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René Dussault

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[Aller au sommaire du numéro](#)

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Indigenous Peoples and Child Welfare: The Path to Reconciliation*

Mr. Justice René Dussault
Quebec Court of Appeal
Former Co-Chair of the Royal Commission on Aboriginal Peoples

* This article is based on a key note presentation given by Mr. Justice René Dussault at the Reconciliation Conference on Child Welfare at Niagara Falls in November 2005. The original presentation can be found at http://www.reconciliationmovement.org/docs/Dussault_Oct2005.pdf.

I am pleased and deeply honoured to have the opportunity to address the issue of reconciliation in child welfare and to have this presentation published in this issue of the First Peoples Child & Family Review.

From 1991 to 1996, I had the privilege of being Co-Chair of the Royal Commission on Aboriginal Peoples, along with Georges Erasmus, a Dene from the Northwest Territories. As many may recall, the Commission was made up of four Aboriginal and three non-Aboriginal Commissioners and was given an unprecedented mandate.

Commissioners were asked to look at virtually every aspect of the lives of the First Nations, Inuit and Métis peoples of Canada in the North as well as in cities: their history, the way they are governed, their land claims, their treaties, their economy, their cultures, their education, their health, their living conditions, their relationship with the justice system, the state of their languages and more generally, their situation in Canada relative to that of non-Aboriginal Canadians.

The task assigned to our Commission by the Government of Canada was in fact no less than recommending ways to rectify the errors made when Confederation came about in 1867 and, for the first time, make Aboriginal peoples true partners in this great undertaking. That meant recommending ways to lift up the apparatus of colonization that had been imposed upon Aboriginal peoples during the last 150 years and suggesting principles and structures upon and around which to restructure their relationship with Canada.

Indeed, at the time of Confederation, it was generally assumed that Aboriginal peoples would disappear as distinctive peoples and, despite the treaties that were in place at that time, they were, without consultation, assigned to the exclusive jurisdiction of the Parliament of Canada (s.91(2w4)). It apparently struck no one as strange and possibly even improper, to hand over control of a whole people to a branch of the new federal government. Some of the worst features of colonization ensued.

Aboriginal peoples' traditional governments were disrupted, generations of children were forced into residential schools or given up for adoption outside their cultures, scores of communities were relocated, land that had been set apart in treaties was taken away and a system of welfare replaced any effort to permit them access to any self-reliant economic base.

Rest assured that I don't intend to delve into the technical aspects of the 444 recommendations of our 35,000 page final report. Given the overall goal of the Reconciliation Conference, which is to discuss

Questions or correspondence concerning this article may be addressed to:

rdussault@judex.qc.ca

the ways and means to achieve reconciliation in child welfare so that the rights of Indigenous children, families and Nations are supported, and not impaired, by the child welfare system, I think it is more appropriate to address what I call the “soul” of our report and share with you some of the cross-cultural challenges I personally had to face in fulfilling my mandate as Co-Chair of the Royal Commission.

You might find strange, at first glance, that I talk about the “soul” of our report. What I want to convey here is that our report addresses the fundamental covenant relationship between Canada and the Aboriginal peoples which is a central facet of Canada’s heritage. It proposes the development, with the full participation of the federal government, the provinces and the Aboriginal peoples, of a national policy of reconciliation of which we could all be proud. In that sense, our report goes to the fabric of what Canada is and could be. It may be a guide to the many ways we can begin, together, to repair the damage to the relationship and enter this millennium on a new footing of mutual recognition and respect, sharing and responsibility.

The terrible effects of the approaches of assimilation, control, intrusion and coercion on which the relationship has foundered over the last 150 years are most dramatically visible perhaps in the consequences of the residential schools and child welfare interventions that separated successive generations of Aboriginal children from their families and communities. In the case of the residential schools, it lasted from about the mid-nineteenth century until well past the mid-twentieth and, in the case of child welfare policies, it still exists in some places today.

Although the experience of growing up within these institutions was not uniformly bad for all, still they did extensive damage to:

- Feelings of self-worth,
- Family connectedness,
- The intergenerational transfer of skills and traditions, and
- The essential core of trust in and respect for others from which all people must draw in order to build loving relationships and healthy communities.

Aboriginal child welfare agencies have faced a long struggle to be able to include Aboriginal values and approaches in their operation. Children judged to

be vulnerable were routinely made wards of provincial agencies and placed in non-Aboriginal foster homes.

External agencies have been slow to understand the profound cultural differences and adjust their approaches accordingly. Fragmented services across a series of federal and provincial agencies ignored the integration that would permit a holistic approach. Some Aboriginal agencies, operating with minimal funding, untrained staff and under intense community pressure, have also failed to protect their charges. In many situations, social agencies are overwhelmed with human cost of social disruption.

No wonder the Commission recommended a much greater Aboriginal control of child welfare agencies. More particularly, it recommended that Canadian governments:

- a) acknowledge Aboriginal governments’ authority for child welfare;
- b) replace per capita allowances with block funding to encourage continuing preventative services;
- c) recognize and fund Aboriginal agencies in urban centres at levels equivalent to mainstream units.

Two themes emerged again and again in the Commission hearings: an overwhelming concern for the well-being of children and the belief that families are at the crux of personal and community healing.

Sadly, still today, a series of severe challenges place many Aboriginal children and families in jeopardy. The inability of tens of thousands of families to find meaningful work and a lifestyle that offers stability and independence puts the children of these families at high risk. Unfortunately, the abuse and the absence of parenting models that resulted from residential schools is keenly felt in subsequent generations.

How, therefore, should the work of reconciliation in child welfare proceed? I know you are well aware of the difficulties standing in the way, but your active participation shows that you are in no way deterred by the weight of the task and gives hope to many.

I readily recognize that there is no magic recipe that leads to reconciliation. Individuals should keep in mind, however, that over the past 25 years, efforts at reform, whether in political relations or social policies, have failed repeatedly to effect substantial change, because Aboriginal and government stakeholders have frequently reached an impasse on matters of principle

or perception even before practical problems could be addressed. First and foremost, reconciliation is a matter of trust.

Of course, if the process of reconciliation in child welfare was to become part of a larger process of reconciliation that addresses all the central aspects of the relationship, as there may be reasons to hope in the near future, the task would be made easier.

However, you should not underestimate the task of changing people's hearts and minds so that the majority understand the aspirations of Aboriginal peoples, accept their historical rights and strive to renew the relationship, creating a true partnership. Leadership from governments is necessary but not enough. Without mutual understanding, a renewed relationship is impossible.

Part of the answer is better information. Indeed, we were told many times during our mandate that most Canadians know little of Aboriginal life and less of Aboriginal history. Information in school curricula is limited. Media coverage is often unsatisfactory. Few governments, agencies and organizations promote awareness of Aboriginal issues among members, employees and colleagues. But information alone will not break down the walls of indifference and occasional hostility. Aboriginal and non-Aboriginal people need many more chances to meet each other and learn about one another.

In this regard, I would like to emphasize the responsibility incumbent upon each of us to contribute, through our actions and conduct, to reducing the feelings of incomprehension and distrust that, far too frequently, poison the relationship. Remaining passive and silent is not neutrality—it is support for the status quo.

Structural change will require time and can be accomplished only if governments and the public in general reject some false assumptions about Aboriginal peoples that are still very much current today.

One such assumption is that Aboriginal peoples constitute an *interest group*, one among many in a pluralistic society. They, along with the labour movement, the agricultural body, or any other groups are to be listened to respectfully, but they are not seen as having legitimate political authority, as being nations entitled to be treated as such.

Another false assumption is that Aboriginal peoples are *cultural minorities* like many others in our society, a view that negates the fact that Canada's First Peoples have ancestral and historical rights.

A third assumption is that Aboriginal peoples are *racial groups* rather than political and cultural entities, a view that negates the fact that their identity lies in their collective life, their history, ancestry, culture, values, traditions and ties to the land, rather than in their race as such.

A successful reorientation of our societies toward respect for Aboriginal autonomy and a greater participation in the mainstream institutions would enable us to move from regarding Aboriginal people as a problem to be fixed to realizing they are an asset to our countries; from being a burden to the taxpayers to being people that can contribute as full partners.

On a more personal note, I'd like to say that in accepting the Royal Commission's mandate, I knew it meant living on the border of a major cultural divide for a few years. Notwithstanding the little experience I had as Deputy Minister of Justice in dealing with Aboriginal groups in Quebec on matters like policing services, criminal prosecutions, the establishment of a circuit court in the northern part of the province or in implementing the James Bay Agreement, I knew I had everything to learn about the cultures and the ways of life of the various Aboriginal peoples living in Canada.

Later on, as I talked to Aboriginal people across Canada, I recognized the enormous diversity among them. Even though they share much, their outlook on life, their languages and spiritual beliefs differ from one another in many respects. They also differ in their life experiences depending on where they live in Canada. This diversity of Aboriginal perspectives and cultures is a reality that one must accept for the sake of a greater understanding across the cultural divide. Aboriginal people do not form a single entity or speak with one voice. It's neither convenient nor comfortable, but it can't be ignored.

It was quite a challenge for the Commission's staff to establish a successful working relationship in that they came from various walks of life—Indians, Inuit, Métis, Anglophones, Francophones—all with their own sensitivity and susceptibilities. Nor was it any different for the Commissioners, most issues

in our mandate being highly sensitive to Aboriginal people and to the Canadian public in general.

It was a fascinating voyage to the heart of History, by which I have been deeply moved.

First, I often had to face a wall of suspicion and, at times, of anger. I have even been told: "You can't be the doctor when you are the disease." Even if you know that the comment is not directed at you personally, the scope of the misunderstanding hits you in the face.

Then, I soon realized that I had to get deeply involved if I were to establish a relationship of trust. "Show me a glimpse of your soul" -- "Montrez-moi une parcelle de votre âme" told me many elders for whom reaching equality in a relationship requires from the partners that they first listen to each other and show that they share the same emotions and the same fundamental values tied up to life and to the nature of things.

This personal involvement has been conducive to the much heart-searching. Admittedly, the length of the discussion has sometimes nearly exhausted my patience. Much less however than the extent of the pain experienced in many Aboriginal communities. Despite well-intentioned efforts and the investment of significant sums, many Aboriginal people in Canada continue to live in third world conditions. It is a human problem unique in Canadian society.

In his report to the Canadian Government recommending the Commission's mandate, the late Chief Justice of Canada, the Right Honourable Brian

Dickson, expressed the hope that Aboriginal and non-Aboriginal people work together to re-establish the association of equals that once characterized the relationship between Indigenous peoples and newcomers in North America. To succeed, this partnership approach requires that partners from both sides question long-held views, put aside prejudices often inspired by ignorance and fear and accept the other in his or her difference.

With this end in view, building awareness and understanding through public education is certainly a first step. Yet knowledge alone is insufficient to change fundamental attitudes. Despite an overlay of concern, it does not take much provocation to uncover prejudiced attitudes and deeply embedded hostility among Aboriginal and non-Aboriginal people alike.

Also needed are opportunities, for meaningful interaction and commitment. A relationship among peoples is not a once-and-for-all transaction. It needs to be adjusted regularly and, from time to time, explicitly reaffirmed.

To this end, be not disturbed at being misunderstood; be disturbed at not understanding. Also keep in mind, as an Aboriginal elder once reminded me: "The substance of eloquence is that behind language, lies commitment."

Merci. Thank you.