
11 Is evaluation a tool for social justice? Reconciliation? Control? — Reflections on the Canadian experience in Indigenous affairs

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Abstract

Relations between Canadian public governments and Indigenous peoples are complex. First Nations, Inuit and Métis are all constitutionally recognised, but each of these major constitutional groups has a distinct relationship with the Crown (and federal, provincial, territorial and municipal governments in right of the Crown). This history includes a particular history of policy and program development, delivery and evaluation. In addition, there are programs of general application that affect First Nations, Inuit and Métis as they do other citizens of Canada; programs that are available to all of the constitutional Aboriginal groups; and programs that are particular to each. It is difficult to generalise about the usefulness of evaluations across all these situations. Instead, my paper offers a general description of how the evaluation function is organised, and some good and bad examples of how policy and program evaluation has been used in Canada, in historical context and in the light of an overview of the specific political, economic and social circumstances that the programs are meant to address.

11.1 Introduction

Indigenous people in Canada have distinctive constitutional rights and a special relationship with both the state and the rest of Canadian society. Each nation and people has its own language, culture and history. In many cases, Indigenous people receive programs and services from branches of the state that are different from those that serve other Canadians. Thus, while there is a high and growing degree of

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residential integration, economic collaboration and intermarriage, in some senses Indigenous people still live in a country apart. This paper begins with an explanation of this situation, then provides some basic information about Indigenous peoples' socioeconomic position with some historical context. With this information in hand, it considers how well or how poorly they have been served by policy and program evaluation as this is practised in Canada.

For reasons of space, simplification is necessary. I discuss program evaluation as it is practised in one department with major responsibilities for Indigenous people (the federal Department of Aboriginal Affairs and Northern Development). The next section considers the external audit function as it is interpreted and practised by the Office of the Auditor-General of Canada, since the mandate of this office leads to public reports that have implications for matters other than fiscal probity. Finally, I will describe and comment on the ways in which *policy* evaluation has contributed to changes in relations between Indigenous peoples and the rest of Canadian society, focusing primarily on the 1992–96 Royal Commission on Aboriginal Peoples (RCAP). All of this discussion recognises that program and policy evaluation has had a role to play in Indigenous peoples' decades long struggles for social justice and for a suitable practical relationship with the Crown and Canadian society.

11.2 Who are the Indigenous people of Canada?

Before European settlement in the seventeenth century, the lands and waters now called Canada were home to between 40 and 60 Indigenous nations and peoples.² One Indigenous people, the Beothuk, were entirely annihilated by European settler diseases and violence, but all of the other nations and peoples survive. They are the Dene, Haida, Inuit, Cree, Innu, Mohawk, Siksika, among many others. Each group shares a common language, history and sense of identity. Original (pre-contact) political systems and regimes of territorial control varied considerably, involving both large and small mainly sedentary semiagricultural societies, as well as variously organised band societies living primarily from hunting, fishing and gathering. There were both maritime and land-based peoples and substantial transcontinental trading networks. Political forms were correspondingly diverse,

² RCAP 1996, *Volume 1* offers an extended discussion of these matters. I use the phrase 'nations and peoples' to respect the choices of Indigenous collectivities in Canada today, who have chosen one or the other of these English expressions to describe themselves. The terms have of course different implications and connotations in international and domestic law. I follow the usage of the RCAP in considering these terms to be primarily political and sociological, rather than ethnic, designations.

including various forms of hierarchical societies, directly democratic band societies, federations and other forms of alliances.

Contemporary political forms do not match the original nations and peoples and their territories. With contact came substantial displacement, disorganisation and reorganisation, so that today Indigenous political organisation is complex indeed. It is important to understand something of this complexity, because the constitutional and political organisation of Indigenous people in Canada affects their eligibility for programs and services and, of course, many other aspects of their daily lives.

Today fewer than 5 per cent of the Canadian population are Indigenous people. Just over half of them live in Canadian cities, and fewer than a quarter live on ‘reserves’ — lands set aside for First Nations under the treaties. Geographic distribution is relevant as well. Canada shares with Australia an extremely uneven population distribution and a high degree of concentration. Most of the Canadian population lives within 500 kilometres of the border with the United States. In that southern band of territory, Indigenous people are a small minority. In the northern two-thirds of the country, however, the demographic situation, and the political dynamics, are different: Indigenous people are the majority or a large minority in every northern region. For example, considering just the three northern territories, Indigenous people are one-quarter of the population of Yukon, half the population of the Northwest Territories, and 85 per cent of the population of Nunavut.

Constitutional status and representation

Section 35 of the *Constitution Act 1982* identifies three groups of Indigenous peoples: ‘the Indian, Inuit and Métis peoples of Canada’.³ These large categories reflect the Canada-wide groupings that formed during the great rising of the Indigenous rights movement that began in Canada, as in Australia and New Zealand, in the years after the Second World War. The categories also correspond to Canada-wide Indigenous advocacy organisations. The first constitutional group, there termed ‘Indian’ (famously a European misnomer resulting from geographical

³ In this paper I use the common international term ‘Indigenous’. This term is used in Canada, but more frequently the synonym ‘Aboriginal’ appears, especially in official government documents. The full clause of the Constitution Act reads:

35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed. (2) In this Act, ‘Aboriginal Peoples of Canada’ includes the Indian, Inuit and Métis peoples of Canada. (3) For greater certainty, in subsection (1) ‘treaty rights’ includes rights that now exist by way of land claims agreements or may be so acquired. (4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.

confusion) include some who refer to themselves now as First Nations and most are represented by the Assembly of First Nations. As the name of this organisation suggests, members are drawn from many historic nations and peoples. Many but not all are descendents of peoples who negotiated the historic treaties with European emissaries; many but not all are subject to an oppressive piece of race-based legislation called the Indian Act. Status under the Indian Act has a number of important implications for public service, with the federal government assuming responsibility for health, social programs, education, and several other matters that are for Canadians as a whole exclusive provincial responsibilities.⁴

The second constitutionally recognised group are Inuit, formerly known as Eskimos, who live in the Arctic regions of Canada in four provinces and territories: Quebec, Newfoundland and Labrador, Nunavut and the Northwest Territories. The Inuit territories in Canada are collectively known as Inuit Nunangat. Inuit were never subject to the terms of the Indian Act, but since a 1936 Supreme Court reference they have had a formal collective relationship with the federal government. The federal government has responsibility for delivery of many province-like services to Inuit, though these tend to be organised differently from programs for First Nations. Inuit are represented at the federal level by Inuit Tapiriit Kanatami, a federation of regional organisations.

Métis are a distinct people descended from early nineteenth century marriages among Indigenous peoples in the western prairies and migrants from, mainly, Scotland and France. They have a common heritage and language (Michif), and now live in all parts of Canada. Métis were never subject to the Indian Act and have had on the whole the least intimate collective relationship with the Crown and governments in right of the Crown. The peak organisation representing Métis is called the Métis National Council.

There is also a fourth national representative organisation, the Congress of Aboriginal Peoples, which aims to represent Off-Reserve, Non-Status and Status Indians, Southern Inuit and Métis Aboriginal Peoples living in urban, rural remote and isolated areas throughout Canada.

Although each constitutional group, women and men, is represented by a Canada-wide advocacy organisation, there are in addition two Canada-wide women's

⁴ See Abele 2007. In this report, the Royal Commission on Aboriginal Peoples is quoted:

Today the Indian Act is the repository of the struggle between Indian peoples and colonial and later Canadian policy-makers for control of Indian peoples' destiny within Canada. The marks of that struggle can be seen in almost every one of its provisions. (*RCAP 1996, Final Report*, vol. 1, ch. 9, p. 258.)

organisations, the Native Women's Association of Canada and Pauktuutit — the Inuit Women's Association.

Although there is some representative overlap, in practice each organisation has a clear constituency with some competition for funding but minimal competition for members, who are free to select the organisation with which they affiliate.

Treaties, status under the Indian Act, and evaluability

Three periods of treaty-making in Canada, and a mid-twentieth century hiatus, have created substantial variety in the relationships between Indigenous peoples and the Crown. The first treaties were negotiated by peoples living in the eastern part of Canada with British and French authorities before the formation of Canada in 1867. In the eyes of the Indigenous signatories, these were 'peace and friendship' treaties, a means of avoiding conflict and establishing diplomatic relations. After Confederation in 1867, the Dominion government (now referred to as the federal government) began negotiating the so-called 'numbered' treaties (numbered 1 through 11) to secure control of Indigenous territory for settlement and development of the new country of Canada. Given the timing and the violent 'Indian wars' that had been waged and continued to be waged in the United States during the nineteenth century, it is fair to say that Canadian treaty-making was orderly and, while certainly coercive, relatively non-violent. This has resulted in treaties that are held to be legitimate by the Indigenous parties, even while they have objected to the Crown's failure to live up to the provisions. Treaty-making paused after 1923, when the weight of numbers of settlers and the successful agricultural settlement of the prairies obviated the need for it. When treaty-making was halted, a good portion of Canada remained subject to uncertain jurisdiction, though this fact was not acknowledged by Canadian governments until a key Supreme Court of Canada decision in 1972.⁵ Negotiation concerning Indigenous land rights resumed again with the advent of comprehensive claims negotiations after 1975. Since then, 16 of these claims agreements, known as modern treaties, have been negotiated.⁶

For the Indigenous parties, the treaties are fundamental constitutional documents, framing all other aspects of their collective and individual relationships with Canadian society. Successive Canadian governments have respected the treaties

⁵ *Calder v. British Columbia (Attorney General)* [1973] S.C.R. 313, [1973] 4 W.W.R. For the first time, Canadian law acknowledged that Aboriginal title to land existed prior to the colonisation. For a map showing the extent of land covered by treaty after 1923, see <http://atlas.nrcan.gc.ca/site/english/maps/historical/indiantreaties/historicaltreaties>.

⁶ A convenient summary with more background information appears at <http://www.aadnc-aandc.gc.ca/eng/1100100032291/1100100032292>.

unevenly, to say the least, and at intervals have attempted to substitute policy discretion for treaty obligation. This has led to legal action (as in the current law suit launched by the Inuit of Nunavut against the federal government for failure to comply with the terms of the 1992 Nunavut Agreement). In 1991, the Indian Specific Claims Commission was established, replaced in 2008 by the Specific Claims Tribunal. Each body was empowered to review cases brought by Indigenous parties to treaties concerning non-compliance or mismanagement of federal treaty responsibilities.⁷

For the pre-Confederation treaties and the numbered treaties, however, a key determinant of whether and what federal services will be provided is status under the Indian Act. All such federal programs are subject to internal audit and program evaluation. The modern treaties remove Indian Act jurisdiction, affirm Indigenous control of specified lands, and establish jurisdictions and service delivery responsibilities. They create positive obligations on the part of Canadian governments in right of the Crown, and on the Indigenous authorities who are parties to the treaty. Specific provisions vary substantially, too much so for a summary to suffice in a paper of this length. It is pertinent, though, that federal compliance with the terms of the modern treaties has been reviewed by the Office of the Auditor-General of Canada.

11.3 Social and economic conditions of Indigenous peoples

On the whole, social, economic and health conditions for Indigenous people in Canada are worse than those for the general population, although some measures show recent improvement. There is also a substantial gap among Indigenous groups. The bullet points below provide a snapshot; please refer to the tables in Appendix A for details and references.

- Life expectancy is lower for all groups of Indigenous people, but much worse for Inuit. For the general population in Canada, life expectancy at birth in 2017 was projected at 78.7 years for men and 83.3 years for women. The projected 2017 life expectancy figures for First Nations are 73.3 years for men and 78.4 for women. For Métis, these figures are 74.1 for men and 79.7 for women, while for Inuit, the figures are 63.9 for men and 72.9 for women.
- Suicide is a scourge, especially among young people. Suicide is approximately three times more prevalent among the general Indigenous population than among

⁷ See <http://www.aadnc-aandc.gc.ca/eng/1100100030306/1100100030307> for the official description.

the general non-Indigenous population. Among Indigenous groups, Inuit and First Nations communities are most affected. Suicide rates are five to seven times higher for First Nations youth than for non-Indigenous youth. In its recent report, Health Canada compared First Nations and Canadian suicide rates from 1989–1993 for ages 0–14 years and 15–24 years and found that the suicide rate for young First Nations men was extremely high. The suicide among First Nations men aged 15–24 years was 126 per 100,000, compared to 24 per 100,000 for Canadian men of the same age group. The rate for young First Nations women was 35 per 100,000, while it was only 5 per 100,000 for Canadian women. Suicide rates among Inuit are among the highest in the world, currently about 11 times the national average. Overwhelmingly, the people who commit suicide are young men.⁸

Although data are incomplete and there may be variance due to reporting practices, it appears that the suicide rates among Indigenous people (and the general Canadian population) are getting worse. In 1988, the overall suicide rate for Indigenous people was 40.4 per 100,000 compared with an average Canadian national rate over the 1970–1980 period of 14.1 per 100,000.

- Other forms of violence affect Indigenous people disproportionately. In 2009, about 37 per cent of Indigenous people aged 15 and over living in the provinces reported having been a victim of at least one offence. In comparison, 26 per cent of non-Indigenous people reported having been victimised over the same period. Indigenous people are also more likely than non-Indigenous people to be the victim of non-spousal violence (12 per cent compared to 5 per cent). Indigenous people were much more likely to report being a victim of spousal violence: 10 per cent for Indigenous people compared to 6 per cent for non-Indigenous people.
- There are pronounced regional differences. For example, in 2000-01, northern Indigenous people were more likely than southern Indigenous people to be obese, to smoke daily and to have infrequent physical activity but they were less likely to report a number of chronic health conditions.
- School attendance and educational attainment is improving for some groups. In the early 1960s, only 4 per cent of on-reserve Indian students remained in school through Grade 12. By the 1990s, the proportion of on-reserve children who remained in school had increased to close to 54 per cent. In 1986, about 26 per cent of the off-reserve Aboriginal people had less than Grade 12, compared to 18 per cent of non-Aboriginal people. For the on-reserve population, this was 44.7 per cent. For the same period, the proportion of the general population with a university degree ranged from 6 per cent to 11 per cent in urban areas, while for

⁸ See Hicks 2009 for an extended discussion.

Aboriginal people the proportion was less than 3 per cent. In 1986, only 20 per cent of Inuit had completed secondary school and 54 per cent had less than Grade 9 education.

- Labour force participation and employment is lower for all groups of Indigenous people, but the gap is narrowing. For Indigenous people as a whole, labour force participation increased from 57 per cent in 1991 to 63 per cent in 2006, while for the labour force as a whole participation declined over this period by about 1 point. There was a more striking change in unemployment rates. For all Indigenous groups, the unemployment rate was 24 per cent in 1991, dropping to 14 per cent in 2006; for all Canadians in the labour force, the rate declined from 10 per cent to 6 per cent during the same period. The gap in employment income, however, increased slightly, from \$10 070 in 2001 to \$11 563 in 2006.

11.4 The end of high politics, evaluation and the neo-liberal turn

The broad and nearly global ideological change referred to as ‘the neo-liberal turn’ has had important consequences in Canada for governance, and thus for policy and program evaluation, in Indigenous affairs as in many other areas. Most obviously, the shift in governance practices changed the manner in which services were delivered and legitimised new practices associated with accountability for the expenditure of public funds.⁹

In Canada, as in Australia and New Zealand, the years immediately after the Second World War brought many changes to relations between Indigenous peoples and the rest of their societies. There were revisions to the Indian Act (1951 and 1985), decoupling of the federal franchise from Indian status (1960), the decisive defeat of the assimilationist perspective on Aboriginal–Canada relations expressed in the White Paper of 1969, evolutions in jurisprudence and policy mandating the comprehensive claims negotiation process (beginning in 1973), gradual efforts to redress Crown treaty violations through the specific claims process (1982 and subsequently), constitutional recognition of ‘existing aboriginal and treaty rights’ (1982), federal recognition of the inherent right of self-government (1995), and numerous changes to policy and legislation mitigating some effects of the Indian

⁹ Use of the term ‘neo-liberalism’ to refer to the global changes towards markets and away from Keynesian economic solutions, along with a broad basket of changes to arrangements for social provision, has been rightly criticised as too vague and heterogeneous a category to be useful. My meaning here is a relatively narrow one, as described above, but I do mean to connect these changes to international transformations of the state–society relationship.

Act, including processes for exit from the jurisdiction of the Act.¹⁰ These changes amounted to a revolution in Indigenous–Canada relations. They represent major achievements of the multifaceted Indigenous movement that began to be organised after the Second World War. This movement faced many barriers, but it also found popular support in changes in elite and public opinion in Canada growing out of the global revulsion against race-based policies and ethnic discrimination following the horrors of the war.

The period between the mid-1970s and early 1990s has been called the period of ‘high politics’ in Indigenous affairs in Canada (Abele and Graham 1989). These years were marked by a shift in federal policy that recognised Indigenous land rights and a role for Indigenous advocacy organisations. For several years, these peak organisations were involved with federal and provincial executive authorities in high-level constitutional negotiations leading up to the patriation of the Canadian Constitution in 1982. The momentum carried forward for another 10 years until finally, with the collapse of one last attempt to amend the Constitution Act in 1992, peak negotiations between Indigenous leaders and Canadian politicians ended.¹¹ The 1992–96 Royal Commission on Aboriginal Peoples, a massive policy evaluation initiative, was one consequence of this sequence of events. It will be discussed below.

Below the level of high politics, other changes were underway. Starting in the 1950s, Indigenous people began moving from the countryside to the cities, leaving reserves and their traditional territories. The result is that now over half the Aboriginal population live in small and large Canadian cities. This demographic

¹⁰ Summaries appear in Ponting, R. and Gibbins, R. 1980, *Out of Irrelevance: A Socio-Political Introduction to Indian Affairs in Canada*, Butterworths, Toronto; Abele, F. 1996, ‘Understanding what happened here: the political economy of Indigenous Peoples’, in Clement, W. (ed.), *Understanding Canada: Building on the New Political Economy*, McGill-Queen’s University Press, Kingston and Montreal, p. 118; Abele, F., Graham, K. and Maslove, A. 1999, ‘Negotiating Canada: thirty years of change in Aboriginal policy’, in Pal, L. (ed.), *How Ottawa Spends 1999-2000*, Oxford University Press, Toronto, p. 251; Murphy, M. 2005, ‘Relational self-determination and federal reform’, in Murphy, M. (ed.), *Canada: The State of the Federation 2003: Reconfiguring Aboriginal-State Relations*, McGill-Queen’s University Press, Kingston and Montreal, p. 3.

¹¹ Sec. 35 of the Constitution Act (1982) entrenched ‘existing aboriginal and treaty rights’. Section 35 has shaped subsequent jurisprudence and has led to major changes in public policy, notably the formal recognition in federal policy of Aboriginal peoples’ inherent right to self-government. The patriated constitution also mandated, in Section 37, a series of First Ministers’ Conferences on Aboriginal Constitutional Matters to define the practical meaning of ‘existing aboriginal and treaty rights’. These conferences concluded in 1987 with no consensus on this key point, and subsequently the Charlottetown Accord failed in a Canada-wide referendum in 1992. The Accord would have transformed the federation, among other things reserving a seat at the table of executive federalism for Aboriginal people.

change began to have pronounced effect just as a major sea change, often referred to as the ‘neo-liberal turn’, in Canadian politics began.

Although changes in governance began to be talked about in the 1980s, major neo-liberal changes began in Canada in 1993 under the Liberal government then led by Jean Chrétien. The changes have accelerated and deepened under successive Conservative governments led by Prime Minister Stephen Harper since 2006.¹² In the early 1990s, Jean Chrétien and his Minister of Finance, Paul Martin, confronted a large public debt and a growing annual deficit, as well as increasingly uneasy international lenders. They developed a coordinated approach that ultimately transformed federal shared-cost programs in the areas of health and education (to limit previously very flexible federal financial commitments) and initiated a program review that led to the transfer of programs and responsibilities to other orders of government and to non-governmental organisations.¹³ These changes were accompanied by the introduction of new protocols for public service, more direct contact between public servants and the public, and support for innovation.¹⁴ For Indigenous people, the focus on partnership, downloading, and contracting out created an opportunity. They began to form service delivery organisations that they were able to design, staff and control, taking over services that had previously been administered by federal departments.

Over nearly a decade, these organisations developed and grew, gradually creating a service provision sector largely outside of government. Though the organisations were subject to federal control through reporting requirements and evaluations, as they developed both experience and established constituencies, these became somewhat routinised. Some of the organisations developed strong capacities for providing policy advice. Others developed ambitious programs of research and community development. The 1990s Liberal version of the neo-liberal turn in Canada had what many saw as negative effects, such as decreased levels of social

¹² See Greenspon, E. and Wilson-Smith, A. 1996, *Double Vision: The Inside Story of the Liberals in Power*, Doubleday, Toronto; Maslove, A. 1996, ‘The Canada health and social transfer: forcing issues’, in Swimmer, G. (ed.), *How Ottawa Spends 1996–97: Life Under the Knife*, Carleton University Press, Ottawa; Maslove, A. and Moore, K. 1997, ‘From red books to blue books: repairing Ottawa’s fiscal house’, in Swimmer, G. (ed.), *How Ottawa Spends 1997–98: Seeing Red: A Liberal Report Card*, Carleton University Press, Ottawa; Macdonald, Mark R. 2000, ‘Re-learning our ABCs? the new governance of Aboriginal economic development’, in Pal, Leslie A. (ed.), *How Ottawa Spends 2000–2001: Past Imperfect, Future Tense*, Oxford University Press, Don Mills.

¹³ Discussed in more detail in Abele 2006 and Abele 2013 forthcoming. For a close contemporary analysis of the change in federal policy, see Greenspon and Wilson-Smith 1996.

¹⁴ Macdonald, *supra* note 12 provides a very clear account of what these changes meant in practice to economic development programs for Aboriginal people.

spending and increased fragmentation of the federation. Arguably, it also had some positive consequences in creating the room for the development of a new bureaucratic architecture of improved service provision, by Indigenous people, for Indigenous people.¹⁵

Another characteristic of this period has been a shift in federal thinking about social policy away from universal programs of national application and towards more place-based programming, even for programs of national reach. Although the shift to place-based social policy was to some extent an international trend, much of the impetus for this approach comes from purely Canadian circumstances, such as the sheer size and diversity of the country and the ever-present need to respond to demands from within the province of Quebec for greater provincial discretion (a matter that reached some urgency with the near success of a referendum on separation in 1995). For Indigenous peoples' programming, the place-based approach had a number of advantages, as it admitted of greater local discretion and control, particularly in such new programs as the Urban Aboriginal Strategy — a federal funding program that aimed to increase the range and effectiveness of urban Indigenous organisations in addressing problems and opportunities for Indigenous people in Canadian cities.¹⁶ The place-based approach also promises, at least, to allow for sensitivity to local circumstances and thereby to open the prospect for more useful evaluations.

Although the Urban Aboriginal Strategy has so far survived along with a formal commitment to place-based policy making, much of the new program architecture that I have been describing is in the process of being dismantled by the Conservative government that has been in power since 2006, and in a majority since 2011. It is hard to know how to label this change. Core funding has been eliminated for all of the new organisations that focused on research and analysis, such as the National Aboriginal Health Organization and the national Centre for First Nations Governance, which focused on analysis of Indigenous health issues and improving governance in First Nations communities, respectively. At the same time, specific programs built upon collaborative delivery in such areas as employment and health promotion have seen their funding cut. Accountability has become a major theme, embodied in an extremely wide-ranging piece of legislation, the 2006 Federal Accountability Act. This omnibus law changed many areas of federal activity, including the evaluation and audit functions.¹⁷ The focus of this Act is on fiscal

¹⁵ This is a subjective impression; sadly, there has not yet been a comprehensive analysis of service provision in this period. But see Abele 2004 for more detail.

¹⁶ The program is described, and its geographical reach explained, at <http://www.aadnc-aandc.gc.ca/map/ofi/uas/mps/uas-html-eng.asp>.

¹⁷ Changes in this regard are explained at <http://www.tbs-sct.gc.ca/faa-lfi/fs-fi/16/12fs-fi-eng.asp>.

probity, the responsibilities of senior officials, and internal audit, but it is also accompanied by policy authority to enable ‘the development of best practices and ensuring consistency in discipline across the core public administration, through the Deputy Ministers Advisory Committee on the Management of Compliance’.

As I write, very wide-ranging changes are being implemented in most areas of Canadian public affairs. The changes most pertinent here concern changes to various institutions devoted to collecting evidence and information necessary for policy development (such as abolition of the mandatory long form census) and to diminishing the number and changing the character of ‘third sector’ or para-public institutions, mainly but not exclusively through funding cuts.

The remainder of this paper discusses three kinds of evaluation that have been important in Indigenous administration in Canada: departmental program evaluations, the value-for-money audits of the Office of the Auditor-General, and large-scale policy evaluations undertaken by task forces and royal commissions. In each case, an example has been chosen for purposes of illustration.

11.5 Program evaluation

Program evaluation is an integral, mandatory function in all departments of the Canadian federal government. For present purposes, I have chosen to describe the function in the Department of Aboriginal Affairs and Northern Development Canada (AANDC). This is far from the only department that has responsibilities to Indigenous peoples — other important ones include Health, and Natural Resources — but AANDC is the only federal department for which Indigenous peoples’ affairs form the main focus of its mandate.

The Audit and Evaluation Sector of AANDC conducts audits, evaluations, management practices reviews or audits and other special studies of departmental programs and initiatives.¹⁸ The Department states that its goals are to ensure the appropriate use of human and financial resources, to ensure that programs and services delivered by AANDC are relevant, efficient and effective, and to ‘provide stakeholders with an evidence-based, neutral assessment of the value for money’. As many of the Department’s responsibilities have been devolved to First Nations authorities, evaluations frequently involve service providers and authorities who do their work under various forms of contract to the Department.

¹⁸ All of the factual information in this section, and all direct quotations, are drawn from the departmental website, <http://www.aadnc-aandc.gc.ca/eng/1100100011247/1100100011248>.

The mandate of AANDC derives from the Canadian Constitution, the Indian Act, the Department of Indian Affairs and Northern Development Act¹⁹, territorial acts, treaties, comprehensive claims and self-government agreements as well as various other statutes affecting Aboriginal people and the North. The mandate for the Department's audit and evaluation function, in turn, is governed by three policies:

- (1) The departmental management, resources and results structures provide the framework for the systematic collection and analysis of performance information.
- (2) The service-wide Financial Administration Act requires that there be an evaluation of all ongoing grants and contributions programs every five years.
- (3) The Directive on the Evaluation Function mandates a risk-based approach for determining methodologies, the level of effort, and the appropriate level of resources required to conduct each evaluation.

AANDC is required to develop five-year evaluation plans. Each five-year plan must be updated and approved by the Evaluation, Performance Measurement and Review Committee (EPMRC), chaired by the deputy minister. The EPMRC includes external members to ensure 'rigour and objectivity' in the oversight of AANDC audit and evaluation reports. Evaluations have been timed not only to fulfil the five-year cycle requirements, but also to provide sufficient time (six months to one year in advance of program continuation) for program managers and decisionmakers to consider evaluation findings for policy or program design renewal. To give an idea of the level of activity: there are 48 evaluations scheduled to occur between 2012-13 and 2016-17.

Evaluations are the responsibility of the Evaluation, Performance Measurement and Review Branch. Staff from this office consult with the program managers in developing terms of reference, which are approved by the program assistant deputy minister. All reports related to the evaluation are shared with the designated program contact who has responsibility for ensuring timely consultation with other program officials, including regional staff. There is an iterative process for validation and revision. A management response and action plan based on the recommendations is submitted to the Evaluation Branch for approval. Should the program be unable to accept and/or implement the recommendations, an explanation is provided in the management response and action plan with a justification provided for any alternative course of action. All this information is included in the final report, which once approved by the branch will be submitted to

¹⁹ This is the older name of the department. The name was changed to Aboriginal Affairs and Northern Development Canada in 2007, but there has been no change in legislation.

AANDC's Access to Information Privacy Unit and Communications Branch, a necessary step that must precede posting of the material on the departmental website.

There are disappointingly few independent academic studies of the evaluation function and its impact on Indigenous communities. A small but interesting literature comments on the uses of evaluation overall; a selection of this literature appears in the references section included with my report. There have been two substantial, recent studies of the impact of federal program evaluation in Indigenous communities and my comments here will rely on these.

Bradford and Chouinard examined the role of evaluation in improving the effectiveness of two large federal social policy initiatives, the Urban Aboriginal Strategy and Action for Neighbourhood Change. Each of these programs was understood to be in a sense experimental, and intended to unfold in a way that would permit 'learning by doing' in the spirit of place-based policy and program development. (Only the Urban Aboriginal Strategy was directed specifically to Indigenous people.)

Bradford and Chouinard endorse the value of evaluation in promoting collaborative learning by doing, but their conclusions from the two case studies emphasise the difficulties of realising this goal in the context of a federally funded venture. The authors see a need for evaluation frameworks 'that are philosophically consistent with a community development approach and sensitive to the incremental and longer-term nature of comprehensive community regeneration processes' (Bradford and Chouinard 2010, p. 69). This study displays very effectively the tensions that are inherent in evaluation in many contexts, between the need for control and oversight, on the one hand, and the potential for the project to contribute to community control and empowerment on the other (Bradford and Chouinard 2010, pp. 69–70):²⁰

First, evaluation methodologies need to respect the learning ethos of the pilot initiatives and to recognise increased local actor engagement as a powerful learning opportunity at the program, individual and community levels ... Resources must be allocated for convening the dialogue necessary for resident involvement in interpreting and assessing change.

Second, strategies are needed to reconcile the government call for tangible, measurable results with the reality of incremental, bottom-up change associated with complex community initiatives. This tension is particularly evident in the kind of short-term pilot projects we have examined ... Without the time to experience policy effects or concrete impacts of interventions, it becomes exceedingly difficult for governments to measure change or demonstrate progress. Yet, the less tangible, process-oriented

²⁰ The quotation has been edited lightly for greater clarity in this context.

outcomes seeded by such pilots can build the community's capacity for change and establish a social context for long-term success.

A further concern arises from the reliance on third-party evaluators to ensure more 'impartiality in behaviour and process' leading to what are considered more 'valid and objective' findings. While a more traditional evaluator role ... may be required in certain instances, it often compromises the goal of an engaged and participatory process. Given the importance of learning and capacity building within the pilot initiatives, there is a need for evaluators to be more directly involved as partners, collaborators, coaches, and educators ...

Finally, there is a need for evaluation methodologies that are sensitive to variations in pilot project or local program contexts, and responsive to the particular, historically evolved concerns of communities. Both the UAS and ANC aimed for such resident-led, local embedding. Yet such aspirations must be supported by evaluation approaches with strong communication structures, breaking down both departmental and cultural silos to bring stakeholders together in an authentic and ongoing conversation about progress and results.

Shepherd and Persad (2009) explore the complexities of evaluating federal place-based programs not in Canadian cities, but in First Nations communities. They identify a range of challenges, from the negative local residue of many decades of colonialism and undemocratic administration to the reality that the programs that are now in place to be evaluated share some of the characteristics of the period of maximum external control. In particular, First Nations face an inherent challenge in assuming control of federal programs: 'that top-down departmentally driven programs with accompanying terms and conditions have not worked to address persistent local problems, such as making education relevant to local circumstances'(Shepherd and Persad 2009, p. 10). Adding these conditions to the multiple demands on small First Nations governments in the context of the reality that unlike any other local governments in Canada they must deal intimately with a large federal bureaucracy radically decreases the chances that evaluations will actually prove to be useful to them. Shepherd and Persad offer a number of ameliorative recommendations. Like Bradford and Chouinard, they stress the importance of affording evaluators time to work with community members so that they can understand the purpose of the evaluation and the extent to which they may influence its progress.

Though the specific circumstances that they have analysed are quite different, the findings of these independent studies converge on a key point: the opportunity presented by evaluations to contribute to community development and community capacity-building, and the difficulty of reconciling this goal with the mandated objectives of program managers to ensure accountability to the central administration.

11.6 Policy implementation audits: Office of the Auditor General

The Office of the Auditor General of Canada (OAG) is one of (and the most venerable of) several federally funded, independent bodies that report to Parliament and to the public. Its official mandate is to provide ‘the objective, fact-based information that Parliament needs to fulfill one of its most important roles: holding the federal government accountable for its stewardship of public funds’. It may comment on *policy implementation*, but does not have the responsibility to comment on the *merits* of policies. Operating as an adequately staffed independent office of Parliament, OAG produces evaluations that are characteristically thorough and blunt. They are always public and always reviewed by parliamentary standing committees.²¹

The ambit of the OAG is wide, including federal departments and agencies, most Crown corporations, other federal organisations and similar parts of the territorial governments of Nunavut, the Northwest Territories and Yukon. Since 1995, the OAG has had the mandate to monitor environmental and sustainable development performance of these bodies.

The OAG reports to Parliament on an annual cycle. Audits are conducted by teams of staff who typically have access to a reference committee of outside topic experts, as well as sufficient funds to travel as required. Staff in the departments being evaluated provide a written response to a draft report. The OAG tends to analyse public expenditure thematically, rather than program by program. For example, the 2012 Annual Report (due to be released on October 23 2012) will have seven thematic chapters. Chapter 2 is entitled ‘Grant and Contribution Program Reforms’, and it will deal with ‘whether the government has adequately implemented its [2008] action plan ... to streamline the administrative and reporting burden on grant and contribution recipients ... [and] the role played by the Treasury Board of Canada Secretariat ... [and] activities to implement the reforms in five federal organizations’ (OAG 2012).

For present purposes, it is important that the OAG has conducted important assessments of federal compliance with the terms of modern treaties. The reports on these matters have been useful to academic analysis and to Indigenous organisations seeking to improve federal responsiveness to their concerns.

²¹ Over the years there has been some controversy about the role of this office, and in particular about possible infringement on political or policy decisionmaking. See Sutherland 1986; Malloy 2004.

If the audit conducted by the OAG provides cross-cutting analyses that are useful to parliamentarians and members of the public, they remain focused on dimensions of policy implementation. A final form of evaluation that has proven to be useful in the Canadian context is the form of policy evaluation — and indeed reconsideration — that is the perquisite of a royal commission.

11.7 Policy evaluation: the case of the Royal Commission on Aboriginal Peoples

Perhaps more than most countries governed in the Westminster tradition, Canada has had resort to commissions of inquiry to resolve knotty and persistent problems of public policy. A series of commissions from the mid-twentieth century have had a significant effect on politics, legislation and national tensions. The (Massey) Commission on National Development in the Arts, Letters and Sciences reported in 1951, making recommendations that led to the establishment of the Canada Council and other longstanding cultural institutions. The Royal Commission on Bilingualism and Biculturalism, reporting in 1967, led to a number of profound changes in Canadian public institutions, including official bilingualism, multiculturalism, and measures to improve the representation of francophones — and increase the use of the French language — in all public institutions. The (Bird) Commission on the Status of Women (1970) responded to increasing social pressure to advance women's equality.

The Royal Commission on Aboriginal Peoples (RCAP) can be seen as a policy commission in this long tradition. The RCAP was announced in the midst of an acute crisis in Indigenous–Canada relations, following on the collapse of constitutional negotiations and after a dangerous confrontation over Mohawk lands at Kanesatake, near Oka, in summer 1990 (York and Pindera 1991; Simpson and Ladner 2010). The Royal Commission was given a very broad mandate to address fundamental questions about the relationship between Indigenous peoples and the Crown. Commission staff conducted or commissioned research costing nearly \$10 million, while hearings were held in 110 Canadian communities. The Commission's five-volume final report, released in late 1996, addressed a wide range of contemporary problems and historic injustices. It offered a reinterpretation of Canadian history that supported a new vision of the future of Canada–Aboriginal relations based on 'nation-to-nation' negotiations animated by four principles: mutual recognition, mutual respect, sharing, and mutual responsibility (RCAP 1996, vol. 1, ch. 16). Various sections of the Commission's report dealt with matters of federal and provincial responsibility, and proposed reforms to the federation that

would create space for a third order of Indigenous government. Virtually the full range of federal policies affecting Indigenous peoples were examined.

The federal cabinet responded to the report of the RCAP within a year, in a policy statement entitled *Gathering Strength*. Avoiding direct endorsement of the more consequential recommendations related to jurisdiction and political realignment, the policy document picked up on the nation-to-nation paradigm to focus on ‘partnership’ as a framework for addressing longstanding problems. The Commission’s documentation of past wrongs received a response in the form of a statement of responsibility, while new institutions were mandated that would enable communities to deal with past trauma, and restructure the relationship of Indigenous peoples and nations to the Canadian economy. These included measures directed towards children and youth and institutions to improve labour market performance and access to capital in support of economic self-sufficiency. *Gathering Strength* provided the policy authority for the creation of new ‘councils’ for policy deliberation in a number of specific policy areas concerning health, children’s programs, and labour market and economic development (Delic and Abele 2010). In short, *Gathering Strength* introduced a new governance paradigm in federal programs directed towards Indigenous peoples.

A number of scholars have attempted to assess the impacts of royal commissions in Canadian political life (Inwood and Johns; Jenson 1994), and several studies focus exclusively on the Royal Commission on Aboriginal Peoples. Marlene Brant Castellano, one of the directors of research at the Commission, has published explanations of the Commission’s approach to traditional knowledge and its efforts to overcome well-established epistemological boundaries (2002 (2000)). Other academics who worked on the Commission (including the present author) have sought to interpret its process and to understand its impact. Many others are critical of the Commission for the constitutional vision that it promotes (Anderson and Denis 2003; Ladner 2001; Brant Castellano 2002 (2000)), but to my knowledge no scholars have systematically assessed the Commission’s immediate and longer term impact. There seems to be a general consensus that it has affected both public policy and the direction of scholarship.

11.8 In conclusion — and for discussion

Canadian experience includes at least three forms of evaluation that have had an important role in Indigenous–Canada relations. Classical departmental program evaluations are used extensively. From the departmental perspective, their overriding purpose is to ensure that funds are being effectively and wisely expended in the pursuit of program goals. A persistent view, present strongly in the evaluation

community, is that this purpose is insufficiently ambitious, since evaluations of programs delivered in Indigenous communities, in particular, could and should also contribute to community development and capacity building. In the context of the historical relations between the state and particularly those peoples who have been governed under the Indian Act, meeting both of these goals is a tall order. It would be fair to observe, I believe, that for those who are subject to departmental evaluations, the element of control is paramount.

A second form of evaluation is practised by the Parliamentary Office of the Auditor-General. This office may consider policy implementation only, but it rarely is constrained by particular program guidelines. Instead, the OAG investigates federal performance in a range of important cross-departmental areas, providing essential evaluations of overall execution and impact. In this way the office is able to contribute to knowledge about the impact of overall federal actions, even while it audits in the service of probity.

Canadians have made great use of a third form of evaluation. Commissions of inquiry have been used at key junctures for wide-ranging policy investigations and reconsiderations. Necessarily, most of the significant commissions of inquiry in Canadian experience have evaluated past practices even while they have worked to forge a new vision for the future. The commissions typically have broad mandates and adequate budgets, enabling them to draw a large number of citizens into the discussion. Commissions, though, are entirely ad hoc; they appear only when the government perceives a need to remove a difficult issue from 'ordinary politics'. Commission reports, however, are always public and they tend to endure. Longer term impacts may be expected.

Each of these forms of policy and program evaluation would appear to have a different potential for contributing to social justice or social reconciliation — notably, the greater the evaluation institution's distance from executive power, the more scope for this there would appear to be. In the case of regular departmental evaluations, though, the potential is still there, however constrained by the need for expenditure control and accountability.

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