

Rethinking Justice in the Inquiry Process

an analysis of the Royal Commission on Aboriginal People and the colonial framework of reconciliation

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Overview and Background

The Royal Commission on Aboriginal People was a Canadian Government inquiry established in 1991 following the Oka Crisis. The commission, which ended in 1996, aimed to examine the relationship between Indigenous communities and Canadian society.

The Commission sought out urban Indigenous people and travelled to Indigenous communities, and looked to find solutions to the causes of marginalization of Indigenous people and examine the impact of colonial frameworks such as the Indian Act.

The Royal Commission on Aboriginal People ended with 440 recommendations, many of which pointed to the need for Indigenous self-governance and autonomy.

A Colonial Framework for Indigenous Healing

The framework in which the Commission employed to look to questions of Indigenous marginalization in some ways recreated the context that caused their marginalization.

By employing a reconciliation process through the government, the main actor of colonial violence to Indigenous people, an imbalance of power is already in place.

Ultimately, many of the recommendations that have been implemented from the RCAP involved changes to the justice system and additional provisions to existing laws.

These changes do not ultimately enact systemic change, but rather make navigating systemic marginalization in a colonial country a bit less confusing.

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« Une nouvelle relation entre les autochtones et les non-autochtones du Canada, l'autodétermination pour les peuples autochtones [...], l'autosuffisance pour les autochtones, et la guérison personnelle et collective des autochtones et de leur collectivité. »

Tiré de Au cœur du dialogue, document de réflexion n° 2 de la Commission royale sur les peuples autochtones (avr. 1993)

Ces éléments clés du changement seront débattus par des dirigeants communautaires autochtones et non autochtones, des représentants d'organisations et de groupements divers, et de simples citoyens, dans le cadre d'audiences que la Commission royale sur les peuples autochtones tiendra à :

Hôtel Bonaventure Hilton
1, Place Bonaventure, Montréal (Québec)
du 25 au 28 mai 1993

Ces audiences permettront aussi d'aborder d'autres questions intéressantes liées au thème. Les résultats de ces discussions auront un effet déterminant sur les recommandations finales de la Commission.

Chacun a le devoir de s'informer.

Pour plus de renseignements au sujet de nos audiences :

■ (613) 913-2020

Ces renseignements peuvent être obtenus lors de nos audiences. Pour plus de renseignements à propos de la Commission royale sur les peuples autochtones, vous pouvez utiliser l'un des numéros suivants, sans frais :

■ 1-800-267-2146 (en français, anglais, espagnol)

■ 1-800-363-8235 (français, anglais, chipewyan)

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Questioning the Promise of Self-Governance

While the ads and media around the RCAP encouraged Indigenous people to come forward and share their experiences in the promise of self-governance, ultimately the RCAP upheld current structures that limit the autonomy of Indigenous communities.

These promises question the motive of a commission of inquiry and challenge the good faith that was given to them in their pursuit of change for Indigenous communities.

While Indigenous communities were seeking healing, the ultimate outcome of the RCAP focused more on technical changes with little meaningful assessment of the impact of colonialism or the pursuit of autonomy.

In order to truly reconcile with events like the Oka crisis, a larger inclusion of Indigenous frameworks would be needed.

Outcome

"There cannot be peace or harmony unless there is justice. It was to help restore justice to the relationship between Aboriginal and non-Aboriginal people in Canada... that the Royal Commission on Aboriginal Peoples was established."

The Commission addressed the systemic marginalization of Indigenous communities through the frameworks of healing and justice.

In the process of hearing Indigenous voices in the commission, abuse in residential schools became a common topic, leading to a recommendation that eventually created the Truth and Reconciliation Commission.

While few of the 600+ recommendations were implemented, the recommendations influenced how Indigenous communities and, particularly, Metis communities are able to exercise their rights in a court system.

The RCAP brought few systemic changes into action, but shone a light on the discrimination faced by Indigenous people.

Outcome

Indigenous people are still overrepresented in the prison system, accounting for 25% of the prison population and 3% of the Canadian population. While 52% of Indigenous people living off reservations consider themselves in good health (10% lower than the general Canadian population)

These examples of fumbles on Canada's long road to reconciliation point to a lack of understanding of the deep roots of colonialism in the country. While research, investigation and discussion are important, if they do not lead to concrete change and reflection, these actions will never have a chance to affect the communities they speak of.

Prioritizing Indigenous Frameworks

As many of the recommendations that were fulfilled in the RCAP pointed to changes in law, an examination of Canadian law in an Indigenous context provides ideas.

Ultimately, for meaningful change to be enacted a deeper consideration of Indigenous forms of reconciliation is necessary in an examination of Canadian justice systems.

European or colonial ways of addressing violence, justice or abuse are ultimately not harmonious with the tradition of Indigenous people and place Indigenous communities at a disadvantage when they interact with the state.

The current Canadian government's focus on a carceral system is at odds with Indigenous notions of collective agreement, valuing the individual and community organizing.

The idea of Indigenous concerns in law needs to be central, not simply an add-on or accommodation to existing systems.

One could point to an idea of harmony rather than justice, and prioritizing honesty in the place of guilt.