

MODERNIZING TREATY ANNUITIES: IMPLICATIONS AND CONSEQUENCES

**A REPORT BY THE TREATY ANNUITY WORKING GROUP
A SPECIAL COMMITTEE OF THE SOCIAL PLANNING COUNCIL OF WINNIPEG**

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The **Treaty Annuity Working Group** is a special committee of the Social Planning Council of Winnipeg. TAWG was formed in 2002 with the mandate of evaluating the idea of modernizing the existing treaty annuities currently paid by Indian and Northern Affairs Canada to Status Treaty Indians. There are about 300,000 men, women and children currently receiving the annuity, most of them living in Ontario, Manitoba, Saskatchewan, Alberta and the Territories. Treaty annuities are still paid at the same rate as at the signing of the treaties, beginning in the 1850s. The treaty annuity remains the only treaty right that has not yet been modernized.

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The continuing problems plaguing Indian communities in Canada are well documented. Federal government policies and programs over the past thirty years have proved to be impotent in making any measurable improvements in the social pathologies and poverty amongst Indians, both on and off reserve. A new initiative has been proposed by Jean Allard, which would take a unique approach to the problem which has the potential to result in immediate and profound changes to the lives of Canada's Status Indians by empowering individuals to make decisions about their lives. He proposes that the treaty annuities payable to every man, woman and child who is a member of a band that signed treaties with the Crown be modernized from the current rate of \$5 to \$5,000 per annum. Further, Mr. Allard proposes two key conditions:

- The modernized treaty annuity would be paid directly to eligible recipients or their guardians through a delivery system similar to the Child Tax Benefit.
- The treaty annuity would be extended to all Status Indians and remain fully transportable.

While the idea of increasing the treaty annuity has been mentioned in passing in aboriginal organizations over the past thirty years, it has not been studied or advanced in a meaningful manner. To that end, the Treaty Annuity Working Group organized a workshop in Winnipeg, June 23-24, 2003 to evaluate the implications and consequences of a modernized treaty annuity. This report stems from two days of discussions amongst the participants.

WHY A NEW APPROACH IS NEEDED

Indian and Northern Affairs Canada (INAC) is proposing to spend \$8.3 billion on federal programs for Status Indians for 2003-2004. That doesn't include the additional billions that will be spent by provincial and municipal governments on health care, social services, justice and other programs for off-reserve Status Indians. The problems of high unemployment, poor health, alcohol and drug abuse, high suicide rates, violence and incarceration have not improved substantially over the past thirty years, even though federal per capita spending has increased from just over \$1,000 in 1970 to roughly \$24,000 in 2003. It is very clear that the existing system does not work. Federal policy makers appear to be paralyzed by the magnitude of the problem and unable to do more than to increase funding for more of the same programs. There are serious consequences to Canadian society if

the social pathologies and poverty experienced by so many Status Indians continues.

- The Status Indian population is growing about five times faster than for other Canadians. Over the next eighteen years, the on-reserve population is expected to increase by nearly 60 percent. This will mean an ever-increasing cost in dealing with social pathologies, with no foreseeable end, for both federal and provincial governments.
- Since most reserves cannot support the population already living there, the growing off-reserve population will increasingly strain the resources of provincial and municipal governments. In Saskatchewan, for example, aboriginal people are expected to make up one-third of the population by 2045. If unemployment continues at the same rate as at present, the province may be unable to bear the burden of so many people who do not contribute to the province's economy.
- As costs continue to escalate without measurable results, Canadian taxpayers—already angry and frustrated by the federal government's inability to resolve the social pathologies and impoverishment of Status Indians—may lobby governments to discontinue financial support for Status Indians.
- The poverty and Third World conditions in which so many Canadian Indians live is a national and international embarrassment, and that embarrassment will only grow as the problem worsens.
- On humanitarian grounds, it is simply immoral to allow the suffering of individual Canadians—men, women and children—to continue on same the scale seen today, never mind the increased suffering as the Indian population grows.

DEFINING THE PROBLEM

It is obvious, by its continued failure, that the federal government has not properly defined the problem it is trying to solve. The problem is not a lack of money in the system, but rather the powerlessness of the individual—mainly as a result of the method of distribution of that money and power.

- The power and control of the money that flows collectively to Canada's Status Indians is exclusively controlled by a system that includes INAC and the government-funded organizations that serve as extensions of the bureaucracy (which includes band councils) along with the government-funded Indian political organizations representing the chiefs. This system does not include ordinary Status Indians living on or off reserve, ordinary Canadians and, in many cases, does not include the Indian Affairs minister.
- Since 1970, the amount of money flowing to the collective has increased by about 2,300 percent, accompanied by a huge growth in the bureaucracy for the purpose of administering programs and services on behalf of the collective. This has also been accompanied by a dramatic increase in funding for INAC-sanctioned Indian political organizations to act as co-administrators and a voice for band chiefs.
- Individual rights on most reserves are illusory. There are elections on most, but not all, reserves, where individuals are entitled to vote. However, the system representing the collective controls the election process. Band councils have the power, for instance, to use intimidation tactics to maintain their positions of authority. Individual Indians on reserves are denied access to the protections of the Canadian Human Rights Act because Status Indians are exempted under the Indian Act. Individual Indians do not have a mechanism through which to advocate their rights.
- The dramatic increase in per capita funding for Status Indians over the past thirty years has been based on taxpayer support for the need to solve the social pathologies and poverty plaguing Indian communities, along with a generalized "white guilt" in mainstream Canadian society. The system that represents the collective is now heavily invested in leveraging that guilt and maximizing the evidence of neediness of Indians since that is its primary source of wealth and power. It is in the best interests of the system to promote and sustain a cultural identity based on suffering and victimhood.
- The implicit message from the collective to the individual Indian is that to become a

healthy, happy and productive individual is to betray the cultural identity of suffering and victimhood. The exclusive dominance of the collective locks ordinary Indians on reserves into a role where they continue to suffer and where they have few means of changing that role. They are voiceless and powerless, and they carry this psychological woundedness with them when they leave the reserve for urban centres.

- Since many people on reserves are completely dependent on the collective for welfare, housing and other services, they are also completely under the control of the collective. The chief and council on reserves can and do use this control to silence challenges to their power and to exact retribution against perceived enemies.
- Since INAC considers stringent accountability as a form of paternalism, there are few controls over what band councils do with the money they receive on behalf of the collective. And since the band councils are given considerable freedom to write their own rules in the name of moving towards self-governance, they are also free to exploit the resources of the collective for the benefit of those in power on the reserve. Ordinary Indians have no means of appealing abuses of power and police have no means of prosecuting what would be

considered extortion and fraud off-reserve if the band has no rules against such practices. This has reduced life on many reserves to a bitter and continuous battle between factions fighting for control of band council power.

- As long as this dynamic continues, Indians will remain heavily reliant on welfare and special programs, and will continue to demonstrate the social pathologies of a culture defined by suffering and victimhood, both on and off reserve; and the ideals of democracy on the reserve will remain elusive.

OUTLINING A SOLUTION

If the problem is one of powerlessness due to the inequitable distribution of power and wealth, then the most obvious solution is one of redistribution. An eminently appropriate and historical mechanism for empowering individuals is found in the treaties, all of which include annuities payable directly to individuals for their own use, outside the control of the collective. The treaty annuity is an individual right and continues to be paid today to those who are eligible, regardless of where they live.

- The solution is not to give primacy to either the collective or the individual, but rather to find a balance that respects the rights of

individuals while respecting the value of the collective to Indian society.

- The value of the treaty annuity should be sufficient to effectively empower individuals within the collective. Setting the value too low—for instance, at \$100 per year—would do nothing to aid individual empowerment. Setting the value too high—for instance, at \$10,000 per year—would effectively use up the entire budget currently directed to the collective. It is unlikely that the Canadian public would be willing to support such a generous annuity. Allard has proposed a middle ground of \$5,000 per year.
- Although the annuity is currently payable to only Status Treaty Indians, there are numerous examples of the extension of treaty rights to all Status Indians. Only Treaty 6, for example, contains the “medicine chest” clause or the “pestilence and famine” clause, but those provisions have been modernized to extend health services and welfare to all Indians.
- The annuity would be paid directly to all Status Indians on a monthly basis outside the administration and control of the collective. This is a crucial consideration. There is a remarkable level of mutual contempt and suspicion between ordinary Indians and those representing the system. It is therefore important that the system (which

represents the collective) have no authority over the amount or distribution of a modernized annuity. This would ensure money goes directly into the hands of ordinary Indians without interference by band administrators or arbitrary actions by INAC.

THE IMPACT ON RESERVES

A modernized treaty annuity has the effect of reintroducing individual rights on reserves, along with individual responsibility, both of which have been effectively erased over the past thirty years by the dominance of the collective.

- The immediate impact of a modernized treaty annuity would be to eliminate welfare dependency on all reserves. An annuity payment of the proposed amount is considerably more than is currently paid for welfare, and ordinary Indians would no longer be completely dependent on the good will of the band council for the necessities of life.
- The money would belong to the individual and allow for the strengthening of families as economic units. A family of five, for example, would have a base annual income of \$25,000 with which to support the needs and wishes

of the family, outside the direct control of the collective.

- The band council would still retain control over services for the collective such as education, infrastructure and economic development funding. Band councils would also still have the authority to impose rents, fees and taxes on residents, but families would have the resources to relocate if they found the conditions imposed by the band council to be unacceptable.
- Ordinary Indians would have the resources to fund representative organizations accountable to them and be able to advance their views on cultural, political and social issues. They could then begin moulding a healthy collective society that respects and endorses healthy, empowered individuals.
- Ordinary Indians would be empowered to escape the role of victim by deciding for themselves what they require and, in doing so, would work toward restoring a cultural identity based on their strengths rather than their weaknesses.
- Ordinary Indians would be empowered to escape the role of victim by deciding for themselves what they require and, in doing so, would work toward restoring a cultural identity based on their strengths rather than their weaknesses.

- Many reserve communities have retained a core group of people who have not succumbed to hopeless despair or bought into the cultural identity of suffering, but who have not had the power or voice to act within the collective. This group is the best source of new leaders who can guide and counsel people in their communities along a path that allows individuals and the collective to work in harmony.
- Healthier, happier families on reserves mean healthier, happier communities that require fewer programs to deal with social pathologies. Healing takes time, and the need for programs to deal with social pathologies will continue for some time. The existing system offers no meaningful hope of change. However, with a modernized treaty annuity, it is possible to envision a time when the need for remedial social programs will have been drastically reduced.

THE IMPACT OFF RESERVES

The power of the system that represents the collective is limited off reserves. However, people migrating from reserves carry with them the same psychological woundedness of a cultural identity heavily invested in suffering and failure. This has resulted in a high percentage of Status Indians living off reserves

remaining welfare dependent and marginalized by mainstream society.

- An annuity of \$5,000 would not free an urban resident from welfare but, as on reserves, it would allow families to form economic units capable of shifting immediately from welfare dependents to economically valued participants in the community. This would result in substantial cost-savings to provinces and municipalities in direct welfare costs, and an eventual reduction in costs associated with the impact of dealing with social pathologies amongst off-reserve Status Indians.
- A modernized annuity would have a significant and immediate impact on the number of children in Canada living in poverty. In Winnipeg, for example, more than 80 percent of Status Indian children are currently living in poverty. Within family economic units under a modernized treaty annuity, many of these children would be immediately removed from the poverty statistics.
- Families freed from welfare dependency and the accompanying destructive social stigma tend to experience a remarkable reduction in social pathologies such as involvement with child welfare agencies, crime, gangs and substance abuse.

- The annuity would provide a solid basis of guaranteed income for off-reserve families to buy homes, access education and move towards the middle class in Canadian society, if that is what they wish. Or families may wish to pursue lifestyles more in keeping with tribal traditions. They will participate in Canadian society, both economically and socially, in a manner of their choosing.
- Off-reserve Indians have the same individual rights as all Canadians but they do not have organizations which speak for them. There are some government-funded organizations that speak for the off-reserve collective, but they generally have little clout in the face of organizations, such as the Assembly of First Nations, which speak for the on-reserve collective. A modernized annuity would allow off-reserve Indians to fund organizations accountable to them to advocate their interests on social, political and cultural issues.

THE IMPACT ON CANADIAN SOCIETY

Canada as a whole suffers when any segment of its population experiences the kind of poverty and suffering experienced by so many Canadian Indians. Not only are there costs in terms of dealing with the associated social pathologies, but society also loses

what they could have contributed in terms of creativity, ingenuity and cultural enrichment—as well as what they could have contributed to the economy.

- A modernized treaty annuity would benefit Canadian society as a whole by opening the door to the growing Status Indian population to allow them to participate more fully in society. The consequences of allowing the system to continue with the same power imbalance, regardless of how much money is added to the INAC budget, will be costly to Canadian society. Canadian taxpayers have shown they are willing to make a considerable financial investment in addressing Indian poverty and despair, but Indians must be empowered to act as well, not only through the collective but, more importantly, as individuals.
- Canadians are justifiably frustrated and upset with the continued failure of the federal government to address one of the most destructive social problems in the country, and they are looking to federal politicians to show some initiative in seeking out workable solutions.

IMPLEMENTATION

Implementing a modernized treaty annuity requires only the willingness of the federal cabinet. It does not require any changes to the Indian Act or to the Canadian constitution.

- The delivery system for a modernized treaty annuity can be implemented quickly and efficiently by utilizing the existing registry of Status Indians and piggy-backing the delivery on the Child Tax Benefit program. This method has been used by the BC government to pay the provincial Family Bonus to low income families at an administrative cost of less than one percent of the total cost of the program.
- The consultation process usually implemented when introducing major changes to Indian policy may not be workable under the existing system. The system that represents the collective—INAC and its bureaucratic extensions, Indian political organizations representing band chiefs, and band councils—is unlikely to support an initiative that would significantly weaken its power over the lives of Canada’s Status Indians
- A change in government policy is not the only means available for implementing a modernized annuity. It is justiciable, and a modernization of the annuity can be sought

through a court challenge in a manner similar to that of Regina vs Walter Johnson that led to the extension of the “medicine chest” clause in Treaty 6 to mean health care services for all Status Indians. Such a court challenge would, however, have to be implemented and funded outside the existing system for it to result in any measure of empowerment of individual Indians. If such a case were advanced by representatives of the collective or if it were funded through legal fees paid by INAC or its bureaucratic extensions, it can be expected to be distorted to serve the interests of the system.

- Canadians can readily grasp the idea that a modernized treaty annuity honours the treaties in a manner much like annuities from a trust fund, and is untainted by the stigma attached to welfare handouts and the “white guilt” associated with it.
- Canadians already understand the importance of personal freedom and individual empowerment in Canadian society, and can readily grasp the importance of addressing the dramatic power imbalance in Indian communities that gives primacy to the collective to the extent that it has rendered many on-reserve Indians powerless and without individual rights.

- Any politician who advances an initiative that appears to be undermining the power of the collective can expect to be subjected to attack by the representatives of the collective using damaging language such as “cultural genocide”, “racism” and “assimilation”. A courageous government with a genuine desire to resolve the issue of Indian poverty and suffering would see, however, that introducing a modernized treaty annuity would also introduce a badly needed debate and discussion of Indian issues that would include ordinary Indians and ordinary Canadians.

Postscript March 2006 by Jean Allard

The proposal could be dealt with by way of a pilot project whereby increased treaty annuities are paid monthly to the approximately 300,000 Canadian Indians who are members of the numbered treaties of the west. These treaties contain an annuity clause that would not require legislative change.

A payment of, say, \$300 a month for every man, woman and child could be dealt with within the existing budget. The outlay of about \$1-billion yearly could be covered by transfers from existing programs including welfare, and the exercise would be revenue neutral.

TAWG WORKSHOP PARTICIPANTS

All members of the working group agree with the essential analysis of the underlying issues, and with the value of individual empowerment by way of transportable direct payments as the single most promising initiative available. The signatories have differing ideas about the details of any system of updated treaty money, and are continuing their discussions.

The following people participated in the workshop on Modernizing Treaty Annuities: Implications and Consequences, held in Winnipeg, MB on June 23-24, 2003.

- **Jean Allard**, author of *Big Bear's Treaty: The Road to Freedom*; former Manitoba MLA for Rupertsland, past president of L'Union Nationale Metisse Saint-Joseph du Manitoba
- **Glenn Cochrane**, former gang prevention coordinator, City of Winnipeg Police Service; educator
- **Bob Filuk**, accountant, President, Thomas Sill Foundation, Inc.
- **Norm Fiske**, accountant, Past-President, Thomas Sill Foundation, Inc.
- **Leona Freed**, President, First Nations Accountability Coalition, health care worker
- **Gordon Gibson**, Senior Fellow in Canadian Studies, Fraser Institute; former BC MLA
- **Wayne Helgason**, Executive Director, Social Planning Council of Winnipeg; Past-President, Aboriginal Council of Winnipeg
- **Clayton Manness**, former Manitoba Minister of Finance
- **Milt McLean**, accountant, Vice-President, Thomas Sill Foundation, Inc.
- **Sandra Prince**, graduate student in Theology, University of Winnipeg
- **Yvonne Prince**, former teacher, Sandy Bay Reserve
- **John Richards**, professor of Business Administration, Simon Fraser University; Fellow-in-Residence, C.D. Howe Institute
- **Claude St. Jacques**, former program administrator, Indian and Northern Affairs Canada
- **Guy Savoie**, former Chair, Executive Policy Committee, and councillor, City of Winnipeg; Past-President of L'Union Nationale Metisse Saint-Joseph du Manitoba
- **Bruce Spence**, senior news editor, APTN; former advisor, Manitoba Assembly of Chiefs
- **Sam Uskiw**, former Manitoba Minister of Agriculture and member of Treasury Board

Research and Redaction

- **Sheilla Jones**, researcher and writer, University of Alberta; former news editor, CBC Radio

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Documents, letters and support material were also supplied by:

- **Allan Blakeney**, former commissioner of the Royal Commission on Aboriginal Peoples; former Premier of Saskatchewan
- **Edward Schreyer**, former Governor General of Canada; former Premier of Manitoba
- **Robert Connelly**, former Assistant Deputy Minister, Department of Indian Affairs