

# **SOCIAL COSTS OF JUSTICE**

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In this presentation, I will address the social costs of justice or rather, "the costs resulting from the lack of a just social system." I thought it would be appropriate to talk about debt and deficit because that's something that a deputy minister talks a lot about, particularly before Treasury Board and Cabinet committees. But you know, we have so many other deficits and debts in our society: we have an incredible parenting deficit, we have incredible imbalances in power, we have incredible deficits in treating people with respect. I'm hopeful that we will soon be able to demonstrate that people in my profession and in my department, through partnership with Indian and Métis leaders and people in communities, are contributing to the elimination of some of those deficits to make this a better society for us all.

There are no words, statistics, graphs, trend lines or numbers to adequately describe to victims and to all of us as human beings the cost of our past and current systems. My friend and colleague Bernd Walter, the child advocate from Alberta, recently issued a very thick report with some sixty recommendations. It's not unlike the work that's been done by Judge Kimmelman in Manitoba, the Giesbrecht Review, the Manitoba Aboriginal Justice Review, the Cawsey Report and the Saskatchewan Review. I've asked his permission to quote from an early draft of his review. He states that:

assimilation policies have contributed to family and community breakdown. The federal government, which is responsible for matters relating to Natives, delegated its constitutional authority for the education of Indians and Inuit to church groups in the hope of assimilating their children through the education process. Residential and industrial schools, at which attendance was mandatory, were established. The residential school system greatly abetted family and community breakdown. It separated generations and thereby disrupted the social and familial relationships and influences necessary for acculturation. Children were often separated from their families and communities for years at a time in order to attend these institutions. They were alienated from their roots by being forbidden to speak their own language and taught to disregard or devalue their cultural heritage.<sup>1</sup>

As a Ukrainian, I experienced some of that myself, but in a very, very minor form compared with what our First Nations and Aboriginal people face in our country.

Recent disclosures from residents reveal that these institutions were sites of widespread physical and sexual exploitation. In failing to adequately address the distinct characteristics of Native culture, child-protection legislation, policies and practices have been termed genocidal. This belief has led Aboriginal communities to push for reform. Federal, provincial and Aboriginal authorities have taken steps to stop the removal of Aboriginal children from their homes and to reduce the number of children coming into provincial care. Aboriginal authorities have called for the recognition of their inherent right to provide child-protection services to their own children and families.

Recently, Indian political leaders have called for the development of federal Indian child-welfare legislation similar to the *Indian Child Welfare Act* in the United States. This Act provides tribal courts with exclusive jurisdiction over Indian children resident or domiciled on reservations and provides procedural protection for the participation and role of the tribe. Its stated goals are to protect the best interests of Indian children while also promoting the security, survival and stability of Indian families and tribes. These dual and potentially conflicting goals of reconciling the best interests of an individual child with the collective interest of his/her community are also at the heart of current Canadian child welfare initiatives. I encourage you to read the advocate's report and I also encourage you to read the work of people like Rupert Ross, who has written a book entitled *Dancing with a Ghost*. His conference paper "Duelling Paradigms" is an excellent piece of work.<sup>2</sup>

The Department of Social Services is one of the mirrors that reflects the social costs of past and current systems. I want to take a look into that mirror and describe for you what we all see. The department provides human services in the areas of income support; family and youth services, including young offenders, child day care, community living and seniors. The social assistance caseload of the department is 35,000 cases. There are approximately 2.5 people to a case and about 15,000 of these people are Indian and Métis. While Indian and Métis people represent approximately 26 percent of the entire caseload, the representation is unevenly distributed, with a high proportion of Aboriginal representation in programs that serve children and families. For example, 72 percent of custody services in the Young Offenders Program are used by Aboriginal youth. Custody programs are the most restrictive programs. We white folks are still jailing the non-white folks.

Forty-five percent of the children in care under the Family Services

Program are Aboriginal children. This year, the department that I lead will investigate between 5,500 and 6,000 cases of neglect and abuse. One in five children in Saskatchewan lives in poverty, and in those statistics we do not include the children on Indian reserves. Upon returning to Saskatchewan after an absence of about five years, I found we had approximately 2,600 children in care in early 1992. A mere seven or eight years earlier we had only about 1,600 children in care. In a province populated by fewer than a million people, an increasing number of whom are seniors, it's quite incredible that my minister and the Government of Saskatchewan are parents to 2,600 children. That number does not include an additional 3,000 young people in custody under *The Young Offenders Act*.

I've been giving you a glimpse into what is a very expensive mirror. This is a mirror that will cost about \$465 million for this year alone. It's a mirror with many cracks. Let me describe for you a quiet revolution that's going on to replace this mirror. I'm encouraged by the new mirror, which is being built by events such as the one we're experiencing today.

Last February, I received a call from Vice-Chief Tom Iron, who suggested it would be in my interest as the new deputy minister to sit down with him and his staff to discuss particular children in care. He and his staff told me the two systems had been haggling about what was appropriate for these Indian children for years. It was evident to me that unless we began to work together, Social Services would be putting resources into more judicial inquiries, more reviews and more studies, none of which would address the fundamental issues we were confronting. We decided that while the issues of self-government and self-direction had to be addressed, we were going to work together to begin to solve some immediate problems, and we directed our respective staff to organize a professional and cultural exchange conference between First Nations people and employees of the department.

I came to the table with Vice-Chief Iron prepared to be open. I have been involved in social work and human services for a quarter of a century, and I decided that it was time to question some of the rules by which we work. Together with my staff, I decided to ask for the support, tolerance and patience of Aboriginal leaders in order for us to try to address some of the rules and barriers.

The first barrier we addressed was the issue of confidentiality. We had never told First Nations or Métis people in this province, or anywhere in Canada, where their children were and how many of them were in our care. A simple list of their children could be given to them. How many of us would not want to know where our children are? I thought that was quite simple and that I should be able to deliver the list within about two days to Vice-Chief Iron. Well, I couldn't do that. We had systems prob-

lems and identification problems and case reviews and searches to do. Eventually, with the patience and assistance of Vice-Chief Iron and his staff, we were able to give him a list.

The sharing of this list with Vice-Chief Iron was an act that touched me profoundly. I can't possibly describe, as a representative of the white community, what it felt like to hand him the list of First Nations children in our care. Many had never seen a permanent home; many did not know where they were going to be a week or a month from now; many had lived in the system and in a short time would be saying, "Where do I go for Christmas? The Department of Social Services is closed on Christmas Day." I can't begin to speak for what Vice-Chief Iron felt, but I'm sure there was a degree of anger. I know I felt some guilt. Together, I think we both felt there was cause for optimism, so we went about creating a quiet revolution that started with openness and tolerance and sharing.

In the spirit of sharing, Vice-Chief Iron then said to me, "Will you share some of your staff with me because I don't have any?" I agreed to do this, and we set about asking our staff who would like to be shared. We had more volunteers than you can imagine because they were feeling some of the same kinds of things we were feeling. Some of my staff now work at the direction of Vice-Chief Iron and his staff. We did the same thing with the Métis Society in a limited kind of way. I notice one of my staff was handing President Morin a paper today. I didn't get one from him and I'm proud of that.

We get tremendous help from tribal councils and bands and chiefs. Following the events I've described, a Family Connections Program was launched. On the surface this sounds simple. We decided we'd bring kids and families together and we started to do that. We have begun to truly consult with bands and tribal councils and Métis organizations about children before they enter our courts and our judicial system. I am pleased to tell you that the number of permanent wardships and the number of wardships overall are already going down.

Breaking the barriers and the boundaries between programs—be they young offenders, child protection or foster care—and looking at people more holistically, which is something that the Aboriginal communities have been talking to us about, is already having incredible results. The most recent statistics show that on a per 10,000 basis we have an almost 10 percent decrease in custody in our province since last year. Simple. Aboriginal children are still over-represented, but nonetheless the numbers are some small sign of progress.

We have just signed two agreements with tribal councils for delivery of Indian child and family services on-reserve. We have accepted—and indicated to the Federation of Saskatchewan Indian Nations Health and Social

Services Commission acceptance of—the child and family services standards as equivalent to or better than our standards. Most recently we have been forced into accepting the provision of social assistance to treaty Indians living off-reserve. On humanitarian grounds, and without prejudice to the issues of self-government and jurisdiction, we have agreed to provide services to these people. Every one of the staff we have just hired to handle those caseloads is a treaty Indian.

These are small steps, very, very small steps, but they are not small for two foster children that were in our care. They're in their teens now and most recently the non-Aboriginal foster parents and the two treaty Indian girls visited the reserve for the first time to get the girls reacquainted with their culture. The entire community held a feast for these two teenagers. What an incredible event and what positive results for these children, for the white foster parents, for the community and for us as a system, to learn that we can do things differently.

These concepts are extending to other program areas. Very recently a mentally handicapped adult in his thirties who had been in an institution all his life was reunited with his family in a northern Aboriginal community. I could tell you many stories. I love telling stories. It's something that I've learned from my Aboriginal friends and colleagues. I don't do it as well as they do, but I believe it's these kinds of stories that we have to tell, and we have to tell the whole community. The stories that we've all been sharing and hearing here last night and today have to be told in our communities, on the street and in our grocery stores, because all of our dreams and visions cannot be achieved without overcoming the deficit in dignity, respect and tolerance.

## NOTES

- 1 Bernd Walter, *In Need of Protection: Children and Youth in Alberta*. (Children's Advocate: Child Welfare Review, 1993). The final version does not include the quote.
- 2 Rupert Ross, *Dancing with a Ghost: Exploring Indian Reality* (Markham, Ont.: Octopus, 1992) and "Duelling Paradigms," in this book.