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Comparative Approaches to Reconciliation
Canada, United States of America, Australia and New Zealand

By Ben J. Geboe

ISID

INSTITUTE FOR THE STUDY
OF INTERNATIONAL DEVELOPMENT

INSTITUT D'ÉTUDE DU
DÉVELOPPEMENT INTERNATIONAL

**Policy Paper for the
Reconciliation Working Group**

TABLE OF CONTENTS

EXECUTIVE SUMMARY

This paper examines the approaches taken by the Governments of Canada, Australia, New Zealand and the United States to address the issue of reconciliation with Indigenous peoples. A wide array of activities have been employed in these countries to improve relations with Indigenous communities. The paper notes that no single program or policy can address reconciliation, and that much remains to be done in order to achieve societies that are cognizant of the historical and contemporary contexts that have contributed to the current socio-economic reality of Indigenous peoples in the four countries examined. The definition of reconciliation is also complex and no single definition can be deemed to capture the dynamic of state and community relations.

The review of policies and programs addressing reconciliation in the four countries examined is not exhaustive in nature. Programs and policies have been chosen based on government and community feedback indicating they were making a difference. From these experiences, key elements of programs and policies required to address reconciliation are compiled. The findings stress that reconciliation is a long-term process, based on truth, informed decision-making and accountability on the part of all partners involved.

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is used as a lens to observe whether it can be used to address reconciliation efforts in a constructive manner. Many experts argue that the spirit of the UNDRIP could act as a symbolic guide and framework to address reconciliation efforts.

In conclusion, the paper notes that reconciliation efforts in each country will require support and long term commitment from all sectors of society. It will also require the renewal of

a partnership based on mutual long-term goals and objectives. The partnership must be closely monitored, supported and be based on mutual respect and accountability if it is to flourish.

<u>INTRODUCTION</u>

Government reconciliation efforts with Indigenous peoples in Australia, Canada, New Zealand and the United States include a wide array of diverse activities all aimed at improving the relationships and addressing historical challenges and conflicts. A comparative analysis of these countries and their efforts to address reconciliation reveals the requirements for meaningful and coordinated action. The analysis will also highlight the manner in which each country and the Indigenous communities can develop an informed, accountable and robust approach for reconciliation.

For the purposes of this paper, as the examination is international in scope, the internationally recognized term "Indigenous peoples" is used interchangeably with "Aboriginal peoples" and is intended to be fully inclusive of First Nation, Métis and Inuit peoples regardless of current residence within the Canadian context. Where programs, policies and/or circumstances are unique to particular groups, specific reference is made to the appropriate sub-group of Aboriginal or Indigenous peoples.

This paper will examine how the four countries designed and implemented programs and policies intended to address reconciliation. It is important to note, however, that by its very nature, reconciliation cannot be achieved by a single policy or program. Therefore, this analysis must consider the interaction of a variety of efforts and their combined impact towards the achievement of reconciliation. As a relational concept, reconciliation must include informed and sustained dialogue and engagement. Furthermore, reconciliation is a complex undertaking that must be considered in every aspect of government and Indigenous peoples' relations and

interactions as well as involving broader public and private sector institutions and responsibilities. As a result, it is important to assess both quantitative as well as qualitative measures of the outcomes of particular policies and programs over time to assess progress towards reconciliation.

Reconciliation is a complex concept with a variety of definitions. One of the commonly used definitions is provided by the United Nations:

> Reconciliation is a key objective in building sustainable peace and preventing a relapse into conflict. It is about (re) building relationships among people and groups in society and between the state and its citizens. The process is highly context sensitive, and each society has to tailor its approach to the nature of the conflict and the character of the transition (UN, *Building Just Societies: Reconciliation in transitional settings*, Ghana 2012).

Moreover, given the complexity and even the controversy surrounding specific definitions, it is more important to focus on the purpose of reconciliation and on what countries are trying to rebuild through a reconciliation process (Ibid).

Reconciliation includes distinct components including acknowledgement, apology and redress. This study of the reconciliation processes provides an opportunity to examine each of these components and to highlight essential elements that contribute to making positive steps towards reconciliation including healing, recovery and advancement. These elements enrich interactions between Nation-States and Indigenous communities and are needed to create a sustained and coordinated dialogue and engagement. Through this examination we can also identify three fundamental categories of reconciliation efforts and the respective lessons to be drawn from each: efforts to engage Indigenous communities; efforts to restore and recognize

Indigenous governance and jurisdiction; and; lastly, efforts to address and provide redress for outstanding land and resource grievances.

Each country examined in this analysis has advanced initiatives that have successfully engaged the Indigenous community and thereby have made positive contributions to reconciliation. Canada was the first G8 country to enact a Truth and Reconciliation Commission (TRC) in order to provide a forum for reconciliation with Indigenous people (Henderson and Wakeham, p3, 2013). Australia has undertaken initiatives to bolster Indigenous participation in planning by restructuring government departments with responsibility for Indigenous programs and services. New Zealand has engaged a comprehensive review of claims in order to create resolution and lasting engagement. Finally, the United States has engaged Indigenous leadership and youth directly in a number of federal forums on specific mutually identified socio-economic priorities.

In this paper, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) will be used as a lens to inform a potential path forward on reconciliation. As a standard of achievement to be pursued in a spirit of partnership and mutual respect, the UNDRIP sets an approach and principles that can both guide and inform the effort of pursuing reconciliation. As an aspirational document, the UNDRIP can also serve to inspire and encourage effort by providing the key ingredients required to ensure a lasting reconciliation between Indigenous peoples – First Nations, Métis and Inuit, and all Canadians.

RECONCILIATION

Internationally there is great emphasis on the theme of reconciliation. The United Nations declared 2009 as the Year of Reconciliation (Henderson and Wakeham, p3, 2013).

The path toward reconciliation comprises many aspects of recognition of harms and historical injustices; however, it is also inclusive of having collaborative agreements and development activities that are fair and balanced for all parties (Jai, p 14, 2014).

An atmosphere of reconciliation is aided by apology and based on a connective discourse about historical injustice and confrontation (Barkan and Karn, 2006). The act of public acknowledgement and apology begins to formulate accountability and is an essential step in starting dialogue. The end goal of the dialogue must be the renewal of the partnership in question.

At the same time, as reconciliation processes have been undertaken in post conflict societies, concerns have emerged about their effectiveness for establishing meaningful and lasting social catharsis where reconciliation is assumed to occur through participation of all parties (Renner, 2013). Scholars have focused on this model, especially truth commissions, as a way to effectively define and evaluate activities (Renner, p 3, 2013).

Yet the actual characteristics of reconciliation can remain elusive as the main focus may be on methods used to develop the process. Many compare the variation of settings and participants, as well as how these diverse national forums are experienced by individuals and the communities they come from (Renner, p4, 2013).

This paper will focus, then, on the characteristics or components of reconciliation with a view to better understanding whether current or planned government initiatives can truly be considered reconciliatory and how they may be measured.

The Truth and Reconciliation Commission of Canada views reconciliation as an ongoing individual and collective process that will require participation from all those affected by the residential school experience. This includes First Nations, Inuit, and Métis former students, their

families, communities, religious groups, former Indian Residential School employees, government, and the people of Canada (Truth and Reconciliation Commission of Canada Website, May 2015).

In Canada, the Supreme Court has affirmed a fundamental objective when adjudicating Aboriginal cases. The objective is to reconcile Aboriginal peoples and non-Aboriginal peoples and their respective claims, interests and ambitions. Indeed, the Court has emphasized that the process of reconciliation should take place through negotiations, guided by judicial principles the Court has developed. Despite the Court's preference that reconciliation be pursued through good faith negotiations, litigation continues to dominate Crown-Aboriginal relations. As noted in a recent report by Ministerial Special Representative, Douglas Eyford, several federal departments and agencies continue to be very involved in Aboriginal rights litigation (Eyford Report – Section 3 and 4, 2015).

The main challenge in achieving this reconciliation is the lack of convergence between Indigenous governance structures and those of the nation state. In many cases, litigation has been used to address divergent views on Aboriginal and Treaty rights and jurisdiction. As an adversarial process, the use of courts for such matters has had significant limitations. The decisions rendered in litigation do not typically provide for or encourage pro-active efforts nor do they provide a clear prescription for the implementation of decisions (Eyford Report, 2015).

Mr. Eyford also noted that Canada requires a variety of policies and initiatives to reconcile constitutionally-protected Aboriginal and Treaty rights in a way that meets the interests of all Aboriginal groups. Specifically, he recommended a new reconciliation framework that should include a renewed and reformed comprehensive land claims policy along with a wider

spectrum of policies and initiatives to reconcile constitutionally protected Aboriginal and treaty rights (Ibid).

Mr. Eyford's report underlines the need for countries dealing with the issue of reconciliation to ensure their Indigenous policies and programming are developed in a manner cognizant of the needs and aspirations of Indigenous communities and governments. Reconciliation is seen as something that will only be achieved if successful relationships are developed. The development of these relationships and the benefits which they can produce is an ongoing process which is incremental in nature (Ibid).

In the Canadian context, a number of common themes emerge in the areas of recognition and reconciliation. They include:

1) Recognition of Aboriginal rights is a prerequisite for reconciliation;
2) Reconciliation cannot occur without justice, accountability, and substantive reparations for the Aboriginal rights violations;
3) Reconciliation is a process and comprehensive land claims negotiations are only a single step in this process;
4) Reconciliation takes time and requires public awareness, engagement, and education;
5) Reconciliation requires new formulas for co-existence of differences with the state (Burkart and Nicholl, p. 1-3, 2013).

Additional insights to reconciliation in Canada were included in the Statement of Reconciliation delivered by Minister Jane Stewart in 1998. The statement noted that a comprehensive framework was required based on a renewed partnership, strengthened Aboriginal governance, a new fiscal relationship, and the growth of strong, healthy, Aboriginal communities (Aboriginal Affairs and Northern Development Canada Website, accessed 2015).

Lasting reconciliation must be built on an agreement reached between affected groups and provide the foundation upon which a shared future can be built. The success of this

endeavour relies on the reciprocal capacity to give meaning to the fundamental, long-lasting relationship between States and Indigenous peoples. A lasting reconciliation must be based on a partnership constituted of interdependence, convergence and open-mindedness. Moreover, broad effort is required on a continual basis to foster constructive management of the relationship (Rene Dussault, 2009).

Governments should ensure that the changes they propose to social and economic policies are done in partnership with Indigenous peoples and directly reflect and advance Indigenous peoples' aspirations and rights and are beneficial to all. For their part, Indigenous organizations should clearly state, in the likelihood of an agreement, how they would envision implementing the change and the extent of the effort they are prepared to devote to this task (Rene Dussault, 2009).

Capacity building at the community and individual level is a key component of achieving long-term reconciliation. With regard to governance and leadership, all parties must be committed to ensuring capacity is developed in a manner that addresses the growing responsibilities of Indigenous leaders. Aboriginal leaders, particularly in Canada, are taking on greater authority and responsibilities as both federal and provincial governments recognize the jurisdiction of First Nation, Métis or Inuit local governments. Aboriginal leaders meet on a frequent basis with senior government and private sector leaders. They are often responsible for negotiating agreements on behalf of their communities. (Wesley- Esquimaux and Calliou, 2010)

The development of Aboriginal leadership and capacity at the community level are essential elements for effective self-government and economic development. Proposed training must integrate the cultural components required to ensure long-term results are achieved. The best practices from these communities should be applied to other communities in an effort to

achieve similar results. Effective leadership and community development are essential to achieving long-term reconciliation (Wesley-Esquimauz and Calliou, 2010).

CURRENT APPROACHES TO RECONCILATION

In this section, programs and policies contributing to reconciliation with Indigenous peoples in Canada, Australia, New Zealand and the United States will be reviewed. This review is not exhaustive in nature. It is intended to give examples of areas in which progress is being made.

Canada

In Canada, significant efforts have been made to achieve results in the area of reconciliation. These efforts include the Prime Minister's historic apology in 2008 to former students of Indian residential schools, and the installation of a stained glass window on Parliament Hill which commemorates the legacy of Indian residential schools. In 2010 the Government offered an apology to Inuit families who were relocated to the High Arctic communities of Resolute Bay and Grise Fiord in the 1950s. Furthermore, in 2009 Métis veterans were honoured at Juno Beach by Canada for their service in World War II. These symbolic gestures have been significant, since they have acted as vehicles to inform Canadians of efforts to achieve healing and reconciliation with Aboriginal Peoples in Canada (Aboriginal Affairs and Northern Development Canada Website, 2015).

In addition to the Prime Minister's apology, substantive efforts have been made to reconcile with former students of Indian Residential Schools. The implementation of the Indian Residential Schools Settlement Agreement began on September 19, 2007. This followed the agreement reached between the legal counsel for former students, the legal counsel for the Churches, the Assembly of First Nations, other Aboriginal organizations and the Government of

Canada to achieve a fair and lasting resolution of the legacy of Indian residential schools. The settlement also called for the establishment of the Truth and Reconciliation Commission of Canada. The Commission was established On June 1, 2008 to hear the testimonies of residential school survivors, and delivered its summary of findings on June 2, 2015 (Ibid). An in-depth analysis of these findings is beyond the scope of this paper.

Self-government agreements in Canada have also played a key role in paving the way for reconciliation and the ability of First Nations and Inuit to govern and determine their own lives. Since 1973, 24 comprehensive land claims agreements covering over 40 percent of Canada's land mass have been ratified and brought into effect, 18 of which include self-government provisions. An additional three stand-alone self-government agreements are also in effect. Key among these agreements are Nunavut, Nisga'a, James Bay Cree-Naskapi and the Yukon First Nations Self-Government Agreement (Ibid).

In the area of Métis and Non-Status Indians, the Department of Aboriginal Affairs and Northern Development Canada works with Métis and Non-Status Indian organizations to strengthen their governance capacity and to collaborate with provincial governments where appropriate. The Department has also provided financial resources to support bilateral and tripartite processes. The bilateral processes provide a forum for representatives of these organizations to meet with Ministers and discuss pressing issues for their members. The tripartite negotiation process enables provincial, regional and urban Métis and off-reserve Aboriginal organizations to engage with provincial and federal governments to build effective partnerships and to participate in negotiations related to strengthening organizational capacity, to coordinate the effective delivery of programs, and discuss better access to federal and provincial programs and services (Ibid).

In April 2013, the Government of Canada and the Métis National Council also renewed the 2008 Métis Nation Protocol and signed a new Governance and Financial Accountability Accord.

The Urban Partnerships program in Canada encourages partnerships and community planning. Under this program, investments are made in projects that increase the participation of urban Aboriginal people in the economy. This program is funded by the Department of Aboriginal Affairs and Northern Development Canada and delivered by the National Association of Friendship Centres (Ibid).

Aboriginal Affairs and Northern Development Canada also works with all federal departments and agencies to strengthen partnerships between Canada and First Nation people and communities. It is the lead department responsible for negotiating land claim and self-government agreements, the provision of social services, the transfer of funds for education and support for economic development. These activities help to maintain and strengthen the relationship between the Government of Canada and First Nations people. The historic Crown First Nations Gathering in January 2012 also strengthened this relationship (Ibid).

The Truth and Reconciliation Commission of Canada has played a key role in shedding light on truth, healing and the path forward on reconciliation with Aboriginal peoples in Canada. The Commissioners have highlighted the role of education in the reconciliation process. (Czyewski, p. 10, 2011). The organization, Reconciliation Canada, has also made a very positive contribution to reconciliation efforts in Canada. Its reconciliation dialogue workshops are an opportunity to inspire positive change and to participate in an historic movement engaging Canadians from all backgrounds in a new way forward to create a better, stronger Canada for all.

Australia

In March 2008, all levels of government in Australia signed the Close the Gap Statement of Intent, committing to close the health and life expectancy gap between Aboriginal and Torres Strait Islander people and non-Indigenous Australians by 2030 (Government of Australia, Close the Gap, Progress and Priorities Report 2015).

The focus of the Close the Gap approach has been programmatic in nature. The priorities outlined in Closing the Gap – The Prime Minister's Report 2015 - focus on three areas: keeping children in school, employing Aboriginal adults and making Indigenous communities safer (Government of Australia, Closing the Gap, The Prime Minister's Report – 2015).

In Australia, Aboriginal people can claim vacant government-owned land under the *Native Title Act*. They must prove a continuous relationship with this land. "Freehold title" is land owned by individual owners, companies or local councils. Such lands cannot be claimed. To prove ownership, Aboriginal landowners have to pay anthropologists and surveyors to prove their traditional relationship and formal land boundaries. This can be an expensive and very time consuming process. Progress in this area has been slow in Australia (Knafla and Westra, 2011).

Each state and territory treats Aboriginal land rights slightly differently and not all jurisdictions have a formal process for making claims to land. Only the Northern Territory, Queensland and New South Wales have a formal claims process (Ibid).

In Western Australia, South Australia and Victoria, Aboriginal land trusts have been established to acquire, manage and use land for the benefit of Aboriginal people. In Queensland, land can be transferred to an Aboriginal community under the state's Aboriginal Land Act, but the community does not hold freehold title on the land which means they cannot sell or mortgage the land, and there are restrictions on leasing it (Ibid).

Recently, the government has undergone fundamental changes by establishing Indigenous affairs as a function of the Department of the Prime Minister and Cabinet. This has replaced the former Department of Families, Housing, Community Services and Indigenous Affairs. The goal in making these changes is to ensure expertise and priorities are aligned in dealings with Indigenous groups (Packham, 2013 and Abbott, 2013). The March 2015 Empowered Communities Report provides a collaborative set of recommendations involving Indigenous leaders and calls for a 10 year agreement based on a community-driven framework (Empowered Communities, 2015). This collaborative set of recommendations represents reconciliation in action as Indigenous community leaders seek comprehensive engagement with government to improve their standing. The dialogue is powerful and provides a bridge to the Indigenous communities.

The Council for Aboriginal Reconciliation was also established in Australia in 1991 to imbed the awareness of inequality and to foster reconciliation. This program supported education and cultural sensitivity training classes for the public, which were identified as a major component for creating change. Short-term training classes targeted government employees and workers' private enterprises. A holistic approach included fostering reconciliation activities using educational materials and action plans derived from Aborigine and Torres Strait Islander perspectives. This popular engagement was described as the National Strategy to Create Lasting Reconciliation (Reconciliation Australia, 2014).

Supporting the theme of Reconciliation Action Plans, a number of national banks in Australia have developed their own plans. The goal of these plans has been to close the gap in employment between Indigenous Peoples and other Australians. The efforts have resulted in the

hiring of more Indigenous employees, building the financial capability of Indigenous peoples, and delivering cultural awareness training to bank employees (National Australia Bank, 2015).

New Zealand

The Maori of New Zealand, as a consequence of their treaties and advocacy, have a defined process for involvement in the administration and development of land and natural resources (Oxhorn and Dodsworth, p 16, 2013). The New Zealand *Te Ture Whenua Maori Act* in 1993 gives opportunity for development that is noticeably more coupled with community engagement, which is also a main component outlined in the UNDRIP. This is evidenced by larger participation in dispute negotiation and settlement activities, and by the greater visibility of Maori leaders in these processes. Expert panels included Maori as active participants instead of being recognized only as signatories. This form of involvement and cooperation created five propositions that supported transparent and engaged development of Maori land and resources in 2013 (Oxhorn and Dodsworth, p 15, 2013).

New Zealand has engaged in a very coordinated and collaborative program for negotiating Maori historical claims. Prior engagement is key to helping the New Zealand Government establish equitable practices. The primary focus for the most part has been on land grievances and the 1840 Treaty of Waitangi, which has been advanced mostly through Maori advocacy. The 1975 Treaty of Waitangi Act created a platform for Maori claims against the Crown, which addressed language rights too. This led for Te Reo Maori to be declared an official language and the government enacted the Maori Language Commission (New Zealand Government, 1986).

The New Zealand Government Ministry of Justice, Office of Treaty Settlements created a policy for historical claims that has been the main vehicle for reconciliation (New Zealand

Government, 1992). These settlements have also included numerous restorative actions to support traditional cultural practices and languages. This shows that the scope of community engagement is large enough to influence comprehensive and meaningful changes for Maori more effectively than a court ruling.

The *Maori Community Development Change Act* in 2010 was achieved through extensive consultations with the Maori. It provides a strong example of how Indigenous communities can be involved in consultations on change in government structures (Te Puni Kokiri, 2013). This act proposed three options for altering Maori administrative structures and specifically asked about the voluntary Maori Warden positions, which serve as a link with the police, community and other Maori governing bodies (Ibid.) These voluntary positions were created in 1962 and represent a form of government recognized as independent Maori governance; however, these positions have remained virtually unchanged since inception. In evaluating the evolution of this service, questions were outlined for community feedback. The questions addressed how the duties and roles of Maori Wardens might best be determined and who might decide this. Community members were asked if changes should be made locally, in a government framework or within a Nation agenda (Ibid.) These questions show a deeper level of inclusion in decision making by asking respondents to decide on the most appropriate arena for this decision, and not just which option might be the best. Maori Affairs Committee inquiry used community concerns about the outdated roles of the Maori Wardens, low funding and inconsistent Maori District practices as the main reasons to make these changes (Te Puni Kokiri, 2013).

There has been some Maori criticism about inequality against the Crown in negotiations (Office of Treaty Settlements, 2015). This was based in part on the scope of community engagements. It is important to note; however, that the agreements were created in spite of

criticism from mainstream political parties concerned about the number of settlements successfully processed (New Zealand First, March 7, 2002). Altogether this proactive engagement has resulted in 54 settlements from 1992 to date and has been valued at approximately one billion New Zealand dollars (Office of Treaty Settlements, 2015).

The Maori He kai kei aku ringa, also known as The Crown-Maori Economic Growth Partnership, illustrates the rich and connective opportunity Maori are taking to create development. This partnership is based on the use of the Maori language and seeks to make changes in the Maori community which contribute to the larger national economy. (Tomoana, Whittred, Graham et al., 2012).

The United States

The United States has a unique legal and political relationship with Indigenous peoples referred to as Indian tribes and Alaska Native entities as provided by the Constitution of the United States, treaties, court decisions and Federal statutes. Acting through the government-to-government relationship, the Bureau of Indian Affairs provides services to 566 federally recognized tribes numbering 1.9 million American Indian and Alaska Natives (Bureau of Indian Affairs Website, 2015).

The Bureau of Indian Affairs is located within the Department of the Interior. It offers programs administered by either Tribes or Indian Affairs through the Bureau of Indian Education. The Bureau of Indian Education system consists of 183 schools consisting of 42,000 elementary and secondary students and 28 tribal colleges, universities, and post-secondary schools. Programs administered through the Bureau of Indian Affairs include social services, natural resources management on trust lands, economic development programs, law enforcement and detention services, administration of tribal courts, implementation of land and water claim

settlements, housing improvement, disaster relief, and replacement and repair of infrastructure (Bureau of Indian Affairs Website, 2015).

Since 2009, the Department of the Interior has taken 281,755 acres into trust for federally recognized tribes and individual Indians, and has processed more than 2,378 separate trust applications. In 2014, 41,685 acres of land were brought into trust status. Furthermore, since October 1, 2010, the United States has settled lawsuits or claims by 80 tribes, in which the tribes alleged that the Department of the Interior and the Department of the Treasury had mismanaged monetary assets and natural resources held in trust by the United States for the benefit of the tribes. In September 2014, Attorney General Eric Holder and Secretary Jewell announced the $554 million settlement of a lawsuit filed by the Navajo Nation regarding the U.S. government's management of funds and natural resources that it holds in trust for the Navajo Nation. These settlements have resolved longstanding disputes, with some of the claims dating back more than 50 years, and brought to an end protracted litigation that had burdened both the tribes and the United States (2014 White House Tribal Nations Conference Progress Report, p. 11 and 12, 2015).

President Obama has engaged Indigenous leadership through the White House Council on Native American Affairs and has designated Departments to promote community interests and improve their status (Office of the Press Secretary, 2013). He has also hosted a series of 'listening sessions' with Indigenous leaders and has demonstrated the importance of this recognition and dialogue in building positive relationships. Moreover, other senior officials as well as the First Lady, Michelle Obama have played important roles.

In a recent address to Native American youth, Michelle Obama summed up both the challenge and expressed impressive commitment that has been welcomed among Indigenous leaders in the US:

> … given this history, we shouldn't be surprised at the challenges that kids in Indian Country are facing today. And we should never forget that we played a role in this. Make no mistake about it – we own this.
>
> And we can't just invest a million here and a million there, or come up with some five year or ten-year plan and think we're going to make a real impact. This is truly about nation-building, and it will require fresh thinking and a massive infusion of resources over generations. That's right, not just years, but generations (Michelle Obama, April, 2015).

KEY ELEMENTS OF POLICIES AND PROGRAMS FOR ACHIEVING RECONCILIATION

Reconciliation between Indigenous peoples and the four countries examined in this paper is in the early stages of implementation. Therefore it remains difficult to point to measurable, concrete results. Based on the foregoing review, however, clear themes emerge regarding the requirements and features needed to advance reconciliation. As noted at the outset, reconciliation includes distinct components including acknowledgement, apology and redress to foster healing, recovery and advancement – all needed to make positive advancement in the achievement of reconciliation.

For a policy or program initiative to be reconciliatory in nature and thereby contributing to the overall process of reconciliation, it must contain the following key features:

1. TRUTH – the policy or program must begin with a basis in truth including recognition of all past injustices;
2. ENGAGEMENT – the policy or program must provide for genuine engagement as an essential part of fostering true partnership including support where needed for capacity building and ensuring full information and access;
3. SUSTAINED ACTION – the policy or program must form part of an overall integrated and long-term framework expressing clear commitment and action (Bloomfield, Barnes and Huyse, 2003; Green, 2015; United Nations, 2012).

Beyond this broad framework, we can further identify key characteristics that may be further considered and adapted for use in building a reconciliation framework:

1. Lasting reconciliation is hard to achieve and it may be incremental in nature. Lasting reconciliation requires determination and effort at all levels of government and all sections of communities. Renewal of the partnership in question is key in the early stages of reconciliation;
2. Community involvement, engagement, support and reciprocal accountability are essential for the success of policies and programs;
3. These programs should be measurable, action-oriented and publicly accountable;
4. Consultation is key to identifying key issues, finding common ground, and developing suitable approaches for going forward;
5. In the reconciliation process, it is critical to listen and hear, not just talk, and to follow up with action;
6. Successful consultation requires mutual respect and understanding, recognizing local protocols, and preparedness to adapt to different customs and cultures;
7. Building partnerships based on equality and cooperation is essential;
8. A long-term view of the steps required to be taken in achieving reconciliation. It is key that this process involve input and commitment from the community, governments at various levels, and if possible the private sector. A public awareness campaign around these initiatives is helpful in securing support.

9. Leadership training and the development of community capacity is key to ensuring a model of long-term self-government. Attainment of self-government enables communities to actively contribute to and benefit from reconciliation.

10. Education is crucial for the future of reconciliation. It is an essential tool to inform society of the role reconciliation can play in a country's democratic and economic development (Ibid and Final Report of the Council for Aboriginal Reconciliation, Chapter 9, Conclusions).

There are currently some very profound systematic changes advanced by States to address Indigenous needs: the Australian restructuring of Departments, the New Zealand Government centralized Office to settle treaties, the Canadian examination of Aboriginal title and Constitutional law, and the United States (US) White House meetings with Native leaders. These are promising developments and illustrate a deeper engagement with Indigenous communities. Initiatives that require Indigenous input will set the foundation for reconciliation through on-going engagement.

In the four countries examined, progress in the area of reconciliation has been achieved when elected officials have placed great priority on the relationship between the state and Indigenous peoples. Progress in the area of self-determination has also created good will and a basis upon which Indigenous communities can build their own futures. In Australia, the emphasis on Closing the Gap is working to improve the socio-economic situation of Indigenous peoples. If these efforts are state driven and not based on the support and long-term commitment of Indigenous communities, gains may be short lived and cease should state funding be reduced. The 2015 Empowered Communities Report and the role of national banks in developing reconciliation plans are examples of change in Australia which possess great promise. The private sector must be seen and engaged as an agent of change in all four countries if long-term

reconciliation and sustainable development is to be achieved by Indigenous communities and

States (Council for Aboriginal Reconciliation, Final Report, 2000).

Indigenous peoples in New Zealand have had great access to decision-making forums.

This has enabled them to be the architects of many programs and policies. As a result, support at

the community level has been high and an environment of self-determination based on culture

and language is being built. The Maori are in a distinct situation since their language is official,

they signed one treaty and they represent 12% of the population. All countries with Indigenous

populations can learn from the approach taken in New Zealand. One driven by the Maori, with

end goals and obstacles determined and solved in a manner which respects their traditional

structures and customs (Saulnier, 2014).

In the United States, the symbolic importance placed by President Obama on his

relationship with Indian Country has made a difference. The White House Listening Sessions are

very well attended and his presence in Indian country has been a concrete sign of his

commitment to these issues. As noted above, gains have been made in the area of self-

determination. As with New Zealand, the United States has made progress when they have

applied an approach similar to that of New Zealand. An approach that reflects both tribal and

federal priorities, and is reflective of both groups' input (Ibid).

In Canada, an opportunity exists to forge a path forward on reconciliation that is

informed by the findings of the Truth and Reconciliation Commission. Initial findings of the

Commission have noted that the reconciliation process will take decades. The process must be

informed by both Indigenous and non-Indigenous communities. A commitment must be made at

all levels of society to transform inter-group relations. Self-governance and capacity built at the

community level will be crucial to ensuring long-term gains. Education will also be key in

training the next generation of Indigenous leaders and informing broader society of the importance of reconciliation. Canada may wish to build on the 2012 Crown First Nations Gathering. Such an event could coincide with the delivery of the final full report of the Truth and Reconciliation Commission in the fall of 2015 (Eyford, 2015).

The findings of the Eyford report noted earlier in the paper are an excellent place to start in igniting reconciliation. In particular, a new reconciliation framework should be considered that includes a renewed and reformed comprehensive land claims policy along with a wider spectrum of policies and initiatives to reconcile constitutionally protected Aboriginal and treaty rights. Inspiration for the comprehensive land claims policy can be taken from the approach to negotiating historical land claims with the Maori in New Zealand (Ibid).

USE OF THE UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES TO INFORM LASTING RECONCILIATION

Reconciliation between Indigenous peoples and States will take forms that differ from country to country. Generally it involves recognition for past injustices, justice for victims and the healing of relationships. The adoption of the UNDRIP in 2007, after more than 20 years of negotiations among States and Indigenous peoples with the mediation of the United Nations, is itself an historic act of reconciliation.

The UNDRIP has considerable symbolic importance to Indigenous people within Canada and around the world as an international instrument to advance the protection of Indigenous peoples' rights, dignity and well-being. It also serves as a consensus-based framework to guide relations between Indigenous Peoples, States and International Organizations (University of Arizona Indigenous Law and Policy Program (2012). The summary of findings delivered by the

Truth and Reconciliation Commission of Canada in June 2015, made many references to the UNDRIP. In-depth analysis of these references is beyond the scope of this paper.

Unlike treaties, declarations of the UN General Assembly are not themselves direct sources of law. Therefore, it cannot be expected that any international organization or tribunal, or any domestic court, will treat the UNDRIP as legally binding or make a legally binding decision based solely upon the UNDRIP. However, the UNDRIP is still a human rights instrument of significant moral authority and political weight, and it functions as an important benchmark by which to evaluate the treatment of Indigenous peoples and promote needed reforms (Ibid).

The spirit of the document could guide the work of States in the area of reconciliation. In particular, Article 18 of the UNDRIP establishes that "Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own Indigenous decision-making institutions". This Article could be used as a lens to analyze the appropriate reconciliation framework to be established by a country. As this paper has stressed, engagement with Indigenous peoples is key to achieving long term reconciliation (Mitchell and Enns, 2014).

A reconciliation framework should take into consideration that Indigenous peoples have the right to develop in common with the broader communities and societies in which they live; however, there are often particular concerns relating to Indigenous peoples that must at all times be taken into account with regard to development initiatives that affect them. The concept of development with culture and identity recognizes that Indigenous peoples may assess the well-being of their communities and the appropriate use of their lands, territories and resources in a manner that is distinct from non-Indigenous communities (Ibid).

In promoting reconciliation work with Aboriginal Peoples, Canada, the United States, New Zealand and Australia could accept the UNDRIP as a framework for recognizing and protecting the rights of Aboriginal peoples. Most of the rights outlined in the UNDRIP are already recognized and protected through the domestic laws of these countries and their support for other international conventions and treaties. In fact, the UNDRIP does not suggest any 'new' or 'special' rights for Indigenous people. It simply draws together existing rights from other international laws and conventions such as the Universal Declaration of Human Rights and explains how they apply to Indigenous peoples (Ibid).

The UNDRIP is an international instrument used by Indigenous peoples to advance their rights. It establishes an international standard that States can use to actively promote and protect the cultural, political, territorial and economic security of Indigenous peoples. It is a standard by which rights violations can be assessed and compared across nations and an important tool of reconciliation. The UNDRIP affirms that Indigenous peoples in particular have the right of self-determination, recognizes that they have been denied enjoyment of that right, and marks the parameters for processes that will remedy that denial (Anaya, 2009).

The UNDRIP could be used to guide engagement and decision-making processes with Indigenous peoples, and serve as a tool for informing policy processes, advancing political participation and building trust between Indigenous leaders and state officials.. The characteristics of reconciliation identified in this paper may provide a useful lens by which to assess how fully policies, programs and laws reflect that partnership. In closing, the former UN Special Rapporteur on Indigenous Issues, Mr. James Anaya recommended the following in his report summarizing his trip to Canada in October 2013:

"The United Nations Declaration on the Rights of Indigenous Peoples, which has been endorsed by Canada, provides a common framework within which the issues faced by Indigenous peoples in the country can be addressed'" (Anaya, p. 23, July 2014).

CONCLUSION

Canada, Australia, New Zealand and the United States are on the road to reconciliation with Indigenous peoples. The journey will be long and complex and will require support and long term commitment from all sectors of society. It will also require the renewal of a partnership between these States and Indigenous peoples, based on mutual long-term goals and objectives. The partnership must be closely monitored, supported and be based on mutual respect and accountability if it is to flourish (Sheppard, p. 16, 2013).

The partnership must be built on trust and investment in capacity at the community level. When communities achieve the ability to govern effectively, they are able to meet the needs of their members, contribute to the national dialogue, and become actors at the national level. This enables a country's democratic fiber to be strengthened, for its dialogue to be enriched, and for Indigenous peoples to contribute to long-term sustainable development at the local, state, provincial and national level (United Nations 2002).

Programs, policies and laws that impact Indigenous peoples should be developed in true partnership with them. Providing the space for dialogue on the development of these mechanisms will ensure they address crucial needs at the community level. Support at the development stage of policies and programs has the added benefit of long-term delivery and success (Ibid).

Finally, Indigenous self-governance is one of the goals of reconciliation. It must be remembered, however, that all governments need effective relationships and integrated services

with other governments to achieve efficiencies and effectiveness. Self-governance is neither a singular nor sufficient goal. Economic development, balanced with environmental sustainability strategies, driven at the community level has the potential to enable the current generation of Indigenous peoples to chart their own future and destiny. Strengthening opportunity and capacity within Indigenous communities will yield reciprocal benefits to all sectors of Canadian society (Sheppard, p. 7 and 12, 2013).

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