Honouring our Ancestors by Trailblazing a Path to the Future

Interim Report of the Joint Advisory Committee on Fiscal Relations - for Engagement Purposes

June 2019

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Message from the Committee

Dear National Chief Bellegarde and Minister O'Regan:

Thank you for inviting us to participate on the Joint Advisory Committee on Fiscal Relations.

This report represents the results of the Joint Advisory Committee on Fiscal Relations' (the Committee's) research and dialogue to date and recommends directions that First Nations and the Crown may wish to pursue to continue the essential work that has begun on Crown-First Nation fiscal relationships.

This report describes the Committee's vision for improving the Nation-to-Nation and Treaty-based fiscal relationships of First Nations and Canada. It includes options for a new Crown-First Nation fiscal relationship that honours treaties and recognizes and respects inherent rights. While the Committee's report is addressed to the National Chief of the Assembly of First Nations (AFN) and the Minister of Indigenous Services (ISC), the Committee intends that its vision and recommendations inform and support broad engagement with all First Nations. It is the Committee's clear intent that none of the recommendations presented in this report be imposed upon any First Nation or alter the existing Nation-to-Nation and Treaty relationships that First Nations enjoy with the Crown.

The Committee recognizes that the vision and recommendations laid out in this paper are transformative, reaching well beyond what has existed and what exists today. Achieving this vision will require progress on many fronts, not the least of which include the Crown acting honourably in implementing Treaties and the Crown recognizing, respecting, and protecting the inherent rights, title and jurisdiction of First Nations. The Committee notes that other processes must address these and other important issues that are not within the Committee's mandate. Where recommendations go beyond the AFN National Chief's existing mandate, as identified in resolutions of the Chiefs-in-Assembly, it has been noted that First Nations leaders and experts must be engaged and their direction sought. Where recommendations are outside the purview of the Minister of ISC, it has been noted that other federal, provincial, or territorial representatives must be engaged.

Acknowledgements

We would like to thank the National Chief of the Assembly of First Nations and the Minister of Indigenous Services – without their vision and support, the Committee's work would not have been possible. Thank you to Dan Wilson and John Lees who provided facilitation services, technical analysis and writing support. We would also like to acknowledge and thank the many individuals who supported our work, including, Jonathan Dewar, Ainslee Kent, Kara Rideout and the many technicians and administrators from Indigenous Services Canada and the Assembly of First Nations who assisted with coordination, analysis and communications.

Most importantly, we would like to thank our employers and fellow First Nations leaders who supported our involvement on this Committee and provided thoughtful input and perspectives.

About the Committee

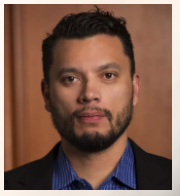
The Joint Advisory Committee on Fiscal Relations (the Committee) was appointed by the Minister of Indigenous Services (ISC) based on joint recommendations from ISC and the Assembly of First Nations (AFN) with the task of providing advice to the National Chief of the AFN and the Minister of ISC on a new fiscal relationship between First Nations and Canada.

Chief Richard Sidney, Y.T.

Chief Richard Sidney is the Nha Shade Heni (Chief) of the Teslin Tlingit Council. He has worked for the Teslin Tlingit for many years, including as part of the negotiating team for the Final and Self-government Agreements. Chief Sidney continues to strive for the betterment of his community, his Citizens and the Yukon.

Richard Nerysoo, N.W.T.

Richard Nerysoo is a veteran political leader in the Indian Brotherhood, Dene Nation and the Government of the Northwest Territories. Richard was the first Indigenous and youngest person to become Premier of the NWT, as well as first Indigenous Speaker in the NWT legislative assembly.



Chief David Jimmie, B.C.

Chief David Jimmie has been the elected Chief and CEO of Squiala First Nation since 2009. Chief Jimmie is also the president of the Stó:lo Nation Chiefs' Council and Ts'elxweyéqw Tribe. David owns and operates DJimmie Construction (DJC) currently building a 336-home master planned development in Chilliwack, BC.

Chief Lee Crowchild, Alta.

Chief Lee Crowchild is the elected Chief of Tsuut'ina nation and is the third generation Xakiji (Chief), following in the footsteps of his father and grandfather. Chief Crowchild is a man of the people and knows that, "serving the people requires diligence, sacrifice and great earnestness."

Vice-Chief Heather Bear, Sask.

Vice-Chief Heather Bear is the Fourth Vice-Chief of the Federation of Sovereign Indigenous Nations. The FSIN represents 74 First Nations in Saskatchewan and is committed to the promotion, protection and implementation of Treaties. Vice-Chief Bear is a member of the Ochapowace First Nation.

Chief Laurie Carr, Ont.

Chief Laurie Carr is the elected Chief of Hiawatha First Nation. Her portfolios include Political and Intergovernmental Affairs; Negotiations; Core Consultation; Legal/Financial matters; Treaty Relations and Policing. Laurie is Chair of the Board of Dnaagdawenmag Binnoojiiyag Child & Family Services and sits on the Association of Iroquois and Allied Indians Chiefs' Council.

Chief Connie Lazore, Que.

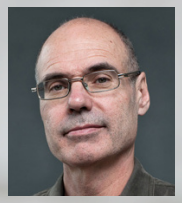
Chief Connie Lazore is an elected District Chief of Tsi Snaihne for the Mohawk Community of Akwesasne. Prior to becoming District Chief, Chief Lazore served her community as an employee of the Mohawk Council of Akwesasne for 27 years.

John G. Paul, Atlantic Region

John G. Paul is the Executive Director of the Atlantic Policy Congress of First Nation Chiefs Secretariat. John is a policy advocate on important First Nations issues. He is a Mi'kmaq person from Membertou First Nation.

Harold C. Calla, Technical Expert

Harold C. Calla is the Executive Chair of the First Nations Financial Management Board. FMB supports First Nations to put in place good governance and finance practices to achieve their goals. Harold is a member of the Squamish Nation.



Don Drummond
Technical Expert

Don Drummond is the Stauffer-Dunning Fellow in Global Public Policy and Adjunct Professor at the School of Policy Studies at Queen's University. Don is a former senior federal civil servant and served as Chief Economist at the TD Bank.

Terry Goodtrack
Technical Expert

Terry Goodtrack is President and CEO of AFOA Canada. AFOA Canada provides Indigenous people with finance, management and governance supports to govern their nations and businesses. Terry is a Lakota person from the Wood Mountain Lakota First Nation.

Bonnie Healy
Technical Expert

Bonnie Healy is a Registered Nurse from the Kainai Nation (Blood Tribe). She is the Executive Director of AFNIGC and the Chair of the national FNIGC. AFNIGC works to uphold the First Nations principles of OCAP® of First Nations data, information, and traditional knowledge.

Kevin Page
Technical Expert

Kevin Page is the founding President and CEO of the Institute of Fiscal Studies and Democracy at the University of Ottawa. Kevin is a former senior federal civil servant and served as Canada's first Parliamentary Budget Officer.

Executive Summary

The appropriate relationships between First Nations and the Crown are Nation-to-Nation and Treaty-based – as it was when Treaties were first entered into, as was recognized by the Crown in the Royal Proclamation of 1763, and as is recognized and affirmed by Canada in Section 35 of its own Constitution Act, 1982. As the Supreme Court of Canada has directed Canada, the goal is to reconcile the pre-existing sovereignty of First Nations with the assumed sovereignty of the Crown. Despite colonialist policies and actions, the nationhood of First Nations has endured, deeply rooted in their kinship relationships and Indigenous world view. That nationhood pre-exists first contact, has never been extinguished or diminished, and remains the defining feature of Crown-First Nations relations.

The Committee envisions a future where Crown-First Nation relationships are based on respect and trust, a future where Nation-to-Nation relationships honour the original spirit and intent of Treaties. These Nation-to-Nation relationships necessarily include fiscal relationships that provide First Nations with the ways and means to finance their autonomous functions and advance the well-being of their nations, communities and citizens pursuing the way of life that creation intends for them. Yet these fiscal relationships cannot realize gains for First Nations in isolation. For the fiscal relationship to achieve its full potential for First Nations, it will require honouring of Treaties, and recognition of inherent rights, title and jurisdiction.

This report describes a structure that empowers First Nation governments to resume their rightful place in governing their citizens. That begins with the full recognition and affirmation of inherent and Treaty rights, title and jurisdiction, and that will require the federal and provincial Crown to act with the honour, respect and urgency demanded by such foundational change. Consistent with this view, the Committee highlights that no actions, legislation, policy changes or agreements can in any way abrogate or derogate from any of First Nations' inherent and Treaty rights, title or jurisdiction.

Recommendation 1: The Committee recommends that Canada engage honourably in discussions with First Nations rights holders to reconcile different interpretations of the spirit and intent Treaties and to agree on Canada's Treaty-related financial obligations (i.e. outside of the courts and specific claims process).

Recommendation 2: The Committee recommends that the Minister work with federal colleagues to ensure that the inherent rights, title, and jurisdiction of First Nations are honoured, recognized, respected, and protected by all levels of government. At a minimum, this should include the application of UNDRIP to all federal, provincial and territorial legislation. Priority focus should be provided to recognizing First Nations inherent rights and jurisdiction in the areas of governance, judicial systems, citizenship, land and resource title, and essential public and social services.

Recommendation 3: The Committee recommends that the Minister engage with the Minister of Crown-Indigenous Relations and Northern Affairs and other federal colleagues to drive work with provinces and advance the resolution of land claims, ratification of revenue sharing agreements, return of federal and provincial Crown lands, implementation of Treaty land entitlement, acceleration of additions to reserve, recognition of First Nations title to unceded lands, and development of a land management regime that enables First Nations to hold title and fulfill their stewardship obligations to those lands.

Recommendation 4: The Committee recommends that the Minister work with federal colleagues to adopt a coherent and consolidated federal approach to funding and supporting First Nations economic development and economic infrastructure, including investments that are equitable in contrast to Canada's investments in non-Indigenous communities and businesses.

Recommendation 5: The Committee recommends that the Minister engage with federal colleagues and, where necessary, involve the provinces and territories to assure First Nations of an appropriate place in decision-making processes for economic development projects impacting their territories and equitable participation in the development to which they contribute.

Recommendation 6: The Committee recommends that the Minister engage with federal colleagues and, where necessary, involve the provinces and territories to ensure that First Nations businesses and individuals achieve equitable representation in government procurement and employment opportunities.

Recommendation 7: The Committee recommends that the Minister engage with federal colleagues to drive work to increase federal recognition and protection of First Nations tax jurisdiction, aligned with their inherent rights.

Recommendation 8: The Committee recommends that any actions, legislation, policies, directives, agreements or other legal documents contemplated in connection with a new fiscal relationship, must not derogate or abrogate from First Nations' Inherent and Treaty rights, title, or jurisdiction in any way.

It also requires immediate action, through additional funding and support for First Nations governance, to be structured and delivered in a manner determined by First Nations governments and institutions.

Recommendation 9: The Committee recommends that immediate funding increases be provided to First Nations governments to support general government administration and governance costs (i.e. based on the best available information).

Recommendation 10: Subject to extensive engagement with First Nations, the Committee recommends that Canada and First Nations undertake a comprehensive cost study to determine the funding needs of First Nations to cover general administrative and governance costs.

Recommendation 11: The Committee recommends that First Nations and the Government of Canada develop a regime of optional statutory transfers to be made available to First Nations governments. The Committee further recommends that eligibility for statutory transfers be tied to a commitment by First Nations to collecting and sharing statistics on living conditions and other outcomes and being subject to performance audits by a First Nations Auditor General.

Recommendation 12: The Committee recommends that, in the immediate term, sufficient and stable funding be provided to the existing institutions providing capacity-building supports to First Nations governments and professionals, including moving away from proposal based and time-limited funding.

Recommendation 13: The Committee recommends that a strategy be developed with First Nations to expand and strengthen the institutions that provide capacity-building supports, program accreditation, program evaluation, and outsourced service-delivery supports to First Nations governments. It will be important that this strategy, and these institutions, be national in scope to ensure that the needs of all First Nations are met.

Recommendation 14: The Committee recommends that the Minister abolish the ISC Default Management and Prevention Policy, including the use of Third Party Managers, and replace it with a system of capacity building supports provided by First Nations institutions.

Recommendation 15: The Committee recommends that core funding to non-political First Nations institutions be calculated, allocated and distributed by a national First Nations body through a First Nations-controlled process to be established with First Nations. Further, the Committee recommends that federal legislation be enacted to authorize a statutory transfer to this national body with annual funding increases tied to Canada's GDP.

The plan calls for the establishment of targets, performance indicators and reliable data that, working with and through First Nation institutions, can evaluate and report on real results to guide the continuous learning and improvement needed to achieve the ambitious goals set out.

Recommendation 16: The Committee recommends that First Nations and Canada establish national goals, targets and timeframes for improving living conditions and closing the socio-economic gaps experienced by First Nations people and communities including, but not limited to health and wellness, education, protection of vulnerable citizens, sustainable economic growth, environment, public infrastructure, safety, language and culture. This will require outcomes-based indicators to allow First Nations and Canada to measure and report on their shared goals. The Committee further recommends that First Nations and Canada establish guiding principles to guide these efforts.

Recommendation 17: The Committee recommends that a national First Nations statistical institution be mandated and funded to work with First Nations in defining, collecting, analyzing, and disseminating statistical data related to First Nations citizens, communities, and development. Careful consideration will be required in respect of the legal structure, governance, and funding model of this institution to ensure it is First Nations-governed, well supported, and politically independent.

Recommendation 18: The Committee recommends that sustained funding and attention be paid to supporting First Nations in their pursuit of data sovereignty, and ensuring respect for the principles of OCAP®. This will also require changes to federal legislation, institutions, policies, data holdings, and data practices to ensure alignment with OCAP®, including assigning a federal government body to monitor and enforce the compliance of federal departments and agencies.

Recommendation 19: The Committee recommends that a First Nations Fiscal Policy Institution be established and funded to perform treasury, coordination, research, evaluation, reporting, and continuous improvement activities in support of Crown-First Nation fiscal relationships. The Committee further recommends that the mandate

and ongoing funding levels of this institution be reviewed every five years by First Nations and Canada through a joint-process.

Recommendation 20: The Committee recommends annual reporting to First Nations and the Parliament of Canada on measures taken and progress achieved by First Nations and the Government of Canada in closing socio-economic gaps. The Committee recommends that reporting to the Parliament of Canada be made the legal obligation of the Prime Minister of Canada. Further the Committee recommends that the head of the newly created First Nations Fiscal Policy Institution be mandated by resolution of First Nations to report annually to First Nations leaders and citizens.

Recommendation 21: The Committee recommends that a First Nations Auditor General be established to provide independent, objective and professional advice and assurance for First Nations institutions, First Nations governments that opt-in and the processes supporting implementation of statutory transfers.

While each First Nation will set its own objectives and pace for pursuing a new fiscal relationship with Canada in the manner it chooses, the Committee believes that First Nations must work together to advocate and build the foundation necessary for Crown-First Nations relations to advance quickly. In this document, the Committee envisions a pathway toward a new fiscal relationship that includes development of foundational elements and incremental progress within existing structures while the transformational change envisioned is pursued. Unwinding the colonialist laws, policies, and structures that impede self-determination and Nation-to-Nation relationships will take time, yet the removal of these barriers is essential to advancing a new fiscal relationship. First Nations do not have time to wait for the legislative and policy reforms, so changes must be made within existing policies and structures while the longer-term vision is solidified and pursued.

To make this happen, the work of the Committee must continue for so long as is required and accountability for progress on this plan must occur.

Recommendation 22: The Committee recommends that it continue to support advancement toward a new fiscal relationship, for so long as is needed and that a Fiscal Relations Secretariat be established and funded to coordinate and support the activities of the Committee and engagement efforts with First Nations and the Government of Canada. For the immediate term, the Committee recommends that it support engagement activities and further develop options for the introduction of statutory transfers, rescindment of the ISC default management regime and advancement of outcomes-based goals and indicators.

Recommendation 23: The Committee recommends that a 5-year review of the implementation of its recommendations be completed in 2024.

Recommendation 24: The Committee recommends and urges Canada to implement the renewed fiscal relationship described in this report and make it available to every First Nation and in all Treaty areas from coast to coast to coast.

The Committee's 24 recommendations for the Minister of Indigenous Services and the AFN National Chief are intended to guide the design and implementation of new fiscal relationships between the Crown and First Nations. It is not the intent of the Committee to dictate a new fiscal relationship for any or all First Nations, rather to inform and support engagement and joint development processes between First Nations and Canada.

1. Introduction

The appropriate relationships between First Nations and the Crown are Nation-to-Nation and Treaty-based – as it was when Treaties were first entered into, as was recognized by the Crown in the Royal Proclamation of 1763, and as is recognized and affirmed by Canada in Section 35 of its own Constitution Act, 1982. As the Supreme Court of Canada has directed Canada, the goal is to reconcile the pre-existing sovereignty of First Nations with the assumed sovereignty of the Crown.

That the Nation-to-Nation relationship has been disrespected by Canada, in part through the Indian Act and in many other ways, is not in dispute. Over the course of this relationship, the form and function of First Nations was deliberately undermined so that Canada might assert its dominance more forcefully. This culminated in laws, policies, and procedures aimed at cultural genocide, whose method was to treat First Nations citizens as "wards of the state", and whose goal was the complete assimilation of First Nations as an end to "the Indian problem". Among the steps Canada took to diminish Indigenous nationhood were the destruction of First Nations forms of governance and ways of living, including economic activities. In addition, Canada breached Treaty by exclusively occupying lands that were intended to be shared – "to the depth of a plow" – and by redistributing barely enough of the wealth generated from that land to keep First Nations weakened and dependent. Yet, Canada's wealth is built upon the willingness of First Nations to share the land through Treaty.

Although the Nation-to-Nation relationship involves much more than fiscal matters, the latter are part of and essential to the achievement of the broader relationship. The Committee's goal is to recommend ways in which First Nations may pursue and achieve self-determination and self-sufficiency, helping to restore the rightful place of First Nations as equals to Canada, Nation-to-Nation and with honour and reverence for Treaties. This requires the honourable implementation of Treaties, including the settlement and implementation of land claims and disputes free from demands for the extinguishment of inherent and Treaty rights.

The Committee proposes to support Nation-to-Nation and Treaty-based relationships by removing impediments and proactively supporting First Nations' self-determination and self-sufficiency. This includes steps that Canada must take to withdraw itself from areas of governance that are properly the role of First Nations governments, to provide redress and restitution, and to support the development and enhancement of First Nations self-determination and self-sufficiency moving forward. First Nations citizens and their governments want to take on responsibility for effecting the changes needed and for delivering public services to all their citizens, regardless of where they live and without regard to colonial definitions of status. Self-determination is a proven pathway toward achieving shared objectives, including: closing socio-economic gaps; growing the economy and generating wealth for First Nations and all Canadians; preserving and promoting First Nations languages, culture and heritage; and, increasing the self-reliance and resiliency of First Nations.

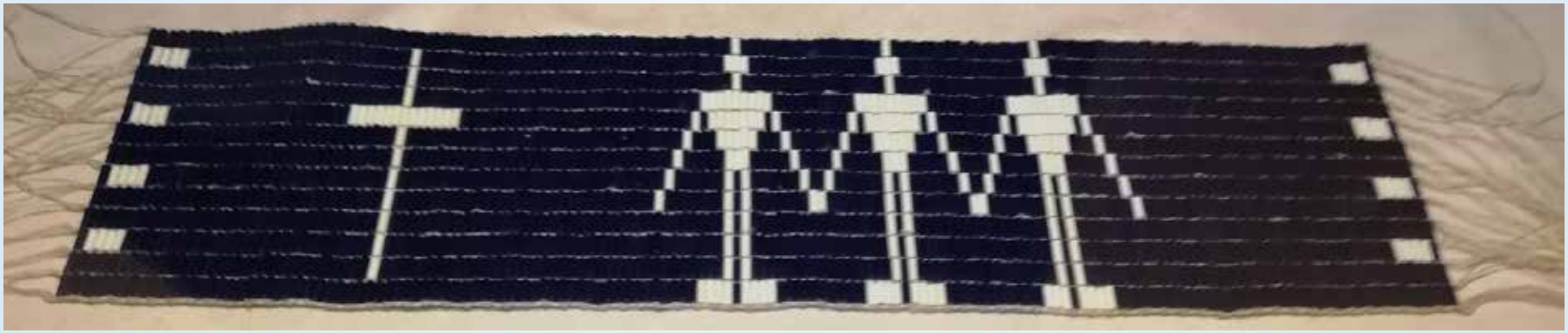
For First Nations and their citizens, the ability to seek their own goals within their nations in accordance with their own belief systems, as expressed in their own languages – in short, self-determination – has been denied. The exercise of First Nations self-determination requires the full recognition of inherent rights, title and jurisdiction, matters largely outside the purview of this Committee. It will also require achieving self-sufficiency through the financial, governance, and administrative freedom that supports self-determination. These matters are the subject of a new fiscal

relationship.

First Nations governments, in collaboration with their citizens, will define well-being in their own way, set their own priorities for action, and pursue them as they see fit. In doing so, they will be pursuing the way of life that creation intended for them. Needs and expectations will vary among First Nations and they will measure progress according to their own values and aspirations. The Government of Canada does the same with and for Canadians. To facilitate and support an effective fiscal relationship between First Nations and Canada, however, a common set of expectations is needed, which suggests shared priorities for action, joint strategies, and collective measurement for continuous improvement.

One set of expectations that Canada and First Nations share for a new fiscal relationship can be framed as improving living conditions and closing the gap in socio-economic outcomes experienced by First Nations citizens. Both the AFN National Chief and Prime Minister have spoken to this goal frequently and it serves the purpose well. A measurable set of outcomes that can be defined, compared, and acted upon in a co-ordinated way allows both parties to the relationship to see their separate roles and fulfill their respective responsibilities. Canada and First Nations are mutually accountable for making this happen. While the right of self-determination belongs to First Nations governments, Canada is responsible for creating the broken system that currently exists and the flawed data (e.g. Indian Registry and ISC program data) that has historically been, and is now contemporarily, responsible for the propagation of deeply flawed narratives and flawed decision-making. Canada currently controls most of the governance and legal structures that could help build a better way forward, and Canada holds the financial resources needed to fund the solutions.

The conditions faced by many First Nations, the inequity in well-being that exists between Canadians and First Nations citizens, and the need to build fiscal capacity for First Nations governments will require investments, but yield far greater returns for both First Nations citizens and Canadians. The economic benefits of investing in First Nations and their economies include more jobs for First Nations citizens and Canadians, lower social and health costs, increased economic activity for First Nations and Canada and increased taxation revenues for all levels of government. It is the view of the Committee that by making progress toward a new fiscal relationship in the manner recommended, First Nations citizens and Canadians both will benefit, that the intertwined economies of First Nations and Canada will grow faster and farther by working better together, and that the costs resulting from existing inequities will be reduced. The just result is also the best result for all concerned.



2. The Committee's Vision for a New Fiscal Relationship

The Committee envisions a future where Crown-First Nation relationships are based on respect and trust, a future where Nation-to-Nation relationships honour the original spirit and intent of Treaties. These Nation-to-Nation relationships necessarily include fiscal relationships that provide First Nations with the ways and means to finance their autonomous functions and advance the well-being of their nations, communities and citizens pursuing the way of life that creation intends for them. Yet these fiscal relationships cannot realize gains for First Nations in isolation. For the fiscal relationship to achieve its full potential for First Nations, it will require honouring of Treaties, and recognition of inherent rights, title and jurisdiction. First Nations governments will need to be well supported including: work forces with the appropriate competencies and skill sets, including access to regular training and development opportunities; institutional supports from First Nations institutions; and time to build the capacities necessary to grow their economies and achieve excellence in the delivery of public services and infrastructure.

To ensure mutual accountability for implementing the fiscal relationship and closing socio-economic gaps, First Nations and Canada will need to be committed to truthfully measure and report on the living conditions and socio-economic outcomes of First Nations. To ensure sustained attention to the closure of socio-economic gaps, First Nations institutions will be needed for the collection and reporting of data and statistics, and for the evaluation and audit of approaches, processes and structures.

In performing its work, the Committee looked at the fiscal relationship through the lens of First Nations belief systems and values. The Committee found it helpful to evaluate how the existing fiscal relationships conflict with First Nations teachings and values, and to consider how a new fiscal relationship could better live up to these teachings.

Evaluating the Fiscal Relationship According to First Nations Values[1]

	Vision for a New Fiscal Relationship	Current Fiscal Relationship
Truth *To speak only to the extent we have lived or experienced*	A new fiscal relationship must be built on ***truth***, including ***meaningful and credible information,*** consistent with both western and Indigenous world views. This will require First Nation control and shared responsibility for data and the delivery of results.	Federal officials control the data and information, and can therefore control the narrative, as such, the truth is ***not always revealed.***
Humility *To know you are part of creation*	Parties to a new fiscal relationship must show ***humility,*** abandon colonial and paternalistic processes and come together as equal partners.	Canada makes unilateral decisions on how First Nations governments function and over the lives of First Nations citizens which is ***arrogant and paternalistic.***
Respect *To honour all creation*	A new fiscal relationship must ***respect*** First Nations' inherent and Treaty rights, title, jurisdiction, and authority, including their responsibilities to all of their citizens.	The inherent and Treaty rights, title and jurisdiction of First Nations are ignored under Canada's assumed sovereignty, which is ***disrespectful.***
Love *To know love is to know peace*	First Nations governments and institutions would act with ***love,*** choosing to put the interests and needs of First Nations citizens and communities first when making decisions.	First Nations interests, needs, beliefs and values do not influence resource allocations and decisions affecting First Nations, which is ***lacking in love.***
Honesty *To walk through life with integrity*	All parties to the relationship would act ***honourably,*** including honesty in their dealings with one another and transparency in their decision-making processes.	The focus of new federal investments is often on advancing the interests and priorities of the federal government, and not necessarily those of First Nations, which is insincere and ***dishonest.***
Courage *To face life with courage*	Canada and First Nations would act with ***courage,*** making the difficult decisions we have been fearful to make in the past.	Federal officials avoid hard decisions needed to ensure equitable allocation of resources and opportunities amongst regions and communities, which demonstrates a ***lack of courage.***
Wisdom *To cherish knowledge*	Canada and First Nations must act with ***wisdom***, building on the goals of generations past and looking to the interests of generations ahead, recognizing that investments in the capacity and resiliency of First Nations people and communities not only benefits First Nations and all Canadians.	Colonialist policies are hurtful and damaging, leaving First Nations little involvement in decisions impacting their social, economic and cultural development, which ***lacks Wisdom.***

[1] First Nations values and belief systems vary from Nation to Nation, but many First Nations in Canada share these 7 teachings. These teachings are further described in Annex A.

3. The Committee's Proposed Fiscal Principles

The Committee proposes a set of fiscal principles to guide the design and implementation of a new fiscal relationship.

Respect for Treaties	The fiscal relationship must honour the spirit and intent of First Nation Treaties and facilitate and support reverence for and implementation of Canada's Treaty obligations[2].
Autonomy	The fiscal relationship must honour the autonomy of First Nation governments to advance their self-determined priorities. This includes freedom to make decisions about how they deliver public services and flexibility to allocate their financial resources, as permitted by their citizens.
Sustainability	The fiscal relationship must support First Nations in pursuing economic development. First Nations are entitled to an equitable share of the economic growth to which they contribute.
Sufficiency	The fiscal relationship must ensure funding to First Nations governments that is sufficient to deliver the public services and infrastructure required to meet needs, improve living conditions, close socio-economic gaps, and achieve well-being for their Nations, communities and citizens, including regular adjustments to keep pace with changes in population, inflation and other cost drivers.
Predictability	The fiscal relationship must ensure predictable and long-term funding to First Nations governments, to facilitate the planning and delivery of public services and infrastructure. This will require evidence-based measurement, evaluation and continuous improvement over time.
Accountability	The primary accountability relationship is between First Nations citizens and their governments. Canada and First Nations are mutually accountable for ensuring the success of a new fiscal relationship.
Objectivity	The funding formulas and mechanisms for implementing the fiscal relationship must facilitate its faithful implementation, remaining true to its intent, and not create disincentives to social, political, legal, environmental, economic, and technological development.
Efficiency	The design of the fiscal relationship and its supporting approaches and mechanisms must ensure efficiency of implementation.

[2] Canada's Treaty obligations include those created through its own treaties with First Nations and obligations stemming from pre-confederation treaties entered into between the British Crown and First Nations.

4. The Case for Change

Experience and research show that funding alone cannot achieve improvements in living conditions and socio-economic outcomes for First Nations. Only self-determination – exercising autonomous decision-making with the fiscal capacity to do so – can reverse the widening socio-economic gaps experienced by First Nations and their communities and people. The documented experiences of First Nations and respected research (e.g. Harvard Project on American Indian Development and Royal Commission on Aboriginal Peoples, among many others) point to four conditions for achieving transformative change for First Nations. These include: autonomy to make decisions about development and local services; capable institutions of governance; legitimate institutions of self-government that fit a nation's contemporary culture; and capable leaders who innovate and drive change.

Where these conditions have been present, First Nations in Canada as well as Indigenous Peoples in the United States, New Zealand, and Australia have experienced remarkable progress. Take, for example, First Nations that entered self-government agreements with comprehensive land claim settlements (i.e. return of lands and/or compensation for lands). With access to improved funding and greater self-determination, these Nations developed culturally appropriate institutions and achieved noteworthy gains in household income (30% for men and 28% for women)[i] and participation in full-time employment (7% for men and 6% for women)[ii].

Miawpukek First Nation in Newfoundland also achieved noteworthy gains in socio-economic outcomes when it secured fiscal autonomy through a grant agreement in the 1980s. In the decade after entering a grant-based fiscal relationship (i.e. 1986-1996), Miawpukek First Nation managed to increase its community well-being[3] dramatically, moving from outcomes that were well below its neighbouring non-indigenous communities, to outcomes well above its neighbouring non-Indigenous communities[iii].

Perhaps the best argument for self-determination and fiscal autonomy is that, while there are many examples of self-determination and fiscal autonomy leading to better outcomes, there are no clear examples of where they have led to worsening outcomes.

That there are few examples of First Nations realizing positive gains in socio-economic outcomes in the century leading up to the affirmation of Indigenous rights through Section 35 of the Constitution Act Canada, 1982, is not surprising. Treaty rights and inherent rights were consistently denied and the nationhood and self-determination of First Nations has been impeded in countless ways. That historic nations and Treaty groups have struggled to rebuild their traditional forms of governance, and to construct contemporary and culturally appropriate forms of governance, is equally unsurprising. While the nationhood and kinship relationships of First Nations have endured, federal and provincial laws and related policies have systematically obstructed governance and collaboration outside of the forms of governance imposed by the Indian Act – and free from provincial intrusion into the jurisdiction of First Nations. Moreover, meaningful data was not collected, analyzed or distributed concerning the well-being of First Nations, making it even more challenging to measure or compare socio-economic outcomes from that era.

[3] The Community Well-Being (CWB) index is a means of examining the well-being of individual Canadian communities. Various indicators of socio-economic well-being, including education, labour force activity, income and housing are combined to give each community a well-being "score". Miawpukek CWB scores were 56 in 1991 and 71 in 1996. The average CWB scores of its three closest non-Indigenous neighbouring communities were 61 to 66 in 1991 and 63 to 65 in 1996. The average CWB score for Atlantic First Nations was 55 in 1991 and 60 in 1996.

Another obvious reason that a new fiscal relationship is needed is that existing colonialist relationships and federal programmatic approaches are an abject failure. The higher proportion of illness, shorter life expectancy, lower incomes, and other indicators of socio-economic disadvantage experienced by First Nations citizens are well documented. Data from Alberta's provincial health ministry shows that the life expectancy of First Nations people is 9.6 years shorter than for non-First Nations people[iv]. Data from Statistics Canada shows that First Nations people who are employed have incomes that are 34% lower than for non-Indigenous Canadians and, despite the many economic, social and employment barriers facing First Nations peoples, 62.9% of First Nations people have employment income, compared to 71.5% for non-Indigenous Canadians[v].

The intergenerational effect of having one's culture, one's land, one's language, and one's meaning as a human being taken away, is not well understood. This reality is not a mistake, but the direct result of policies of the Crown. The breach of Treaty, theft of land, extinction of food sources, stripping of culture and language, outlawing of economic, social, educational and spiritual activities, deliberate starvation, and cultural genocide are among the actions that created current conditions. Fundamentally, the denial of inherent and Treaty rights, land title and jurisdiction ensured the subordination of First Nations to the colonial power and continue to do so today. Due to the failure by Canada to support self-determination, both legally and financially, First Nations are unable to achieve the socio-economic progress experienced in Canada more broadly, with socio-economic gaps continuing to widen.

There are other strong economic arguments for a new fiscal relationship. The potential benefits to First Nations and Canadians from a new fiscal relationship are significant. With the youngest and fastest growing population in the country, it is estimated that up to 21% of all labour force growth (i.e. individuals who are able to work) could come from Indigenous populations if the labour force participation gaps for Indigenous people are closed. Further, it is estimated that closing just the educational attainment and labour force participation gaps that exist between Canadians and First Nations citizens would add $36.4 billion to the gross domestic product[vi]. As the Royal Commission on Aboriginal Peoples pointed out over 30 years ago, just the lost opportunities and expenditures on remedial social programs that stem from existing inequality is greater than the annual amounts currently spent on all programs and services to First Nations. In addition, the greater the degree of participation in the broader economy, nationally and internationally, the more efficient and effective economic cooperation will become.

5. Building Trust through Honour, Respect and Redress

The existing Nation-to-Nation relationships of First Nations and Canada are deeply and fatally flawed. Treaties are not respected, First Nations inherent rights are not respected, land title is not recognized, and compensation for land that has been irreparably lost can only be obtained through litigation or other processes controlled entirely by the Crown. Federal, provincial, and territorial laws are applied on the lands of First Nations and to First Nations citizens without their consent, thereby denying the jurisdiction of First Nations governments. Even the right of First Nations governments to identify their own citizens is denied. In the Yukon and Northwest Territories, this untenable situation is made even worse as Canada's devolution policies and devolution transfer agreements provide no funding to First Nations governments, treating the territorial governments as the legitimate decision-making powers over First Nations citizens.

First Nations and Canada have distinct and autonomous views of the world. This includes very different conceptions of the importance and roles of human beings. The world view generally held by First Nations holds that human beings are stewards of the land, that there is a spiritual and moral obligation to protect the land and resources for all living things, and that wealth is amassed for the community. The western world view holds that lands can be owned by humans, that lands and resources are available for the benefit of human beings, above other living things, and that wealth is amassed for personal gain. Theoretical divides such as these create distance between cultures that contribute to voids in laws and policies. With Canada's laws and policies largely reflecting and imposing its western world view – and with federal and provincial laws impinging on, and often subordinating, the sovereignty and law making and enforcement powers of First Nations – significant impediments to Indigenous ways of being and living are created. Left unchecked, these differences lead to stereotypes, systemic biases towards First Nations people and racism.

Past attempts to improve Crown-First Nation relationships have involved incremental changes that have failed to stem growing socio-economic outcomes gaps. Generally, these efforts have not addressed the underlying issues that impede First Nations self-determination and progress. It is the Committee's view that transformational change is needed to effect the desired change and rebuild trust in Crown-First Nation relationships. This change necessarily includes implementing the 2015 Calls to Action of the Truth and Reconciliation Commission of Canada and acknowledging and addressing errors of the past that have caused spiritual and ancestral harm, because nothing can move forward without acknowledging and addressing the actions of the Crown which have caused the erosion of trust and respect.

With trust, there can be dialogue, cooperation, and innovative thinking. For the reasons cited above, and countless others, trust in Crown-First Nation relationships has been deeply eroded. Building the trust that is necessary to achieve true Nation-to-Nation relationships will require hard work, persistence, and time. While a new fiscal relationship will, in itself, help to build trust in Crown-First Nation relationships, barriers need to be removed before a new fiscal relationship can advance in earnest.

5.1 Honouring Treaties and Canada's Treaty-related Financial Obligations

Recommendation 1: *The Committee recommends that Canada engage honourably in discussions with First Nations rights holders to reconcile different interpretations of the spirit and intent Treaties and to agree on Canada's Treaty-related financial obligations (i.e. outside of the courts and specific claims process).*

In respect of Treaty rights and entitlements, many First Nations have expressed dismay at the lack of attention paid by Canada to the implementation of its Treaty obligations. While progress is slowly being made through the specific claims process and through implementation of Treaty land entitlement in modern Treaties, many more First Nations have been toiling for generations to see their historical Treaties honoured. Other First Nations have been unable to ratify modern treaties with Canada that honour and respect their rights, title and jurisdiction. The range of Treaty-related issues is broad and includes: failure to deliver promised lands; erroneous land surveys; unauthorized granting of privileges to third parties (e.g. power lines and transfer of resource rights to provinces); encroachment on unceded and reserve lands and resources (e.g. unauthorized flooding for hydro power); failure to honour promises in relation to education and health services; and failure to fulfill Treaty commitments to First Nations when they agreed to share the land.

Where First Nations are in prolonged negotiations or litigation with the federal and provincial Crowns to seek recognition and honouring of their Treaty rights and entitlements, it will be challenging to advance toward a new fiscal relationship. The persistent failures of the federal and provincial Crowns to honour Treaties has led to deep rooted distrust. For these Treaty nations, demonstrable commitments and action are needed to rebuild trust and create the conditions necessary for a new fiscal relationship to advance. These will include acceleration of the resolution of specific claims (i.e. claims for dishonoured treaties), conclusion of Treaty land entitlement, return of provincial and federal Crown lands to First Nations, and acceleration of additions to reserve processes.

5.2 Recognition of Inherent Rights, Title and Jurisdiction

The Government of Canada has committed to a renewed, Nation-to-Nation relationship with Indigenous peoples based on recognition of rights, respect, co-operation and partnership, and rooted in the principles of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). In May 2016, the Minister of Indigenous and Northern Affairs announced that Canada is a full supporter, without qualification, of the declaration.

Articles 3 and 4 of UNDRIP describe the inherent rights of Indigenous nations to self-determination and fiscal autonomy.

> *UNDRIP Article 3: Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social, and cultural development.*
>
> *UNDRIP Article 4: Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.*

First Nations possess many other inherent rights that have been affirmed by Canada's courts including the right to enter treaties, Aboriginal title to land, rights to resources and activities, the right to self-government, and the right to practice their culture, customs and language, among others. When Canada's Constitution Act, 1867 established federal and provincial powers in Sections 91 and 92, it ignored the inherent rights and legislative powers of First Nations. Section 35 of Canada's Constitution Act, 1982 sought to correct this by recognizing the existing inherent rights of First Nations, but did not immediately resolve issues related to First Nations jurisdiction. For well over a century Canada's laws and policies have interfered with and prevented the exercise of inherent rights by First Nations and provincial incursion into the jurisdiction of First Nations has further complicated matters.

At present, in practical terms, the Crown claims to hold all First Nations land, either federally or under provincial land systems. There are no land title systems available to First Nations that support First Nations stewardship and obligations to the land.

For most First Nations, the Federal Crown claims to hold the land pursuant to section 91(24) of the Constitution Act of Canada, as "lands reserved for Indians".

For First Nations that have entered Self-Government Agreements with Canada and where First Nations hold non-reserve lands, land is held as fee simple and registered through provincial land registry systems, pursuant to section 92 of the Constitution Act of Canada. A 2014 decision of the Supreme Court of Canada (SCC), Tsilhqot'in Nation v. British Columbia, found that "Aboriginal title gives the Aboriginal group the right to use and control the land and enjoy its benefits". In Delgamuukw v.

Recommendation 2: *The Committee recommends that the Minister work with federal colleagues to ensure that the inherent rights, title, and jurisdiction of First Nations are honoured, recognized, respected, and protected by all levels of government. At a minimum, this should include the application of UNDRIP to all federal, provincial and territorial legislation. Priority focus should be provided to recognizing First Nations inherent rights and jurisdiction in the areas of governance, judicial systems, citizenship, land and resource title, and essential public and social services.*

British Columbia in 1997, the SCC affirmed that, "lands held pursuant to aboriginal title have an inescapable economic component which suggests that compensation is relevant to the question of justification as well. Fair compensation will ordinarily be required when aboriginal title is infringed." As yet, no separate structure exists for the recognition and registration of First Nations title.

First Nations across Canada uphold that their resources have been stolen through unlawful transfers of resource rights to provinces. The Constitution Act, 1867, awarded management rights for natural resources to Ontario, Quebec, New Brunswick and Nova Scotia. Resource rights in other provinces were retained by the federal government when these provinces entered the Dominion. Subsequent and successive Natural Resources Transfer Acts transferred resource rights to the Western provinces in the 1930s without consultation with First Nations and without considering the Treaty rights and title of First Nations. As an example, some First Nation Treaties only agreed to share land to the "depth of a plow" and made no reference to First Nations sharing or ceding subterranean rights, while other Treaties did not speak of land at all. In recent years, some provinces have agreed to revenue sharing agreements for some natural resources and other activities (e.g. gaming and tobacco), but much more progress is needed.

First Nations jurisdiction is the right to enact and enforce laws in a domain. Section 91(24) of the Constitution Act, 1867 gives the federal parliament exclusive power to legislate in matters related to First Nations. While the Constitution Act, 1982, recognized and affirmed the existing rights of First Nations in Section 35, it did not define or enumerate these rights. Despite Section 35, the Indian Act continues to interfere with the jurisdiction of First Nations in areas of citizenship, land management, the management of monies, among many other areas. There are countless laws, policies, and structures in the federal, provincial, and territorial governments that impede First Nation jurisdiction. Canada has committed to updating its laws and policies that interfere with Indigenous rights, but little progress has been made in this regard.

While progress is very slow in all of these areas (honouring Treaties and recognizing and respecting inherent rights, title and jurisdiction), it is being made. One example of a commitment to the recognition rights is the federal government's Bill C-92, which proposes to recognize rights of Indigenous peoples in the area of child protection. Bill C-92 seeks to recognize the inherent rights and jurisdiction of Indigenous nations over child and family services (i.e. child protection). Recognition of rights and jurisdiction in this and many other public domains is needed for First Nations governments to fully exercise their autonomy and improve living conditions and other socio-economic outcomes for their nations, communities, and citizens.

5.3 Settling and Resolving Land- and Treaty-related Claims and Issues

It is widely acknowledged that First Nations need increased opportunities for wealth generation. First Nations have difficulty unlocking the economic potential of their territories and generating revenues that would help with furthering economic development. The answer begins with the land. As the Royal Commission on Aboriginal Peoples highlighted, First Nations need land to rebuild their nations, land to call home, a place of cultural and spiritual meaning, land to allow for traditional pursuits, such as hunting and trapping, lands and resources for economic self-reliance, and lands and resources to contribute significantly to the financing of self-government[vii].

For First Nations to engage in a new fiscal relationship, Nation-to-Nation, they will want to see progress on Treaty and lands related issues. This includes honouring the spirit and intent of Treaty commitments, updating annuities, redressing breaches of Treaty, returning federal and provincial Crown lands to their rightful owners, compensating First Nations for lands wrongly conveyed to private interests, implementing Treaty land entitlement, recognizing First Nations title to unceded territories, accelerating additions to reserve, settling specific claims, and negotiating land claims. Where Treaty-related settlements and new land claims are being entered into, it must be in the spirit of honourable Treaty implementation – and not with the underlying objectives of extinguishing First Nations rights and title or releasing the Crown from existing or future Treaty-related claims.

Recommendation 3: *The Committee recommends that the Minister engage with the Minister of Crown-Indigenous Relations and Northern Affairs and other federal colleagues to drive work with provinces and advance the resolution of land claims, ratification of revenue sharing agreements, return of federal and provincial Crown lands, implementation of Treaty land entitlement, acceleration of additions to reserve, recognition of First Nations title to unceded lands, and development of a land management regime that enables First Nations to hold title and fulfill their stewardship obligations to those lands.*

6. Growing the Economies, Fiscal Capacity and Prosperity of First Nations

The fact that most First Nations governments suffer from critically low fiscal capacity is not debated. For reasons explored earlier in this report, First Nations lack access to the lands, resources, and economic development opportunities needed to grow their own revenues and prosper. The impact of chronic underfunding of First Nations governments, including the gradual erosion of the purchasing power of transfers over decades, has been highlighted repeatedly by the courts, human rights organizations, and federal institutions. Only First Nations governments can improve the living conditions of their citizens, but they require the fiscal capacity to do so, including sufficient, predictable, and long-term transfers.

The Committee's advice and recommendations are focused on Crown-First Nations relationships, including the actions required of Canada to remove impediments to First Nations development pursuits. While there are many opportunities that First Nations may wish to pursue within their nation, and along Treaty, nation and kinship lines, these matters are the sole discretion of each nation and were not the focus of the Committee's work.

Recommendation 4: *The Committee recommends that the Minister work with federal colleagues to adopt a coherent and consolidated federal approach to funding and supporting First Nations economic development and economic infrastructure, including investments that are equitable in contrast to Canada's investments in non-Indigenous communities and businesses.*

Recommendation 5: *The Committee recommends that the Minister engage with federal colleagues and, where necessary, involve the provinces and territories to assure First Nations of an appropriate place in decision-making processes for economic development projects impacting their territories and equitable participation in the development to which they contribute.*

6.1 Supporting the Economic Growth and Prosperity of First Nations

The significant economic gaps experienced by First Nations are well documented, they include low levels of employment, significant income disparities, and relatively low-levels of participation in resource extraction and harvesting industries. As the Auditor General of Canada pointed out in a 2003 study, "closing these gaps would help reduce poverty among Aboriginal people, resulting in lower social and financial costs."

Some First Nations have experienced remarkable success in growing their economies, businesses and employment, but many more struggle to overcome the barriers to economic growth and labour force participation. Barriers to growth include unresolved land claims, interference with land title and resource rights, uncooperative provinces and territories, lack of access to financial capital, lack of economic development supports, inability to implement regulatory regimes, and a lack of access to employment and procurement benefits, among others. The Committee has noted that these barriers exist for both localized development projects and Indigenous participation in projects of national and regional interest (e.g. large energy and resource extraction projects).

The lack of First Nations involvement in these large projects has led to high-profile failures and delays that are both costly and embarrassing for Canada. These failed projects hurt the economic prospects of First Nations and Canadians, including lost revenues and jobs, and greater reliance on social services, income support programs and mental health services.

The Committee envisions a series of measures to create the conditions necessary for economic growth in First Nations. These conditions include increased First Nations control of their lands and resources, government revenue sharing agreements, industry and government impact benefit agreements, economic development planning supports, and supports for the institutions that assist First Nations. These measures could build upon actions already taken by the federal government in the areas of land management, oil and gas extraction, and private debt financing. The Committee sees a need for consolidation and coherence in federal government transfers for First Nations economic development as well as investments that are equitable in contrast to federal investments in economic development and infrastructure for non-indigenous communities and businesses. The Committee also sees the need for consultation, consideration and inclusion of First Nations in decisions and actions related to development and trade.

The Committee notes that there are many barriers to First Nations labour force participation and entrepreneurship, not exclusively the lack of economic opportunities and jobs in First Nations communities. These other barriers include literacy and education gaps, systemic discrimination, inadequate housing, untreated mental health issues, untreated and unacknowledged trauma, lack of transportation and lack of affordable child care, among other issues. While the Committee's advice and recommendations are not directly focused on these critical issues, they must be acknowledged and resolved for First Nations to prosper and achieve wellbeing for their nations, communities and citizens. It is the Committee's view that matters within the control of First Nations governments will be addressed through self-determination and fiscal autonomy. Progress on removing barriers will also be needed by Canada and Canadians – to remove the barriers instilled over generations of discrimination against First Nations people. The Calls to Action of the Truth and Reconciliation Commission of Canada provide recommendations in this regard.

Recommendation 6: *The Committee recommends that the Minister engage with federal colleagues and, where necessary, involve the provinces and territories to ensure that First Nations businesses and individuals achieve equitable representation in government procurement and employment opportunities.*

Recommendation 7: *The Committee recommends that the Minister engage with federal colleagues to drive work to increase federal recognition and protection of First Nations tax jurisdiction, aligned with their inherent rights.*

Recommendation 8: *The Committee recommends that any actions, legislation, policies, directives, agreements or other legal documents contemplated in connection with a new fiscal relationship, must not derogate or abrogate from First Nations' Inherent and Treaty rights, title, or jurisdiction in any way.*

6.2 Ensuring First Nations Governments have Sufficient Funding for Administration, Governance and the Delivery of Public Services

The Committee notes that more federal investments are needed to ensure that First Nations governments have the fiscal and governance capacities to pursue their priorities for development and ensure that their public services and infrastructure fully contribute to the living conditions and well-being of their nations, communities, and citizens. This includes sufficient funding for delivery, measuring and monitoring quality and performance, evaluating effectiveness and efficiency and continuously adjusting and improving programs and services. Changes are also needed to federal funding agreements that restrict the exercise of autonomy by First Nations governments and increase service delivery costs. Most notably, these restrictions include unnecessary program requirements that stifle innovation in the delivery of public services and infrastructure, excessive compliance and reporting requirements that consume the capacity of First Nations public servants and funding restrictions that limit the ability of First Nations to serve all of their citizens (i.e. no funding for citizens resident off-reserve and for non-status citizens).

The Committee notes that the challenge of determining First Nations funding needs for the delivery of public services and infrastructure is very complex. Further, achieving provincially comparable funding levels will not provide First Nations with sufficient funding to eliminate accrued deficits in services and living conditions, nor will it achieve the closure of gaps in socio-economic outcomes. Setting First Nations funding levels based on provincially comparable programs and support levels is flawed for many additional reasons. Firstly, provincial programs are not designed to meet the distinct needs of First Nations and are not necessarily the best approaches for achieving wellbeing of a given First Nation and its communities and citizens. Secondly, promoting and funding specific programs can interfere with First Nations self-determination by restricting how funds are spent and failing to recognize the distinct needs or priorities of each First Nation. Thirdly, program-based funding ignores that First Nations are entitled to a fair share of the wealth generated from their lands and resources and the economic development to which they contribute. For these reasons, the Committee discourages funding parsed out as federal programs.

For public services and infrastructure, the Committee has a transformational vision that includes an optional regime of statutory transfers. These statutory transfers would need to be sufficient to provide First Nations governments with the financial means to achieve wellbeing for their nations, communities and citizens and to close socio-economic gaps at the outcomes level. The Committee's vision for statutory transfers is described in section 6.3. Recognizing that it will take several years to implement statutory transfers, the Committee also sees the need for immediate funding increases to support the delivery of public services and infrastructure and the administration and governance activities of First Nations governments.

For the immediate term, the Committee encourages the continuation of sector-based discussions (i.e. health, housing, community infrastructure, social services, education, etc.) to address funding deficiencies for the delivery of public services, housing and community infrastructure.

In respect of general governance and administration activities of First Nations governments, the Committee sees a need for immediate funding increases, based on the best available information. While many First Nation-specific studies and internal ISC studies have examined the costs of First Nations governance, no fulsome independent costing studies have been performed to estimate need and quantify funding gaps in this area. Nonetheless, it is abundantly clear that significant funding deficiencies exist. Basic calculations using publicly available federal government statistics and financial data show that funding to First Nations governments for general governance and administrative expenses is 6 times less per capita than the federal government's spending on these expenditures, 3 times less than provincial and local governments, and more than 20 times less than territorial governments.

Statistics Canada gathers data on the "general public services" costs of the federal, provincial, territorial and local governments in Canada. When these statistics[viii] were last published in 2017, the general administrative costs of the federal government were $1,425 per capita. Figures in the financial tables of the ISC 2019-20 Departmental Plan show planned spending of $316 million for programs supporting Indigenous governance. If we conservatively estimate that 80% of this funding will flow to First Nations governments, funding for First Nations general administrative and governance costs is $259 per capita, using Census 2016 population figures for First Nations population.

Recommendation 9: *The Committee recommends that immediate funding increases be provided to First Nations governments to support general government administration and governance costs (i.e. based on the best available information).*

Recommendation 10: *Subject to extensive engagement with First Nations, the Committee recommends that Canada and First Nations undertake a comprehensive cost study to determine the funding needs of First Nations to cover general administrative and governance costs.*

6.3 Ensuring Sufficient, Predictable and Long-Term Funding through Optional Statutory Transfers

The Committee envisions a new fiscal relationship where eligible First Nations can opt-in to a regime of statutory transfers. These statutory transfers would be sufficient to enable First Nations governments to deliver the public services and infrastructure needed to improve living conditions, achieve wellbeing and close socio-economic outcomes gaps for their nations, communities and citizens – regardless of their place of residence or status. Periodic reviews through a coordinated national process would ensure continued sufficiency of funding levels. The details of the statutory transfers and funding formulas would need to be developed with First Nations and entrenched in federal statute to provide the requisite authority to the federal government. Administrative arrangements would be necessary (i.e. arrangements between First Nations, provinces, territories, and local governments) to facilitate the coordination of service delivery and billings for First Nations citizens who receive services outside of their communities and for services delivered by First Nations to non-citizens. Implementing a regime of this nature would likely require multilateral negotiation between the federal government, First Nations governments, and provinces.

In arriving at its determination that statutory transfers are a necessary part of a new fiscal relationship, the Committee noted that the Government of Canada can only be legally authorized by the Parliament of Canada to transfer funds in two ways, statutory transfers and non-statutory transfers. Statutory transfers are pre-authorized through enabling legislation and do not require an annual vote of Parliament or funding allocation decisions by federal departments. Non-statutory transfers, however, require an annual vote of Parliament (i.e. budget process and Appropriations Acts) and generally rely on federal departments to make funding allocation decisions.

The Committee has observed that, while approximately two-thirds of the transfer payments made by the Government of Canada are statutory transfers, virtually all transfers to First Nations are non-statutory. The main exception is transfers to First Nations with Self-Government Agreements, which are enshrined in federal legislation. The Committee notes that statutory transfers provide recipient governments more predictable and longer-term funding (i.e. statutory transfers are typically authorized for 5 to 10 years). It is worth noting that, while some of the existing non-statutory funding provided to First Nations is transferred through long-term agreements, all funding in these agreements is subject to change at any time. Statutory transfers are more predictable and stable because changes to funding levels can only be made with an Act of Parliament that repeals or amends the supporting legislation. While it is always possible for a future federal government to pass such a law, changes cannot be made without highly politicized debate in Parliament and the media.

The Committee reviewed transfer payment regimes utilized in Canada (i.e. for federal transfers to provinces and territories) and in other countries where formula-based statutory transfers were used to calculate transfers to sub-national governments. The Committee found that there are some interesting transfer payment approaches used in Sweden, Norway, Germany, and Australia – all uniquely designed to meet the specific context of each country. These statutory transfer regimes included formula funding based on demographic factors, cultural and linguistic factors, socio-economic indicators and structural

differences between regions. While these regimes sought to address inequities between regions, none were designed to enable self-determination and close socio-economic outcomes gaps.

The Committee is of the perspective that the design of statutory transfers to First Nations, including the different envelopes of funding and associated funding formulas, would need to be thoughtfully crafted to account for the diversity of Canada's First Nations (e.g. diverse needs and socio-economic challenges, different cost structures, varied levels of access to economic development opportunities, etc.)

Additionally, the Committee notes that many Treaty groups have longstanding disputes with Canada about the interpretation of Canada's Treaty obligations. The Committee believes that many of these disputes will likely resolve themselves if base statutory transfers are adequate to meet all of the needs of First Nations citizens. Nevertheless, there may be some financial Treaty entitlements that are not satisfied by the statutory transfers and the Committee envisions the possibility of additional Treaty-based funding for Treaty rights holders to ensure all Treaty entitlements are fulfilled. In addition, the Committee believes that such transfers must be acknowledged by Canada as part of its international legal obligations to First Nations under Treaty.

Subject to extensive engagement, the Committee is suggesting that First Nations and Canada consider a regime of statutory fiscal transfers with five elements:

1. **Base transfers** to fund public services, political and administrative governance, housing, community infrastructure, and administration of justice. These transfers would be statutory, formula-based, and designed to provide First Nations governments with sufficient core funding to meet the needs of all of their citizens. These transfers would provide First Nations with the financial means to be self-determining in their pursuit of well-being for their citizens and communities. More specifically, the formula should account for a First Nation's population, citizen demographics, geographic location, landmass, and various other cost drivers.

2. **Structural equalization transfers** to supplement base transfers for First Nations with higher financial requirements. These transfers would be statutory and provided to First Nations that have unusually high expenditure requirements and/or lower economic development levels. These transfers could consider a wide range of circumstances (e.g. significant socio-economic outcomes gaps, community infrastructure deficiencies, high rates of disease, remoteness costs, population dispersion, levels of economic development, extraordinarily high per capita delivery costs, adverse environmental conditions, climate change-related costs, etc.)

3. **Supplemental Treaty-based transfers** to fulfill Crown Treaty obligations that are not satisfied through the base and structural equalization transfers. Treaty First Nations would need to decide whether these transfers should be statutory, requiring federal legislation, or non-statutory.

Recommendation 11: *The Committee recommends that First Nations and the Government of Canada develop a regime of optional statutory transfers to be made available to First Nations governments. The Committee further recommends that eligibility for statutory transfers be tied to a commitment by First Nations to collecting and sharing statistics on living conditions and other outcomes and being subject to performance audits by a First Nations Auditor General.*

4. **Emergency and crises management** — transfers to fund the actual expenditures incurred by First Nations to prepare for, mitigate, respond to, and recover from emergencies and crises (e.g. natural disasters, health crises and social emergencies).

5. **Annual adjustments** — to all of these transfers to keep pace with First Nations population growth, inflation, and other cost drivers. The Committee envisions a growth factor that assures First Nations of funding adjustments linked to Canada's GDP growth.

Before entering a regime of statutory transfers, First Nations citizens will likely expect their respective governments to have certain capacities, structures, and processes in place. Further, Canada and First Nations governments will need to have laws, policies, and structures in place to support the roll-out of statutory transfers. Once these foundational elements are in place, the Committee envisions statutory transfers as a new funding option that First Nations and their governments can pursue, should they wish and each at their own pace. The Committee sees it as necessary that First Nations participating in a regime of statutory transfers agree to share data on their living conditions and other outcomes, and agree to work with a First Nations Auditor General. These commitments are needed to support continuous improvement of the fiscal relationship and are further explained in sections 8.2 and 9.2, respectively.

7. Strengthening the First Nations Institutions that Support First Nations

7.1 Investing in the Institutions that Support First Nations

All high-performing governments, organizations, and professionals leverage institutional supports. These supports include training, knowledge sharing forums, sharing of best practices, and advice and services where First Nations cannot sustain capacities in house (e.g. internal training programs for professionals and trades, monitoring water and wastewater systems, legal and technical expertise for pursuing economic development projects and negotiating impact benefits agreements, designing and hosting information systems, performing complex financial and legal tasks, designing program delivery processes and systems, etc.) Many First Nations institutions and service providers have emerged to meet these needs, yet most lack the core funding and coordination necessary to fully realize their potential.

The federal programs aimed at supporting professional and institutional development, while never sufficient, have been eroded and funding redirected to other priorities. While some First Nations institutions have managed to become self-sufficient in spite of funding deficiencies, many more are chronically underfunded and struggle to maintain basic staffing levels. To ensure that First Nations governments have the supports they require to be self-determining, First Nations institutions need stable funding and support. Additionally, many of the institutions that do exist are constrained by virtue of their funding agreements to focus on First Nations within the borders of a province or small geographic area, leaving many other First Nations unserved.

In the immediate term, the Committee sees an urgent need for stable core funding for the non-political institutions that provide capacity supports to First Nations governments, moving away from proposal-based and time-limited funding. These investments are needed for them to attract and retain the skilled personnel needed to provide high-caliber supports to First Nations governments.

Recommendation 12: *The Committee recommends that, in the immediate term, sufficient and stable funding be provided to the existing institutions providing capacity-building supports to First Nations governments and professionals, including moving away from proposal based and time-limited funding.*

Recommendation 13: *The Committee recommends that a strategy be developed with First Nations to expand and strengthen the institutions that provide capacity-building supports, program accreditation, program evaluation, and outsourced service-delivery supports to First Nations governments. It will be important that this strategy, and these institutions, be national in scope to ensure that the needs of all First Nations are met.*

Recommendation 14: *The Committee recommends that the Minister abolish the ISC Default Management and Prevention Policy, including the use of Third Party Managers, and replace it with a system of capacity building supports provided by First Nations institutions.*

Additionally, the Committee sees opportunity to better leverage First Nations institutions to support First Nations governments that are experiencing crises and distressful situations. Currently, the ISC Default Management and Prevention Policy establishes the protocols and approaches for handling situations where First Nations governments falter. The Committee sees a need for the abolition of this colonialist policy and a transitioning of these support services to First Nations institutions.

First Nations citizens deserve high-quality public services. Well-resourced governments employ evaluation, quality management, and accreditation regimes to ensure ongoing quality and continuous improvement in the delivery of public services. These supports are typically obtained from specific associations and respected certification and accreditation bodies. Poor access to supports of this nature impair the ability of First Nations governments to achieve excellence in the delivery of public services.

Additionally, some First Nations lack the economies of scale to efficiently and effectively govern, manage, and deliver public services. In recent years, cuts have been made to some of the institutions (e.g. Band Councils, Tribal Councils and various other First Nations institutions) that provide services to First Nations governments that cannot afford to sustain in-house technical and administrative capacities. Achieving economies of scale in administrative and management costs can free up scarce resources for the delivery of public services. Innovative services and delivery models are needed to achieve these economies of scale (i.e. shared services models, outsourced administrative arrangements, hosted systems and services, technology solutions, aggregate procurement and investment, etc.).

7.2 Rethinking how Core Funding is Distributed to Non-Political Institutions

The current approach of having the federal government dictate which First Nations institutions receive funding is untenable. Only First Nations can identify the needs and imagine the opportunities and possibilities for First Nations institutions. Only First Nations can hold their institutions accountable and ensure that they continue to deliver high quality supports to First Nations governments and individuals. When these institutions are undermined by policy and budgetary decisions of the federal government, tragic consequences can result for First Nations governments and citizens. For these and other reasons, a new approach is needed.

Some options for distributing funding to non-political institutions that provide supports to First Nations, include:

- Option 1: transfers distributed through a national First Nations body and process;
- Option 2: transfers are provided to First Nation governments, and they allocate funds to the institutions they choose to support; or
- Option 3: a blended approach whereby core funding is distributed through a national process and supplemental funding flows from First Nations governments (e.g. fees for training, conferences, services, etc.).

While each of these approaches has some merit, the Committee strongly prefers Option #3. This option ensures the stability of First Nations institutions while also ensuring that these institutions continuously adjust their service offerings to meet the needs of their clients. The Committee expects that some First Nations will find that a national body and process for allocating core funding interferes with their autonomy. While this may be true to some extent, the Committee sees it as essential that First Nations collaborate to ensure that stable and capable institutions are in place to serve all First Nations. The Committee notes that such an approach does not limit the national process from distributing funding to regional institutions, where this is the preferred approach.

The Committee also notes that First Nations institutions need stable and predictable funding, that grows over time and is protected from discretionary federal government budget cuts. This could be resolved through federal legislation that authorizes statutory transfers to a national First Nation's body and ensures annual increased tied to growth in Canada's Gross Domestic Product (GDP) or total federal government spending.

Lastly, a regime of review and audit will be needed to ensure that First Nations institutions are fully accountable to First Nations governments and citizens. The Committee recommends that any First Nation institution receiving funding through a national process be subject to review and audit by a First Nations Auditor General (see recommendation 21).

Recommendation 15: *The Committee recommends that core funding to non-political First Nations institutions be calculated, allocated and distributed by a national First Nations body through a First Nations-controlled process to be established with First Nations. Further, the Committee recommends that federal legislation be enacted to authorize a statutory transfer to this national body with annual funding increases tied to Canada's GDP.*

8. Measuring and Reporting on First Nations Outcomes

The Committee envisions a new fiscal relationship premised on shared responsibilities and mutual accountability. A partnership in which First Nations and Canada share responsibility for improving First Nations well-being and for closing socio-economic gaps experienced by First Nations people and communities. First Nations and Canada would be mutually accountable to one another for delivering on their respective commitments. Mutual accountability relationships are predicated on mutually-agreed objectives and priorities, clearly defined performance indicators, and credible evidence-based reporting on the results achieved.

8.1 Measuring and Reporting on the Closure of Socio-Economic Gaps

A shared commitment to improving living conditions and closing the socio-economic outcomes gaps experienced by First Nations citizens requires clear definition of the shared outcomes that the parties agree to pursue. To this end, the Committee sees a need for national goals and targets, developed jointly by First Nations and Canada, to guide the closure of socio-economic gaps and improve living conditions for First Nations. Such a framework would allow First Nations and Canada to set goals and targets and hold one another accountable for providing the investments and making the progress necessary to achieve them. This framework would in no way limit or impinge upon First Nation governments developing their own objectives, goals and indicators. Investment in capacity building, capacity supplementation and systems development should enable both the achievement of local progress by individual First Nation governments as well as the management of the fiscal relationship more broadly.

As the First Nations Information Governance Centre (FNIGC) describes it, the autonomy to define community wellness and the right of First Nations to own, control, access, and possess (known as the First Nations principles of OCAP®, a registered trademark of FNIGC) information about their peoples is "fundamentally tied to self-determination and to the preservation and development of their culture." FNIGC describes the OCAP® principles as a set of standards that establish how First Nations data should be collected, protected, used, or shared. They are the benchmark for how to work with First Nations when their information is involved. OCAP® asserts that First Nations have control over data collection processes in their communities, and that they own and control how this information can be used (see Annex B for more detail).

First Nations across the country are pursuing wellness and advancing their self-determined goals for wellbeing through community-driven, Nation-determined, and Treaty-based processes. The Committee views it as imperative that the definition and measurement of national-level outcomes-based indicators not interfere, but support and coordinate with these important processes. The Committee notes that, while a national indicators framework is essential for advancing the fiscal relationship and measuring its effectiveness, this framework would not impact upon the ability of First Nations to be self-determining in setting their own objectives, outcomes, and indicators for achieving well-being.

The Committee principally sees national goals and outcomes-based indicators as a means for Parliament and First Nations to hold the Government of Canada accountable for delivering on its responsibilities. It allows for broad measurement, research, and evaluation into the effectiveness of Crown-First Nation fiscal relationships. It serves to measure the degree to which fiscal relationships are contributing to the closure of gaps in socio-economic outcomes between Canadians and First Nations citizens, signaling to First Nations and Canada when additional investments or modifications to the fiscal relationship are needed.

A joint process between First Nations and Canada is fundamental for the development of a national outcomes-based indicators framework. Canada's current indicators of community and individual well-being stem from a non-Indigenous world view. Indicators of First Nations outcomes must reflect First Nations ways of seeing, knowing, and understanding. The indicators must reflect the way of life that creation intended for them, including their stewardship role for the land, waters, and all living things.

In arriving at its determination that an outcomes-based indicators framework is needed, the Committee reviewed and considered other methods of defining and measuring the performance of fiscal relationships. These other methods included comparability of funding levels (e.g. ensuring equal funding levels), comparability of service levels (e.g. access to, type and nature of services available in neighbouring jurisdictions), and comparability of outputs (e.g. number of patients screened for a disease, number of students attending school). The Committee concluded that none of these other measures of comparability would ensure sustained attention on the improvement of First Nations well-being and the closure of socio-economic gaps, because none measure living conditions and the well-being of First Nations and their communities and citizens.

The Committee examined sustainability and outcomes frameworks at the international, national and First Nation community levels and noted some common themes. The Committee found that the United Nations Sustainable Development Goals and other

Recommendation 16: *The Committee recommends that First Nations and Canada establish national goals, targets and timeframes for improving living conditions and closing the socio-economic gaps experienced by First Nations people and communities including, but not limited to health and wellness, education, protection of vulnerable citizens, sustainable economic growth, environment, public infrastructure, safety, language and culture. This will require outcomes-based indicators to allow First Nations and Canada to measure and report on their shared goals. The Committee further recommends that First Nations and Canada establish guiding principles to guide these efforts.*

frameworks consistently included goals and indicators in the areas of health and wellness, protection of vulnerable citizens, education, sustainable economic growth, environmental protection and preservation, public infrastructure and safety. Indigenous frameworks also included emphasis on culture and language. The Committee encourages Canada and First Nations to consider these existing frameworks in establishing shared goals and indicators, and to be mindful of the Truth and Reconciliation Commission of Canada's Call to Action #19 which proposes areas of focus for health-related indicators.

The Committee notes that some guiding principles would be helpful to support national engagement and joint-development of goals and indicators. For example, principles could include:

- Goals and targets must reflect and align to a First Nations world view;
- Goals, targets and timelines must be mutually agreed upon by First Nations and Canada;
- While regions and nations will also set and define their own goals and targets, there is great benefit to First Nations of having of a core set of nationally-defined goals and targets that are consistently defined and measured by all First Nations;;
- The numbers of goals, targets and indicators must be kept to a minimum so as not to place undue data collection burdens on First Nations people and governments;
- There is great benefit in having targets and indicators that permit comparison to non-Indigenous populations, where appropriate;
- To allow for gender, diversity, and inclusion statistics, it is necessary to gather data on gender, disability, ethnicity, region, and other such attributes; and
- The goals, targets and indicators must be periodically reviewed and refined to ensure continued relevance and maximum benefit.

8.2 Collecting the Data to Support Measurement of First Nations Living Conditions and Socio-Economic Outcomes

Statistical and administrative data will be needed to measure, monitor and report on the achievement of shared goals and targets. More importantly, First Nations and their institutions require data to support the effective and efficient delivery of public services, their accountability reporting to their citizens, and their own research and evaluation activities. FNIGC is working with First Nations groups across the country on a National Data Governance Strategy to establish a vision for advancing First Nations data sovereignty, according to the OCAP® principles.

The FNIGC and First Nations leaders in the field of data sovereignty advocate that the best way for First Nations to achieve the OCAP® principles is through stewardship of their own data, but this is not always possible. Currently, First Nations data stewardship is complicated by provincial and federal legislation that limit who can hold data and how it can be used, often restricting First Nations access to their own data. The Royal Commission on Aboriginal Peoples notes that "The gathering of information and its subsequent use are inherently political. In the past, Aboriginal people have not been consulted about what information should be collected, who should gather that information, who should maintain it, and who should have access to it. The information gathered may or may not have been relevant to the questions, priorities and concerns of Aboriginal peoples."[ix]

First Nations across the country are working with the federal, provincial and territorial governments to ensure that barriers to First Nations data stewardship and OCAP® are removed and their rights to free, prior, and informed consent are protected. Where First Nations cannot repatriate their data for reasons such as capacity and legal limitations, they are engaging in partnerships and legal agreements with the current stewards of their data to enforce governance over that data. The United Nations Expert Mechanism on the Rights of Indigenous Peoples remarked that the right to free, prior, and informed consent "is one of the most important principles that Indigenous Peoples believe can protect their right to participation. It is embedded in the right to self-determination. The duty of States to obtain Indigenous Peoples' free, prior, and informed consent entitles Indigenous people to effectively determine the outcome of decision-making that affects them, not merely a right to be involved." The right and standard of free, prior, and informed consent is applicable in all domains, including the collection, use, and dissemination of First Nations data.

To advance the principles of OCAP®, and to ensure free, prior and informed consent is upheld, the Committee believes that a national First Nations statistical institution is needed that is First Nations-governed and independent. This institution would assume responsibilities from Statistics Canada for the collection of survey and census data related to First Nations citizens, communities, and development. The Committee notes that a national First Nations Statistical Institution is necessary to ensure nation-wide comparability and credibility of statistical information.

In arriving at its conclusion, the Committee was mindful of the most recent attempt to establish a First Nations statistical institute. The First Nations Statistical Institute (FNSI), created in 2005, saw its funding fully cut and enabling legislation repealed when it was deemed to have failed to achieve meaningful change. The Committee notes that the organization's failure to quickly define and implement a First Nations statistics function

Recommendation 17: *The Committee recommends that a national First Nations statistical institution be mandated and funded to work with First Nations in defining, collecting, analyzing, and disseminating statistical data related to First Nations citizens, communities, and development. Careful consideration will be required in respect of the legal structure, governance, and funding model of this institution to ensure it is First Nations-governed, well supported, and politically independent.*

Recommendation 18: *The Committee recommends that sustained funding and attention be paid to supporting First Nations in their pursuit of data sovereignty, and ensuring respect for the principles of OCAP®. This will also require changes to federal legislation, institutions, policies, data holdings, and data practices to ensure alignment with OCAP®, including assigning a federal government body to monitor and enforce the compliance of federal departments and agencies.*

challenged its relevance. A number of issues that hindered the success of FNSI would need to be addressed to ensure the success of this new institution. Firstly, as a Crown Corporation, FNSI's board of directors was appointed by the Government of Canada, which impeded its accountability relationship with First Nations citizens and their leaders. Secondly, FNSI's reliance on annual federal funding challenged its de facto independence, and therefore impaired its credibility with First Nations leaders. Thirdly, the legislation to create FNSI did not address fundamental issues in federal law and governance systems (e.g. FNSI was subject to the Access to Information and Privacy Act, which conflicts with OCAP®) or alignment issues with Canada's existing institutions (e.g. Statistics Canada was not mandated to turn over First Nations data to FNSI or to work with and align to FNSI's mandate), preventing the organization from gaining the broad support of First Nations leaders.

Considering the FNSI experience, careful consideration is needed to ensure that the new First Nations statistical institution is appropriately structured, that necessary reforms are also made to Canadian laws and institutions, and that its funding model provides for its de facto independence. Further, considering the proven capabilities and credibility of Statistics Canada, the Committee sees an opportunity for a new First Nations statistical institution to work with and draw on the expertise and capacity of Statistics Canada in establishing and implementing its strategy and plans for First Nations statistics. Lastly, the Committee notes that, while the long-term aim for all First Nations institutions is to have them constituted and governed under First Nations law, this legal regime does not exist at present. In the immediate term, the governance and independence of the new statistical institution will need to be achieved under federal law, with thoughtful protections implemented to ensure it is First Nations-governed, well supported and politically independent (i.e. to ensure that it is well positioned to protect First Nations data against unauthorized access and use).

9. Ensuring Socio-Economic Gaps are Closed and Stay Closed

The Committee respects the teaching of Truth: To speak only to the extent we have lived or experienced. In a similar way, the fiscal relationship must be ongoing and evolve based on the evidence available from the experience of its implementation.

For a new fiscal relationship to realize its full potential for future generations, the Committee sees a need for regular reporting, review, evaluation, and continuous improvement activities. Reporting is needed to highlight progress in advancing Crown-First Nation fiscal relationships, or a lack thereof, and for shedding light on gaps in First Nations living conditions and other socio-economic outcomes. Regular reviews, performance audits, and evaluations will ensure that issues, achievement gaps, and structural barriers are systematically identified through credible evidence-based processes. All of these activities will need to be well orchestrated and coordinated. It is the Committee's view that First Nations can achieve greater power, influence, and success when they stand together and use a unified voice to advocate for their shared interests.

These important activities could be performed by Canada's existing federal institutions (e.g. Auditor General of Canada, Canada's Parliamentary Budget Officer, ISC, and others), but the Committee believes that is more appropriate to have First Nations controlled institutions support First Nations governments and institutions. Greater First Nations involvement and control will promote balance, objectivity, trust and truthfulness in the activities and resultant information. Recognizing that many First Nations prefer not to work with or through national First Nations institutions, the Committee carefully considered the various options. While nation-level and regional First Nations institutions could be created, the Committee concluded that such a regime would erode the strength of the collective and greatly diminish First Nations influence and success. The Committee concluded that national non-political institutions would be needed to achieve the full potential of Crown-First Nation fiscal relationships.

The Committee was principled in its view that the appropriate Crown-First Nation relationships are Nation-to-Nation and Treaty-based. It is critical that these relationships be enabled, and note interfered with, by the institutional structures and processes that support them. This principle holds true for the institutional structures and processes that support fiscal relationships. The Committee was resolute in upholding this principle when shaping its vision for the institutional processes and structures that might support Crown-First Nation fiscal relationships. Further, the Committee views participation in a new fiscal relationship, including the processes and structures which support it, as fully optional for First Nations.

The Committee closely considered which institutional processes and structures would be absolutely critical to support fiscal relationships. While it identified many structures that might be beneficial, it concluded that only three would be critical, these include a First Nations Statistical Institution, a First Nations Fiscal Policy Institution, and a First Nations Auditor General. The Committee's vision for these institutions and their functions is described in 7.2 for the First Nations Statistical Institute and in the following sections for the others.

9.1 Fiscal Policy Institution for Treasury, Coordination and Sustained Attention to Gap Closure

Recommendation 19: *The Committee recommends that a First Nations Fiscal Policy Institution be established and funded to perform treasury, coordination, research, evaluation, reporting, and continuous improvement activities in support of Crown-First Nation fiscal relationships. The Committee further recommends that the mandate and ongoing funding levels of this institution be reviewed every five years by First Nations and Canada through a joint-process.*

The Committee envisions a new fiscal relationship that will be evaluated and improved upon continuously. This will require regular research, analysis, and evaluation to identify issues and challenges and propose solutions for closing socio-economic gaps and improving the living conditions of First Nations. It will also require regular reporting to First Nations citizens and the Parliament of Canada to ensure action is taken when issues are identified. Currently, these functions are performed by the Parliamentary Budget Officer, federal research councils, and the evaluation functions of federal departments. The Committee sees the need for a First Nations Fiscal Policy Institution to coordinate these activities with and for First Nations governments and technical experts.

As part of this institution's regular duties, it would be made responsible for preparing an annual report to First Nations citizens and the Parliament of Canada on the measures taken and progress achieved in closing socio-economic gaps and improving First Nations living conditions. To ensure appropriate attention is paid, the Committee views it as necessary to institute federal legislation requiring that the Prime Minister report annually to the Parliament of Canada on measures taken and results achieved. In arriving at its determination that the Prime Minister should be responsible for reporting to Parliament, the Committee was mindful of the federal government's recent step to make the Minister of Indigenous Services responsible for annual reporting (i.e. Bill C-97, which is currently before Parliament). Further, the Committee notes that the head of the First Nations Fiscal Policy Institution would be the most appropriate official to present the institution's report to the Chiefs-in-Assembly each year, and at other regional First Nations gatherings as requested.

The Committee also envisions this institution will assume certain treasury functions, including the distribution of funding to First Nations institutions that are non-political (i.e. institutions that provide capacity building and capacity supplementation supports) and to First Nations governments that opt-in to statutory transfers. Additionally, the

Committee sees the need for an institution to ensure the coordination between the institutions and activities of a new fiscal relationship, bringing people and information together to ensure a holistic approach to the process, thereby greatly improving the likelihood of success.

Recognizing the importance of stability in both the mandate and funding of the First Nations Fiscal Policy Institution, the Committee believes the Fiscal Policy Institution would need to be formally recognized by First Nations and Canada. As such, the creation and mandate of such an institution would require resolution by First Nations and federal legislation. The Committee envisions federal legislation that ensures sufficiency and predictability of funding, and a periodic review process (e.g. every 5 to 10 years) to ensure that the mandate and funding levels of the institution are adjusted over time.

Recommendation 20: *The Committee recommends annual reporting to First Nations and the Parliament of Canada on measures taken and progress achieved by First Nations and the Government of Canada in closing socio-economic gaps. The Committee recommends that reporting to the Parliament of Canada be made the legal obligation of the Prime Minister of Canada. Further the Committee recommends that the head of the newly created First Nations Fiscal Policy Institution be mandated by resolution of First Nations to report annually to First Nations leaders and citizens.*

9.2 First Nations Auditor General to Ensure Oversight and Drive Change

Recommendation 21: *The Committee recommends that a First Nations Auditor General be established to provide independent, objective and professional advice and assurance for First Nations institutions, First Nations governments that opt-in and the processes supporting implementation of statutory transfers.*

Impartial oversight mechanisms, such as an auditor general, promote trust in institutions and de-politicize relationships. The Committee believes it is necessary that a First Nations auditor general function be instituted to provide independent, objective, and professional assurance on the efficiency and effectiveness of the institutional processes and structures that support Crown-First Nations relationships. For the National First Nations Statistical Institution, the First Nations Fiscal Policy Institution, and the processes supporting statutory transfers to First Nations, the Committee sees a need for reviews and audits of performance, audits of legal and policy compliance, and audits of the effectiveness and efficiency of governance and administrative practices.

Virtually every nation, and most sub-national and local governments in developed nations, have an auditor general function. Public resources belong to a nation's citizens, and public sector compliance and performance auditing supports and reinforces a government's fundamental responsibility to be accountable to its citizens for the use of public funds and delivery of results. For countries around the world, having an auditor general function is, simply put, part of nationhood. The Committee believes that First Nations governments and their citizens also deserve access to the objective and independent assurance of an auditor general function.

Consistent with resolutions already passed by Chiefs-in-Assembly and by one regional collective of First Nations, the Committee envisions an optional regime whereby First Nations may choose to work with a First Nations Auditor General. For the regime of statutory transfers described in sections 5.3, the Committee sees it as necessary that First Nations governments participate in such a relationship with an auditor general.

Recognizing that it is neither financially viable nor operationally feasible (i.e. limited access to Indigenous professionals) to establish nation-level or regional auditors general in the near-term, the Committee believes that the first priority for federal funding should be to build a national First Nations Auditor General institution. Subject to engagement with First Nations, the Committee notes there is an opportunity to include provisions in the First Nations resolutions and federal statute which create and recognize the First Nations Auditor General for a review in 5 or 10 years (i.e. to review the mandate and funding levels and consider the merits of funding regional auditor general functions).

In arriving at its advice, the Committee also considered whether it would be feasible to have a First Nations Auditor General perform the financial statement audits for First Nations institutions and First Nations governments. The Committee concluded that it would detract focus from performance auditing. Further, there are capable public accounting firms that already perform financial statement audits for First Nations governments and existing First Nations institutions.

10. Continuance of the Joint Advisory Committee on Fiscal Relations

The Committee recommends that it remain in its current form for the immediate future, pending creation of a First Nations institution to oversee and coordinate implementation of a new fiscal relationship (i.e. the First Nations Fiscal Policy Institution). Once the National Chief and Minister have reviewed this advice and determined next steps, the Committee offers to take a proactive role in engaging with leadership and experts from First Nations as well as the Government of Canada to review, refine, and adapt its vision. The Committee notes the need for a Fiscal Relations Secretariat to be properly funded to support these activities and help move the recommendations forward, as appropriate. The transition to permanent institutions with expanded responsibilities will be one of those topics for additional engagement and advice, as and where supported by the National Chief and Minister.

Recommendation 22: *The Committee recommends that it continue to support advancement toward a new fiscal relationship, for so long as is needed and that a Fiscal Relations Secretariat be established and funded to coordinate and support the activities of the Committee and engagement efforts with First Nations and the Government of Canada. For the immediate term, the Committee recommends that it support engagement activities and further develop options for the introduction of statutory transfers, rescindment of the ISC default management regime and advancement of outcomes-based goals and indicators.*

Recommendation 23*: The Committee recommends that a 5-year review of the implementation of its recommendations be completed in 2024.*

11. Concluding Remarks

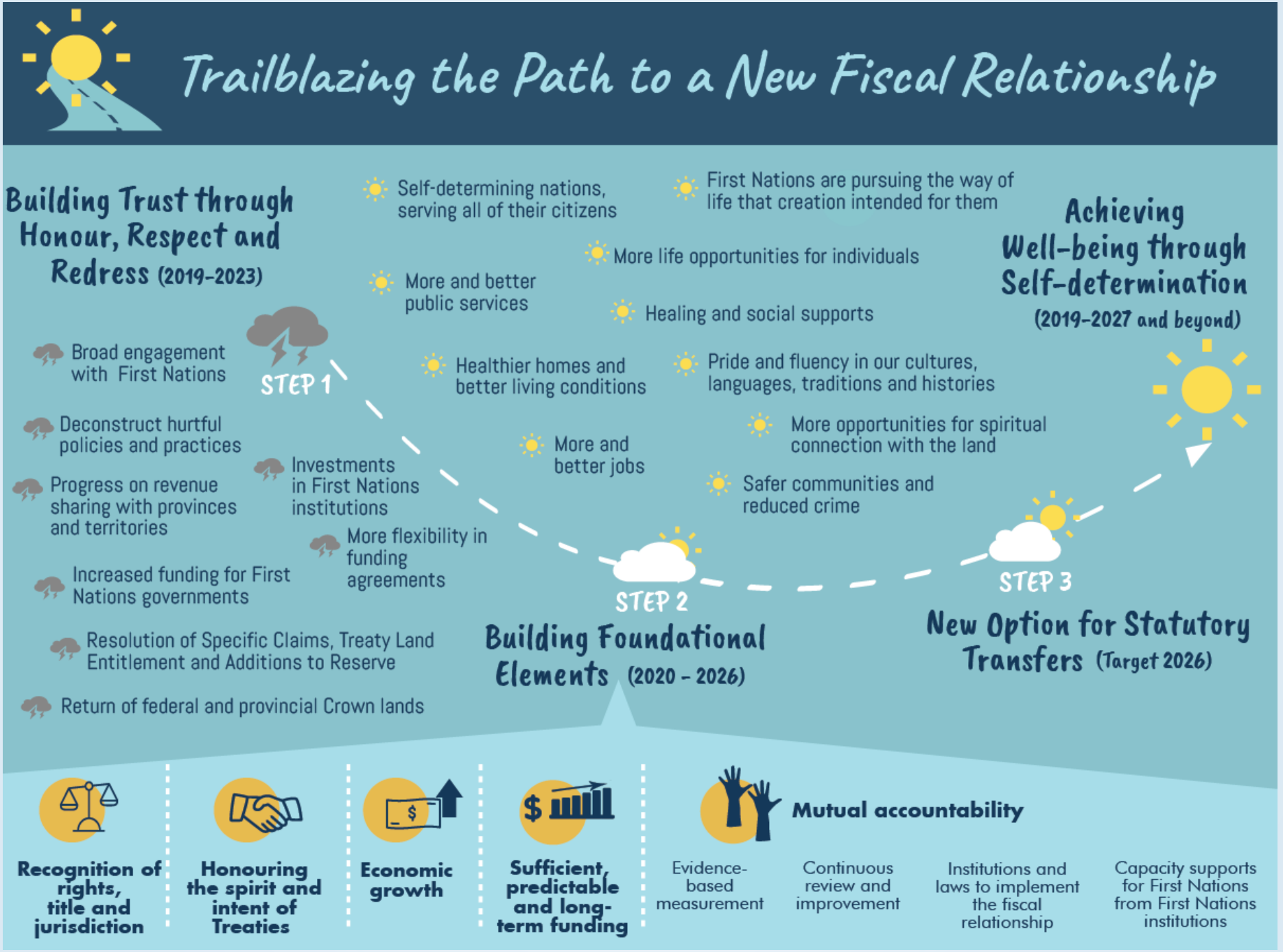
The Committee recognizes that the goals spelled out in this document are ambitious and the steps to get there will be complex to clarify and implement, but wishes to emphasize the importance of taking a holistic approach to achieving the transformation described. Each of the recommendations in this document relates to an essential element in a broader plan. That plan seeks to fulfil the vision set out by following a path guided by the values and principles described, by implementing the recommended steps to get there.

The Committee believes that the plan set out can work, that through thorough engagement with First Nations the details of the strategies laid out can be determined and that, with the cooperation of the Crown, the goals can be achieved. By acting with love, honesty, reverence, respect and honour, everyone can find their place and seek their voice within this ambitious plan. We must have the courage to get started and the humility to acknowledge that, as we cannot know the future, the plan will need adjusting as more is learned. Those decisions will be directed through understanding the truth within the wisdom of our ancestors, in service of those to come.

It took generations to get where we are now and it will take time for change on the scale envisioned here to reach fruition. First Nations approaches have been impeded by colonial structures for so long that rebuilding is far more complicated than would otherwise be the case. Some changes can begin right away, others will take careful planning to bring about, and others must happen in sequences that address the reality of the existing relationships between First Nations and Canada.

A visual representation of the Committee's vision for the pathway is presented on page 34.

Recommendation 24: *The Committee recommends and urges Canada to implement the renewed fiscal relationship described in this report and make it available to every First Nation and in all Treaty areas from coast to coast to coast.*


Trailblazing the Path to a New Fiscal Relationship
Building Trust through Honour, Respect and Redress (2019-2023)
Broad engagement with First Nations
Deconstruct hurtful policies and practices
Progress on revenue sharing with provinces and territories
Increased funding for First Nations governments
Resolution of Specific Claims, Treaty Land Entitlement and Additions to Reserve
Return of federal and provincial Crown lands
STEP 1
Investments in First Nations institutions
More flexibility in funding agreements
Self-determining nations, serving all of their citizens
More and better public services
Healthier homes and better living conditions
More and better jobs
STEP 2
Building Foundational Elements (2020 - 2026)
First Nations are pursuing the way of life that creation intended for them
More life opportunities for individuals
Healing and social supports
Pride and fluency in our cultures, languages, traditions and histories
More opportunities for spiritual connection with the land
Safer communities and reduced crime
STEP 3
New Option for Statutory Transfers (Target 2026)
Achieving Well-being through Self-determination (2019-2027 and beyond)
Recognition of rights, title and jurisdiction
Honouring the spirit and intent of Treaties
Economic growth
Sufficient, predictable and long-term funding
Mutual accountability
Evidence-based measurement
Continuous review and improvement
Institutions and laws to implement the fiscal relationship
Capacity supports for First Nations from First Nations institutions

Annex A - Shared First Nations Values

First Nations have varied teachings and principles that provide moral guidance and cultural foundation. These teachings generally assert moral respect for all living things. While these teachings and beliefs vary across nations, there are 7 teachings that many nations believe.

- **Truth:** To only speak only to the extent we have lived or experienced is to know truth. Apply faith and trust in your teachings. Show honour and sincerity in all that you say and do. Understand your place in this life and apply that understanding in the way you walk. Be true to yourself and all other things.

- **Humility:** Humility is to know that you are a sacred part of creation. Live life selflessly and not selfishly. Respect your place and carry your pride with your people and praise the accomplishments of all. Do not become arrogant or self-important. Find balance within yourself and all living things.

- **Respect:** To honour all creation is to have respect. Live honourably in teachings and in your actions towards all things. Do not waste and be mindful of the balance of all living things. Share and give away what you do not need. Treat others the way you would like to be treated. Do not be hurtful to yourself or others.

- **Love:** To know love is to know peace. View your inner-self from the perspective of all teachings. This is to know love and to love yourself truly. Then you will be at peace with yourself, the balance of life, all things and also with the creator.

- **Honesty:** To walk through life with integrity is to know honesty. Be honest with yourself. Recognize and accept who you are. Accept and use the gifts you have been given. Do not seek to deceive yourself or others.

- **Courage:** To face life with courage is to know bravery. Find your inner strength to face the difficulties of life and the courage to be yourself. Defend what you believe in and what is right for your community, family and self. Make positive choices and have conviction in your decisions. Face your fears to allow yourself to life your life.

- **Wisdom:** To cherish knowledge is wisdom. Use your inherent gifts wisely and live your life by them. Recognize your differences and those of others in a kind and respectful way. Continuously observe the life of all things around you. Listen with clarity of a sound mind. Respect your own limitations and those of all of your surroundings. Allow yourself to learn and live by your wisdom.

Annex B - OCAP® Principles

As defined by the First Nations Information Governance Centre, the First Nations principles of OCAP® are a set of standards that establish how First Nations data should be collected, protected, used, or shared. They are the de facto standard for how to conduct research with First Nations. Standing for ownership, control, access and possession, OCAP® asserts that First Nations have control over data collection processes in their communities, and that they own and control how this information can be used. There are four components of OCAP®: Ownership, Control, Access and Possession.

Ownership refers to the relationship of First Nations to their cultural knowledge, data, and information. This principle states that a community or group owns information collectively in the same way that an individual owns his or her personal information.

Control affirms that First Nations, their communities, and representative bodies are within their rights in seeking to control over all aspects of research and information management processes that impact them. First Nations control of research can include all stages of a particular research project-from start to finish. The principle extends to the control of resources and review processes, the planning process, management of the information and so on.

Access refers to the fact that First Nations must have access to information and data about themselves and their communities regardless of where it is held. The principle of access also refers to the right of First Nations communities and organizations to manage and make decisions regarding access to their collective information. This may be achieved, in practice, through standardized, formal protocols.

Possession While ownership identifies the relationship between a people and their information in principle, possession or stewardship is more concrete: it refers to the physical control of data. Possession is the mechanism by which ownership can be asserted and protected.

[i] Krishna Pendakur and Ravi Pendakur. An Analysis of the Socio-economic Outcomes of Aboriginal Peoples living in Communities Associated with Self-Government Agreements, 1991-2011. Section 4 pp. 23 (2015).

[ii] Krishna Pendakur and Ravi Pendakur. An Analysis of the Socio-economic Outcomes of Aboriginal Peoples living in Communities Associated with Self-Government Agreements, 1991-2011. Section 4 pp. 18 (2015).

[iii] Indigenous and Northern Affairs Canada. Evaluation of the Miawpukek First Nation Grant Agreement. Section 4.3, pp. 15 (2011).

[iv] Alberta Health Services and The Alberta First Nations Information Governance Centre, First Nations – Health Trends Alberta, (2016).

[v] Statistics Canada, Tabulation of data related to Aboriginal peoples – Census 2016, Statistics Canada catalogue number 98-400-X2016171, (2018).

[vi] The contribution of Aboriginal People to Future Labour Force Growth in Canada, Centre for the Study of Living Standards, Drummond and Sharpe, (2017).

[vii] Highlights from the Report of the Royal Commission on Aboriginal Peoples, 2015, Volume 5, Section 2.3.

[viii] Statistics Canada Tables 17-10-0005-01, 10-10-0024-01 and 10-10-0005-01. Calculated as total general public services costs less public debt transactions and foreign economic aid.

[ix] Royal Commission on Aboriginal Peoples. Report of the Royal Commission on Aboriginal Peoples. Volume 3: Gathering Strength. Chapter 5 pp. 4 (1997).