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# THE PEOPLE THE LAND LAWS & JURISDICTION INSTITUTIONS RESOURCES

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The FIVE PILLARS  
of EFFECTIVE GOVERNANCE

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# The FIVE Pillars

The Centre models effective First Nations governance on five important pillars. They are:

## **The People | The Land | Laws and Jurisdiction | Institutions | Resources**

These five pillars of effective governance blend the traditional values of our respective Nations with the modern realities of self-governance. NCFNG uses the principles behind these five pillars to develop and deliver tools and services to assist in rebuilding First Nations. The Centre believes that all First Nations have the ability to enact all or some of these principles no matter where they sit on the path to self-governance. All First Nations wrestle with significant constraints such as a lack of funding, the restrictions of the Indian Act, and poverty, yet effective governance is the foundation upon which our development aspirations must be built. Therefore, we must engage with these principles – our long term success depends on it.

# The PEOPLE

The People are the foundation of our Nations. The People are the citizens of Nations that share language, creation stories, community history and family relationships. They form self-defined and self-governed communities and together they hold collective memories. When individuals gather themselves as communities, they are making intentional, political statements about their past, present and the possibilities of their future.

## Three Principles that Relate to the People

- **Strategic Vision**
- **Meaningful Information Sharing**
- **Participation in Decision Making**

These three principles exist when the People are engaged. Through living these principles First Nations ensure their government rests on a solid foundation.

**Strategic Vision** is the shared, long term dream of the People – the future state that the People hope to achieve collectively. Vision charts the course from where the People are to where they want to be and is relevant to those in the present time and to those in the future seven generations. Strategic vision is the necessary starting point, but it is not sufficient to ensure the complete, proper and effective involvement of the People.

**Meaningful Information Sharing** is critical for the People to realize their vision. Information truly is power and information sharing works to ensure power is also shared. Meaningful information sharing occurs



when the exchange of information occurs frequently, openly and in all directions.

**Participation in Decision Making.** First Nations engage their People in decision making in many different ways. The form of that decision making is not important. What is important is that Nations determine the best way(s) for their communities to contribute to important decisions. What matters is that the process of decision making be open, inclusive, appropriate to the community, and understood and endorsed by all members of the community.

When these principles are applied, the outcome is a First Nations government supported by the People, clear in its mandate and held as legitimate. When these principles are not in place, the outcomes may be lack of trust, lack of respect and efforts to undermine government and its leaders. Trust, respect and transparency are essential to effective governance.

## The LAND

The deep connection to the Land is vital to First Nations. The relationship between the People and the Land is an integral component of First Nations governance. The authority and identity of the Nations come from and are tied to the Land. It is the Land that gives us our deep sense of place and our sense of self. For some Nations the very social structure of the community is embedded in the Land. For example, the eight historic houses (wilp) of the Gitanyow are each stewards of very particular areas of land and water and their authority to govern those territories is rooted in that responsibility.

Our relationship with the Land occurs at both the physical and the spiritual level. But the Land provides for all our needs, including our need for an economy. This relationship gives purpose to our People and our governments – to protect the Land, which in turn ensures the well-being of our People. It is our responsibility to care for the land, just as it cares of us, and our past, present and future relations.

In recent years, the Canadian courts have recognized the integral link between the Land and governance. The Delgamuukw and Campbell decisions acknowledged the concept of Aboriginal title – ownership of the Land itself – and the “right to choose” how Aboriginal title lands are used. In other words, the recognition of Aboriginal title by the courts results in the recognition of First Nations’ inherent right to govern land use.

While this legal position may present challenges to the traditional ways in which First Nations view the Land, it also presents great opportunities to regain a meaningful presence in our traditional territories. It allows us to share in the economy of our traditional territories by fully



realizing the economic aspects of Aboriginal title. The Delgamuukw and Campbell decisions demand that other levels of government recognize First Nations' inherent rights to the Land. With that recognition they are obliged to work toward solutions that will reconcile all of the activities that occur on the Land (e.g., traditional practices vs. economic development). For the People, organizing in ways that enables participation in that work and that supports effective consultation and co-management of the Land is a critical responsibility of an Aboriginal title and inherent right strategy.

### Three Principles that Relate to the Land

- **Territorial Integrity**
- **Economic Realization**
- **Respect for the Spirit of the Land**

When these principles are applied, the outcome is a First Nations government which has a deep physical and spiritual connection to the Land. It is a government that is recognized as having a territory that extends far beyond the arbitrary boundaries of any reserve.

**Territorial Integrity.** Given the irrevocable link between title and governance it is imperative that First Nations organize to illustrate both their historic and present day connections to the Land. There exist significant challenges to this work resulting from land alienation and destruction but it is vital to extend our connection across the historic areas our Nations utilized. Territorial integrity begins with assertion and must be supported by land use mapping and stewardship planning that permit the reclamation of responsibility for decision making.

**Economic Realization.** Effective governments possess the right and the tools to develop their Land into sustainable economies. They realize wealth through participation in resource development and through leveraging those resources to access additional sources of revenue beyond their communities. Aboriginal title includes an inescapable economic component. This is a legal right that First Nations must realize to benefit their citizens and finance their governments. This realization will come through consultation and accommodation that minimize infringement and maximize economic benefits.

**Respect for the Spirit of the Land.** First Nations Peoples are positioned to take back our legitimate place on the Land. This will be accomplished by asserting our inherent rights to protect and preserve the Land and its resources, and by optimizing the economic opportunities the Land provides. These rights are ours through our ancestral role as stewards of the Land. It is through connecting with and honouring the spirit of the Land that our governance strategies remain effective and appropriate.

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# LAWS and JURISDICTION

Laws and Jurisdiction provides the political framework for the vision. The highest law of the Land must be a constitution as when First Nations are without a constitution, their authority to govern falls under the Indian Act. Constitutions may be written or oral, the latter being traditional to First Nations. A constitution publicly codifies a Nation, its character and identity. It articulates the values that unite the People, defines their Land and sets out the structure for their participation. A constitution may drive what institutions are established and what the lines of authority are between those institutions. It may reconfirm specific rights that have never been ceded, surrendered or extinguished. It may set out who can be a member of the Nation, the way the Nation's leaders are selected, and the matters over which the Nation can exercise authority. An accepted and established constitution empowers the rightful lawmakers and facilitates the act of law-making.

When these principles are applied, the outcome is an organized and capable First Nations government whose citizens accept the authority of law because it developed from and reflects their own values.

## Two Principles that Relate to Laws and Jurisdiction

### Expansion of Jurisdiction

#### Rule of Law

**Expansion of Jurisdiction** refers to exercising authority beyond the current limited parameters of the Indian Act. The expansion of jurisdiction can be done in different ways: through accepting offers of delegated authority, through negotiation, and through exercising the inherent right of self-governance. Authority can be assumed incrementally and gradually, or come



suddenly thorough a significant legislative change or an act of sovereign will. What is important is that jurisdiction is appropriately expanded consistent with achieving the People's vision.

**Rule of Law** in the traditional territory follows when jurisdiction is established. When individuals abide by the laws of the Land they validate the legitimacy of the governing authority. The Rule of Law provides clear instruction on acceptable behaviour – behaviour that benefits the community – and the recourse when behaviour is unacceptable. In a civil society, the Rule of Law exists to minimize conflict, between individuals, corporate entities, and individuals and corporate entities. The latter is critical to the realization of successful economic development projects on First Nation land.

# INSTITUTIONS

When Institutions are built consistent with the Rule of Law they provide the organizational structures for First Nations to successfully operate their communities.

## Four Principles that Relate to Institutions

- **Transparency and Fairness**
- **Results-Based Organizations**
- **Cultural Alignment of Institutions**
- **Effective Inter-Governmental Relations**

Institutions exist to serve the delivery of programs and services that move the People toward the vision. Cultural alignment of institutions helps to ensure that the ways in which that result is achieved respects the social and spiritual values of the People. Equally important as the design and legitimacy of single institutions, are the mechanisms in place to support inter-institutional activity.

**Transparency and Fairness** make certain that First Nations institutions and the ways they operate are understood by the People they are designed to serve. Consolidating and then openly sharing processes and procedures assures citizens that decisions are made fairly. Fairness does not mean that all decisions will be the same, but that set criteria will be applied consistently in making all decisions. It is in the implementation of a policy that its fairness is revealed. Transparency minimizes the opportunity for preferential treatment and the advancement of private interests over public good.



**Results-Based Organizations** are imperative for any governing body to measure the effectiveness of its governance. In measuring the effectiveness of First Nations governance, a key result would be the extent to which the structures have moved the People toward their strategic vision. However, for decades First Nations communities have functioned within organizational structures driven not by their vision, but by federal government funding opportunities. Our institutions have been developed to serve the needs and interests of that government and not our own. The effect is that the People have no authentic connection to the resulting systems and structures of governance. They become frustrated, disengaged and angry.

**Cultural Alignment of Institutions** are where the organizations are infused with practices and beliefs consistent with the values of the People being represented. It is with cultural alignment that effective governance in First Nations communities will exist.

**Effective Inter-Governmental Relations** maximize the opportunities for communication and effective decision-making while minimizing the opportunities for conflict. Effective inter-governmental relations result in productive and satisfying working relationships where the goal is a “win-win”; the collaborative advancement of the interests of all governments whenever possible.

# RESOURCES

Sufficient and appropriate Resources are essential for institutions and communities to achieve and sustain their vision. When institutions fall short of what they set out to do, trust is lost and their legitimacy called into question. Institutions are most effective when they are suitably resourced for the activities they are mandated to conduct.

## Five Principles That Relate to Resources

- **Human Resource Capacity**
- **Financial Management Capacity**
- **Performance Evaluation**
- **Accountability and Reporting**
- **Diversity of Revenue Sources**

All living things require resources to achieve results. First Nations can only achieve effective governance with the right human and financial capacity in place. “Right” in this case means not only sufficient resources but resources that are culturally appropriate. “Resources” in this context refers to resources that communities hold in addition to the Land: information, systems, persons, tools and diverse sources of revenue including the generation of their own sources of income.

**Human Resource Capacity** speaks to the skills and abilities of the people that govern our communities and implement our community programs and services. With the right to govern comes the responsibility to govern well. The expansion of our human resource capacity, including the professional development of the next generation of leaders and managers, is a necessary investment to see that our Nations possess the knowledge, skills and abilities to govern effectively.



**Financial Management Capacity** ensures that our good work is not derailed by an inability to plan for, monitor, and account for financial resources. Financial capacity permits long-term, multi-year planning and proactive decision making. Effective financial management permits communities to plan beyond the arbitrary end of a fiscal year or a federal funding cycle and instead to plan for generations.

**Performance Evaluation** allows for the recognition of achievement, while also shedding light on what adjustments should be implemented when expectations are not being met. Parallel to the significance of evaluating performance, is the need to report results back to the community.

**Accountability and Reporting** Through rigorous and transparent systems of Accountability and Reporting we close the accountability loop by providing citizens and partners with the information they need to participate in informed decision-making.

Expanding the **Diversity of Revenue Sources** is critical to financial management. Historically, First Nations have depended on Canada to provide core funding for programs and services working within the narrow scope of the Indian Act and similar limited legislation. Not surprisingly, there are scarce tools and models for working beyond the Indian Act and its jurisdiction. First Nations must reduce the dependency on any one funding source, and work toward generating their own revenues.



**It is time for change.**

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