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REVISITING RCAP

*TOWARDS RECONCILIATION: THE FUTURE
OF INDIGENOUS GOVERNANCE*

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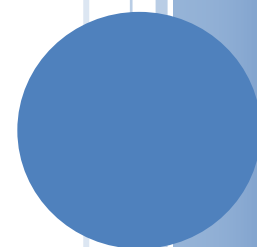


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Purpose of this paper

In 2016, Canadians will mark the twentieth anniversary of the Report of the Royal Commission on Aboriginal Peoples. This landmark Commission, the recommendations of which were more far-reaching than any other Commission in Canadian history, proposed an ambitious course for reconciliation and renewal of the relationship between Canada and its First Peoples. The Commission was tasked with responding to the following question:

What are the foundations of a fair and honourable relationship between the Aboriginal and non-Aboriginal people of Canada?

In response, the Commission conducted nearly 200 public hearings, heard briefs from thousands of people and commissioned hundreds of research reports. The scathing, single sentence summary from the Commissioners has since become an important reference point in discussions and actions on modern indigenous issues in the years since:

The main policy direction, pursued for more than 150 years, first by colonial then by Canadian governments, has been wrong.

At the same time as indigenous leaders and policymakers continue to confront the recommendations of the RCAP report, preparations are underway across Canada to mark the 150th anniversary of the *British North American Act* (now the *Constitution Act*, 1867) in 2017. To mark these milestones the IOG is undertaking a new symposium series that builds on its previous work and seeks to better understand the future of indigenous governance.

On October 15 and 16, 2014, the IOG gathered leaders from governments, First Nations, Métis nations, the private sector, and academia to discuss the future of indigenous governance in light of these upcoming anniversaries. Speakers and panelists provided perspectives on important legal, governance, social and economic advancements made since the RCAP report. They also identified persistent gaps that remain, highlighting the urgent need for action to further the vision set forth nearly twenty years ago. Reconciliation initiatives played a considerable role in the dialogue, as indigenous and non-indigenous panelists spoke to the achievements that have been made, as well as the progress that remains to be seen.

Building on the timely and well-received work of the *Beyond Section 35* series,¹ the Institute on Governance will continue advancing the dialogue on contemporary indigenous issues, with an eye to developing a forward-looking agenda that will:

¹ Over 2012-13, the IOG convened a major dialogue series and series of discussion papers, [*Beyond Section 35*](#), which followed by three symposia, each with its own

1. assist Indigenous governments to meet their governance aspirations in a manner that reflects their desire, capacity, priorities, and socio-economic realities;
2. increase capacity for governments and communities to participate in and benefit from evidence based research and open discussion that better supports their governance structures; and,
3. create a fertile ground to advance the public dialogue on the future of indigenous governance in Canada.

This two-day dialogue was focused on:

1. Revisiting RCAP recommendations and responses with a view to identifying the key developments and stumbling blocks in moving forward on matters pertaining to nation re-building, wealth creation and closing socio-economic gaps; and,
2. Exploring the governance implications of wealth creation more specifically, in order to begin to accumulate wise practices around partnership structures, frameworks for shared decision-making, and defining the roles and responsibilities of the parties in governance arrangements.

While speakers, panelists and participants focused on actionable opportunities to advance indigenous governance in Canada, a number of key themes emerged out of the discussions:

- **Questioning the state of reconciliation:** Panelists agreed that while efforts to achieve reconciliation have been made, much work remains to be done. Questions around the end goal of reconciliation activities featured prominently in the discussion, most notably the point that reconciliation should be considered a journey, not a destination. Only in recent years, through the work of bodies such as the Truth and Reconciliation Commission of Canada (“TRC”) and the Aboriginal Healing Foundation, have meaningful steps been made to advance this journey.
- **Imagining possibilities:** Panelists agreed that the failure to implement a significant portion of the recommendations of the RCAP report represents a missed opportunity. Important time was spent reflecting on what the relationship might look like now had these recommendations been fully implemented, in particular the persistence of key gaps in economic and social outcomes for Aboriginal nations, particularly for those that have had limited (or no) authority to self-govern, and no significant own source revenues.

conference report, which recommends steps for further research and action: [*Beating the Constitutional Drum*](#) (Ottawa); [*Closing the Gap*](#) (Vancouver); and [*Building Relationships*](#) (Calgary).

- **Assessing priorities for immediate action:** Participants and panelists reflected on the urgency of many issues that demand action – from poverty and social conditions, to nation-building and self-governance. Panelists debated where to focus immediate action – for example, do we address the social inequalities, or the nation-building imperative first – to create sustainable, long-term change for aboriginal nations?
- **Identifying best practices and promising approaches:** While an urgent need for action remains, a sense of optimism ran through the symposium, propelled by leaders who shared success stories from their own experience. In particular, First Nations and Métis leaders spoke about driving change through community engagement and other dedicated efforts to nation-building and wealth creation.
- **Restoring trust to relationships with governments:** While jurisdictional roles have shifted and new legal precedents have emerged, the Honour of the Crown remains the foundation of the relationship between Canada and indigenous nations. Tensions around honourable treaty implementation remain, while concern over the lack of local control often leads to frustration regarding government policy. Enabling greater control over local decision-making while ensuring that accountability standards are respected is a priority for nations that have not yet achieved full self-governance.
- **Building relationships with industry:** As new opportunities for resource development arise, so too do opportunities for indigenous nations with claims to the lands where those resources reside. This has created an environment where industry is more likely to succeed if they engage indigenous communities early on. Similarly, new pressures for decision-making processes are placed on the nations that stand to benefit, to ensure gains from those partnerships are used to benefit for all nation members.

The symposium, and a background paper prepared for participants, was divided into three themes:

1. restructuring the relationship: nation re-building;
2. economic empowerment, lands, resources, wealth creation and redistribution; and,
3. closing social and economic gaps.

The dialogue focused on actionable solutions that provide a path forward to advancing each of the themes above. The following report provides an overview of the best practices and recommendations for action that can help decision-makers and practitioners as they seek a renewed relationship between the Crown and indigenous peoples; a relationship (based on principles recommended by RCAP) of mutual recognition, mutual respect, sharing and mutual responsibility.

Revisiting the Royal Commission on Aboriginal Peoples

The Royal Commission on Aboriginal Peoples was created in 1991 to study the evolution of the relationship between the Crown and First Nations, Inuit and Métis peoples. By the time the Commission issued its final report in 1996, the Commissioners had visited 96 communities, held 178 public hearings, heard briefs from over 2000 people and commissioned more than 350 research studies. These activities culminated in the final report released that same year, which made more than 400 recommendations. The [background paper](#) prepared for the symposium provides a detailed discussion of the recommendations, as well as progress made to date.

The symposium opened with reflections on the state of relationships between the Crown and indigenous nations, focusing in particular on whether the aims (and recommendations) of the Commission have yet been achieved. Recognizing that many of the recommendations made by the Commission remain unfulfilled, panelists lamented the missed opportunities presented by the lack of action or greater progress on many of the RCAP recommendations. Further, given new dynamics including rapid population growth (which make Aboriginal peoples the youngest and fastest growing population in Canada) and worsening social conditions on many reserves, panelists argued that the status quo remains untenable now, nearly twenty years since the recommendations were first made. Addressing social conditions, creating economic opportunities, and empowering nations with self-governance remain major priorities.

Yet while many regions and communities continue to face significant challenges, speakers also made a point of highlighting the numerous and growing number of success stories that highlight the potential that has been unlocked in many communities, particularly those that have achieved greater authority for self-governance. These cases present compelling lessons that could propel many more forward, creating momentum for new and improved efforts from governments, industry and Aboriginal nations themselves. As Nathan Wright, Executive Director of the Chiefs of Ontario noted, now is the time for action: “Let’s not be daunted by the complexity, or fooled into thinking another generation will fix this problem.”

Panelists discussed the first response put forward to the RCAP report, *Gathering Strength: Canada’s Aboriginal Action Plan*, acknowledging that this effort was an immediate response to a window of opportunity given the public attention the report garnered, but not a comprehensive plan to implement all RCAP recommendations. It was noted that as time went on, and federal budgets remained tight, public attention to the issue faded, and thus, progress on key issues was stymied. Further, advancing reconciliation was tied to the difficult task of achieving common ground on conflicting public interests (including budgetary imperatives vs. the need for massive investments) that often resulted in an approach that favoured

“peace at the cheapest price.” Many panelists criticized the 2% spending cap placed on transfers to First Nations in the 1990s, which remains in place today.

Panelists highlighted the important role the TRC gatherings have played in recent years, bringing the stories of residential school survivors to the forefront of public dialogue. Dr. Marie Wilson, Commissioner, TRC, reflected on three key messages these survivors have taught us:

1. that all Canadians must understand the enormity of what happened in residential schools;
2. that the survivors need support – so many are just beginning the journey of healing, and many have yet to start; and,
3. that the process of healing is a Canadian journey – all of Canada needs to understand and heal from this historical tragedy.

Notable progress in re-capturing the attention of Canadians has been made through the TRC. Dr. Wilson estimated that early gatherings of the TRC consisted of a 90% Aboriginal audience, however by the end of its hearings nearly 50% of the audience was non-Aboriginal participants. Moving forward, panelists acknowledged the role that public engagement and public education must play in advancing reconciliation and ultimately in gaining the commitment of leaders to act to rectify the pressing issues that face indigenous peoples. They also noted the need to learn from the RCAP experience to ensure any TRC recommendations are fully considered.

Paralleling the emphasis on public education, Ontario Minister of Aboriginal Affairs David Zimmer discussed the Government of Ontario’s emphasis on engaging all citizens in the dialogue on the future of reconciliation initiatives. As he noted, it is not the Aboriginal community that needs to be made aware of the “Aboriginal issues”, but rather all Canadians (and Ontarians) need to participate in a dialogue about the shared history of the relationship, and thus the need for reconciliation and relationship-building. He highlighted the example set by Premier Kathleen Wynne, who has attempted to elevate this dialogue by explicitly mandating aboriginal relationship-building and engagement for a significant proportion of her Cabinet, to advance outcomes for First Nations and Métis in Ontario.

A broader public dialogue must also be supported by a seat at the table for indigenous leadership; in Ontario, a bottom-up process is beginning to emerge, enabled by the message from the Premier that meaningful engagement be prioritized. Minister Zimmer indicated that initiatives that expect to go forward must make room for indigenous voices, including in program and policy design and in identifying and delivering on outcomes. Some notable examples that the provincial government and First Nations and Métis communities are taking to deliver on shared priorities include:

- an Aboriginal Children and Youth Strategy, engaging urban Aboriginals, Métis, service providers and others. Recognizing that expertise for developing strategy resides outside of government, the Government of

Ontario is exploring options for culturally-appropriate service delivery models;

- Aboriginal Justice Advisory Group, which is including Aboriginal perspectives to play a leading role in a more responsive justice system; and,
- an Assistant Deputy Attorney General (Aboriginal Justice) position that will be created with the mandate of addressing Aboriginal Justice. This position will lead the development of new programs and services for Aboriginal people involved in the criminal justice system.

Panelists discussed the role and structure of the federal government in advancing reconciliation, noting that the significant departmental re-structuring called for in RCAP was never enacted. While Volume 2 of the RCAP report called for a senior minister to be responsible for the relationship with Aboriginal nations, this position is not considered to have been elevated. Similarly, recommendations for a new Department of Aboriginal Relations were not implemented.

The ability of the government to monitor progress on the advancement of RCAP recommendations (or other similar actions) is also limited. While the Commission recommended an independent monitoring agency made up of indigenous and non-indigenous Canadians, such a body has yet to be created. In 2011 the Auditor General of Canada presented a status report on her audits of Aboriginal Affairs and Northern Development Canada (AANDC), condemning the inadequacy of federal programs and services on First Nations reserves, however no permanent body exists to oversee monitoring of the progress on RCAP's recommendations.

Finally, and for many most troubling, the *Indian Act* remains in place today. Former National Chief Phil Fontaine condemned this legislation as a “racist, archaic piece of legislation [that] has no place in our world – you can’t have this if we want progress.” He further called for action to replace AANDC with self-governing nations and another federal body to ensure Canada meets its constitutional obligations to Aboriginal peoples.

Summary

In sum, the need for public dialogue and leadership to advance reconciliation featured prominently throughout the symposium. While reconciliation was recognized as a process, not a destination, there was agreement that more needs to be done to achieve the nation-to-nation relationship set forth in the RCAP report. Participants applauded the efforts of the TRC and suggested the healing process that is so essential to reconciliation must be continued, and form the basis of a new dialogue. This dialogue must have common purpose – to bring together the Crown and Aboriginal nations. It must recognize our shared history, present opportunities and provide a path to reaching a common understanding of where we are going, and how we will get there.

Specific recommendations for action included:

- upholding the Honour of the Crown by **implementing existing treaties and creating new ones** where they do not currently exist;
- **provide indigenous leadership a seat at the table** in discussions surrounding policy and program-design;
- **remove the 2% cap on federal transfers** and review the fiscal relationship to ensure adequate investments in Aboriginal nations are made;
- **continue the process of public education and engagement** started by the Truth and Reconciliation Commission, to propel forward the important healing activities needed by all Canadians;
- **restructure federal departments** to reflect the nation-to-nation relationship between the Crown and Aboriginal nation; and,
- **Continue the healing process initiated by the Truth and Reconciliation Commission.** Build bridges between the TRC and other organizations that can support the call for continued healing and reconciliation, particularly those can are in a position to encourage the government to implement the TRC recommendations.

Nation re-Building

If reconciliation was the overarching theme of the RCAP report, nation-building was the most important activity the Commissioners saw to achieving this end. The RCAP report proposed far-reaching action, from new legislation and indigenous institution building, to additional financial and land resources to provide a base for Aboriginal nations. The Commission called for action in four specific areas: healing, economic development, human resources development and Aboriginal governance. Against this backdrop, recommendations on advancing treaty relationships, self-government capacity and increased access to land were made.

Panelists from Aboriginal nations spoke to their experience developing processes for achieving self-governance, focusing on the particular actions that helped them get a seat at the negotiating table, and how they successfully used these opportunities to advance their nation's governing capacity. Panelists from governments discussed new policy, programs and legal precedents that shape the possibilities for nation-building. Key discussions from both sides related to the actions each respective group could make to advance:

- treaty renewal and new treaty making;
- redistribution of lands and resources;
- clarification of areas of independent and shared jurisdiction; and,
- redesign of short-term and long-term fiscal arrangements.

The following sections review key activities highlighted by indigenous panelists and other leaders about the conditions that have supported nation-building efforts since RCAP, as well as the activities needed to spread these opportunities to a greater number of Aboriginal nations.

Getting a seat at the table: Negotiating Modern Treaties

Grand Chief Matthew Coon Come spoke of the Cree Nation's path as one of incremental building blocks. Beginning with the James Bay Northern Quebec Agreement, the Cree successfully expanded their influence over successive agreements with the federal government. Over time, the Cree Nation slowly developed capacity and fulfilling roles the federal government could not fulfill for them. While they began with a determined emphasis on self-government, they have used this to access opportunities for wealth creation, and in turn used new wealth to create the social programs that provide a foundation for success for generations to come. While significant progress has been made, Chief Coon Come maintained that the Cree continue to set new goals for increasing control over education, health services, police and justice, with their ultimate goal being to replace the *Indian Act* and give new powers to the Chief and Council.

Chief Coon Come repeatedly stated the motivation that First Nations should not be the administrator of their own poverty, which meant developing own source

revenue to complement or even replace federal transfers. For the Cree, participation in the Plan Nord presented such an opportunity to challenge the political structures that perpetuate inequality (e.g. reserve system based on lands of little economic value), and to fundamentally propel a policy of exclusion into a policy of inclusion.

Kim Baird, former Chief of the Tsawwassen First Nation, detailed her nation's experience in the process of creating the first urban treaty in the province of British Columbia. Ten years after beginning the treaty process in 1993, the people of Tsawwassen First Nation voted overwhelmingly in favour of an Agreement in Principle with the federal and provincial governments. Treaty negotiations in the Tsawwassen First Nation were concluded in 2007 and 97% of the nation's members voted on their constitution. Since then 23 laws have been enacted to replace the *Indian Act*. Baird spoke at length about the extreme effort and capacity required to make these groundbreaking changes, noting that education is the key to making such nation-building activities possible. Through ongoing and concerted community dialogue, members of Tsawwassen First Nation have been able to develop a shared vision for their future, however Baird was cautious to note that such discussions can take a long time to reach agreement – the most important thing is that a solid process for community engagement exists.

While the band had initially tried different governance opportunities through the *Indian Act*, they ultimately determined that these mechanisms do not go far enough to enable effective self-government. Such development has taken a long time – it took nearly a decade to figure out where they want to go, and how they believe they could get there – however the members strongly believe that self-governance is key to reducing the gap between their community and non-Aboriginal Canadians. Now that self-governance has been achieved, Baird noted that the more difficult activities of wealth creation and social programming begin. However, she stressed that the same dialogue processes that helped the nation rally around the activity of achieving self-governance provide a solid foundation for decision-making going forward.

The Métis journey was discussed, with panelists noting the ongoing struggle of Métis nations to carve space at the table. Gary Lipinski, President of the Métis Nation of Ontario (MNO), spoke about the legacy issues the Métis continue to face, including recognition of their distinct way of life and culture. The Métis Nation of Ontario was created in 1993, with its own unique governance structure, however challenges remain in gaining government recognition of the MNO's community charter structure. With no legislation to recognize the Métis government entity, they must be registered as a nonprofit, which is problematic for many reasons, especially in light of the scrutiny many nonprofits are facing with respect to “advocacy” activities. The MNO's work focuses on providing social infrastructure for citizens, and advancing Métis rights.

The recent decision in *Daniels v. Canada* could prove to be transformative for Métis rights recognition, however at this time the federal government is awaiting a

response on its conditional application to cross-appeal. Panelists also noted the Métis experience with the Courts has been mixed, given how long it took to get a decision on the Manitoba Métis case, which was fought for more than 30 years and only recent was decided partially in favour of the Métis.

Unpacking a New Legal Precedent: *Tsilhqot'in Nation v. British Columbia*

Justice Ian Binnie reflected on the impact of the decision in *Tsilhqot'in Nation v. British Columbia*², noting that this represents the first time the Courts have affirmed that Aboriginal title exists and provided clarity on its nature. He noted the Court was not prepared to ask itself the question of whether Section 35 covers self-government, but instead approached the issue of examining the right to control lands.

After establishing that title exists, the case then clarifies what is necessary to prove Aboriginal title: the onus is on the claimant to establish continuity and sufficiency of occupation. Importantly, the Supreme Court refuted the BC Court's suggestion that non-nomadic tests could be applied to a nomadic group, establishing cultural sensitivity as an element of the test.

The case can be interpreted as a signal that the Courts are going further down the road with regards to recognizing and affirming Aboriginal rights than ever before. While the case is BC-based and will have its primary impact there, the principles could have impact in other areas. Justice Binnie noted that Aboriginal title is expressed in *Tsilhqot'in* in ways that feed self-government, as the decision references the right to control the land, and therefore is an important step forward in taking forward the potentially implied self-government aspects of Section 35. Moving forward, this decision could provide an opening for further progress on self-governance for Aboriginal nations across Canada.

Revitalizing Treaty Processes

The RCAP report recognized the utmost importance of treaty relationship and recommended the creation of a new process for making treaties. Federal and provincial government perspectives provided insight into how these jurisdictions are approaching the process of treaty-making.

Joe Wild, Senior Assistant Deputy Minister responsible for Treaties and Aboriginal Government with Aboriginal Affairs and Northern Development Canada acknowledged that the federal government is reviewing the Comprehensive Land Claims policy, in response to calls for changes to the federal approach for modern treaties. He noted that the goal of the existing policy is to support stable, sustainable Aboriginal communities, and that self-government agreements demonstrate the

² [*Tsilhqot'in Nation v. British Columbia*, 2014 SCC 44.](#)

potential for the reconciliation of Aboriginal rights and interest with the rights and interest of Canadian society as a whole. He recognized that communities that have self-government tend to have better socio-economic indicators than those who do not, and therefore self-government is a desirable goal. He also noted that the area of Métis rights is evolving and will be addressed through the upcoming dialogue around the comprehensive claims policy. The federal government is prepared to look at opportunities and negotiate self-government agreements with Métis communities as well.

Sophie Pierre, Chief Commissioner of the BC Treaty Commission, spoke to the work of the BC Treaty Commission, whose mandate is to serve as an independent facilitator for treaty negotiations. Since its creation two treaties have passed and others are advancing. In addition to ensuring that negotiations progress, the Treaty Commission also studies important issues facing First Nations. Its most recent report studied the issue of overlapping claims and shared territory, recommending options for advancing through these impasses, such as conflict resolution and an alternative dispute mechanism. Beyond the work of the Treaty Commission, she reflected on the advancements that have been made in reconciliation more generally, especially through the work of the TRC. She expressed that too often, governments have approached the concept of reconciliation as simply an event, or an end-state. However, to truly advance reconciliation, and as a result to support progress in the treaty-negotiation process, reconciliation must be seen as a shared journey, marked by renewed relationships.

Finally, Minister David Zimmer noted that the province of Ontario is developing a treaty strategy, with the goal to formally engaging Aboriginal leadership on the strategy early next year. While details of this strategy are not yet available, he noted that such dialogues require a strong federal partner, and that the province intends to act as an advocate for indigenous affairs at the federal level.

Exploring the Possibility of Aggregation

The RCAP report recommended restructuring the 633 Indian Act bands to approximately 50 nations. Panelists discussed what aggregation would mean for Aboriginal nations, and the extent to which this would be feasible, or even desirable. One of the challenges is that the federal government continues to require action or approval by *Indian Act* bands. Political realities may interfere, while incentives for aggregation may not exist (for example, this was considered in BC, however there is no policy that would allow other levels of government to interact with communities that decide to aggregate).

Panelists generally agreed that the reality of aggregation is that it must happen organically, and that it rests upon creating a common vision among existing bands. Further, geographic proximity does not necessarily mean bands have the same capacities or priorities, and therefore nation-building may not be desirable.

However, it was noted that in some areas, the wording of the *Indian Act*, (recognizing each band as a nation) causes complexity where there could be progress by bands that are historically from the same nation/tribe.

Increasing Federal Transfers

While the RCAP report recommended immediate investments in health, education, and social infrastructure, a 2% expenditure cap has been in place since the mid-1990s. Simply put, investments in social programs have not kept pace with inflation and population growth. Further, own-source revenue that nations do manage to develop is clawed-back from fiscal transfers from the federal government. Panelists called for investing in housing, health and social programs to close the gap between Aboriginal and non-Aboriginal people.

From Managing Poverty to Nation-building?

Panelists debated which comes first: nation-building, wealth creation or poverty alleviation? National Chief Fontaine stressed that nation-building is nearly impossible when you have such massive issues of poverty, housing and inadequate social conditions. And yet, he also recognized that there is a chicken-and-egg question of whether you can truly close the gap without enabling local decision-making powers so as to drive transformational social change.

Numerous panelists and speakers returned to the statement of Grand Chief Matthew Coon Come: Aboriginal nations should not be the administrators of their own poverty. In the absence of sufficient funding from governments for the essential infrastructure and social investments needed to close the gap, indigenous nations need opportunities to develop own-source revenue that can be re-invested back into the community. Resource development opportunities, self-governance arrangements that enable greater local control over decision-making, and even possibly taxation authority could help the process of wealth creation and therefore present opportunities to close the gap. Similarly, panelists re-iterated the recommendations of RCAP that called for increases to the land base of Aboriginal nations as a key option for creating wealth, that can further social outcomes for communities.

Investing in Education

Across conversations about reconciliation and nation-building, education was identified as the key to unlocking the vast potential of indigenous nations. With the youngest and fastest growing population in Canada, Aboriginal nations must see an immediate injection of opportunities for education at all levels. Participants noted the recent breakdown of Bill C-33, noting the need for dialogue to continue to advance local decision-making authority over education and greater financial investment from by the federal government.

Panelists spoke to post-secondary education opportunities as key to driving long-term efforts to close social gaps. Kim Baird spoke passionately about her own experience accessing post-secondary education as transformative to her understanding of the opportunity to develop self-governance capacity for her own nation. Since Tsawwassen became a self-governing nation, they have developed own-source revenue that can be invested in education opportunities for their members. Similarly, the Métis Nation of Ontario has invested significant funds in scholarships, and bursaries for their members.

Summary

Panelists and speakers from all perspectives agreed that nation-building is imperative, with self-government being the ultimate expression of nationhood. For many complex reasons, self-governance has evaded many indigenous nations. However, many panelists shared practical actions that can be taken to advance the capacity of nations to achieve meaningful self-governance. These include:

- restructuring the comprehensive land claims policy to create a new process for treaty-making;
- investing 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;
- increasing fiscal transfers, so that nations that are faced with dire social issues (including housing, poverty and poor health systems) can lift their populations and meaningfully engage in the nation-building process; and,
- continue the healing process initiated by the TRC, to support renewed nation-to-nation relationships.

Wealth Creation: A New Lens for Economic Development

As the Commissioners noted, restoring self-reliance and resilience to indigenous nations is not only essential for the wellbeing of Aboriginal peoples, but is fundamental to self-government as well. Given this consideration, much of Volume 2 of the RCAP report was dedicated to issues that broadly relate to economic development.

At the symposium, the dialogue viewed economic development through an Aboriginal lens, using the concept of “wealth creation.” This approach moves beyond a sole focus on ensuring development of the local economy to reflect uniquely Aboriginal contextual factors, such as the imperative for sustainable use of wildlife, game, fish and natural resources, the importance of industry-first nation relationships and capacity building.

Numerous indigenous panelists spoke to the unique way in which their nations or communities have advanced local prosperity and created resilience. These panelists represented geographically diverse communities who have taken many different approaches to wealth creation, including industry partnerships, new investment models and tourism. Panelists from governments and industry reflected on their role as partners in the process of wealth creation.

The following sections provide specific examples and lessons learned from indigenous nations, industry and governments.

Moose Cree First Nation

Chief Norm Hardisty Jr. of the Moose Cree First Nation spoke of his nation’s experience partnering with industry to access equity participation in major resource projects. As partners with Ontario Power Generation (OPG) in the Lower Mattagami Project, Moose Cree will have up to a twenty-five percent equity stake in the hydro-electric project. The Moose Cree have also signed an agreement with Detour Gold to explore and develop a mine, which opened in 2013 and has a 21-year life. Beyond gaining equity stakes in resource development, the Moose Cree group of companies has developed into a mature community of supply chain contractors, operating diverse businesses that support the resource projects.

Chief Hardisty spoke of the desire, similar to that of Grand Chief Coon Come, not to “administer their own poverty.” He noted that traditional systems of governance and decision-making were eliminated under the *Indian Act*, so to be able to advance as a nation the Moose Cree focused on developing an engagement process to help set local priorities. Through self-funded community information sessions and referendums held before the signature of major agreement, they have developed

governance capacity and good governance processes that are transparent and values-based. The emphasis has been on separating business from politics, while securing the support and buy-in of the community. While often the decisions faced are complex, the community process emphasizes information and transparency, to create a meaningful decision-making process. The Moose Cree are now planning the development of a Moose Cree constitution, to formalize the governance practices that have allowed them to develop strong industry partnerships and create significant wealth for the community.

Fort McKay First Nation

Chief Jim Boucher spoke of the transformation of the Fort McKay First Nation into one of the most affluent First Nations in the country. At the outset of oil sands development, Fort McKay had little to no participation in the process and was uncertain as to how to move forward. Today, the Fort McKay First Nation has grown to operate over \$70M in businesses that provide them with resources to offer infrastructure and social services to their population.

Chief Boucher reflected on the minimal, if nonexistent opportunity to be consulted when oil sands developed began, noting at that time their only option to be heard was to blockade industry, which they did. By drawing massive media and public attention to their nation, they also gained the chance to have direct conversations with decision makers, including the Attorney General of Alberta. A seat at the table with provincial and federal governments presented the opportunity to discuss the priorities of the nation vis à vis development, namely education, training, environmental protection and remediation. From this initial confrontation, a mutually beneficial relationship with industry and governments has emerged.

Over time, participation in resource development has provided own-source revenue streams, which Fort McKay has reinvested, both in jobs for their people, and in infrastructure and social services to support community needs. Chief Boucher stressed that each business they have is set up for the sake of the business, and that political issues and decisions must be kept separate from business decisions. He also offered that Fort McKay took a slow and deliberate approach to development, building companies on a gradual basis so as to provide stability and build resilience. Finally, communities must be given the chance to deliver on their own unique priorities, rather than being subject to direction from other levels of government who do not understand the needs and context of the community.

Carcross Tagish Management Corporation

In the Yukon, many different models for wealth creation and self-governance exist, exemplified by the experience of the Carcross Tagish First Nation. While not located near major resources, as “triple bottom line” investors Carcross Tagish has

developed unique businesses that position them as tourism leaders, balancing the desire for ecological preservation with the need for wealth creation. Over time, they have used taxation revenues to invest in businesses that channel the community's passions, as well as their unique values and assets.

Justin Ferbey, CEO of Carcross Tagish Management Corporation, challenged participants to think not about capacity issues but to instead flip "capacity" issues on their head by focusing determinedly on the two or three things that the community does really well. Through a combination of creativity and entrepreneurship, Carcross Tagish created award winning businesses. Similarly, while he agreed that accountability and the separation of business and politics is essential – in their case, this is achieved by having an independent economic development agency, separate from political decision-making – he suggested that more attention could be paid to the unique attributes of entrepreneurs, which many indigenous nations possess.

Métis Voyageur Development Fund

Steve Morse, CEO of the Métis Voyageur Development fund spoke of the public policy imperative to make sure that markets for money work well for Aboriginal investees. Too few opportunities exist for indigenous entrepreneurs and nations to access financing, and those that do typically represent the most basic options. Right now, the system benefits nations close to resource deposits, yet even those options are fairly limited.

The Métis Voyageur Development Fund is one-such institution that provides access to capital for Métis entrepreneurs and businesses, which since 2011 has provided access to capital for start-up projects and resource development. While the corporation is Métis owned and controlled, the fund maintains a separation of politics and business.

He stressed the private sector must expect that indigenous nations will be taking equity positions in resource development, a view shared by many other speakers and panelists. He also spoke to the need for resource companies to build capital into the cost of a project for an indigenous nation's indigenous people, in forms that can be leveraged or securitized by indigenous nations. Ultimately, the private sector must be ready to invest in partnerships with indigenous nations to ensure their project proceeds, while nations must be able to demonstrate effective decision-making processes to demonstrate their capacity for managing wealth.

Relationship-building: Governments, Industry and Indigenous Wealth Creation

Panelists from governments and industry spoke to advancements that are shaping new partnerships and relationships with indigenous nations, advancing opportunities for wealth creation.

Derek Teevan of Detour Gold reflected on the importance of understanding the legacy of historical relationships when approaching an opportunity or development with indigenous nations. Today, it is no longer enough to simply invite an indigenous nation to have a conversation. Instead, industry needs to learn the culture and values of the community to understand where its priorities lie, and develop a shared path to development. He noted that it's helpful for strong community engagement processes to exist within the mandate or practices of Chief and Council, to demonstrate that community will is reflected in decision-making processes.

From a government perspective, Minister David Zimmer discussed actions by the Ontario Ministry of Aboriginal Affairs to enable wealth creation through resource revenue sharing, participation in resource projects, and in decision-making. In particular, the province has been working with communities proximate to the Ring of Fire to ensure they will benefit from economic activity that occurs in their backyard. The goal is to ensure these communities can share in economic benefits, become involved in management of land and resources where possible, and have the capacity to meaningfully participate in opportunities to ensure sustainability of the projects. This includes investing in the capacity of indigenous nations to engage in dialogue with industry, through the New Relationship Fund, which provides funding for core consultation capacity and enhanced capacity building activities.

Other notable policy changes in Ontario include Mining Act Modernization, the Enhanced Sustainable Forest License and the *Green Energy Act*. In each case, the province is working with Aboriginal nations to ensure resource benefit sharing is in line with the recommendations of RCAP, and decisions are made reflective of the desires and aspirations of nations proximate to these opportunities.

Summary

Throughout the discussion of wealth creation, panelists and speakers repeatedly returned to the need for open and transparent dialogue between and among actors: within aboriginal nations, nation-to-nation, and across the public and private sectors. Learning from the experience of First Nations and Métis that have successfully created wealth, key themes emerged throughout the dialogue:

- **Gaining a seat at the table to propel wealth creation:** Whether through self-governance or effective negotiating, indigenous panelists reflected on the importance of having **control over decision-making** as a key way to create wealth.
- **Separating business from politics:** The process of wealth creation entails decision-making processes and requires accountability structures to ensure that those decisions adequately reflect the will of the community.
- **Reinvesting profits into infrastructure and opportunities for community members:** wealth created in indigenous nations, especially that

which comes from resource development, should be re-invested in infrastructure and social programs to benefit community members.

- **Securing equity stakes in major resource projects:** panelists noted that indigenous nations must push for equity stakes in resource projects – and industry should be prepared to negotiate and/or offer these.
- **Taxation authority:** while dialogue often focuses on resource revenue sharing, the question of sharing tax revenues or taxation powers was raised as a path to wealth creation.

Charting a Course

The approaching twentieth anniversary of the report of the Royal Commission on Aboriginal Peoples presents an important opportunity to reflect on the far-reaching recommendations of this landmark process. More importantly, it offers a unique chance to reflect on the progress made for indigenous nations and all Canadians on the paramount goal of reconciliation. While the RCAP report represented an important recognition of the struggles of indigenous nations, it also rightly pointed out that immediate efforts were needed to foster reconciliation and restore resilience to indigenous nations facing significant economic and social gaps.

Reflecting on the path to reconciliation, Cynthia Wesley-Esquimaux - Vice Provost (Aboriginal Initiatives), Lakehead University offered words of encouragement: that while too often we focus on what we have failed to achieve, since the RCAP report “we have come a tremendous distance.” She urged participants to share their stories and connect their history with the conversations happening around kitchen tables and for whom these actions will have a real impact. It was a theme reflected by many speakers throughout the symposium: that public dialogue and education is essential to driving reconciliation forward.

Communicating at all levels is vastly important – participants noted the importance of giving people something to strive for. Throughout the symposium, participants shared success stories, providing testaments to the importance of dialogue and knowledge sharing. As Cynthia Wesley-Esqumaux noted, “It’s not enough to tell people to just say no, you have to give them something to say yes to.”

Public dialogue is playing an essential role in the healing processes initiated by the Truth and Reconciliation Commission, but it is also taking root in other arenas. From Minister David Zimmer’s reflections on Ontario’s emerging public education activities, to Chief Norm Hardisty Jr.’s message about the importance of achieving a common vision through convening community dialogue, the role of transparent and ongoing communications within and across Aboriginal nations, government and industry became clear throughout the symposium.

However, dialogue alone will not achieve the difficult task of reconciliation and the much-needed advancements in nation-building, wealth creation and closing social gaps identified throughout this report.

Specific recommendations for further exploration or action included:

Nation-building

- Upholding the Honour of the Crown by **implementing existing treaties and creating new ones** where they do not currently exist;

- **Provide indigenous leadership a seat at the table** in discussions surrounding policy and program-design;
- **Remove the 2% cap on federal transfers** and review the fiscal relationship to ensure adequate investments in Aboriginal nations are made;
- **Continue the process of public education and engagement** started by the TRC, to propel forward the important healing activities needed by all Canadians; and,
- **Restructure federal departments** to reflect the nation-to-nation relationship between the Crown and Aboriginal nations.

Wealth Creation

- **Gaining a seat at the table to propel wealth creation:** Whether through self-governance or effective negotiating, indigenous panelists reflected on the importance of having **control over decision-making** as a key way to create wealth;
- **Separating business from politics:** The process of wealth creation entails decision-making and requires accountability structures;
- **Reinvesting profits into infrastructure and opportunities for community members:** wealth created in indigenous nations, especially that which comes from resource development, should be re-invested in infrastructure and social programs to benefit community members;
- **Securing equity stakes in major resource projects:** panelists noted that indigenous nations must push for equity stakes in resource projects – and industry should be prepared to negotiate and/or offer these; and,
- **Taxation authority:** while dialogue often focuses on resource revenue sharing, the question of sharing tax revenues or taxation powers was raised as a path to wealth creation.

The Way Forward

Moving forward, the IOG will continue to convene leaders from indigenous nations, governments, industry and academia to identify promising approaches and decision-making frameworks that support the shared aspirations and goals iterated in the RCAP report and referenced throughout the *Towards Reconciliation* symposium. Regional dialogues on specific themes will be convened to further explore how the recommendations made nearly twenty years ago by the Commissioners of the Royal Commission on Aboriginal Peoples can be more fully realized.

At the symposium’s closing, participants were urged to consider: What is our legacy? What are we going to do next? While many of the issues being faced have not changed since RCAP, new approaches are taking hold. Through constructive dialogue, these stories can be shared, replicated and improved upon, to create new opportunities and advance reconciliation in ways that allow us to achieve full justice for Canada’s First Peoples.