of the territory, institutions for the co-management of critical resources in the territory, and financing for Aboriginal people in the form of a share of resource revenues. This provides substantial protection without freezing development. Moreover, the experience of working together under interim relief measures often makes a settlement easier to obtain. We therefore propose that a strong effort be made, in the context of negotiating a Canada-wide framework agreement, to develop principles to govern interim relief agreements containing these elements. Each interim relief agreement would be the result

of successful negotiations involving an Aboriginal nation, the federal government and the relevant province. It would provide a framework of relief that could then be applied by the tribunal.

Métis people have traditionally faced unique difficulties in pursuing recognition as Aboriginal peoples, their right to governance, and their own land base. The Royal Proclamation would be an appropriate place for the federal government to state its stance on these issues. This would include recognition under section 91(24) of the Constitution Act, 1867, plans to secure an adequate land base, measures to provide Métis hunting and fishing rights equivalent to those enjoyed by other Aboriginal peoples, and steps to obtain constitutional confirmation of the Alberta Métis settlements. (For further details, see Volume 4, Chapter 5.)

3. A Canada-Wide Framework Agreement

In our view, the elements of the Royal Proclamation and companion legislation can all be adopted by federal action alone. They would signal the federal government's commitment to a profound transformation in relations between Aboriginal and non-Aboriginal people in Canada, and they would set in place the infrastructure to accomplish that transformation.

That said, our first preference is for co-operative, co-ordinated action by the government of Canada, the provinces and territories, and Aboriginal nations. To that end, we strongly recommend that as soon as possible after the release of this report, governments institute a framework for discussion of Aboriginal issues, with a view to establishing collaborative measures.

This kind of collaboration would be especially valuable in establishing the treaty process and the aspects of the process concerned with governance and land claims. We propose that first ministers and leaders of the national Aboriginal political organizations meet to review the principal recommendations of this report within six months of its release and establish a forum to develop a Canada-wide framework agreement. The work of that forum would be led by national Aboriginal organizations and ministers responsible for Aboriginal affairs. It would have a target date of the year 2000 to complete its work and would report annually to first ministers and national Aboriginal leaders.

Negotiations in the context of a framework agreement would focus on principles to govern land settlements, the recognition of legislative jurisdiction, fiscal arrangements and co-management on public lands, and interim relief agreements. The establishment of general principles to guide the treaty process by a Canada-wide framework agreement could make for more rapid progress in the settlement of claims.

If these consultations and negotiations are begun expeditiously, it may be possible to include some of their results in the Royal Proclamation and its companion legislation. Provinces that agree could enact legislation simultaneously to confer authority on the new

institutions. Provinces could formally declare their support for the proclamation and their willingness to collaborate in achieving its aims.

Recommendation

The Commission recommends that

5.1.1

First Ministers, territorial leaders and leaders of the national Aboriginal organizations meet within six months of the release of this report to

- (a) review its principal recommendations;
- (b) begin consultations on the drafting and enactment of a Royal Proclamation redefining the nature of the relationship between Aboriginal nations and Canadian governments; and
- (c) establish a forum to create a Canada-Wide Framework Agreement.

4. Gathering Strength

4.1 Social Issues and Structural Change

The Royal Proclamation and its companion legislation focus on structural changes in the relationship between Aboriginal peoples and Canadian society. We assign priority to structural measures because of their capacity to set in train fundamental change in the social and economic conditions that have resisted reform over the past 25 years.

Redistributing power and resources and proclaiming a public commitment to change the relationship will open the door for Aboriginal people to take charge of their own future. Transforming life conditions will require sustained vision and energy over at least a generation. Aboriginal people must regain hope that fundamental change is attainable. To liberate the energies of Aboriginal and non-Aboriginal people alike, this hope must be nourished by visible progress in resolving pressing problems.

The assumption of responsibility by Aboriginal peoples does not mean abandoning Aboriginal people to work out their problems in isolation from each other, from Canadian governments, or from Canada's social and economic institutions. Just as we speak of Aboriginal people becoming full-fledged partners in Confederation, we also urge partnerships to address social and economic problems.

Throughout our report we propose how the energy of Aboriginal people can converge with government action to create a better future for all. We make recommendations to address past injuries and generate trust, to revitalize Aboriginal economies, to restore individuals, families and communities to health, to make the investment necessary to

create safe and healthy housing and useful community services, to provide effective and culturally appropriate education, and to sustain Aboriginal identity and languages as a dimension of public life in Canada. The changes we propose are wide-ranging, interrelated and important; they are the measures that will enable Aboriginal people effectively to occupy the roles envisioned in this restructured relationship. The questions that remain are how to set priorities and how to gauge the level of investment required.

4.2 Four Dimensions of Social Change

In Chapter 3 of this volume we propose a level of financial commitment to support substantial change in political, economic and social realities. The amount we recommend will require choices to be made. Establishing priorities for the use of financial resources must be done by the Aboriginal people whose lives are directly affected, in consultation with federal, provincial and territorial governments. Those governments will retain much of the jurisdictional and fiscal responsibility in the years when the recommendations are first implemented. In setting priorities for implementation, careful attention will have to be paid to the interdependence of recommendations and the need to support change in one area with complementary action elsewhere.

We see four major dimensions for social, economic and cultural initiatives:

- healing of individuals, families, communities and nations;
- improving economic opportunity and living conditions in urban and rural Aboriginal communities;
- developing human resources; and
- developing Aboriginal institutions and adapting mainstream institutions.

Healing

Healing is a term used often by Aboriginal people to signify the restoration of physical, social, emotional and spiritual vitality in individuals and social systems. It implies the revitalization of their confidence in themselves, their communities and cultures, confidence that must be grounded in their daily lives.

Healing also has an intercultural meaning. Learning about and acknowledging the errors of the past, making restitution where possible, and correcting distortions of history are essential first steps in the process of healing between Aboriginal and non-Aboriginal people. In Volume 1 we recommended remedies for past injustices and neglect in residential schools, relocation policies, and the treatment of veterans. We also proposed a history of Aboriginal peoples to ensure that future generations of Canadians are better informed about the past and present role of Aboriginal nations in Canadian life.

Our recommendations in support of family life and for health and healing services adapted to the circumstances of Aboriginal people build on service systems in which substantial investment is already being made. Our recommendations focus on engaging Aboriginal people in the design, management and restructuring of services to make them more accessible and appropriate.

Healing also involves strategies to ensure people are no longer damaged in the formative years of their lives. In Volumes 2 and 3, we made recommendations relating to young children, noting the research in health sciences and education that documents the devastating effects of deprivation during the formative years. Our recommendations emphasize the importance of protecting children through culturally appropriate services, by attending to maternal and child health, by providing appropriate early childhood education, and by making high quality child care available, all with the objective of complementing the family's role in nurturing young children.

Child welfare and family services constitute an area of deep concern, especially among women in Aboriginal communities, and are of critical importance in addressing both justice and social issues. The measures we propose can involve large numbers of people in constructive activities that promote healing. Such activities foster the growth of local leadership and are matters on which Aboriginal people have taken significant and innovative steps in recent years, often transcending single communities.

Our recommendations on education are designed to remove the impediments to learning that result from discontinuity between the culture of the community and the culture of the school and to foster bicultural competence to allow Aboriginal youth to function effectively in Aboriginal and non-Aboriginal environments. Changes in curriculum and pedagogy are proposed to make education relevant to the tasks of consolidating an adult Aboriginal identity and bridging the divide between school and the workplace.

The work of healing is not confined to restoring balance and efficacy to Aboriginal individuals and families. Communities and nations are in need of healing too. Aboriginal traditions of mutual aid have been undermined by the loss of economic resources and the intervention of agencies and institutions that ignored the strengths of community systems and the authority of community customs.

Cultural revitalization is now being expressed not only in ceremonial practices but also in the development of community services rooted in traditional ethics of sharing and mutual responsibility. We are confident that reweaving the bonds of community and reinstating the ethic of communal responsibility will be enhanced by placing in Aboriginal hands authority for decisions about community services. Initially this authority is likely to be administrative, delivering services mandated by federal, provincial and territorial governments. As institutions of self-government are established, these services will be brought under the jurisdiction of Aboriginal nations and confederacies.

In Volume 2, Chapter 3, we discussed how trust and co-operation must be restored in nations whose members have been divided by geographical dispersion and categories of

status defined by the Indian Act. Traditions of leadership, too, have been submerged or distorted by Indian Act impositions. Restoring nations to cohesion and efficacy is an extension of the healing process taking place at the individual and family level.

Our recommendations in Volume 3, Chapter 6 are directed to broadening the channels for affirming Aboriginal identity in Canadian life through support of Aboriginal participation in communications media and the arts. Preservation of Aboriginal languages and enhanced skills in communication, along with better intercultural relations, will contribute significantly to personal and collective healing and the rebuilding of nations.

Aboriginal people speaking at our hearings made it clear that healing is an Aboriginal responsibility. As expressed by Roy Fabian, executive director of the Hay River Treatment Centre in the Northwest Territories, “The whole process of healing is becoming responsible for ourselves.” Chief Gordon Peters conveyed a similar view:

Some call it healing; some call it regeneration. No matter what it is called, it is the same process — people taking control of their individual lives.

Chief Gordon Peters
Chiefs of Ontario
Toronto, Ontario, 18 November 1993*

Economic opportunity

Individual and community efforts to promote self-healing will be severely constrained unless there is complementary change in the economic opportunities available to Aboriginal people and a dramatic improvement in living conditions in Aboriginal communities. The second dimension of priorities for implementation therefore includes economic development, housing and community infrastructure.

Economic development can acquire considerable momentum as measures to achieve self-government and reallocate lands and resources are implemented, provided the tools of development are available. Next to lands and resources, the most critical tools are capital and skills. We propose that equity capital be made available from federal and provincial governments at greatly enhanced levels through long-term development agreements with regional Aboriginal organizations, nations and confederacies, through a National Aboriginal Development Bank, and through private investment. The acquisition of management skills for various kinds of business enterprise is an important focus of our proposed human resources strategy in support of Aboriginal economies. A change in the way social assistance funds flow into Aboriginal communities could stimulate greater self-reliance by enabling these funds to be used to sustain traditional harvesting activities and to improve social and physical infrastructure.

A major initiative to upgrade housing and community infrastructure would also support the transition to self-government and enhance economic development, while countering significant threats to health and well-being. Clarifying the nature of ownership of residences on Aboriginal territory will improve incentives to maintain dwellings and

invest in their improvement. In addition, adopting the principle that those who are able should pay for a portion of the cost of their housing will release resources, whether of federal and provincial governments or Aboriginal nations, to help those in greatest need. A housing initiative should be pursued immediately, and as nation governments are recognized they can take over institutions that manage and finance housing programs, provide technical skills in systems design, regulate standards, and maintain the housing stock.

Human resources

The third critical dimension of change is human resources development. Institutions of self-government, restructured human services, community infrastructure and revitalized Aboriginal economies need appropriately trained personnel. We propose a 10-year initiative to overcome barriers to Aboriginal participation in the labour force, building on experience gained in current training and employment development strategies. In Volume 3, Chapter 3, we recommend that the educational preparation of Aboriginal personnel to direct, plan and staff restructured health and human services should be a major policy emphasis. In our recommendations on adult and post-secondary education and education for self-government, we set out detailed strategies for reaching the twin objectives of an Aboriginal population knowledgeable in their culture and fully equipped to implement self-government, staff public services, sustain self-reliant economies, and engage freely in mainstream economic activities. (See Volume 2, Chapters 3 and 5, and Volume 3, Chapter 5.)

Education and training for Aboriginal governments and economies must achieve better integration between study and work through programs adapted to community realities, study and work placement combinations, scheduling to permit employed persons to enhance their qualifications, and access to training and education in or near Aboriginal communities.

Educational success will contribute to personal and communal healing, which in turn will result in more candidates presenting themselves for higher education. We therefore anticipate that a very substantial commitment to student support and innovative delivery of education services in First Nations, Inuit and Métis communities will be necessary well past the 20-year time frame for which we make fiscal projections in Chapter 3 of this volume. However, we also expect that educational outlays will begin to be offset by paybacks from increased employment and productivity by the end of the first decade of our social and economic strategy.

Institutional development

Institutional development is the fourth dimension of our recommendations for social, cultural and economic change. Aboriginal life is more complex than it was in the village and the hunting camp. In those contexts the family was the all-purpose mediator, teaching its members how to understand and respond to the world at large and interpreting to the community the contribution each member had to offer. Even in compact and isolated

Aboriginal communities where intricate, layered kinship relations still prevail, Aboriginal people have turned to formal institutions to meet their needs for education, health care and political leadership, to give three examples.

Most contemporary institutions governing Aboriginal life are regulated by norms that originate outside Aboriginal communities. The services they offer are fragmented and sometimes overlapping. These services are extended or withheld from Aboriginal persons on the basis of status categories that are also determined by non-Aboriginal authorities. This results in a service deficiency affecting more than half of all Aboriginal people. In urban and rural off-reserve areas, Aboriginal people confront an array of services, scarcely any of which show even token acknowledgement of the varied cultures and needs of the people they are intended to serve.

We have concluded that in every sector of public life there is an urgent need to liberate Aboriginal initiative by making room for Aboriginal institutions. They should be part of education, health and social services, housing, communications and economic development, as well as the administration of government. As self-government is established, Aboriginal institutions will become instruments for meeting needs through self-determined means. They will be a primary place for innovation based on traditional knowledge and contemporary experience and judgement.

We have recommended support or reinstatement of sector-specific and regional organizations to pursue economic development. We have suggested the formation of new planning bodies or the designation of existing regional organizations to develop the integrated network of healing centres and lodges we propose. These organizations and institutions would precede nation rebuilding and self-government in many regions and should be structured to complement the development of nation structures. They need not be confined to serving a single nation.

Change is threatening because it means relinquishing practices that have become familiar and predictable, even if they are sometimes frustrating and painful. Progress in developing Aboriginal social and economic institutions can break habits of control and dependence. Effective institutions can function as a powerful stimulus to community revitalization and nation building.

4.3 Federal, Provincial and Territorial Contributions

It is essential that federal, provincial and territorial governments make firm commitments to support change in the four dimensions just outlined. The importance of commitment to the healing process in its many forms, to adapting the delivery of public services, to improving economic opportunity and living conditions, and to human resources development is already recognized to some degree by all governments. It is particularly important that governments make an early commitment to provide stable funding to Aboriginal institutions as they emerge from the planning process.

In Volume 4, Chapter 7, we set out an approach to apportioning financial obligations related to social expenditures. The jurisdictional debate between federal and provincial governments has seriously impeded the development of equitable and effective Aboriginal services. That debate must give way to decision and action.

At the start of this transition period, much of the jurisdiction and spending authority will continue to lie with federal, provincial and territorial governments. But the necessary initiatives will not be effective unless designed and implemented by Aboriginal people according to their priorities. Aboriginal people need to be able to direct resources to the areas where the need for social infrastructure is greatest.

We propose therefore that governments enter into multi-year planning and implementation processes on a provincial or regional basis with representatives of the Aboriginal nations of the area. Priority setting to address needs across the region might take up to two years. It could culminate in five-year funding agreements to permit stability of implementation. The creation of programs and institutions should be undertaken with the emerging nation structures in mind so that as nations are recognized, jurisdiction and resources could be assumed by the nation government with a minimum of friction.

5. Keeping Track of Progress

Ensuring that trust, once engendered, is honoured is a continuing responsibility, one that cannot be left to governments alone, buffeted as they are by the tide of events and transient priorities. The establishment of institutions to restructure the relationship through a Royal Proclamation and companion legislation should be accompanied by the creation of an equally vital institution to monitor progress toward self-government, an adequate land and resource base, and equality in social and economic well-being for Aboriginal peoples. This institution would assess the extent to which governments are honouring their commitments and the progress being achieved in implementing the recommendations of this Commission.

The value of the institution would lie in its independence and in its ability to focus the attention of legislators and governments on the continuing process of renewal. Monitoring is needed because the process will last not just years but several decades. Without regular review, the original objectives could too easily be forgotten or submerged in the preoccupations of the day. Monitoring is needed to help clarify issues that are complex and difficult to understand. Monitoring is a form of advocacy and also a vehicle for public education about changes taking place among Aboriginal peoples and in their communities. To achieve these objectives, we propose that the federal government establish an Aboriginal Peoples Review Commission that would be independent of government and report direct to Parliament.

A model for such a body already exists. The Office of the Commissioner of Official Languages was established to monitor compliance with the Official Languages Act following the 1967 report of the Royal Commission on Bilingualism and Biculturalism.

The Commissioner of Official Languages is appointed by resolution of the Senate and House of Commons for a seven-year renewable term, and the act provides for the commissioner's independence from government. The commissioner reports annually to Parliament and has a close relationship with a joint committee of the Senate and the House of Commons. The commissioner deals mainly with individual complaints and reviews the application of the Official Languages Act in federal departments.

The mandate we propose for an Aboriginal peoples review commission would of necessity be broader, since it touches so many areas of Aboriginal life. We believe the commission should focus on the broad scope of change. Although accepting input from all sources, it should not deal with individual complaints. We envisage a commission established by Parliament and led by a chief commissioner, appointed for a fixed term by the Senate and House of Commons. The appointment process should include consultation with the national Aboriginal organizations and could be facilitated by an independent third party, such as a judge of the Supreme Court of Canada. Up to three part-time commissioners could be appointed to assist the chief commissioner. The independence of the commission's funding and staff must be assured. The chief commissioner should be Aboriginal, and most other commissioners and staff should also be Aboriginal.

The commission would report to Parliament annually on self-government, lands and resources, and the social and economic well-being of Aboriginal peoples. It would have the power to make special reports. Should an Aboriginal parliament be created, as we have recommended as an interim step toward creation of a House of First Peoples as a third chamber of Parliament, the commission would closely follow the work of that body.

The commission's mandate should be broad enough to include the activities of provincial and territorial governments within its review, although the commission would not be responsible to provincial and territorial legislatures. Its annual reports should provide the occasion for Parliament (and the provincial and territorial legislatures) to review Aboriginal issues regularly through committee hearings and debate.

Monitoring progress on the Aboriginal agenda without becoming unwieldy in staffing or budget will require an innovative approach. This might include co-operative arrangements with other organizations, such as the Aboriginal Justice Council recommended in our special report on criminal justice,² with Aboriginal and non-Aboriginal governments and with educational and research institutions. The commission's reports should aim to provide an overview of progress and shortcomings.

The commission would have the power to advise, to educate and, ideally, to persuade, but it would not have decision-making authority. Even if the commission develops credibility and public interest only slowly, its creation will be justified. Aboriginal peoples and Canadian governments will benefit from a regular assessment of what has been accomplished and what remains to be done — evaluation that has been lacking in the past. The commission's reports will motivate governments to move forward in fulfilling their promises to Aboriginal peoples. The review commission has the potential to be an important instrument for maintaining trust between governments and Aboriginal peoples.

Recommendations

The Commission recommends that

5.1.2

The government of Canada introduce legislation to establish an Aboriginal Peoples Review Commission that is independent of government, reports to Parliament and is headed by an Aboriginal chief commissioner.

5.1.3

The Aboriginal Peoples Review Commission regularly monitor progress being made

- (a) by governments to honour and implement existing treaties;
- (b) in achieving self-government and providing an adequate lands and resource base for Aboriginal peoples;
- (c) in improving the social and economic well-being of Aboriginal people; and
- (d) in honouring governments' commitments and implementing the recommendations of the Royal Commission on Aboriginal Peoples.

5.1.4

The Aboriginal Peoples Review Commission report annually to Parliament and that Parliament use the occasion of the annual report to address Aboriginal issues in committee hearings and debate.

5.1.5

Provincial and territorial governments co-operate with the commission in fulfilling its mandate and respond in their legislatures to the commission's annual assessment of progress.

5.1.6

Federal and provincial first ministers and territorial leaders meet at regular intervals with national Aboriginal representatives to assess implementation of reform measures and to raise public awareness of Aboriginal concerns.

6. An Interactive Strategy

By now it will be clear that a fundamental combination of forces must be in place to make change possible. This no doubt motivated Chief Justice Brian Dickson to propose

the extensive mandate of the Royal Commission on Aboriginal Peoples. Almost every aspect of the mandate interacts continuously with every other: measures for self-government have an impact on the administration of health and education, which bears directly on economic opportunity, which provides the means for good housing and financing social and cultural programs. A just reallocation of lands and resources has an impact on employment, on cultural and spiritual wholeness, and on the revenues needed for governance, education and social infrastructure.

Not all of our recommendations can be implemented simultaneously. Governments do not have the financial resources and Aboriginal nations do not have the human resources to absorb and manage simultaneous change on all fronts. But decisive intervention on many fronts at the same time is required to reap the benefits of the anticipated synergy.

We are convinced that our proposals will furnish the substance of political relations between Aboriginal people and Canadian society for the next two decades. With the adoption of the structural measures proposed in this chapter, a dramatic transformation will be set in motion. A profound, symbolic turning point in Aboriginal/non-Aboriginal relations will have been reached. The old relationship of paternalism and prejudice will have been rejected and, in its place, a foundation laid for a new partnership founded on responsibility and mutual respect.

The foundation would not be merely symbolic. The Royal Proclamation and companion legislation will establish the infrastructure for the new relationship. They will create the critical institutions for the shift to the nation as the basic unit of Aboriginal government and for structuring the negotiating process. They would signal a clear commitment to change, a commitment made all the more real by identifying clear pathways to change.

Notes:

* Tables of contents in the volumes themselves may be slightly different, as a result of final editing.

* Transcripts of the Commission's hearing are cited with the speaker's name and affiliation, if any, and the location and date of the hearing. See A Note About Sources at the beginning of this volume for information about transcripts and other Commission publications.

1 See Royal Commission on Aboriginal Peoples (RCAP), *Treaty Making in the Spirit of Co-existence: An Alternative to Extinction* (Ottawa: Supply and Services, 1995); and Volume 2, Chapters 2 and 4.

2 RCAP, *Bridging the Cultural Divide: A Report on Aboriginal People and Criminal Justice in Canada* (Ottawa: Supply and Services, 1996).