

**FIRST NATIONS GOVERNANCE:
A CASE STUDY OF THE TL'ETINQOX-T'IN**

by

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Abstract

This project examines best practices in First Nations governance structures and compares these to present day structures in the Tl'etinqox-t'in Government using a case study methodology. The following question is explored "*What are the barriers to developing a more effective governance structure in the Tl'etinqox-t'in community?*" To answer this research question a review of current literature and a case study format will be used. The paper outlines the history and development of First Nations Governance as defined by the Indian Act (1876), and how Indian and Northern Affairs Canada (INAC) policies have imposed challenges for development of effective First Nations governance structures. A comparison is offered between researched best practice in governance structures and current First Nations governance structures. Four key elements of effective governance are identified in the research: constitutions, localized governance structures, accountability and transparency, and revenue creation. These elements are compared to the current practices of the Tl'etinqox-t'in Government. Recommendations, based on the research findings, are then presented to assist the Tl'etinqox-t'in Government structures to become more closely aligned with effective practice.

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Glossary

Governance

The Institute on Governance (IOG), an Ottawa based, non-profit think tank founded in 1990 to promote responsive and responsible governance both in Canada and abroad defined governance as “...the process whereby power is exercised, decisions are made, citizens or stakeholders are given voice, and account is rendered on important issues” (Graham 2007). It is defined in broader terms in The First Nations Governance Handbook as “...the process and structure by which councilors direct and manage Council business for the purpose of enhancing the wellbeing of community members” (Sterritt 2003).

Constitution

A constitution spells out the rules of Government and how it will govern. Included are: the purpose of Government, its organization, issues of authority, rights of the people and how changes can be made to the Government (Cornell, Curtis and Jorgensen 2003).

Accountability

Accountability is an obligation or willingness to accept responsibility or to account for one's action. To be accountable means that a person is liable for sanctions, either positive or negative, according to rules, decisions, policies or enforced by someone else (Shepherd 2006).

Transparency

Transparency describes the free flow of information between those who possess the information and those who seek it or wish to know it.

Legitimacy

A political system gains legitimacy when it accurately represents the ideals and values of the citizens it represents. Shepherd (2006) defines legitimacy as "...having congruence between the citizens' conceptions of fair and representative Governmental organization and action on the one hand, and actual institutional structures and their actions on the other".

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Preface

Thirteen years ago, as a recent graduate of the University of Victoria I followed my new wife to Alexis Creek, a small, remote community in central British Columbia that is surrounded by several First Nation reserves. Prior to this I had not lived in a community with fewer than 75,000 people nor had I any exposure to First Nations people or their culture. I soon learned the world did not operate in the manner to which I was familiar in regards to matters of social dynamics and community structures. I also learned that my expertise and abilities to keep a group of twenty or so seven and eight year olds on task, was an asset to the local schools. When a teacher abandoned her class because she could not handle the stress of living in a remote community and teaching in a First Nations school, there was consensus that I would be the logical replacement. At the end of the school year, the existing principal left and again it was decided that I was the logical replacement. Thus began my career as Principal of Tl'etinqox School.

The culture of the school mirrored the unstable, underachieving and chaotic nature of the local community. The community was impoverished, with unpredictable social structures due to constant changes in the power hierarchy of Council and experienced widespread violence and abuse. The school was un-cared for, insufficiently equipped with quality resources and had a general moral reflecting frustration and defeat. With much hard work, consistency, a well defined purpose and a high level of expectation, the school has begun to operate with its own momentum, one characterized by respect, care and orderly progress. No longer do we have to rely on extrinsic "rewards" such as MP3 players, bicycles, and other monetary items as motivation for students to behave appropriately, they

have become involved and caring partners in their education, exhibiting respect for one another and the school. No longer is petty jealousy hampering the development of the staff and students. There is common understanding in the community that the school is a non-political entity and cannot be manipulated by partisan politics. Special interest groups, who feel they have certain privileges due to their political affinity to the present, but ever changing Council, no longer exert power and influence over the school.

The culture and climate of the school has changed significantly, becoming stable, accountable, and transparent. The school has gained legitimacy and become a notable success, not only within the local community and the greater community of Williams Lake but provincially as well. In thirteen years I have witnessed six elections for Council and with each successive election came a resurgence of new hope. This new hope was usually followed by systemic nepotism and abuses of the political system. What are the barriers that prevent the community from mirroring the success of the school? As I began my work in the School of Business at the University of Northern British Columbia, I found myself examining the impasse that characterizes the Tl'etinqox-t'in. Why is the school able to develop a social structure with stability and credibility while the Band cannot? This question set the stage for the research project as I found myself drawn to understand the complex phenomena of this community's constant state of flux, resulting in an inability to progress forward with respect to social and economic stability.

Chapter One: Introduction & Background

Introduction

This project begins with a background of the Tl'etinqox-t'in people and their current governance structure as well as a background of the Indian Act and how it relates to governance. The project will then examine the current literature around good governance and the practices that both hinder and promote the development of good governance structures within First Nation communities. From the literature four key elements are identified. These elements are used in a case study format, to answer the research question: *"What are the barriers to developing a more effective governance structure in the Tl'etinqox-t'in community?"*

Background: Tl'etinqox-t'in People & Governance

The home of the Tl'etinqox-t'in people is located on the Chilcotin Plateau, 98 kilometers west of Williams Lake on Highway 20. The reserve is situated on the bottom of a river valley that is approximately ten kilometers long and two kilometers wide. The area is pristine with little or no development and boasts vast tracts of untouched wilderness where wildlife and the natural beauty of nature thrive. The Chilcotin River runs through the reserve and is a source of food and recreation for the people. There are approximately 1,450 members of the Tl'etinqox-t'in Band with approximately 1200 people living on the reserve (Government of British Columbia 2007, 1).

The Tl'etinqox-t'in people elect twelve Councilors and one Chief every two years. The most recent election was February, 2009. It is the responsibility of the Chief to assign

portfolios to each of the Councilors. Several factors influence how involved a Councilor becomes in the day-to-day operation of their portfolio including; the workload within the department itself, how involved a Councilor wants to be, the relationship between the current department head and the Councilor, whether the Councilor already works in the department or has another role within a different department. Unlike Federal, Provincial, Municipal or Regional politics where it is deemed a conflict of interest, members of Chief and Council may hold office while also being employed by the Tl'etinqox-t'in Band. As the Tl'etinqox-t'in community moves toward a governance structure with credibility and stability, it will need to grapple with issues such as conflict of interest as well as those related to transparency, accountability, responsiveness, and the clarity of the roles and responsibilities of Council.

Background: Indian Act & Governance

The Constitution of 1876 (Department of Justice 1985) gave the Canadian Parliament legislative control over First Nations in Canada. Through the Indian Act the Department of Indian and Northern Affairs Canada (INAC), used a band system of governance to oversee and control the lives of First Nations people in Canada. The traditional leadership models, often hereditary in nature, were replaced by a band system structured in a fashion similar to municipal governments with elected officials. INAC legislation drastically changed the traditional First Nation method of selecting a new leader or leaders. By providing leadership elections for Council (Cote 2001), INAC legislation effectively made the elected Council accountable to INAC, and not to band members. The Indian Act essentially handicapped First Nations by removing traditional governing structures (Chief and Council structures were not the only governance system used by First Nations) and then failing to adequately

provide the necessary tools First Nations governments needed to implement effective governance.

Many First Nations have objected to the paternalism of the Indian Act. The Federal Government has increasingly recognized the Act has many shortfalls as the framework for relations between First Nations and the government of Canada (Hurley 2002). However, the Federal Government has not been successful in correcting these shortcomings. Hurley (2002) believes that the conflicting role of the Federal Government and First Nations, along with differing viewpoints about First Nation self-government, has only hindered the reformation of the Indian Act. With many First Nations disillusioned and frustrated with the Indian Act, a division has emerged among First Nations politicians and people in regards to the effectiveness and relevance of the Indian Act in today's world. Some argue the Indian Act is repressive while others argue it protects specific rights of First Nations. The Indian Act is a potent mechanism of the Federal Government; it gives authority to manage the affairs, lands and funds of First Nations people across the nation. With this comes the power to deny basic Canadian civil and personal rights to hundreds of thousands of "wards" of the federal state (Hurley 2002).

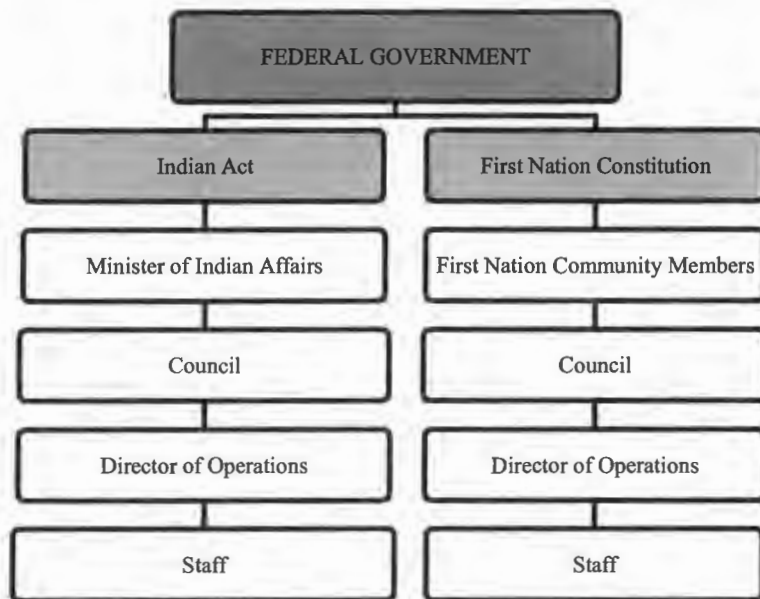
Governance structures among First Nation communities are at varying stages of evolution. A few recent decisions regarding aboriginal governance by the Supreme Court of Canada have influenced the progress of negotiations for alternate governance systems for First Nations in Canada and in British Columbia. However, "given the vastly different circumstances of Aboriginal peoples throughout Canada, implementation of the inherent right cannot be uniform across the country or result in a "one-size-fits-all" form of governance. The Government proposes to negotiate self-governance arrangements that are

tailored to meet the unique needs of Aboriginal groups and are responsive to their particular political, economic, legal, historical, cultural and social circumstances” (Indian and Northern Affairs Canada 1995). The Federal Government’s approach to the implementation of more appropriate systems of governance focuses on practical, workable and flexible agreements rather than trying to define them in abstract terms. The hope is this type of approach will allow all the parties involved to make meaningful progress towards First Nation governance agreements (Indian and Northern Affairs Canada 1995). While the Indian Act contains provisions assigning limited powers to Councils, it does not provide procedural or structural tools to guide the effective administration of band governments. The Indian Act does not attend to rules governing conflict of interest or the roles of elected officials and First Nation staff (Carleton University Center for Community Innovation 2005). This is problematic as not all governments operate in a systematic and effective manner. There are communities where governments “use the rules in creative and effective ways, solving numerous problems, growing their economies, carrying out the functions of government smoothly, and giving their people rich opportunities to live productive and fulfilling lives. Other societies have governments that are confused about their responsibilities and functions, abuse the rules, or even rewrite them so that a few people can enrich themselves at the expense of others” (Cornell, Curtis and Jorgensen 2003, 3). In such communities governments can become so disorganized and ineffectual they become paralyzed.

Figure 1.1 from *The First Nations Governance Handbook* compares accountability structures for a Band operating under the Indian Act and a Band operating under a locally developed constitution (Sterritt 2003). This figure demonstrates that under the INAC model, a Band operating under a locally developed governance model with a locally developed

constitution is not self-governing. Even with these structures in place, the First Nations community is reliant on the Federal Government as a source of funding. The reliance on funding makes First Nations primarily accountable to the Federal Government and not to the members of the First Nation community.

Figure 1.1: The First Nation Legal Environment



(Sterritt 2003, 11)

Chapter Two – Rationale & Methodology

Rationale

Since the Indian Act legislation was introduced in 1876, it has been at the center of almost continual debate and is laden with controversy, anger and sorrow. While many First Nations call for the elimination of the Indian Act, confusion surrounds what would replace it. While treaty settlements with individual First Nations have reduced some of the authority of the Indian Act, it remains the standard governance system for most Bands. Individual First Nations are encouraged by the Federal Government to develop a process to move away from the Indian Act and to create their own governance structures. In such cases, Indian and Northern Affairs' mandate is not to dictate the form of governance structures implemented, but instead to act in a supporting manner. The stated goal of Indian and Northern Affairs is to support First Nation communities in the implementation of strong, effective and sustainable governments.

Research by INAC (2008) has shown that effective governance is the single greatest contributing factor to a community's socio-economic progress and its overall well-being. In addition, the research demonstrates that effective governance structures and institutions assist First Nation communities to: take greater control over the decisions that affect their lives; carry out effective relationships with other governments; take advantage of economic development opportunities; improve programs and services and enhance their social and economic opportunities.

For the Tl'etinqox-t'in people to obtain a strong, effective and sustainable government, the process of developing their own governance system must be undertaken.

This process should involve: introspection; evaluation; discussion about culture, community, belief systems, and values; and an evaluation of current governance practices. It is only through good governance structures that First Nations will be able to move forward and ensure their place within the greater society (Helin 2006). While the Tl'etinqox-t'in Chief and Council have contemplated a move towards a more traditional form of governance, they have not developed a local constitution. If the community is to establish an effective and sustainable government the development of a constitution and governance structures that are a reflection of the people and their unique circumstances would be vital.

Methodology

A case study methodology is used to examine governance research and how this research relates to the governing structures of the Tl'etinqox-t'in. "Case study research excels at bringing us to an understanding of a complex issue or object and can extend experience or add strength to what is already known through previous research. Case studies emphasize detailed contextual analysis of a limited number of events or conditions and their relationships" (Soy 1997). Soy (1997) also states that "...scientists, in particular, have made wide use of this qualitative research method to examine contemporary real-life situations and provide the basis for the application of ideas and extension of methods".

The case study methodology allows the flexibility to compare firsthand observations with results obtained from other research methods and establish a bridge between the two (Suriyabhivadh 2005). Based on a review of the literature and the personal understanding of the local context, case study methodology was chosen to explore the complex issues surrounding the current governance structures of the Tl'etinqox-t'in Government. As an

employee (school principal) of thirteen years, the author's observations will be compared to the academic and professional literature. The analysis of this comparison will form the basis for a set of recommendations for strengthening the Tl'etinqox-t'in governance structure.

Research question: *What are the barriers to developing a more effective governance structure in the Tl'etinqox-t'in community?*

Chapter Three – Literature Review

Twenty-nine First Nations governance projects were reviewed in the study “First Nations Governance Pilot Projects: Challenge and Innovation” (2005). The governance projects were presented in a case study format with the objective of highlighting achievements, best practices and innovative approaches to governance issues. In each of the areas assessed, the review identified impediments to effective First Nations governance, all of which pointed towards the need for a comprehensive strategy to support First Nations. This strategy would address the following:

1. Lack of self-sufficient First Nation economies, which result in a preoccupation on the part of First Nation Governments with day to day social and economic challenges.
2. Unpredictable financial resources which impair First Nation Government capacity to prepare and implement long term plans for governance.
3. Lack of effective governance infrastructure including judicial, administrative and financial structures.
4. First Nations fractured along residency, gender, youth and registered Indian status lines.
5. The federal policy environment.

(Carleton University Center for Community Innovation 2005).

The report recommended that First Nations move towards greater accountability through community consultation and open processes. The report identified the re-building of relationships among First Nations people and pursuing common goals as an important component of the strategy. It focused on the development of First Nation constitutions as a crucial component of the process. The United Nations Development Programme (UNDP), a global development network which advocates for change in the area of governance, notes

that “Good governance is, among other things, participatory, transparent and accountable. It is also effective, equitable and promotes the rule of law. Good governance ensures that political, social and economic priorities are based on broad consensus in society and that the voices of the poorest and the most vulnerable are heard in decision-making over the allocation of development resources” (United Nations Development Program 1997).

The First Nations Governance Handbook (Sterritt 2003, 11) states, the “Indian Act is silent with respect to many of Council’s governance relationships”. This allows First Nations leaders a great deal of latitude in designing or implementing a governance model or approach that is tailored to their own culture, traditions or needs and allows leaders to develop their charter or constitution without the legal constraint of the Indian Act (Sterritt 2003). However, Calvin Helin (2006) suggests this very silence with respect to governance in the Indian Act is causing the corruption and the so called “gravy train” mentality found on many reserves today. The “gravy train” mentality is the idea that it is the right of elected officials to line their pockets as well as those of friends and family. Helin (2006, 151) implies it is the Chiefs themselves who do not want governance accountability or transparency legislation brought forward, as it will end the “...century-long thieves’ banquet masquerading as democracy under the so-called rule of law.” Helin (2006) concludes that real democracy, fair election procedures, and transparent and accountable governance are necessary before aboriginal peoples can move forward in the creation of a sustainable economy, but those structures and ideas are available in only the most generous interpretation of the current Indian Act.

It must be noted that good governance is not guaranteed just because governance systems are put in place. As noted by the Institute on Governance researchers, First Nations

communities do not merely need self governance according to their traditions to flourish. As with all human societies, they also require effective governance no matter what the tradition (Graham and Bruhn 2008). If traditional First Nation governance structures are incapable of operating in the context of today's society, do not accurately reflect current First Nation value systems, or lack legitimacy, they will be ineffectual. Cornell, Curtis and Jorgensen state:

It is obvious even to the most casual observer that some Governments are more effective than others. Some societies have Governments that use the rules in creative and effective ways, solving numerous problems, growing their economies, carrying out the functions of Government smoothly, and giving their people rich opportunities to live productive and fulfilling lives. Other societies have Governments that are confused about their responsibilities and functions, abuse the rules, or even rewrite them so that a few people can enrich themselves at the expense of others. Sometimes Governments make such a mess of things that the society itself is threatened with collapse.

Regardless of the form, processes or style of Government a group of citizens chooses to represent them, the trust and acceptance they receive from their own citizens and in those on the outside who deal with them, determines their effectiveness. While no Government is perfect, effective Governments all enjoy legitimacy with the people they serve and tend to have the respect of outsiders (Cornell, Curtis and Jorgensen, *The Concept of Governance and its Implications for First Nations* 2003, 3).

In 1987, the John F. Kennedy School of Government at Harvard University started the Harvard Project on American Indian Economic Development to determine the conditions necessary for successful development among First Nations. The central focus of the Harvard Project was to study what was out there, what worked, where, and why. Key research findings indicated the following four elements are critical for the successful development of First Nations governance:

1. Sovereignty. When First Nations are responsible for their own decisions around development and governance they constantly out-perform external decision makers.

2. **Institutions.** For effective development to take place First Nations must ensure stable, legitimate, transparent and accountable institutions.
3. **Culture.** Development must incorporate legitimate governance structures that are culturally appropriate.
4. **Leadership.** Leaders have to be willing to introduce new knowledge, challenge assumptions, and propose change.

(John F. Kennedy School of Government 2004).

First Nations who took control of their affairs and backed up that control with capable, culturally appropriate and effective governing institutions were significantly better off economically than those who had not. In short, self-governance matters for the well-being of First Nation people as much as it does for others. (Cornell and Kalt 2006). Of critical importance, is the ability to govern oneself and this requires genuine jurisdiction; self-governance as opposed to self-administration. The distinction is made clear in the following table (Figure 3.1) which illustrates the difference between self-governance and self-administration.

Figure 3.1: Self-Administration versus Self-Governance

	Self-Administration	Self-Governance
Jurisdiction	Vested in First Nations but limited to narrow policy domains and subject to federal or provincial veto	Vested in First Nations, tribes, or other associations of First Nations and covering a wide array of policy domains
Governing Institutions	Designed largely by outsiders, usually the federal Government	Designed by First Nations, tribes, or other associations of First Nations

Core Functions	<p>Administer programs</p> <p>Distribute resources such as jobs, money, services</p> <p>Manage the internal affairs of the nation to the extent allowed by Canadian or provincial law</p>	<p>Establish a constitutional Foundation</p> <p>Make and enforce laws</p> <p>Make and implement decisions</p> <p>Provide for the fair and non-political resolution of disputes</p> <p>Administer programs</p> <p>Manage the internal and external affairs of the nation as allowed by First Nations' laws</p>
Revenue	Largely from federal Government; First Nations' efforts to increase revenues focus largely on craftsmanship and lobbying for increased federal funding	From diverse sources, including but not limited to federal funds; First Nations' efforts to increase revenues focus on enterprise development and other revenue generating options
Accountability	Typically uni-directional, having to do largely with First Nations' accountability to funders, especially the federal Government, for how funds are used	Multi-directional, having to do with (1) First Nations' accountability to their own citizens for governing well, (2) First Nations' accountability to funders for use of funds, and (3) federal accountability to First Nations for policy decisions
Inter-Governmental decision making processes	Consultation; the assumption is that other Governments know what's best for First Nations but should at least talk to them	Partnership (decisions are made jointly where substantive First Nation interests are involved); the assumption is that First Nations and other Governments can work together to determine what's best for both

(Cornell, Curtis and Jorgensen 2003, 19)

"The challenge facing indigenous nations is to solve difficult social problems, protect indigenous cultures, build productive economies, effectively manage lands and resources,

effectively manage social and other programs, construct mutually beneficial relationships with other Governments and with surrounding communities, and rebuild societies that work. Such functions are impossible to accomplish without placing power in the hands of indigenous peoples to make critical and far reaching decisions for themselves” (Cornell, Curtis and Jorgensen 2003, 7) It is not only the ability of First Nations to make decisions that are important, but also the ability to make reasonable and informed decisions that is of equal importance. The Harvard Project on American Indian Economic Development identified and defined specific characteristics of successful tribal governments such as a separation between politics and day-to-day administration, a capable and principled bureaucracy and stable institutions and policies (Cornell and Kalt 2006).

The National Centre for First Nations Governance (NCFNG) is a non-profit service and research organization governed by First Nations with a mandate to support First Nations as they seek to implement effective self-governance and to assist First Nations in the further development of their day-to-day government operations. Their premise is that each First Nation develops its own process and governance structures, as no two First Nations are exactly the same (National Center For First Nations Governance 2006). However, the NCFNG has created a model for First Nations based on five pillars which they believe are an amalgamation of traditional values and current realities:

1. People - The people are defined as the foundation of the nations, they; share language, stories, history, family relationships and form communities which hold the collective memories of their nations.
2. Land - The land is seen as a fundamental element of First Nations governance because much of First Nations authority and identity is closely tied to it.

3. Laws and jurisdiction - Laws and jurisdiction provide the framework with the highest law being a constitution. Without which First Nations revert to the authority of the Indian Act.
4. Institutions - Institutions provide the framework and delivery systems to successfully operate communities and deliver programs and services to the people.
5. Resources - Resources (information, systems, people, tools and revenue streams) are required components for any effective enterprise.

(National Center for First Nations Governance 2009).

Graham and Wilson (2004) also identified five principles of good governance: legitimacy and voice, fairness, accountability, direction and performance. The research explores these principles through an aboriginal lens in order to identify significant challenges to aboriginal governance. To facilitate change the authors suggest a need for more discussions between the Federal Government and First Nation leaders around defining good governance and setting in place guiding principles for the future.

Contemporary First Nation governance structures need to reflect the modern world and allow First Nations to interact economically and socially in the greater society. Therefore, contemporary governance systems may need a different structure than historical governance systems (Jorgensen 2007). Not all historical versions of First Nations governance structures consist of the Chief and Council model. Some historical versions of First Nation governance structures were created out of a specific need reflected in the current situation of a First Nation. For example, hunters may have led during hunting season, warriors may have led during times of conflict, and elders may have led when important decisions were needed regarding the nation as a whole. Recognizing and reconciling the differences between historical and contemporary governance structures is a difficult challenge. Jorgensen (2007) argues that this subjects First Nations to two tests; effectiveness

and ownership. Effectiveness is in reference to First Nation institutions and procedures, formal and informal, written and unwritten that will effectively respond to the many diverse community demands. The second test deals with the institutions themselves which must be seen by First Nations as having genuine relevance; there must be a sense of ownership for their institutions: not simply a manifestation of the non-aboriginal system. "If citizens view organizations of authority as somehow violating the values or principles of governance they believe in, then those institutions are doomed to being overturned, ignored, or abused" (Jorgensen 2007, 45).

Bill C7 – The First Nations Governance Act (2003), proposed that First Nations establish codes in key areas of governance including; leadership selection, appeals, financial management, and administration. Bill C7 also provided First Nations with the opportunity to make changes to current Band government systems by prescribing a framework for First Nations governance. At the center of this framework is the idea that communities create a locally developed constitution. Constitutions are a fundamental first step because they provide the framework for community governance, reflect the values and beliefs of the community and describe the relationship between people and their Government. According to Bill C7 constitutions will:

1. Lay the framework for decision-making processes.
2. Outline the powers of the governing authority and the citizen.
3. Describe the values, principles and beliefs that should act as a base for any decisions made.

(Hurley 2002).

Hurley (2002) contends a constitution legitimizes and identifies the different powers of political organizations; protects the rights and freedoms of the citizens and is the building block to continued development.

Effective self-government requires a foundation of basic rules that spell out how the nation will govern itself. "It typically includes what the fundamental purposes of the nation's Government are, how that government is organized, who has what authority and when that authority can be exercised, what the basic rights of citizens are, and how changes in government can be made. Along with a treaty, if the nation has one, it is a foundational agreement—in this case among citizens themselves—establishing the institutions and the rules through which the society intends to pursue its purposes and the means by which additional rules can be made" (Cornell, Curtis and Jorgensen, 2003, 7).

Constitutions are a reflection of a people's identity and allow for the expression of their ideology or belief system. A First Nation constitution should be based on its own culture, values and traditions. Carleton University Centre for Community Innovation (2005) states that a First Nation constitution may address subject matters such as:

- First Nation Government structures (legislative, executive, administrative, advisory and judicial).
- Methods for selecting leaders and officials (by election, appointment, tradition/custom).
- Law making procedures.
- Community decision-making, referendum or ratification procedures.
- Financial management and administration standards and procedures.
- Codes of conduct and conflict of interest rules.
- Procedures for the delegation of the First Nation's authority to other Governments.
- Core laws and procedures for First Nation land management and administration.
- Core laws and procedures for citizenship and membership.

- First Nation collective rights and individual rights of members and citizens.
- Constitutional amendment procedures.

(Carleton University Center for Community Innovation 2005, 19).

Helin (2006) lists two barriers to indigenous development: systemic and inherent. The inherent barriers are a way in which the dependency mindset has been socialized internally into the psyche of generations of indigenous people. The inherent barrier, which hinders forward movement of indigenous people must be recognized and acknowledged in order to develop a better plan for the future. Helin (2006) indentifies the systemic barriers as; lack of accountability at virtually all levels of indigenous government, lack of transparency and accountability in the handling of monies and budgets, poor management and allocation of existing transfer payments, and in some cases, corruption or ineptitude that has resulted in monies and resources wasted. Helin also contends governments become self-sustaining through taxation and until First Nations governance models address taxation for the creation of wealth and cease to rely on transfer payments, First Nations will not move beyond simply providing programs for INAC.

While the literature on First Nations governance is varied and extensive, most of the research is unanimous in its support of the need for effective First Nations governance. Throughout the literature there have been several consistent elements that support effective governance models. Four such areas have clearly surfaced as barriers to the Tl'etinqox-t'in yet are critical elements to effective governance. The four key elements are:

1. Constitutions
2. Localized governance structures

3. Accountability and transparency
4. Revenue creation

Chapter Four - Discussion & Analyses

Constitution

A constitution lays out the purpose of government and how it is to govern: it is the corner stone upon which government is built. However, constitutions are rare in First Nations communities. The Indian Act is repressive and authoritarian and does not easily allow First Nations to get out from under the Act's control and develop their own constitution. Cornell, Curtis and Jorgensen (2003, 8) state a constitution "...typically includes what the fundamental purposes of the nation's government are, how that government is organized, who has what authority and when that authority can be exercised, what the basic rights of citizens are, and how changes in government can be made. It is a foundational agreement—in this case among citizens themselves—establishing the institutions and the rules through which the society intends to pursue its purposes and the means by which additional rules can be made". If the objective of Council is to govern its people then the constitution is what enables them to do so. A constitution puts limits on what a governing body can and cannot do in the execution of its duties. Without a constitution there is a tendency towards abuse of power.

Currently the Tl'etinqox-t'in people have no formal written constitution which is to a large extent responsible for the lack of consistency regarding the duty, function, organization and power of the Council. The Tl'etinqox-t'in people are handcuffed when choosing leaders because they are completely at their mercy until the next election. During elections the question becomes, "are they running for personal gain or because they want what's best for

the people?” Without a constitution the electorate is powerless to achieve lasting and effective change on the reserve.

Localized Government Structures

Historically, First Nations had their own traditional governance structures. During colonization these traditional structures were forcefully replaced by westernized versions. The new governance structures developed by the Federal Government included a system of elected representatives in the form of Chief and Council. First Nation Governments became an extension of the administrative system used by western culture which effectively reduced their power to program providers dependent upon the Federal Government for funding. This sense of paternalism has led to a distorted sense of Government responsibility and purpose. As noted by Cornell, Curtis and Jorgensen:

The idea of Government as law-maker, dispute-resolver, or vehicle for pursuing collective goals has been buried beneath the need for services and the fact that indigenous Government is the funnel that brings services to those who need them. This in turn leads to battles over who controls the programs, the jobs, the services. Government becomes the boxing ring in which various community factions fight for resources. Whoever wins gets to control the distribution of those resources, confirming the idea that this is what Government is really all about. Under these conditions, self-government is little more than self-administration. The major decisions are made somewhere else while the First Nation simply gets to implement them (Cornell, Curtis and Jorgensen 2003, 6).

The Tl'etinqox-t'in Government uses the INAC model and has elections every two years with a Council who answers to INAC, not the people. The INAC model limits the power of Council to human resource issues and the continual operation of INAC programs. INAC programs require numerous resources to fulfill the many reporting and operational

requirements. This leaves few resources left for true government functions such as; resource regulation and development, justice, health, trade, industry, etc...

First Nations governance models and functions must be developed locally and reflect the local climate and culture. Governance models should include local traditions and culture yet be able to effectively function within the greater society. Before First Nations people will believe in and support governance structures they must; have a legitimate voice in the creation of the structure and it must reflect what the people believe to be critical aspects of their cultural identity. Cornell and Kalt (2006) state culturally appropriate organizational and strategic structures are significant determinants of success and there exists a common belief that assumes reserve structures should mirror the cultural rules of others. However, having reserve structures mirror the cultural rules of others suggests there is only one correct path to success.

As noted by Elizabeth Furniss (1999), for as long as the Tl'etinqox-t'in people can remember they had a system governed by hereditary Chiefs. While the details of the traditional government structure are debated amongst the people themselves, there is a common belief that they were led by a Chief and elders. This system provided, at the very least, a sense of continuity with a traditionally appropriate belief in the wisdom of the elders to guide governance. This differs significantly from the INAC imposed structure of electing a Chief and Council every two years.

The role of elders has diminished to the point of non-existence in many First Nations, including the Tl'etinqox-t'in. There is no place in the current Tl'etinqox-t'in governance structure for elders to provide input. As the game of politics evolves on the reserve it is

becoming more and more a young person's game; elders are being pushed aside and provide little direction. Elder's may run for office, but common practice is that they seldom, if ever, do. The Tl'etinqox-t'in people should reflect on the elder's traditional role within the community and define how that role will carry the community into the future as they develop a localized governance structure. All members of the community must then work with the Tl'etinqox-t'in Government to develop a system that reflects their current situation and acknowledges traditions specific to their people.

Accountability and Transparency

The Tl'etinqox government has been plagued by accountability and transparency issues. The focus on accountability and transparency needs to move beyond the individual and focus on the community or nation as a whole. While electors are responsible for putting people into office, those same electors need to develop a sense of confidence in their ability to contribute to the greater picture: the betterment of the community, not just individuals or specific families. The decision-making process needs to be made transparent to ensure community members understand why decisions are made. Council meetings need procedures governing consistent decision making processes. These processes need to provide avenues for public involvement and develop a sense of stability and legitimacy both within and outside the community. "The Third Annual Aboriginal Governance Index: Rewarding Good Governance on Canada's Reserves" is a research paper whose stated purpose is to find a "...convenient benchmark through which individual bands can measure their progress in achieving responsible self-government" (Sandberg and Quesnel 2009, 7). The study finds that only twenty-one percent of First Nations responded indicating Council minutes and decisions are "always or mostly made easily available"; over half of the respondents replied that

information regarding meetings and decisions is “never or rarely made easily accessible to band residents” (Sandberg and Quesnel 2009, 35). The study reports that a majority of respondents (sixty-two percent) indicate band members “never or do not really have access to band financial plans or financial statements” (Sandberg and Quesnel 2009, 35).

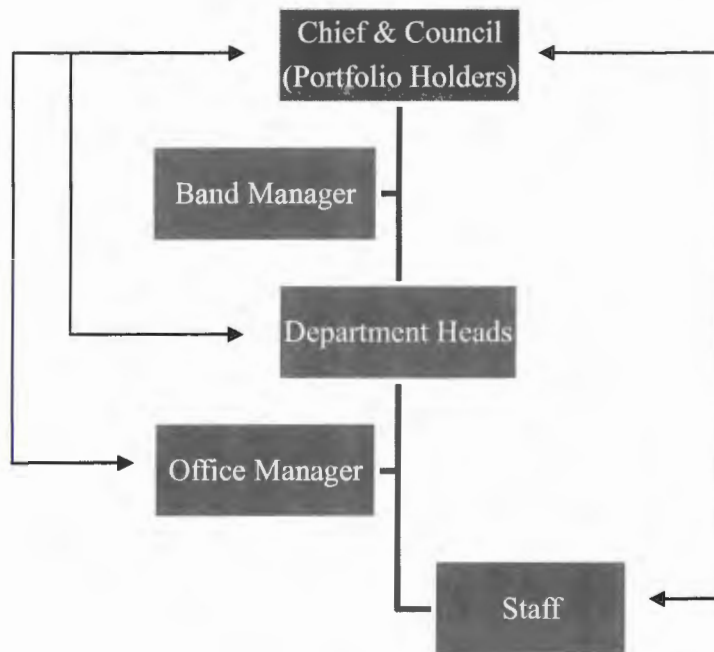
Transparency means allowing public access to band documents. Transparency also means long term planning with goals; an indication of how to get there and what measures will be used to achieve those goals. Transparency allows the community to view decisions using the long term goals as a framework. People may not always agree with the validity of a decision but having long term goals allows those decisions to be measured against something tangible and for which they had a part in creating. Making short term decisions without real direction, sense of purpose or from behind closed doors will cause people to question the reason and motive of those decisions.

Transparency and accountability are theoretical concepts centering on process and procedure. However, when put into practice these theoretical concepts cannot operate in isolation: a governance system also needs legitimacy (Shepherd 2006). A government gains legitimacy when it accurately represents the ideals and values of the citizens it represents. Shepherd (2006) defines legitimacy as having a common understanding between the citizens’ idea of fair and representative governmental organization and action and actual institutional structures and their actions. It is possible to be transparent and accountable and lack legitimacy. Without legitimacy a community is ineffectual in administering policy and is in a continuous state of self correcting. “Accountability without legitimacy means the community will be continually second guessing and overturning governmental actions, and government itself ultimately will be unable to pursue an effective coherent, long-term set of

policies, not because it is unaccountable, but because, as a set of institutions, it lacks the support of its own people” (Cornell 1993, 9). Cornell argues that if institutions are accountable to their people they will have legitimacy. Unfortunately, First Nations did not design the structures that govern them; they were designed and imposed by the Federal Government, therefore, these structures are reflective of western philosophy and beliefs and not representative of traditional First Nations structures and therefore lack legitimacy. Cornell (1993, 9) states that it “...is important for the community to see the institution it is governed by as fundamentally appropriate for that community. To be legitimate, those institutions have to fit the community’s ideas about how things ought to be done – in particular the sorts of things government’s do, such as exercising power and representing interests”. Cornell (1993) goes on to state that Europeans thought First Nations had no government structures and what little they had was uncivilized and without legitimacy. Legitimacy is not static, it ebbs and flows with changes in societal values and beliefs (Cornell 1993). When Government is effective, open, accountable, and transparent and is making decisions that represent what people want, it gains legitimacy. People will change a government when they see, or experience, events that negatively impact legitimacy. Transparency and accountability, therefore do not guarantee legitimacy.

Like many bands, the Tl’etinqox-t’in Government needs to develop measures for accountability and transparency. The lack of consistent organizational structure is a major obstacle to transparency and accountability because the structure changes every two years at election time. The inefficient and unstable conditions of this structure are represented in Figure 4.1 which illustrates the current Tl’etinqox-t’in organizational structure.

Figure 4.1: Current Tl'etinqox-t'in Organizational Structure



The Tl'etinqox-t'in organizational structure depicts no clear lines of accountability. Every level of the organization is meshed with levels above and below it and transparency is lost because of structural and departmental overlap. The arrows in Figure 4.1 represent the different roles Council members currently hold within the Tl'etinqox-t'in organization. Because Council members also hold roles at all levels of the organization, it is impossible to separate the different organizational levels within the organization, creating numerous conflict issues. For example, Councilors can be department heads, employees, band managers, and office managers. Some Councilors are employees or department heads within the portfolio they are assigned to oversee. The lack of a consistent and stable organizational structure undermines its accountability, transparency and legitimacy. When the lines between Councilor, department head, office manager and staff become blurred to the point these people are one in the same it is impossible to assure accountability and transparency.

As Figure 4.1 demonstrates the current governance structure clearly lacks flow. Unlike Regional, Municipal, Provincial or Federal government structures, employees can hold an elected position within the organization. The structure of the Tl'etinqox-t'in Government Office has looked very different from Figure 4.1 over the past thirteen years. The Tl'etinqox-t'in people have seen everything from centralized rule to rule through consensus. Some Council's have chosen to hold all the reins of power, controlling every aspect of life on the reserve while other Council's have reduced their role to political figure heads without any real control or decision-making responsibilities. There is no consistency as each new Council sets different parameters for the powers of office. The inconsistency leads to a lack of understanding of the role of Council and complacency within the community when leaders abuse their position and use it for personal gain. Every election brings a new structure and a huge turnover in staff as the new Council hires its own people. In my thirteen year tenure as Principal I have reported directly to the Chief, to Council, to an Education Committee, to a single portfolio holder and to an Education Director. Calvin Helin (2006, 150) states "....there is no legislation concerning accountability between First Nation leaders and members. With the phasing out of the Indian Agents in the 1960's, Aboriginals moved abruptly from being governed to governing themselves without any accountability being built in: administrative and financial practices evolved without baseline standards throughout the country".

The instability of the Tl'etinqox-t'in governance structures are linked to its lack of legitimacy. What is not clear is whether the lack of legitimacy is the cause of the instability or that the instability is the cause of the lack of legitimacy. If lack of legitimacy is the cause of the instability then the fault lies with the governance structures and how they are

perceived by the community. Governance structures that are not developed locally or representative of local traditions and customs create little faith in the community. With little or no faith in INAC developed governance structures a community becomes apathetic. Apathy leads to a lack of participation and disassociation. If instability is the cause for the lack of legitimacy then the people have no faith in the current leaders. Tl'etinqox-t'in politics are rife with accusations of corruption and scandals. It has become common belief that those in power will abuse the power for their own means: rumors regarding corruption are common. Tl'etinqox-t'in politics are often won and lost based on smear campaigns, not merit or achievement. Smear campaigns and rumor mongering are a sure way to undermine the legitimacy of any government. These political tactics combined with disillusionment in the structures themselves represents the current situation for the Tl'etinqox-t'in people.

Mismanagement is often the cause for a lack of transparency. In the 1999 Auditor General's Report, INAC had to intervene in 167 of 585 of the country's Indian Bands due to severe financial mismanagement (Helin 2006). In March 2004 it was reported that 23 percent of Indian Bands, Tribal Councils and political organizations were under management intervention (Helin 2006). Questions need to be asked about why so many organizations are failing to live up to their responsibility. Many communities have called for forensic audits only to be told that their concerns are an internal matter (Helin 2006). This leads to even more brazen mismanagement as people realize INAC is not quick to intervene in the financial matters of Bands. If First Nation communities had proper governance structures in place it would be easier to deal with concerns or issues when they arise. However, most communities do not have the required capacity or structures and rely on the Federal Government for assistance in these matters.

Several times over the years INAC has also been asked to come and review the policies, practices, and to conduct forensic audits of the preceding Tl'etinqox-t'in administration. INAC has always responded that it is an internal matter. Trying to discredit former leaders by calling for an audit has become standard procedure for each new Council. This tactic immediately gives the new Tl'etinqox-t'in Council the moral authority of self-righteousness.

Revenue Creation

Every government needs access to revenue. Most First Nations have not developed sources of revenue beyond the transfer payments from the Federal Government. Reliance on transfer payments has crippled development of true government processes and structures in First Nations communities. They have become dependent upon those payments, making themselves wards of the governments as opposed to governments in their own right. Cornell, Curtis and Jorgensen state that:

Such dependency can be counterproductive. It can place First Nation governments in a reactive mode, deciding what they do based on what outsiders are willing to support. The vagaries of outside political processes also reduce the ability to plan ahead; you don't know what you can do until you see next year's federal budget. Finally, First Nations lose valuable energy making constant appeals for more funding and meeting oversight requirements for the funding they receive. Reducing this dependency could have enormous benefits for First Nations.

It is unrealistic to assume every First Nation community has the capability to forgo all transfer payments and replace them with alternate sources of revenue. Many First Nations see the lack of access to natural resources as a major hurdle in developing alternate revenue sources; a story that is played out in many non-aboriginal communities across BC as well. Without access to alternate revenue sources First Nations communities will always be answerable to INAC regulations and reporting requirements. In the current system First Nations cannot put the needs of their community over the needs of INAC (Cornell, Curtis and Jorgensen 2003, 13).

Currently, the Tl'etinqox-t'in Government creates revenue through two additional sources; a gas bar and a forestry operation. These additional revenue sources are small but are a first step in moving towards greater economic independence. To develop secure long-term revenue sources the Tl'etinqox-t'in Government needs to develop a long-term economic plan. Due to the high levels of unemployment on the reserve there is a great deal of pressure on the Band Office to create employment. These jobs are often short term make work projects with little ability for sustainability over the long run. Simple job creation offers little in the way of contributing to the development of future revenue creation for the Band. With only a two year window of opportunity between elections, leaders are hard pressed to produce immediate results. This pressure to produce immediate employment opportunities sacrifices long term benefits for short term gain. The Tl'etinqox-t'in Government is trying to develop long term partnerships but the process is slow. These partnerships include a bio-energy plant to sell electricity to neighboring communities, a forest and resource management agreement with the Provincial Government, a maintenance agreement with the local road and highways contractor, a RV camp site, and a general store. These partnerships will create long term benefits for the community, greater financial independence for the Tl'etinqox-t'in people and are an essential step toward potential freedom from INAC control. These partnerships will contribute to a healthy future for the community.

Summary

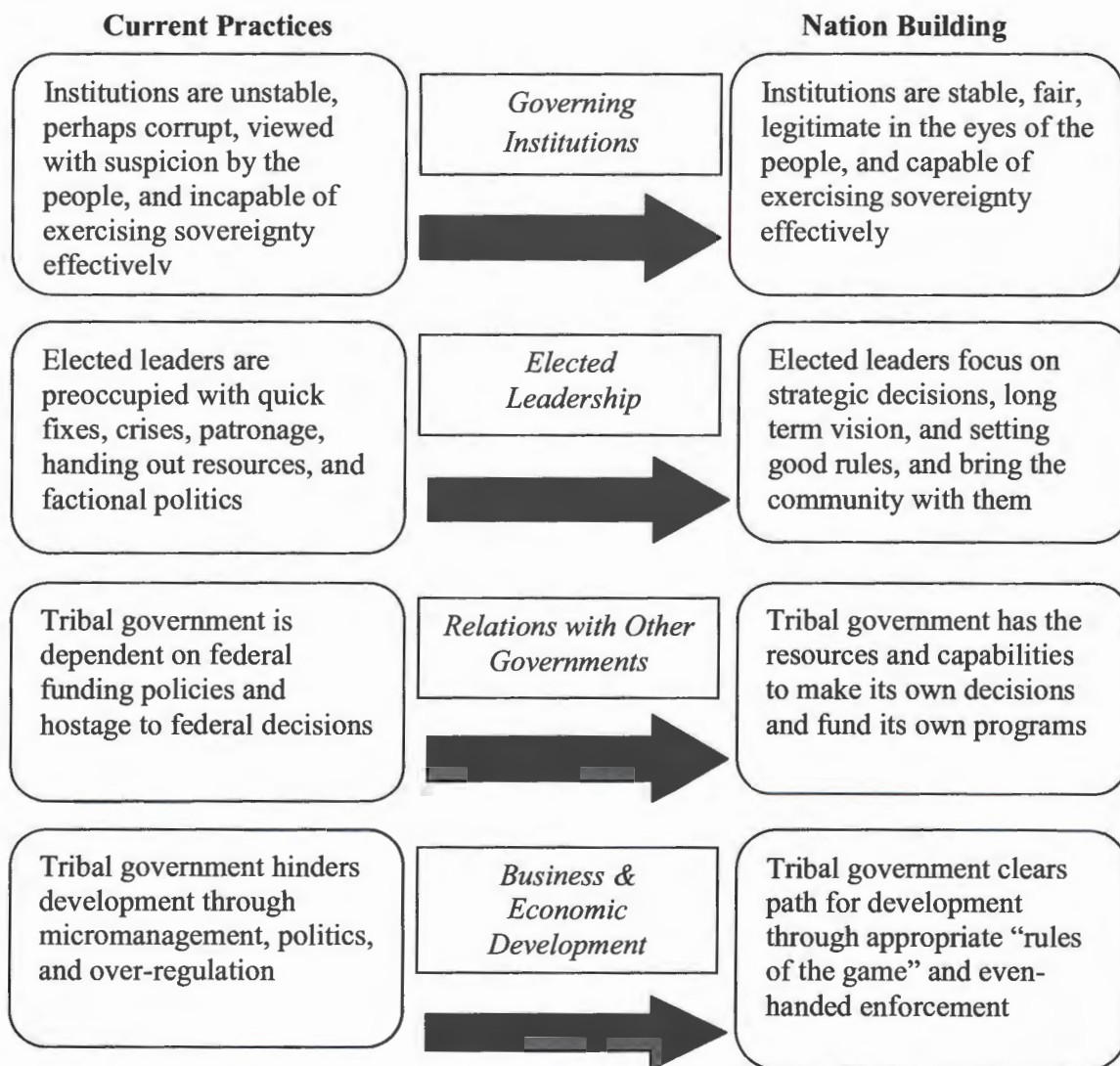
While there may be a desire for First Nation people to return to a more historical way of life, we cannot undo what has been done. However, First Nations do have the opportunity to ensure that they are involved in any discussions involving their future and governance. "In the pursuit of self-government, successful First Nations will divest themselves of the Indian

Act. First Nations that make the transition, by treaty or other means, will become accountable, politically and legally, to their members” (Sterritt 2003, 10). In order to move in this direction, communities such as Tl’etinqox-t’in must first make sound, well-informed decisions on the subject of governance.

A critical first step for a First Nation to remove themselves from the Indian Act is to become educated on the subject of effective self governance. They must understand what they are about to undertake; the reasons for such an undertaking, how they will achieve these goals, and how they will measure progress. It is important to have a clear timeline to illustrate to the community that the process will not happen overnight. The Tl’etinqox-t’in leaders must educate themselves concerning their role in effective governance and understand how removing themselves from the constraints of the Indian Act will benefit their people and allow more opportunities to determine their own future. Through this process the Council and the community will begin to understand the role of Council is that of trustee; that Council has a fiduciary responsibility to the people, and the people are the source of their power. Effective governance requires that power rest with the people: people entrust Councilors to act in the best interests of the community. Ultimate power rests with the people, not the Council. Unfortunately, the current belief is that power rests with Council and once elections are over, Council reinforces this notion by their actions. People are afraid of offending the Council in fear of reprisals. Reprisals have included being removed from reserve housing (effectively being banned from the community) or being denied access to money and other resources. The current structure is a closed loop system of governance; power rests in the hands of the Council effectively disempowering the community members and making Council accountable to INAC and not to their electorate (Helin 2006).

Figure 4.2 shows Cornell and Kalt's continuum of governance; from First Nations operating under the Indian Act where power and control reside with INAC to the nation building approach where First Nations having real decision making power.

Figure 4.2: Continuum: Current Practices to Nation Building



(Cornell and Kalt 2006, 22)

It is easy to see that the Tl'etinqox-t'in Government falls under the standard approach of Cornell and Kalt's continuum; it lacks in areas identified in the research as good governance. However, development of governance is a process and communities are all at different stages in this process. While the Tl'etinqox-t'in community may not be as far along in its development as other communities, they are no less capable of moving along that continuum. According to Helin (2006) it is critical for success to have strong, ethical leadership helping guide the community through the process. And, while the current Tl'etinqox-t'in leadership has not fulfilled Helin's prerequisite, the current Chief has a demonstrated history of working diligently toward a better future for all First Nations people supported by a credible constitution. One could assume this, along with other leadership qualities, was a contributing factor in his election. "It is important to reiterate that the development of good governance for Aboriginal communities is a matter that should also be in the self-interest of Canada as a nation. Modernizing tribal governance structures may, after all, help Canada unleash the massive economic potential trapped by the current archaic governance structure" (Helin 2006, 141).

Chapter Five - Recommendations

The following are recommendations to help the Tl'etinqox-t'in people in their pursuit of good governance:

1. **Promote and develop effective leaders.** The Tl'etinqox-t'in people need to promote and elect leaders who will be able to guide the community now and into the future. Effective leaders do several critical things with respect to governance (Begay, et al. 2007):

- Change the conversation to governance, development and the future.
- Adopt a strategic approach to decision making.
- Make a sober assessment of the state of the nation.
- Lay the institutional foundations for capable governance.
- Make themselves dispensable, and
- Practice what they preach.

The Tl'etinqox-t'in community has people who could effectively lead the community. These people are knowledgeable about governance and can lead the conversation to begin to educate the community about governance. However, these people often live elsewhere and usually do not run in elections; they need to be encouraged to run for office and given a mandate to lead.

2. **Develop a constitution.** The Tl'etinqox-t'in people need to develop a constitution that spells out the rules of Government for their community. Included should be the purpose of Government, its organization and issues of authority, rights of the people and how changes can be made to the Government. Constitutions are a reflection of a

people's identity and allow for the expression of their ideology or belief system. The Tl'etinqox-t'in constitution should be based on its own culture, values, and traditions and should create a cultural link between Government and the people.

3. **Develop transparency, accountability and legitimacy.** Research demonstrates that these elements are essential for good governance. To ensure accountability and transparency the decision making process needs to be consistent and made public. Tl'etinqox-t'in community members must understand why decisions are made, encourage community involvement, and reduce apathy. To gain legitimacy the Tl'etinqox-t'in Government needs to ensure it accurately reflects the belief systems and values of the people. Developing these three elements is a crucial step in creating effective Tl'etinqox-t'in governance structures. Figure 5.1 provides an example of an effective governance structure.

Figure 5.1: Governance Structure



4. **Developing revenue sources as opposed to false economies.** Simple job creation has impeded the development of sustainable economies. The benefits of job creation are immediate, a good political ploy used to ensure re-election, but often at the expense of long term development. Job creation is based on securing funding grants and other one time transfer payments from INAC. Sustainable economic development happens through the use of long term economic goals and plans which take years to realize but bear sustainable results. Job creation through transfer payments and one time grants creates a false sense of economy. The real focus of the Tl'etinqox-t'in Government needs to be on the creation of sustainable revenue sources, not job creation.

The following recommendations are not supported in the literature as crucial to the development of good governance structures. However, they are elements that I feel are obstacles to good governance in the Tl'etinqox-t'in Government and need to be addressed:

1. **Lack of education.** While education is not a key element or a predetermining factor for implementation of successful governance practices, it is an important indicator for economic success. The number of people in the Tl'etinqox-t'in community who have completed high school is minimal. More community emphasis must be placed on education. A long-term strategic educational plan with a focus on specific community needs must be developed. Few people who go on to higher education return to the community. Helin (2006, 194) states "...they pay lip service to utilizing their own educated people, but many go out of their way to avoid this...leaders are uneasy about having their operations exposed to (and perhaps subsequently exposed by) educated community members who may not agree with how budgets are being

managed or not managed, or how resources are wasted”. Education will help reduce the levels of corruption, nepotism and mismanagement. Education is critical to success for the Tl’etinqox’t-in in today’s society.

2. **Family ties (nepotism) and violence.** There are deep familial divides amongst the Tl’etinqox-t’in that contribute to the violence, unrest and deep seated distrust. These divides have a historical foundation and are played out in the political arena as well as in regular violent confrontations. These confrontations include shootings, stabbings, beatings and arson and escalate to murder on occasion. The familial distrust is taught to the children at a very young age and is evident as early as Kindergarten. In the political arena these encounters take the form of; withholding or denying financial support, evicting people from their homes, terminating employment, blacklisting people from future employment or benefits, making accusations to government agencies or legal authorities, having children removed from their home, or blocking children from returning to their original families. Because the Tl’etinqox-t’in people are split into four basic familial groups the same faction is not able to remain in power for extended periods of time. The constant shifting of power leads to reprisals and shaky alliances for the purpose of winning elections. Decades of volatility and the lack of regard for community process has led to disorder in the administrative system. This disorder has created a further divide between have and have-not families.

Chapter Six – Conclusion

Thirteen years of watching Council after Council perpetuate a system of governance that results in community unrest, the continuation of severe poverty, substance abuse and violence has resulted in this research project. It is clear that my observations of the Tl'etinqox-t'in community are not unique. Many First Nations communities across Canada are in a similar state of affairs and, while the recommendations stated here seem simple enough, the issues are much more complex. The generational affects of a paternalistic mindset along with racial subjugation, severe poverty, abuse and general lack of formal education has First Nations communities, not only struggling with the shackles imposed by the Indian Act's governance structures, but with INACs crippling financial stranglehold.

For First Nations communities to rise above this imposing situation, leaders with strong moral purpose, a strong and focused vision for a healthier, self-sustaining community must come forward and be willing to tackle the daunting task of confronting their own supporters by trading short term benefits for long term sustainable growth. They must be strong enough to eliminate the long standing practice of individual gain and convince the community-at-large that the future will only improve if sacrifices are made today in the interest of developing a common vision for a brighter future.

As much as the Tl'etinqox-t'in community is entrenched in the self-destructing practices, hatred, violence and generational competition for the vastly limited resources afforded the community by INAC transfer payments, I am convinced there is a general desire for a better future for the Tl'etinqox-t'in children. With consistent, predictable structures and an uncompromising vision based on an agreed upon ideal, change is possible. I have

witnessed the school become a source of strength and pride for the community. Amid the chaos the Tl'etinqox-t'in community was able to work together and build a school that transcends the individual and represents a brighter hope for the future. Perhaps the successes experienced at the school will serve as an example of what is possible and lead the way for further success in the community. Success at the school level will pave the way for success at the community level.

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