

TRANSCRIPTION

APPROACH TO GOVERNMENT-INDIAN RELATIONSHIP

DIAND - OTTAWA July 22, 1976

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### Introduction

The principal means of concerting policies, programs and resources is to achieve an agreed policy approach. As the established authority and responsibility centre for status Indians, the Federal Government must assume part of the initiative in seeking to define the aims and shape of policies applied to Indian questions. Given the undertaking and need to consult with the Indian people concerned, this process of definition can best be accomplished through joint working arrangements with representatives of the Indian people, operating at various levels of contact. Through these arrangements the objectives, goals, priorities and methods for policy and programs alike can be worked out jointly and systematically, with emphasis on the acknowledged need for sensitivity and flexibility.

The underlying assumption of this approach is that some degree of Indian status will continue, certainly as long as it is perceived as needed both by the Government and by people recognized as "Indian" under Canadian law. The Government's relationship with the group recognized as status Indians is based on the concept of Indian identity within Canadian society rather than on separation from Canadian society or on assimilation into it.

### Policy Framework

Indian identity within Canadian society is dynamic and flexible in its expression and evolution. It partakes of the Indian concept of citizen plus but both these concepts need to be given shape and dimension in policy terms. To begin with, neither concept implies a standard formula, set of criteria, or rules of universal and uniform application to all Indian groups in the country. The co-existence of Indian communities - within Indian society and in their relation to the larger Canadian society - that are markedly different in economic potential and social condition, is an inescapable fact at present and an inevitable likelihood in the foreseeable future. The main elements of Government-Indian relationship are illustrated on the following page.

The first three elements relate mainly to policy content and emphasis, taking particular account of Indian status. The second three embrace programs that apply generally to disadvantaged Canadians, including status Indians.

The listing of main elements (which is indicative and not exhaustive) suggests areas of choice for various Indian communities and implies a range of gradations to accommodate the diversities of situation in which Indian people find themselves. It envisages that there would continue to be recognition for Indian status, treaty rights and special privileges resulting from land claims settlements. There would also be programs and services based on need because of the disadvantaged situation of many Indian communities and individuals. Within Indian communities, based on the concept of band/reserve, the widest opportunity would exist for local self-determination and control of Indian affairs. It follows from all that has been said about flexibility and sensitivity, that every Indian band in Canada would not make the same choices -- some bands might prefer to remain remote, others to join in the regional milieu where they are located.

#### Strategy

- The diversities of need, aspiration and attitude among Indians in all parts of Canada rule out a single strategy that would be universal and uniform in its application.
- The strategy, must be sensitive and flexible enough to facilitate a policy/program initiative or response that meets circumstances found in a broad spectrum of Indian communities, categorized by economic and human potential.

MAIN ELEMENTS OF GOVERNMENT-INDIAN RELATIONSHIP

Indian Identity  
within  
Canadian Society

Group  
Continuity

- Full citizenship
- Indian Act status
- Treaty rights
- Special privileges
- Reserved lands
- Local government

Political  
change

- Revised Indian Act
- NIB and affiliates funded
- NIB-Cabinet process
- Tripartite mechanisms  
in provinces
- Enlarged band powers
- Access to media
- Representation in advisory  
bodies

P  
O  
L  
I  
C  
Y

Personal  
Fulfilment

- Safeguards for Indian  
languages and other  
cultural values
- Indian group activities  
under multicultural  
program
- Special assistance for  
education/training
- Local self-determination
- Transitional services to  
facilitate mobility
- Hunting/fishing safeguards

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Social  
Equity

- Social services on and  
off reserves
- Federally assisted  
education
- Preference in employment
- Joint housing approach  
with deep subsidy
- Assured access to  
provincial programs and  
services off-reserves

Environ-  
mental  
Concerns

- Environmental protection  
for Indian lands
- Involvement in environ-  
mental protection and  
planning
- Employment in national  
parks, tourism, game  
control

P  
R  
O  
G  
R  
A  
M

Economic  
Strength

- Reserve lands and other  
band assets
- Proceeds from claims  
settlement (package)
- Economic development  
assistance
- Special counselling/  
training
- Contract preferences
- Tax privileges for  
reserve lands

- The strategy to be applied in any given location or set of circumstances must derive from consultations with the Indian group directly affected and would involve agreement on objectives, goal-setting and shared responsibility for implementation, at appropriate levels of relationship.

#### Processes

In the past two years, a system of joint working arrangements at various levels, involving the Government and representatives of status Indians, has been emerging. The institutions that are taking shape at each level need to be defined as to role and mandate, along the following lines:

- i) At the national level, the Joint NIB-Cabinet Committee has been established. As agreed, the Joint Committee should concern itself with major policy issues that emerge in the course of the Government-Indian relationship. These issues, which can be proposed by either side, constitute the agenda of the Joint-Committee and become the subject of detailed consideration by Joint Working Groups established for that purpose. To expedite and facilitate the whole process, the Joint Committee has established (a) a Joint Sub-Committee of three Ministers and three Indian leaders, and (b) a Canadian Indian Rights Commission. In addition, there are joint working groups on specific subjects (e.g. housing, economic development) whose work so far has not required the consideration of the Joint Committee. The objective of the Joint Committee process is to enable the Government and Indian leaders to work cooperatively toward the betterment of the Indian people through joint deliberation at the policy level. (The relationships in the process are shown in Diagram I, next page).

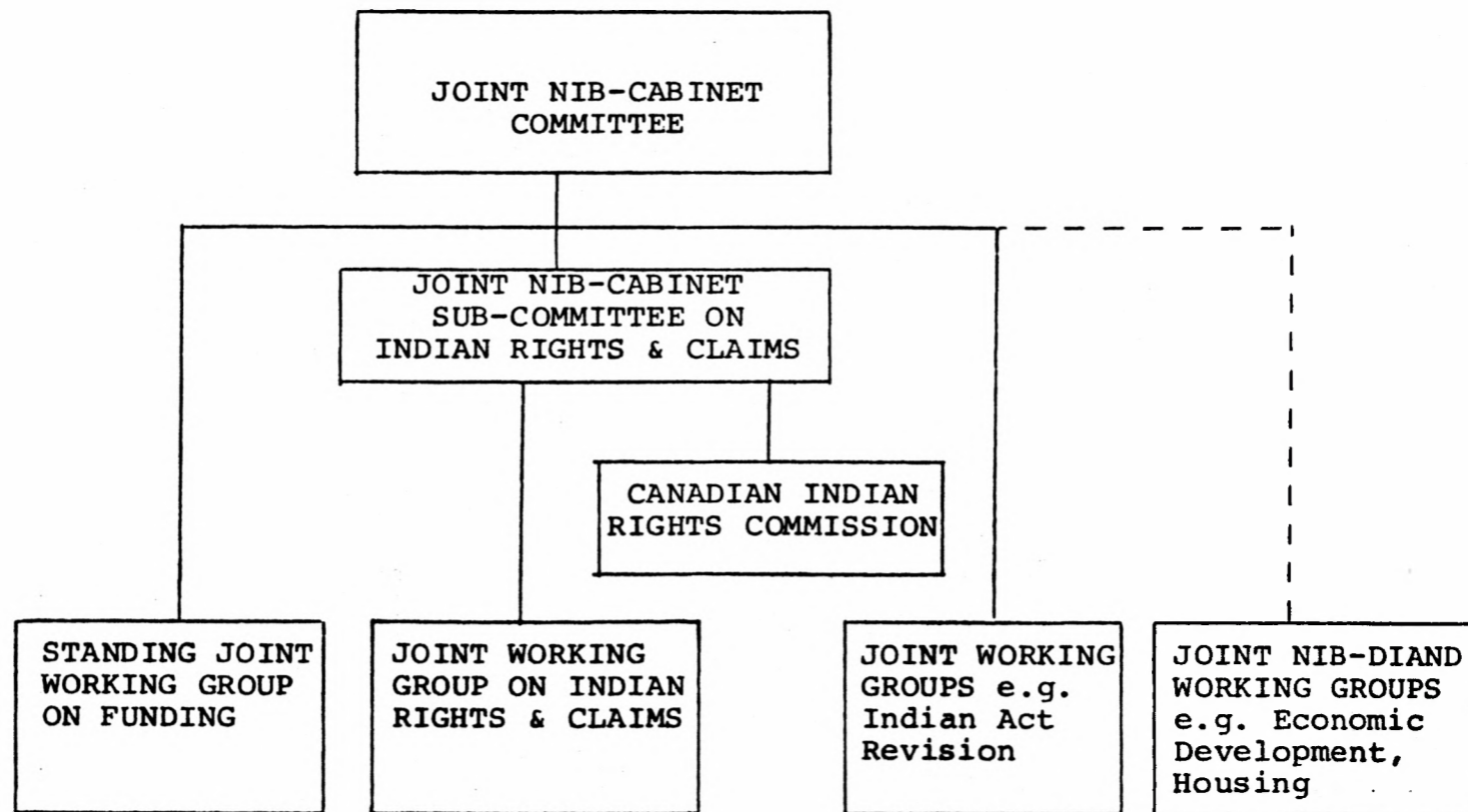
- ii) At the provincial level, tripartite arrangements do exist but in this area further thought, experimentation and action are needed to arrive at suitable arrangements to accommodate particular needs and situations in the various provinces. Involving representation from the Federal Government, the provincial government(s) concerned and the provincial association, their principal role is to give joint advice and assistance for policy/program implementation for bands in the various provinces. A key function would be to see that Federal/provincial Programs, available to Indian people, dovetailed to ensure optimum effectiveness and avoid duplication and waste. The emphasis is more likely to be on broad guidance than on program delivery and an essential requirement would be the continuing consent of the Indian bands concerned to these arrangements and to the advice emanating from them. A joint study of program management in Saskatchewan now underway with the Federation of Saskatchewan Indians, is one example of explorations in this direction.
- iii) At the band level, the process of transferring programs and resources would continue to grow at a pace determined by the capability and desire of bands concerned to assume control of their own affairs, including program delivery. The enlargement of band powers to facilitate this process would continue to be a top priority in the consideration of revisions to the Indian Act, with sufficient permissiveness to allow application of specific sections of the Act to bands wishing and able to take advantage of them. DIAND advice and support to all bands would be consistent with their development potential, their requirement for assistance and their choice as regards relationship with DIAND (e.g. as hired or seconded band officials; as consultants; as regional or district administrators). Diagram II, illustrates the transfer of responsibility to bands.

Other processes for consultation and negotiation are currently in place and they too significantly affect the relationship between the Government and the Indian people. The participation of the Treasury Board is considered whenever the consultations and negotiations referred to below occur on items that imply a disbursement of funds. For purposes of this paper they can be grouped in three main categories:

(REFER TO CHARTS ON NEXT PAGES)



JOINT NIB-CABINET COMMITTEE STRUCTURE



Indian and Eskimo Affairs Program

SUMMARY OF BAND MANAGED FUNDS 1971-72 through 1976-77

<u>Year</u>	<u>Total \$ millions</u>	<u>Operating</u>	<u>Capital</u>
71-72	34.9	30.7	4.2
72-73	47.5	39.2	8.3
73-74	72.4	57.0	15.4
74-75	96.8	74.0	22.8
75-76	Forecast 124.2	93.2	31.0
76-77	Forecast 158.0	117.5	40.5

i) Consultations and Negotiations Concerning Comprehensive Claims

These are the discussions, and more specifically the actual negotiations, that are taking place in areas where traditional Indian interest in lands - deriving from historic occupancy and use - has been lost or interfered with without adequate compensation; and has not been the subject of any Treaty nor superseded by law. The approach to settlement is based on established Government policy that agreements should be negotiated with the Indian groups concerned and incorporated in Federal legislation. The areas concerned include lands in northern Quebec, the Yukon and Northwest Territories and British Columbia. In all these areas the provincial/territorial government is directly concerned with and involved in the negotiations because the settlements envisaged call for a package of proposals including various categories of Indian lands, cash compensation, resource revenue-sharing, and Indian participation in both economic development and local government.

ii) Processes for Settling Specific Claims

Widespread discussions have been held about another broad category of Indian claims, known as specific claims, which relate to such matters as residual land entitlement under Treaties, the interpretation and administration of the Indian Act, other alleged injustices in past dealings with Indian groups. The claims relate to the Government's commitment to discharge lawful obligations and some of them may require action in the courts (many are considered to be non-justiciable). A priority concern of the Joint NIB-Cabinet Committee is to ascertain whether principles and processes can be devised for settling specific claims through various other approaches such as arbitration, conciliation, negotiation; and a supportive Canadian Indian Rights Commission is being established.

Since third-party interests are frequently involved and since these claims affect bands in most parts of the country, the claims and processes of settlement bear heavily on the relationship between Indians as a group and Canadian Society.

iii) DIAND Consultations

There are a whole range of major items (housing, Indian education, economic development, Indian community affairs, off-reserve services) that are the subject of on-going consultation/negotiation at various levels of the relationship with status Indians. Such consultations in the past have tended to lack cohesion and rationale. It is mainly to achieve order and system in the evolution and administration of these major programs of DIAND that this Memorandum gives primary attention to the organization of the Indian/Government relationship at various levels and to refining the DIAND mandate to accord with needs and activities at those levels.

The DIAND mandate would continue to be re-shaped to serve the requirements of policy and strategy outlined in the preceding paragraphs. DIAND would serve as a source of ideas, initiatives and improvements in policies and programs, proposed from the Government side at appropriate levels. It would consult with departments and agencies concerned about the co-ordination of federal programs affecting Indians and those involving Federal-Provincial cooperation. It would provide information and other assistance to Indian groups advancing claims. It would discharge managerial responsibility on the Government side for the financial and administrative support required by policies, strategies and programs affecting the Government - Indian relationship.

Interdepartmental machinery at senior level is needed to coordinate the Federal effort to improve the relationship with the Indian people, along the lines indicated. The NIB-Cabinet process involves continuing participation of six to twelve Ministers whose responsibilities embrace programs of actual or potential benefit to the status Indians. Some of the Departments (but not all) are currently involved in the joint working groups already established under the NIB-Cabinet Committee (notably Justice, Treasury Board, Secretary of State and DIAND); and in other consultations about particular projects such as housing (CMHC), economic development (DREE) and native employment (M&I, PSC). Additional joint working groups will be needed as the process extends to new areas of concern. The key to interdepartmental consultation and coordination of the policies and activities of departments and agencies with programs concerning Indians, may be to establish an interdepartmental committee, but for the moment interdepartmental working arrangements should be linked firmly to the NIB-Cabinet process. The nucleus would be drawn from those departments whose Ministers are in regular attendance at meetings of the NIB-Cabinet Committee. Corresponding coordinative bodies will be needed at regional level as Government-Indian mechanisms evolve there.

#### Sources of Funding

For carrying out Indian policies and programs, the following funding sources should be fully explored to see whether and how greater effectiveness can be achieved in the pursuit of jointly agreed objectives:

- i) Direct support for special programs and services, e.g. DIAND, NHW
- ii) Resources available to Indians from programs of general application, both Federal and provincial
- iii) Proceeds from claims settlement
- iv) Indian land and other band assets
- v) Core-funding of Indian associations and organizations including bands.

Greater benefits should result from systematic joint planning and cost-sharing arrangements of various kinds. As long as the Indian groups concerned were directly involved in the planning and broad management, through the various joint working arrangements, there is every reason to assure that greater program effectiveness would result. At the same time the relationship between the Government and the Indians would improve through this practice of cooperation.

#### Assessment of the Approach

The essence of this approach is joint participation at all levels of contact between Government and Indian representatives. It gives solid substance to the Government-Indian relationship in five significant ways:

- i) It affords a distinct and relevant role to Indian leaders within their own sphere of influence and competence; and at the same time enables Government managers to see more clearly and more fully appreciate their respective responsibilities, role and mandate in the course of dialogue and joint enterprise with Indian counterparts. The more representative the Indian leadership the more effective their contribution will be.
  
- ii) It affords real opportunities for exercising freedom of choice by the Indian leaders and groups directly affected by such choice. Choices exist on major questions at the national level in the consultative process under the NIB-Cabinet Committee process, even more apparently at band level in the face of clearly differing situations found there. All such choices would emerge from joint consideration of alternatives.
  
- iii) It promotes sensitivity and flexibility of response to needs and aspirations at the various levels; where objectives, goals, priorities and courses of action can be set by the leaders and in the areas directly affected. Their knowledge and experience

of local situations, problems and people can be effectively blended with the know-how, advice and resources (including services) available from whatever government source.

- iv) It encourages and strengthens a sense of responsibility and accountability on both sides of the relationship; and an opportunity to refine that sense into solid and effective management practices.
  
- v) It helps to give reality to the promise of participation, to build the self-confidence and self-reliance of Indian leaders at all levels, and generally to yield psychological benefits to the Indian people that could be as important to them as the substantive achievements flowing from the process.

Finally, it permits consensus to develop at all levels and at a pace consistent with perceived need. Through communication, and the evolution of policy at the higher levels, such consensus as may be reached at band level can be strengthened and broadened - accepting always that universality and uniformity in Indian affairs are probably no more desirable than they are attainable. At the same time, as the consensus evolves among Indians, it can spread among and within the ranks of Government representatives dealing with the Indians directly affected by it, at the various levels and from level to level.

Foreseeable disadvantages of the approach proposed are:

- It could lead to lengthy and diffused discussions resulting from a whole range of causes but principally perhaps because people on both sides were unfamiliar with the process, distrustful of it and certain participants, and generally skeptical.

- It could founder on rivalries that exist among Indian leaders and groups - and are not unknown in interdepartmental circles.
- It could degenerate into perfunctory meetings staged mainly for short-term political gains on both sides.
- It could, if a tight rein were not held firmly, lead to increasing demands for more money to mount bigger and better meetings.
- It could lead to expectations and demands from other native groups, notably Métis and non-status Indians, for corresponding treatment. In the case of the Inuit, their relationship and treatment in future is likely to be found in arrangements reached in the agreement on land claims settlements.

#### Financial Implications

The main thrusts of this approach do not call for any major new expenditures for programs affecting status Indians although it is recognized that additional costs may result from more vigorous consultation processes. The basic aim of the policy and strategy proposed is to get greater effectiveness from programs now in place through agreed commitment to program objectives, through more efficient application of resources, and through joint planning of programs for implementing agreed policies. This paper is prepared in full awareness of the galloping inflation in costs for Indian programs and of the continuing need for restraint in government spending.

Federal Government expenditures for Indian-oriented policy and programs are likely to be heavy for some time to come. Some indication of the magnitude is suggested by principal items: the Indian affairs budget; the major costs for claims settlements foreseen; Indian housing prospects including the needed catch-up



during the next five years; the core-funding of the National Indian Brotherhood and affiliated associations; claims research funding and related claims activity. Other Federal departments and agencies also commit substantial resources to programs for natives, although the proportion devoted to status Indians cannot always be identified precisely.

Federal-Provincial and Territorial Relations

The provinces are increasingly affected by Indian relationships with the Federal Government and this has produced some strain between Federal and provincial authorities at senior levels. The main issues stem from land claims, including residual land entitlement under treaties.

The provincial tendency to portray status Indians as the sole responsibility of the Federal Government - for example in not fulfilling Canada Assistance Plan agreements - adds to the friction between the two levels of government. Some provincial policies and programs that directly affect the rights of status Indians and their lands have been pursued without consultation, or with only token consultation involving Indian representatives. There is, however, increasing recognition by provinces and acceptance by Indians, that provincial governments have a legitimate interest and share in dealing with Indian problems.

Public disturbance resulting from Indian unrest, office occupation and other obstructions have been a further source of irritation in Federal-Provincial relations, e.g. Kenora. Some provincial governments have been slow to recognize that their stake in achieving peaceful relationships with Indian groups ranks with that of the Federal Government.

The same kind of situation prevails in both the Yukon and Northwest Territories with effects that are more acute. Ethnic tensions are running high in both Territories, mainly because of land claims and associated assertions about native rights. The problems of relationship are made more complex and potentially more serious than those in the South because native people form a much higher proportion of the population than in any other part of Canada - in the Northwest Territories the Indian, Inuit and Métis people outnumber the white population at the present time. Conscious of this unique situation, the native associations in both Territories are seeking special arrangements and institutions for local government that will serve to entrench their position. The Inuit land claim calls for the creation of a new territory North of the tree-line, with important federal-territorial implications that need only be flaggel here.

#### Conclusions

In many ways this paper is a summary statement of conclusions about the Government-Indian relationship: about what it is at the present time; about where it appears to be heading; and about how it can be developed in future. Some of these conclusions are quite solidly based in experiences of the past five years, others are tentative, even debatable. A conscious effort has been made to present them in a way that emphasizes their significance in relation to each other and in terms of their possible impact on the relationship in future.

It is no accident that the emphasis in the approach is on processes. To begin with, it is abundantly clear that in the practical workings of this difficult relationship, involving two societies deeply divided by cultural differences and a long history of conflict, process can be very important, perhaps paramount. If the paternalism of the past is to give way to real partnership, requiring full commitment and cooperation from all its participants, the Indians must be satisfied above all that they are participating with some sense of equality.

The road to their self-reliance lies somewhere along those processes of joint participation, now being practised, proposed and explored in depth. It is a learning process for all concerned and one that may have lessons for wider application in contemporary government.

It follows that most of the substantive policy (and ultimately program) developments lie beneath the surface of the large and uneven profile of the Government-Indian relationship. They can and must be uncovered through joint exploration and experiments at the various levels of contact and communication.

These processes of participation are modular not hierarchical, decentralized rather than uniform, top-down and bottoms-up at the same time and in different ways. This paper seeks to show how they all relate, without trying to draw them too tightly together, with what could only be premature and probably counter-productive prejudgments.

This paper begins as a response to a government request for a composite report on the relationship. It is intended as well to assist individual Departments in assessing the Government's and their own responsibility, role and contribution for improving the situation and the Government-Indian relationship. It is neither a blueprint nor a prophecy for success. But it is an honest effort to get greater effectiveness out of tight resources, through processes or working with, rather than against, organized, Indian leadership, wherever it is located.