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Characteristics of a Nation-to-Nation Relationship: National Dialogue Discussion Paper

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Table of Contents

BACKGROUND	1
TAKING STOCK OF THE LEGACY OF COLONIALISM	2
RECONCILIATION AND RELATIONSHIP REBUILDING	3
FRAMING THE NEW RELATIONSHIP: FEDERAL AGENDA	4
BI-LATERAL MECHANISMS	4
REVIEWING LAWS & POLICIES	6
RECOGNITION OF INDIGENOUS RIGHTS AND SELF-DETERMINATION DISCUSSION TABLES	6
PRINCIPLES RESPECTING THE RELATIONSHIP	7
DISSOLUTION OF INDIGENOUS AFFAIRS	8
RESPONSE TO ADMINISTRATIVE CHANGES	9
CHARACTERISTICS OF THE NATION-TO-NATION RELATIONSHIP	10
FRAMING A NEW ROYAL PROCLAMATION	11
NATION BUILDING AND NATION RE-BUILDING	12
AGGREGATION AND INDIGENOUS INSTITUTIONAL DEVELOPMENT	14
JURISDICTION	15
RECOGNITION OF INHERENT RIGHT OF SELF-GOVERNMENT	15
WHAT IT MEANS TO GOVERN	15
RECLAIMING INDIGENOUS JURISDICTION	16
INTERJURISDICTIONAL RELATIONSHIPS	17
INTERGOVERNMENTAL FISCAL RELATIONSHIPS	18
FOUNDATIONS OF A NEW FISCAL RELATIONSHIP	18
BEYOND THE 2% CAP	19
BEYOND GRANTS AND CONTRIBUTIONS	20
REVENUE SHARING, POWERS OF TAXATION AND OWN SOURCE REVENUE	21
WELLBEING AND WEALTH CREATION	22
CLOSING THE GAPS	22
TREATIES & CLAIM SETTLEMENTS	23
EQUITY PARTICIPATION	23
IMPROVED FINANCIAL ADMINISTRATION	24
SELF DETERMINATION & FINANCIAL ACCOUNTABILITY	24
WHERE TO BEGIN	25
ROLE OF THE FEDERAL GOVERNMENT	26
ROLE OF THE PROVINCES	26
ROLE OF MUNICIPALITIES	26
ROLE OF CANADIAN PUBLIC	27



Background

The federal government has committed to pursuing a Nation-to-Nation relationship based on recognition, rights, respect, co-operation and partnership with Indigenous people, acknowledging this as both the right thing to do and a path to mutual prosperity. The Nation-to-Nation relationship with Indigenous peoples has been identified as a seminal priority for Canada. At the same time, Indigenous leaders emphasized that Canada's sesquicentennial serves as an opportunity for Canada and Indigenous people to complete the story of our coexistence.

Recognizing the opportunity this moment presents, the Institute on Governance (IOG) and Canadians for A New Partnership convened a dialogue series around the Nation-to-Nation relationship to enable nations and leaders to share their vision in an open forum and direct the agenda moving forward. The dialogue series, beginning in February 2017, has focused on four themes: Nation Building and Re-Building, Jurisdiction, Intergovernmental Fiscal Relationships, and Wealth Creation. In total, approximately 400 people participated in these dialogues, including Indigenous leadership, Crown government representatives and civil society participants. What has emerged is a coherent path for change based on a nation-to-nation relationship that is steeped in building on years of recommendations from other key dialogues and studies, ranging from the Section 35 debates, to Royal Commission findings, to the Truth and Reconciliation Calls to Action.

In anticipation of the final national dialogue to be held in Ottawa this November, this paper presents some of the key findings from "Characteristics of a Nation-to-Nation Relationship" dialogue series to date, alongside some of the key developments over the course of the discussions – specifically, efforts on the part of the federal government to illustrate their commitment to the nation-to-nation agenda. This is not meant to be a comprehensive summary of all inputs to date. For access to the original discussion paper, session summaries, or thought leader interviews, [click here](#).

Over the course of the past two years, Prime Minister Trudeau has revamped the Indigenous portfolio, endorsed the final report of the Truth and Reconciliation Commission, endorsed the United Nations' Declaration on the Rights of Indigenous Peoples (UNDRIP), created a national public inquiry into missing and murdered Indigenous women, and committed to a Nation-to-Nation relationship with Indigenous peoples. Recognizing and enabling Indigenous governments would require a significant investment and is considered by many a natural extension of the rights affirmed in *Section 35* of the *Constitution Act*.



Taking Stock of the Legacy of Colonialism

A key first step in resetting the relationship between the Crown and Indigenous peoples involves taking stock of and recognizing the legacy of colonial policies such as the *Indian Act* and the Residential School program. These policies have eroded many Indigenous nations' governance institutions and practices, left a legacy of intergenerational trauma within Indigenous communities, and threatened the survival of Indigenous languages and cultures - the basis of Indigenous identity and nationhood. Throughout the dialogue series many Indigenous leaders echoed former Akwesasne Grand Chief Mike Mitchell's sentiments: "My language, my song, my spiritual beliefs; that is my sovereignty, that's my identity."

Participants acknowledged that starting with the *Royal Proclamation, 1763*, the Crown commenced on a path of recognition, committing to treaty making with self-governing Indigenous nations. The Royal Proclamation ensured settlers could not acquire Indigenous lands directly without the Crown negotiating a formal treaty. The Two Row Wampum used in the Treaty of Niagara, 1764, illustrated a Nation-to-Nation relationship: a ship representing settler culture, religion, government and traditions, and a canoe representing Indigenous government, way of life, spiritual ways, customs and traditions, travelling together down the river of life, neither trying to steer the others' vessel. Then, through Section 91(24) of the *British North America Act, 1867*, and the *Indian Act, 1876*, the Crown took a dramatically different direction in its relationship with Indigenous people: one of denial of Indigenous title and rights and a policy of assimilation.

Colonial policies of denial and assimilation have had devastating impacts on Indigenous people, leaving a wide disparity in socio-economic outcomes between Canadian and Indigenous populations. The intergenerational impacts stemming from colonial policies are a significant factor in the suicide crisis many Indigenous communities across are experiencing across the country.

Regional Chief Isadore Day emphasized the need to rebuild to and give Indigenous youth hope and a vision for their futures and the futures of their communities: "They do not see vision, they do not see hope and they do not see opportunity in our communities." To many, a "Nation-to-Nation" relationship means supporting Indigenous nations to rebuild health, happy communities and cultures.

Ovide Mercredi underlined the landlessness of Indigenous people is one of the greatest crimes of Canada and that reconciliation requires restoring lands that belong to First Nations so they are not landless in their homeland and without economic opportunities driven by them, in their homeland.

All dialogues around the Nation-to-Nation relationship inevitably begin with discussions of current and past historical injustices, and how these may be addressed by the relationship and through reconciliation efforts.



Reconciliation and Relationship Rebuilding

What would reconciliation mean to you, we asked, and people said reconciliation would mean reclaiming knowledge around healthy ways of parenting, ongoing healing, reclamation of land, housing, language, culture, and the connection between reclaiming a sense of belonging and identity and the ability to feel one can start to heal. ~ Marie Wilson, Truth and Reconciliation Commission (TRC) ~

If reconciliation was the overarching theme of the TRC report, nation building (with self-government as the ultimate expression of nationhood) was the most important activity the Commissioners saw to achieving this end. A new Nation-to-Nation relationship is a fundamental component of fostering reconciliation and restoring resilience to Indigenous Nations. As Justice Murray Sinclair has noted, “Reconciliation is about forging and maintaining respectful relationships. There are no shortcuts.”

In 2015 the TRC released 94 Calls to Action, which identified these key actions pertaining to the nation-to-nation relationship, including, amongst others:

- Develop a national action plan to achieve the goals of UNDRIP. (#44)
- With Indigenous peoples jointly develop a Royal Proclamation of Reconciliation to build on the Royal Proclamation of 1763 and the Treaty of Niagara of 1764, and reaffirm the nation-to-nation nature of the relationship. This commitment would involve:
 - Repudiating the Doctrine of Discovery and terra nullius.
 - Using UNDRIP as the framework for reconciliation.
 - Base new and old treaty relationships on mutual recognition and respect.
 - Reconciling Indigenous Aboriginal and Crown constitutional and legal orders as part of bringing Indigenous peoples on as full partners in Confederation. (#45)
- Enact legislation to establish the National Council for Reconciliation, an independent oversight body jointly appointed by the Government of Canada and national Indigenous organizations. (#53)

In late 2016 the Prime Minister committed to:

- Establish an Interim Board of Directors to make recommendations on the creation of a National Council for Reconciliation and begin an engagement process to develop recommendations on the scope and mandate of the National Council.
- Provide \$10 million to support the work of the National Centre for Truth and Reconciliation located at the University of Manitoba, as recommended in Call to Action 78, to ensure that the history and legacy of Canada’s residential school system is remembered.



The Prime Minister noted work is underway on 41 of the TRC Calls to Action that fall under federal or shared purview. The Minister of Crown-Indigenous Relations and Northern Affairs (CIRNA) is tasked with supporting the work of reconciliation, including truth telling and healing, implementing the TRC recommendations and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). During our dialogues, the Auditor General recommended pulling out five or six indicators to track and to put more pressure on departments and provide a baseline of information for measuring change and success with regards to implementing these commitments.

Most recently, in its 10 Principles to guide itself in its relationship with Indigenous peoples, the federal government recognizes that reconciliation is “an ongoing process through which Indigenous peoples and the Crown work cooperatively to establish and maintain a mutually respectful framework for living together, with a view to fostering strong, healthy, and sustainable Indigenous nations within a strong Canada.”¹

Framing the New Relationship: Federal Agenda

Bi-lateral Mechanisms

Both Inuit Tapiriit Kanatami and the Métis National Council have publically stressed the need for an approach that recognizes and respects the distinctions between Indigenous peoples. In late 2016 the Prime Minister committed to create permanent bilateral mechanisms with the Assembly of First Nations (AFN) and First Nations, the Inuit Tapiriit Kanatami (ITK) and the four Inuit Nunangat Regions, and the Métis National Council (MNC) and its governing members.

In February 2017, the Prime Minister and Inuit leaders signed the Inuit Nunangat Declaration to create the Inuit-Crown Partnership Committee and renew the Inuit-Crown relationship between Inuit Tapiriit Kanatami and the Government of Canada. The Inuit-Crown Partnership Committee (ICPC) is a permanent committee tasked with creating prosperity for Inuit for the benefit of all Canadians. It will advance shared priorities including implementation of Inuit land claims agreements, social development, and reconciliation and will “energetically and creatively pursuing the socio-economic, cultural, and environmental conditions of success through the full implementation of land claims agreements as well as reconciliation.”² Immediate action will include addressing “painful memories of the past, including relocations and the treatment of Inuit during the tuberculosis epidemic of the 1940s-60s.”³

¹ [Department of Justice Canada. Principles respecting the Government of Canada's relationship with Indigenous peoples.](#) July 19, 2017.

² Prime Minister Justin Trudeau. [Inuit Nunangat Declaration on Inuit-Crown Partnership.](#) February 9, 2017.

³ Prime Minister Justin Trudeau. [Prime Minister of Canada and President of Inuit Tapiriit Kanatami announce the Inuit-Crown Partnership Committee.](#) February 9, 2017.



The ICPC is structured to complement and not impede ongoing work on land claims implementation.⁴ At the second meeting of the ICPC in late September 2017, Inuit and federal leaders met to put in motion a number of initiatives to tackle tuberculosis, address climate change and invest in early childhood education. They pledged to establish a task force to create and implement a strategy for eliminating TB in Inuit Nunangat and discuss wildlife management and Indigenous guardians programming.⁵

In April 2017 the federal government and the Assembly of First Nations signed a Memorandum of Understanding (MOU) to:

- Promote and foster the renewal of the Nation-to-Nation relationship between Canada and First Nations as holders of Treaty and inherent rights, title, and jurisdiction.
- Support the full and meaningful implementation of the TRC Calls to Action and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).
- Establish mechanisms and processes to ensure the full and meaningful enforcement and implementation of Treaty rights.
- Jointly review, reform and develop federal laws, regulations, procedures, policies and practices that respect First Nations rights
- Jointly identify measures and priorities for closing the socio-economic gap between First Nations and other Canadians.
- Establish transparent and accountable processes to jointly communicate activities, and results.

This process will establish a steering committee, joint tables, working groups (with representation to reflect a whole-of-government commitment by the federal government, including PMO, PCO, Finance and Treasury). Canada will provide resources to help support implementation of the MOU and “to enable the full and meaningful engagement of First Nations as rights holders, through their governments.”⁶

Also in April 2017, during the first Métis Nation-Crown Summit in Ottawa, the Prime Minister and the President of the Métis National Council⁷ signed the Canada-Métis Nation Accord, creating a permanent bilateral mechanism on issues such as employment, health and housing for Métis people. Canada is investing \$84.9 million over five years and \$28.3 million per year afterward to build the capacity of the Métis National Council and its five provincial Governing Members and work with Canada on Métis self-government and self-determination.⁸

⁴ Inuit Tapiriit Kanatami. [What is the Inuit Nunangat Declaration on Inuit-Crown Partnership?](#) March 14, 2017.

⁵ Inuit-Crown body will focus efforts on TB, climate change. Committee is “most transformative change initiated by Inuit,” says ITK president. [Nunatsiaq News](#). October 3, 2017.

⁶ Government Of Canada and the Assembly of First Nations. [Memorandum of Understanding to Support First Nations Jurisdiction and Sovereignty and a Renewed Crown-First Nations Relationship](#). April 2017.

⁷ The Métis Nation is represented by the Métis National Council and its Governing Members: the Métis Nations of Ontario, Manitoba, Saskatchewan, Alberta and British Columbia.

⁸ Prime Minister Justin Trudeau. [The Prime Minister of Canada and President of the Métis National Council welcome the Signing of the Canada-Métis Nation Accord](#). April 13, 2017.



Reviewing Laws & Policies

Undertaking this work requires confronting the reality of the history of Canada – something the Truth and Reconciliation Commission is helping Canada to do. It means completing the foundations that were not built when Canada was created. It will ultimately require undoing the *Indian Act* and other legislation that has remnants of colonialism and creating laws and policies that recognize Indigenous governments, laws and lands. ~ Justice Minister Jody Wilson-Raybould, AFN General Assembly, July 2016 ~

In February 2017, the Prime Minister announced the establishment of the Working Group of Ministers on the Review of Laws and Policies Related to Indigenous Peoples. Justice Minister and Attorney General of Canada, Jody Wilson-Raybould, who chairs the working group, describes the group’s mandate as “engaging with Indigenous peoples to ensure laws, policies and operational practices are based on the recognition of rights and advance reconciliation” and “reviewing relevant federal laws, policies and operational practices to help further a nation-to-nation, Inuit-Crown and government-to-government relationship with Indigenous peoples.”⁹

Recognition of Indigenous Rights and Self-determination Discussion Tables

As we know, progress on the transfer of governing authority, lands and resources has been slow and often mired in legal complexity. Beyond reconciliation, empowerment of Indigenous nations with the capacity for self-government was and remains a significant feature of creating a modern, renewed relationship. In November 2017, iPolitics reported that the number of ‘Recognition of Indigenous Rights and Self-determination Discussion Tables’ has jumped from around 20 in July 2016 to over 50 today. The tables represent 300 Indigenous communities with a total population of more than 500,000 people.¹⁰

Some Indigenous Peoples may join forces at one table because of language or kinship ties, while others unite because of prior political arrangements that brought them together, said (Joe) Wild.¹¹

This table structure, which can result in a variety of agreements aimed at different forms of self-determination, is meant to address previous criticisms around lengthy negotiations, overlapping or competing claims, rigid policies, and paternalistic approaches to self-government and modern treaties. Throughout the dialogue series participants have been clear that the federal government needs to be clearer on the processes in moving towards self-government and the Nation-to-Nation relationship, including the need for an overarching Government policy recognizing and affirming the nation-to-nation relationship.

⁹ Minister of Justice and Attorney General of Canada and Chair of the Working Group of Ministers on the Review of Laws and Policies, Jody Wilson-Raybould. [Working Group of Ministers on the Review of Laws and Policies Related to Indigenous Peoples](#). February 22, 2017.

¹⁰ James Munson, “[INAC finding new success with Treaty Negotiations](#)”, iPolitics: November 8, 2017.

¹¹ Ibid.



Principles Respecting the Relationship

The federal Justice Minister noted the Government of Canada has recently released 10 Principles, which will govern Canada's side of its relationship with Indigenous peoples. The Principles are directed at federal officials and the federal bureaucracy, to begin shifting decades-old patterns of behaviour and operating practices to a new reality. These Principles are informed by Section 35, UNDRIP, RCAP and the TRC's Calls to Action. They are:

1. All relations with Indigenous peoples need to be based on the recognition and implementation of their right to self-determination, including the inherent right of self-government.
2. Reconciliation is a fundamental purpose of Section 35 of the *Constitution Act, 1982*.
3. The honour of the Crown guides the conduct of the Crown in all of its dealings with Indigenous peoples.
4. Indigenous self-government is part of Canada's evolving system of cooperative federalism and distinct orders of government.
5. Treaties, agreements, and other constructive arrangements between Indigenous peoples and the Crown have been and are intended to be acts of reconciliation based on mutual recognition and respect.
6. Meaningful engagement with Indigenous peoples aims to secure their free, prior, and informed consent when Canada proposes to take actions which impact them and their rights on their lands, territories, and resources.
7. Respecting and implementing rights is essential and that any infringement of Section 35 rights must by law meet a high threshold of justification which includes Indigenous perspectives and satisfies the Crown's fiduciary obligations.
8. Reconciliation and self-government require a renewed fiscal relationship, developed in collaboration with Indigenous nations, that promotes a mutually supportive climate for economic partnership and resource development.
9. Reconciliation is an ongoing process that occurs in the context of evolving Indigenous-Crown relationships.
10. A distinctions-based approach is needed to ensure that the unique rights, interests and circumstances of the First Nations, the Métis Nation and Inuit are acknowledged, affirmed, and implemented.¹²

¹² [Department of Justice Canada. Principles respecting the Government of Canada's relationship with Indigenous peoples.](#) July 19, 2017.



Dissolution of Indigenous Affairs

Finally, in September 2017, the Government of Canada announced the dissolution of Indigenous and Northern Affairs Canada (INAC), historically tasked with implementing the colonial *Indian Act*, replacing it with two new departments:

1. The Department of Crown-Indigenous Relations and Northern Affairs (CIRNA), which will focus on improving whole-of-government coordination of the Nation-to-Nation relationship and creating a framework for a recognition-of-rights approach.
2. The Department of Indigenous Services, which will focus on improving the quality of services delivered to Indigenous peoples. A long-term measure of success is for this department to ensure “[programs and services \[are\] increasingly delivered, not by the Government of Canada, but instead by Indigenous Peoples as they move to self-government.](#)”¹³

The 1983 Penner Report, of the report of the parliamentary Special Committee on Indian Self-Government, highlighted INAC’s inherent conflict of interest and recommended its dissolution. In 1996, RCAP also recommended creating two new departments to replace INAC – one to focus on the relationship and nation rebuilding and another to support services in Indigenous communities as part of its larger plan to restructure the relationship between the Crown and Indigenous peoples.

The federal government describes this as a step toward ending the *Indian Act*, a process that will also require First Nations leadership in addition to legislative amendments. Both Ministers are members of the Working Group of Ministers on the Review of Laws and Policies Related to Indigenous Peoples, whose work and Principles guide and support the work of both Ministers.

The Prime Minister’s mandate letter for the Minister and Department of CIRNA provides direction to:

- Develop and lead consultations as the Government of Canada adopts machinery of government changes to renew the relationship with Indigenous Peoples.
- Provide recommendations to the PM on the division of responsibilities between the two Ministers and departments, including the anticipated transfer of responsibility for the FNIHB from the Minister of Health to the Minister of Indigenous Services.
- Work with the Minister of Finance to establish a new fiscal relationship with Indigenous Peoples based on sufficient, predictable, and sustained funding for communities, a renewed economic and fiscal relationship that enables nations have revenue generation and fiscal capacity to govern effectively and ability to provide programs and services to their communities.

¹³ Prime Minister Justin Trudeau. [New Ministers to support the renewed relationship with Indigenous Peoples.](#) August 28, 2017.



- Supporting the Ministers of Health and Indigenous Services in making systemic changes to reduce health and welfare inequities between Indigenous peoples and non-Indigenous Canadians, including developing governance models that bring control and jurisdiction back to communities.¹⁴

The mandate of the Minister and Department of Indigenous Services includes:

- Adopting a rigorous results and delivery approach that delivers real and improved results in the short term, improves outcomes over the longer term, and supports the Minister of CIRNA in modernize institutional structures and governance so to support Indigenous peoples' capacity to implement their vision of self-determination.
- Working to leverage Indigenous peoples' ingenuity and understanding along with that of other experts on service delivery.
- Ensuring the successful delivery of Budget 2016 and Budget 2017 investments in Indigenous Services, including new and repaired housing, ensuring children on reserve receive a quality education, and ensuring people on reserve have access to clean drinking water.
- Taking an approach to service delivery that is patient-centred, focused on community wellness, links effectively to provincial and territorial health care systems, and that considers the connection between health care and the social determinants of health.¹⁵

Response to Administrative Changes

Though this is not the first time Canada and Indigenous nations have tried to redesign the relationship, at this juncture the Prime Minister and Cabinet are highly engaged and there is an opportunity to make lasting change. Many Indigenous leaders believe that this “window of change” is slowly closing and, therefore, time is of the essence on the part of Indigenous leaders to work with the processes and structures unfolding at the federal level.

Naiomi Metallic, member of the Listuguj Mi'gmaq First Nation and Chancellor's Chair in Aboriginal Law and Policy at Dalhousie University stresses that “taking the easy administrative steps, without doing the harder work to achieve the long-lasting changes that will be required, such as transforming Canadian laws, will not result in true reconciliation.”¹⁶ Mere administrative changes do not alter Canadian law and could be easily ignored or replaced by future governments. Compared to a basis in law, she notes, “administrative actions provide Indigenous peoples far fewer protections from the vagaries of politics.”¹⁷

¹⁴ Prime Minister Justin Trudeau. [Minister of Crown-Indigenous Relations and Northern Affairs Mandate Letter](#).

¹⁵ Prime Minister Justin Trudeau. [Minister of Indigenous Services Mandate Letter](#).

¹⁶ [Naiomi Metallic. Why administrative changes won't kill the Indian Act: Splitting Indigenous and Northern Affairs Canada into two is a positive move, but administrative changes alone won't lead to self-determination.](#) September 20, 2017.

¹⁷ *Ibid.*



RCAP's recommendation to dissolve INAC was one piece of a more comprehensive strategy to support Indigenous self-government. Metallic argues the current federal government's focus seems to be on changing its internal organization and institution, not on the broader strategy of moving to self-government. Bringing about a transformative change in the relationship requires a larger plan including substantive legal and political action. Dissolving INAC has to be ancillary to a broader strategy of moving to self-government.¹⁸

Canadian historian Ken Coates notes, "When the major government actions of the past few months involve a statement of principles for reconciliation and an overdue but hardly exciting division of the Indigenous Affairs department into two ministries, you can appreciate that many Indigenous folks are not overly impressed."¹⁹ After the evaporation of the Kelowna Accord, Indigenous peoples have learned not to get their hopes up with federal government promises. There is an opportunity with a federal government more sincerely committed to Indigenous affairs. Behind the scenes, Indigenous leaders are working with the federal government on how to move forward. According to Coates, "it is here, in the co-production of Indigenous programming, that the real authority of UNDRIP is to be found."²⁰

Characteristics of the Nation-to-Nation Relationship

What follows are some of the key characteristics and relationship issues that emerged over the course of the dialogue sessions. Needless to say, establishing a new relationship with the Crown includes:

- Indigenous self-government founded in self-determination, legal capacity and access to resources;
- the recognition of inherent Aboriginal and Treaty rights, as well as the ability to exercise and implement inherent rights and responsibilities;
- treaty renewal and treaty implementation;
- fiscal arrangements and resource revenue sharing; and closing the social and economic gaps faced by Indigenous peoples.

These are all aspects that were addressed in detail throughout the "[Nation-to-Nation](#)" dialogue series.

¹⁸ Ibid.

¹⁹ Ken Coates. Helping Indigenous Peoples is about more than embracing UN declarations. Ottawa Citizen. September 20, 2017.

²⁰ Ibid.



Framing a new Royal Proclamation

Many of the ideas emerging from the Nation-to-Nation Characteristics Dialogue echo the sentiments voiced by the Royal Commission on Aboriginal Peoples:

Change of this magnitude cannot be achieved by piecemeal reform of existing programs and services - however helpful any one of these reforms might be. It will take an act of national intention - a major, symbolic statement of intent, accompanied by the laws necessary to turn intentions into action. This can best be done by a new Royal Proclamation, issued by the Queen as Canada's head of state and the historical guardian of the rights of Aboriginal peoples, and presented to the people of Canada in a special assembly called for the purpose. The proclamation would set out the principles of the new relationship and outline the laws and institutions necessary to turn those principles into reality. It would not supplant but support and modernize the Royal Proclamation of 1763, which has been called Aboriginal peoples' Magna Carta. The new proclamation would commit the government of Canada to making good on its proclaimed intentions by introducing new laws and institutions to implement them.²¹

RCAP detailed a specific and comprehensive plan with the following core elements:

1. The federal government should begin the cycle of renewal with an act of national intention - a new Royal Proclamation.
2. Parliament should enact companion legislation to give these intentions form and meaning and provide the legal instruments needed to implement them. Launch public education campaign to promote understanding amongst Canadians. Three major pieces of legislation would be needed:
 - an Aboriginal Treaties Implementation Act, setting out a process for clarifying and modernizing existing treaties and making new ones, and establishing regional treaty commissions to facilitate and support the negotiation process
 - an Aboriginal Lands and Treaties Tribunal Act, establishing a body to clear the backlog of specific claims and act as ombudsman for the new comprehensive treaty-making processes
 - an Aboriginal Nations Recognition and Government Act, setting out the process and criteria for recognizing Aboriginal nations, acknowledging, on an interim basis (until treaty negotiations are complete), their jurisdiction over core issues within their existing territories, and providing financing
3. The federal government should convene a forum including first ministers at the federal, provincial and territorial levels and leaders of national Aboriginal organizations to negotiate a Canada-wide framework agreement to lay the ground rules for processes to establish the new relationship. The forum would address:

²¹[Highlights from the Report of the Royal Commission on Aboriginal Peoples](#): People to People, Nation to Nation. Minister of Supply and Services Canada 1996.



- treaty renewal and new treaty making
 - redistribution of lands and resources
 - clarification of areas of independent and shared jurisdiction
 - redesign of short-term and long-term fiscal arrangements
4. Aboriginal nations should begin their rebuilding processes and develop institutions and human resources for self-government and all it entails.
 5. All governments should prepare to enter into the new treaty process.
 6. Governments should take interim steps, as proposed by this Commission, to redistribute lands and resources so Canada's wealth is shared fairly with the original inhabitants of the land.
 7. Aboriginal and non-Aboriginal governments should co-operate to stimulate economic development.

Throughout the dialogue Indigenous leaders spoke to a Proclamation that commits Canada to forging a new treaty relationship and adopting a number of new laws (also called for in the TRC Calls to Action 43-46). A new Royal Proclamation would be followed by Parliament enacting companion legislation to create the new laws needed to implement the new relationship and anchor this change and provide some protection from the vagaries of politics and changing governments.

Nation Building and Nation Re-Building

The new model for nation re-building is [Indigenous nations] doing it from the inside out. We need enabling institutions, not representative institutions. Who has the right to represent our children? The grandmothers in our nation; we need to bring our grandmothers back out to tell us how to behave, in our languages, because in our languages we know how to govern and relate to our environment. ~ Gwen Phillips, Ktunaxa Nation Council ~

RCAP identified that although there are about 1,000 reserve and settlement communities across the country, there are about 60 to 80 Indigenous nations, united by a shared sense of national identity and constituting the predominant population in a certain territory or collection of territories. Colonization and specifically the *Indian Act* dismantled many nations' governments and created a larger number of small community governments, with small land bases, divided populations, and lack of capacity and critical mass to make decisions. Small governments often lack capacity and resources to adequately serve people's needs.

Many participants reiterated that the right to self-governance is inherent, or *sui generis*; in other words not something to be granted by the Crown. As Miles Richardson noted, "Nations cannot exist without an acceptable measure of sovereignty, and sovereignty is not negotiated or bestowed by someone else. It exists within Indigenous Nations. It is not drawing down powers, but exercising inherent rights." Indigenous peoples must lead efforts to rebuild their nations, and



many are through self-definition, nation rebuilding, rebuilding self-governance institutions and practices, and revitalizing cultures and languages.

Federal Justice Minister, Jody Wilson-Raybould recently reiterated some of the key dialogue questions at the 2017 Assembly of First Nations (AFN) Annual General Assembly (AGA), advising Indigenous nations to be clear on their vision for the future of Crown-Indigenous relations and to be prepared to answer key questions:

- How will you organize yourselves as Indigenous peoples, bonded by language, culture, and traditional territories, in order to implement relationships with the Crown? What will you establish as your political and governing institutions?
- How will you manage overlapping territories with other nations?
- How will you involve your Elders, educators, business leaders, youth, legal experts, community organizers and members in rebuilding your governance institutions and new forms of partnership with the Crown?
- What steps do you need to take to prepare your citizens for moving beyond the *Indian Act*? What tools need to be built to exercise your right of self-government?

Following these remarks, there has been increased talk of the need to do away with the *Indian Act* band structure and support rebuilding of traditional governance. Developing robust governance institutions will better position Indigenous nations in their relationships with the Crown and other institutions. Akwesasne, for example, has worked to restore its nationhood through measures including passing laws on land management and hunting and fishing. Akwesasne did not seek recognition or acceptance from the Crown for its laws and initiatives, but simply began to implement self-government by systematically taking over education, policing, and environmental management. Modernizing traditional laws and governance can provide Indigenous nations the tools needed to better uphold their inherent right with respect to other actors, including the Crown and industry.

Rebuilding a nation's traditional governance in contemporary times involves engaging traditional knowledge holders and leaders in defining how to bring forward that nation's traditional laws into an appropriate form of contemporary expression. According to Chief Councillor Marilyn Slett, the Heiltsuk Nation's declaration of sovereignty was developed in concert with Heiltsuk hereditary leadership, mandated by the community, and includes "using our own language, our own concepts, meeting the social and economic needs of our people, balancing the economy and the environment, and respecting our connection to the land and waters, and our stewardship responsibility."

Supporting nation-rebuilding means comprehending that the Crown cannot parachute solutions into Indigenous communities. Indigenous communities, based on their needs and priorities, must drive solutions. Indigenous nations and communities need to lead their own governance renewal and nation rebuilding



processes, while the Crown can play a supporting role in this nation and capacity building. The Crown can invest in community engagement and decision-making processes, so that nations have a clear vision for what they will do with self-government and how they will do it, and the Crown can provide funding support to help build and sustain self-government capacity.

Aggregation and Indigenous Institutional Development

A number of panelists and participants spoke to the need for aggregation, particularly in order for Indigenous nations to gain a foothold in negotiations with both the Crown and industry. Indigenous peoples must work to build their institutions, frameworks, and governance, which will at times need to be recognized and fiscally supported by Canada. Fundamental to institutional development is the building of an Indigenous civil service. Recruitment, training and retention are keys to creating institutional continuity within communities and building the skill sets of a new generation of indigenous leadership to manage their communities' and nations' affairs.

Aggregation can help facilitate service improvement and innovation and can enable Indigenous peoples to engage with the Crown at a central agency level with their own central agencies. These institutions are one way First Nations can expand their exercise of jurisdiction and/or authority. The First Nations Health Authority (FNHA) is an example of Indigenous communities coming together to build Indigenous institutions, realizing economies of scale, and transforming inherited systems from the Crown to meet Indigenous needs through Indigenous approaches. As a result, there are no longer any health-related decisions about BC First Nations without their involvement. Some of the keys successes of the FNHA model include:

- Unified leadership.
- Reciprocal accountability between partners.
- Governance, including a Tripartite Committee, the First Nations Health Council, which conducts advocacy and negotiations, and the First Nations Health Directors Association, which plays a technical advisory role.
- Comprehensive, consensus based decision-making process resulting in unprecedented solidarity in creating the FNHA.
- Community-driven, Nation-based approaches. The FNHA model incorporates traditional wellness and cultural approaches.
- Partnership tables, which enable the FNHA to take a seat at the table on behalf of BC First Nations in health care decision making in BC.

Canada has an important role to play in investing in First Nations economic development and ability to access debt and equity for things like infrastructure to help economic and social development. As nations become self-governing, they need access to capital to train their public service personnel, invest in infrastructure and build an economic base, as the cost of closing the service and infrastructure gap is too great for the Crown to fund alone. Initiatives such as the First Nations Financial



Management Act (FNFMA) and the First Nations Land Management Act are First Nations-led initiatives, built on standards and processes that are recognized by markets and other governments; and are considered important steps in achieving Indigenous self-government.

Jurisdiction

Recognition of Inherent Right of Self-Government

Many leaders have stated that the source of Indigenous authority is not Parliament, nor provincial government, nor Section 91(24) of the *BNA Act*, nor the *Indian Act*, nor the courts, including the Supreme Court of Canada (SCC). Indigenous people did not create these laws nor empower settler governments to make laws over Indigenous people. Indigenous authority is not delegated from the Canadian Crown.

Indigenous peoples have their own existing governments, based on ancient authority. Indigenous inherent rights and authority derive from ownership of ancestral lands and resources. It stems from Indigenous peoples' history living within their traditional territories and coexisting with other nations adjacent to their territories. Indigenous ownership does not have to be proven to the colonial regime. The inherent right to self-rule stands on its own legitimacy and is not dependent on Canada's acknowledgement for its existence. Ovide Mercredi called on Indigenous people to stop waiting for Canada to recognize them. "No nation becomes great by waiting for another nation to give it permission to become great."

Recognizing the inherent, *sui generis*, nature of Indigenous jurisdiction is a key starting point for a genuine Nation-to-Nation relationship.

What it Means to Govern

Honourable Murray Sinclair addressed the question of *What does it mean to govern?* Law at its most fundamental is about how we conduct relationships, such as between parents and children. These laws are carried forward in stories. Who Indigenous people are is included in and passed down through their teachings. Indigenous law comes from the Creator, from Indigenous nations' existence in their territories for millennia. This history endows Indigenous nations with the responsibility to govern their territories and people.

Many Indigenous peoples have lost understanding of who they are and how they governed themselves before colonization and it will take time to revive or recreate those understandings and practices. Residential schools and public schools have worked to prevent Indigenous people from learning who they are, where they come from and how their nations govern themselves.

Michael Hudson, who led the Justice Canada task force on constitutional relations with Indigenous people, noted the Canadian Constitution acknowledges that pre-colonial Indigenous governments have survived, despite being reduced, denied and suppressed over the past 150 years. The challenge for the Crown is to create the



space for and support Indigenous governance. He recommended Indigenous nations consider three core aspects of governance as they rebuild their self-governance institutions, codes, capacity and practices:

1. **Legitimacy** . Governing institutions are as valid as their citizens regard them. This is especially true of Indigenous governments because of colonial history. Ensuring legitimacy with one's people is key to being seen to be the legitimate representative of a nation by other partners and actors.
2. **Economy** . No one wants the power to govern their own poverty. Access to financial resources will typically require strong governance controls. Be business-minded and practical in building prosperity for your people.
3. **Intergovernmental relations**. Indigenous governments have a complex set of relationships with other governments and agencies.

Reclaiming Indigenous Jurisdiction

While self-government has been on the table since the White Paper debate of 1969, it remains an agenda neither the provinces nor the federal government seem really prepared to embrace, even despite being a key RCAP and TRC recommendations. Nonetheless, many Indigenous nations have begun the work of rebuilding their self-governance and asserting their jurisdiction and authority.

Former Grand Mike Mitchell the former Grand Chief of the Akwasasne described how Akwasasne came to exercise jurisdiction on the St. Lawrence River, traditional pre-contact fishing ground. Quebec and Ontario conservation confiscated Akwasasne boats and motors because the Akwasasne refused to buy provincial fishing licenses. "They told us the Akwasasne they did not have any jurisdiction of their own," he noted. Akwasasne concluded they needed to make a law reflecting their responsibility for animal and fish life and the waters and the land. Within a month, they produced a Mohawk Nation law on conservation, enabling them to enforce their jurisdiction in waters with overlapping provincial and international jurisdictions. He noted that during this process INAC tried to "strip this law down several times", but Akwasasne deemed such an action is *ultra vires*, or out of INAC's jurisdiction.

Peter Lantin, President of the Council of the Haida Nation (CHN) relayed how, in 1974, after seeing the removal of resources from their territory without consultation or benefit, Chiefs and Elders founded the CHN to find a way to deal with land claims issues and regain control over the remaining resources. In 1985, the Haida mobilized its warriors to stop clear-cutting on Lyell Island, resulting in an agreement to keep Gwaii Haanas in its natural state in perpetuity (while the CHN and Canada agreed to disagree on the question of Title). The Haida then developed their Constitution to set up their government. The Haida Accord unified hereditary leaders from different clans who put their traditional territories in a collective pot



together to solve the land claims issue. Through a reconciliation accord with BC creating the Haida Gwaii Management Council, the Haida co-manage land use decisions and are currently working on a similar arrangement for marine resources. They have also signed a peace treaty with their neighbours the Heiltsuk Nation.

In yet another example, Sophie Pierre, former Chief Commissioner of the BC Treaty Commission described how her Ktunaxa Nation, which is divided by the 49th parallel, has united and no longer presents itself as individual bands or First Nations when dealing with external actors like industry. While each community has governing structures that work under the *Indian Act* model, they have started focusing on key activities they “want to take over”. For example, they now have exclusive authority for all Ktunaxa children within Canada, as well as authority on land use decision-making as a result of the BC Treaty process.

Finally, Chief Councilor Marilyn Slett described how essential her nation’s independent response to the 2016 Nathan E. Stewart diesel spill in Seaforth Channel was with regards to asserting the Heiltsuk inherent right to self-government. Seeing how there has been a consistent failure on Canada’s part to consult with and disclose vital information to the nation, the Heiltsuk Nation decided to manage its own investigation and pursue adjudication, determine whether there has been a violation of the Heiltsuk’s traditional laws. Both the investigation and adjudication demonstrate the Heiltsuk will hold the Crown and polluters accountable for their actions.

Interjurisdictional Relationships

While Canadian politicians seem preoccupied with the potential for Indigenous people to make laws inconsistent with Canadian or provincial/territorial laws, potentially impacting Canada’s authority and sovereignty, the reality is that Aboriginal title is in direct conflict with provincial jurisdiction over lands and resources. The Crown’s resistance to shared power with Indigenous nations stands in contrast to Canada’s experience with shared power and concurrent law making with the provinces.

Dave Joe, O.C., former Chief Negotiator for the Council of Yukon First Nations (CYFN), described four categories of jurisdiction treaty First Nations will have, in relation to other governments:

1. An Indigenous nation has the exclusive authority to regulate (e.g. harvesting within the territory covered in a treaty) and allocate fiscal resources.
2. An Indigenous nation has paramount concurrent authority with the Crown laws over matters dealing with its citizens, such as health, education, culture, spiritual belief. This power is not confined to treaty lands or traditional territory, but is applicable more widely. In the case of a conflict, the Indigenous nation’s laws are paramount.



3. An Indigenous nation has concurrent authority with the Crown with regard to the body of rights centred on treaty lands, such as those Indigenous laws dealing with lands, resources and gaming. In some cases, treaty rights may involve infringements on criminal and other federal laws with the federal laws taking paramountcy in such cases.
4. Shared power, such as in where an Indigenous nation shares in tax revenue.

Nations will have to consider how to enforce their jurisdiction the laws they adopt. Tribal courts can adjudicate on Indigenous, Canadian and provincial/territorial laws as long as there is some sort of agreement with those other entities.

Former RCAP Commissioner Paul Chartrand discussed how the concept of “subsidiarity” can help us think about interjurisdictional relationships. Subsidiarity is an idea that seeks to balance solidarity with autonomy, asking not who has the power to do x, but who *should* do x. Its core tenet is that one should never entrust anything to a bigger entity that can be best done by a smaller entity and that decision making should be made as close to the citizen as is appropriate for the circumstance. Everyone is presumed to know best how to govern his or her own life and to navigate his or her values, preferences, life plans and trade-offs. This can be generalized to institutions. Under subsidiarity, power is joint and concurrent, maximizing opportunities for Indigenous self-governance.

Intergovernmental Fiscal Relationships

To many, the foundation of self-government is fiscal equality. Canada needs to support effective, equal self-government for First Nations. One key step in providing this support is for Canada to bring all institutions of government together in a “joined-up” Crown. The Honourable Bob Rae recommended putting one clear Minister in charge, responsible for reporting to the Prime Minister, Parliament, and First Nations and subsequently reaching out to the provinces for participation in the key goals and implementation of that vision.

Foundations of a New Fiscal Relationship

Robert Louie, Former Chief of the Westbank First Nation identified a number of key features required to lay the foundations for a new Nation-to-Nation fiscal relationship:

- Recognize First Nations as governments and as a distinct order of government, with clear fiscal powers and adequate financial and human resources.
- Recognition First Nations have the jurisdiction to manage their own lands and resources, which include not just reserve lands, but also to traditional territories.
- First Nations governments must have adequate access to revenues, both from some form of revenue sharing and from enabling First Nations to earn revenue and to leverage investments.



- Build new institutions to displace the *Indian Act* in the delivery of the programs and transfer the bureaucracy to First Nations control.
- Support Indigenous governments to acquire land and raise money.
- First Nations must have the capacity to raise monies, including through resource revenue sharing.

Since changing governments regularly changes policy priorities, to be meaningful, these commitments need to be legislated to ensure they extend beyond the government of the day.

Paul Thoppil, INAC Chief Financial Officer acknowledged that the current fiscal relationship is built around a recipient-funder arrangement, rather than a Nation-to-Nation relationship; and this model does not yield the results expected by First Nations and other Canadians. He noted the federal government is working on engaging a wide array of First Nations people and the AFN using the following eight guiding principles on fiscal relationships with *Indian Act* bands:

1. Focus on relationships with communities, moving away from a transactional approach.
2. Acknowledge the benefits of fostering aggregation, supporting First Nations in building their nations.
3. Institute a fiscal regime that is sustainable and helps First Nations move beyond the *Indian Act* if they so choose.
4. Recalibrate the accountability model to a model of mutual accountability.
5. Support First Nations leveraging new Indigenous institutions (such as a First Nations AG, a First Nations Budget Officer, and the FNFMB) as a way to build strong, accountable governments.
6. Support building overall community capacity, not just fiscal capacity.
7. Ensure all First Nations experience improvements under a new fiscal relationship, not just the high-performing few.
8. First Nations should be able to opt-in to a new fiscal relationship or not. It is for them to decide for themselves whether they want in or not.

Under the current funding model, far too many of First Nations are managing their own misery under the dysfunctional bureaucracy of the *Indian Act*. Well-governed nations require long-term, equitable transfer payments and need to develop their own governance institutions.

Beyond the 2% Cap

Indigenous communities have been systemically underfunded, subject to a two percent cap on increased funding per year since the mid-1990s. This poverty and despair results directly in the missing and murdered statistics, stolen childhoods and child suicides, homelessness, and astronomical rates of incarceration. At the same time, INAC sent back \$900 million in unspent funding last year and, yet, has still not complied with the Human Rights Tribunal ruling to spend an additional



\$150 million on mental health funding. New investments are needed to eradicate poverty and despair.

The recent First Nations Child & Family Caring Society / Canadian Human Rights Tribunal ruling showed the Canada does have the obligation to provide comparable service levels on reserve to non-Indigenous communities off reserve. This ruling on discrimination within child welfare also applies to education, healthcare, housing services, seniors and every single service currently provided under the *Indian Act* to those who live on reserve. Moreover, *Section 36*, the equalization section of the Canadian Constitution speaks to the entitlement of every Canadian citizen to equivalent levels of service.

The federal government announced the end of the two percent cap in July 2016; however, it remains to be seen what new funding is transferred and whether funding takes the shape of geographically fair and stable block transfers or proposal-based grant / contribution funding.

Beyond Grants and Contributions

Wayne Wouters, Former Clerk of the Privy Council, acknowledged that grants and contributions have been unsuccessful as an instrument of policy and inadequate in relation to what needs to be achieved. As part of the “Accountability” trend, more and more conditions are added to these agreements over time, increasing the reporting burden, requiring Indigenous governments to spend unnecessary amounts of time reporting. Grant and contribution funding is also tied to very specific purposes, leaving the power to determine how the money will be used and human need addressed to the federal government and not Indigenous peoples.

Moreover, this form of funding is unstable and insecure. During deficit reductions, grants and contributions are the easiest to cut and First Nations have faced the brunt of these reductions. And, this model also requires First Nations communities to dedicate continuous time and resources to apply for program-by-program funding and to reporting, again diverting resources from serving the human need in communities to jumping hoops for a funder that does not require the same of other jurisdictions it allocates funding to, namely provinces and territories.

First Nations need to organize and develop the governance structures necessary to receive, govern and administer block funding for health, education and other areas of governance and administration. Block funding provides the predictability and stability all governments need. Transfer payments need to be transparent, consistent and supported in legislation, and all parties should agree on target service levels and outcomes.

While the previous Auditor General (AG), Sheila Fraser, summed up her findings from ten years of audits as “unacceptable”, current AG Michael Ferguson describes the situation since as “beyond unacceptable”. 15 years worth of audits demonstrate



that federal programs have failed to effectively serve Canada's Indigenous peoples. He has concluded the pace of improvement by federal departments is so slow as to be almost imperceptible.

Despite the AG's many recommendations, there has been a lack of progress in implementation. Change is needed if meaningful progress is to be realized. The AG recommends eight factors to make a new Nation-to-Nation relationship work:

1. Sustained political will
2. Aggregation
3. Appropriate and real consultation about the needs of recipients, levels of services, and mechanisms of service delivery
4. Clear statements about the level of service to be delivered.
5. An appropriate legislative base.
6. Local service delivery capacity with appropriate governance structures and accountability to indigenous peoples receiving the services.
7. Appropriate and stable funding.
8. Monitoring on the part of the federal government of whether it's living up to its commitments.

Revenue Sharing, Powers of Taxation and Own Source Revenue

Other challenges include a lack of progress on resource revenue sharing, lack of or limited powers of taxation and constraints around Own Source Revenue (OSR). Isadore Day, Regional Chief of the Chiefs of Ontario, argued for the need to go beyond resource revenue sharing, to sharing yields from other forms of economic activity in populated areas where there is no Crown land or resources. Such sources include taxation, other royalties, and commerce in more developed areas.

The Council of Yukon First Nations has 11 tax sharing agreements with other levels of government, including corporate taxation and taxes such as alcohol and tobacco. Regarding economic rights within the Final Agreement, if the Yukon Territory decides to build a new hydro project, for example, Yukon First Nations we have the right to participate in 25% of the equity. They also have right of first refusal on sale of all Yukon territorial assets over \$10 million.

The process of allocating mineral claims and subsurface rights has been done without First Nations involvement. This will have to change if First Nations are to have genuine equality. With regard to OSR, legal issues around ownership of minerals and resources make it difficult for First Nations to benefit from their own resources in many cases (e.g., the Constitution Act, 1867, assigns ownership over many of the resources to the provinces). OSR is typically offset by deductions from federal transfers to First Nations; keeping First Nations mired in a poverty trap characterized by glaring socio-economic gaps exist between Canadian and Indigenous populations.



Canada's expectation of OSR offsets has really slowed down closing the gaps. Dave Joe, O.C., Former Chief Negotiator for the Council of the Yukon First Nations (CYFN) emphasized that we have to acknowledge that all of this wealth in Canada comes from traditional First Nation lands and resources as a fundamental starting point. As such, OSR offsets should not come into effect until the socio-economic gaps between Indigenous people and Canadians have been closed.

Wellbeing and Wealth Creation

The Indigenous Land Management Institute defines *wealth creation* as the processes by which Indigenous peoples are able to improve their overall standards of living. There are three main pillars of wealth creation: economic development, education and environment. A core objective of wealth creation is community development, or "healthy, inclusive, safe and sustainable communities made up of increasingly healthier, educated and employed individuals grounded in their culture and tradition."²²

Many Indigenous communities have been plagued by high unemployment rates and widespread social dependency and generally at the bottom of every socio-economic statistic in the country. First Nation leaders acknowledge that the *Indian Act* was not designed to promote and facilitate economic development and presents barriers that have subsequently led to the creation a host of opt-in options for communities. Turning this around requires a vision for self-sufficiency and efforts to create a vibrant Indigenous community through business development, with a strong focus on education, partnership and employment opportunities and access to the labour market. First Nations are developing their own education systems, focusing on life-long learning, beginning with early childhood education and includes professional development and training opportunities.

Closing the gap on this loss of potential and productivity will have benefits across the Canadian economy and dramatically improve the wellbeing of Indigenous peoples. To this end, the Crown needs to equitably fund Indigenous programs and services and correct systemic underfunding.

Closing the Gaps

To support nation rebuilding and strengthened Nation-to-Nation relationships, the Crown should support an Indigenous-led process for poverty reduction in Indigenous communities and immediate and targeted funding for communities in critical condition. Key recommendations were made to help close the gaps between Canadian and Indigenous populations and support nation building, including:

- Investing in Youth.

²² Wesley-Esquiaux, "Community Development and Good Governance: Wise Practices as the Foundation for Development."



- Leveling the Justice Playing Field.
- Building Financial Literacy.
- Providing Access to Capital.
- Developing New Fiscal Relationships.
- Developing Indigenous Institutions.
- Investing in Community Capacity Building.

Treaties & Claim Settlements

The BC Treaty Commission contracted a study with Deloitte to examine the treaty negotiation process from a socio-economic perspective, to qualify and quantify how treaties are changing the landscape for communities that are implementing them. They found that these treaties have generated about \$1.2 to \$5.7 billion in economic growth.

These financial benefits of treaties also result in investments in local economies as First Nations grow businesses, invest capital, and develop community infrastructure. The billion-dollar retail and residential development at on Tsawwassen First Nation land is a direct result of their treaty, the first in the process. It is the largest non-resource development on First Nations land in Canadian history.

Equity Participation

As a representative of industry, Brian McGuigan, Manager of Aboriginal Policy at the Canadian Association of Petroleum Producers highlighted the opportunities in procurement and equity participation in businesses or business ownership. Community benefits stemming these opportunities include capacity development funding; investments in community, including sports, recreation and culture; and employment and training opportunities. He identified the top three priorities 3 opportunities for the Crown to support Indigenous communities in wealth creation:

1. Tangible action on reconciliation.
2. Programs that ease Indigenous access to capital and enable participation, particularly for larger projects.
3. Improved Crown consultation processes to enable early, meaningful engagement.

It was agreed the Crown should step out of the way and let Indigenous peoples develop their own business relationships. Moving more decision-making power to Indigenous groups will reduce the scope of federal oversight, reduce the administrative burden of that relationship, and foster more innovation.



Improved Financial Administration

The First Nations Financial Management Board (FNFMB), created under the *First Nations Fiscal Management Act* (FNFMA), is considered one of the most successful institutions in Canada. It has worked to strengthen financial administration practices and achieve greater accountability and transparency. This in turn has led to additional private sector partnerships, also essential to Indigenous communities' economic diversification and success. In 10 years it has expanded to 220 First Nations, with over 70 communities achieving financial certification, \$400 million in new ventures, and \$1 billion in investment in new lands.

Self Determination & Financial Accountability

Clint Davis, former President of the Canada Council for Aboriginal Business and current Managing Partner, Acasta Capital Indigenous spoke to the success of the Nunatsiavut Group of Companies in Inuk Labrador. Following the 2005 Nunatsiavut land claim settled by the by the Inuit in Newfoundland and Labrador – one of 19 such agreements in the country – a 3rd order of government was created and constitutionally protected.

The magnitude of self-government agreements and the impact and ability to exercise Indigenous jurisdiction is not fully recognized by potential industry partners, which is an indication that a lot of education is required with governments and businesses around both the “duty to consult” and self-determination. Joint ventures, client-supplier, and employer-employee relationships all provide an opportunity to engage and build trust with Indigenous businesses communities. Working together, rather than at odds, reduces risk for both parties as they strive to meet their goals.

Within the Nunatsiavut Group of Companies, Inuk community members are the sole shareholders. In just 6 years the companies grew the funds from \$6 to \$50 through construction, real estate, and transportation ventures. Nunatsiavut is one of a number of Indigenous business and communities have had an increasing amount of success and growth. TD Economics has begun to quantify the buying power of communities, people, and businesses, demonstrating Indigenous people as a net contributor to the GDP as opposed to a drain on Canadian society. The key driver in this growth is business.

Chief Terrance Paul of Membertou First Nation in Nova Scotia spoke to some of the critical foundation and elements of success for sustainable wealth creation. According to Chief Paul, it began 30 years ago with a vision for self-sufficiency and efforts to create a vibrant Mi'kmaq community through business development, with a strong focus on education, partnership and employment opportunities. Like many Indigenous communities, Membertou First Nation had high unemployment rates and widespread social dependency. Three clear objectives for a sustainable community included: 1) entering the gaming industry 2) entering the commercial



fishing industry and, 3) becoming the first ISO certified Indigenous community in the world.

Membertou is now the third largest employer in the Cape Breton Regional Municipality, employing over 500 people. Another key to success was reinvesting profits from the First Fishermen's Seafood, which resulted in generating profits of more than \$3 million in annual revenue to the community. The Membertou Gaming Commission helps support funding shortfalls in various federal programs such as housing, infrastructure and education.

In order to decrease dependency, Membertou has developed its own education system, focusing on life-long learning, beginning with early childhood education and includes professional development and training opportunities. In order to strengthen financial administration practices and achieve greater accountability and transparency, in 2015 Membertou earned a Financial Management Systems Certificate from the First Nations Financial Management Board. This in turn has led to additional private sector partnerships, also essential to the community's success and diversifying the Membertou commercial portfolio.

Finally, Chief Paul cited the critical foundations of clear financial and fiscal responsibility, accountability and transparency to the Membertou people as a primary factor in sustaining community support and community vision. Procedures and policies are key, including financial laws, and governance and community involvement and engagement is really important to sustainable success. Mary Beth Doucette, Executive Director and Associate Chair of the Purdy Crawford Chair in Aboriginal Business Studies, Cape Breton University reiterated, "Everything is a process". Membertou created a community based governance committee to create law and policy, which followed time-consuming but necessary processes that involved listening, collecting, and presenting choice. This non-linear iterative process ensured community satisfaction around sound decision making based on engagement with community and leadership. She noted that since, successful communities are following similar processes as Membertou.

Where to Begin

Many leaders have noted that the broader general public and business community are both interested and invested in the relationship that emerges from the ongoing Nation-to-Nation work across Canada, including what needs to be accomplished in the fiscal relationship and with regards to wealth creation to solidify the new relationship. The approach that is needed is one of collaborative design in which we act together in our shared interest. If done right, this can expand benefits for all involved. Key challenges moving forward include ensuring that the bureaucracy keeps pace with the federal reconciliation mandate, and ensuring that Canadians know their history. In order to move forward we need to learn from the past.



Role of the Federal Government

Four key actions were identified for Canada to take in this regard:

- 1) The federal government must articulate Canada's policy on its relationship to Indigenous people and formalize its commitment to a Nation-to-Nation relationship as a departure from the colonial past. The policy would ensure federal messaging is consistent so that there is a "whole of government" approach to the Nation-to-Nation relationship. This policy would be negotiated with Indigenous nations. RCAP described this as a New Royal Proclamation.
- 2) The Crown must implement the direction of the courts.
- 3) The Crown must recognize each First Nation and their territory. Recognition is the first step in reconciliation.
- 4) The Government of Canada must invest time and resources into relationship building, including fostering understanding and good relationships between Canadians and Indigenous peoples.

Role of the Provinces

Former Premier of Ontario and Liberal MP Bob Rae emphasized the significant role of the provinces as components of the Crown. Provincial government mandates touch everyone's lives: any time someone leaves reserve or territory to go to school, hunt, or live elsewhere, they fall under provincial jurisdiction. Many Indigenous governments and organizations have formed direct relationships with provincial governments. For example, in 2015 the Chiefs of Ontario and the Government of Ontario signed a historic political accord that will guide the relationship between First Nations and the province.

Role of Municipalities

Ginger Gosnell-Myers, Aboriginal Relations Manager for the City of Vancouver, described the extensive work the City of Vancouver has been doing to advance reconciliation that can be adapted and implemented by other Canadian municipalities, including:

- Committing to many TRC Calls to Action beyond those specifically directed at municipalities and endorsing UNDRIP.
- Officially recognizing the City is operating on unceded territories and starting all City meetings by recognizing the unceded territories of the host nations.
- Becoming a City of Reconciliation, holistically embedding reconciliation into the work it does as a municipality, acknowledging reconciliation is not the act of one year, but a long-term act of multiple generations.
- Co-managing Stanley Park with the three host nations.

A number of other municipalities across the country have undertaken the commitment to become Cities of Reconciliation.



Role of Canadian Public

Interest in reconciliation has continued to grow throughout civil society. Law societies, nursing associations, medical schools, social workers, educators, faith communities, public servants, indigenous governments, journalists, child welfare advocates, and even the parliaments of other countries have all demonstrated great interest in reconciliation in Canada. Nonetheless, media and public attention to Indigenous realities is infrequent and un-sustained and the public at large shows a strong lack of knowledge and understanding of the history and current issues facing Indigenous people in Canada. This ignorance serves as a barrier to finding common ground and affects the actions of Canadian government and the approach it takes to its relationships to Indigenous peoples.

Civil society organizations have a key role to play in helping implement the TRC Calls to Action, moving away from crisis management to collaboration based on meaningful relationships. Public education about Indigenous culture, rights and responsibilities is critical for a holistic reconciliation process in which Canadians expect and pressure their governments to deal honourably with Indigenous peoples. This education and awareness raising process is needed across the range of social, health and governmental services to facilitate the implementation of a Nation-to-Nation relationship and to help ensure public service providers deliver.